REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE PROPOSED AMENDMENTS**

**TO**

**EXPROPRIATION BILL**

**[B 23-2020]**

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*(Portfolio Committee on Public Works and Infrastructure)*

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**[B 23A — 2020]**

**PROPOSED AMENDMENTS TO**

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EXPROPRIATION BILL

[B 23-2020]

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**CLAUSE 1**

1. On page 4, from line 38, to omit the definition of **“claimant”** and to substitute the following definition:

" **‘claimant’** means a person who has lodged a claim or made a counteroffer for compensation; ".

2. On page 4, from line 41, to omit the definition of **“court”** and to substitute the following definition:

" **‘court’** means a Division of the High Court or a court of similar status within whose area of jurisdiction—

1. the immovable property in question is situated;
2. the movable property in question is situated at the time the expropriating authority implements section 5 or 22; or
3. the owner of the moveable or intangible property in question resides or has its principal place of business;".

3. On page 5, from line 4, to omit the definition of **“date of expropriation”**.

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4. On page 5, from line 6, to omit the definition of **“deliver”** and to substitute the following definition:

" **‘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);".

5. On page 5, in line 8, to omit the definition of **“Department”** and to substitute the following definition:

" **‘Department’** means the Department responsible for Public Works and Infrastructure;".

6. On page 5, from line 10, to omit the definition of **“disputing party”** and to substitute the following definition:

" **‘disputing party’** means an owner, mortgagee, holder of a right, including an owner and holder of a right contemplated in section 22, expropriated owner or expropriated holder who rejects the expropriating authority’s offer of compensation or whose counter offer the expropriating authority rejects;".

7. On page 5, from line 13, to omit the definition of **“expropriated holder”**.

8. On page 5, from line 15, to omit the definition of **“expropriating authority”** and to substitute the following definition:

" **‘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(4) for a public purpose or in the public interest;".

9. On page 5, from line 17, to omit the definition of **“expropriation”** and to substitute the following definition:

" **‘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;".

10. On page 5, in line 20, to omit the definition of **“holder of a right”** and to substitute the following definition:

" **‘holder of a right’** means the holder of an unregistered right in property, but excludes an unregistered owner;".

11. On page 5, in line 23, to omit the definition of **“Master”** and to substitute the following definition:

" **‘Master’** means the Master of the High Court for the Division with the necessary jurisdiction;".

12. On page 5, in line 27, before "where" to insert "means the owner of property at common law and" and to omit "is" and to substitute "must be" and to omit "means".

13. On page 5, from line 49, to omit paragraph *(i)* and to substitute the following paragraph:

"*(i)* includes an authorised representative of the owner, who is ordinarily resident in the Republic;".

14. On page 5, from line 57, to omit the definition of **“public purpose”** and to substitute the following definition:

" **‘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;".

15. On page 6, from line 1, to omit the definition of **“service”** and to substitute the following definition:

" **‘service’** means service as contemplated in section 24(1), and ‘‘serve’’ has a corresponding meaning;".

16. On page 6, in line 4, to omit the definition of **“this Act”** and to substitute the following definition:

" **‘this Act’** includes regulations prescribed in terms of section 27 and 28;".

17. On page 6, from line 5, to omit the definition of **“unregistered right”** and to substitute the following definition:

" **‘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;".

18. On page 6, from line 8, to omit the definition of **“valuer”** and to substitute the following definition:

" **‘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).".

**CLAUSE 2**

1. On page 6, in line 17, after "property" to insert "or cause it to be acquired under subsection (3)".

2. On page 6, from line 19, to omit subsection (2) and to substitute the following subsection:

"(2) The provisions of this Act apply, with the necessary changes, to the compulsory acquisition of property directly or indirectly by third party beneficiaries through an expropriating authority in the public interest, including as contemplated in sections 25(4) to (8) of the Constitution.".

3. On page 6, from line 27, to omit subsection (4) and to substitute the following subsection:

"(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 27 and 31.".

4. On page 6, after line 28, to add the following subsection:

"(5) The power to expropriate includes the power to acquire a right to use property temporarily.".

**CLAUSE 3**

1. On page 6, from line 34, to omit subsection (2) and to substitute the following subsection:

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

*(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.".

2. On page 6, from line 27, to omit subsection (3) and to substitute the following subsection:

"(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.".

3. On page 6, from line 42, to omit subsection (4) and to substitute the following subsection:

"(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.".

4. On page 6, from line 52, to omit paragraph *(b)* and to substitute the following paragraph:

"*(b)* the right to possession of the property vests in the relevant organ of state in terms of section 9;".

5. On page 6, from line 54, to omit paragraph *(c)* and to substitute the following paragraph:

"*(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 if it had purchased that property; and";

6. On page 7, from line 1, to omit paragraph *(d)* and to substitute the following paragraph:

"*(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.".

**CLAUSE 4**

1. On page 7, from line 5, to omit subsection (1) and to substitute the following subsection:

"(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.".

2. On page 7, from line 9, to omit "on him or her in terms of" and to substitute "by".

**CLAUSE 5**

1. On page 7, from line 14, to omit subsection (1) and to substitute the following subsection:

"(1) The expropriating authority must consider all relevant factors 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

*(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. On page 7, in line 19, to omit the comma after "may".

3. On page 7, in line 20, before "in" to insert "authorise".

4. On page 7, in line 21, to omit "for purposes of subsection (1)*(a)*, authorise" and to omit "or persons".

5. On page 7, in line 22, after "expertise" to insert ", for the purposes of subsection 1(a),".

6. On page 7, from line 34, to omit paragraph *(b)* and to substitute the following paragraph:

"*(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.".

7. On page 7, from line 37, to omit subsection (3) and to substitute the following subsection:

"(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 to perform an act contemplated in subsection (2); or

*(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).".

8. On page 7, from line 48, to omit subsection (4) and to substitute the following subsection:

"(4) The valuer contemplated in subsection (2)*(b)* may—

*(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)*;

*(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—

(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, in the possession of the municipality concerning the land which are reasonably required for the valuation of the said land by the valuer.".

9. On page 8, from line 9, to omit subsection (5) and to substitute the following subsection:

"(5) Unless the information has already been, obtained, the expropriating authority must —

*(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;

(iii) the holder of a right, known to the expropriating authority; and

(iv) the mortgagee; and

*(b)* consult, if the property is land—

(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

(ii) the municipality as contemplated in section 6, unless the expropriating authority is the municipal council.".

10. On page 8, from line 27, to omit subsection (6) and to substitute the following subsection:

"(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

(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 may refuse to allow an act contemplated in subsection (2).".

11. On page 8, from line 39, to omit subsection (7) and to substitute the following subsection:

"(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.".

12. On page 8, from line 43, to omit subsection (8) and to substitute the following subsection:

"(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).".

13. On page 8, after line 45, to add the following subsections:

"(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) 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.".

**CLAUSE 6**

1. On page 8, from line 47, to omit subsection (1) and to substitute the following subsection:

"(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.".

2. On page 8, in line 56, to omit paragraph *(d)* and to substitute the following paragraph:

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

3. On page 8, from line 57, to omit subsection (3) and to substitute the following subsection:

"(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.".

**CLAUSE 7**

1. On page 9, from line 7, to omit paragraph *(a)* and to substitute the following paragraph:

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

2. On page 9, in line 9, to omit ", in accordance with" and to substitute "under".

3. On page 9, from line 11, to omit subsection (2) and to substitute the following subsection:

"(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;

*(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 and, where the expropriation is for temporary use of the property in the future, the intended period of such temporary use;

*(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—

(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;

*(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;

*(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; and

*(m)* a statement drawing attention to sections 14, 16, 21, 25 and 27.".

4. On page 9, in line 48, to omit "contemplated in subsection (1)".

5. On page 9, from line 57, to omit paragraph *(b)* and to substitute the following paragraph:

"*(b)* the municipal manager of the municipality where the property is situated, unless the expropriating authority is the municipal council.".

6. On page 10, from line 1, to omit subsection (4) and to substitute the following subsection:

"(4) A person responding to a notice contemplated in subsection (1) must—

*(a)* deliver to the expropriating authority a written statement within 30 days of the service or publication of the notice—

(i) stating whether he or she accepts the offer of compensation;

(ii)requesting further particulars under section 16;

(iii)making a counter offer under section 14; or

(iv)disputing the amount of compensation offered under section 21;

*(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;

1. 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
2. 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

*(c)* state the address at which further documents in connection with the expropriation may be sent and the preferred language of communication.".

7. On page 10, from line 24, to omit subsection (5) and to substitute the following subsection:

"(5) The expropriating authority must consider the statements contemplated in subsection (4) in deciding whether to proceed with the expropriation of the property.".

8. On page 10, from line 27, to omit subsection (6) and to substitute the following subsection:

"(6) The expropriating authority must decide whether to accept or reject any counter offer within 20 days of receipt of the statement contemplated in subsection (4).".

9. On page 10, from line 34, to omit subsection (7) and to substitute the following subsection:

"(7) *(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 21(8).

*(b)* If the expropriating authority decides—

(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 24(2).".

**CLAUSE 8**

1. On page 10, from line 50, to omit subsection (1) and to substitute the following subsection:

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

2. On page 10, from line 54, to omit subsection (2) and to substitute the following subsection:

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

*(a)* published in accordance with section 24(1)*(c)* or (2);

*(b)* delivered to a known holder of a right whose rights are not 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;

(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;

(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 officer of that organ of state is not required;

(iv) a mortgagee if the land is encumbered by a registered mortgage bond;

(v) on the buyer, if the property is subject to a contract contemplated in section 7(4)*(b)*(ii); and

(vi) on the builder, if a building on the property is subject to a lien contemplated in section 7(4)*(b)*(iii).".

3. On page 11, in line 19, to omit "served as contemplated in subsection (1)".

4. On page 11, from line 25, to omit subparagraph (ii) and to substitute the following subparagraph:

"(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;".

5. On page 11, from line 31, to omit paragraph *(e)* and to substitute the following paragraph:

"*(e)* 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;".

6. On page 11, from line 34, to omit paragraph *(f)* and to substitute the following paragraph:

"*(f)* the future date on which the right to possession of the property will pass to the expropriating authority after expropriation;".

7. On page 11, from line 36, to omit paragraph *(g)* and to substitute the following paragraph:

"*(g)* subject to section 22, the amount of compensation agreed upon or approved or decided by a court under section 21.".

8. On page 11, from line 40, to omit paragraph *(h)*.

9. On page 11, from line 45, to omit subsection (4) and to substitute the following subsection:

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

*(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;

*(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 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

*(f)* a statement drawing the attention of the expropriated owner, expropriated holder or any other affected person to the provisions of section 27.".

10. On page 12, from line 11, to omit subsection (5) and to substitute the following subsection:

"(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 25, 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

*(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 25.".

**CLAUSE 9**

1. On page 12, from line 18, to omit paragraph *(a)* and to substitute the following paragraph:

"*(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;".

2. On page 12, in line 23, to omit "are specifically" and to substitute "is expressly".

3. On page 12, from line 28, to omit paragraphs *(c)* and *(d)* and to substitute the following paragraphs, respectively:

"*(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;

*(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; and".

4. On page 12, after line 34, to add the following paragraph:

"*(e)* the date of expropriation may not be before the date of service of the notice of expropriation.".

5. On page 12, in line 40, to omit ", as the case may be".

6. On page 12, from line 41, to omit subsection (3) and to substitute the following subsection:

"(3) *(a)* The expropriated owner or expropriated holder 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 any amount of depreciation caused by the willful or negligent failure of an expropriated owner or the expropriated holder to maintain the property.

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

7. On page 12, from line 51, to omit subsection (4) and to substitute the following subsection:

"(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 not agree, the expropriated owner or expropriated holder may pass the right to possession to the expropriating authority by giving prior written notice of at least 20 days.".

8. On page 12, from line 60, to omit subsection (5) and to substitute the following subsection:

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

*(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.".

**CLAUSE 11**

1. On page 13, from line 48, to omit subsection (1) and to substitute the following subsection:

"(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.".

2. On page 14, from line 6, to omit paragraph *(c)* and to substitute the following paragraph:

"*(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.".

3. On page 14, in line 14, to omit ": Provided that" and to substitute ", but".

**CLAUSE 12**

1. On page 14, from line 27, to omit "to be paid to an expropriated owner or expropriated holder".

2. On page 15, after line 14, to add the following paragraph:

"*(f)* where the property is expropriated for a new purpose, in terms of section 23, and compensation has already been paid.".

3. On page 15, after line 18, to add the following subsection:

"(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.".

**CLAUSE 14**

Clause rejected.

**NEW CLAUSE**

1. That the following be a new clause 14:

"**Counter offers**

**14.** (1) An owner, mortgagee or a holder of a right, who receives a notice of intention to expropriate in terms of section 7(1) and wishes to make a counter offer for an amount of compensation, must—

*(a)* state the amount of compensation claimed;

*(b)* furnish full particulars of how that amount has been arrived at, including any valuation report, other professional report or other document that forms the basis of the compensation claimed;

*(c)* if the property expropriated is land, furnish full particulars of—

(i) improvements on the land that in the opinion of the owner or the holder affect the value of that land; and

(ii) the effect of any known unregistered rights on the value of the land and a copy of any written instrument evidencing or giving effect to an unregistered right in their control; and

*(d)* provide such information and documentation as the Minister may prescribe, including for making electronic payment of compensation.

(2) The provisions of subsection (1) also apply to urgent expropriations under section 22.".

**CLAUSE 15**

1. Clause rejected and clauses 16 to 33 to be renumbered accordingly.

**CLAUSE 16**

1. On page 16, from line 40, to omit section 16 and to substitute the following section:

"**16.** (1) The owner, mortgagee, holder of a right and expropriating authority may request in writing reasonable particulars about the offer of compensation or the counter offer, as applicable, and particulars so requested must be furnished within 20 days of such request.

(2) If the recipient of a request contemplated in subsection (1) 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 defaulting party to comply with subsection (1) and the court may make such an order.

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

*(a)* revised by the claimant or expropriating authority, as applicable;

*(b)* the amount of compensation has been agreed on; or

*(c)* the compensation has been decided or approved by a court.".

**CLAUSE 17**

1. On page 17, in line 1, to omit the heading and to substitute the following heading:

"**Payment of compensation**".

**CLAUSE 18**

1. On page 17, in line 36, to omit "bond holder" and to substitute "mortgagee".

**CLAUSE 19**

1. On page 17, from line 48, to omit subsection (1) and to substitute the following subsection:

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

2. On page 17, from line 55, to omit ": Provided that if" and to substitute ", unless" and from line 56, to omit ", the notice is not required".

3. On page 18, from line 19, to omit paragraph *(c)* and to substitute the following paragraph:

"*(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).".

**CLAUSE 21**

1. On page 18, in line 50, to omit "expropriated owner or expropriated holder" and to substitute "a disputing party".

2. On page 19, in line 10, to omit "must" and to substitute "may".

3. On page 19, from line 19, to omit subsection (8) and to substitute the following subsection:

"(8) 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.".

4. On page 19, after line 20, to add the following subsection:

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

**CLAUSE 22**

1. On page 19, from line 40, to omit subsection (3) and to substitute the following subsection:

"(3) Should an expropriating authority exercise the power referred to in subsection (1), the expropriating authority will be exempted from compliance with the provisions of sections 5(1), 6(1) and 7(1), but if the property is land, the expropriating authority becomes liable for the municipal property rates, taxes, levies and similar charges from date of expropriation.".

2. On page 19, in line 43, to omit "an unregistered" and to substitute "a".

3. On page 19, from line 46, to omit subsection (5) and to substitute the following subsection:

"(5) The expropriating authority must make a written offer of compensation to the expropriated owner or expropriated holder 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 21 applies.".

4. On page 19, in line 53, to omit "an unregistered" and to substitute "a".

5. On page 19, in line 55, to omit "an unregistered" and to substitute "a".

6. On page 20, in line 4, after "must" to insert "return or".

7. On page 20, after line 8, to add the following subsection:

"(10) 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.".

**CHAPTER 8**

1. On page 20, in line 10, to omit the heading and to substitute the following heading:

"**REPURCHASE OF PROPERTY**".

**CLAUSE 23**

Clause rejected.

**NEW CLAUSE**

1. That the following be a new clause 23:

"**Repurchase of property**

(1) Subject to subsection (3), the expropriating authority must offer the expropriated property to the expropriated owner or expropriated holder for reacquisition, if the expropriating authority—

*(a)* did not commence with physical use of the property for the public purpose or public interest for which it was expropriated within the period contemplated in subsection (5) after the date of expropriation;

*(b)* ceases to use the property for the public purpose or public interest for which it was expropriated within the period contemplated in subsection (5) after the date of expropriation; or

*(c)* no longer requires the property for the purpose for which it was expropriated.

(2) Subsection (1) will also apply to an expropriating authority where a third party acquires property through the expropriating authority for a public purpose or in the public interest, and the third party satisfies any of the conditions listed in subsection (1).

(3) This section does not apply to property that has been materially altered after expropriation.

(4) Despite the provisions of the Prescription Act, 1969 (Act No. 68 of 1969), any right to reacquire the expropriated property will prescribe after the period contemplated in subsection (5) from the date of initial expropriation.

(5) Where property is—

*(a)* land, the period referred to in subsections (1) and (4) is five years; and

*(b)* any other kind of property, the period referred to in subsections (1) and (4) is one year.

(6) For reacquisition, an expropriated owner or expropriated holder must repay the amount of compensation for the expropriated property at the interest rate determined in terms of section 80(1)*(b)* of the Public Finance Management Act, 1999 (Act No. 1 of 1999), reduced by any costs incurred or damages suffered because of the expropriation and reacquisition, including relocation costs.

(7) A property belonging to multiple owners may be reacquired only with the consent of all of them.

(8) If the expropriating authority or another expropriating authority requires the property for a different purpose in terms of legislation, then the relevant expropriating authority must—

*(a)* obtain the written consent of the expropriated owner or expropriated holder to use the property for the new purpose; or

*(b)* issue a fresh notice under section 8 with the necessary changes.

(9) If the expropriated owner or expropriated holder repurchases the property, in terms of this section—

1. ownership of the property will vest in the formerly expropriated owner or expropriated holder on the date of payment of the repurchase amount;

*(b)* the expropriating authority must issue a notice confirming the repurchase of the property, which it must serve on every person and organ of state on which the notice of expropriation was served; and

*(c)* the Registrar of Deeds or the registrar of any other office at which such expropriated right was registered or recorded must, on receipt of the notice of repurchase, cancel any endorsement made in connection with the expropriation on the title deed and in any official registers.

(10) Despite any other law on access to information, an expropriated owner and expropriated holder may request information from the expropriating authority, an organ of state on whose behalf property was expropriated, or a third party beneficiary as contemplated in section 2(3)—

*(a)* about the use of the property since the date of expropriation; or

*(b)* within the period contemplated in section 23(4);

(11) The expropriating authority, organ of state or third party beneficiary, referred to subsection (10), must respond to the request contemplated in subsection (10) within 30 days in writing.".

**CLAUSE 25**

1. On page 21, from line 53, to omit section 25 and to substitute the following section:

"**25.** (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:

*(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.

(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.

(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)*;

*(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;

*(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.

(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.

(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

*(c)* if the recipient is a person contemplated in subsection (1)(a), draw attention to the provisions of section 21(6).".

**CLAUSE 27**

1. On page 22, in line 10, to omit the heading and to substitute the following heading:

"**Offences and fines**".

2. On page 22, in line 17, to omit "fine" and to substitute "civil penalty".

3. On page 22, from line 23, to omit subsection (5) and to substitute the following subsection:

"(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.".

**CLAUSE 28**

1. On page 22, from line 39, to omit subsection (1) and to substitute the following subsection:

"(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;

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

*(c)* anynotice or document required in terms of this Act; and

*(d)* any maximum civil penalty as contemplated in section 27(2).".

**CLAUSE 32**

1. On page 23, in line 22, to omit "paragraph *(a)*" and to substitute "subsection (1)".

**LONG TITLE**

1. On page 2, from line 1, to omit the long title and to and to substitute the following long title:

"**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.**".