

(12 March 1982 – 31 March 1984)

[This version applied as from **12 March 1982**, i.e. the date of commencement of the Expropriation Amendment Act 21 of 1982 - to – **31 March 1984**, the day before commencement of the University of the Western Cape Act 78 of 1983 and the University of Durban-Westville Act 81 of 1983]

EXPROPRIATION ACT 63 OF 1975

*(Government Gazette 4780, dated 9 July 1975. Commencement date: 1 January 1977
[Proc. No.R.273, Gazette No. 5363])*

*(Afrikaans text signed by the President.)
(Assented to 20 June 1975)*

As amended by

*(Expropriation Amendment Act 19 of 1977 – Government Gazette No.5451, dated 16 March 1977.
Commencement date: 1 January 1977 – note that this was the same commencement date
as that of the principal Act.)*

*(Expropriation Amendment Act 3 of 1978 – Government Gazette No.5901, dated 10 March 1978.
Commencement date: 1 January 1977 – note that this was the same commencement date
as that of the principal Act.)*

*(Abattoir Industry Act 54 of 1976 – Government Gazette No.5077, dated 9 April 1976.
Commencement date: 1 February 1977, [Proc.No.R.14, Gazette No 5387])*

*(Slums Act 76 of 1979 – Government Gazette No.6519, dated 22 June 1979.
Commencement date: 22 June 1979.)*

*(Expropriation Amendment Act 8 of 1980 – Government Gazette No.6911, dated 28 March 1980.
Commencement date: 28 March 1980)*

*(Expropriation Amendment Act 21 of 1982 – Government Gazette No.8070, dated 12 March 1982.
Commencement date: 12 March 1982)*

ACT

**To provide for the expropriation of land and other property for public and certain other purposes;
and to provide for matters connected therewith.**

Prepared by:



In partnership with:



BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows: -

Arrangement of Sections

1. Definitions
2. Power of Minister to expropriate property for public and certain other purposes and to take the right to use property for public purposes.
3. Expropriation of immovable property by Minister on behalf of certain juristic persons or bodies.
4. Expropriation of property by South African Transport Services.
5. Exercise by local authority of power to expropriate property or to take the right to use property temporarily.
6. Inspection of property for purposes of expropriation or taking of right to use temporarily.
7. Notification that property is to be expropriated or is to be used temporarily.
8. Passing of ownership in expropriated property and exercise of right to use property.
9. Duties of owner of property expropriated or which is to be used by State.
10. Consequences of failure by owner to inform Minister concerning compensation offered or desired, further offer by Minister, and failure to institute action.
11. Payment of amount offered as compensation.
12. Basis on which compensation is to be determined.
13. Payment of compensation in respect of certain unregistered rights in respect of property expropriated.
14. Determination of compensation by compensation court or provincial or local division of Supreme Court or by arbitration, in absence of agreement.
15. Orders as to costs in Supreme Court.
16. Establishment of compensation court.
17. Appeal against decision of a compensation court.
18. Effect of application for determination of compensation, and of noting of appeal.
19. Discharge of debt secured by mortgage bond over land, and payment of compensation moneys in case of existence of certain unregistered rights.
20. Payment of certain taxes and other moneys out of compensation moneys.
21. Deposit of compensation money with Master or Bantu Trust, and retention thereof by Minister, in certain cases.
22. Termination of unregistered rights in respect of land expropriated.
23. Withdrawal of expropriation.
24. Assignment of powers and duties by Minister.
25. Regulations
26. Application of Act.
27. Amendment of section 17 of Act 53 of 1934, as amended by section 15 of Act 55 of 1963 and section 4 of Act 43 of 1967. *...repealed*
28. Repeal of sections 19 to 26 of Act 53 of 1934. *...repealed*

29. Amendment of section 13 of Act 18 of 1936, as amended by section 7 of Act 17 of 1939, section 2 of Act 18 of 1954, section 5 of Act 73 of 1956, section 3 of Act 41 of 1958, section 16 of Act 42 of 1964, section 18 of Act 55 of 1965 and section 20 of Act 70 of 1968.
30. Amendment of section 14 of Act 18 of 1936.
31. Amendment of section 18 of Act 18 of 1936, as amended by section 8 of Act 17 of 1939, section 17 of Act 42 of 1964, section 19 of Act 55 of 1965 and section 4 of Act 7 of 1973.
32. Amendment of section 23A of Act 22 of 1936, as inserted by section 14 of Act 60 of 1969.
33. Amendment of section 1 of Act 29 of 1937.
34. Amendment of section 2 of Act 29 of 1937, as amended by section 20 of Act 55 of 1965.
35. Amendment of section 16 of Act 25 of 1945, as amended by section 7 of Act 16 of 1955, section 53 of Act 42 of 1964, and section 24 of Act 55 of 1965.
36. Amendment of section 24 of Act 17 of 1950, as amended by section 11 of Act 29 of 1964 and section 5 of Act 31 of 1972.
37. Substitution of section 25 of Act 17 of 1950, as amended by section 12 of Act 29 of 1964.
38. Repeal of section 25A of Act 17 of 1950, as inserted by section 6 of Act 31 of 1972.
39. Substitution of section 3 of Act 39 of 1951, as substituted by section 3 of Act 61 of 1974.
40. Repeal of sections 1 to 4, 6 to 12 and 18 of, and the Schedule to, Act 37 of 1955.
41. Amendment of section 60 of Act 54 of 1956, as substituted by section 8 of Act 45 of 1972.
42. Amendment of section 43 of Act 40 of 1958, as substituted by section 2 of Act 60 of 1974.
43. Substitution of section 79 of Act 44 of 1958, as substituted by section 32 of Act 55 of 1965.
44. Amendment of section 82 of Act 44 of 1958, as amended by section 33 of Act 80 of 1965.
45. Amendment of section 3 of Act 42 of 1962, as substituted by section 35 of Act 55 of 1965.
46. Amendment of section 13 of Act 24 of 1963.
47. Repeal of sections 15 to 20 of Act 24 of 1963.
48. Amendment of section 23 of Act 55 of 1963. *...repealed*
49. Amendment of section 1 of Act 41 of 1964.
50. Amendment of section 1 of Act 3 of 1966, as amended by section 1 of Act 42 of 1967, section 1 of Act 58 of 1968 and section 1 of Act 74 of 1970.
51. Amendment of section 15 of Act 3 of 1966, as amended by section 2 of Act 42 of 1967, section 1 of Act 58 of 1969, section 2 of Act 74 of 1970, section 24 of Act 80 of 1971 and section 1 of Act 93 of 1972.
52. Amendment of section 26 of Act 3 of 1966.
53. Amendment of section 33 of Act 3 of 1966, as amended by section 6 of Act 42 of 1967.
54. Amendment of section 34 of Act 3 of 1966, as amended by section 7 of Act 42 of 1967, section 7 of Act 74 of 1970, section 1 of Act 68 of 1971 and section 43 of Act 94 of 1974.
55. Amendment of section 35 of Act 3 of 1966, as amended by section 8 of Act 42 of 1967, section 2 of Act 68 of 1971 and section 44 of Act 94 of 1974.
56. Amendment of section 37 of Act 3 of 1966, as amended by section 9 of Act 42 of 1967, section 3 of Act 68 of 1971 and section 45 of Act 94 of 1974.
57. Amendment of section 38 of Act 3 of 1966, as amended by section 10 of Act 42 of 1967, section 8 of Act 74 of 1970, section 4 of Act 68 of 1971 and section 46 of Act 94 of 1974.
58. Repeal of sections 39 and 40 of Act 3 of 1966.

59. Substitution of section 41 of Act 3 of 1966.
60. Repeal of sections 42, 43 and 45 of Act 3 of 1966.
61. Amendment of section 49 of Act 3 of 1966.
62. Amendment of section 50 of Act 3 of 1966, as substituted by section 14 of Act 42 of 1967.
63. Substitution of section 31 of Act 4 of 1966, as amended by section 3 of Act 73 of 1970.
64. Amendment of section 32 of Act 4 of 1966.
65. Repeal of sections 35 to 39 of Act 4 of 1966.
66. Amendment of section 40 of Act 4 of 1966.
67. Amendment of section 41 of Act 4 of 1966.
68. Substitution of section 66 of Act 4 of 1966, as amended by section 9 of Act 73 of 1970.
69. Amendment of section 27 of Act 86 of 1967.repealed
70. Amendment of section 29 of Act 86 of 1967.repealed
71. Amendment of section 31 of Act 86 of 1967.repealed
72. Amendment of section 31A of Act 86 of 1967, as inserted by section 5 of Act 30 of 1973.repealed
73. Amendment of section 31C of Act 86 of 1967, as inserted by section 5 of Act 30 of 1973.repealed
74. Amendment of section 6 of Act 90 of 1967.
75. Repeal of section 13A of Act 90 of 1967, as inserted by section 4 of Act 34 of 1970.
76. Amendment of section 6 of Act 72 of 1968.
77. Amendment of section 37 of Act 40 of 1969.
78. Amendment of section 37 of Act 43 of 1969.
79. Amendment of section 37 of Act 47 of 1969.
80. Amendment of section 37 of Act 49 of 1969.
81. Amendment of section 37 of Act 50 of 1960.
82. Amendment of section 18 of Act 76 of 1969.
83. Amendment of section 1 of Act 96 of 1969.
84. Amendment of section 2 of Act 96 of 1969.
85. Amendment of section 3 of Act 96 of 1969.
86. Amendment of section 4 of Act 63 of 1970.
87. Amendment of section 7 of Act 54 of 1971.
88. Substitution of section 8 of Act 54 of 1971.
89. Repeal of section 9 of Act 54 of 1971.
90. Amendment of section 10 of Act 54 of 1971.
91. Amendment of section 18 of Act 54 of 1971.
92. Amendment of section 5 of Act 10 of 1975.
93. Amendment of section 6 of Act 10 of 1975.
94. Amendment of section 16 of Act 39 of 1975.
95. Repeal of laws.
96. Pending proceedings.
97. Short title and commencement.

Schedule

1. Definitions

Prepared by:



In partnership with:



In this Act, unless the context otherwise indicates -

"compensation court" means a compensation court established by subsection (1), or under subsection (2), of section 16;

"date of expropriation" means the appropriate date contemplated in section 7(2)(b);

"date of notice" means the date on which a notice of expropriation is in terms of section 7(3) delivered, tendered or posted to a person or is in terms of section 7(5) published in the *Gazette*, and if such a notice in respect of the same property is so delivered, tendered or posted and published, the date on which it is so published;

"date of offer of compensation" means, if an amount is mentioned as compensation in the notice of expropriation in question, the date of notice in question or, if such an amount is not mentioned in such notice but is offered in terms of section 10(2) or (4), the date on which such an amount is so offered;

"executive committee" means the executive committee of a province mentioned in section 76 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961);

"immovable property" includes a real right in or over immovable property;

"local authority" means an institution or body contemplated in section 84(1)(f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961), and includes a Regional Water Services Corporation constituted in terms of the Water Services Ordinance, 1963 (Ordinance No. 27 of 1963 of Natal);

"Master", in relation to particular property, means the Master of the Supreme Court appointed in respect of the area in which that property is or is situated;

"Minister" means the Minister of Community Development and, except for the purposes of sections 3 and 25(2), includes an executive committee;

(Definition of "Minister" substituted by section 1 of Act 21 of 1982)

"notice of expropriation" means a notice contemplated in section 7;

"owner" means, in relation to land or a registered right in or over land, the person in whose name such land or right is registered, and -

(a) if the owner of any property is deceased, the executor in his estate;

- (b) if the estate of the owner of any property has been sequestrated, the trustee of his insolvent estate;
- (c) if the owner of any property is a company which is being wound up, the liquidator thereof;
- (d) if any property has vested in a liquidator or trustee elected or appointed in terms of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), that liquidator or trustee;
- (e) if the owner of any property is otherwise under a legal disability, his legal representative;
- (f) if any property has been attached in terms of an order of a court, includes the sheriff, deputy sheriff or messenger of the court concerned, as the case may be;
- (g) in relation to a holding allotted, leased, sold or granted in terms of the Land Settlement Act, 1956 (Act No. 21 of 1956), the person to whom it was so allotted, leased, sold or granted or his cessionary or sub-lessee;
- (h) includes the authorized representative of the owner in the Republic;

"property" means both movable and immovable property;

"public purposes" includes any purposes connected with the administration of the provisions of any law by an organ of State;

"regulation" means a regulation made under this Act;

"this Act" includes the regulations.

2. Power of Minister to expropriate property for public and certain other purposes and to take the right to use property for public purposes.

- (1) Subject to the provisions of this Act the Minister may, subject to an obligation to pay compensation, expropriate any property for public purposes or take the right to use temporarily any property for public purposes.
- (2) The power of the Minister in terms of subsection (1) to expropriate property for public purposes, and any power in terms of any law to expropriate or otherwise acquire any property on behalf of the State, shall include the power to expropriate, when any immovable property is so expropriated or acquired, so much of any other immovable property which, in the opinion of the Minister, is affected by such expropriation or acquisition as the Minister may for any reason deem expedient.

- (3) The power of the Minister in terms of subsection (2) to expropriate immovable property which, in the opinion of the Minister, is affected by an expropriation, shall, in the case where only a portion of a piece of land is expropriated in terms of this section, include the power to expropriate the remainder of such a piece of land if the owner satisfies the Minister that due to the said partial expropriation, the said remainder has become useless to the owner.

3. Expropriation of immovable property by Minister on behalf of certain juristic persons or bodies.

- (1) If a juristic person or body mentioned in subsection (2) satisfies the Minister charged with the administration of the law mentioned in connection therewith that it reasonably requires any particular immovable property for the attainment of its objects and that it is unable to acquire it on reasonable terms, the Minister of Community Development may, at the request of the first-mentioned Minister, and subject to the provisions of subsections (4) and (5), and, in the case of a juristic person contemplated in paragraph (h) of the said subsection (2), with the approval, by resolution, of the House of Assembly, expropriate such immovable property on behalf of that juristic person or body as if it were required for public purposes.

(Section 3(1) substituted by section 2 of Act 21 of 1982)

- (2) The juristic persons or bodies contemplated in subsection (1) are –
- (a) a university as defined in section 1 of the Universities Act, 1955 (Act No. 61 of 1955);
 - (b) a university college as defined in section 1 of the Extension of University Education Act, 1959 (Act No. 45 of 1959);
 - (c) a college as defined in section 1 of the Advanced Technical Education Act, 1967 (Act No. 40 of 1967);
 - (d) a governing body as defined in section 1 of the Educational Services Act, 1967 (Act No. 41 of 1967);
 - (e) the Atomic Energy Board mentioned in section 11 of the Atomic Energy Act, 1967 (Act No. 90 of 1967);
 - (f) a college as defined in section 1 of the Indians Advanced Technical Education Act, 1968 (Act No. 12 of 1968);
 - (g) the Council mentioned in section 1 of the National Monuments Act, 1969 (Act No. 28 of 1969);
and

(h) any juristic person, other than a juristic person mentioned in paragraph (a), (b), (c), (e), (f) or (g), established by or under any law for the promotion of any matter of public importance.

(3) If the Minister expropriates any immovable property on behalf of a juristic person or body in terms of subsection (1), such juristic person or body shall become the owner thereof on the date of expropriation in question.

(4) There shall be payable in respect of the expropriation of any immovable property in terms of subsection (1) the fees, duties and other charges which would have been payable by the juristic person or body concerned in terms of any law if it had purchased that property.

(5) All costs incurred by the said Minister in the performance of his functions in terms of subsection (1) shall be refunded to him by the juristic person or body concerned.

4. Expropriation of property by South African Transport Services.

(1) The provisions of sections 7 to 24 of this Act shall *mutatis mutandis* apply in respect of the exercise by the South African Transport Services of the power to expropriate or take property conferred upon it by the South African Transport Services Act, 1981 (Act No. 65 of 1981).

(Section 4(1) substituted by section 3 of Act 21 of 1982)

(2) For the purposes of the application of subsection (1) the power mentioned therein shall be deemed to have been conferred upon the Minister of Transport Affairs and any reference in this Act to the Minister and the State shall be deemed to be a reference to the Minister of Transport Affairs and the South African Transport Services, respectively.

(Section 4(2) substituted by section 3 of Act 21 of 1982)

(3) The powers vested in the Minister of Transport Affairs by virtue of the provisions of subsection (2), other than a power contemplated in section 24, may also be exercised by the General Manager and a Deputy General Manager of the South African Transport Services and, in connection with movable property urgently required in an emergency, also by any officer of the South African Transport Services of or above the rank of Assistant Superintendent or an equivalent engineering rank, and, if no officer of that rank is readily available at the place where the property in question is, any employee of the South African Transport Services whose duty it is to take measures to deal with the emergency.

(Section 4(3) substituted by section 3 of Act 21 of 1982)

(4) The provisions of this section, and the other provisions of this Act, in so far as they are connected with the application of this section, shall also apply in the territory of South West Africa, including the Eastern Caprivi Zipfel.

5. Exercise by local authority of power to expropriate property or to take the right to use property temporarily.

- (1) If a local authority has the power to expropriate property or to take the right to use property temporarily, such power may, subject to the provisions of section 26(2) only be exercised, *mutatis mutandis*, in accordance with the provisions of this Act and subject to the approval of and the conditions imposed by the executive committee concerned.

(Section 5(1) substituted by section 1 of Act 19 of 1977)

- (2) For the purposes of the application of subsection (1) any reference in this Act to the Minister and the State shall be construed as a reference to the local authority concerned.

6. Inspection of property for purposes of expropriation or taking of right to use temporarily.

- (1) If any property or the temporary use of any property is required for public purposes, the Minister may –
 - (a) for the purpose of ascertaining whether any particular property is suitable for the purposes or use contemplated, or for the purpose of determining the value thereof, authorize any person to—
 - (i) enter upon any land in question with the necessary workmen, equipment and vehicles;
 - (ii) survey and determine the area and levels of that land;
 - (iii) dig or bore on or into that land;
 - (iv) construct and maintain a measuring weir in any river or stream;
 - (v) in so far as it may be necessary to gain access to that land, enter upon and go across any other land with the necessary workmen, equipment and vehicles; and
 - (b) authorize any person to demarcate the boundaries of any land required for the said purposes or use:

Provided that such person shall not, without the consent of the owner or occupier, enter any building or enter upon any enclosed yard or garden attached to any building, unless he has given the owner or occupier at least twenty-four hours' notice of his intention to do so.

- (2) If any person has suffered any damage as a result of the exercise of any power conferred in terms of subsection (1), the State shall be liable to pay damages or to repair such damage.
- (3) Any proceedings by virtue of the provisions of subsection (2) shall be instituted within six months after the damage in question has been caused or within six months after completion of the acts contemplated in subsection (1), whichever period is the longer, and may only be instituted if the

plaintiff has given the Minister not less than one month's notice thereof and of the cause of the alleged damage.

7. Notification that property is to be expropriated or is to be used temporarily.

- (1) If the Minister has decided to expropriate, or to take the right to use temporarily, any property in terms of the provisions of section 2, he shall, subject to the provisions of subsection (5), cause to be served upon the owner in question an appropriate notice in accordance with the provisions of subsection (3).
- (2) The notice of expropriation shall -
 - (a) contain a clear and full description of the property in question and, in the case of the taking of a right to use property temporarily, also of such right, as well as, in the case where only a portion of a piece of land or a real right in or over any such portion is expropriated, or a right is taken to use only such a portion, a sketch plan showing the approximate position of such portion, and state the approximate extent of such portion: Provided that whenever only a portion of a piece of land or a real right in or over any such portion is expropriated, or a right is taken to use only such a portion, the owner may, within thirty days from the date of notice, request the Minister by registered post to furnish, in accordance with subsection (3), further particulars of such portion so as to enable the owner to determine the position or extent of the said portion, and upon the furnishing of such particulars the date of the notice in which such particulars were furnished, shall, for the purposes of this Act, be deemed to be the date of the notice of expropriation;
 - (b) state the date of expropriation or, as the case may be, the date as from which the property will be used, as well as the period during which it will be used: Provided that such date shall not be later than one hundred and eighty days after the date of notice: Provided further that the date as from which the property may be used, shall not be earlier than sixty days as from the date of notice unless the Minister is of the opinion that such property is urgently required for any purpose for which it will be used by the State;
 - (c) either state the amount which is offered as compensation for the property or for the use thereof, or request the owner to advise the Minister in writing within sixty days from the date of notice of the amount claimed by him as such compensation and how much of the last-mentioned amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) with full particulars as to how such amounts are made up: Provided that if the owner requests the Minister in writing within thirty days from the date of notice to extend the said period, the Minister shall extend such period by a further sixty days;
 - (d) if an amount is therein offered as compensation, draw the attention of the owner to the fact that if any person has a right contemplated in section 9(1)(d)(i), (iii) or (iv) in respect of the property of which the Minister had no knowledge on the date of notice, the Minister may withdraw that offer.

- (3) Subject to the provisions of subsection (5), the Minister shall cause the notice of expropriation to be served by causing the original or a true copy thereof to be delivered or tendered or sent by registered post to the owner in question.
- (4) If the property to be expropriated is land, the Minister shall, subject to the provisions of subsection (5), cause a copy of the notice contemplated in subsection (2), or a notice to the effect that the land is being expropriated, giving the particulars of the expropriation, to be served, in the manner prescribed in subsection (3), upon every person who, according to the title deed of the land or the registers of the Registrar of Mining Titles or of any other Government office in which rights granted in terms of any law relating to prospecting or mining are recorded, has any interest in that land, and, if the land is situated within the area of a local authority, upon such local authority, and, if the land, to the knowledge of the Minister, is the subject of an agreement contemplated in section 9(1)(d)(ii), upon the buyer.
- (5) If the whereabouts of the owner or of every owner of the property in question or of any person or every person having an interest therein, as is contemplated in subsection (4), is not readily ascertainable by the Minister, or, if by reason of the number of such owners or persons having such an interest or for any other reason, he is satisfied that service of a notice in accordance with subsection (3) is not practicable, or if the property is subject to *fideicommissum* and it is not known to the Minister who all the fideicommissaries are or will be, he shall, instead of or in addition to causing a notice or notices to be published in accordance with subsection (3), cause to be published once in the *Gazette* and once a week during two consecutive weeks in an Afrikaans and in an English newspaper circulating in the area in which the property in question is situated, an appropriate notice complying with the provisions of subsection (2).

8. Passing of ownership in expropriated property and exercise of right to use property.

- (1) The ownership of property expropriated in terms of the provisions of this Act shall, subject to the provisions of section 3(3), and on the date of expropriation, vest in the State, released from all mortgage bonds (if any) but if such property is land, it shall remain subject to all registered rights (except mortgage bonds) in favour of third parties with which it is burdened, unless or until such rights have been expropriated from the owner thereof in accordance with the provisions of this Act.
- (2) If the Minister has in terms of section 2 taken the right to use any property for any purpose, the State may, as from the date of expropriation, exercise that right.
- (3) Notwithstanding the fact that in terms of subsection (1) the ownership in expropriated immovable property vests in the State on the date of expropriation, the State may not take possession of the property in question until the expiry, from the said date, of a period of sixty days or such longer period as is agreed upon between the owner concerned and the Minister: Provided that if, in the opinion of the Minister, such property is urgently required for the purposes for which it was expropriated, he may cause such property to be taken into possession at any time prior to the expiration of the applicable

period and on a date mentioned for the purpose in the notice of expropriation or in an appropriate notice to be served or published in accordance with section 7(3) or (5).

- (4) The owner of expropriated immovable property shall from the date of expropriation to the date upon which the State takes possession of the property, take care of and maintain the property, and if the owner wilfully or negligently fails to do so and as a result thereof the property depreciates in value, the Minister may recover the amount of the depreciation from the owner: Provided that the Minister shall compensate the owner for costs which, in the opinion of the Minister, were necessarily incurred after the date of expropriation in respect of such maintenance or care.
- (5) If the owner desires to place the State in possession of the property expropriated prior to the expiry of the appropriate period contemplated in subsection (3), he shall give the Minister not less than twenty-one days' notice in writing of the date on which he desires to do so, and the Minister shall thereupon be deemed to have caused the property to be taken possession of on that date.
- (6) The owner shall be entitled to the use of and the income from the property expropriated from the date of expropriation to the date upon which the State may be required to take possession of the property, and shall, during that period, remain responsible for the payment of taxes and other charges in respect of the property expropriated as if the property had not been expropriated.
- (7) The provisions of subsections (3) to (6) shall also apply in respect of the expropriation of property in terms of section 3 on behalf of a juristic person or body, and in such application a reference in the said subsections to the State and the Minister (except a reference to the Minister in the proviso to the said subsection (3)), shall be construed as a reference to the juristic person or body concerned.

9. Duties of owner of property expropriated or which is to be used by State.

- (1) An owner whose property has been expropriated in terms of this Act, shall, within sixty days from the date of notice in question, deliver or cause to be delivered to the Minister a written statement indicating -
 - (a) if any compensation was in the notice of expropriation offered for such property, whether or not he accepts that compensation and, if he does not accept it, the amount claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) and full particulars as to how such amounts are made up;
 - (b) if no such compensation was so offered, the amount claimed as compensation by him and how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) and full particulars as to how such amounts are made up;

- (c) if the property expropriated is land and any amount is claimed in terms of paragraph (a) or (b), full particulars of all improvements thereon which, in the opinion of the owner, affect the value of such land;
- (d) if the property being expropriated is land -
 - (i) which prior to the date of notice was leased for business or agricultural purposes by unregistered lease, the name and address of the lessee, and accompanied by the lease or a certified copy thereof, if it is in writing, or full particulars of the lease, if it is not in writing;
 - (ii) which, prior to the date of notice, was sold by the owner, the name and address of the buyer, and accompanied by the contract of purchase and sale or a certified copy thereof;
 - (iii) on which a building has been erected which is subject to a builder's lien by virtue of a written building-contract, the name and address of the builder, and accompanied by the building contract or a certified copy thereof;
 - (iv) which was on the date of notice farmed by a share-cropper, the name and address of such share-cropper and accompanied by the share cropper contract or a certified copy thereof, if it is in writing, or full particulars of the contract if it is not in writing;
- (e) the address to which the owner desires that further documents in connection with the expropriation be posted to him:

Provided that the Minister may at his discretion extend the said period of sixty days, and that, if the owner requests the Minister in writing within thirty days as from the date of notice to extend the said period of sixty days, the Minister shall extend such period by a further sixty days.

- (2) The Minister may, after receipt of a written statement contemplated in subsection (1), request the owner concerned to deliver or cause to be delivered to the Minister within such period not being less than one month as may be determined by the Minister, such further specified particulars in respect of any matter contemplated in the said subsection as he may consider necessary for the determination of the amount of the compensation.
- (3) If the property expropriated is immovable property, the Minister may in the manner contemplated in section 7(3) or (5) -
 - (a) request the owner to deliver or cause to be delivered to the Minister within sixty days his title deed thereto or, if it is not in his possession or under his control, written particulars of the name and address of the person in whose possession or under whose control it is;

- (b) request any person in respect of whom particulars have been furnished in terms of paragraph (a), to deliver or cause to be delivered to the Minister within sixty days the title deed in question.
- (4) The provisions of subsection (1)(a), (b) and (c) shall *mutatis mutandis* apply in respect of the taking, in terms of section 2, of a right to use any property for public purposes.
- (5) Any person who wilfully furnishes false or misleading particulars in any written instrument which he by virtue of the provisions of subsection (1), (2) or (3)(a) delivers or causes to be delivered to the Minister, shall be guilty of an offence and liable on conviction to be punished as if he had been convicted of fraud.
- (6) Any person who refuses or fails to comply with a request by the Minister in terms of subsection (3)(b), shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- 10. Consequences of failure by owner to inform Minister concerning compensation offered or desired, further offer by Minister, and failure to institute action.**
- (1) If compensation has in an expropriation notice been offered for the property in question and the owner concerned fails to indicate in terms of section 9(1)(a) whether or not he accepts such compensation or has indicated that he does not accept such compensation but fails to furnish any relevant information in terms of section 9(1)(a), (c) or (d) or (2), the Minister may apply to an appropriate court contemplated in section 14(1) for the determination by such court of the amount of the compensation, and in such case no interest up to the date of such determination, and no costs, shall be payable by the State unless the owner satisfies that court, notwithstanding such failure, that special reasons exist why the State shall pay such interest or costs or a portion thereof: Provided that, if such property is land, the Minister shall cause a copy of such application or particulars thereof, to be served upon the owner and upon every holder of a mortgage bond over such land and, if such land, to the knowledge of the Minister, is the subject of an agreement contemplated in section 9(1)(d)(ii), upon the buyer, in the manner, *mutatis mutandis*, contemplated in section 7(3) or (5).
- (2) If no compensation was in the expropriation notice offered for the property in question and the owner concerned fails to furnish any relevant information in terms of section 9(1)(b), (c) or (d) or (2), the Minister shall offer him an amount as compensation for such property, and in the manner, *mutatis mutandis*, contemplated in section 7(3) or (5), and the provisions of section 7(4) shall *mutatis mutandis* apply in connection with any such offer.
- (3) If the owner does not within thirty days after an offer in terms of subsection (2) or (4) notify the Minister that he does not accept that offer, the provisions of subsection (1) shall *mutatis mutandis* apply.
- (4) If an owner has in terms of section 9(1)(a) or (b) indicated what amount is claimed by him as compensation and has complied with the relevant provisions of section 9(1)(a), (b), (c) and (d) and (2),

and the Minister is not prepared to pay that amount as compensation, the Minister shall offer him an amount as compensation and indicate how much of that amount represents each of the respective amounts contemplated in section 12(1)(a)(i) and (ii) or (b) and furnish full particulars as to how such amounts are made up.

- (5) If an amount has been offered as compensation, the owner concerned shall be deemed to have accepted the compensation offered, if -
- (a) an application for the determination thereof is not made by that owner to an appropriate court contemplated in section 14(1) within eight months (or such longer period as the Minister may allow) from the date of the offer of compensation concerned; and
 - (b) the Minister has, not later than thirty days prior to the expiry of such period, by written notice served as contemplated in section 7(3), directed the attention of the said owner to the preceding provisions of this subsection,

unless it has been earlier agreed to submit the dispute to arbitration.

11. Payment of amount offered as compensation.

- (1) If the Minister deems it expedient, he may, prior to the determination of the amount of compensation payable in terms of this Act for property or for the use of property and on or at any time after the date of expropriation, but subject to the provisions of subsection (3), pay the amount offered the owner concerned as such compensation, or a portion of such amount, to the owner concerned or the person contemplated in section 19, or deposit it with the Master or utilize it in settlement of the tax or other moneys contemplated in section 20 under the same circumstances under which he should or could have so paid, deposited or utilized such compensation had it been determined on that date.
- (2) Any moneys received by the Master in terms of subsection (1) shall be paid into the Guardian's Fund mentioned in section 21(2)(b), and bear interest at the rate referred to in the said section 21(2)(b) until the compensation payable, in terms of this Act for the property in question or the use thereof has been determined, whereupon such moneys shall for the purposes of section 21, but subject to the provisions of subsection (3) of this section, be deemed to have been received by the Master in terms of subsection (1) of that section.
- (3) The payment, deposit or utilization of any amount under subsection (1) shall not preclude the determination by agreement or by a court contemplated in section 14(1), of a different amount as compensation, but if the amount so determined as compensation is less than the amount paid, deposited or utilized, the owner to whom or on whose behalf the last-mentioned amount was paid, or the Master with whom it was deposited, or the local authority concerned, as the case may be, shall refund the difference to the State together with, in the case of such owner or local authority, interest at

the rate contemplated in section 12(3) from the date on which the amount was so paid or utilized, and, in the case of the Master, the interest accrued thereon in terms of subsection (2).

12. Basis on which compensation is to be determined.

(1) The amount of compensation to be paid in terms of this Act to an owner in respect of property expropriated in terms of this Act, or in respect of the taking, in terms of this Act, of a right to use property, shall not, subject to the provisions of subsection (2), exceed -

(a) in the case of any property other than a right, the aggregate of -

(i) the amount which the property would have realized if sold on the date of notice in the open market by a willing seller to a willing buyer; and

(ii) an amount to make good any actual financial loss caused by the expropriation; and

(b) in the case of a right, an amount to make good any actual financial loss or inconvenience caused by the expropriation or the taking of the right.

(2) Notwithstanding anything to the contrary contained in this Act there shall be added to the total amount payable in accordance with subsection (1)(a)(i), in respect of all land, including any portion of a piece of land, expropriated in terms of the notice of expropriation in question, an amount equal to ten per cent of such total amount, but not exceeding ten thousand rand.

(Section 12(2) substituted by section 1 of Act 3 of 1978)

(3) Interest at the standard interest rate determined in terms of section 26(1) of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), shall, subject to the provisions of subsection (4), be payable from the date on which the State takes possession of the property in question in terms of section 8(3) or (5) on any outstanding portion of the amount of compensation payable in accordance with subsection (1)(a)(i): Provided that -

(Section 12(3) substituted by section 4 of Act 21 of 1982)

(a) in a case contemplated in section 21(4), in respect of the period calculated from the termination of thirty days from the date on which -

(i) the property was so taken possession of, if prior to that date compensation for the property was offered or agreed upon; or

(ii) such compensation was offered or agreed upon, if after that date it was offered or agreed upon,

to the date on which the dispute was settled or the doubt was resolved or the owner and the buyer or the mortgagee notified the Minister in terms of the said section 21(4) as to the payment of the compensation money; and

- (b) from the date on which the Minister in terms of section 11(1) pays or makes available an amount to the owner or any person referred to in section 21(4),

the amount which is so payable shall for the purposes of the payment of interest not be deemed to be an outstanding amount.

- (4) If the owner of property which has been expropriated occupies or utilizes that property or any portion thereof, no interest shall, in respect of the period during which he so occupies or utilizes it, be paid in terms of subsection (3) on so much of the outstanding amount as, in the opinion of the Minister, relates to the property so occupied or utilized.
- (5) In determining the amount of compensation to be paid in terms of this Act, the following rules shall apply, namely -
 - (a) no allowance shall be made for the fact that the property or the right to use property has been taken without the consent of the owner in question;
 - (b) the special suitability or usefulness of the property in question for the purpose for which it is required by the State, shall not be taken into account if it is unlikely that the property would have been purchased for that purpose on the open market or that the right to use the property for that purpose would have been so purchased;
 - (c) if the value of the property has been enhanced in consequence of the use thereof in a manner which is unlawful or detrimental to the health of any person, such enhancement shall not be taken into account;
 - (d) improvements made after the date of notice on or to the property in question (except where they were necessary for the proper maintenance of existing improvements or where they were undertaken in pursuance of obligations entered into before that date) shall not be taken into account;
 - (e) no allowance shall be made for any unregistered right in respect of any other property or for any indirect damage or anything done with the object of obtaining compensation therefor;
 - (f) any enhancement or depreciation, before or after the date of notice, in the value of the property in question, which may be due to the purpose for which or in connection with which the property is being expropriated or is to be used, or which is a consequence of any work or act which the

State may carry out or perform or already has carried out or performed or intends to carry out or perform in connection with such purpose, shall not be taken into account;

- (g) whenever in the opinion of the Minister the amount of compensation may be affected by minerals, the value of the property concerned shall be determined after consultation by the Minister with the Minister of Mineral and Energy Affairs;

(Section 12(5)(g) substituted by section 4 of Act 21 of 1982)

- (h) account shall also be taken of -

(i) any benefit which will enure to the person to be compensated from any works which the State has built or constructed or has undertaken to build or construct on behalf of such person to compensate him in whole or in part for any financial loss which he will suffer in consequence of the expropriation or, as the case may be, the taking of the right in question;

(ii) any benefit which will enure to such person in consequence of the expropriation of the property or the use thereof for the purpose for which it was expropriated or, as the case may be, the right in question was taken;

(iii) any amount of compensation payable in terms of section 13(1) in respect of an unregistered right;

(iv) any relevant quantity of water to which the person to be compensated is entitled by virtue of the provisions of section 62(1) or 63 or by virtue of a permit issued to him under section 62(2), or will become entitled by virtue of a permit which, according to a statement by the Director General: Environment Affairs, will be issued to him, or by virtue of any scheduling which, according to such a statement, will be granted to him under the said section 63, of the Water Act, 1956 (Act No. 54 of 1956), as the case may be;

(Section 12(5)(h)(iv) substituted by section 4 of Act 21 of 1982)

- (i) ...deleted.

(Section 12(5)(i) deleted by section 4(1)(d) of Act 21 of 1982)

- (6) ...deleted.

(Section 12(6) deleted by section 4(1)(e) of Act 21 of 1982)

(Section 4(2) of Act 21 of 1982 states: Any expropriation of land upon which any business or profession is conducted or pursued on the date of expropriation as contemplated in subsection (5)(i), read with subsection (6), of section 12 of the principal Act, commenced prior to the deletion of those subsections by subsections (1)(d) and (1)(e) of this section, and any proceedings for the determination of compensation in terms of any law in respect of any such expropriation, instituted prior to such deletion, shall be concluded as if subsections (1)(d) and (1)(e) of this section had not been passed.)

13. Payment of compensation in respect of certain unregistered rights in respect of property expropriated.

- (1) In respect of any right which any person may have in respect of any expropriated land by virtue of a contract contemplated in section (9)(1)(d)(i), (iii) or (iv) and which has been terminated in terms of section 22, such person shall, subject to the provisions of subsections (2) and (3) of this section, be entitled to the payment of compensation as if such right were a registered right in respect of the land in question which was also expropriated on the date of expropriation in respect of such land.
- (2) The Minister shall, in the manner, *mutatis mutandis*, contemplated in section 7(3) or (5), offer any person contemplated in subsection (1) of this section an amount as compensation, and such an amount so offered shall for the purposes of this Act be deemed to have been offered in terms of section 7(2)(c).
- (3) If the owner of expropriated land fails to comply with the provisions of section 9(1)(d)(i), (iii) or (iv), the State shall not be obliged to pay compensation to the lessee, builder or share-cropper concerned in respect of the unregistered right in question, but such owner shall be liable to any such lessee, builder or share-cropper for damage sustained by him in consequence of the expropriation of the property in question.

14. Determination of compensation by compensation court or provincial or local division of Supreme Court or by arbitration, in absence of agreement.

- (1) Subject to the provisions of subsection (7) of this section and section 10(1) and (3), the compensation to be paid by the State for any property expropriated by the Minister or for any right to use property taken by the Minister, shall, in the absence of agreement, on the application of any party concerned, be determined –
 - (a) If the amount of compensation claimed is less than one hundred thousand rand, by a compensation court;
 - (b) if the amount of compensation claimed is one hundred thousand rand or more, by the provincial or local division of the Supreme Court of South Africa, in whose area of jurisdiction the property in question is or is situated.
- (2) If there is no claim in terms of which it can be determined which court has jurisdiction under the provisions of subsection (1)(a) or (b), the amount last offered by the Minister, shall, for the purposes of determining such jurisdiction, be deemed to be the amount of the claim: Provided that this subsection shall not be construed as preventing such court from awarding any amount other than the said amount last offered by the Minister, as the amount of compensation.
- (3) Any proceedings contemplated in subsection (1)(b) shall be instituted and conducted by way of action.

- (4) The law of procedure applicable in civil proceedings in a court in which any proceedings contemplated in subsection (1)(b) are conducted, shall, subject to the provisions of this Act, apply *mutatis mutandis* in respect of any such proceedings, and any order or judgment of the court in such last-mentioned proceedings shall be deemed to be an order or a judgment in civil proceedings.
- (5) Notwithstanding anything to the contrary contained in any law a court may, after the close of pleadings in any proceedings contemplated in subsection (1) (b), in its discretion regulate the further procedure in the conducting of such proceedings, and without derogating from the generality of that power -
- (a) call upon the parties to file a written instrument setting forth -
- (i) the relevant facts not in issue;
 - (ii) the relevant facts in issue;
 - (iii) each party's reasons for disputing a fact in issue;
 - (iv) any other matters which the court considers to be of importance; and
- (b) issue directions in respect of inspections and all other matters connected with the preparation for and hearing of the proceedings.
- (6) In any proceedings contemplated in subsection (1)(b), the judge may invoke the assistance of not more than two persons who are skilled and experienced in the matter and are prepared to sit as assessors in an advisory capacity.
- (7) The provisions of this section shall not be construed as preventing the Minister and an owner from submitting by agreement any dispute concerning the amount of compensation to be paid in terms of this Act in respect of the expropriation of property or the taking of any right, to arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965), or having by agreement the amount of compensation determined by a compensation court in terms of subsection (1)(a), notwithstanding that the amount of compensation claimed is one hundred thousand rand or more.
- 15. Orders as to costs in Supreme Court.**
- (1) Costs in any proceedings contemplated in section 14(1)(b) shall be calculated in accordance with the table of costs applicable in the court in question.
- (2) If the compensation awarded by the court in any such proceedings -

- (a) is equal to or exceeds the amount last claimed by the owner one month prior to the date for which the proceedings were for the first time placed on the roll, costs shall be awarded against the Minister;
 - (b) is equal to or less than the amount last offered by the Minister one month prior to the date contemplated in paragraph (a), costs shall be awarded against the owner in question;
 - (c) is less than the amount last so claimed by the owner in question, but exceeds the amount last so offered by the Minister, so much of the costs of the owner shall be awarded against the Minister as bears to such costs the same proportion as the difference between the compensation so awarded and the amount so offered, bears to the difference between the amount of compensation so awarded and the amount so claimed.
- (3) In any case not mentioned in subsection (2), the court shall in its discretion decide as to costs.
- (4) The liability for costs and taxation fees of a party to be compensated shall be a first charge against the money which, in terms of the order of court, and the interest which, in terms of section 12(3), is to be paid to him, and such money and interest shall be applied, as far as may be required, towards the payment of those costs and fees.

16. Establishment of compensation court.

- (1) There shall be a compensation court for the area of jurisdiction of every provincial division of the Supreme Court of South Africa with jurisdiction to determine compensation in terms of this Act in respect of property which is or is situated within such area of jurisdiction.
- (2) The Minister of Justice may establish a compensation court with jurisdiction to determine compensation in terms of this Act in respect of any property situated partially within one and partially within another area of jurisdiction contemplated in subsection (1).
- (3) Sittings of a compensation court may be held at any place within its area of jurisdiction and in the case of a compensation court contemplated in subsection (2), at any place within any of the areas of jurisdiction contemplated in the said subsection.
- (4) A sitting of a compensation court shall be before a president appointed by the Minister of Justice, and for the purposes of different sittings of such a court the said Minister may appoint so many presidents as he may from time to time deem necessary.

(Section 16(4) substituted by section 2 of Act 19 of 1977)

- (5) A president contemplated in subsection (4), shall be appointed from the ranks of judges or former judges of the Supreme Court of South Africa, magistrates or former magistrates who hold or held the rank of magistrate for at least ten years, or advocates or attorneys of not less than ten years' standing.

(Section 16(5) substituted by section 5 of Act 21 of 1982)

- (6) The provisions of section 14(6) shall *mutatis mutandis* apply in respect of a president of a compensation court.
- (7) The rules which apply from time to time in a provincial division referred to in subsection (1) or, in the case of a compensation court referred to in subsection (2), in a provincial division determined by the Minister of Justice, relating to the amounts which may be charged as advocates' fees in connection with civil matters, and the taxation of such amounts, shall *mutatis mutandis* apply in connection with proceedings before the compensation court in question.

(Section 16(7) added by section 2 of Act 3 of 1978)

17. Appeal against decision of a compensation court.

There shall be a right of appeal to a provincial division of the Supreme Court of South Africa, against a decision of a compensation court, and the provisions of section 14(4) shall *mutatis mutandis* apply in respect of any order or judgment of any such division on appeal.

18. Effect of application for determination of compensation, and of noting of appeal.

Notwithstanding any application in terms of section 14(1) for the determination of compensation, or an appeal against a decision of any court contemplated in that section, the other provisions of this Act shall apply as if no such application or appeal had been made.

19. Discharge of debt secured by mortgage bond over land, and payment of compensation moneys in case of existence of certain unregistered rights.

- (1) If any immovable property expropriated under this Act was immediately prior to the date of expropriation encumbered by a registered mortgage bond, or to the knowledge of the Minister the subject of an agreement contemplated in section 9(1)(d)(ii), the Minister shall, subject to the provisions of sections 20 and 21, not pay out any portion of the compensation money in question, except to such person and on such terms as may have been agreed upon between the owner of such property and the mortgagee or buyer concerned, as the case may be, and as the Minister may have been notified of in writing by them.
- (2) If an owner of immovable property fails to comply with the provisions of section 9(1)(d)(ii), and the buyer concerned in consequence thereof does not receive any portion of the compensation money by virtue of the provisions of subsection (1) of this section, the owner shall be liable to the buyer for any damage which the buyer may have sustained in consequence of the expropriation, and the Minister shall not be obliged to pay compensation in respect of that damage.

20. Payment of certain taxes and other moneys out of compensation moneys.

- (1) If any land which has been expropriated is situated within the area of a local authority, such local authority shall, upon receipt or publication of a relevant notice in terms of section 7, forthwith inform the Minister in writing of any outstanding tax or other moneys in respect of the payment of which the production of a receipt or certificate is in terms of any law a prerequisite for the passing of a transfer of such land by a registrar of deeds.
- (2) The Minister may utilize so much of the compensation money in question as is necessary for the payment on behalf of the owner of such land of any tax or other moneys mentioned in subsection (1).

21. Deposit of compensation money with Master or Bantu Trust, and retention thereof by Minister, in certain cases.

- (1) If property expropriated under this Act was burdened with a *fideicommissum* or if compensation is payable in terms of this Act to a person whose place of residence is not known, or if compensation is so payable and there is no person to whom it can be paid, the Minister may deposit the amount of the compensation payable in terms of this Act with the Master or if, in the opinion of the Minister, the property concerned is not so burdened and the compensation is so payable to a Bantu, with the South African Bantu Trust mentioned in section 4 of the Bantu Trust and Land Act, 1936 (Act No. 18 of 1936), and after such deposit the Minister shall cease to be liable in respect of that amount.
- (2) Any moneys received by the Master in terms of subsection (1) shall –
 - (a) if the property in question was burdened with a *fideicommissum*, *mutatis mutandis* be subject to all the terms and conditions contained in the will or other instrument by which such *fideicommissum* was constituted; and
 - (b) subject to the provisions of paragraph (a), be paid into the Guardian's Fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), for the benefit of the persons who are or may become entitled thereto, and bear interest at a rate determined from time to time by the Minister of Finance.
- (3) The provisions of subsections (1) and (2) shall not affect the jurisdiction of any court to make an order in respect of any moneys in question.
- (4) In the event of a dispute or doubt as to the person who is to receive any compensation payable in terms of this Act, or in the event of the issue of an interdict in respect of the payment of any such compensation, or if the owner and any mortgagee or any buyer have not notified the Minister in terms of section 19 in regard to the payment of such compensation, the Minister shall pay the amount of such compensation to the Master.

22. Termination of unregistered rights in respect of land expropriated.

If a notice of expropriation relates to the expropriation of land, all rights in respect of such land not registered or recorded against the title deed thereof or in an office referred to in section 7(4) or in terms of section 60(5) of the Water Act, 1956 (Act No. 54 of 1956), shall terminate on the date of expropriation and the State shall, subject to the provisions of sections 13 and 19, not be obliged to pay any compensation for such rights.

23. Withdrawal of expropriation.

- (1) Notwithstanding anything to the contrary contained in any law, if the Minister is of the opinion that it is in the public interest or otherwise expedient to withdraw an expropriation of property, he may withdraw such expropriation, *mutatis mutandis* and in the manner contemplated in section 7, from a date mentioned in the notice in question: Provided that an expropriation of property shall not be withdrawn after the expiration of three months after the date of expropriation or if, where the property expropriated is immovable property, transfer of the property in consequence of the expropriation has already been registered.
- (2) If any person directly or indirectly sustains any damage in consequence of the withdrawal of an expropriation, he shall be entitled to compensation by the State for such damage.
- (3) If the expropriation of any property is withdrawn and the State has already paid compensation in connection with such expropriation, the amount of such compensation shall be a debt due to the State.
- (4) If an expropriation of property is withdrawn in terms of this section, the ownership in such property shall, from the date contemplated in subsection (1), again vest in the owner from whom it was expropriated, and any mortgage bonds, servitudes and other rights discharged or terminated in connection with the expropriation shall revive and the registrar of deeds concerned shall, on receipt of a copy of, or publication in the *Gazette* of, the notice of withdrawal of expropriation in question, cancel any endorsement made in connection with the expropriation in his registers and on the title deed of the property in question.

24. Assignment of powers and duties by Minister.

The Minister may either generally or in relation to particular property or in any particular case assign to an officer in the service of the State any power or duty conferred or imposed on him by or in terms of this Act, other than a power contemplated in sections 23 and 25, and in addition an executive committee may assign any such power or duty also to any of its members.

25. Regulations

- (1) The State President may make regulations as to -

- (a) the practice and procedure of and appearance before and the appointment of a president and assessors of a compensation court;
 - (b) appeals in terms of section 17;
 - (c) the tariff of court and other fees (excluding advocates' and attorneys' fees) and orders as to costs in connection with proceedings before a compensation court;
(Section 25(1)(c) substituted by section 3 of Act 3 of 1978)
(Section 25(1)(c) substituted by section 1 of Act 8 of 1980)
 - (d) process in connection with such proceedings;
 - (e) the summoning of witnesses in connection therewith;
 - (f) the appointment of officers and a registrar of a compensation court, and the duties of such officers and the registrar of a compensation court;
 - (g) the defraying of expenses incurred in connection with a compensation court (including the remuneration and allowances payable to the president and assessors of such a court);
 - (h) any other matter which he thinks it necessary or expedient to prescribe in order to ensure the proper dispatch and regulation of the business of a compensation court; _
 - (i) the practice and procedure of other courts in connection with proceedings under this Act.
- (2) The Minister may make regulations as to -
- (a) consultation with a department as defined in section 1(1) of the Public Service Act, 1957 (Act No. 54 of 1957), and the Railway Administration in connection with expropriation in terms of this Act;
 - (b) any matter which he thinks it necessary or expedient to prescribe in order to achieve the objects and purposes of this Act.
- (3) Any regulation in terms of subsection (2) relating to State revenue or expenses shall only be made after consultation with the Minister of Finance and, if it particularly affects the Railway Administration, shall only be made after consultation with the Minister of Transport.
- (4) Regulations in terms of subsections (1) and (2) may prescribe penalties for a contravention thereof or a failure to comply therewith, but such penalty shall not exceed a fine of two hundred rand or imprisonment for a period of six months.

26. Application of Act.

- (1) The provisions of this Act shall not derogate from any power conferred by any other law to expropriate or take any property or to take the right to use property temporarily: Provided that, subject to the provisions of subsection (2), if any such power is exercised after the commencement of this Act, the expropriation or the taking of the property or the taking of the right to use the property temporarily, and the determination of the amount of the compensation therefor, shall be effected, *mutatis mutandis*, in accordance with the provisions of this Act.
- (2) Subject to the provisions of subsections (3) and (4), the provisions of this Act shall not derogate from the provisions of any other law relating to the taking or use or expropriation of property by a provincial administration or a local authority for the purposes of the construction or maintenance of a public road or the taking or use of property by a provincial administration or a local authority for the purposes of the construction or maintenance of any water, electricity, drainage or sewerage works, and the provisions of this Act shall not apply to the taking or use of property by the Rand Water Board in terms of section 24 (b) or (j) of the Rand Water Board Statutes (Private) Act, 1950 (Act No. 17 of 1950), or any expropriation in terms of section 120 of the Precious Stones Act, 1964 (Act No. 73 of 1964), or section 183 of the Mining Rights Act, 1967 (Act No. 20 of 1967).

(Section 26(2) substituted by section 3 of Act 19 of 1977)

- (3) If compensation is to be paid for the taking or use or expropriation of any property contemplated in subsection (2), and the amount of such compensation is not agreed upon, the provisions of section 14 shall *mutatis mutandis* apply in connection with the determination of such amount.
- (4) The amount of compensation paid or determined for the taking or use or expropriation of property contemplated in subsection (2) shall not be more than what it would have been had it been calculated in accordance with the provisions of section 12(1), (2) and (5).

27. Amendment of section 17 of Act 53 of 1934, as amended by section 15 of Act 55 of 1963 and section 4 of Act 43 of 1967. ...repealed

(Section 27 repealed by section 41 and Schedule 1 of Act 76 of 1979)

28. Repeal of sections 19 to 26 of Act 53 of 1934. ...repealed

(Section 28 repealed by section 41 and Schedule 1 of Act 76 of 1979)

29. Amendment of section 13 of Act 18 of 1936, as amended by section 7 of Act 17 of 1939, section 2 of Act 18 of 1954, section 5 of Act 73 of 1956, section 3 of Act 41 of 1958, section 16 of Act 42 of 1964, section 18 of Act 55 of 1965 and section 20 of Act 70 of 1968.

Section 13 of the Bantu Trust and Land Act, 1936, is hereby amended -

- (a) by the substitution in subsections (1) and (2) for the word "Lands" of the word "Agriculture"; and

- (b) by the substitution in subsection (3) for the words, preceding the first proviso of the following words:

"The provisions of section 6 to 24 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of the expropriation of land in terms of subsection (1) or (2) of this section:".

30. Amendment of section 14 of Act 18 of 1936.

Section 14 of the Bantu Trust and Land Act, 1936, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) In default of agreement upon the purchase price of such land between the Trust and the owner thereof the matter shall be dealt with as if it were an expropriation under section 13."

31. Amendment of section 18 of Act 18 of 1936, as amended by section 8 of Act 17 of 1939, section 17 of Act 42 of 1964, section 19 of Act 55 of 1965 and section 4 of Act 7 of 1973.

Section 18 of the Bantu Trust and Land Act, 1936, is hereby amended by the substitution for subsection (1)*bis* of the following subsection:

"(1)*bis* The amount of compensation payable in terms of subsection (1) shall, in the absence of agreement, be determined by an appropriate court in terms of section 14 of the Expropriation Act, 1975, and the provisions of sections 12, 14 and 15 of that Act shall *mutatis mutandis* apply in respect of the determination of the said amount."

32. Amendment of section 23A of Act 22 of 1936, as inserted by section 14 of Act 60 of 1969.

Section 23A of the Broadcasting Act, 1936, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) When the Minister has granted his approval for such an acquisition, the provisions of sections 6 to 23 or the Expropriation Act, 1975, shall apply *mutatis mutandis* in relation to such acquisition, and for the purposes of such application thereof any reference therein to the Minister and the State shall be construed as a reference to the corporation."

33. Amendment of section 1 of Act 29 of 1937.

Section 1 of the Unbeneficial Occupation of Farms Act. 1937, is hereby amended -

- (a) by the substitution for the definition of "board" or the following definition:

" **board**' means the Land Tenure Board established by section 2 of the Land Tenure Act, 1966 (Act No. 32 of 1966);"

(b) by the substitution for the definition of "Minister" of the following definition:

" **Minister**' means the Minister of Agriculture;"; and

(c) by the substitution for paragraph (iv) of the definition of "**owner**" of the following paragraph:

"(iv) if such land has vested in a liquidator or trustee elected or appointed under the Agricultural Credit Act, 1966 (Act No. 28 of 1966), such liquidator or trustee;".

34. Amendment of section 2 of Act 29 of 1937, as amended by section 20 of Act 55 of 1965.

Section 2 of the Unbeneficial Occupation of Farms Act, 1937, is hereby amended by the substitution for subsection (3) of the following subsection:

"(3) The provisions of sections 6 to 24 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of the expropriation of any land or any right or interest in respect of land in terms of subsection (1).".

35. Amendment of section 16 of Act 25 of 1945, as amended by section 7 of Act 16 of 1955, section 53 of Act 42 of 1964, and section 24 of Act 55 of 1965.

Section 16 of the Bantu (Urban Areas) Consolidation Act, 1945, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4)

(a) The provisions of sections 6 to 23 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of the expropriation of any land or any interest in land under paragraph (a) of subsection (1) of this section.

(b) In the application of sections 6 to 23 of the said Act in terms of paragraph (a) of this subsection -

(i) any reference in the said sections to 'Minister' and 'State', shall be construed as a reference to the urban local authority in question; and

(ii) any reference in the said sections to 'section 2', shall be construed as a reference to subsection (1)(a) of this section.".

36. Amendment of section 24 of Act 17 of 1950, as amended by section 11 of Act 29 of 1964 and section 5 of Act 31 of 1972.

Section 24 of the Rand Water Board Statutes (Private) Act, 1950, is hereby amended -

(a) by the substitution for subparagraph (ii) of paragraph (b) of the following subparagraph:

"(ii) that the board shall do as little damage as may be to such land and shall make full compensation for all damage done by it: Provided that any proceedings for the determination of such compensation shall be instituted within six months after the cause of action has arisen, and written notice of any such proceedings and of the cause of the action shall be given by the plaintiff to the defendant not less than one month before the proceedings are instituted;" and

(b) by the substitution for subparagraph (ii) of paragraph (j) of the following subparagraph:

"(ii) on the completion of such works the board shall forthwith restore the surface of such land, road or other place to the same condition as near as may be as it was in before the commencement of such works. and in executing the same the board shall do as little damage as may be to such land, road or other place and shall make full compensation for all damage done by it: Provided that any proceedings for the determination of such compensation shall be instituted within six months after the cause of action has arisen, and written notice of any such proceedings and of the cause of the action shall be given by the plaintiff to the defendant not less than one month before the proceedings are instituted."

37. Substitution of section 25 of Act 17 of 1950, as amended by section 12 of Act 29 of 1964.

The following section is hereby substituted for section 25 of the Rand Water Board Statutes (Private) Act, 1950:

"25. Provisions as to exercise of compulsory powers.

With respect to the exercise of the power to purchase compulsorily any land or rights under section 24 (h) and to the compensation payable thereon, the provisions of sections 6 to 24 of the Expropriation Act, 1975, shall *mutatis mutandis* apply and a reference in the said sections of that Act to 'Minister' and 'State' shall be construed as a reference to the board."

38. Repeal of section 25A of Act 17 of 1950, as inserted by section 6 of Act 31 of 1972.

Section 25A of the Rand Water Board Statutes (Private) Act, 1950, is hereby repealed.

39. Substitution of section 3 of Act 39 of 1951, as substituted by section 3 of Act 61 of 1974.

The following section is hereby substituted for section 3 of the Expropriation (Establishment of Undertakings) Act, 1951:

“3. Application of laws relating to expropriation.

Upon the approval of the Minister being granted under section 2(1) in respect of any land, the provisions of sections 7 to 23 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of the acquisition of that land or the temporary right of use thereof, as the case may be, by the person to whom the approval has been granted, and in such application thereof any reference therein to the Minister and the State shall be construed as a reference to such person.”.

40. Repeal of sections 1 to 4, 6 to 12 and 18 of, and the Schedule to, Act 37 of 1955.

Sections 1 to 4, 6 to 12 and 18 of, and the Schedule to, the Railway Expropriation Act, 1955, are hereby repealed: Provided that the provisions of section 11(3) thereof, excluding the proviso thereto, shall continue to apply in respect of land acquired by the Railway Administration prior to the commencement of that Act.

41. Amendment of section 60 of Act 54 of 1956, as substituted by section 8 of Act 45 of 1972.

Section 60 of the Water Act, 1956, is hereby amended -

(a) by the substitution for paragraph (b) of subsection (2) of the following paragraph:

"(b) The provisions of sections 6 to 24 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of the expropriation of any property or the taking of any right in terms of this section, and any reference in the said sections of that Act -

- (i) to 'Minister' shall be construed as a reference to the Minister of Water Affairs;
- (ii) to 'section 2' shall be construed as a reference to this section;
- (iii) to a provincial or local division of the Supreme Court of South Africa shall be construed as a reference to a water court;
- (iv) to 'judge' shall be construed as a reference to a judge of a water court; and
- (v) to 'this Act' shall be construed as a reference to this Act."; and

(b) by the deletion of subsection (3).

42. Amendment of section 43 of Act 40 of 1958, as substituted by section 2 of Act 60 of 1974.

Section 43 of the Electricity Act, 1958, is hereby amended by the substitution for subsections (4) and (5) of the following subsections:

"(4) Upon the approval of the State President to such acquisition being granted, the provisions of sections 7 to 23, of the Expropriation Act, 1975, shall *mutatis mutandis* apply in connection with such acquisition, and in such application thereof any reference in those sections -

(a) to the 'Minister' and the 'State' shall be construed as a reference to the undertaker or person in question;

(b) to 'section 2' shall be construed as a reference to this section.

(5) If the owner of any land agrees to such land or any right in, over or in respect of such land being acquired by such undertaker or person for the exercise of any power referred to in subsection (1), but is not prepared to accept the compensation offered therefor, the parties may agree to the land or right being acquired by the undertaker or person, as the case may be, subject to the determination of the compensation payable in accordance with the provisions of sections 12, 14 and 15 of the Expropriation Act, 1975, according to which provisions would have been applicable if the land or right had been expropriated in terms of the provisions of the said Act: Provided that in any such case the date of notice, as defined in section 1 of the said Act, shall be deemed to be the date on which that agreement was concluded: Provided further that if an application for such determination of the compensation is not made within six months after that date to the appropriate court, the compensation offered by such undertaker or person shall be the compensation payable for the acquisition of such land or right."

43. Substitution of section 79 of Act 44 of 1958, as substituted by section 32 of Act 55 of 1965.

The following section is hereby substituted for section 79 of the Post Office Act 1958:

"79. The Postmaster-General may take over private lines after notice.

The Postmaster may, subject to an obligation to pay such compensation as may, in the absence of agreement, be determined, *mutatis mutandis*, in accordance with the provisions of sections 12, 14 and 15 of the Expropriation Act, 1975, after giving six months' notice of his intention so to do, take over the whole or any part of any telegraph line or system, not being a system of communication constructed and maintained by the South African Railways and Harbours Administration, whether constructed before or after the commencement of this Act, and whether

constructed, maintained or operated under any special or general legislative authority or otherwise."

44. Amendment of section 82 of Act 44 of 1958, as amended by section 33 of Act 80 of 1965.

Section 82 of the Post Office Act, 1958, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The compensation in the case of injury aforesaid being caused to any work, property or standing crops shall, if the amount cannot be otherwise agreed upon, be settled by a competent court." .

45. Amendment of section 3 of Act 42 of 1962, as substituted by section 35 of Act 55 of 1965.

Section 3 of the National Parks Act, 1962, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The provisions of the Expropriation Act, 1975, shall *mutatis mutandis* apply in connection with any expropriation of land or any mineral right under subsection (1)."

46. Amendment of section 13 of Act 24 of 1963.

Section 13 of the Rural Coloured Areas Act, 1963, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) In determining and paying the compensation payable in terms of this section, the relevant provisions of the Expropriation Act, 1975, shall *mutatis mutandis* apply as if the property or right concerned were expropriated in terms of that Act on the date on which it vested in the Minister."

47. Repeal of sections 15 to 20 of Act 24 of 1963.

Sections 15 to 20 of the Rural Coloured Areas Act, 1963, are hereby repealed.

48. Amendment of section 23 of Act 55 of 1963. ...repealed

(Section 48 repealed by section 41 and Schedule 1 of Act 76 of 1979)

49. Amendment of section 1 of Act 41 of 1964.

Section 1 of the Extension of powers of Executive Committees and Administrators Act, 1964, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) If the administrator and the owner in question are unable to agree on the conditions of the acquisition in terms of subsection (1) of any land or any interest in land, the provisions of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of such acquisition .".

50. Amendment of section 1 of Act 3 of 1966, as amended by section 1 of Act 42 of 1967, section 1 of Act 58 of 1968 and section 1 of Act 74 of 1970.

Section 1 of the Community Development Act, 1966, is hereby amended by the substitution in subsection (1), in the definition of "owner", for the words following on paragraph (b) of the following words:

"and for the purpose of section 15, section 29 (4) and sections 32, 33, 34, 37 and 38, includes any sheriff, deputy-sheriff, messenger of the court, trustee, executor, curator, administrator or other person entitled or required to dispose of that property;"

51. Amendment of section 15 of Act 3 of 1966, as amended by section 2 of Act 42 of 1967, section 1 of Act 58 of 1969, section 2 of Act 74 of 1970, section 24 of Act 80 of 1971 and section 1 of Act 93 of 1972.

Section 15 of the Community Development Act, 1966, is hereby amended -

(a) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

"(a) Any owner of immovable property in an area in respect of which any notice under subsection (2)(e) is in operation, who desires to dispose of such property, shall offer such property for sale to the board, and the board shall thereupon have a preferent right to purchase such property at a price agreed upon between it and the owner concerned, or (if within sixty days after the date on which the offer was made the board and such owner fail to agree as to the price to be paid) at a price fixed as if the provisions of section 14 of the Expropriation Act, 1975, were applicable in respect thereof."; and

(b) by the deletion of paragraph (b) of the said subsection (5).

52. Amendment of section 26 of Act 3 of 1966.

Section 26 of the Community Development Act, 1966, is hereby amended -

(a) by the substitution for subsection (3) of the following subsection:

"(3) The provisions of section 7 (3) and (5) of the Expropriation Act, 1975, shall *mutatis mutandis* apply in connection with any notice required to be given under subsection (2)(a) of this section."; and

(b) by the addition of the following subsection:

"(4) Notice given in terms of section 7(5) of the Expropriation Act, 1975, shall be deemed to have been given on the date on which it was published in the *Gazette*."

53. Amendment of section 33 of Act 3 of 1966, as amended by section 6 of Act 42 of 1967.

Section 33 of the Community Development Act, 1966, is hereby amended by the substitution for subsections (6) and (7) of the following subsections:

"(6) The provisions of section 26(3) and (4) shall *mutatis mutandis* apply in respect of any notice referred to in this section.

(7) The provisions of section 15 of the Expropriation Act, 1975, shall *mutatis mutandis* apply with reference to an appeal to a revision court referred to in subsection (5) of this section."

54. Amendment of section 34 of Act 3 of 1966, as amended by section 7 of Act 42 of 1967, section 7 of Act 74 of 1970, section 1 of Act 68 of 1971 and section 43 of Act 94 of 1974.

Section 34 of the Community Development Act, 1966, is hereby amended by the substitution for subsection (8) of the following subsection:

"(8) The market value of any property exchanged or proposed to be exchanged for affected property, or the value of any consideration received or payable for affected property, shall for the purpose of this section, in the absence of agreement between the owner and the board, be determined as if the provisions of section 14 of the Expropriation Act, 1975, were applicable in respect thereof."

55. Amendment of section 35 of Act 3 of 1966, as amended by section 8 of Act 42 of 1967, section 2 of Act 68 of 1971 and section 44 of Act 94 of 1974.

Section 35 of the Community Development Act, 1966, is hereby amended by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) If the compensation fixed is less than the basic value of the property in question and is, in the opinion of the board, also lower than the market value thereof, the market value of the property shall be determined by agreement between the owner and the board, or in the absence of such agreement as if the provisions of section 14 of the Expropriation Act, 1975, were applicable in respect thereof, and if the market value so determined exceeds the compensation fixed, such market value shall for the purpose of determining the depreciation contribution payable in terms of paragraph (a) (if any) be regarded as the compensation fixed." .

56. Amendment of section 37 of Act 3 of 1966, as amended by section 9 of Act 42 of 1967, section 3 of Act 68 of 1971 and section 45 of Act 94 of 1974.

Section 37 of the Community Development Act, 1966, is hereby amended -

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) Where any affected property in relation to which the board has notified the owner as provided in paragraph (a), is registered in the name of a company or is in terms of a testamentary disposition vested in the administrator of the estate of a deceased person, the market value thereof shall, if the board and the owner or the administrator do not agree on any valuation, be determined as if the provisions of section 14 of the Expropriation Act, 1975, were applicable in respect thereof, and if the market value thus agreed upon or determined is equal to or exceeds the basic value of the property in question, the owner shall forthwith pay to the board an appreciation contribution equal to fifty per cent of the difference, if any, between such market value and the basic value of that property, and the board shall remove that property from the list."; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) Whenever after the expiry of one hundred and thirty-two months after the basic date, or the date of commencement of the Community Development Amendment Act, 1967, whichever is the later date, the owner of any affected property included in the list considers that the market value of that property is equal to or exceeds the basic value thereof, he may notify the board in writing that he desires the said property to be removed from the list and may state his estimate of the market value thereof, and if the board agrees with such estimate, or if the board and the owner agree on a valuation which is equal to or exceeds the basic value of that property, or if in the absence of such agreement the market value of the said property, determined as if the provisions of section 14 of the Expropriation Act, 1975, were applicable in respect thereof, is equal to or exceeds the basic value of the said property, the board shall, upon payment to the board of an appreciation contribution equal to fifty per cent of the difference, if any, between the market value thus agreed upon between the board and the owner or thus determined, as the case may be, and the basic value of the said property, remove such property from the list."

57. Amendment of section 38 of Act 3 of 1966, as amended by section 10 of Act 42 of 1967, section 8 of Act 74 of 1970, section 4 of Act 68 of 1971 and section 46 of Act 94 of 1974.

Section 38 of the Community Development Act, 1966, is hereby amended -

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

"(a) The board may with the written approval of the Minister, if it is satisfied that it is expedient to do so for the attainment of any of its objects, acquire any immovable property by expropriation: Provided that the Minister may delegate to the Secretary, to the extent he deems fit, the power conferred on him by this section to approve of the acquisition by the board by expropriation of any immovable property, and anything done by the Secretary under and within the scope of the power so delegated to him, shall be just as valid and effective as if it had been done by the Minister himself: Provided further that immovable property shall be expropriated within six months after receipt of the approval of the Minister or such longer period as the Minister may in writing allow."

(b) by the substitution for paragraph (c) of subsection (1A) of the following paragraph:

"(c) A copy of the relevant resolution referred to in paragraph (a) shall for the purposes of the provisions of the Expropriation Act, 1975, be deemed to be a copy of the notice by which the expropriation of the property in question has taken place." ; and

(c) by the insertion after subsection (1A) of the following subsection:

"(1B) Subject to the provisions of subsection (2), the provisions of sections 6 to 23 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of the acquisition of immovable property by expropriation in terms of this section, and in such application a reference in that Act -

(i) to 'Minister' and 'State' shall be construed as a reference to the board;

(ii) to 'section 2', shall be construed as a reference to this section."

58. Repeal of sections 39 and 40 of Act 3 of 1966.

Sections 39 and 40 of the Community Development Act, 1966, are hereby repealed.

59. Substitution of section 41 of Act 3 of 1966.

The following section is hereby substituted for section 41 of the Community Development Act, 1966:

"41. Determination of compensation in respect of acquisition of property.

(1) The board shall add to the compensation agreed upon or determined an amount to make good any actual financial loss caused by the acquisition in terms of paragraph (a) or (b) of subsection

(2) of section 15 of affected property or the purchase of property in an area in respect of which any notice under paragraph (e) of the said subsection is in operation.

- (2) Notwithstanding anything to the contrary contained in any law there shall be added to the compensation referred to in subsection (1) an amount which shall be equal to ten per cent thereof but not exceeding ten thousand rand.
- (3) The amounts referred to in subsections (1) and (2) as well as the additional amounts referred to in section 12(1)(a)(ii) and (2) of the Expropriation Act, 1975, shall not be considered as part of the compensation for the purposes of the determination of an appreciation or a depreciation contribution." .

60. Repeal of sections 42, 43 and 45 of Act 3 of 1966.

Sections 42, 43 and 45 of the Community Development Act, 1966, are hereby repealed.

61. Amendment of section 49 of Act 3 of 1966.

Section 49 of the Community Development Act, 1966, is hereby amended by the deletion of paragraph (d) of subsection (1).

62. Amendment of section 50 of Act 3 of 1966, as substituted by section 14 of Act 42 of 1967.

Section 50 of the Community Development Act, 1966, is hereby amended by the deletion of paragraphs (f), (g) and (h) of subsection (1).

63. Substitution of section 31 of Act 4 of 1966, as amended by section 3 of Act 73 of 1970.

The following section is hereby substituted for section 31 of the Housing Act, 1966:

"31. Acquisition of land for housing purposes.

- (1) Notwithstanding anything to the contrary of land for in any law contained, the Commission may, with the written approval of the Minister, purchase, expropriate or otherwise acquire any land which it requires for the purpose of constructing a dwelling or of carrying out a scheme: Provided that no expropriation shall take place in terms of this section unless the Commission is satisfied that it is unable to purchase such land on reasonable terms and that no other suitable land is available to it and that it is unable to purchase other suitable land on reasonable terms: Provided further that land shall be expropriated within six months after receipt of the relative approval of the Minister or such longer period as the Minister may in writing allow.

(2) The provisions of sections 6 to 23 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of an expropriation of land in terms of subsection (1), and in such application a reference in the said sections of that Act -

(a) to 'Minister' and 'State', shall be construed as a reference to the Commission; and

(b) to 'section 2', shall be construed as a reference to this section."

64. Amendment of section 32 of Act 4 of 1966.

Section 32 of the Housing Act, 1966, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The provisions of section 31(2) shall *mutatis mutandis* apply in respect of any expropriation under subsection (1)(b)."

65. Repeal of sections 35 to 39 of Act 4 of 1966.

Sections 35 to 39 of the Housing Act, 1966, are hereby repealed.

66. Amendment of section 40 of Act 4 of 1966.

Section 40 of the Housing Act, 1966, is hereby amended -

(a) by the substitution for subsection (3) of the following subsection:

"(3) The provisions of section 7(3) and (5) of the Expropriation Act, 1975, shall, subject to the provisions of subsection (4) of this section, *mutatis mutandis* apply in connection with any notice required to be given under subsection (2) of this section."; and

(b) by the addition of the following subsections:

"(4) It shall not be necessary in any notice under subsection (2) to mention the name of the owner, but if his name is not mentioned in the notice, he shall be described therein as the owner of the land in question.

(5) The date of service of a notice referred to in subsection (2) and published in accordance with the provisions of section 7(5) of the Expropriation Act, 1975, shall be the date on which it was published in the *Gazette*."

67. Amendment of section 41 of Act 4 of 1966.

Section 41 of the Housing Act, 1966, is hereby amended -

(a) by the substitution for subsection (1) of the following subsection:

"(1) The Registrar shall note in his register the lapsing, suspension; or modification of any restrictive condition upon the use or occupation of any land which may have lapsed or may have been suspended or modified by virtue of any proclamation issued under section 40."; and

(b) by the deletion of subsection (4).

68. Substitution of section 66 of Act 4 of 1966, as amended by section 9 of Act 73 of 1970.

The following section is hereby substituted for section 66 of the Housing Act, 1966:

“66. Acquisition by local authorities of land for housing purposes, and extinction or modification of restrictions on land.

(1) Notwithstanding anything to the contrary in section 16 of the Bantu (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), or any other law contained, a local authority may, with the written approval of the Minister, purchase, expropriate or otherwise acquire land, whether situated within or outside the area under its jurisdiction, which it requires for the purpose of constructing thereon an approved dwelling or of carrying out thereon an approved scheme: Provided that no expropriation shall take place in terms of this section unless the local authority concerned is satisfied that it is unable to purchase such land on reasonable terms and that no other suitable land is available to it and that it is unable to purchase other suitable land on reasonable terms: Provided further that land shall be expropriated within six months after receipt of the relative approval of the Minister or such longer period as the Minister may in writing allow.

(2) The provisions of sections 31(2), 34, 40 and 41 shall *mutatis mutandis* apply with reference to the expropriation of any land by a local authority in terms of subsection (1) and with reference to land belonging to or to be acquired by a local authority, and for the purpose of such application any reference in the said sections to the Commission or the Secretary shall be deemed to be a reference to the local authority.”.

69. Amendment of section 27 of Act 86 of 1967....repealed

(Section 69 repealed by section 76 and the Schedule of Act 54 of 1976)

70. Amendment of section 29 of Act 86 of 1967.repealed

(Section 70 repealed by section 76 and the Schedule of Act 54 of 1976)

71. Amendment of section 31 of Act 86 of 1967.repealed

(Section 71 repealed by section 76 and the Schedule of Act 54 of 1976)

72. Amendment of section 31A of Act 86 of 1967, as inserted by section 5 of Act 30 of 1973.repealed

(Section 72 repealed by section 76 and the Schedule of Act 54 of 1976)

73. Amendment of section 31C of Act 86 of 1967, as inserted by section 5 of Act 30 of 1973.repealed

(Section 73 repealed by section 76 and the Schedule of Act 54 of 1976)

74. Amendment of section 6 of Act 90 of 1967.

Section 6 of the Atomic Energy Act, 1967, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The provisions of sections 7, 8 and 9 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect or any expropriation under subsection (1).".

75. Repeal of section 13A of Act 90 of 1967, as inserted by section 4 of Act 34 of 1970.

Section 13A of the Atomic Energy Act, 1967, is hereby repealed.

76. Amendment of section 6 of Act 72 of 1968.

Section 6 of the Forest Act, 1968, is hereby amended -

(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:

"(b) to demand that the holding on which such forest is situated shall be expropriated in accordance with the provisions of the Expropriation Act, 1975, as if it were required for public purposes: Provided that no holding shall be expropriated in pursuance of any such demand unless the Land Tenure Board referred to in section 2 of the Land Tenure Act, 1966 (Act No. 32 of 1966), is of the opinion that the operation of section 5(2) will result in a substantial interference with such owner's beneficial occupation of his holding or the rendering of a substantial portion thereof unavailable for the purpose for which such portion was being used at the time of the publication of the relative notice."; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) The amount of damages recoverable under subsection (1)(a) shall, in the absence of agreement, be determined by an appropriate court in terms of section 14 of the

Expropriation Act, 1975, and the provisions of that section and section 15 of that Act shall *mutatis mutandis* apply in the determination of such amount."

77. Amendment of section 37 of Act 40 of 1969.

Section 37 of the University of Fort Hare Act, 1969, is hereby amended by the substitution in subsection (1) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

78. Amendment of section 37 of Act 43 of 1969.

Section 37 of the University of Zululand Act, 1969, is hereby amended by the substitution in subsection (1) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

79. Amendment of section 37 of Act 47 of 1969.

Section 37 of the University of the North Act, 1969, is hereby amended by the substitution in subsection (1) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

80. Amendment of section 37 of Act 49 of 1969.

Section 37 of the University of Durban-Westville Act, 1969, is hereby amended by the substitution in subsection (1) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

81. Amendment of section 37 of Act 50 of 1960.

Section 37 of the University of the Western Cape Act, 1969, is hereby amended by the substitution in subsection (1) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

82. Amendment of section 18 of Act 76 of 1969.

Section 18 of the Soil Conservation Act, 1969, is hereby amended by the substitution in subsection (2) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

83. Amendment of section 1 of Act 96 of 1969.

Section 1 of the Expropriation of Mineral Rights (Townships) Act, 1969, is hereby amended by the substitution for the definition of "owner" of the following definition:

" **'owner'**, in relation to mineral rights, the owner thereof as contemplated in section 1 of the Expropriation Act, "1975;".

84. Amendment of section 2 of Act 96 of 1969.

Section 2 of the Expropriation of Mineral Rights (Townships) Act, 1969, is hereby amended by the substitution for subsection (4) of the following subsection:

- "(4) The provisions of sections 1, 6, 7, 8, 9, 10, 11, 19, 20, 21 and 22 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in relation to any expropriation under subsection (3) as if it were an expropriation of the mineral rights in question for public purposes as contemplated in that Act, and for that purpose –
- (a) any reference in that Act to the Minister of Agriculture shall be construed as a reference to the Administrator;
 - (b) any reference in that Act to the *Gazette* shall be construed as a reference to the *Official Gazette* of the province in question; .
 - (c) any reference in that Act to land shall be construed as a reference to the mineral rights in question or the land in respect of which those rights exist, as the context may require;
 - (d) the reference in section 10(5) of that Act to an application to any court shall be construed as a reference to an application contemplated in section 3(1) of this Act."

85. Amendment of section 3 of Act 96 of 1969.

Section 3 of the Expropriation of Mineral Rights (Townships) Act, 1969, is hereby amended by the substitution for subsection (1) of the following subsection:

- "(1) In the absence of agreement and subject to the provisions of section 10(5) of the Expropriation Act, 1975, as applied by section 2(4) of this Act, the compensation for mineral rights expropriated under the last-mentioned section shall on the application of the owner of those rights be determined by the Administrator in consultation, with the Minister of Community Development and the Minister of Mines after consideration of such written representations or information as may accompany the application or as the Administrator or any of the said Ministers may deem necessary to obtain."

86. Amendment of section 4 of Act 63 of 1970.

Section 4 of the Mountain Catchment Areas Act, 1970, is hereby amended by the substitution for subsection (2) of the following subsection:

- "(2) In the absence of such agreement, the amount to be paid as compensation for actual patrimonial loss suffered by such owner or occupier, shall be determined by an appropriate court in terms of section 14 of the Expropriation Act, 1975, and the provisions of that section

and section 15 of that Act shall apply *mutatis mutandis* in the determination of this amount, and in the application of such provisions a reference to the Minister of Agriculture shall be construed as a reference to the Minister."

87. Amendment of section 7 of Act 54 of 1971.

Section 7 of the National Roads Act, 1971, is hereby amended by the substitution for paragraph (b) of subsection (4) of the following paragraph:

"(b) Any proceedings by virtue of the provisions of paragraph (a) shall be instituted within six months after the cause of action has arisen, and written notice of any such proceedings and of the cause of action shall be given by the plaintiff to the defendant not less than one month before the proceedings are instituted."

88. Substitution of section 8 of Act 54 of 1971.

The following section is hereby substituted for section 8 of the National Roads Act, 1971:

"8. Expropriation of land, material on or in land, and right to use land temporarily.

- (1) The Commission may, subject to an obligation to pay compensation –
- (a) expropriate land for a national road or for works or purposes in connection with a national road, including any access road, the acquisition, mining or treatment of gravel, stone, sand, clay, water or any other material or substance, the accommodation of road building staff and the storage or maintenance of vehicles, machines, equipment, tools, stores or material;
 - (b) take gravel, stone, sand, clay, water or any other material or substance on or in land for the construction of a national road or for works or purposes referred to in paragraph (a);
 - (c) take the right to use land temporarily for any purpose for which the commission may expropriate such land;
 - (d) if any land is or will be divided by a national road in such a manner that in the opinion of the commission, that land or any part of it is or will be useless to its owner, expropriate that land or the part of it in question.
- (2) The provisions of sections 7 to 24 of the Expropriation Act, 1975, shall *mutatis mutandis* apply in respect of the expropriation of property or the taking of property or a right in terms of this section, and in such application any reference in the said sections of that Act

- (i) to 'Minister' and 'State', shall be construed as a reference to the commission;
- (ii) to 'section 2' shall be construed as a reference to this section;
- (iii) to 'this Act' shall be construed as a reference to this Act;
- (iv) to 'land' shall be construed as a reference also to a real right in or over land."

89. Repeal of section 9 of Act 54 of 1971.

Section 9 of the National Roads Act, 1971, is hereby repealed.

90. Amendment of section 10 of Act 54 of 1971.

Section 10 of the National Roads Act, 1971, is hereby amended by the substitution for paragraph (b) of subsection (6) of the following paragraph:

"(b) The provisions of section 7(4)(b) shall *mutatis mutandis* apply in relation to the compensation contemplated in paragraph (a)."

91. Amendment of section 18 of Act 54 of 1971.

Section 18 of the National Roads Act, 1971, is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) The provisions of section 7(4)(b) shall *mutatis mutandis* apply in relation to the compensation contemplated in subsection (1) of this section."

92. Amendment of section 5 of Act 10 of 1975.

Section 5 of the Mineral Laws Supplementary Act, 1975 (Act No. 10 of 1975), is hereby amended by the substitution for subsection (6) of the following subsection:

"(6) The provisions of section 21(2) and (3) of the Expropriation Act, 1975, shall apply *mutatis mutandis* to moneys received by the Master of the Supreme Court in terms of subsection (5)(b) of this section."

93. Amendment of section 6 of Act 10 of 1975.

Section 6 of the Mineral Laws Supplementary Act, 1975 (Act No. 10 of 1975), is hereby amended by the substitution in subsection (2)(a) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

94. Amendment of section 16 of Act 39 of 1975.

Section 16 of the Lake Areas Development Act, 1975, is hereby amended by the substitution in subsection (3) for the expression "1965 (Act No. 55 of 1965)" of the expression "1975".

95. Repeal of laws.

The laws mentioned in the Schedule are hereby repealed to the extent set out in the third column of the Schedule.

96. Pending proceedings.

- (1) Any expropriation commenced by the Minister, or proceedings for the determination of compensation in terms of any law instituted against the Minister, prior to the commencement of this Act, shall be concluded as if this Act had not been passed: Provided that the parties concerned may agree to proceed with such expropriation or proceedings in accordance with the provisions of this Act, in which case in relation to the continuation of such expropriation or proceedings, the relevant provisions of this Act shall apply as if it were a continuation of an expropriation or proceedings for the determination of compensation in terms of this Act.
- (2) For the purposes of subsection (1) "Minister" shall include any other Minister or juristic person authorized by law to acquire property by expropriation.

97. Short title and commencement.

This Act shall be called the Expropriation Act, 1975, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Schedule
Laws Repealed

Number and Year of Law	Short Title	Extent of Repeal
Act No. 47 of 1937	Deeds Registries Act, 1937	Sections 31(8) and 32(6).
Act No. 47 of 1953	Bantu Education Act, 1953	Section 14.
Act No. 61 of 1955	Universities Act, 1955	Section 23 <i>ter</i> .
Act No. 44 of 1957	Defence Act, 1957	Section 78.

Number and Year of Law	Short Title	Extent of Repeal
Act No. 45 of 1959	Extension of University Education Act, 1959	Section 39.
Act No. 74 of 1962	Aviation Act, 1962	Section 6(2).
Act No. 55 of 1965	Expropriation Act, 1965	The whole.
Act No. 32 of 1966	Land Tenure Act, 1966	Section 4(2) and (3).
Act No. 40 of 1967	Advanced Technical Education Act, 1967	Section 23.
Act No. 12 of 1968	Indians Advanced Technical Education Act, 1968	Section 24.
Act No. 43 of 1968	Expropriation Amendment Act, 1968.	The whole.
Act No. 72 of 1968	Forest Act. 1968	Section 4.
Act No. 28 of 1969	National Monuments Act, 1969	Section 14A.
Act No. 85 of 1970	Expropriation Amendment Act, 1970	The whole.
Act No. 53 of 1971	Expropriation Amendment Act, 1971.	The whole.