

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE PROPOSED
AMENDMENTS
TO**

EXPROPRIATION BILL

[B 23—2020]

(As agreed to by the Portfolio Committee on Public Works and Infrastructure)

[B 23A—2020]

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EXPROPRIATION BILL

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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 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—

- (a) the immovable property in question is situated;
- (b) the movable property in question is situated at the time the expropriating authority implements section 5 or 20; or
- (c) the owner of the movable 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**”.

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 20, expropriated owner or expropriated holder, who rejects the expropriating authority’s offer of compensation;”.

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(3) 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 5, in line 62, to omit “28” and to substitute “26”.
16. 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 22(1), and “serve” has a corresponding meaning;”.
17. On page 6, in line 4, to omit the definition of “**this Act**” and to substitute the following definition:

“ ‘**this Act**’ includes any regulations made under this Act;”.
18. 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;”.
19. 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 renumber subsections (3) and (4) accordingly.
3. On page 6, in line 23, to omit “22” and to substitute “20”.
4. On page 6, from line 26, to omit subsection (4) and to substitute the following subsection:

“(3) An expropriating authority may expropriate property in terms of a power conferred on it by law of general application and in accordance with sections 5 to 25 and 28.”.

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

“(4) 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 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 38, 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”;

CLAUSE 4

1. On page 7, from line 5, to omit section 4 and to substitute the following section:

“(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) The Minister may not delegate or assign the powers or duties conferred by sections 3, 20(1), 21(1) and 26.”.

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, 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

(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, 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.”.

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) 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
 - (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, in line 10, to omit “24(2)” and to substitute “22(2)”.
4. 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, 19, 23 and 25.”.
- 5. On page 9, in line 48, to omit “contemplated in subsection (1)”.
- 6. 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.”.
- 7. 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), within 30 days of the service or publication of the notice, must—
 - (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 the amount of compensation offered under section 19;
 - (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
 - (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
 - (c) state the address at which further documents in connection with the expropriation may be sent and the preferred language of communication.”.
- 8. 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), 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.”.
- 9. On page 10, from line 27, to omit subsection (6).
- 10. On page 10, from line 34, to omit subsection (7) and to substitute the following subsection:
 - “(6) (a) The expropriating authority may decide to expropriate the property after the amount of compensation has been agreed with the owner, mortgagee or holder of a right, or approved or decided by a court, subject to section 19(8).
 - (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 22(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 upon 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 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;
 - (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 authority of that organ of state is not required;
 - (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).”.

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 20, the amount of compensation agreed upon or approved or decided by a court under section 19.”.
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 in terms of 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 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
 - (f)* a statement drawing the attention of the expropriated owner, expropriated holder or any other affected person to the provisions of section 25.”.
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 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
 - (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.”.

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 the expropriating authority 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 10

1. On page 13, in line 10, to omit “25” and to substitute “23”.
2. On page 13, in line 42, to omit “7(2)(h)(i)” and to substitute “7(2)(j)”.

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 23, 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 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 13

1. On page 15, in line 25, to omit “17” and to substitute “15”.
2. On page 15, from line 26, to omit paragraph (a).
3. On page 15, in line 31, to omit “17(5)” and to substitute “15(5)”.

4. On page 15, in line 39, to omit “17(1), 19(2)” and to substitute “15(1), 17(2)”.
5. On page 15, in line 40, to omit “20(1)” and to substitute “18(1)”.

CLAUSE 14

1. Clause rejected.

CLAUSE 15

1. Clause rejected.

CLAUSE 16

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

“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.

(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.

(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
- (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”.

2. On page 17, in line 2, to omit “18, 19 and 20” and to substitute “16, 17 and 18” respectively.
3. On page 17, from line 5, to omit “18, 19 and 20” and to substitute “16, 17 and 18” respectively.

CLAUSE 18

1. On page 17, in line 36, to omit “bond holder” and to substitute “mortgagee”.
2. On page 17, in line 40, to omit “20(2)” and to substitute “18(2)”.

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 in line 57, 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 19 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.”.

CLAUSE 24

1. On page 20, in line 44, to omit “19(3)(a)” and to substitute “17(3)(a)”.
2. On page 20, in line 45, to omit “23(1)(b)” and to substitute “21(1)(b)”.
3. On page 21, in line 7, to omit “(7)(b)(iii)” and to substitute “(6)(b)(ii)”.
4. On page 21, in line 30, to omit “7(2)(g)” and to substitute “7(2)(h)”.

CLAUSE 25

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

“**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:

(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 19(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, from line 11, to omit subsection (1) and to substitute the following subsection:

“(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
 - (b) deliver to the expropriating authority a statement contemplated in section 7(4)(b).”.
 - 3. On page 22, in line 17, to omit “fine” and to substitute “civil penalty”.
 - 4. 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 28, 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) any notice or document required in terms of this Act; and
- (d) any maximum civil penalty as contemplated in section 25(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.”.

ARRANGEMENT OF ACT

1. On page 3, in line 3, to omit “ARRANGEMENT OF ACT” and to substitute “ARRANGEMENT OF SECTIONS”.
2. On page 4, in line 5, to omit “14. Compensation claims”.
3. On page 4, in line 6, to omit “15. Offers of compensation”.
4. On page 4, from line 7, to renumber items 16 to 33 accordingly.
5. On page 4, in line 7, to omit “Requests for particulars and offers” and to substitute “Requests for particulars”.
6. On page 4, in line 8, to omit “Payment of amount offered as compensation” and to substitute “Payment of compensation”.
7. On page 4, in line 27, to omit “Civil offences and fines” and to substitute “Offences and fines”.

**MEMORANDUM ON THE OBJECTS OF THE EXPROPRIATION
BILL, 2020**

1. On page 24, in paragraph 3.1, to omit “(clause 22)” and to substitute “(clause 20)” and to omit the following:

“An expropriating authority may not expropriate the property of a state-owned corporation or state-owned entity without the concurrence of the executive authority responsible for that corporation or entity.”.
2. On page 25, in paragraph 3.3.2, to omit the last sentence and to substitute the following sentence:

“The Departments responsible for rural development and land reform, for environmental affairs, for mineral resources, for water and sanitation, any other organ of state whose functions and responsibilities will be materially affected by the intended expropriation and the relevant municipality must be consulted to ascertain the impact of the proposed expropriation on the rights administered by those Departments and in the case of municipalities, to ascertain the effect which an expropriation will have on municipal planning.”.
3. On page 25, to omit paragraph 3.4.1 and to substitute the following paragraph:

“3.4.1 Clauses 7 to 11 deal with the post-investigation phase. At this stage of an expropriation, the expropriating authority would have gathered all information, consulted with all parties affected by the expropriation and decided to expropriate. In terms of clause 7, the expropriating authority must serve all the affected parties known to him or her with a notice of intention to expropriate. This notice will amongst other things include a statement of the intention to expropriate the property, the description of the property, the purpose for which the property is required, the reason for the intended future date of expropriation and a directive to the owner, mortgagee and holders of rights to furnish particulars of holders of rights, other than those listed, known to them. The notice must consist of an offer of compensation from the expropriating authority. Rights must be expropriated individually and separate notices must be given to separate right holders. All affected parties are given the opportunity to submit written objections within a stipulated period. The expropriating authority must consider all written responses to the offer of compensation, as well as any objections and submissions lodged, before proceeding with an expropriation. 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.”.
4. On page 25, to omit paragraph 3.4.2 and to substitute the following paragraph:

“3.4.2 Clause 8 deals with the notice of expropriation. If the expropriating authority decides to expropriate a property, the expropriating authority must cause a notice of expropriation to be served on the relevant expropriated owner, mortgagee and expropriated holder. Extensive provision is made regarding the contents of the notice of expropriation. It must, amongst others, contain a full description of the property, a description of the purpose for which the property is expropriated, the reason for the expropriation, the date of expropriation and the amount of compensation agreed upon or approved or decided by a court. The notice must furthermore be accompanied by documents setting out, amongst others, the date of payment of the compensation, indicating the property by way of a survey diagram or sketch plan, an explanation

of how the amount of compensation was arrived at, together with supporting documents.”.

5. On page 26, in paragraph 3.4.4, to omit the last sentence and to substitute the following sentence:

“In terms of clause 11, an expropriated holder is entitled to compensation.”.

6. On page 26, in paragraph 3.5.1, to omit “Clauses 12 to 20” and to substitute “Clauses 12 to 18”.
7. On page 27, to omit paragraphs 3.5.6 and 3.5.7.
8. On page 27, to omit paragraph 3.5.8 and to substitute the following paragraph:

“3.5.6 Clause 14 provides for certain particulars the owner, mortgagee and holder of a right may request from the expropriating authority regarding an offer of compensation.”.

9. On page 28, in paragraph 3.5.9, to renumber the paragraph as paragraph 3.5.7 and to omit “17” and to substitute “15”.
10. On page 28, in paragraph 3.5.10, to renumber the paragraph as paragraph 3.5.8 and to omit “18” and to substitute “16”.
11. On page 28, in paragraph 3.5.11, to renumber the paragraph as paragraph 3.5.9 and to omit “19” and to substitute “17”.
12. On page 28, in paragraph 3.5.12, to renumber the paragraph as paragraph 3.5.10 and to omit “20” and to substitute “18”.
13. On page 28, in paragraph 3.6, to omit “21” and to substitute “19”.
14. On page 28, in paragraph 3.7, to omit “22” and to substitute “20”.
15. On page 28, in paragraph 3.8, to omit “23” and to substitute “21”.
16. On page 28, in paragraph 3.9.1, to omit “24 to 32” and to substitute “22 to 31”.
17. On page 29, in paragraph 3.9.5, to omit “30” and to substitute “28”.
18. On page 29, to omit paragraph 3.9.6 and to substitute the following paragraph:

“3.9.6 The Bill seeks to repeal the Expropriation Act and provision is made for certain transitional arrangements and savings.”.

19. On page 29, in paragraph 3.9.7, to omit the first sentence and to substitute the following sentence:

“Finally, provision is made for the short title and commencement of the envisaged Act.”.