**NATIONAL ASSEMBLY**

**WITTEN REPLY**

**QUESTION 276**

**INTERNAL QUESTION PAPER [No 03-2017 FIFTH PARLIAMENT]
DATE OF PUBLICATION: 24 FEBRUARY 2017**

**276. Mr K P Robertson (DA) to ask the Minister of Rural Development and Land Reform:**

(a) What is the detailed breakdown of each step followed in the processing of a land claim, from when a land claim is lodged up to the finalisation of the claim when the property is handed over or a payment is made to the beneficiary, (b) what are the minimum requirements that have to be met so that a land claim can be considered valid and (c) why are claims that do not meet the specified minimum requirements thrown out? **NW294E**

**THE MINISTER OF RURAL DEVELOPMENT AND LAND REFORM:**

1. **Processes of the Commission**

The restitution process is carried out in **6 steps or phases** as follows:

1. **Lodgement and Registration of a claim**

The lodgment of land claims is the first step in the restitution process. The Commission is required to assist the claimants in the lodgement of the claims. The current deadline to lodge claims is 31 December 1998.

On 27 March 2014 the National Council of Provinces passed the Restitution of Land Rights Amendment Bill.

A claim may be lodged by (1) a person that was dispossessed, (2) the direct descendants of the person (where such person is deceased), (3) an estate, or (4) a community.

The qualification criteria for claims are that a person, direct descendant of a person, estate, or community must have:

1. Been dispossessed;
2. Of a right in land;
3. After 19 June 1913;
4. As a result of past racially discriminatory laws or practices;
5. Has lodged a claim before the cut-off date for lodgement of claims;
6. Was not, at the time of dispossession, paid compensation or any other consideration that is just and equitable (as determined in terms of section 25 (3) of the Constitution.
7. **Screening and Categorisation**

Once a claim is lodged it is screened to determine whether all the information required to lodge a claim was submitted, the type of the claim, the location of the claimed land, etc.

1. **Research / Investigation**

In terms of the current Rules Regulating Procedure in the Commission, research takes place in two phases.

The first phase involves a determination of whether a claim is not excluded by the requirements of restitution. Where a claim is not excluded, it is accepted for further investigation and details of the claim are published in the Government Gazette. Where a claim is excluded, the Commission may reject that claim if it is frivolous and vexatious. Claims that are frivolous or vexatious are claims that do not have substance, or which are patently bogus.

The second phase involves a more thorough research that determines whether the claim meets the requirements for restitution. Claims that meet the requirements will proceed to the next stage. Where it is discovered at this stage that the claim does not meet the requirements, the claim will be de-gazetted (i.e. the publication of the details of the claims will be withdrawn).

1. **Negotiations**

All parties to a claim (including current owner of claimed land, claimant and other right holder on the claimed land) are convened and discussions held about how a claim will be settled. This will involve provision of all information to the affected parties; and the claimant being required to indicate the form of restitution (i.e. restoration of land, alternative land, or financial compensation, or a combination of the above). Where the claimant choses financial compensation, the current owner of the claimed land ceases to become an interested party. Where the claimant has opted for the restoration of the land discussions will be held for the acquisition of the land by the State (on the basis of a valuation).

1. **Settlement or Referral to Court**

Where no agreement can be reached on settlement the claim is referred to the Land Claims Court. If there is an agreement, the settlement is referred to the Minister.

1. **Implementation**

If an award is made by the Minister (on the basis of the agreement that was reached) or Court (through an order) the award or order is implemented by the acquisition of the land and its transfer to the claimant or payment of financial compensation where the award is for payment of financial compensation. Development assistance is provided where land is awarded.

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* Of a right in land;
* After 19 June 1913;
* As a result of past racially discriminatory laws or practices;
* Has lodged a claim before the cut-off date for lodgement of claims;
* Was not, at the time of dispossession, paid compensation or any other consideration that is just and equitable (as determined in terms of section 25 (3) of the Constitution.
1. The claim is become invalid if those not meet the requirement of the restitution act.Where a claim is excluded, the Commission may reject that claim if it is frivolous and vexatious. Claims that are frivolous or vexatious are claims that do not have substance, or which are patently bogus.