



Enquiries: Prof. T. Madonsela
Director Centre for Social Justice Stellenbosch University
Email: tmadonsela@sun.ac.za

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SUBMISSION ON EXPROPRIATION BILL [B 23B–2020]

[NCOP Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure](#)

This is a response to the Select Committee on Transport, Public Service and Administration, Public Works and Infrastructure’s invitation to submit written comments on the [Expropriation Bill \[B 23B–2020\]](#).

Introduction

1. The Centre for Social Justice (CSJ) and Law Trust Chair in Social Justice at Stellenbosch University is grateful for the opportunity to submit comments in response to the call for comments on the Expropriation Bill of 2020, which seeks to replace the Expropriation Act 63 of 1975 (Expropriation Act). The comments have been enriched immensely and are submitted with the input of stakeholders who attended our roundtable held on 2 March 2023, including the contribution of the KwaZulu-Natal Agricultural Union (Kwanalu).
2. The research, innovation, teaching and stakeholder engagement efforts of the CSJ at Stellenbosch University aim to contribute to ending poverty and equalising opportunities by 2030 in support of the National Development Plan (NDP), Agenda 2063, and the United Nations Sustainable Development Goals (SDGs). Having committed ourselves at the Inaugural International Social Justice Summit and Conference that was convened from 29–31 August 2019 to join hands in advancing the constitutional promise, human rights and SDGs in a manner that redresses imbalances of the past, while ending poverty and ensuring no one is left behind with regard to full participation in all aspects of the economy and social life, we seek accelerated change, focusing on:
 - policy and law reform through data analytics to ensure inclusive and transformative social impact;
 - mobilising society towards social accountability and social cohesion;
 - cultivating leadership at all levels of society and contributing to a

- capable state; and
- resource mobilisation from society and international friends to fund accelerated social change.

Purpose Alignment

- The bill seeks to update an antiquated and constitutionally incongruent expropriation system that harks back to 1975.
- Many expectations about the bill's potential to unlock land restitution and redistribution hurdles have been created.
- To what extent does the bill align the expropriation scheme of South Africa with the Constitution of the Republic of South Africa, 1996 (Constitution) considering applicable constitutional court jurisprudence such as:
 - Daniels v Scribante*¹ and *Port Elizabeth Municipality v Various Occupiers*² on the rights of farm tenants under the Extension of Security of Tenure Act 62 of 1997;
 - Mwelase v Director-General for the Department of Rural Development and Land Reform*,³ where the Constitutional Court held that "land and dignity were fundamental to realising other constitutional rights"⁴ and that land reform could be "a catalyst for structural change in our society;"⁵
 - Zondi v Member of the Executive Council for Traditional and Local Government Affairs*⁶ on the odious impound laws through which many lost livestock;
 - Grobler v Phillips*⁷ reminds us that the underdogs in land rights are multicoloured; and
 - Port Elizabeth Municipality v Various Occupiers*,⁸ which employed *ubuntu* to balance competing land rights.
- All these cases also deal with the history of land dispossession and what can be termed "the promised land". The integrated liberation struggle ensued, and frameworks such as the African Demands and Freedom Chapter promised a new dawn regarding land distribution equity and restitution of land rights.
- To what extent is the bill likely to take South Africa to the promised land, 110 years since the Native Land Act of 1913 and representations regarding the reversal of land dispossession, since Sol Platje's lamentation of the forced African exodus and its human cost,⁹ the bill of rights incorporating land rights in the *African Claims* in 1943 (it will be the 80th anniversary this year, and it is

¹ 2017 4 SA 341 (CC).

² 2005 1 SA 217 (CC).

³ 2019 6 SA 597 (CC).

⁴ Para 1.

⁵ Para 1.

⁶ 2006 3 SA 1 (CC).

⁷ 2023 1 SA 321 (CC).

⁸ 2005 1 SA 217 (CC).

⁹ S Platje *Native Life in South Africa* (2014).

worth noting that at the reported 4.5% land ownership indigenous Africans own less land today than was the case in 1943 when they objected to 12.5%), the Freedom Charter in 1955 that promised land to all who work it and the Two New Constitutions (1993, Interim and 1996) that provided a blueprint for transforming towards the promised land among, other commitments regarding democratisation, social justice and human rights for all. It must be noted that the Glen Grey Act of 1984, the first significant act of land dispossession, is noted but not covered in the light of land restitution laws currently being confined to 1913.

Assessment principles

1. The CSJ at Stellenbosch University welcomes the initiative based on the belief that it is just and proper that a new Expropriation Act, which is attuned to our Constitution, replaces the current Expropriation Act. It is important to note that the Bill redefines and does not introduce expropriation.

- We offer commentary on aspects that could either advance or undermine social justice, democratic governance and equal enjoyment of land and related property rights for disadvantaged groups, in breach of the constitutional commitment to social justice and related equality duty.
- The comments are informed by a Social Justice Impact Assessment Matrix (SIAM) designed for prospective assessment of the likelihood of planned laws, policies and social schemes impacting disparately on certain social groups, thus exacerbating inequality and poverty instead of diminishing these in fidelity to constitutional and international commitments on social justice and equality.
- The Constitution commits to establishing a society based on democratic values, social justice and fundamental human rights where every citizen's potential is freed, and life improved.
- In *S v Makwanyane*,¹⁰ Madala J, eloquently clarifies the link between social justice, the African value of Ubuntu and the transformative ethos of the Constitution when he says:

“The Constitution in its post-amble declares:

there is a need for understanding but not vengeance, and for reparation but not for retaliation, a need for ubuntu but not victimisation.”

- The concept of *ubuntu* appears for the first time in the post-amble, but it is a concept that permeates the Constitution generally and, more particularly chapter Three, which embodies the entrenched fundamental human rights. The concept carries in it the ideas of humaneness, social justice and fairness” (Para 237, This is in reference to the Interim Constitution).

¹⁰ 1995 (3) SA 391 (CC).

Does The Restitution Bill Improve Constitutional Fidelity on Social Justice and Equality Duty

1. Improvements

- It is important to note that the Expropriation Bill does not introduce expropriation. It is a law reform initiative that is 30 years late in replacing the 1975 bill, which was introduced during and to facilitate apartheid objectives such as forced removals under the Group Areas Act of 1950.
- The bill offers an opportunity for a break from an expropriation regime designed to facilitate forced removals under the Group Areas Act and other racially discriminatory laws.
- The bill shows greater human rights awareness (compensation is recognised as the default regime.)
- There is a significant level of administrative justice, which is an improvement from the 1975 Act.
- There is recognition of subjects of customary law.
- The bill offers an opportunity to test implicit constitutional permission of expropriation without compensation, without changing the Constitution.
- The CJC welcomes the Expropriation Bill on the belief that it could usher in the kind of constitutionalism that expands the frontiers of freedom and social justice for ordinary people. This includes women and under-served, mostly historically dispossessed communities whose land and other property on land are expropriated daily, particularly in rural areas, without due process or compensation. Two cases in this regard include the Peter Sisters and the Dlamini Family (names were changed for both cases). In the first case, a mall was built on inherited land, while in the second case, land was expropriated by the Chief using the now discredited recasting of customary-law rights to land as leasing rights and traditional leaders took over the land when the family member with a certificate to occupy (usually a man) is deceased. The plight of these families, who were negatively affected by predatory and corrupt abuse of power in the exercise of expropriation and related regulatory authority over land using loopholes in the current Expropriation Act, was alluded to in our previous oral submission to the National Assembly in 2021.
- The Bill could also contribute to an accelerated pace for land reform, land restitution and sustainable development.

2. Concerns

- The process of expropriation in Chapter 4 remains exceedingly technical, expensive, prolonged, and adversarial, which is likely to have a disparate impact on legally under-served communities.
- Upfront capital is needed to defend property rights, which Gogo Dlaminis, such as Ms Peters and the Dlamini family, do not have.
- Group rights, particularly communal rights, need better accommodation.
- Clearer compensation parameters are needed.
- Expropriation of land for redistribution other than restitution needs to be linked to a clear policy framework outlining the distribution scheme to be applied. This will ensure that lower social classes are not land

- dispossessed to give the land to newly advantaged persons.
- The uncertainties created by the nil compensation provisions could negatively impact investment (not only FDI) and food security. There does not seem to be a proficiency and proportionality justification. Why not consider recovering land that was stolen just before the dawn of democracy as gifts and 99-year leases?
- Reconsider aspects of Chapter 4 that deal with the process, possibly having a bifocal approach with an expedited process for properties under a specified amount and Chapter 5, particularly clause 12, which deals, among others, with expropriation with nil compensation.

3. Cost of Compensation

According to Kapuya and Sihlobo “[b]etween 1994 and 2017, over 9.8 million hectares of land were purchased by the government ... at a cost of R60 billion”.¹¹ Kapuya and Sihlobo point out that this is too expensive. A litigation-anchored dispute resolution scheme, as opposed to a CCMA-styled conciliation-centric land dispute resolution system, might increase the cost further in addition to time consumption.

4. Social Justice Risks

- For many people who have never owned immovable property before, the prospect of ownership offers them a source of human dignity by granting them a legally protected home and the means to securely access food and water in the case of rural land where people engage in subsistence farming and drill boreholes for water.
- Considering the intersection of rights between sections 25, 26, 27, and 10, the state cannot be allowed to arbitrarily infringe upon someone’s right to access adequate housing, or deny someone access to food and water, or infringe upon their human dignity by rendering them homeless and destitute, because of expropriating their primary residence and source of income or subsistence. South Africa witnessed the injustices of the Group Areas Act and Native Land Act in the past, which routinely robbed people of their homes in urban centres and their means of subsistence in the case of rural land, leaving them homeless and destitute. This was a gross affront to the human dignity of these people. Moreso since the architects of the Constitution understood the ability of a home and a source of income or subsistence to provide a person with a sense of human dignity. We cannot lawfully go down such a path of injustice again, considering the legal protections afforded under the constitutional dispensation.
- Consequently, the powers of the State to expropriate must differentiate between the different circumstances of each affected individual, namely, whether the property that is being expropriated is:
 - (a) their primary residence,
 - (b) the sole means through which they generate income; or
 - (c) whether the property is utilised for agrarian subsistence. There

¹¹ T Kapuya & W Sihlobo “Evolution of South African land reform process post-1994” in R Parsons (ed) *Recession, Recovery and Reform: South Africa After Covid-19* (2020).

is also no conceivably justifiable reason why it would ever be just and equitable to award nil compensation for expropriating movable property or incorporeal property such as intellectual property or shares.

5. Our Recommendations

- A holistic policy framework that limits speculation about the intentions, processes, target beneficiaries, and anticipated impact could help make a more compelling case for the bill.
- Chapters 4 and 5 should be reviewed to ensure that the process realistically accommodates access to justice for underserved groups. Expropriations with nil compensation in clause 12 should furthermore be refined to remove undue threats to property rights disproportionately while showing no proficiency for unlocking land redistribution and reform objectives.
- Subject the Bill to a Social and Economic Impact Assessment Systems (SEIAS) test incorporating a data analytics-based prospective assessment of the impact on poverty and inequality. This can be done expeditiously without delaying the process.
- Consider dealing with small properties differently to promote social justice
- Consider a social compact process that encourages a complementary land redistribution process since litigation on expropriation with or with nil compensation can take years before a single piece of land is yielded.

We have attached a table with the proposed changes below.

We are grateful for this opportunity and are available to elaborate on our submission in person, if oral submissions will be taken.

Yours sincerely

Prof Thuli Madonsela (Director Centre For social Justice, Law Trust Chair in Social Justice Stellenbosch University and Social Justice Musa Plan Convenor)

Stakeholders who contributed to the submission:

1. John Flanagan
2. Jonathan Geach
3. Nolwandle Made
4. Marna Lourens
5. Diane Gahiza
6. Hannelie Booysen
7. Sarah Sydenham
8. Andrea Campher
9. Tshepo Sebola
10. Mashudu Matshikhiri
11. Kabelo Mandli

06 March 2023

EXPROPRIATION BILL SUMMARY TABLE				
Old Bill (2020/1)	New Bill (2023)	Expropriation Act of 1975	Commentary	Change or Retain
“amended by the Portfolio Committee on Public Works and Infrastructure)”	“introduced in the National Assembly (proposed section 76); explanatory summary of Bill and prior notice of its introduction published in Government Gazette No. 43798 of 9 October 2020))”			
<p>Purpose</p> <p>To provide for the expropriation of property for a public purpose or in the public interest; to regulate the procedure for the expropriation of property for a public purpose or in the</p>	<p>Purpose</p> <p>To provide for the expropriation of property for a public purpose or in the public interest; <u>to provide for certain instances where expropriation with nil compensation may be</u></p>			

<p>public interest, including payment of compensation; to identify certain instances where the provision of nil compensation may be just and equitable for expropriation in the public interest; to repeal the Expropriation Act, 1975 (Act No. 63 of 1975); and to provide for matters connected therewith.</p>	<p><i>appropriate in the public interest;</i> and to provide for matters connected therewith.</p>			
<p>Preamble</p> <p>WHEREAS section 25 of the Constitution of the Republic of South Africa, 1996, provides as follows:</p> <p>“Property</p> <p>25. (1) No one may be deprived of property except in terms of law of general application, and no law may</p>	<p>Preamble</p> <p>WHEREAS section 25 of the Constitution of the Republic of South Africa, 1996, provides as follows:</p> <p>“Property</p> <p>25. (1) No one may be deprived of property except in terms of law of general application, and no law may</p>			

<p>permit arbitrary deprivation of property.</p> <p>(2) Property may be expropriated only in terms of law of general application—</p> <p>(a) for a public purpose or in the public interest; and</p> <p>(b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.</p> <p>(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having</p>	<p>permit arbitrary deprivation of property.</p> <p>(2) Property may be expropriated only in terms of law of general application—</p> <p>(a) for a public purpose or in the public interest; and</p> <p>(b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.</p> <p>(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having</p>			
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<p>regard to all relevant circumstances, including—</p> <p>(a) the current use of the property;</p> <p>(b) the history of the acquisition and use of the property;</p> <p>(c) the market value of the property;</p> <p>(d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and</p> <p>(e) the purpose of the expropriation.</p> <p>(4) For the purposes of this section—</p> <p>(a) the public interest includes the nation’s commitment to land reform,</p>	<p>regard to all relevant circumstances, including—</p> <p>(a) the current use of the property;</p> <p>(b) the history of the acquisition and use of the property;</p> <p>(c) the market value of the property;</p> <p>(d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and</p> <p>(e) the purpose of the expropriation.</p> <p>(4) For the purposes of this section—</p> <p>(a) the public interest includes the nation’s commitment to land reform,</p>			
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<p>and to reforms to bring about equitable access to all South Africa's natural resources; and</p> <p>(b) property is not limited to land.</p> <p>(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.</p> <p>(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.</p>	<p>and to reforms to bring about equitable access to all South Africa's natural resources; and</p> <p>(b) property is not limited to land.</p> <p>(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.</p> <p>(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.</p>			
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<p>A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.</p> <p>(7) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).</p>	<p>A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.</p> <p>(7) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).</p>			
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<p>(9) Parliament must enact the legislation referred to in subsection (6); and</p> <p>WHEREAS section 33(1) of the Constitution provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair; and</p> <p>WHEREAS section 34 of the Constitution provides that everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum; and</p> <p>WHEREAS uniformity across the nation is required in order to deal effectively with these matters;</p>	<p>(9) Parliament must enact the legislation referred to in subsection (6); and</p> <p>WHEREAS section 33(1) of the Constitution provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair; and</p> <p>WHEREAS section 34 of the Constitution provides that everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum; and</p> <p>WHEREAS uniformity across the nation is required in order to deal effectively with these matters;</p>			
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<p>AND IN ORDER TO ENABLE expropriation in accordance with the Constitution,</p> <p>BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa,</p> <p>as follows:—</p>	<p>AND IN ORDER TO ENABLE expropriation in accordance with the Constitution,</p> <p>BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa,</p> <p>as follows:—</p>			
<p>Chapter 1: DEFINITIONS AND APPLICATION OF ACT</p> <p>1. (1) In this Act, unless the context indicates otherwise—</p> <p>“claimant” means a person who has lodged a claim for compensation;</p> <p>“Constitution” means the Constitution of the Republic of South Africa, 1996;</p>	<p>Chapter 1: DEFINITIONS AND APPLICATION OF ACT</p> <p>1. (1) In this Act, unless the context indicates otherwise—</p> <p>“claimant” means a person who has lodged a claim for compensation with an <u>expropriating authority arising from or in connection with an expropriation of property</u>;</p>	<p>Definitions</p> <p>BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-</p> <p>1. In this Act, unless the context otherwise indicates-</p> <p>(i) “compensation court” means a compensation court</p>		<p>Addition/substitution to Bill accepted.</p>

<p>“court” means a Division of the High Court or a court of similar status within whose area of jurisdiction—</p> <p>(a) the immovable property in question is situated;</p> <p>(b) the movable property in question is situated at the time the expropriating authority implements section 5 or 20; or</p> <p>(c) the owner of the movable or intangible property in question resides or has its principal place of business; “deliver”, in relation to any document, includes delivery by hand, post, registered post and by electronic communication as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);</p>	<p><u>“Constitution” means the Constitution of the Republic of South Africa, 1996;</u></p> <p><u>“court” means—</u></p> <p><u>(a) a High Court within whose area of jurisdiction a property is situated;</u></p> <p><u>(b) a Magistrate’s Court within whose area of jurisdiction a property is situated, having competent jurisdiction and designated as such in terms of paragraph (b)(ii) in the definition of ‘court’ in section 1, read with section 9A, of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); or</u></p> <p><u>(c) in the case of intangible property, the court within whose area of jurisdiction the owner of that property is ordinarily resident or has its</u></p>	<p>established by subsection (1), or under subsection (2), of section 16; (xv)</p> <p>(ii) “date of expropriation” means the appropriate date contemplated in section 7 (2) (b); (ix) : (iii) “date of notice” means the date on which a notice of . . . expropriation is in terms of section 7 (3) delivered; tendered or posted to a person or is in terms of section 7 (5) published in the Gazette, and if such a notice in respect of the same property is so delivered, tendered or posted and published, the date on which it is so published;</p>		
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<p>“Department” means the Department responsible for Public Works and Infrastructure;</p> <p>“Director-General” means the Director-General of the Department;</p> <p>“disputing party” means an owner, mortgagee, holder of a right, including an owner and holder, of a right contemplated in section 20, expropriated owner or expropriated holder, who rejects the expropriating authority’s offer of compensation;</p> <p>“expropriating authority” means an organ of state or person empowered by this Act or any other legislation to expropriate property or to bring about the compulsory acquisition of property contemplated in section 2(3)</p>	<p><u>principal place of business within the Republic;</u></p> <p><u>“date of expropriation” means the date mentioned in the notice of expropriation, which date must not be earlier than the date of service of such notice;</u></p> <p><u>“deliver”, in relation to any document, means to deliver by hand, facsimile transmission or post as contemplated in section 24(3) and (4);</u></p> <p><u>“Department” means the Department of Public Works and Infrastructure;</u></p> <p><u>“Director-General” means the Director-General of the Department;</u></p> <p><u>“disputing party” means an owner, holder of a right, expropriated owner or</u></p>	<p>(iv) “date of offer of compensation” means, if an amount is mentioned as compensation in the notice of expropriation in question, the date of notice in question or, if such an amount is not mentioned in such notice but is offered in terms of section 10 (2) or (4), the date on which such an amount is so offered; (i) (v) “executive - committee” means the executive committee of a province mentioned in section 76 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (xiv)</p>		
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<p>for a public purpose or in the public interest;</p> <p>“expropriation” means the compulsory acquisition of property for a public purpose or in the public interest by an expropriating authority, or an organ of state upon request to an expropriating authority, and “expropriate” has a corresponding meaning;</p> <p>“holder of a right” means the holder of an unregistered right in property, but excludes an unregistered owner;</p> <p>“land parcel” means land that has been surveyed and is either registered or yet to be registered in a deeds registry;</p> <p>“Master” means the Master of the High Court for the</p>	<p><u>expropriated holder who does not accept the amount of compensation offered in terms of section 14(1) or 15(1);</u></p> <p><u>“expropriated holder” means a holder of an unregistered right in property, which right has been expropriated by notice in terms of section 8(1) or in terms of section 9(1)(b);</u></p> <p><u>“expropriating authority” means an organ of state or a person empowered by this Act or any other legislation to acquire property through expropriation;</u></p> <p><u>“expropriation” means the compulsory acquisition of property by an expropriating authority or an organ of state upon request to an expropriating authority, and</u></p>	<p>(vi) “immovable property” includes a real right in or over immovable property; (viii) (vii) “local authority” means an institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), and includes a Regional Water Services Corporation constituted in terms of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963 of Natal); (xii) - (viii) “Master”, in relation to particular property, means the Master of the Supreme Court appointed in respect of</p>		
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<p>Division with the necessary jurisdiction;</p> <p>“organ of state” means an organ of state as defined in section 239 of the Constitution;</p> <p>“owner” means the owner of property at common law and where the ownership of the property or right in question must be registered, and—</p> <p>(a) if the owner of any property or registered right in land is deceased, means the executor of his or her estate and if no executor has been appointed or his or her appointment has lapsed, the Master;</p> <p>(b) if the estate of the owner of any property or registered right in land has been</p>	<p><u>“expropriate” has a corresponding meaning;</u></p> <p><u>“holder of a right” means the holder of an unregistered right in property;</u></p> <p><u>“land parcel” means land that has been surveyed and is either registered or yet to be registered in a deeds registry;</u></p> <p><u>“Master” means the Master of the High Court;</u></p> <p><u>“organ of state” means an organ of state as defined in section 239 of the Constitution;</u></p> <p><u>“owner”, where the ownership of the property or right in question is registered, means” and—</u></p> <p>(a) if the owner of any property or registered right in</p>	<p>the area in which that property is or is situated;</p> <p>(vi)</p> <p>(ix) “Minister” means the Minister of Agriculture and, except for the purposes of sections 3 and 25 (2), includes an executive committee;</p> <p>(vii) ·</p> <p>(x) “notice of expropriation”. means a notice contemplated in section 7; (x)</p> <p>(xi). “owner” means, in relation to land or a registered right in or over land, the person in whose name such land or right is registered, and-</p> <p>(a) if the owner of any property is deceased, the executor in his estate;</p>		
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<p>sequestrated, means the provisional or final trustee of his or her insolvent estate, as the case may be, or if no such appointment has been made, the Master;</p> <p>(c) if the owner of any land or registered right in property is a company that is being wound up, means the provisional or final liquidator of that company, or if no such appointment has been made, the Master;</p> <p>(d) if any property or registered right in property is vested in a liquidator or trustee in terms of any other law, means that liquidator or trustee;</p> <p>(e) if the owner of any property or registered right in property is otherwise under a</p>	<p>land is deceased, means the executor of his or her estate and if no executor has been appointed or his or her appointment has lapsed, the Master;</p> <p>(b) if the estate of the owner of any property or registered right in land has been sequestrated, means the provisional or final trustee of his or her insolvent estate, as the case may be, or if no such appointment has been made, the Master;</p> <p>(c) if the owner of any land or registered right in property is a company that is being wound up, means the provisional or final liquidator of that company, or if no such appointment has been made, the Master;</p> <p>(d) if any property or registered right in property is</p>	<p>(b) if the estate of the owner of any property has been sequestrated, the trustee of his insolvent estate;</p> <p>(c) if the owner of any property is a company which is being wound up, the liquidator thereof;</p> <p>(d) if any property has vested in a liquidator or trustee elected or appointed in terms of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), that liquidator or trustee;</p> <p>(e) if the owner of any property is otherwise under a legal disability, his legal representative;</p> <p>(f) if any property has been attached in terms of an</p>		
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<p>legal disability, means his or her representative by law;</p> <p>(f) if any land or registered right in property has been attached in terms of an order of a court, means the sheriff or deputy sheriff, as the case may be;</p> <p>(g) in the case of a public place, road or street under the control of a municipality, means that municipality;</p> <p>(h) for the purposes of section 5, includes a lawful occupier of the land concerned; and</p> <p>(i) includes an authorised representative of the owner, who is ordinarily resident in the Republic;</p> <p>“possession” includes the exercise of a right;</p>	<p>vested in a liquidator or trustee in terms of any other law, means that liquidator or trustee;</p> <p>(e) if the owner of any property or registered right in property is otherwise under a legal disability, means his or her representative by law;</p> <p>(f) if any land or registered right in property has been attached in terms of an order of a court, means the sheriff or deputy sheriff, as the case may be;</p> <p>(g) in the case of a public place, road or street under the control of a municipality, means that municipality;</p> <p>(h) for the purposes of section 5, includes a lawful occupier of the land concerned; and</p>	<p>order of a court; includes the sheriff, deputy sheriff or messenger of the court concerned, as the case may be;</p> <p>(g) in relation to a holding allotted; leased, sold or granted in terms of the Land Settlement Act, 1956 (Act No. 21 of 1956), the person to whom it was so allotted, leased, sold or granted or his cessionary or sub-lessee;</p> <p>(h) includes the authorized representative of the owner in the Republic; (ii) “property” means both movable and immovable property; (iii)</p>		
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<p>“prescribed” means prescribed by regulation;</p> <p>“property” means property as contemplated in section 25 of the Constitution;</p> <p>“public interest” includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources in order to redress the results of past racial discriminatory laws or practices;</p> <p>“public purpose” includes any purposes connected to the administration of any law by an organ of state, in terms of which the property concerned will be used by or for the benefit of the public;</p>	<p>(i) includes an authorised representative of the owner, who is ordinarily resident in the Republic;</p> <p>“possession” includes the exercise of a right;</p> <p>“prescribed” means prescribed by regulation;</p> <p>“property” means property as contemplated in section 25 of the Constitution;</p> <p>“public interest” includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources in order to redress the results of past racial discriminatory laws or practices;</p> <p>“public purpose” includes any purposes connected to the administration of any law</p>	<p>(xiii) “public purposes” includes any purposes connected with the administration of the provisions of any law by an organ of State; (xi) . . .</p> <p>(xiv) “regulation” means a regulation made under this Act; (xiii)</p> <p>(xv) “this Act” includes the regulations. (iv)</p>		
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<p>“registered” means registered or recorded with a government office in which rights in respect of land, minerals or any other property are registered or recorded for public record in terms of any law;</p> <p>“regulation” means a regulation made in terms of section 26;</p>	<p>by an organ of state, in terms of which the property concerned will be used by or for the benefit of the public;</p> <p>“registered” means registered or recorded with a government office in which rights in respect of land, minerals or any other property are registered or recorded for public record in terms of any law;</p> <p>“regulation” means a regulation made in terms of section 26;</p> <p>“service”, in relation to a notice as contemplated in section 24(1), means to serve by delivery or tender, post, publication or in accordance with the direction of a court, and “serve” has a corresponding</p>			
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<p>‘service’ “as contemplated in section 22(1), and “serve” has a corresponding meaning; “this Act” includes any regulations made under this Act;</p> <p>“unregistered right” means a right in property, recognised and protected by law, including customary law, which does not require registration and includes a right to occupy or use land;</p> <p>“valuer” means a person who is suitably qualified to value particular property and includes a person registered as a professional valuer or</p>	<p><u>meaning: “this Act” includes the regulations;”</u></p> <p><u>““unregistered right” means a right in property, including a right to occupy or use land, which is recognised and protected by law, but is neither registered nor required to be registered; and</u></p> <p>“valuer” means a person who is suitably qualified to value particular property and includes a person registered as a professional valuer or professional associated valuer in terms of section 19 of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000).</p> <p>(2) (a) A Saturday, Sunday or public holiday must not be reckoned as part of any</p>			
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<p>professional associated valuer in terms of section 19 of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000).</p> <p>(2)(a) A Saturday, Sunday or public holiday must not be reckoned as part of any period calculated in terms of this Act.</p> <p>(b) The period 20 December to 7 January inclusive, must not be reckoned as part of any period calculated in terms of this Act.</p>	<p>period calculated in terms of this Act.</p> <p>(b) The period 20 December to 7 January inclusive, must not be reckoned as part of any period calculated in terms of this Act 2. (1) Despite the provisions of any law to the contrary, an expropriating authority may not expropriate property arbitrarily or for a purpose other than a public purpose or in the public interest.</p> <p>Application of Act</p> <p><u>“(2) Despite the provisions of any law to the contrary, an expropriating authority may not expropriate the property of a state-owned corporation or a state-owned entity without the concurrence of the executive authority</u></p>			
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<p>Application of Act</p> <p>2. (1) Despite the provisions of any law to the contrary, an expropriating authority may not expropriate property “or cause it to be acquired under subsection (3)” arbitrarily or for a purpose other than a public purpose or in the public interest.</p> <p>(2) Subject to section 20, a power to expropriate property may not be exercised unless the expropriating authority has without success attempted to</p>	<p><u>Responsible for that corporation or entity.</u></p> <p><u>(3) Subject to section 22, a power to expropriate property may not be exercised unless</u> the expropriating authority has without success attempted to reach an agreement with the owner or holder of a right in property for the acquisition thereof on reasonable terms.</p> <p><u>(4) An expropriating authority may expropriate property in terms of a power conferred on such expropriating authority by or under any law of general application, provided that the exercise of such power is in accordance with sections 5 to 27 and 31.</u></p>			
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<p>reach an agreement with the owner or holder of a right in property for the acquisition thereof on reasonable terms.</p> <p>(3) An expropriating authority may expropriate property in terms of a power conferred on “it by law of general application and in accordance with sections 5 to 25 and 28.</p> <p>(4) The power to expropriate includes the power to acquire a right to use property temporarily.”</p>				<p>Addition/substitution to Bill accepted.</p>
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<p>Chapter 2: Powers of minister to expropriate</p> <p>3. (1) Subject to the provisions of Chapter 5, the Minister may expropriate property for a public purpose or in the public interest.</p> <p>(2) “The Minister may expropriate property on behalf of an organ of state, which has been established by or under</p>	<p>Chapter 2: Powers of minister to expropriate</p> <p>3.(1) Subject to the provisions of Chapter 5, the Minister may expropriate property for a public purpose or in the public interest.</p> <p>(2) <u>“If an organ of state, other than an expropriating authority, satisfies the Minister that it requires particular property for a public purpose or</u></p>	<p>Power of Minister to expropriate property for public and certain other purposes and to take the right to use property for public purposes.</p> <p>2. Subject to the provisions of this Act the Minister may, subject to an obligation to pay compensation, expropriate. any property for public purposes. or take the right to use temporarily any property for public purposes.</p>		<p>Addition/substitution to Bill accepted.</p>
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<p>any law but is not an expropriating authority, if</p> <p>(a) the member of the executive responsible for the administration of that law requests the Minister to do so in writing; and</p> <p>(b) the Minister is satisfied that the organ of state requires the property for a public purpose or in the public interest.</p> <p>(3) The Minister's power to expropriate property in terms of subsections (1) and (2) includes the power to expropriate property to be used for the provision and management of the accommodation and land and infrastructure needs of an organ of state.</p> <p>(4) Where only a portion of a land parcel is to be expropriated, the Minister may expropriate that portion</p>	<p><u>in the public interest, then the Minister must expropriate that property on behalf of that organ of state upon its written request, subject to and in accordance with the provisions of this Act.</u></p> <p><u>(3) The Minister's power to expropriate property in terms of subsections (1) and (2) applies to property which is connected to the provision and management of the accommodation, land and infrastructure needs of an organ of state, in terms of the Minister's mandate.</u></p> <p><u>(4) Where only a portion of a land parcel is expropriated, the Minister may expropriate that portion together with the remainder of the land parcel, provided that (a) (b) the owner so requests; and the Minister is satisfied that due to the partial expropriation the use or potential use of the remainder of such land has become so</u></p>	<p>(2) The power of the Minister in terms of subsection (1) to expropriate property for public purposes; and any power in terms of any law to expropriate or otherwise acquire any property on behalf of the State, shall include the power to expropriate, when any immovable property is so expropriated or acquired so much of any other immovable property which, in the opinion of the Minister, is affected by such expropriation or acquisition as the Minister may for any reason deem expedient.</p> <p>(3) The power of the Minister. in terms of subsection (2) to expropriate immovable property which, in the opinion of the</p>		
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<p>together with the remainder of the land parcel, if (a) (b) the owner so requests; and the Minister is satisfied that partial expropriation would impair the use or potential use of the remainder, and that it would be just and equitable to the owner to expropriate the remainder.</p> <p>4(1) Subject to subsection (2), the Minister may, either generally or in relation to a particular property or “a particular case, a power or duty under this Act to an official of the Department.</p> <p>(2) The Minister may not delegate or assign the powers or duties conferred by sections 5 3, 20(1), 21(1) and 26.”</p> <p>(5) When the Minister expropriates property in terms of subsection (2)—</p>	<p><u>impaired in consequence of the expropriation, that it would be just and equitable to the owner to expropriate it.</u></p> <p>4(1) Subject to subsection (2), the Minister may, either generally or <u>“in relation to a particular property or “in relation to a particular case, delegate or assign to an official of the Department any power or duty conferred or imposed on him or her in terms of this Act.</u></p> <p><u>(2) The Minister may not delegate or assign the powers or duties conferred on him or 5 her in terms of sections 3, 22(1), 23(1) and 28.”</u></p>	<p>Minister, is affected by an expropriation, shall, in the case where only a portion of a piece of land is expropriated in terms of this section, include the power to expropriate the remainder of such a piece of land if the owner satisfies the Minister that due to the said partial expropriation, the said remainder has become useless to the owner.</p>		
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<p>(a) the ownership of the property vests in the relevant organ of state on the date of expropriation;</p> <p>(b) the date on which the right to possession of the property vests in the relevant organ of state must be determined in terms of section 9;</p> <p>(c) the relevant organ of state is liable for the fees, duties and other charges which would have been payable by that organ of state in terms of any law if it had purchased that property; and</p> <p>(d) all costs incurred by the Minister in the performance of his or her functions on behalf of an organ of state must be refunded by the relevant organ of state within a reasonable time.</p>	<p>(5) When the Minister expropriates property in terms of subsection (2)—</p> <p>(a) the ownership of the property vests in the relevant organ of state on the date of expropriation;</p> <p>(b) the date on which the right to possession of the property vests in the relevant organ of state must be determined in terms of section 9;</p> <p>(c) the relevant organ of state is liable for the fees, duties and other charges which would have been payable by that organ of state in terms of any law if it had purchased that property; and</p> <p>(d) all costs incurred by the Minister in the performance of his or her functions on</p>			
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	<p>behalf of an organ of state must be refunded by the relevant organ of state within a reasonable time.</p>			
<p>Chapter 3</p> <p>5. (1) “The expropriating authority must consider all relevant factors when deciding whether to expropriate property and must ascertain</p> <p>(a) the suitability of the property for the required purpose;</p> <p>(b) the existence of registered and unregistered rights in the property; and</p> <p>(c) facts relevant to calculating an amount of compensation that accords with section 12 and formulate an offer of just and equitable compensation for each person, who would be</p>	<p>Chapter 3</p> <p>5. (1) <u>“When an expropriating authority is considering the expropriation of property, he or she must, amongst others, ascertain</u></p> <p><u>(a) the suitability of the property for the purpose for which it is required; and (b) the existence of registered and unregistered rights in such property and the impact of such rights on the intended use of the property.</u></p> <p><u>(2) Subject to subsection (3), if the property is land, an expropriating authority may, in writing</u></p>	<p>3 Expropriation of immovable property by Minister on behalf of certain juristic persons or bodies.</p> <p>3. (1) If a juristic person or body mentioned in subsection (2) satisfies the Minister charged with the administration of the law mentioned in connection therewith that it; reasonably requires any immovable property for the attainment of its objects and that it is unable to acquire it on reasonable terms, the Minister of Agriculture may, at the request of the first mentioned Minister, and subject to the provisions of subsections (4) and (5),</p>		<p>Addition/substitution to Bill accepted.</p>

<p>affected if the property were expropriated.</p> <p>(2) Subject to subsection (3), if the property is land, an expropriating authority may authorise in writing</p> <p>(a) a person with the necessary skills or expertise, for the purposes of subsection 1(a),”</p> <p>i) enter upon the property with the necessary workers, equipment and</p> <p>vehicles at all reasonable times or as may be agreed to by the owner or</p> <p>occupier of the property;</p> <p>(ii) survey and determine the area and levels of the land;</p> <p>(iii) dig or bore on or into the land;</p>	<p><u>(a) for purposes of subsection (1)(a), authorise a person or persons with the necessary skills or expertise”</u></p> <p>i) enter upon the property with the necessary workers, equipment and</p> <p>vehicles at all reasonable times or as may be agreed to by the owner or</p> <p>occupier of the property;</p> <p>(ii) survey and determine the area and levels of the land;</p> <p>(iii) dig or bore on or into the land;</p> <p>(iv) construct and maintain a measuring weir in any river or stream;</p>	<p>and, in the case of a juristic person contemplated in paragraph (h) of the said subsection (2), with the approval, by resolution, of the Senate and the House of Assembly, expropriate such immovable property on behalf of that juristic person or body as if it were required for public purposes.</p> <p>(2) The juristic persons or bodies contemplated in subsection (1) are—</p> <p>(a) a university as defined in section 1 of the Universities Act, 1955 (Act No. 61 of 1955);</p> <p>(b) a university college as defined in section -1 of the Extension of University Education Act, 1959 (Act No. 45 of 1959);</p> <p>(c) a college as, defined in section 1 of the Advanced</p>		
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<p>(iv) construct and maintain a measuring weir in any river or stream;</p> <p>(v) insofar as it may be necessary to gain access to the property, enter upon</p> <p>and go across another property with the necessary workers, equipment</p> <p>and vehicles; and</p> <p>(vi) demarcate the boundaries of the property required for the said purpose;</p> <p>and</p> <p>(b) a valuer” to enter upon the land and any building on such land and to do the necessary inspections and investigations for “the purpose of valuing it.</p> <p>(3) No person contemplated in subsection (2) may enter the</p>	<p>(v) insofar as it may be necessary to gain access to the property, enter upon</p> <p>and go across another property with the necessary workers, equipment</p> <p>and vehicles; and</p> <p>(vi) demarcate the boundaries of the property required for the said purpose;</p> <p>and</p> <p>“(b) <u>authorise a valuer, for purposes of ascertaining the value of the property,</u>” to enter upon the land and any building on such land and to do the necessary inspections and investigations for <u>“that purpose.</u></p> <p><u>(3) The person or persons contemplated in subsection (2)(a) and (b) may not enter the</u></p>	<p>Technical Education Act, 1967 (Act No. 40 of 1967);</p> <p>- (d) a governing body as defined in section 1 of the Educational Services Act, 1967 (Act No. 41 of 1967);</p> <p>(e) the Atomic Energy Board mentioned in section 11 of the Atomic Energy Act, 1967 (Act No. 90 of 1967);</p> <p>(f) a college as defined in section 1 of the Indians Advanced Technical Education Act, 1968 (Act No. 12 of 1968);</p> <p>(g) the Council mentioned in section 1 of the National Monuments Act, 1969 (Act No. 28 of 1969); and</p> <p>(h) any juristic person, other than a juristic person mentioned in paragraph .(a), (b), (c), (e), (f) or (g), -established by or under any law for the promotion of</p>		
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<p>property without written authorisation from the expropriating authority and</p> <p>(a) the written consent of the owner or occupier of the property, including the written consent of the owner or occupier of a property contemplated in subsection (2)(a)(v), to perform an act contemplated in subsection (2); or</p> <p>(b) in the event of the owner or occupier refusing or failing to grant consent contemplated in paragraph (a), a court order authorising entry on to” enter the</p> <p>land, including any building thereon, for purposes of conducting the</p> <p>investigations contemplated in subsection (2).</p>	<p><u>property unless authorised in writing by the expropriating authority to do so, and</u></p> <p><u>(a) the owner or occupier of the property has consented thereto in writing, after being informed; (b) the owner of the property has consented in writing to the performance of an act contemplated in subsection (2)(a); or (c) in the event of the owner or occupier refusing or failing to grant consent contemplated in paragraphs (a) or (b), is in possession of a court order authorising the expropriating authority and such person or persons to enter” the</u></p> <p>land, including any building thereon, for purposes of conducting the</p> <p>investigations contemplated in subsection (2).</p>	<p>any matter of public importance.</p> <p>(3) If the Minister expropriates any immovable property on behalf of a juristic person or body in terms of subsection (1), such juristic person or body shall become the owner thereof on the date of expropriation in question.</p> <p>(4) There shall be payable in respect of the expropriation of any immovable property in terms of subsection (1) the fees, duties and other charges which would have been payable by the juristic person or body concerned in terms of any law if it had purchased that property.</p>		
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<p>(4) The valuer contemplated in subsection (2)(b) may—</p> <p>(a) require the owner or occupier of the property to give him or her access to a document in the possession or under the control of the owner or occupier that the valuer reasonably requires for the purposes of valuing the property;</p> <p>(b) extract information from or make copies of a document to which he or she is given access in terms of paragraph (a);</p> <p>(c) in writing require the owner or occupier of the property to provide him or her,</p>	<p>(4) The valuer contemplated in subsection (2)(b) may—</p> <p>(a) require the owner or occupier of the property to give him or her access to a document in the possession or under the control of the owner or occupier that the valuer reasonably requires for the purposes of valuing the property;</p> <p>(b) extract information from or make copies of a document to which he or she is given access in terms of paragraph (a);</p> <p>(c) in writing require the owner or occupier of the property to provide him or her,</p>	<p>(5) All costs incurred by the said Minister in the performance of his functions in terms of subsection (l) shall be refunded to him by the juristic person or body concerned.</p>		
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<p>either in writing or orally, with particulars regarding the property that he or she reasonably requires for the purposes of valuing the property; and</p> <p>(d) despite the provisions of any law to the contrary, require the municipality in whose area the land is situated, to provide such valuer—</p> <p>d) despite the provisions of any law to the contrary, require the municipality in whose area the land is situated, to provide such valuer</p> <p>(i) insight into building plans of improvements on such land;</p> <p>(ii) a copy or copies of building plans on such land at the cost of the valuer or valuers; and</p>	<p>either in writing or orally, with particulars regarding the property that he or she reasonably requires for the purposes of valuing the property; and</p> <p>(d) despite the provisions of any law to the contrary, require the municipality in whose area the land is situated, to provide such valuer—</p> <p>(d) despite the provisions of any law to the contrary, require the municipality in whose area the land is situated, to provide such valuer</p> <p>(i) insight into building plans of improvements on such land;</p> <p>(ii) a copy or copies of building plans on such land at the cost of the valuer or valuers; and</p>			
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<p>(iii) “information about” municipal property rates or other charges, land use rights “such as zoning, the availability of engineering services, which information is in the possession of the municipality concerning the land and which is reasonably required for the valuation of the said land by the valuer.</p> <p>(5) Unless the information has already been obtained, the expropriating authority must</p> <p>(a) deliver a notice to the following persons to provide the names and addresses of all holders of rights in the property known to them, as well as particulars of those rights, by written reply within 20 days of delivery of the notice:</p> <p>(i) The owner;</p>	<p>(iii) <u>such information in respect of municipal property rates or other charges, land use rights including the zoning of the land, availability of engineering services to such land, or such other information with respect to the land, as is in the possession of the municipality and as may be reasonably required for the valuation of the said land by the valuer.</u></p> <p><u>(5) An expropriating authority must if the information has not already been established at any time before deciding to expropriate property</u></p> <p><u>(a) by written notice call upon the following persons to furnish, in writing within 20 days from delivery of the notice, subject to section 25, the names and addresses of all known persons holding unregistered</u></p>			
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<p>(ii) a person apparently in charge of the property; (iii) the holder of a right, known to the expropriating authority; and (iv) the mortgagee; and”</p> <p>(b) if the property is land, consult—</p> <p>(i) the Departments responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation and any other organ of state whose functions and responsibilities will be materially affected by the intended expropriation, for the purposes of</p>	<p><u>rights in the property, as well as particulars of such rights:</u></p> <p><u>(i) An owner;</u></p> <p><u>(ii) a person apparently in charge of the property; and</u></p> <p><u>(iii) any holder of unregistered rights in the property, known to the expropriating authority;</u></p> <p>(b) if the property is land, consult—</p> <p>(i) the Departments responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation and any other organ of state whose functions and responsibilities will be</p>			
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<p>establishing the existence of and the impact of expropriation on rights therein; and</p> <p>(ii) if applicable, with the municipality as contemplated in section 6.</p> <p>“6, unless the expropriating authority is the municipal council. (6) (a) A person contemplated in subsection (2)”</p> <p>“(b) The owner or occupier of the property may refuse entry to the property to a person contemplated in subsection (2) who fails to comply with paragraph (a), or may refuse to allow an act contemplated in subsection (2).”</p> <p>(7) If the property in question is damaged “through an act contemplated in subsection (2), an affected person may deliver</p>	<p>materially affected by the intended expropriation, for the purposes of</p> <p>establishing the existence of and the impact of expropriation on rights therein; and</p> <p>(ii) if applicable, with the municipality as contemplated in section 6.</p> <p>“(6) (a) A person authorised in writing to perform an act contemplated in subsection (2),”</p> <p>“(b) If the person contemplated in paragraph (a) fails to comply with subparagraphs (i), 30 35 (ii) or (iii) of that paragraph, the owner or occupier of the property may refuse that person entry to the property or may refuse the performance of an act</p>			
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<p>written demand to the expropriating authority and the expropriating authority must repair the damage to a reasonable standard or compensate for the damage”</p>	<p>contemplated in subsection (2)”. (7) If the property in question is damaged <u>“as a result of the performance of an act contemplated in subsection (2), the expropriating authority must repair to a reasonable standard, or compensate the affected person for that damage after delivery of a written demand by the affected person and”</u> <u>6. (1) When contemplating an expropriation of land, an expropriating authority must, if not already established, in writing, request the municipal manager of the municipality where the land is situated to inform the expropriating authority of the effect which the purpose for which the property is being acquired may have on municipal planning.</u></p>			
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<p>6. (1) When considering whether to expropriate land, an expropriating authority must, if not already established, make a written request to the municipal manager of the municipality where the land is situated to explain how the contemplated expropriation would affect municipal planning.</p> <p>(2) The request contemplated in subsection (1) must include—</p> <p>(a) a statement that the expropriating authority is contemplating the acquisition of land;</p> <p>(b) a full description of the land in question;</p> <p>(c) details of the purpose for which the land is required; and</p>	<p>(2) The request contemplated in subsection (1) must include—</p> <p>(a) a statement that the expropriating authority is contemplating the acquisition of land;</p> <p>(b) a full description of the land in question;</p> <p>(c) details of the purpose for which the land is required; and</p> <p>(d) such other details as the expropriating authority may deem necessary.</p> <p>(3) The municipal manager must deliver a written response to the request contemplated in subsection (1) <u>to the expropriating authority within 20 days of receiving the request</u> or within a reasonable time to be agreed between the</p>			
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<p>(d) such other details as the expropriating authority may deem necessary.</p> <p>(3) The municipal manager must deliver a written response to the request contemplated in subsection (1) within 20 days of receipt or within a reasonable time to be agreed between the expropriating authority and municipal manager.</p> <p>(4) If the expropriating authority is the municipal council of the municipality where</p> <p>the land is situated, the request contemplated in subsection (1) is not required.</p>	<p>expropriating authority and municipal <i>manager or within the period determined in terms of section 25.</i></p> <p>(4) If the expropriating authority is the municipal council of the municipality where</p> <p>the land is situated, the request contemplated in subsection (1) is not required.</p>			
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<p>Chapter 4</p> <p>7. (1) If an expropriating authority intends to expropriate property, it must</p> <p>(a) serve a notice of intention to expropriate on the owner, mortgagee and of a right known to it at the time and</p> <p>(b) publish the notice of intention to expropriate under section 22(2).</p> <p>(2) A notice of intention to expropriate must include</p> <p>(a) a statement of the intention to expropriate the property;</p> <p>(b) a full description of the property;</p> <p>(c) a short description of the purpose for which the property is required</p>	<p>Chapter 4</p> <p>7. (1) If an expropriating authority intends to expropriate property, it must</p> <p>(a) serve a notice of intention to expropriate on the <u>owner and any known holder</u> of a right <u>in the property</u>; and</p> <p>(b) publish the notice of intention to expropriate, in accordance with section 24(2).</p> <p>(2) A notice of intention to expropriate must include</p> <p>(a) a statement of the intention to expropriate the property;</p> <p>(b) a full description of the property;</p> <p>(c) a short description of the purpose for which the property <u>is required and</u> the address at which documents <u>setting out</u></p>	<p>4 Expropriation of property by Railway Administration.</p> <p>4. (l) The provisions of sections 7 to 24 of this Act shall <u>mutatis mutandis</u> apply in respect of the exercise by the Railway Administration of the power to expropriate or take property conferred upon it by the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957). .</p> <p>(2) For the purposes of the application of subsection (1) the power mentioned therein shall be deemed to have been conferred upon the Minister of Transport and any reference in this Act to the Minister and the State shall be deemed to</p>		
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<p>(d) the address at which documents detailing the purpose of the expropriation may be inspected and particulars of the purpose may be obtained during business hours;</p> <p>(e) the reason for the intended expropriation of that particular property;</p> <p>(f) the intended date of expropriation and, where the expropriation is for temporary use of the property in the future, the intended period of such temporary use;</p> <p>(g) the future date on which the expropriating authority intends to</p> <p>(g) an invitation to any person who may be affected by the intended expropriation to lodge with the expropriating authority at a given address within 30</p>	<p><i>the purpose</i> may be inspected and particulars of the purpose may be obtained during business hours;</p> <p>(d) the reason for the intended expropriation of that particular property;</p> <p>(e) the intended date of expropriation or, <u>as the case may be, the intended date from which the property will be used temporarily and the intended period of such temporary use;</u></p> <p>(f) <u>the intended date on which the expropriating authority will</u> take possession of the property;</p> <p>(g) an invitation to any person who may be affected by the intended expropriation to lodge with the expropriating authority at a given address within 30</p>	<p>Transport and the Railway Administration, respectively.</p> <p>(3) The powers vested in the Minister of Transport by virtue of the provisions of subsection (2), other than a power contemplated in section 24, may also be exercised by the General Manager and a Deputy General Manager of the South African Railways and Harbours and, in connection with movable property urgently required in an emergency, also by any officer of the Railway Administration of or above the rank of Assistant Superintendent or an equivalent engineering rank,</p>		<p>Addition/substitution to Bill accepted.</p>
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<p>days after the publication of the said notice,</p> <p>(i) any objections to the intended expropriation;</p> <p>(ii) any submissions relating to the intended expropriation;</p> <p>(iii) a postal address, email address or facsimile number for the expropriating authority to communicate with that person; and</p> <p>(iv) the preference of official language for further written communication;</p> <p>(i) (j) the names of the recipients of the notice and their interest in the property; a directive to the owner, mortgagee and a holder of a right contemplated in subsection (1)(a) to deliver, within 30 days of service of the notice, a written list of the</p>	<p>days after the publication of the said <u>notice, subject to section 25</u></p> <p>(i) any objections to the intended expropriation;</p> <p>(ii) any submissions relating to the intended expropriation;</p> <p>(iii) a postal <u>address and a facsimile number, if any, to which further communications to such person may be addressed by the expropriating authority; and</u></p> <p>(iv) <u>the choice of official language for the purposes of further written communication;</u></p> <p><u>(h) a directive to the owner and a holder of a right contemplated in subsection (1)(a) to deliver or cause to be delivered in writing, within 30 days of service, subject to section 25</u></p>	<p>and, if no officer of that rank is readily available at the place where the property in question is, any employee of the said administration whose duty it is to take measures to deal with . the emergency.</p> <p>(4) The-provisions of this section, and the other provisions of this Act; in so far as they are connected with the application of this section, shall also apply in the territory of South West Africa, including the Eastern Caprivi Zipfel.</p>		
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<p>names and addresses of any holders of rights, other than those listed, and particulars of those rights of which the recipient is aware; 30</p> <p>(k) an offer of compensation which the expropriating authority considers just and equitable and an explanation of how the amount was arrived at with reference to supporting information;</p> <p>(l) a statement that the expropriating authority may adjust the amount of compensation under sections 10 and 11, if a holder of a right, of whom the expropriating authority had no prior knowledge, later claims compensation; and</p> <p>(m) a statement drawing attention to sections 14, 19, 23 and</p>	<p><u>(i) the names and addresses of any holders of unregistered rights and particulars of such rights, other than those furnished in accordance with section 5(5)(a) to the extent that such names, addresses and particulars are within the knowledge of the owner or the holder; and</u></p> <p><u>(ii) a written statement stipulating the amount claimed by him or her as just and equitable</u> <u>compensation:</u> <u>Provided that failure to stipulate the amount claimed will not affect the owner's right in section 7(4);</u></p> <p><u>(i) a statement that if a person has an unregistered right in respect of the property of which the expropriating authority had no knowledge when making an offer of compensation, the</u></p>			
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<p>(3) If the property is land, the expropriating authority must also deliver a copy of the notice referred to in subsection (1) to—</p> <p>(a) the Directors-General responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation, and the accounting authority of any other organ of state whose functions and responsibilities will be materially affected by the intended expropriation: Provided that if the expropriating authority is the executive authority of one of the departments or organs of state concerned, delivery of such notice to the relevant Director-General or accounting authority is not required; and</p> <p>(b) the municipal manager of the municipality where the property is situated, unless the</p>	<p><u>expropriating authority may adjust that offer; and</u></p> <p><u>(j) a statement drawing the owner or the holder's attention to the provisions of section 27.</u></p> <p><u>(3) If the property contemplated in subsection (1) is land, the expropriating authority must also deliver a copy of the notice referred to in subsection (1) to—</u></p> <p><u>(a) the Directors-General responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation, and the accounting authority of any other organ of state whose functions and responsibilities will be materially affected by the intended</u></p> <p><u>expropriation</u></p> <p><u>: Provided that if the</u></p>			
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<p>expropriating authority is the municipal council. “</p> <p>(4) “A person responding to a notice contemplated in subsection (1), within 30 days of the service or publication of the notice, must—</p> <p>(a) deliver to the expropriating authority a written statement—</p> <p>(i) stating whether he or she accepts the offer of compensation;</p> <p>(ii) requesting further particulars under section 14; or</p> <p>(iii) disputing the amount of compensation offered under section 19; “</p> <p>(b) if the property is land, give the name and address of—</p> <p>(i) (ii) the lessee, whose unregistered lease of the whole or part of the property was</p>	<p><u>expropriating authority is the executive authority of one of the departments or organs of state concerned, delivery of such notice to the relevant Director- General or accounting authority is not required; and</u></p> <p><u>(b) the municipal manager of the municipality where the property is situated: Provided that if the expropriating authority is the relevant municipal council of that municipality, no such delivery is required.</u></p> <p><u>(4) “Subject to section 25, an owner or a holder of an unregistered right responding to a notice contemplated in subsection (1) must within 30 days of the service of the notice or, if the notice had not been served on him or her, within 30 days of the publication, as the case may be, deliver to the</u></p>			
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<p>concluded before the notice was issued, together with the lease or a certified copy; the buyer, to whom the property was sold but not yet transferred before the notice was issued, together with the contract of purchase and sale or a certified copy; or</p> <p>(iii) the builder, who erected a building on the property in terms of a written building contract and holds a builder's lien, along with the building contract or a certified copy; and</p> <p>(c) state the address at which further documents in connection with the expropriation may be sent and the preferred language of communication.</p> <p>(5) The expropriating authority must consider the statements contemplated in subsection (4), as well as any objections or submissions lodged in terms of</p>	<p><u>expropriating authority a written statement indicating—</u></p> <p><u>(a) the amount claimed by him or her as just and equitable compensation should his or her property be expropriated and furnishing full particulars as to how the amount is made up;</u></p> <p><u>(b) if the property is land, full particulars of all improvements thereon which, in the opinion of such owner or holder of a right, affect the value of the land;</u></p> <p><u>(c) “ if the property is land—</u></p> <p><u>(i) which prior to the date of such notice was leased as a whole or in part by an unregistered lease, the name and address of the lessee, and accompanied by the lease or a certified copy thereof;</u></p>			
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<p>subsection (2)(h), in deciding whether to proceed with the expropriation of the property.</p> <p>(6)(a) The expropriating authority may decide to expropriate the property after the amount of compensation has been agreed with the owner, mortgagee or holder of a right, or approved or decided by a court, subject to section 19(8).</p> <p>(b) If the expropriating authority decides—</p> <p>(i) to expropriate, it must serve a notice of expropriation in terms of section 8(1) within a reasonable time; or</p> <p>(ii) not to expropriate, it must inform the owner, mortgagee or holder of a right accordingly in writing within a reasonable time and must publish a notice in the Gazette of his or her</p>	<p><u>(ii) which prior to the date of such notice was sold by the owner, but transfer had not yet been effected, the name and address of the buyer, and accompanied by the contract of purchase and sale or a certified copy thereof; or</u></p> <p><u>(iii) on which a building has been erected which is subject to a builder's lien by virtue of a written building contract, the name and address of the builder, and accompanied by the building contract or a certified copy thereof; and</u></p> <p><u>(d) the address at which the owner or the holder of an unregistered right desires to receive further documents in connection with the expropriation. 10 15 20 (5) The expropriating authority must acknowledge receipt in writing, consider and take into account all objections and submissions</u></p>	<p>Exercise by local authority of power</p>		
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<p>decision not to proceed in terms of section 22(2).”</p>	<p><u>timeously received before proceeding with an expropriation.</u></p> <p><u>(6) The expropriating authority must, within 20 days of receiving the statement contemplated in subsection (4), in writing—</u></p> <p><u>(a) inform the relevant owner or relevant holder of an unregistered right whether the amount of compensation claimed in the statement is accepted; and</u></p> <p><u>(b) if the amount of compensation claimed is not accepted, indicate the amount of compensation offered by the expropriating authority, furnishing full details and supporting documents in respect thereof. “</u></p> <p><u>(7) (a) “If no agreement on the amount of compensation</u></p>	<p>to expropriate property or to take the right to use property.</p> <p>5. (1) If a local authority has the power to expropriate property or to take the right to use property temporarily, such power may only be exercised,</p> <p>mutatis mutandis, in accordance with the provisions of this Act and subject to the approval of and the conditions imposed by the executive committee concerned.</p> <p>(2) For the purposes of the application of subsection (1) any reference in this Act to the Minister and the State shall be construed as a reference to the local authority concerned.</p> <p>Inspection of property for purposes of expropriation</p>		
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	<p><u>payable has been reached between the expropriating authority and the owner or the holder of a right within 40 days of the expropriating authority receiving the statement contemplated in subsection (4), the expropriating authority must decide whether or not to proceed with the expropriation.</u></p> <p><u>(b) If the expropriating authority decides—</u></p> <p><u>(i) to proceed to expropriate, it must serve a notice of expropriation in terms of section 8(1) within a reasonable time;</u></p> <p><u>(ii) to continue with negotiation on compensation in accordance with section 16, it must inform the owner or the holder of a right accordingly in writing within a reasonable time;</u></p>	<p>or taking of right to use temporarily.</p> <p>6. (l) If any property or the temporary use of any property is required for public purposes, the Minister may-</p> <p>(a) for the purpose of ascertaining whether any particular property is suitable for the purposes or use contemplated, or for the purpose of determining the value thereof, authorize any person to—</p> <p>(i) enter upon any land in question with the necessary workmen, equipment and vehicles;</p> <p>(ii) survey and determine the area and levels of that land; -</p> <p>(iii) dig or bore on or into that land;</p> <p>(iv) construct and maintain a measuring weir in any river or stream;</p>		
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	<p><u>(iii) or not to proceed with the expropriation of the property, it must inform the owner or the holder of a right accordingly in writing within a reasonable time and must publish a notice in the Gazette of his or her decision not to proceed in terms of section 24(2)."</u></p> <p>8. (1) If the expropriating authority decides to expropriate a property, the expropriating authority must cause a notice of expropriation to be served <u>"on the owner and the known holders of unregistered rights, as the case may be, whose rights in the property are to be expropriated."</u></p> <p>(2) The expropriating authority must cause a copy of the notice of expropriation to be—</p> <p>(a) published in accordance with <u>"section 24(2): Provided that if the notice of</u></p>	<p>(v) in so far as it may be necessary to gain access to that land, enter upon and go across any other land with the necessary workmen, equipment and vehicles; and</p> <p>(b) authorize any person to demarcate the boundaries of any land required for the said purposes or use:- Provided that such person shall not, without the consent of the owner or occupier, enter any building or enter upon any enclosed yard or garden attached to any building, unless he has given the owner or occupier at least twenty-four hours' notice of his intention to do so.</p> <p>(2) If any person has suffered any damage as a result of the exercise of any power conferred in terms of</p>		
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<p>8. (1) If the expropriating authority decides to expropriate a property, the expropriating authority must cause a notice of expropriation to be served “upon the expropriated owner, mortgagee and expropriated</p>	<p><u>expropriation has taken place by publication in terms of section 24(1)(c), the publication in terms of this paragraph is not required;</u></p> <p><u>(b) delivered to a holder of an unregistered right in the property of whom he or she is aware and whose rights are not to be expropriated; and “</u></p> <p><u>(c) if the property is land or a right in land, delivered to—</u></p> <p><u>(i) the municipal manager of the municipality where the property is situated: Provided that if the expropriating authority is the municipal council the delivery of such notice is not required;</u></p> <p><u>(ii) the Directors-General responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation, and the</u></p>	<p>subsection (1), the State shall be liable to pay damages or to repair such damage.</p> <p>(3) Any proceedings by virtue of the provisions of subsection (2) shall be instituted within six months after the damage in question has been caused or within six months after completion of the acts contemplated in subsection (1), whichever period is the longer, and may only be instituted if the plaintiff has given the Minister not less than one month's notice thereof and of the cause of the alleged damage.</p> <p>Notification that property is to be expropriated or is to be used temporarily.</p> <p>7. (1) If the Minister has decided to expropriate, or to take the right to use</p>		
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<p>holder in their preferred language.”</p> <p>(2) The expropriating authority must cause a copy of the notice of expropriation to be—</p> <p>(a) published in accordance with “section 22(1)(c) or (2);</p> <p>(b) delivered to a known holder of a right whose rights have not been expropriated; and</p> <p>(c) “ if the property is in land, delivered to—</p> <p>(i) the municipal manager of the municipality where the property is situated: unless the expropriating authority is the municipal council;</p> <p>(ii) the Directors-General responsible for rural development and land reform, environmental affairs, mineral resources and for water and</p>	<p>accounting authority of any other organ of state whose functions and responsibilities will be materially affected by the intended <u>expropriation</u></p> <p>: <u>Provided that</u> if the expropriating authority is the executive authority of one of the departments or organs of state <u>concerned, the delivery of the notice on the relevant Director- General or accounting authority is not required;</u></p> <p><u>(iii) a holder of a mortgage bond registered in the Deeds Office in respect of the property concerned;</u></p> <p><u>(iv) if the property is subject to a contract contemplated in section 7(4)(c)(ii), on the buyer; and</u></p>	<p>temporarily, any property in terms of the provisions of section 2, he shall, subject to the provisions of subsection (5) cause to be served upon the owner in question an appropriate notice in accordance with the provisions of subsection (3).</p> <p>(2) The notice of expropriation shall—</p> <p>(a) contain a clear and full description of the property in question and, in the case of the taking of a right to use property temporarily, also of such right, as well as, in the case where only a portion of a piece of land or a real right in or over any such portion is expropriated, or a right is taken to use only such a portion, a sketch plan showing the approximate position of such portion,</p>		
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<p>sanitation, and the accounting authority of any other organ of state whose functions and responsibilities will be materially affected by the intended expropriation;</p> <p>(iii) if the expropriating authority is the executive authority of one of the departments or organs of state referred to in subparagraph (ii), delivery of the notice to the Director-General of that department or accounting authority of that organ of state is not required;</p> <p>(iv) a mortgagee if the land is encumbered by a registered mortgage bond;</p> <p>(v) the buyer, if the property is subject to a contract contemplated in section 7(4)(b)(ii); and</p>	<p><u>(v) if the building thereon is subject to a lien contemplated in section 7(4)(c)(iii), on the builder.</u></p> <p><u>(3) The notice of expropriation served as contemplated in subsection (1) must contain—</u></p> <p>(a) a statement of the expropriation of the property;</p> <p>(b) the full description of the property, including—</p> <p>(i) <u>in the case</u> where the expropriation applies to a portion of a land parcel, the approximate extent of such portion in relation to the whole; or</p> <p>(ii) in the case where the expropriation applies to a right in land, a description of the approximate position of the right in land on such land;</p>	<p>and state the approximate extent of such portion: Provided that whenever only a portion of a piece of land or a real right in or over any such portion is expropriated, or a right is taken to use only such a portion, the owner may, within thirty days from the date of notice, request the Minister by registered post to furnish, in accordance with subsection (3), further particulars of such portion so as to enable the owner to determine the position or extent of the said portion, and upon the furnishing of such particulars the date of the notice in which such particulars were furnished, shall, for the purposes of this Act, be deemed to be the date of the notice of expropriation;</p>		
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<p>(vi) the builder, if a building on the property is subject to a lien contemplated in section 7(4)(b)(iii).</p> <p>(3) The notice of expropriation must contain—”</p> <p>(a) a statement of the expropriation of the property;</p> <p>(b) the full description of the property, including—</p> <p>(i) in the case where the expropriation applies to a portion of a land parcel, the approximate extent of such portion in relation to the whole; or</p> <p>(ii) in the case where the expropriation applies to a right in land, a description of the approximate position of the right in land on such land;</p>	<p>(c) a short description of the purpose for which the property is required and the address at which documents setting out that purpose may be inspected and particulars of that purpose may be obtained during business hours;</p> <p>(d) <u>the reason for the expropriation of that particular property;</u></p> <p>(e) <u>the date of expropriation or, as the case may be, the date from which the property will be used temporarily and also stating the period of such</u></p> <p><u>temporary use;</u></p> <p>(f) <u>the date on which the right to possession of the property will pass to the expropriating authority;</u></p> <p>(g) <u>except in the case of an urgent expropriation</u></p>	<p>(b) state the date of expropriation or, as the case may be, the date as from which the property will be used, as well as the period during which it will be used: Provided that such date shall not be later than one hundred and eighty days after the date of notice: Provided further that the date as from which the property may be used, shall not be earlier than sixty days as from the date of notice unless the Minister is of the opinion that such property is urgently required for any purpose for which it will be used by the State;</p> <p>(c) either state the amount which is offered as compensa-</p>		
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<p>(c) a short description of the purpose for which the property is required and the address at which documents setting out that purpose may be inspected and particulars of that purpose may be obtained during business hours;</p> <p>((d) the reason for the expropriation of that particular property; 11</p> <p>(e) (f) the future date of expropriation or, where the expropriation is for the temporary use of the property in the future, the intended period of such temporary use; the future date on which the right to possession of the property will pass to the expropriating authority after expropriation; and 5 (g) subject to section 20, the amount of compensation agreed upon or approved or</p>	<p><u>contemplated in section 22, the amount of compensation offered by the expropriating authority or agreed to by the expropriating authority and the owner and the holder of an unregistered right, as the case may be; and</u></p> <p><u>(h) if the amount of compensation is disputed, a statement that the expropriated owner may institute proceedings in a competent court to dispute the amount of compensation, or request that the expropriating authority commence such court proceedings, within 180 days of the date of expropriation, which time period may be extended by the court on good cause shown.</u></p> <p><u>(4) The notice of expropriation served as contemplated in subsection (1) must be</u></p>	<p>tion for the property or for the use thereof, or request the owner to advise the Minister in writing within sixty days from the date of notice of the amount claimed by him as such compensation and how much of the last-mentioned amount represents each of the Respective amounts contemplated in section 12</p> <p>(1) (a) (i) and (ii) or (b) with full particulars as to how such amounts are made up: Provided that if the owner requests the Minister in writing within thirty days from the date of notice to extend the said period, the Minister shall extend such period by a further sixty days; .</p>		
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<p>decided by a court under section 19.</p>	<p><u>Accompanied by documents detailing the following:</u></p> <p><u>(a) The date or dates on which the expropriating authority proposes to pay the compensation and any interest payable in respect thereof in terms of section 13:</u></p> <p><u>(b) in the case where the expropriation applies to a portion of a land parcel, a survey diagram or sketch plan showing the approximate position of such portion in relation to the whole;</u></p> <p><u>(c) in the case where the expropriation applies to a right in land, a survey diagram or sketch plan on which the approximate position of the right in land on such land is indicated, unless the right in land is accurately described</u></p>	<p>(d) • if an amount is therein offered as compensation, draw the attention of the owner to the fact that if any person has a right contemplated in section 9 (l) (d) (i), (iii) or (iv) in respect of the property of which the Minister had no knowledge on the date of notice, the Minister may withdraw that offer</p> <p>(3) Subject to the provisions of subsection (5), the Minister shall cause the notice of expropriation to be served by causing the original or a true copy thereof to be delivered or tendered or sent by registered post to the owner in question. ,</p> <p>(4) If the property to be expropriated is land, the Minister</p>		
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	<p>without such survey diagram or sketch plan;</p> <p>(d) <u>an explanation of <i>what the offer of compensation referred to in subsection (3)(g) comprises of, together with supporting documents detailing how the offer of compensation was determined;</i></u></p> <p>(e) <u>a directive calling upon the <i>expropriated owner or expropriated holder, as the case may be, to submit, in writing, the names and addresses of all holders of unregistered rights in the property and particulars of such rights, other than those furnished in accordance with sections 5(5)(a) and 7(2)(h), if any, to the extent that such names, addresses and particulars are within the knowledge of the expropriated owner;</i></u></p>	<p>shall, subject to the provisions of subsection (5), cause a copy of the notice contemplated in subsection (2), or a notice to the effect that the land is being expropriated, giving the particulars of the expropriation, to be served, in the manner prescribed in subsection (3), upon every person who, according to the title deed of the land or the registers of the Registrar of Mining Titles or of any other Government office in which rights granted in terms of any law relating to prospecting or mining are recorded, has any interest in that land, and, if the land is situated within</p>		
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<p>(4) The notice of expropriation served in terms of subsection (1) must be accompanied by documents detailing the following: 10 (a) The date or dates on which the expropriating authority proposes to pay the compensation and any interest payable in respect thereof in terms of section 13; (b) where the expropriation applies to a portion of a land parcel, a survey diagram or sketch plan showing the approximate position of such portion in relation to the whole; (c)”</p> <p>(c) where the expropriation applies to a right in land, a survey diagram or sketch plan on which the approximate position of the right in land on such land is indicated, unless the right in land is accurately</p>	<p><u>(f) a statement that if a person has an unregistered right in respect of the property of which the expropriating authority had no knowledge when making the offer of compensation, the expropriating authority may adjust that offer;</u></p> <p><u>(g) a statement informing the expropriated owner or expropriated holder, as the case may be, that he or she may request a translation of the notice of expropriation in the official language of his or her choice; and</u></p> <p><u>(h) a statement drawing an expropriated owner, expropriated holder or any other person’s attention to the provisions of section 27.</u></p> <p><u>(5) (a) Rights in a property may be expropriated from different owners and holders of</u></p>	<p>the area of a local authority, upon such local authority, and, if the land, to the knowledge of the Minister, is the subject of an agreement contemplated in section 9(1)(d)(ii), upon the buyer.</p> <p>(5) If the whereabouts of the owner or of every owner of the property in question or of any person or every person having an interest therein, as is contemplated in subsection (4), is not readily ascertainable by the Minister, or, if by reason of the number of such owners or persons having such an interest or for any other reason, he is satisfied that service of a notice in accordance</p>		
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<p>described without such survey diagram or sketch plan;</p> <p>(d) an explanation of how the amount of compensation was arrived at, together with supporting documents;</p> <p>(e) a statement that the expropriating authority may adjust the amount of compensation, if a holder of a right, of whom the expropriating authority had no prior knowledge before the compensation was agreed on or approved or decided by a court, later claims compensation; and</p> <p>(f) a statement drawing the attention of the expropriated owner, expropriated holder or any other affected person to the provisions of section 25.</p>	<p><u>unregistered rights in the same notice of expropriation.</u></p> <p><u>(b) A separate offer of just and equitable compensation must be stated in respect of each owner or holder mentioned in the notice of expropriation contemplated in paragraph (a).</u></p>	<p>with subsection (3) is not practicable, or if the property is subject to a fideicommissum and it is not known to the Minister who all the fideicommissaries are or will be, he shall, instead of or in addition to causing a notice or notices to be published in accordance with subsection (3), cause to be published once in the Gazette and once a week during two consecutive weeks in an Afrikaans and in an English newspaper circulating in the area in which the property in question is situated, an appropriate notice complying with the provisions of subsection (2) Passing of ownership in expropriated property and</p>		
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	<p>9. (1) The effect of an expropriation of property is that—</p> <p>(a) the ownership of the property described in the notice of expropriation vests in the expropriating authority or in the person on whose behalf the property was expropriated, as the case may be, on the date of expropriation;</p> <p>(b) all unregistered rights in such property are simultaneously expropriated on the date of expropriation unless—</p>	<p>exercise of right to use property.</p> <p>,8. (1) The ownership of property expropriated in terms of the provisions of this Act shall, subject to the provisions of section 3 (3), and on the date of expropriation, vest in the State, released from all mortgage bonds (if any) but if such property is land, it shall remain subject to all registered rights (except mortgage bonds) in favour of third parties with which it is burdened, unless or until such rights have been expropriated from the owner thereof in accordance with the provisions of this Act.</p>		
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<p>(5)(a) the expropriated owner must deliver or cause to be delivered to the expropriating authority, subject to section 23, within 30 days of the expropriating authority requesting the title deed to such land or, if it is not in his or her possession or under his or her control, written particulars of the name and address of the person in whose possession or</p>	<p>(i) the expropriation of those unregistered rights are specifically excluded in the notice of expropriation; or (ii) those rights, including permits or permissions, were granted or exist in terms of the provisions of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);</p> <p>(c) in the case of a right to use a property temporarily, the expropriating authority or the person on whose behalf the property was expropriated may as from the date of expropriation exercise that right; and</p> <p>(d) the property remains subject to all registered rights in favour of third parties, with the exception of a mortgage, with which the property was burdened prior to expropriation,</p>	<p>(2) If the Minister has in terms of section 2 taken the right to use any property for any purpose, the State may, as from the date of expropriation; exercise that right.</p> <p>(3) Notwithstanding the fact that in terms of subsection (1) the ownership in expropriated immovable property vests in the State on the date of expropriation, the State may not take possession of the property in question until the expiry, from the said date; of a period of sixty days or such longer period as is agreed upon between the owner concerned and the Minister: Provided</p>		
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<p>under whose control the title deed is; and</p> <p>(b) the person referred to in paragraph (a) in whose possession the title deed may be, must deliver or cause to be delivered the title deed in question to the expropriating authority within 20 days of the expropriating authority requesting it, subject to section 23.”</p> <p>9. (1) The effect of an expropriation of property is that—</p> <p>(a) the ownership of the property described in the notice of expropriation vests in the expropriating authority or in the person on whose behalf the property was expropriated, as</p>	<p>unless or until such registered rights are expropriated from the holder thereof in terms of this Act.</p> <p>(2) (a) The expropriating authority, or the person on whose behalf the property was expropriated, must take possession of the expropriated property on the date stated in terms of section 8(3)(f) or such other date as may be agreed upon with the expropriated owner or expropriated holder.</p> <p>(b) The right to possession passes on the relevant date contemplated in paragraph (a) to the person referred to therein, as the case may be.</p> <p>(3) (a) The expropriated owner or expropriated holder who is in</p>	<p>that if, in the opinion of the Minister, such property is urgently required for the purposes for which it was expropriated, he may cause such property to be taken into possession at any time prior to the expiration of the applicable period and on a date mentioned for the purpose in the notice of expropriation or in an appropriate notice to be served or published in accordance with section 7 (3) or (5). '</p> <p>(4) The owner of expropriated immovable property shall from the date of expropriation to the date upon which the State takes possession of the property, take care of and maintain the</p>		
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<p>the case may be, on the date of expropriation;</p> <p>(b) all unregistered rights in such property are simultaneously expropriated on the date of expropriation unless—</p> <p>(i) the expropriation of those unregistered rights are specifically excluded in the notice of expropriation; or (ii) those rights, including permits or permissions, were granted or exist in terms of the provisions of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);</p> <p>(c) in the case of a right to use a property temporarily, the expropriating authority or the person on whose behalf the property was expropriated may as from the date of</p>	<p>possession of the property concerned must, from the date of expropriation to the date referred to in subsection <u>(2) or (4), take all reasonable steps to maintain the property.</u></p> <p><u>(b) If the expropriated owner or expropriated holder wilfully or negligently fails to maintain the property and as a result thereof the property depreciates in value, the expropriating authority may recover the amount of depreciation from the expropriated owner or the expropriated holder concerned.</u></p> <p><u>(c) The expropriating authority must compensate the expropriated owner or expropriated holder, as the case may be, for costs which were necessarily incurred after the date of expropriation in respect of such maintenance.</u></p>	<p>property, and if the owner wilfully or negligently fails to do so and as a result thereof the property depreciates in value, the Minister may recover the amount of the depreciation from the owner: Provided that the Minister shall compensate the owner for costs which, in the opinion of the Minister, were necessarily incurred after the date of expropriation in respect of such maintenance or care. ,</p> <p>(5) If the owner desires to place the State in possession of the property expropriated prior to the expiry of the appropriate period contemplated in subsection (3), he shall give the Minister</p>		
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<p>expropriation exercise that right; and</p> <p>(d) the property remains subject to all registered rights in favour of third parties, with the exception of a mortgage, with which the property was burdened prior to expropriation, unless or until such registered rights are expropriated from the holder thereof in terms of this Act.</p> <p>(2) (a) The expropriating authority, or the person on whose behalf the property was expropriated, must take possession of the expropriated property on the date stated in terms of section 8(3)(f) or such other date as may be agreed upon with the expropriated owner or expropriated holder.</p> <p>(b) The right to possession passes on the relevant date contemplated in paragraph (a)</p>	<p>(4) If the expropriated owner or expropriated <i>holder, as the case may be, desires to place the expropriating authority in possession of the expropriated property prior to the date contemplated in section 8(3)(f) and the expropriating authority does not agree to a date on which the right to possession of the property will pass to it, the expropriated owner or expropriated holder, as the case may be, may give the expropriating authority notice in writing of not less than 20 days before the date on which the expropriated owner or expropriated holder wishes to transfer the right to possession of the property, in which case the right to possession of the property passes to the expropriating authority on that date.</i></p>	<p>not less than twenty-one days' notice in writing of the date on which he desires to do so, and the Minister shall thereupon be deemed to have caused the property to be taken possession of on that date.</p> <p>(6) The owner shall be entitled to the use of and the income from the property expropriated from the date of expropriation to the date upon which the State may or is required to take possession of the property; and shall, during that period, remain responsible for the payment of taxes and other charges in respect of the property expropriated as if the property had not</p>		
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<p>to the person referred to therein, as the case may be.</p> <p>(3) (a) The expropriated owner or expropriated holder who is in possession of the property concerned must, from the date of expropriation to the date referred to in subsection (2) or</p> <p>(4). (b) The expropriating authority may recover any amount of depreciation caused by the willful or negligent failure of an expropriated owner or the expropriated holder to maintain the property</p> <p>(c) The expropriating authority must compensate the expropriated owner or expropriated holder for costs which were necessarily incurred after the date of</p>	<p><u>(5) The expropriated owner or expropriated holder who is in possession of the property concerned, remains entitled to the use of and the income from the expropriated property, as was enjoyed immediately prior to the date of expropriation, from the date of expropriation to the date referred to in subsection (2)(b), but remains, during that period, responsible for the payment of municipal property rates, taxes and other charges, if applicable, and normal operating costs in respect of the expropriated property as if the property had not been expropriated.</u></p> <p>10.(1) If, after the date of expropriation, a person claims to have held an unregistered</p> <p>right in the expropriated property for which that person has not been compensated, the</p>	<p>been expropriated.</p> <p>(7) The provisions of subsections (3) to (6) shall also apply in respect of the expropriation of property in terms of section 3 on behalf of a juristic person or body, and in such application a reference in the said subsections to the State and the Minister (except a reference to the Minister in the proviso to the said subsection (3), shall be construed as a reference to the juristic person or body concerned.</p> <p>Duties of owner of property expropriated or which is to be used by State.</p> <p>9.(1) An owner whose property has been expropriated in</p>		
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<p>expropriation in respect of such maintenance.</p> <p>(4) If the expropriated owner or expropriated holder wishes to transfer the right to possession of the property before the date contemplated in section 8(3)(f) but the expropriating authority does agree, the expropriated owner or expropriated holder may pass the right to possession to the expropriating authority by giving the expropriating authority prior written notice of at least 20 days.</p>	<p>expropriating authority must request that person to deliver within 30 days of receipt of the request, subject to section 25, a copy of any written instrument evidencing or giving effect to the unregistered right, if such instrument is in his or her possession or under his or her control, or any other evidence to substantiate the claim.</p> <p>(2) If the unregistered right, claimed as contemplated in subsection (1), pertains to the use of improvements on expropriated land, the evidence required in terms of subsection</p> <p>(1) must include—</p>	<p>terms of this Act, shall, within sixty days from the date of notice in question, deliver or cause to be delivered to the Minister a written statement indicating-</p> <p>(a) if any compensation was in the notice of expropriation offered for such property, whether or not he accepts that compensation and, if he does not accept it, the amount claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated in section 12</p> <p>(1) (a) (i) and (ii) or (b) and full particulars as to how such amounts are made up;</p> <p>(b) if no such compensation was so offered, the amount</p>		
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<p>(5) The expropriated owner or expropriated holder who is in possession of the property, as was enjoyed immediately prior to the date of expropriation, from the date of expropriation to the date referred to in subsection (2)(b), remains—</p>	<p>(a) a full description of those improvements;</p> <p>(b) an affidavit or affirmation by the person concerned stating whether those improvements were erected by that person and if so, whether the materials used for erecting those improvements were owned by that person; and</p> <p>(c) the amount claimed as compensation for such unregistered right, together with details or a report, if any, on how the amount is computed.</p> <p>(3) After receipt of the evidence requested in terms of subsection (1) and if the</p>	<p>claimed as compensation by him and how much of that amount represents each of the respective amounts contemplated in section 12</p> <p>(1) (a) (i) and (ii) or (b) and full particulars as to how such amounts are made up;</p> <p>(c) if the property expropriated is land and any amount is claimed in terms of paragraph (a) or (b), full particulars of all improvements thereon which, in the opinion of the owner, affect the value of such land;</p> <p>(d). if the property being expropriated is land-</p> <p>(i) which prior to the date of notice was leased for business or agricultural purposes by unregistered</p>		
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<p>(a) entitled to the use of and the income from the expropriated property; and</p> <p>(b) responsible for the municipal property rates, taxes, levies and other charges, 25 and normal operating costs in respect of the expropriated property.”</p> <p>10. (1) If, after the date of expropriation, a person claims to have held an unregistered right in the expropriated property for which that person has not been compensated, the expropriating authority must request that person to deliver within 30 days of receipt of</p>	<p>unregistered right claimed pertains to land, the expropriating authority may forward that</p> <p>evidence to the Directors-General responsible for rural development and land reform,</p> <p>for environmental affairs, for mineral resources and for water and sanitation, and to the</p> <p>accounting authority of any other organ of state, as the case may be, for assistance in the</p> <p>verification of such claim.</p> <p>(4) A Director-General or accounting authority referred to in subsection (3) must submit comments within 30 days of receipt of the request contemplated therein.</p>	<p>lease, the name and address of the lessee, and accompanied by the lease or a certified copy thereof, if it is in writing, or full particulars of the lease,</p> <p>if it is not in writing; .</p> <p>(ii) which, prior to the date of notice, was sold by the owner, the name and address of the buyer, and accompanied by the contract of purchase and sale or a certified copy thereof;</p> <p>...</p> <p>(iii) on which a building has been erected which is subject to a builder's lien by virtue of a written building-contract, the name and address -or the builder, and accompanied by the building contract or a certified copy thereof;</p>		
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<p>the request, subject to section 25, a copy of any written instrument evidencing or giving effect to the unregistered right, if such instrument is in his or her possession or under his or her control, or any other evidence to substantiate the claim.</p> <p>(2) If the unregistered right, claimed as contemplated in subsection (1), pertains to the use of improvements on expropriated land, the evidence required in terms of subsection (1) must include—</p> <p>(a) a full description of those improvements;</p>	<p>(5) (a) The expropriating authority must decide on the claim contemplated in subsection (1) within 20 days of expiry of the period referred to in subsection (4) and notify the claimant in writing of the decision.</p> <p>(b) If the expropriating authority accepts the claim contemplated in subsection (1), the expropriating authority must serve the notice contemplated in section 11(2) on such claimant.</p> <p>(c) If the expropriating authority does not accept the claim contemplated in subsection</p>	<p>(iv) which was on the date of notice farmed by a share-cropper, the name and address of such sharecropper and accompanied by the share cropper contract or a certified copy thereof, if it is in writing, or full particulars of the contract if it is not in writing;</p> <p>(e) the address to which the owner desires that further documents in connection with the expropriation be posted to him:</p> <p>Provided that the Minister may at his discretion extend the said period of sixty days, and that, if the owner requests the Minister in writing within thirty days as from the date of notice to extend</p>		
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<p>(b) an affidavit or affirmation by the person concerned stating whether those improvements were erected by that person and if so, whether the materials used for erecting those improvements were owned by that person; and</p> <p>(c) the amount claimed as compensation for such unregistered right, together with details or a report, if any, on how the amount is computed.</p> <p>(3) After receipt of the evidence requested in terms of subsection (1) and if the unregistered right claimed pertains to land, the</p>	<p>(1), the expropriating authority must inform the claimant accordingly in writing and must provide reasons for the rejection.</p> <p>(6) The expropriating authority may require the expropriated owner to compensate a person who held an unregistered right, if that person was not given notice of the expropriation as provided in this Act, and if the owner ought reasonably to have identified that person in terms of section 7(2)(h)(i) but did not do so.</p> <p>(7) The expropriating authority may exercise the power in terms of subsection (6)</p>	<p>the said period of sixty days, the Minister shall extend such period by a further sixty days. . . .</p> <p>(2) The Minister may, after receipt of a written statement contemplated in subsection (1), request the owner concerned . to deliver or cause to be delivered to the Minister within such period not being less than one month as may be determined by the Minister, such further specified particulars in respect of any matter contemplated in the said subsection as he may consider necessary for the determination of the amount of the compensation.</p>		
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<p>expropriating authority may forward that evidence to the Directors- General responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation, and to the accounting authority of any other organ of state, as the case may be, for assistance in the verification of such claim.</p> <p>(4) A Director-General or accounting authority referred to in subsection (3) must submit comments within 30 days of receipt of the request contemplated therein.</p>	<p>only after giving the expropriated owner a reasonable opportunity to make representations in that regard.</p> <p>11. (1) An <u>expropriated holder of an unregistered right in a property that has been</u> <u>expropriated by the operation of section 9(1)(b) is, subject to section 10 and this section,</u> entitled to compensation.</p> <p>(2) If the expropriating authority becomes aware that an unregistered right in the expropriated property has been expropriated by the operation of section 9(1)(b) and</p>	<p>(3) If the property expropriated is immovable property, the Minister may in the manner contemplated in section 7 (3) or (5). (a) request the owner to deliver or cause to be delivered to the Minister within sixty days his title deed thereto or, if it is not in his possession or under his control, written particulars of the name and address of the person in whose possession or under whose control it is; - (b) request any person in respect of whom particulars have been furnished in terms of paragraph (a), to deliver or cause to be delivered to the Minister within sixty days the title deed in question.</p>		
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<p>(5) (a) The expropriating authority must decide on the claim contemplated in subsection (1) within 20 days of expiry of the period referred to in subsection (4) and notify the claimant in writing of the decision.</p> <p>(b) If the expropriating authority accepts the claim contemplated in subsection (1), the expropriating authority must serve the notice contemplated in section 11(2) on such claimant.</p> <p>(c) If the expropriating authority does not accept the claim contemplated in subsection</p>	<p>becomes aware of the identity of the expropriated holder thereof, the expropriating authority must serve on that expropriated holder a notice that the unregistered right has been expropriated, together with a copy of the notice of expropriation served on the expropriated owner in terms of section 8(1).</p> <p>(3) The notice contemplated in subsection (2) must—</p> <p>(a) inform the expropriated holder of the date on which the right to possession of the expropriated property passed to the expropriating authority in terms of section 9(2) or (4);</p>	<p>(4) The provisions of subsection (1) (a), (b) and (c) shall mutatis mutandis apply in respect of the taking, in terms of section 2, of a right to use any property for public purposes.</p> <p>(5) Any person 'who wilfully furnishes false or misleading particulars in any written instrument which he by virtue of the provisions of subsection (1), (2) or (3) (a) delivers or causes to be delivered to the Minister, shall be guilty of an offence and liable on conviction to be punished as if he had been convicted of fraud.</p> <p>(6) Any person. who refuses or fails to comply with a request</p>		
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<p>(1), the expropriating authority must inform the claimant accordingly in writing and must provide reasons for the rejection.</p> <p>(6) The expropriating authority may require the expropriated owner to compensate a person who held an unregistered right, if that person was not given notice of the expropriation as provided in this Act, and if the owner ought reasonably to have identified that person in terms of section 7(2)(h)(i) but did not do so.</p> <p>(7) The expropriating authority may exercise the power in terms of subsection (6)</p>	<p>(b) contain a statement contemplated in section 8(3)(f), if applicable; and</p> <p>(c) except if this information was furnished in terms of section 10(1), request the expropriated holder to deliver to the expropriating authority, within 20 days of receipt of the notice, subject to section 25, a copy of any written <u>instrument in which the unregistered right is contained, if such instrument is in his or her possession or under his or her control.</u></p> <p>(4) When a notice in terms of subsection (2) has been served on the expropriated</p>	<p>by the Minister in terms of subsection (3)(b), shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.</p>	<p>Section 9(1)(d): This exclusion cannot be included unless the extent of the mortgage on the property is taken into consideration when the value of the property is established. Otherwise, a property can be expropriated, and the previous landowner left in debt because the expropriation amount is insufficient to cover the mortgage. This clause can remain as it is IF there are acceptable changes to Section 12 in terms of the property valuation considering the extent of the bond on the property. If the changes to Section 12 are not included, this clause should remove the exception of a mortgage and simply state that the property remains subject to all</p>	<p>Addition/substitution to Bill not accepted.</p>
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<p>only after giving the expropriated owner a reasonable opportunity to make representations in that regard.</p> <p>11. (1) A person who becomes an expropriated holder by the operation of section 9(1)(b), subject to section 10 and this section, is entitled to compensation.</p> <p>(2) If the expropriating authority becomes aware that an unregistered right in the expropriated property has been expropriated by the operation of section 9(1)(b) and becomes aware of the identity of the expropriated holder thereof, the expropriating</p>	<p>holder concerned, this Act applies with the changes required by the context as if such notice were a notice of expropriation in terms of section 8(1) in respect of such unregistered right: Provided that if that expropriated holder is a lessee, he or she remains liable to pay rental to the expropriated owner until the right to possession passes in terms of section 9(2) or (4) and, if applicable, thereafter to the expropriating authority.</p> <p>(5) If the expropriated owner or expropriated holder knew of the existence of an</p>		<p>registered rights in favour of third parties.</p> <p>Section 9(3): Property ownership and maintenance is an expensive exercise and the investment decisions of an owner cannot be penalised when they are already suffering an expropriation. The term “Negligent failure” is therefore too broad to apply/police accurately. We recommend that the clause be amended to read:</p> <p>“The expropriating authority may recover any amount of depreciation caused by the wilful actions of an expropriated owner or the expropriated holder to maintain the property.”</p>	
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<p>authority must serve on that expropriated holder a notice that the unregistered right has been expropriated, together with a copy of the notice of expropriation served on the expropriated owner in terms of section 8(1).</p> <p>(3) The notice contemplated in subsection (2) must—</p> <p>(a) inform the expropriated holder of the date on which the right to possession of the expropriated property passed to the expropriating authority in terms of section 9(2) or (4);</p> <p>(b) contain a statement contemplated in section 8(3)(f), if applicable; and</p>	<p>unregistered right contemplated in subsection (2) and failed to inform the expropriating authority of the existence thereof, the expropriated owner or expropriated holder, as the case may be, is liable to the expropriating authority for any loss incurred in the event of the expropriating authority having to pay compensation for the expropriation of the unregistered right after the date of payment of compensation to the expropriated owner or expropriated holder, as the case may be.</p>			
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<p>(c) except if this information was furnished in terms of section 10(1), request the expropriated holder to deliver to the expropriating authority, within 20 days of receipt of the notice, subject to section 25, a copy of any written instrument in their possession or under their control which evidences the unregistered right.</p> <p>(4) When a notice in terms of subsection (2) has been served on the expropriated holder concerned, this Act applies with the changes required by the context as if such notice were a notice of expropriation in terms of section 8(1) in respect of such</p>				
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<p>unregistered right: Provided that if that expropriated holder is a lessee, he or she remains liable to pay rental to the expropriated owner until the right to possession passes in terms of section 9(2) or (4) and, if applicable, thereafter to the expropriating authority.</p> <p>(5) If the expropriated owner or expropriated holder knew of the existence of an unregistered right contemplated in subsection (2) and failed to inform the expropriating authority of the existence thereof, the expropriated owner or expropriated holder, as the</p>				
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<p>case may be, is liable to the expropriating authority for any loss incurred in the event of the expropriating authority having to pay compensation for the expropriation of the unregistered right after the date of payment of compensation to the expropriated owner or expropriated holder, as the case may be.</p>				
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<p>Chapter 5</p> <p>12. (1) The amount of compensation to be paid to an expropriated owner or expropriated holder must be just and equitable reflecting an equitable balance between the public interest and the interests of the expropriated owner or expropriated holder, having regard to all relevant circumstances, including—</p> <p>(a) the current use of the property;</p> <p>(b) the history of the acquisition and use of the property;</p> <p>(c) the market value of the property;</p>	<p>Chapter 5</p> <p>12. (1) The amount of compensation to be paid to an expropriated owner or expropriated holder must be just and equitable reflecting an equitable balance between the public interest and the interests of the expropriated owner or expropriated holder, having regard to all relevant circumstances, including—</p> <p>(a) the current use of the property;</p> <p>(b) the history of the acquisition and use of the property;</p> <p>(c) the market value of the property;</p>	<p>Consequences of failure by owner to inform Minister concerning compensation offered or desired, further offer by Minister, and failure to institute action.</p> <p>10. (1) If compensation has in an expropriation notice been offered for the property in question and the owner concerned fails to indicate in terms of section 9 (l) (a) whether or not he accepts such compensation or has indicated that he does not accept such compensation but fails to furnish any relevant information in terms of section 9 (l) (a), (c) or (d) or (2), the Minister may apply to an appropriate court contemplated</p>	<p>Section 12(1)(a): The clause only considers the property's asset value and not the human value such as home, culture and graves.</p> <p>We recommend that the clause be removed or reframed to specify if the property is a home with history and memories of the family, vacant land, or a commercial enterprise.</p> <p>Section 112(1)(d): An agricultural property always needs investment to remain sustainable. This clause is not fair or equitable because it assumes there</p>	<p>Addition/substitution to Bill accepted.</p>
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<p>(d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and</p> <p>(e) the purpose of the expropriation.</p> <p>(2) In determining the amount of compensation to be paid in terms of this Act, the expropriating authority must not, unless there are special circumstances in which it would be just and equitable to do so, take account of—</p> <p>(a) the fact that the property has been taken without the consent of the expropriated owner or expropriated holder;</p>	<p>(d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and</p> <p>(e) the purpose of the expropriation.</p> <p>(2) In determining the amount of compensation to be paid in terms of this Act, the expropriating authority must not, unless there are special circumstances in which it would be just and equitable to do so, take account of—</p> <p>(a) the fact that the property has been taken without the consent of the expropriated owner or expropriated holder;</p>	<p>in section 14 (l) for the determination by such court of the amount of the compensation, and in such case no interest up to the date of such determination, and no costs, shall be payable by the State unless the owner satisfies that court, notwithstanding such failure, that special reasons exist why the State shall pay such interest or costs or a portion thereof: Provided that, if such property is land, the Minister shall cause a copy of such application or particulars thereof, to be served upon the owner and upon every holder of a mortgage bond over such land and, if such land,</p>	<p>would be no further investment once the property has been earmarked for expropriation.</p>	
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<p>(b) the special suitability or usefulness of the property for the purpose for which it is required by the expropriating authority, if it is unlikely that the property would have been purchased for that purpose in the open market;</p> <p>(c) any enhancement in the value of the property, if such enhancement is a consequence of the use of the property in a manner which is unlawful;</p> <p>(d) improvements made to the property in question after the date on which the notice of expropriation was served upon the expropriated owner or expropriated</p>	<p>(b) the special suitability or usefulness of the property for the purpose for which it is required by the expropriating authority, if it is unlikely that the property would have been purchased for that purpose in the open market;</p> <p>(c) any enhancement in the value of the property, if such enhancement is a consequence of the use of the property in a manner which is unlawful;</p> <p>(d) improvements made to the property in question after the date on which the notice of expropriation was served upon the expropriated owner or expropriated</p>	<p>to the knowledge of the Minister, is the subject of an agreement contemplated in section 9(1)(d)(ii), upon the buyer, in the manner, mutatis mutandis, contemplated in section 7(3) or (5). (2) If no compensation was in the expropriation notice offered for the property in question and the owner concerned fails to furnish any relevant information in terms of section 9 (l) (b). (c) or (d) or (2), the Minister shall offer him an amount as compensation for such property, and in the manner, mutatis mutandis, contemplated in section 7(3) or (5), and the provisions of</p>		
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<p>holder, as the case may be, except where the improvements were agreed to in advance by the expropriating authority or where they were undertaken in pursuance of obligations entered into before the date of expropriation;</p> <p>(e) anything done with the object of obtaining compensation therefor; and</p> <p>(f) any enhancement or depreciation, before or after the date of service of the notice of expropriation, in the value of the property in question, which can be directly attributed to the purpose in connection with which the property was</p>	<p>holder, as the case may be, except where the improvements were agreed to in advance by the expropriating authority or where they were undertaken in pursuance of obligations entered into before the date of expropriation;</p> <p>(e) anything done with the object of obtaining compensation therefor; and</p> <p>(f) any enhancement or depreciation, before or after the date of service of the notice of expropriation, in the value of the property in question, which can be directly attributed to the purpose in connection with which the property was</p>	<p>section 7 (4) shall mutatis mutandis apply in connection with any such offer. . .</p> <p>(3) If the owner does not within thirty days after an offer in terms of subsection (2) or (4) notify the Minister that he does not accept that offer, the provisions of subsection (1) shall mutatis mutandis apply.</p> <p>(4) If an owner has in terms of section 9 (1) (a) or (b) indicated what amount is claimed by him as compensation and has complied with the relevant provisions of section 9 (l) (a), (b), (c) and (d) and (2), and the Minister is not prepared to pay that</p>		
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<p>expropriated.</p> <p>(3) It may be just and equitable for nil compensation to be paid where land is expropriated in the public interest, having regard to all relevant circumstances, including but not limited to</p> <p>(a) where the land is not being used and the owner's main purpose is not to develop the land or use it to generate income, but to benefit from appreciation of its market value;</p> <p>(b) where an organ of state holds land that it is not using for its core functions and</p>	<p>expropriated.</p> <p>(3) It may be just and equitable for nil compensation to be paid where land is expropriated in the public interest, having regard to all relevant circumstances, including but not limited to</p> <p>(a) where the land is not being used and the owner's main purpose is not to develop the land or use it to generate income, but to benefit from appreciation of its market value;</p> <p>(b) where an organ of state holds land that it is not using for its core functions and</p>	<p>amount as compensation, the Minister shall offer him an amount as compensation and indicate how much of that amount represents each of the respective amounts contemplated in section 12 (1) (a) (i) and (ii) or (b) and furnish full particulars as to how such amounts are made up.</p> <p>(5) If an amount has been offered as compensation; the owner concerned shall be deemed to have accepted the compensation</p> <p>(a) an application for the determination thereof is not made by that owner to an appropriate court contemplated in section 14 (1) within eight months (or such</p>		
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<p>is not reasonably likely to require the land for its future activities in that regard, and the organ of state acquired the land for no consideration;</p> <p>(c) notwithstanding registration of ownership in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), where an owner has abandoned the land by failing to exercise control over it;</p> <p>(d) where the market value of the land is equivalent to, or less than, the present value of direct state investment or subsidy in the acquisition and beneficial</p>	<p>is not reasonably likely to require the land for its future activities in that regard, and the organ of state acquired the land for no consideration;</p> <p>(c) notwithstanding registration of ownership in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), where an owner has abandoned the land by failing to exercise control over it;</p> <p>(d) where the market value of the land is equivalent to, or less than, the present value of direct state investment or subsidy in the acquisition and beneficial</p>	<p>longer period as the Minister may allow) from the date of the offer of compensation concerned; and (b) the Minister has, not later than thirty days prior to the expiry of such period, by written notice served as contemplated in section 7(3), directed the attention of the said owner to the preceding provisions of this subsection unless it has been earlier agreed to submit the dispute to arbitration.</p> <p>Payment of amount offered as compensation.</p>	<p>Section 12(3): We recommend that nil compensation only applies to cases where property was stolen during the transition period to the government of national unity.</p> <p>The open-endedness of “not limited to” is open to interpretation and abuse. Either remove it or provide an exhaustive list. This open-endedness will lead to all decisions being open for courts to decide.</p> <p>Section 12(3) should be reduced to a closed list. In that closed list, the instances where the State can lawfully consider expropriation without compensation should be severely limited.</p>	
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<p>capital improvement of the land; and</p> <p>(e) when the nature or condition of the property poses a health, safety or physical risk to persons or other property.</p> <p>(4) When a court or arbitrator determines the amount of compensation in terms of section 23 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), it may be just and equitable for nil compensation to be paid, having regard to all relevant circumstances.</p> <p>(5) If the property is land, the expropriating authority must consider the amount of outstanding municipal property</p>	<p>capital improvement of the land; and</p> <p>(e) when the nature or condition of the property poses a health, safety or physical risk to persons or other property.</p> <p>(4) When a court or arbitrator determines the amount of compensation in terms of section 23 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), it may be just and equitable for nil compensation to be paid, having regard to all relevant circumstances.</p>	<p>11. (1) If the Minister deems it expedient, he may, prior to the determination of the amount of compensation payable in terms of this Act for property or for the use of property and on or at any time after the date of expropriation, but subject to the provisions of subsection (3), pay the amount offered the owner concerned as such compensation, or a portion of such amount, to the owner concerned or the person contemplated in section 19, or deposit it with the Master or utilize it in settlement of the tax or other moneys contemplated in section 20 under the same</p>	<p>If section 12(3) is kept, then it must remove the words: “including but not limited to ...” and should be replaced with the words: “only when ...”. In terms of the closed list, expropriation without compensation can only be considered to be just and equitable in very limited circumstances, such as in instances where people are in possession of immovable property that they had “stolen” from the State during the dispensation of the Interim Constitution.</p> <p>This closed list should then be followed by two qualifying provisions that read:</p> <p>“It cannot be deemed to be just and equitable to award nil compensation when the immovable property in question is (a) someone’s</p>	
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<p>rates, taxes, levies and charges relating to the property when making an offer of just and equitable compensation</p> <p>13. (a) until the claimant complies with the requirement of section 15(5),</p>	<p><u>13. (a) if the expropriated owner or expropriated holder fails to comply with section 14(1) within the period referred to in that section, including any extension of such period, the amount so payable during the period of such failure and for the purposes of the payment of interest, is not regarded as an outstanding amount;</u></p> <p><u>(b) until the claimant complies with the requirement of section 17(5)."</u></p>	<p>circumstances under which he should or could have so paid, deposited or utilized such compensation had it been determined on that date.</p> <p>(2) Any moneys received by the Master in terms of subsection(</p> <p>1) shall be paid into the Guardian's</p> <p>Fun</p> <p>d mentioned in section 21 (2) (b), and bear interest at the rate referred to in the said . section 21 (2) (b) until the compensation payable, in terms of this Act for the property in question or the use thereof has .been determined, whereupon such moneys shall for the purposes of section 21, but subject to the provisions of subsection (3) of this</p>	<p>primary residence, (b) constitutes the sole means through which a person generates income, or (c) is used by that person for the purpose of agrarian subsistence".</p> <p>And</p> <p>"It cannot be deemed to just and equitable to award nil compensation when the property that is intended for expropriation does not constitute immovable property."</p> <p>Section 12(3)(a): How will the intention to benefit from the appreciation of market value be determined? This is not fair or equitable as it prejudices people who obtain land legally but cannot afford to develop it within a certain period.</p>	
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<p>14. “(1) An owner or a holder of an unregistered right who receives a notice of expropriation in terms of section 8(1) must, subject to section 25, within 20 days from the date on which that notice was served on that owner or holder, deliver or cause to be delivered to the expropriating authority a written statement—</p> <p>(a) either confirming that the compensation as stipulated in such notice was agreed to or, if applicable, indicating whether the offer of compensation stipulated in such notice is accepted; (b) if no compensation was offered, as in the case of an urgent expropriation in terms of section 22, or if such offer in the notice is not accepted, indicating the amount claimed by such owner or holder as just and equitable compensation;</p>	<p>14. “(1) An owner or a holder of an unregistered right who receives a notice of expropriation in terms of section 8(1) must, subject to section 25, within 20 days from the date on which that notice was served on that owner or holder, deliver or cause to be delivered to the expropriating authority a written statement—</p> <p>(a) either confirming that the compensation as stipulated in such notice was agreed to or, if applicable, indicating whether the offer of compensation stipulated in such notice is accepted; (b) if no compensation was offered, as in the case of an urgent expropriation in terms of section 22, or if such offer in the notice is not accepted, indicating the amount claimed by such owner or holder as just and equitable compensation;</p>	<p>section, be deemed to have been received by the Master in terms of subsection (1) of that section .</p> <p>. (3) The payment, deposit or utilization of any amount under subsection (1) shall not preclude the determination by agreement or by a court contemplated in section 14 (1), of a different amount as compensation, but if the amount so determined as compensation is less than the amount paid, deposited or utilized, the owner to whom or on whose behalf the last-mentioned amount was paid, or the Master with whom it was deposited, or the local authority concerned, as the case may be,</p>		
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<p>(c) furnishing full particulars as to how the amount contemplated in paragraph (b) is made up, including a copy of a valuation, other professional report or other document that forms the basis of the compensation claimed, if any;</p> <p>(d) if the property expropriated is land, furnishing full particulars of—</p> <p>(i) improvements on the land that in the opinion of the owner or the holder affect the value of that land; and”</p> <p>15. (1) If the expropriating authority does not accept the amount claimed by a claimant in terms of section 14(1), the expropriating authority must, within 20 days of</p>	<p>(c) furnishing full particulars as to how the amount contemplated in paragraph (b) is made up, including a copy of a valuation, other professional report or other document that forms the basis of the compensation claimed, if any;</p> <p>(d) if the property expropriated is land, furnishing full particulars of—</p> <p>(i) improvements on the land that in the opinion of the owner or the holder affect the value of that land; and”</p> <p>15. (1) Subject to sections 16, 17 and 18, an expropriated owner or expropriated holder is entitled to payment of compensation by no later than the date on which the</p>	<p>shall refund the difference to the State together with, in the case of such owner or local authority, interest at the rate contemplated in section 12 (3) from the date on which the amount was so paid or utilized, and, in the case of the Master, the interest accrued. thereon. in terms of subsection (2). Basis on which compensation is to be determined.</p> <p>12. (1) The amount of compensation to be paid in terms of this Act to an owner in respect of property expropriated in terms of this Act, or in respect of the taking, in terms of this</p>		
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<p>delivery of the statement contemplated in that section, make an offer of just and equitable compensation to the claimant in writing, furnishing full particulars of how such amount is made up and calculated.</p> <p>(2) The offer of compensation contemplated in subsection (1) must be accompanied by copies of reports detailing how the offer of compensation was determined if the amount is different from the amount offered by the expropriating authority in terms of section 8(3).</p>	<p>right to possession passes to the expropriating authority in terms of section 9(2) or (4).</p> <p>(2) The payment, utilisation or deposit of any amount contemplated in sections 16, 17 and 18 does not preclude the determination of an amount by agreement or by a court:</p> <p>Provided that where the amount so determined is less than the amount paid, the difference must be refunded to the expropriating authority together with interest at the rate contemplated in section 13 from the date on which the amount was so paid, utilised or deposited.</p> <p>(3) Any delay in payment of compensation to the</p>	<p>Act, of a right to use property, shall not, subject to the provisions of subsection (2), exceed—</p> <p>(a) in the case of any property other than a right, the aggregate of—</p> <p>(i) the amount which the property would have realized if sold on the date of notice in the open market' by a willing seller to a willing buyer; and</p> <p>(ii) an amount to make good any actual financial loss caused by the expropriation; and</p> <p>(b) in the case of a right, an amount to make good any actual financial loss or inconvenience caused by the expropriation 'or the taking of the right. .</p>		
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<p>(3) The provisions of section 21 apply if—</p> <p>(a) an owner or holder of an unregistered right does not deliver a statement in terms of section 14(1); or</p> <p>(b) the claimant does not accept the offer of compensation contemplated in subsection (1), by written reply within 20 days, or within such additional time as may be permitted in terms of section 25.</p> <p>16. (1) If property expropriated in terms of this Act was, immediately prior to the date of expropriation, encumbered by a registered mortgage or subject to a deed of sale, the</p>	<p>expropriated owner or expropriated holder by virtue of subsection (2) or any other dispute arising will not prevent the passing of the right to possession to the expropriating authority in terms of section 9(2) or (4) unless a court orders otherwise.</p> <p>(4) If the expropriating authority, expropriated owner or expropriated holder has proposed a later date than the date contemplated in subsection (1) for the payment of compensation, the party proposing later payment may, in the absence of agreement,</p>	<p>(2) Notwithstanding anything to the contrary contained in this Act there shall be added to the amount payable in accordance with subsection (1) (a) (i), in the case of immovable property, an amount equal to ten per cent thereof, but not exceeding ten thousand rand.</p> <p>(3) Interest at the rate applicable on the date of expropriation in respect of State loans and advances by virtue of a notice under section 1 of the Financial Adjustments Act, 1917 (Act No. 42 of 1917), shall, subject to the provisions of subsection (4), be payable from the date on which the State takes possession</p>		
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<p>expropriating authority may not pay out any portion of the compensation money except to such person and on such terms as may have been agreed upon between the expropriated owner or expropriated holder and the mortgagee or buyer concerned, as the case may be, after the claimant has notified the expropriating authority of the agreement.</p> <p>(2) The expropriated owner or expropriated holder or the mortgagee or buyer, as the case may be, must notify the expropriating authority by no later than 30 days from the</p>	<p>apply to court for an order for payment on such later date, and the court may make an appropriate order, having regard to all relevant circumstances.</p> <p>(5) If value-added tax is leviable by a claimant in terms of section 7(1)(a) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), by virtue of section 8(21) of that Act, payment of compensation must be made by the expropriating authority only upon receipt of a tax invoice as required in terms of section 20 of that Act from the claimant, together with confirmation of the tax compliance status of the claimant by the South</p>	<p>of the property in question in terms of section 8 (3) or (5) on any outstanding portion of the amount of compensation payable in accordance with subsection (1) (a) (i): Provided that-</p> <p>(a) in a case contemplated in section 21 (4), in respect of the period calculated from the termination of. thirty days from the date on which</p> <p>(i) the property was so taken possession of, if prior ' to that date compensation for the property was offered or agreed upon; or</p> <p>(ii) such compensation. was offered or agreed upon, if after that date it was offered or agreed upon, to the date on which the dispute was settled or the</p>		
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<p>date contemplated in section 9(2) or (4), of their agreement and its terms contemplated in subsection (1), failing which the expropriating authority may deposit the compensation money with the Master in terms of section 18(2).</p> <p>(3) In the event of a dispute arising out of subsection (1), the expropriating authority may deposit the compensation money with the Master, and any of the disputing parties may apply to a court of competent jurisdiction for an order directing the Master to pay out the compensation money in such manner and on such terms as the court may</p>	<p>African Revenue Service.</p> <p>(6) The Minister may prescribe the information and documentation to be delivered by a person to whom compensation or interest is payable in terms of this Act, in order to facilitate electronic payment thereof.</p> <p>16. (1) If property expropriated in terms of this Act was, immediately prior to the date of expropriation, encumbered by a registered mortgage or subject to a deed of sale, the expropriating authority may not pay out any portion of the compensation money except</p>	<p>doubt was resolved or the owner and the buyer or the mortgagee notified the Minister in terms of the said section 21 (4) as to the payment of the compensation money; and (b) from the date on which the Minister, in terms of section 11(1) pays or makes available an amount to the owner or person referred to in section 21 (4), the amount which is so payable shall for the purposes of the payment of interest not be deemed to be an outstanding amount.</p> <p>(4) If the owner. of:, property which has been expropriated</p>		
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<p>determine.</p>	<p>to such person and on such terms as may have been agreed upon between the expropriated owner or expropriated holder and the mortgagee or buyer concerned, as the case may be, after the claimant has notified the expropriating authority of the agreement.</p> <p>(2) The expropriated owner or expropriated holder or the mortgagee or buyer, as the case may be, must notify the expropriating authority by no later than 30 days from the date contemplated in section 9(2) or (4), of their agreement and its terms contemplated</p>	<p>occupies or utilizes ,that property or. any portion thereof, no interest shall, in .respect of the period during which he. So occupies or utilizes it, be paid in terms of subsection (3) on so much of the outstanding amount as, in the opinion of the Minister, relates to the property so occupied or utilized.</p> <p>(5) In determining the.amount of compensation to be paid in terms of this 'Act, the following rules shall apply; namely (a) . no allowance shall. be . made for the fact that the property or the right to use property has been taken without the consent of the owner in question; .</p>		
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	<p>in subsection (1), failing which the expropriating authority may deposit the compensation money with the Master in terms of section 18(2).</p> <p>(3) In the event of a dispute arising out of subsection (1), the expropriating authority may deposit the compensation money with the Master, and any of the disputing parties may apply to a court of competent jurisdiction for an order directing the Master to pay out the compensation money in such manner and on such terms as the court may determine.</p>	<p>(b) the special suitability or usefulness of the property in question for the purpose for which it is required by the State, shall not be taken into account if it is unlikely that the property would have been purchased for that purpose on the open market or that the right to use the property for that purpose would have been so purchased; -</p> <p>(c) if the value of the property has been enhanced in consequence of the use thereof in a manner which is unlawful or detrimental to the health of any person, such enhancement shall not be taken into account;</p> <p>(d) improvements made after the date of notice on or to</p>		
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		<p>the property in question (except where they were necessary for. The proper maintenance of . existing improvements or. Where they were undertaken in pursuance of obligations entered into before that date) shall not. Be taken into account; .</p> <p>€no allowance shall be made for any unregistered right . in respect of any other property or for. Any indirect damage or anything done with the object of obtaining compensation therefore (f) any enhancement or depreciation, before or after the date of notice, in the value of the property in question. which may be due to the purpose for which or in</p>		
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		<p>connection with which the property is being expropriated or is to be used, or which is a consequence of any work or act which the State may carry out or perform or already has carried out or performed or intends to carry out or perform in connection with such purpose, shall not be taken into account;</p> <p>(g) whenever in the opinion of the Minister the amount of compensation may be affected by minerals, the value of the property concerned shall be determined after consultation by the Minister with the Minister of Mines;</p> <p>(h) account shall also, be taken of—</p>		
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		<p>(i) any benefit which will enure to the person to be compensated from any works which the State has built or constructed or has undertaken to build or construct on behalf of such person to compensate him in whole or in part for any financial loss which he will suffer in consequence of the expropriation or, as the case may be, the taking of the right in question;-</p> <p>(ii) any benefit which will enure to such person in consequence of the expropriation of the property or the use thereof for the purpose for which it was expropriated or; as the case may be, the right in question was taken;</p>		
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		<p>·(iii) any amount of compensation payable in terms of section 13 (1) in respect of an unregistered right;</p> <p>(iv) any relevant quantity of water to which the person to be compensated is entitled by virtue of the provisions of section 62 (1) or 63 or by virtue of a permit issued to him under section 62 (2), or will become entitled by virtue of a permit which, according to a statement by the Secretary for Water Affairs, will be issued to him, or by virtue of any scheduling which, according to such a statement, will be granted to him under the said section 63, of the Water Act, 1956 (Act No. 54 of 1956), as the</p>		
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		<p>case may be; (i) in respect of the goodwill of any business or profession - conducted or pursued upon the land expropriated by any person on the date of expropriation no more shall, subject to the provisions of subsection.</p> <p>(6) be paid than: (i) the highest net profit, according to written proof, obtained from such business or profession during any twelve consecutive months of the period of thirty-six months or part thereof immediately preceding the date of expropriation; or (ii) where such business or profession has been conducted or pursued for less, than twelve months,</p>		
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		<p>an amount equal to. the net profit for a period of twelve months computed in relation to the net profit obtained, according to written proof, from such- business or profession during the period during which such business or profession was conducted or pursued on such land.</p> <p>(6). The provisions of subsection (5) (i) of this section shall not derogate from the provisions of section 15 (2)(h) of the Community Development Act, 1966 (Act No. 3 of 1966), and payments- in respect of any particular goodwill shall only be</p>		
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		<p>made in terms of the said subsection (5) (i) in so far as payments in respect thereof, have not been made in terms of the said section 15(2)(h). Payment of compensation in respect of certain unregistered rights in respect of property expropriated.</p> <p>13.(1) In respect of any right which any person may have in respect of any expropriated land by virtue of a contract contemplated in section (9) (l) (d) (i), (iii) or (iv) and which has been terminated in terms of section 22, such person shall, subject to the provisions of subsections (2) and (3) of this section, be</p>		
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		<p>entitled to the payment of compensation as if such right were a registered right in respect of the land in question which was also expropriated on the date of expropriation in respect_ of such land.</p> <p>(2) The Minister shall, in the manner, mutatis mutandis, contemplated in section 7(3) or (5), offer any person contemplated in subsection (1) of this section an amount as compensation, and such an amount so offered shall for the purposes of this Act be deemed to have been offered in terms of section 7(2)(c).</p> <p>(3) If the owner of expropriated land fails to comply with the</p>		
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		provisions of section 9 (1) (d) (i), (iii) or (iv), the State shall not be obliged to pay compensation to the lessee, builder or share cropper concerned in respect of the unregistered right in question, but such owner shall be liable to any such lessee, builder or share-cropper for damage sustained by him in consequence of the expropriation of the property in question.		
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