



Vol. 464

Cape Town,
Kaapstad,

4 February
Februarie 2004

No. 25972

THE PRESIDENCY

No. 112

4 February 2004

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 48 of 2003: Restitution of Land Rights Amendment Act, 2003.

DIE PRESIDENSIE

No. 112

4 Februarie 2004

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 48 van 2003: Wysigingswet op Herstel van Grondregte, 2003.



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[] Words in bold type in square brackets indicate omissions from existing enactments.

 Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 28 January 2004.)

ACT

To amend the Restitution of Land Rights Act, 1994, so as to empower the Minister of Land Affairs to purchase, acquire in any other manner or expropriate land, a portion of land or a right in land for the purpose of the restoration or award of such land, portion of land or right in land to a claimant or for any other related land reform purpose; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 35 of Act 22 of 1994, as amended by section 20 of Act 78 of 1996, section 25 of Act 63 of 1997 and section 9 of Act 18 of 1999

1. Section 35 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) (hereinafter referred to as the principal Act), is hereby amended by the deletion of subsections (5) and (5A).

Amendment of section 42A of Act 22 of 1994, as inserted by section 30 of Act 63 of 1997

2. Section 42A of the principal Act is hereby amended by the substitution for 10 subsection (1) of the following subsection:

“(1) Where, in terms of this Act, **[the Court orders the State to acquire or expropriate] land is acquired or expropriated** in order to restore or award the land to a claimant, **[the claimant shall become owner thereof on the date of such acquisition or expropriation]** such land vests in the State, which must transfer it 15 to the claimant.”.

Amendment of section 42C of Act 22 of 1994, as inserted by section 30 of Act 63 of 1997 and amended by section 4 of Act 61 of 1998 and by section 11 of Act 18 of 1999

3. Section 42C of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 20

“(1) The Minister may from money appropriated by Parliament for this purpose and on such conditions as he or she may determine, grant an advance or a subsidy for the development or management of, or to facilitate the settlement of persons on, land which is the subject of an order of the Court in terms of this Act or an agreement in terms of section 14(3) or 42D or which is expropriated in terms of section 42E, to—

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skappings uit bestaande verordenings aan.

_____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 28 Januarie 2004.)

WET

Tot wysiging van die Wet op Herstel van Grondregte, 1994, ten einde die Minister van Grondsake in staat te stel om grond, 'n gedeelte van grond of 'n reg in grond met die oog op teruggawe of toekenning van sodanige grond, gedeelte van grond of reg in grond aan 'n eiser of vir enige ander verwante grondhervormingsdoel, te koop, op enige ander wyse te verkry of te onteien; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Wysiging van artikel 35 van Wet 22 van 1994, soos gewysig deur artikel 20 van Wet 78 van 1996, artikel 25 van Wet 63 van 1997 en artikel 9 van Wet 18 van 1999

1. Artikel 35 van die Wet op Herstel van Grondregte, 1994 (Wet No. 22 van 1994) (hieronder die Hoofwet genoem), word hierby gewysig deur subartikels (5) en (5A) te skrap. 5

Wysiging van artikel 42A van Wet 22 van 1994, soos ingevoeg deur artikel 30 van Wet 63 van 1997

2. Artikel 42A van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 10

“(1) Waar **[die Hof die Staat]** grond ingevolge hierdie Wet **[glas om grond te]** verkry of **[te]** onteien word ten einde die grond aan **[die]** 'n eiser terug te gee of toe te ken, **[word die eiser eienaar daarvan op die dag van sodanige verkryging of onteiening]** gaan sodanige grond oor op die Staat, wat dit aan die eiser moet oordra.”. 15

Wysiging van artikel 42C van Wet 22 van 1994, soos ingevoeg deur artikel 30 van Wet 63 van 1997 en gewysig deur artikel 4 van Wet 61 van 1998 en deur artikel 11 van Wet 18 van 1999

3. Artikel 42C van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang: 20

“(1) Die Minister kan uit geld wat deur die Parlement vir dié doel bewillig is en onderworpe aan die voorwaardes wat hy of sy bepaal, 'n voorskot of 'n subsidie vir die ontwikkeling of bestuur van, of om die vestiging van persone aan te help op, grond wat die onderwerp is van 'n bevel van die Hof ingevolge hierdie Wet of 'n ooreenkoms ingevolge artikel 14(3) of 42D of wat onteien is ingevolge artikel 42E, toestaan aan— 25

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- (a) any claimant to whom restoration or the award of a right in land has been ordered;
- (b) any claimant who has entered into an agreement contemplated in section 14(3) or 42D;
- (c) any person resettled [as a result of an order of the Court] on such land.”. 5

Amendment of section 42D of Act 22 of 1994, as inserted by section 30 of Act 63 of 1997 and substituted by section 12 of Act 18 of 1999

4. Section 42D of the principal Act is hereby amended by the deletion in subsection (1) of paragraph (d).

Insertion of section 42E in Act 22 of 1994

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5. The following section is hereby inserted in the principal Act after section 42D:

“Acquisition of land, portion of land or right in land for land reform purposes

- 42E.** (1) The Minister may purchase, acquire in any other manner or, consistent with the provisions of section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), expropriate land, a portion of land or a right in land— 15
- (a) in respect of which a claim in terms of this Act has been lodged, for the purpose of—
 - (i) restoring or awarding such land, portion of land or right in land to a claimant who is entitled to restitution of a right in land in terms of section 2; or 20
 - (ii) providing alternative relief as contemplated in section 6(2)(b); and
 - (b) in respect of which no such claim has been lodged but the acquisition of which is directly related to or affected by such claim, and which will promote the achievement of the purpose contemplated in paragraph (a). 25
- (2) The Expropriation Act, 1975 (Act No. 63 of 1975), shall, with the necessary changes, apply to an expropriation under this Act, and any reference to the Minister of Public Works in that Act must be construed as a reference to the Minister for the purpose of such expropriation. 30
- (3) Where the Minister expropriates land, a portion of land or a right in land under this Act, the amount of compensation and the time and manner of payment shall be determined either by agreement or by the Court in accordance with section 25(3) of the Constitution. 35
- (4) The rules of the Court made under section 32 shall govern the procedure of the Court in the determination of compensation in terms of subsection (3).”.

Short title

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6. This Act is called the Restitution of Land Rights Amendment Act, 2003.

- (a) enige eiser aan wie teruggawe of die toekenning van 'n reg in grond gelas is;
- (b) enige eiser wat 'n ooreenkoms in artikel 14(3) of 42D beoog, aangegaan het;
- (c) enige persoon wat [as gevolg van 'n bevel van die Hof] hervestig is op sodanige grond.”. 5

Wysiging van artikel 42D van Wet 22 van 1994, soos ingevoeg deur artikel 30 van Wet 63 van 1997 en vervang deur artikel 12 van Wet 18 van 1999

4. Artikel 42D van die Hoofwet word hierby gewysig deur paragraaf (d) van subartikel (1) te skrap. 10

Invoeging van artikel 42E in Wet 22 van 1994

5. Die volgende artikel word hierby in die Hoofwet na artikel 42D ingevoeg:

“Verkryging van grond, gedeelte van grond of reg in grond vir grondhervormingsdoeleindes

42E. (1) Die Minister kan grond, 'n gedeelte van grond of 'n reg in grond koop, op enige ander wyse verkry of in ooreenstemming met die bepalings van artikel 3 van die “Promotion of Administrative Justice Act, 2000” (Wet No. 3 van 2000), onteien— 15

(a) ten opsigte waarvan 'n eis ingevolge hierdie Wet ingedien is met die oog op— 20

(i) teruggawe of toekenning van sodanige grond, gedeelte van grond of reg in grond aan 'n eiser wat geregtig is op herstel van 'n reg in grond ingevolge artikel 2; of

(ii) verskaffing van alternatiewe regshulp soos in artikel 6(2)(b) beoog; en 25

(b) ten opsigte waarvan geen sodanige eis ingedien is nie maar waarvan die verkryging direk verband hou met of geraak word deur sodanige eis en wat die bereiking van die doel wat in paragraaf (a) beoog word, bevorder.

(2) Die Onteieningswet, 1975 (Wet No. 63 van 1975), is met die nodige veranderinge van toepassing op 'n onteiening kragtens hierdie Wet, en enige verwysing na die Minister van Openbare Werke in daardie Wet moet uitgelê word as 'n verwysing na die Minister vir die doeleindes van sodanige onteiening. 30

(3) Waar die Minister grond, 'n gedeelte van grond of 'n reg in grond kragtens hierdie Wet onteien, word die bedrag van die vergoeding en die tyd en wyse van betaling óf by ooreenkoms óf deur die Hof ooreenkomstig artikel 25(3) van die Grondwet bepaal. 35

(4) Die reëls van die Hof gemaak kragtens artikel 32 moet die prosedure van die Hof by die vasstelling van vergoeding ingevolge subartikel (3) reël.”. 40

Kort titel

6. Hierdie Wet heet die Wysigingswet op Herstel van Grondregte, 2003.

