

151027 PC PW

PROPOSED AMENDMENT TO EXPROPRIATION BILL [B—2015]

Payment of amount offered as compensation

17. (1) An expropriated owner or expropriated holder is entitled to payment of compensation [~~payable, subject to sections 18 and 19,~~] by no later than the date on which the right to possession passes to the expropriating authority in terms of section 9(2) or (4), subject to sections 18, 19 and 20.

~~—————(2) — Unless the expropriating authority and the expropriated owner or expropriated holder have agreed to a later date or dates, and subject to subsection (3), the expropriating authority must pay, by no later than the date contemplated in subsection (1), not less than 80% of the amount or offer of compensation as stipulated in the notice of expropriation, to the claimant concerned or to the person referred to in section 18(1)(b) or may utilise it in settlement of the municipal property rates or other charges or deposit it with the Master, as contemplated in sections 19 and 20, respectively.~~

~~([3]2) The payment, utilisation or deposit of any amount contemplated in sections 18, 19 and 20 [in terms of subsection (2)] 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 in terms of section 13 from the date on which the amount was so paid, utilised or deposited. [of a different amount of compensation, but if the amount so determined as compensation is less than the amount paid, utilised or deposited, the claimant to whom or on whose behalf the last-mentioned amount was paid, or the Master with whom it was deposited, as the case may be, must refund the difference to the expropriating authority together with, in the case of such claimant, interest at the rate contemplated in section 13(1) from the date on which the amount was so paid or utilised and in the case of the Master, the interest accrued thereon.]~~

(3) Any delay in payment of compensation to the 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 sections 9(2) or (4).

(4) If the expropriating authority or expropriated owner or expropriated holder has proposed a later date [~~or dates, to~~] 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. [~~and the expropriating authority and expropriated owner or expropriated holder, as the case may be, fail to reach agreement thereon, a court may on application by the expropriating authority, order payment on such later date or dates.~~]

(5) If value-added tax is [~~leviable~~] chargeable 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.

(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.

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18. (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 ~~[to the claimant concerned,]~~ except—

~~[(a)]~~ after the apportionment of the compensation between the claimant and the holder of such bond or buyer, as the case may be, has been finally determined; and

~~(b)]~~ 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.

(2) ~~[If t]~~ The ~~[claimant]~~ expropriated owner or expropriated holder and the bond holder 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 ~~[fail to conclude an agreement]~~ contemplated in subsection (1)(b), failing which the expropriating authority may deposit the compensation money with the Master in terms of section 20(2).

(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 ~~[said persons]~~ may apply to a court of competent jurisdiction for an order ~~[whereby the expropriating authority is directed]~~ directing the Master to pay out the compensation money ~~[or a payment in terms of section 17(2)]~~ in such manner and on such terms as the court may determine ~~[and the court may on application issue such order, including an order as to costs, as the court may deem just].~~

PROPOSED AMENDMENT TO EXPROPRIATION BILL [B—2015]

19. (1) For the purposes of this section, the charges referred to are municipal rates, taxes or other charges that must be paid in order for ownership of land to be transferred by the registrar of deeds to the expropriating authority through registration in the deeds office.

(~~1~~2) If land which has been expropriated is subject to the charges contemplated in subsection (1) [municipal property rates or other charges], the municipal manager must, within 20 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 [any outstanding municipal property rates or other charges], as at the date contemplated in section 9(2) or (4): [up to the date of possession by the expropriating authority, in respect of the payment of which the production of a certificate is a prerequisite for the registration of transfer of the land by a registrar of deeds, p] Provided that if the expropriating authority is the municipal council of the municipality where the land is situated, the notice is not required.

(2) (a) The expropriating authority must in writing, by registered mail, inform the expropriated owner or expropriated holder of any outstanding [municipal property rates or other] charges contemplated in subsection (1).

(b) If the said amount is not disputed in writing by the expropriated owner or expropriated holder within 10 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 any outstanding charges contemplated in subsection (1). [the municipal property rates or other charges.]

(3) If the municipal manager fails to inform the expropriating authority of the outstanding [municipal property rates or other] charges contemplated in subsection (1) within ~~[the]~~ 20 days ~~[referred to in subsection (1)]~~, the expropriating authority may pay the compensation to the expropriated owner or expropriated holder without regard to the outstanding municipal property rates or other charges, and in ~~[such an]~~ that event and despite the provisions of any law to the contrary—

(a) the Registrar of Deeds must register 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
- (c) the expropriated owner or expropriated holder, as the case may be, continues to be liable to the municipality for the outstanding rates and charges calculated up to the date of possession, notwithstanding the registration of the expropriated property in the name of the expropriating authority or person on whose behalf the property was expropriated, as the case may be.

PROPOSED AMENDMENT TO EXPROPRIATION BILL [B—2015]

Deposit of compensation money with Master

20. (1) The expropriating authority [~~may~~] 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;
- (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' written notice to do so; or
- (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 of an interdict in respect of the payment of compensation, the expropriating authority may[~~;~~ ~~subject to section 18(2), pay the~~] deposit the amount of compensation [~~to~~] with the Master.

(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).

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