**MEDIA STATEMENT BY THE CHIEF LAND CLAIMS COMMISSIONER, Ms Nomfundo Ntloko Gobodo**

**The implications of the Constitutional Court ruling on the Restitution of Land Rights Amendment Act, 2014 on the operations of the Commission**

**Introduction**

In the Statement of the Cabinet Meeting of 31 August 2016, issued on 2 September 2016, Cabinet stated that it had noted the Constitutional Court ruling on the Restitution of Land Rights Amendment Act, 2014 (“the Amendment Act”) that reopened the lodgement of land restitution claim, and that the Commission on Restitution of Land Rights (“Commission”) will be conducting a media briefing to guide the way forward following the ruling.

Earlier today the Commission briefed the Portfolio Committee on Rural Development and Land Reform of the National Assembly on the Implications of the Constitutional Court Judgment on the operations of the Commission.

This media briefing therefore serves to update the people of South Africa, land claimants and our land reform stakeholders on the implications of the judgment on the operations and mandate of the Commission.

The Restitution of Land Rights Amendment Act, 2014, inter alia, reopened the lodgement of land claims for a period of five years, calculated from 1 July 2014 to 30 June 2019. The validity of the Amendment Act was challenged by civil society organisations on the basis that Parliament failed to conduct public participation in the manner required by the Constitution. The Constitutional Court upheld the challenge, and declared the Amendment Act invalid effective from 28 July 2016.

**Implications**

The implications of the judgement to the Commission are as follows:

1. The immediate effect of the order is that (subject to the important qualifications set out below) from 28 July 2016 the Restitution Act must be read as though the Amendment Act was never enacted.
2. Potential claimants who had not lodged claims by 27 July 2016 may therefore no longer do so.  For them, the claims lodgement deadline of 31 December 1998 has been reinstated.
3. Already pending new order claims (those lodged prior to 27 July 2016) are protected (validly lodged) and remain claims for the purposes of the Restitution Act. The Commission is however interdicted from processing those claims until Parliament passes a new law that reopens the lodgement of claims, or if the Commission settles or refers to the Land Claims Court all claims lodged by 31 December 1998.
4. If Parliament does not re-enact legislation re-opening lodgement of claims by 27 July 2018, the Chief Land Claims Commissioner is required to approach the Constitutional Court for directions on how the Commission is to process the already pending new order claims.
5. The order does not expressly deal with the powers of the Land Claims Court in relation to the pending new order claims. In this regard, the Land Claims Court will, in the Amaqamu and Emakhasaneni court cases that will be heard on 19 to 23 September 2016 the Land Claims Court will determine:
   1. The status of new order competing claims in light of the Judgment
   2. The effect of the Judgment on the adjudication of pending land claims lodged by 31 December 1998 in cases where competing land restitution claims have been lodged on 1 July 2014

The Commission shall shift the resources that were meant for the lodgement of claims to the research and settlement of claims.

The Commission shall prepare for settlement all claims lodged by 31 December 1998. Their settlement will depend on the resources to be allocated. Before the invalidation of the Amendment Act the Commission had received 166, 560 claim. The Commission is presently conducting an audit to determine whether there are no duplicates claims and will be issuing a report at a later stage on the final lodgement that took place by 27 July 2016.

**Status on Claims**

Presently, there are 7419 old land claims that have not yet been settled.

Approximately 80 000 land claims were lodged with the Commission by 31 December 1998. Of these old claims, 78750 have been settled cumulatively as at 31 March 2016.

The settlements have resulting in the award of 3.32 million hectares (of which 1.9 million hectares have been transferred to beneficiaries) and R10.2 billion has been paid as financial compensation.

A total of 399 116 households (1.9 million individuals) have benefitted from the restitution programme as at 31 March 2016.

The government has spent R19.9 billion on acquisition of land for restitution purposes, as at 31 March 2016.

**Way Forward**

The re-opening of lodgement of claims remains a policy of Government. The Portfolio Committee is finalising its discussions regarding the way forward on a Bill reopening the lodgement of claims.

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