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## THE PRESIDENCY

**No. 5784**                      **24 January 2025**

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

**Act No.13 of 2024: Expropriation Act, 2024**

## BOPRESIDENTE

**No. 5784**                      **24 Januarie 2025**

Go tsebišwa gore Mopresidente o dumeletše Molao wo o latelago, wo o phatlalatšwago bakeng sa tshedimošo ya kakaretšo:—

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—————  
(English text signed by the President)  
(Assented to 20 December 2024)  
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# ACT

**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 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.**

## PREAMBLE

**WHEREAS** section 25 of the Constitution of the Republic of South Africa, 1996, provides as follows:

### “Property

**25.** (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

(2) Property may be expropriated only in terms of law of general application—

- (a) for a public purpose or in the public interest; and
- (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.

(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 regard to all relevant circumstances, including—

- (a) the current use of the property;
- (b) the history of the acquisition and use of the property;
- (c) the market value of the property;
- (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- (e) the purpose of the expropriation.

(4) For the purposes of this section—

- (a) the 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; and
- (b) property is not limited to land.

(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.

(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.

(7) 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.

(8) 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).

(9) Parliament must enact the legislation referred to in subsection (6).”;  
and

**WHEREAS** section 33(1) of the Constitution provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair; and

**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

**WHEREAS** uniformity across the nation is required in order to deal effectively with these matters;

**AND IN ORDER TO ENABLE** expropriation in accordance with the Constitution,

**B**E IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:—

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**CHAPTER 1**  
**DEFINITIONS AND APPLICATION OF ACT**

**Definitions**

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|--|----|
| <p><b>1.</b> (1) In this Act, unless the context indicates otherwise—</p> <p>“<b>claimant</b>” means a person who has lodged a claim for compensation;</p> <p>“<b>Constitution</b>” means the Constitution of the Republic of South Africa, 1996;</p> <p>“<b>court</b>” means a Division of the High Court or a court of similar status within whose area of jurisdiction—</p> <p style="margin-left: 20px;">(a) the immovable property in question is situated;</p> <p style="margin-left: 20px;">(b) the movable property in question is situated at the time the expropriating authority implements section 5 or 20; or</p> <p style="margin-left: 20px;">(c) the owner of the movable or intangible property in question resides or has its principal place of business;</p> | 35 |
| <p style="margin-left: 20px;">(a) the immovable property in question is situated;</p> <p style="margin-left: 20px;">(b) the movable property in question is situated at the time the expropriating authority implements section 5 or 20; or</p> <p style="margin-left: 20px;">(c) the owner of the movable or intangible property in question resides or has its principal place of business;</p>  | 40 |

- “**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);
- “**Department**” means the Department responsible for Public Works and Infrastructure;
- “**Director-General**” means the Director-General of the Department; 5
- “**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;
- “**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) for a public purpose or in the public interest; 10
- “**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; 15
- “**holder of a right**” means the holder of an unregistered right in property, but excludes an unregistered owner;
- “**land parcel**” means land that has been surveyed and is either registered or yet to be registered in a deeds registry;
- “**Master**” means the Master of the High Court for the Division with the necessary jurisdiction; 20
- “**Minister**” means the Minister responsible for Public Works and Infrastructure;
- “**notice of expropriation**” means a notice contemplated in section 8;
- “**organ of state**” means an organ of state as defined in section 239 of the Constitution;
- “**owner**” means the owner of property in terms of the common law and customary law and where the ownership of the property or right in question must be registered, the person in whose name such property or right is registered, and— 25
- (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; 30
  - (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;
  - (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; 35
  - (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;
  - (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; 40
  - (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;
  - (g) in the case of a public place, road or street under the control of a municipality, means that municipality; 45
  - (h) for the purposes of section 5, includes a lawful occupier of the land concerned; and
  - (i) includes an authorised representative of the owner, who is ordinarily resident in the Republic; 50
- “**possession**” includes the exercise of a right;
- “**prescribed**” means prescribed by regulation;
- “**property**” means property as contemplated in section 25 of the Constitution;

“**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;

“**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; 5

“**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;

“**regulation**” means a regulation made in terms of section 26; 10

“**service**” means service as contemplated in section 22(1), and “serve” has a corresponding meaning;

“**this Act**” includes any regulations made under this Act;

“**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; 15

“**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).

(2) (a) A Saturday, Sunday or public holiday must not be reckoned as part of any period calculated in terms of this Act. 20

(b) The period 20 December to 7 January inclusive, must not be reckoned as part of any period calculated in terms of this Act.

### Application of Act

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. 25

(2) Subject to section 20, a power to expropriate property may not be exercised unless 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. 30

(3) This Act applies, with the necessary changes, to the compulsory acquisition of property directly or indirectly by a third-party beneficiary through an expropriating authority in the public interest, including for the purposes contemplated in section 25(4) to (8) of the Constitution.

(4) 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. 35

(5) The power to expropriate includes the power to acquire a right to use property temporarily in terms of section 20.

## CHAPTER 2 40

### POWERS OF MINISTER TO EXPROPRIATE

#### Powers of Minister to expropriate

3. (1) Subject to the provisions of Chapter 5, the Minister may expropriate property for a public purpose or in the public interest.

(2) The Minister may expropriate property on behalf of an organ of state, which has been established by or under any law but is not an expropriating authority, if— 45

(a) the member of the executive responsible for the administration of that law requests the Minister to do so in writing; and

(b) the Minister is satisfied that the organ of state requires the property for a public purpose or in the public interest. 50

(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, land and infrastructure needs of an organ of state.

- (4) Where only a portion of a land parcel is to be expropriated, the Minister may expropriate that portion together with the remainder of the land parcel, if—
- (a) the owner so requests; and
  - (b) 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. 5
- (5) When the Minister expropriates property in terms of subsection (2)—
- (a) the ownership of the property vests in the relevant organ of state on the date of expropriation;
  - (b) the right to possession of the property vests in the relevant organ of state in terms of section 9; 10
  - (c) subject to section 9(5)(b), 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 as if it had purchased that property; and
  - (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. 15

#### **Delegation or assignment of Minister's powers and duties**

4. (1) Subject to subsection (2), the Minister may delegate or assign, 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. 20
- (2) The Minister may not delegate or assign the powers or duties conferred by sections 3, 20(1), 21(1) and 26.

### **CHAPTER 3**

#### **INVESTIGATION AND VALUATION OF PROPERTY 25**

##### **Investigation and gathering of information for purposes of expropriation**

5. (1) The expropriating authority must consider all relevant circumstances when deciding whether to expropriate property and must ascertain—
- (a) the suitability of the property for the required purpose;
  - (b) the existence of registered and unregistered rights in the property; and 30
  - (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 affected if the property were expropriated.
- (2) Subject to subsection (3), if the property is land, an expropriating authority may authorise in writing— 35
- (a) a person with the necessary skills or expertise, for the purposes of subsection 1(a), to—
    - (i) enter upon the property with the necessary workers, equipment and vehicles at all reasonable times or as may be agreed to by the owner or occupier of the property; 40
    - (ii) survey and determine the area and levels of the land;
    - (iii) dig or bore on or into the land;
    - (iv) construct and maintain a measuring weir in any river or stream;
    - (v) insofar as it may be necessary to gain access to the property, enter upon and go across another property with the necessary workers, equipment and vehicles; and 45
    - (vi) demarcate the boundaries of the property required for the said purpose; and
  - (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. 50

- (3) No person contemplated in subsection (2) may enter the property without written authorisation from the expropriating authority and—
- (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 5
  - (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 the land, including any building thereon, for purposes of conducting the investigations contemplated in subsection (2).
- (4) The valuer contemplated in subsection (2)(b) may— 10
- (a) require the owner or occupier of the property to give access to a document in the possession or under the control of the owner or occupier which the valuer reasonably requires for the purposes of valuing the property;
  - (b) extract information from or make copies of a document to which access is given in terms of paragraph (a); 15
  - (c) in writing require the owner or occupier of the property to provide, either in writing or orally, particulars of the property that are reasonably required for the purposes of valuing the property; and
  - (d) despite the provisions of any law to the contrary, require the municipality in whose area the land is situated, to provide— 20
    - (i) access to building plans of improvements on such land;
    - (ii) a copy or copies of building plans relating to the land and any improvements at the cost of the valuer or valuers; and
    - (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. 25
- (5) Unless the information has already been obtained, the expropriating authority must— 30
- (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:
    - (i) The owner;
    - (ii) a person apparently in charge of the property; 35
    - (iii) the holder of a right, known to the expropriating authority; and
    - (iv) the mortgagee; and
  - (b) if the property is land, consult—
    - (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 establishing the existence of and the impact of expropriation on rights therein; and 40
    - (ii) the municipality as contemplated in section 6, unless the expropriating authority is the municipal council. 45
- (6)(a) A person contemplated in subsection (2) must—
- (i) provide the owner or occupier of the property with a copy of the written authority;
  - (ii) at all times while performing any authorised act, be in possession of the written authority; and 50
  - (iii) provide written identification to the owner or occupier of the property by means of an official identification document.
- (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 55 may refuse to allow an act contemplated in subsection (2).

(7) If the property in question is damaged through an act contemplated in subsection (2), an affected person may deliver written demand to the expropriating authority and the expropriating authority must repair the damage to a reasonable standard or compensate for the damage without undue delay.

(8) Any legal proceedings arising out of a claim under subsection (7) must comply with the Institution of Legal Proceedings Against Certain Organs of State Act, 2002 (Act No. 40 of 2002). 5

(9) The powers, authority and obligations conferred or imposed by this section are subject to the laws governing the protection of personal and private information, and must be exercised accordingly. 10

(10) If the property is not land, the expropriating authority may authorise a suitably qualified person or valuer to ascertain its suitability and value for determining an amount of compensation to be offered.

### Consultation with municipality during investigation

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. 15

(2) The request contemplated in subsection (1) must include—

(a) a statement that the expropriating authority is contemplating the acquisition of land; 20

(b) a full description of the land in question;

(c) details of the purpose for which the land is required; and

(d) other details that the expropriating authority considers necessary.

(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. 25

(4) If the expropriating authority is the municipal council of the municipality where the land is situated, the request contemplated in subsection (1) is not required.

## CHAPTER 4

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### INTENTION TO EXPROPRIATE AND EXPROPRIATION OF PROPERTY

#### Notice of intention to expropriate

7. (1) If an expropriating authority intends to expropriate property, it must—

(a) serve a notice of intention to expropriate on the owner, mortgagee and holder of a right known to it at the time; and 35

(b) publish the notice of intention to expropriate under section 22(2).

(2) A notice of intention to expropriate must include—

(a) a statement of the intention to expropriate the property;

(b) a full description of the property;

(c) a short description of the purpose for which the property is required; 40

(d) the address at which documents detailing the purpose of the expropriation may be inspected and at which particulars of the purpose may be obtained during business hours;

(e) the reason for the intended expropriation of that particular property;

(f) the intended future date of expropriation; 45

(g) the future date on which the expropriating authority intends to take possession of the property;

(h) an invitation to any person who may be affected by the intended expropriation to lodge with the expropriating authority within 30 days after the publication of the said notice— 50

(i) any objections to the intended expropriation;

(ii) any submissions relating to the intended expropriation;

(iii) a postal address, email address or facsimile number for the expropriating authority to communicate with that person; and

(iv) the preference of official language for further written communication; 55

- (i) the names of the recipients of the notice and their interest in the property;
- (j) 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 names and addresses of any holders of rights, other than those listed, and particulars of those rights of which the recipient is aware; 5
- (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;
- (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; 10
- (m) a statement drawing attention to sections 14, 19, 23 and 25; and
- (n) the details of the empowering law authorising the intended expropriation.
- (3) If the property is land, the expropriating authority must also deliver a copy of the notice referred to in subsection (1) to— 15
- (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 20
- (b) the municipal manager of the municipality where the property is situated, unless the expropriating authority is the municipal council.
- (4) A person responding to a notice contemplated in subsection (1), within 30 days of the service or publication of the notice, must— 25
- (a) deliver to the expropriating authority a written statement—
- (i) stating whether he or she accepts the offer of compensation;
- (ii) requesting further particulars under section 14; or
- (iii) disputing, in terms of section 19, the amount of compensation offered; 30
- (b) if the property is land, give the name and address of—
- (i) the lessee, whose unregistered lease of the whole or part of the property was concluded before the notice was issued, together with the lease or a certified copy;
- (ii) 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 35
- (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 40
- (c) state the address at which further documents in connection with the expropriation may be sent and the preferred language of communication.
- (5) The expropriating authority must consider the statements contemplated in subsection (4), as well as any objections or submissions lodged in terms of subsection (2)(h), in deciding whether to proceed with the expropriation of the property. 45
- (6)(a) The expropriating authority may decide to expropriate the property after the compensation, the amount of which and the time and manner of payment of which have been agreed with the owner, mortgagee or holder of a right, or approved or decided by a court, subject to section 19(8).
- (b) If the expropriating authority decides— 50
- (i) to expropriate, it must serve a notice of expropriation in terms of section 8(1) within a reasonable time; or

- (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 decision not to proceed in terms of section 22(2).

### Notice of expropriation

8. (1) If the expropriating authority decides to expropriate the property, the expropriating authority must cause a notice of expropriation to be served upon the expropriated owner, mortgagee and expropriated holder of a right in their preferred language. 5

(2) The expropriating authority must cause a copy of the notice of expropriation to be— 10

- (a) published in accordance with section 22(1)(c) or (2);
- (b) delivered to a known holder of a right whose rights have not been expropriated; and
- (c) if the property is land, delivered to—
  - (i) the municipal manager of the municipality where the property is situated, unless the expropriating authority is the municipal council; 15
  - (ii) the Directors-General responsible for rural development and land reform, environmental affairs, 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; 20
  - (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; 25
  - (iv) a mortgagee if the land is encumbered by a registered mortgage bond;
  - (v) the buyer, if the property is subject to a contract contemplated in section 7(4)(b)(ii); and
  - (vi) the builder, if a building on the property is subject to a lien contemplated in section 7(4)(b)(iii). 30

(3) The notice of expropriation must contain—

- (a) a statement of the expropriation of the property;
- (b) the full description of the property, including—
  - (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 35
  - (ii) where the expropriation applies to a right in land, a description of the approximate area and position of the land subject to the right;
- (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; 40
- (d) the reason for the expropriation of that particular property;
- (e) the date of expropriation or, where the expropriation is for the temporary use of the property as contemplated in section 20, the intended period of such temporary use;
- (f) the future date on which the right to possession of the property will pass to the expropriating authority after expropriation; 45
- (g) subject to section 20, the amount of compensation agreed upon or approved or decided by a court under section 19; and
- (h) the details of the empowering law authorising the expropriation.

(4) The notice of expropriation served in terms of subsection (1) must be accompanied by documents detailing the following: 50

- (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) 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 without such survey diagram or sketch plan; 5
  - (d) an explanation of how the amount of compensation was arrived at, together with supporting documents;
  - (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 10
  - (f) a statement drawing the attention of the expropriated owner, expropriated holder of a right or any other affected person to the provisions of section 25. 15
- (5) If the property expropriated is land—
- (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 under whose control the title deed is; and 20
  - (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. 25

#### **Vesting and possession of expropriated property**

9. (1) The effect of an expropriation of property is that—
- (a) subject to paragraphs (c) and (d), 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; 30
  - (b) all unregistered rights in such property are simultaneously expropriated on the date of expropriation unless—
    - (i) the expropriation of those unregistered rights is expressly excluded in the notice of expropriation; or 35
    - (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);
  - (c) in the case of a right to use 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 for its duration; 40
  - (d) with the exception of a mortgage, the property remains subject to all registered rights in favour of third parties, with which the property was burdened prior to expropriation, unless or until such registered rights are expropriated from the holder of a right; and 45
  - (e) the date of expropriation may not be before the date of service of the notice of expropriation.
- (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 of a right. 50
- (b) The right to possession passes on the relevant date contemplated in paragraph (a) to the person referred to therein.

(3)(a) The expropriated owner or expropriated holder of a right who is in possession of the property concerned must take all reasonable steps to maintain the property from the date of expropriation to the date referred to in subsection (2) or (4).

(b) The expropriating authority may recover the amount for the loss of value caused by the willful or negligent failure of an expropriated owner or the expropriated holder of a right to maintain the property. 5

(c) The expropriating authority must compensate the expropriated owner or expropriated holder of a right for costs necessarily incurred after the date of expropriation in respect of such maintenance.

(4) If the expropriated owner or expropriated holder of a right wishes to transfer the right to possession of the property before the date contemplated in section 8(3)(f) but the expropriating authority does not agree, the expropriated owner or expropriated holder of a right may pass the right to possession to the expropriating authority by giving the expropriating authority prior written notice of at least 20 days. 10

(5) The expropriated owner or expropriated holder of a right who is in possession of the property from the date of expropriation to the date referred to in subsection (2)(b), remains— 15

- (a) entitled to the use of and the income from the expropriated property; and
- (b) responsible for the municipal property rates, taxes, levies and other charges, and normal operating costs in respect of the expropriated property. 20

#### **Verification of unregistered rights in expropriated property**

**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, and was not served with a notice of expropriation, the expropriating authority must request that person to deliver to the expropriating authority, in the manner prescribed in the notice within 30 days of receipt and subject to section 23— 25

- (a) evidence of that person's unregistered right in the expropriated property; or
- (b) a copy of any written instrument evidencing or giving effect to that person's unregistered right, if such instrument is in the person's possession or under the person's control, or any other evidence to substantiate the person's claim. 30

(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—

- (a) a full description of those improvements;
- (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 35
- (c) the amount claimed as compensation for such unregistered right, together with details or a report, if any, on how the amount is computed.

(3) After receipt of the evidence requested in terms of subsection (1) and if the unregistered right claimed pertains to land, the 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. 40 45

(4) A Director-General or accounting authority referred to in subsection (3) must submit comments within 30 days of receipt of the request for assistance in the verification of the claim as contemplated therein.

(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.

(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. 5

(c) If the expropriating authority does not accept the claim contemplated in subsection (1), the expropriating authority must inform the claimant accordingly in writing and must provide reasons for the rejection.

(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)(j) but did not do so. 10

(7) The expropriating authority may exercise the power in terms of subsection (6) only after giving the expropriated owner a reasonable opportunity to make representations in that regard. 15

### **Consequences of expropriation of unregistered rights and duties of expropriating authority**

**11.** (1) A person who becomes an expropriated holder of a right by the operation of section 9(1)(b), subject to section 10 and this section, is entitled to compensation. 20

(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 of a right thereof, the expropriating authority must serve on that expropriated holder of a right 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). 25

(3) The notice contemplated in subsection (2) must—

(a) inform the expropriated holder of a right 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); 30

(b) contain a statement contemplated in section 8(3)(f), if applicable; and

(c) except if this information was furnished in terms of section 10(1), request the expropriated holder of a right to deliver to the expropriating authority, within 20 days of receipt of the notice, subject to section 23, a copy of any written instrument in their possession or under their control which evidences the unregistered right. 35

(4) When a notice in terms of subsection (2) has been served on the expropriated holder of a right 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, but if that expropriated holder of a right 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. 40

(5) If the expropriated owner or expropriated holder of a right 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 of a right, 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 of a right, as the case may be. 45

## CHAPTER 5 COMPENSATION FOR EXPROPRIATION

### Determination of compensation

12. (1) The amount of compensation must be just and equitable reflecting an equitable balance between the public interest, the interests of those affected, including an owner, holder of a right a mortgagee, having regard to all relevant circumstances, including— 5
- (a) the current use of the property;
  - (b) the history of the acquisition and use of the property;
  - (c) the market value of the property;
  - (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and 10
  - (e) the purpose of the expropriation.
- (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— 15
- (a) the fact that the property has been taken without the consent of the owner or holder of a right;
  - (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; 20
  - (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;
  - (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 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; 25
  - (e) anything done with the object of obtaining compensation therefor; and
  - (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 expropriated. 30
- (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— 35
- (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;
  - (b) where an organ of state holds land that it is not using for its core functions and 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; 40
  - (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 despite being reasonably capable of doing so; 45
  - (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 capital improvement of the land.
- (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. 50
- (5) If the property is land, the expropriating authority must consider the amount of outstanding municipal property rates, taxes, levies and charges relating to the property when making an offer of just and equitable compensation. 55

**Interest on compensation**

**13.** Interest, at the rate determined from time to time in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), from the date the expropriating authority, or the person on whose behalf the property was expropriated, takes possession of the expropriated property, accrues on any outstanding portion of the amount of compensation payable in accordance with section 12 and becomes payable in the manner contemplated in section 15: Provided that— 5

- (a) until the claimant complies with the requirement of section 15(5), 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, provided that if the expropriated owner or expropriated holder of a right disputes the amount of compensation, it may issue a provisional tax invoice for the amount of compensation offered without prejudice to its right to dispute the amount of compensation offered by the expropriating authority; 10
- (b) interest due in terms of this subsection must be regarded as having been paid on the date on which the amount has been made available or has been electronically transferred to the bank account of the expropriated owner or of the expropriated holder of a right, or in a manner as agreed to by the parties or as decided or approved by a court in terms of section 19, as the case may be; and 15
- (c) a payment, utilisation or deposit of an amount in terms of section 15(1), 17(2) or 18(1) or (2) must be regarded as being a payment to the expropriated owner or an expropriated holder of a right and no interest accrues on any such amount as from the date on which it has been so paid, utilised or deposited. 20

**Requests for particulars**

**14.** (1) The owner, mortgagee and holder of a right may request the expropriating authority, in writing, to provide reasonable particulars about the offer of compensation and particulars so requested must be furnished within 20 days of such request. 25

(2) If the expropriating authority fails to provide the requested particulars, the person making such a request in terms of subsection (1) may, on notice, apply to a court for an order directing the expropriating authority to comply with subsection (1) and the court may make such an order. 30

(3) An offer of just and equitable compensation remains in force until—

- (a) revised by the expropriating authority;
- (b) the amount of compensation has been agreed upon; or 35
- (c) the compensation has been decided or approved by a court.

**Payment of compensation**

**15.** (1) Subject to sections 16, 17 and 18, an expropriated owner or expropriated holder of a right is entitled to payment of compensation on the date and in the manner as agreed to by the parties or as decided or approved by a court in terms of section 19. 40

(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: 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. 45

(3) Any delay in payment of compensation to the expropriated owner or expropriated holder of a right by virtue of subsection (2), or any other dispute arising after the expropriating authority has decided to expropriate 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. 5

(4) If the expropriating authority, expropriated owner or expropriated holder of a right 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, 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. 10

(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 African Revenue Service. 15

(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.

#### **Property subject to mortgage or deed of sale**

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**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 to such person and on such terms as may have been agreed upon between the expropriated owner or expropriated holder of a right and the mortgagee or buyer concerned, as the case may be, after the claimant has notified the expropriating authority of the agreement. 25

(2) The expropriated owner or expropriated holder of a right 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 in subsection (1), failing which the expropriating authority may deposit the compensation money with the Master in terms of section 18(2). 30

(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. 35

#### **Payment of municipal property rates, taxes and other charges out of compensation money**

**17.** (1) The expropriating authority must pay outstanding municipal rates, taxes, levies and other charges out of the compensation money. 40

(2) If land which has been expropriated is subject to the charges contemplated in subsection (1), the municipal manager must, within 30 days of receipt of a copy of the notice of expropriation in terms of section 8(2)(c)(i), inform the expropriating authority in writing of such charges, as at the date contemplated in section 9(2) or (4), unless the expropriating authority is the municipal council of the municipality where the land is situated. 45

(3)(a) The expropriating authority must, in writing, notify the expropriated owner or expropriated holder of a right of any outstanding charges contemplated in subsection (1). 50

(b) If the expropriated owner or expropriated holder of a right does not dispute the outstanding charges contemplated in paragraph (a), within 20 days of the notification, the expropriating authority may utilise as much of the compensation money in question as is necessary for the payment, on behalf of the expropriated owner or expropriated holder of a right, of any outstanding charges contemplated in subsection (1). 5

(4) If the municipal manager fails to inform the expropriating authority of the outstanding charges contemplated in subsection (1) within the period of 30 days as contemplated in subsection (2), the expropriating authority may pay the compensation to the expropriated owner or expropriated holder of a right without regard to the outstanding municipal property rates or other charges, and in such an event and despite the provisions of any law to the contrary— 10

- (a) the Registrar of Deeds must register the transfer of the expropriated property;
- (b) the expropriating authority or the person on whose behalf the property was expropriated, as the case may be, is not liable to the municipality concerned before or after such registration for the outstanding municipal property rates or other charges; and 15
- (c) despite the provisions of any other law, the expropriated owner remains liable to the municipality for rates and other charges levied on the property until the right to possession vests in the expropriating authority in terms of section 8(3)(f) or section 9(4). 20

#### **Deposit of compensation money with Master**

**18.** (1) The expropriating authority must deposit the amount of compensation payable in terms of this Act with the Master after which the expropriating authority ceases to be liable in respect of that amount—

- (a) if a property expropriated under this Act was left in terms of a will or testament to an undetermined beneficiary or beneficiaries; 25
- (b) if compensation is payable in terms of this Act to a person whose address is not readily ascertainable or who, unless otherwise agreed, fails to supply the prescribed information and documentation for electronic payment within 20 days of being given written notice to do so; or 30
- (c) if compensation is payable and the expropriating authority, after reasonable endeavours, is unable to determine to whom it must be paid.

(2) In the event of a dispute or doubt as to the person who is entitled to receive compensation payable in terms of this Act, or in the event that an interdict prevents the expropriating authority from paying compensation to that person, the expropriating authority may deposit the amount of compensation with the Master. 35

(3) Any money received by the Master in terms of subsection (1) or (2) must be paid into the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), for the benefit of the persons who are or may become entitled thereto and bear interest at the interest rate determined in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999). 40

(4) A court of competent jurisdiction may make an order which it may deem expedient in respect of money received by the Master in terms of subsection (1) or (2).

## CHAPTER 6

## MEDIATION AND DETERMINATION BY COURT

## Mediation and determination by court

19. (1) If the expropriating authority and a disputing party do not agree on the amount, time and manner of payment of compensation, they may attempt to settle the dispute by mediation, which must be initiated and finalised without undue delay by either party. 5

(2) If the expropriating authority and disputing party do not settle the dispute by consensus or mediation, either party may, within 180 days of the date of the notice of expropriation, institute proceedings in a competent court for the court to decide or approve the amount, time and manner of payment of just and equitable compensation. 10

(3) The disputing party may, instead of instituting such proceedings himself or herself, within 90 days of the date of the notice of expropriation request the expropriating authority, in writing, to institute such proceedings and the expropriating authority must institute such proceedings within 180 days of receiving such request.

(4) A court may extend the time periods in subsections (2) and (3) on good cause shown and if the interests of justice so require. 15

(5) The onus or burden of proof is not affected by whether it is the expropriating authority or the disputing party which institutes the proceedings referred to in this section.

(6) Subsection (2) does not preclude a person from approaching a court on any matter relating to the application of this Act. 20

(7) Where a court finds that a provision of this Act has not been complied with, it may make such order as it considers just and equitable, having regard to all relevant circumstances, including—

- (a) the nature and extent of the interest of the person who has challenged the conduct in question; 25
- (b) the materiality of the non-compliance;
- (c) the stage which has been reached in the expropriation process; and
- (d) the interests of other persons which may be affected by the relief which is ordered. 30

(8) Despite section 18 of the Superior Courts Act, 2013 (Act No. 10 of 2013), any appeal against the decision of a court on the amount of compensation will not prevent the expropriating authority from expropriating for the amount approved or decided, unless a court grants an interim interdict based on compelling prospects of success of the appeal. 35

(9) A court may make any order as to costs that it considers just and equitable for proceedings contemplated in subsections (2) and (3).

## CHAPTER 7

## URGENT EXPROPRIATION

## Urgent expropriation 40

20. (1) An expropriating authority may, if a property is required on an urgent basis for public purpose or in the public interest, exercise a right to use property temporarily for so long as it is urgently required but for no longer than 12 months.

(2) The power referred to in subsection (1) may be exercised only if suitable property held by the national, provincial or local government is not available and under the following circumstances: 45

- (a) In the case of a disaster as defined in the Disaster Management Act, 2002 (Act No. 57 of 2002); or
- (b) where a court grants an order that an expropriating authority is entitled to use the provisions of this section due to— 50
  - (i) urgent and exceptional circumstances that justify action under subsection (1);

- (ii) real and imminent danger to human life or substantial injury or damage to property; or
- (iii) any other ground which in the view of the court justifies action under subsection (1).
- (3) Save for section 7(6)(a), the remaining provisions of this Act apply to urgent expropriations, but the expropriating authority may— 5
- (a) depart from the following provisions, if the degree of urgency so requires:
- (i) Sections 5(3) and (5);
- (ii) section 6;
- (iii) sections 7(2)(h), 7(2)(j), 7(2)(k), 7(2)(l), 7(4)(a) and 7(5); and 10
- (iv) section 15(1); and
- (b) reduce the periods in the following provisions to a reasonable period, given the degree of urgency:
- (i) Section 6(3); and
- (ii) sections 7(2)(h), 7(2)(j) and 7(4). 15
- (4) The owner or the holder of a right whose right in property has been taken for temporary use in terms of this section is entitled to just and equitable compensation as calculated, agreed or decided by courts and paid in terms of this Act.
- (5) If not already done in terms of section 7(2)(k), expropriating authority must make a written offer of compensation to the expropriated owner or expropriated holder of a right of a right as soon as reasonably possible, but no later than 30 days from the date on which the notice to use the property temporarily was given, and payment must be made as soon as reasonably possible thereafter: Provided that in the event of any dispute, section 19 applies. 20
- (6) If the property in question is damaged as a result of the performance of an act contemplated in subsection (1), 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 without undue delay. 25
- (7)(a) If an expropriating authority wishes to extend the period of temporary usage beyond 12 months and the owner or the holder of a right whose right in property has been taken does not agree thereto, the expropriating authority may approach the court for an extension of the period. 30
- (b) The court may, on sufficient cause shown by the expropriating authority, extend the period of temporary usage.
- (c) The period of extension may not exceed 18 months from the date the property was taken for temporary use in terms of subsection (1). 35
- (8) If the court refuses to grant an extension as applied for in terms of subsection (7), the expropriating authority must return or vacate the property on the expiry of the period of temporary use or on the date agreed to by the parties or determined by the court.
- (9) An expropriating authority may at any time during the temporary use of the property, commence with the expropriation of the ownership of the property. and must comply with all relevant provisions of this Act. 40
- (10) If the property is land, the expropriating authority becomes liable for the municipal property rates, taxes, levies and similar charges from the date of expropriation. 45

## CHAPTER 8

### WITHDRAWAL OF EXPROPRIATION

#### Withdrawal of expropriation

21. (1)(a) Notwithstanding anything to the contrary contained in any law, the expropriating authority may withdraw any expropriation from a date mentioned in a notice of withdrawal, if the withdrawal of that expropriation is in the public interest, or the reason for which the property was expropriated is no longer applicable. 50

- (b) The notice of withdrawal contemplated in paragraph (a) must be served on every person on whom the notice of expropriation in question was served.
- (2) An expropriation may not be withdrawn—
- (a) after the expiration of three months from the date of expropriation, except with the written consent of the expropriated owner and all expropriated holders of a right or, in the absence of a written consent, if a court, on application by the expropriating authority, authorises the withdrawal on the ground that it is in the public interest that the expropriation be withdrawn; 5
  - (b) if, where the expropriated property is land, the property has already been registered in the name of the expropriating authority in consequence of the expropriation; or 10
  - (c) if the expropriating authority has already paid compensation in connection with such expropriation, unless the agreement in writing of every person to whom the compensation has been paid is obtained. 15
- (3) If an expropriation of property is withdrawn—
- (a) ownership of the property concerned again vests, from the date contemplated in subsection (1), in the owner from whom it was expropriated, and any mortgage or other rights discharged or expropriated in connection with or as a consequence of the expropriation are fully revived; 15
  - (b) the Registrar of Deeds or the registrar of any other office at which such expropriated right was registered or recorded must, on receipt of a copy of the notice of withdrawal, cancel any endorsement made in connection with the expropriation in his or her registers and on the title deed in question; and 20
  - (c) the expropriating authority is liable for all reasonable costs and damages incurred or suffered by a claimant as a result of such withdrawal. 25

## CHAPTER 9

### RELATED MATTERS

#### Service and publication of documents and language used therein

22. (1) Whenever a notice in terms of sections 7(1), 8(1), 11(2) or 17(3)(a) or a notice of withdrawal in terms of section 21(1)(b) is required to be served in terms of this Act, the original or a certified copy thereof must— 30
- (a) be delivered or tendered to the addressee personally at his or her residential address, place of work, place of business or at such address or place as the expropriating authority and the addressee may, in writing, agree upon; 35
  - (b) be posted by pre-paid registered post to the postal address of the addressee and delivered electronically to the electronic mail address of the addressee; 35
  - (c) be published in the manner contemplated in subsection (2)—
    - (i) if the whereabouts of the person concerned are unknown to the expropriating authority and is not readily ascertainable, after taking reasonable steps; or 40
    - (ii) if the identity of an heir or legatee, whose interest has passed or will pass to another person on the fulfilment of a condition, is unknown to the expropriating authority; or 40
  - (d) if none of the modes of service set out in paragraphs (a) to (c) is practicable under the circumstances, be served in accordance with such directions as the court, on application, may direct. 45

- (2) Whenever the publication of a notice is required in terms of section 7(1) or (6)(b)(ii), or the publication of a notice of expropriation or other document is required by this Act, such publication must take place—
- (a) in English and in any other official language commonly used in the area where the property is situated, once in the *Gazette* and, simultaneously therewith or not more than one week thereafter, once in two widely circulated and accessible newspapers of different languages circulating in the area in which the property is situated; 5
  - (b) if the property is land, by the display of the notice in the languages referred to in paragraph (a), on such land in a conspicuous place, from not later than the date of publication in the *Gazette* contemplated in paragraph (a); and 10
  - (c) if the expropriating authority deems it necessary in the circumstances, by the advertising in such languages as may be appropriate on television or radio, transmitting to the area where the property is situated in the languages commonly used in that area, the contents of the advertisement to adhere as closely as is practicable to the contents of the notice or document so advertised. 15
- (3) Whenever a document must or may be delivered in terms of this Act, it must take place by delivering—
- (a) to the owner and holder of an unregistered right in a property known to the expropriating authority, at the address appointed in the notice in terms of section 7(1), the notice of expropriation, the notice in terms of section 11(2) or other document, as the case may be; and 20
  - (b) to any owner, holder of an unregistered right, person who has lodged an objection or submission contemplated in section 7(2)(h), expropriated owner and expropriated holder of a right, at the address or facsimile number appointed by such person in terms of this Act, or in the absence thereof— 25
    - (i) at an address supplied in respect of such person in terms of this Act;
    - (ii) at the residential or postal address of such person, if known to the expropriating authority; or 30
    - (iii) if no address of such person is known to or readily ascertainable by the expropriating authority, by publication in the manner contemplated in subsection (2)(a).
- (4) The delivery contemplated in subsection (3) must take place at the address in question either by— 35
- (a) hand;
  - (b) facsimile transmission: Provided that a confirmatory copy of the document is sent by ordinary mail or by any other suitable method within one day of such transmission;
  - (c) registered post; 40
  - (d) electronic mail; or
  - (e) in any other manner which may be prescribed by the Minister.
- (5) All documents must be in English and if an addressee has prior to a communication expressed in writing a preference for another official language, also in that preferred other official language. 45
- (6) Every addressee who has received a written communication from the expropriating authority is entitled to request, in writing, a translation of that communication into the official language indicated in the request.

#### Extension of time

23. (1) An expropriating authority may extend any period, which is applicable to persons mentioned in paragraphs (a) and (b), in terms of this Act on written request and good cause shown: 50

- (a) The relevant owner or holder of a right or other interested or affected person for a further period or periods as may be reasonable in the circumstances.
- (b) by another organ of state or functionary for a further period or periods as may be reasonable in the circumstances, but not more than double the original period. 5
- (2) An expropriating authority may extend any period applicable to itself in terms of this Act, if—
- (a) the owner, holder of a right or interested and affected person agrees to a written request by the expropriating authority; or
- (b) there is good cause for the extension. 10
- (3) For the purposes of subsections (1) and (2), good cause may include circumstances where compliance with the provision requires—
- (a) searching for and compiling a large number of documents and compliance with the original period would unreasonably interfere with the activities of the organ of state concerned, or would impose an unreasonable burden on the persons contemplated in subsection (1)(a); 15
- (b) searching for and compiling information or documents from a source not situated in the same town or city, as may be reasonable in the circumstances, the persons contemplated in subsections (1)(a), (b) and (2), the completion of which cannot reasonably be completed within the original period; 20
- (c) consultation among divisions of the organ of state or another organ of state, which is necessary and desirable for the purposes of this Act, but which cannot reasonably be completed within the original period; or
- (d) more than one of the circumstances contemplated in paragraphs (a), (b) and (c) exist, making compliance with the original period not reasonably possible. 25
- (4) If the expropriating authority extends a period—
- (a) in terms of subsection (1), it must notify the requestor as soon as reasonably possible, but in any event within 20 days of the outcome of the request; and
- (b) in terms of subsection (2), it must notify the owner, holder of a right or interested and affected person as soon as reasonably possible, but in any event within 20 days, of making the extension. 30
- (5) The notice in terms of subsection (4) must—
- (a) state the duration of the extension;
- (b) give adequate reasons for the extension, including the provisions of the Act relied on; and 35
- (c) if the recipient is a person contemplated in subsection (1)(a), draw attention to the provisions of section 19(6).

### Expropriation register

24. (1) The Director-General must ensure that a register of all expropriations that are intended, effected and withdrawn, and of decisions not to proceed with a contemplated expropriation by all expropriating authorities, is opened, maintained and accessible to the public. 40

(2) All expropriating authorities must deliver to the Department a copy of any notice of an intended expropriation, notice of expropriation and notice of withdrawal of expropriation, and of any decision not to proceed with an intended expropriation, within 20 days of the service or delivery of such notices. 45

### Offences and fines

25. (1) An owner or holder of a right commits a breach of this Act if that person fails to—
- (a) comply with a directive by the expropriating authority in terms of section 7(2)(j); or 50
- (b) deliver to the expropriating authority a statement contemplated in section 7(4)(b).

(2) A civil court may impose a civil penalty up to a maximum prescribed amount, in favour of the National Revenue Fund, on a person referred to in subsection (1), upon application by the expropriating authority brought on notice to the affected person.

(3) The rules of the relevant court apply to the application referred to in subsection (2). 5

(4) A breach referred to in subsection (1) is not a criminal offence.

(5) A person who wilfully furnishes false or misleading information in any written instrument which he or she by virtue of this Act delivers or causes to be delivered to an expropriating authority, is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding three years. 10

### Regulations

26. (1) The Minister may, by notice in the *Gazette*, make regulations regarding—

(a) any matter that may or must be prescribed in terms of this Act for its proper implementation, including administrative and procedural matters; 15

(b) any ancillary or incidental administrative or procedural matter that may be necessary for the proper implementation or administration of this Act;

(c) any notice or document required in terms of this Act; and

(d) any maximum civil penalty as contemplated in section 25(2).

(2)(a) The Minister must, before making any regulations contemplated in subsection (1), publish the draft regulations for public comment. 20

(b) The period for submitting comments must be at least 20 days from the date of publication of the draft regulations.

### Regulations, legal documents and steps valid under certain circumstances

27. (1) A regulation or notice, or an authorisation, document, made or issued in terms of this Act— 25

(a) but which does not comply with any procedural requirement of this Act, is nevertheless valid if the non-compliance is not material and does not prejudice any person; and

(b) may be amended or replaced without following a procedural requirement of this Act if— 30

(i) the purpose is to correct an error; and

(ii) the correction does not change the rights or interests duties of any person materially.

(2) The failure to take any steps in terms of this Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure— 35

(a) is not material;

(b) does not prejudice any person; and

(c) is not procedurally unfair.

### Interpretation of other laws dealing with expropriation

28. (1) Subject to section 2, any law dealing with expropriation of property that was in force immediately before the date on which this Act came into operation, must be interpreted in a manner consistent with this Act, and for that purpose any reference in any such law to— 40

(a) a functionary authorised to expropriate property, must be construed as a reference to an expropriating authority; and 45

(b) compensation as provided for in sections 12 and 13 of the Expropriation Act, 1975 (Act No. 63 of 1975), must be construed as a reference to compensation

contemplated in the provisions of section 25(3) of the Constitution and the provisions of this Act.

(2) In the event of a conflict between this Act and any other law contemplated in subsection (1) in relation to matters dealt with in this Act, this Act prevails.

### Repeal

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29. The Expropriation Act, 1975 (Act No. 63 of 1975), is hereby repealed.

### Transitional arrangements and savings

30. (1) This Act does not apply to any expropriation initiated through delivery of a notice of expropriation prior to the date of commencement of this Act or to any consequences of any expropriation initiated prior to the date of commencement of this Act. 10

(2) Any proceedings for the determination of compensation in consequence of an expropriation contemplated in subsection (1) must be instituted, or if already instituted must be concluded, as if this Act had not been passed: Provided that the parties concerned may agree to the application of this Act to such expropriation or proceedings in which case the relevant provisions of this Act apply to the extent agreed upon between the parties as if it were an expropriation or proceedings for the determination of compensation in terms of this Act. 15

### Short title and commencement

31. (1) This Act is called the Expropriation Act, 2024, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 20

(2) Different dates may be determined in respect of different provisions of this Act.