



REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

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[No. 3846.]

KAAPSTAD, 5 APRIL 1973.

DEPARTMENT OF THE PRIME MINISTER.

DEPARTEMENT VAN DIE EERSTE MINISTER.

No. 567.

5th April, 1973.

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

No. 28 of 1973: Sishen-Saldanha Bay Railway Construction Act, 1973.

No. 567.

5 April 1973.

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

No. 28 van 1973: Sishen-Saldanha-baai-spoorlynaanlegwet, 1973.

Act No. 28, 1973

SISHEN-SALDANHA BAY RAILWAY CONSTRUCTION ACT,
1973.

ACT

To provide for the building of a line of railway between Sishen and Saldanha Bay by the South African Iron and Steel Industrial Corporation, Limited; and to provide for matters incidental thereto.

(English text signed by the State President.)
(Assented to 4th April, 1973.)

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

Definitions.

1. In this Act, unless the context indicates otherwise—
 - (i) “date of expropriation” means the date on which a notice of expropriation is served on the owner or is published in the *Gazette*, as the case may be, and where such notice is both so served and so published, the date on which it is so served; (i)
 - (ii) “immovable property” includes a real right in or over land; (v)
 - (iii) “owner”, in relation to land or a registered right in or over land, means the person in whose name such land or right is registered, and, in relation to property, includes—
 - (a) the executor in the estate of the owner, where the owner is deceased, or the Master having jurisdiction, where there is no executor;
 - (b) the trustee of the insolvent estate of the owner, where the estate of the owner has been sequestrated, or the Master having jurisdiction, where there is no trustee;
 - (c) the liquidator of a company which is being wound up, where that company is the owner of the property;
 - (d) a liquidator or trustee elected or appointed in terms of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), where the property is vested in such liquidator or trustee;
 - (e) the legal representative of the owner of the property, where such owner is otherwise under legal disability; (iii)
 - (iv) “property” includes both movable and immovable property; (iv)
 - (v) “the line of railway” means the line of railway referred to in section 2, and includes any siding, short branch line, deviation, station, building, appurtenance, equipment or any other works or part thereof. (ii)

South African Iron and Steel Industrial Corporation, Limited, may build line of railway between Sishen and Saldanha Bay.

2. (1) (a) The South African Iron and Steel Industrial Corporation, Limited (hereinafter referred to as the Corporation), constituted under the provisions of section 1 of the Iron and Steel Industry Act, 1928 (Act No. 11 of 1928), may, under the powers conferred on it by section 2 (2) (b) of that Act, build, in accordance with the provisions of this Act, a line of railway

SISHEN-SALDANHABAAL-SPOORLYNANLEGWET,
1973.

Wet No. 28, 1973

WET

Om voorsiening te maak vir die aanlê van 'n spoorlyn tussen Sishen en Saldanhabaai deur die Suid-Afrikaanse Yster en Staal Industriële Korporasie Beperk; en om vir bykomstige aangeleenthede voorsiening te maak.

(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 4 April 1973.)

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. In hierdie Wet, tensy uit die samehang anders blyk, **Woordbepaling.** beteken—

- (i) „datum van onteining” die datum waarop 'n kennisgewing van onteining aan die eienaar beteken of in die *Staatskoerant* gepubliseer word, na gelang van die geval, en waar so 'n kennisgewing sowel aldus beteken as aldus gepubliseer word, die datum waarop dit aldus beteken word; (i)
- (ii) „die spoorlyn” die in artikel 2 bedoelde spoorlyn, en ook 'n sylyn, kort taklyn, verlegging, stasie, gebou en enige toebehoorsel, toerusting of ander werke of deel daarvan; (v)
- (iii) „eienaar”, met betrekking tot grond of 'n geregiſtreerde reg in of oor grond, die persoon op wie se naam die grond of reg geregiſtreer is, en ook, met betrekking tot goed—
 - (a) die eksekuteur van die boedel van die eienaar, waar die eienaar oorlede is, of die Meeste wat regsbevoegdheid het, waar daar nie 'n eksekuteur is nie;
 - (b) die kurator van die insolvente boedel van die eienaar, waar die boedel van die eienaar gese-kwestreer is, of die Meeste wat regsbevoegdheid het, waar daar nie 'n kurator is nie;
 - (c) die likwidateur van 'n maatskappy wat gelikwi-deer word, waar daardie maatskappy die eienaar van die goed is;
 - (d) 'n beredderaar of kurator ingevolge die Wet op Landboukrediet, 1966 (Wet No. 28 van 1966), gekies of aangestel, waar die goed op so 'n beredderaar of kurator oorgegaan het;
 - (e) die regsverteenwoordiger van die eienaar van die goed, waar die handelingsbevoegdheid van so 'n eienaar andersins beperk is; (iii)
- (iv) „goed” ook roerende sowel as onroerende goed; (iv)
- (v) „onroerende goed” ook 'n saaklike reg in of oor grond. (ii)

2. (1) (a) Die Suid-Afrikaanse Yster en Staal Industriële Korporasie Beperk (hierna die Korporasie genoem), wat ingevolge die bepalings van artikel 1 van die Yster- en Staalnywerheid Wet, 1928 (Wet No. 11 van 1928), gestig is, kan, kragtens die bevoegdhede wat by artikel 2 (2) (b) van daardie Wet aan hom verleen is, 'n spoorlyn van 'n spoorwydte van eenduisend vyf-en-

Suid-Afrikaanse
Yster en Staal
Industriële
Korporasie Beperk
kan spoorlyn
tussen Sishen en
Saldanhabaai
aanlê.

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upon a gauge of one thousand and sixty-five millimetres over an approximate distance of eight hundred and eighty kilometres between Sishen in the district of Postmasburg, and Saldanha Bay in the district of Vredenburg.

(b) The line of railway shall not be used for the conveyance of public traffic.

(2) The Corporation shall, in addition to the powers conferred on it by the said section 2 (2) (b) with regard to a railway, have the power—

(a) to build such stations and erect such buildings and provide such works, appurtenances and equipment as may be necessary for the proper operation and development of the line of railway;

(b) to build sidings and short branch lines of the line of railway to any mine, store, warehouse or other works or premises of the Corporation;

(c) at any time to make any deviation from the route of the line of railway if the deviation is considered necessary for the better alignment or the more effective working of the line of railway;

(d) to double or further multiply the tracks of the line of railway, whether over any part or the whole thereof.

(3) The Corporation may form a company to build the line of railway or to assist it with the building or any aspect thereof or to exercise on behalf of the Corporation any power conferred by this Act on the Corporation.

Additional powers
of Corporation.

3. (1) The Corporation shall, in addition to any power conferred on it under section 2 (2) (a) of the Iron and Steel Industry Act, 1928, to purchase, take on lease or in exchange, hire or otherwise acquire, with reference to a railway, any matter referred to in that section, have the power to expropriate, in accordance with the provisions of this Act, any such matter in so far as the acquisition thereof is intended for the purposes of the line of railway: Provided that where land is expropriated, the land shall not exceed forty metres in width for the building of the line of railway, together with such additional land as may be required for the slopes, curves, cuts, fills, drainage, stations, signalling, communication equipment, passing loops, approach roads and other works and matters which may be necessary for the purposes of the line of railway: Provided further that the Corporation may not expropriate any right which is vested in the Railways Administration or in the State in its Railways Administration.

(2) The Corporation may for the purposes of constructing, maintaining, altering or repairing the line of railway—

(a) construct, lay or make in, upon, across, under or over any land, street, road, railway, river, canal, stream or other waters, or any pipe, culvert, bridge, sewer or underground or overhead cable or wire, such arches, tunnels, culverts, embankments, aqueducts, bridges, roads, lines of railway, passages, conduits, pipes, drains, piers, cuts and fences as it may consider necessary;

(b) alter the course of any river, canal, stream or watercourse for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter either temporarily or permanently the course of any river, canal, stream or watercourse, or any street, road or way, or raise or sink the level thereof, in order the more conveniently to carry them over, under or along the line of railway;

(c) make, alter or repair drains and conduits into, through or under any land for the purpose of conveying water from or to the line of railway;

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sestig millimeter oor 'n afstand by benadering van agthonderd-en-tagtig kilometer tussen Sishen in die distrik Postmasburg, en Saldanhabaai in die distrik Vredenburg, ooreenkomstig die bepalings van hierdie Wet aanlê.

(b) Die spoorlyn word nie vir die vervoer van openbare verkeer gebruik nie.

(2) Die Korporasie beskik, benewens die bevoegdhede wat by bedoelde artikel 2 (2) (b) met betrekking tot 'n spoorweg aan hom verleen is, oor die bevoegdheid—

(a) om die stasies te bou en die geboue op te rig en die werke, toebehore en toerusting te voorsien wat vir die behoorlike werking en ontwikkeling van die spoorlyn nodig is;

(b) om sylyne en kort taklyne van die spoorlyn na 'n myn, magasyn, pakhuis of enige ander werke of persele van die Korporasie aan te lê;

(c) om te eniger tyd 'n verlegging van die roete van die spoorlyn aan te bring as die verlegging vir die beter belyning of die doeltreffender werking van die spoorlyn nodig geag word;

(d) om die spore van die spoorlyn te verdubbel of verder te vermenigvuldig, hetsy oor 'n gedeelte of die geheel daarvan.

(3) Die Korporasie kan 'n maatskappy oprig om die spoorlyn aan te lê of om hom met die aanlê of enige aspek daarvan behulpsaam te wees of om 'n bevoegdheid wat by hierdie Wet aan die Korporasie verleen word, ten behoeve van die Korporasie uit te oefen.

3. (1) Die Korporasie beskik, benewens 'n bevoegdheid wat by artikel 2 (2) (a) van die Yster- en Staalnywerheid Wet, 1928, aan hom verleen is om met betrekking tot 'n spoorweg 'n in daardie artikel bedoelde saak te koop, op huurkontrak of in ruil te neem, te huur of op 'n ander wyse te verkry, oor die bevoegdheid om so 'n saak ooreenkomstig die bepalings van hierdie Wet te onteien vir sover die verkryging daarvan vir die doeleindes van die spoorlyn bestem is: Met dien verstande dat waar grond onteien word, die grond nie veertig meter in die breedte vir die aanlê van die spoorlyn, tesame met die bykomende grond wat nodig is vir die hellings, draaie, deurgrawings, opvullings, dreinerings, stasies, sinjalering, kommunikasietoerusting, verbygangslusse, toegangspaaie en ander werke en sake wat vir die doeleindes van die spoorlyn nodig is, te bowe gaan nie: Met dien verstande voorts dat die Korporasie nie 'n reg onteien wat in die Spoorwegadministrasie of in die Staat in sy Spoorwegadministrasie gevestig is nie.

Bykomende bevoegdhede van Korporasie.

(2) Die Korporasie kan vir die doeleindes van die aanleg, instandhouding, verandering of herstel van die spoorlyn—

(a) die gewelwe, tunnels, duikslote, walle, waterleidings, brûe, paaie, spoorlyne, deurgange, leikanale, pype, afvoerslote, piers, deurgrawings en heinings wat hy nodig ag, in, op, oor, onder of bo-oor grond of 'n straat, pad, spoorweg, rivier, kanaal, stroom of ander waters, of 'n pyp, duikslot, brug, riool of onder- of bogrondse kabel of draad, bou, aanlê of maak;

(b) die loop van 'n rivier, kanaal, stroom of waterloop verander ten einde tunnels, brûe, deurgange of ander werke oor of onder hulle te bou en in stand te hou, en die loop van 'n rivier, kanaal, stroom of waterloop, of 'n straat, pad of weg, hetsy tydelik of permanent, verlê of verander, of die vlak daarvan verhoog of laat sak, ten einde hulle meer gerieflik oor, onder of langs die spoorlyn te laat loop;

(c) af- of toevoerslote en leikanale in, deur of onder grond maak, verander of herstel, ten einde water van of na die spoorlyn te vervoer;

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- (d) erect, construct, alter, repair or demolish such buildings, structures, machinery, plant, apparatus or other works and conveniences as it may consider necessary;
- (e) take, carry away and use earth, stone, sand, timber, gravel or other material from or out of land adjoining or contiguous to the line of railway or other works;
- (f) sink wells and construct dams and other works necessary for providing a water supply;
- (g) do such other acts as are necessary or desirable for achieving that purpose.

Access to land for
exploratory
purposes.

4. For the purposes of ascertaining whether any land or right which may be required by the Corporation for the construction or deviation of the line of railway or any works connected therewith or any activity incidental thereto, is suitable for the purpose contemplated, any person expressly authorized thereto by the Corporation may—

- (a) enter upon the land with the necessary workmen, equipment and vehicles;
- (b) survey and take levels of the land;
- (c) dig or bore on or into the land;
- (d) construct and maintain a measuring weir in any river or stream;
- (e) demarcate the boundaries of land which may be required for the said purposes;
- (f) in so far as it may be necessary to gain access to the land, enter upon and go across any other land with the necessary workmen, equipment and vehicles;
- (g) do any other act reasonably necessary to achieve any object of the investigation:

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 a building unless he has given the owner or occupier at least twenty-four hours' notice of his intention to do so.

Procedure to be
followed in
connection with
expropriation or
the taking of any
matter.

5. (1) (a) Whenever the Corporation proposes to expropriate or take any matter which it is empowered to expropriate or take under this Act, it shall cause a notice to be served on the owner and, in the case of property, on every person to whom the property has been hypothecated, setting forth clearly and fully the matter which is being expropriated or taken and requiring the said owner to state the amount, if any, claimed by him as compensation for the matter or for damage alleged to have been sustained by him in consequence of the expropriation or the taking, or stating the amount offered as compensation for the matter.
- (b) The notice may be served either by personal delivery or by registered post, and where it is served by personal delivery it shall be deemed to have been properly served if a true copy thereof has been handed to the owner or other person concerned after the original thereof has been exhibited to him.
- (2) If the whereabouts of the owner or other person referred to in subsection (1) cannot readily be ascertained, or if the corporation is satisfied that service of a notice under subsection (1) is not practicable by reason of the number of owners or other persons involved, or if, in the case of property, the property is subject to a *fideicommissum* and it is not known to the Corporation who all the fideicommissaries are or will be, the Corporation shall cause to be published once in the *Gazette* and once a week during two consecutive weeks in a newspaper circulating in the district in which the matter with reference to which the expropriation applies, is or is situated, a notice complying with the provisions of subsection (1).

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- (d) die geboue, bouwerke, masjinerie, toerusting, apparaat of ander werke en geriewe wat hy nodig ag, oprig, bou, verander, herstel of afbreek;
- (e) grond, klip, sand, hout, gruis of ander materiaal op of uit grond wat aan die spoorlyn of ander werke grens of in die nabyheid daarvan geleë is, neem, verwyder en gebruik;
- (f) putte grawe en damme en ander werke bou wat vir die voorsiening van 'n watervoorraad nodig is;
- (g) die ander handelinge verrig wat vir die verwesenliking van daardie doel nodig of wenslik is.

4. Ten einde vas te stel of grond of 'n reg wat die Korporasie nodig het vir die aanleg of verlegging van die spoorlyn of enige werke daaraan verbonde of 'n bedrywigheid bykomstig daarby, vir die beoogde doel geskik is, kan iemand wat deur die Korporasie uitdruklik daartoe gemagtig is—

Toegang tot
grond vir
doeleindes van
ondersoek.

- (a) die grond met die nodige werksmense, toerusting en voertuie betree;
- (b) die grond opmeet en die hoogtes daarvan bepaal;
- (c) op of in die grond grawe of boor;
- (d) 'n meetdam in 'n rivier of stroom bou en in stand hou;
- (e) die grense afbaken van grond wat vir genoemde doeleindes nodig mag wees;
- (f) vir sover dit nodig is om toegang tot die grond te verkry, ander grond met die nodige werksmense, toerusting en voertuie betree en daaroor gaan;
- (g) enige ander handeling verrig wat redelikerwys nodig is om die doel van die ondersoek te verwesenlik.

Met dien verstande dat so iemand nie sonder die toestemming van die eienaar of bewoner 'n gebou mag binnegaan of 'n afgekapte werf of tuin aan 'n gebou verbonde, mag betree nie, tensy hy die eienaar of bewoner minstens vier-en-twintig uur kennis gegee het van sy voorneme om dit te doen.

5. (1) (a) Wanneer die Korporasie voornemens is om 'n saak te oteien of te neem wat hy ingevolge hierdie Wet gemagtig word om te oteien of te neem, laat hy 'n kennisgewing beteken aan die eienaar en, in die geval van goed, aan elke persoon aan wie die goed verhipotekeer is, en so 'n kennisgewing gee 'n duidelike en volledige uiteensetting van die saak wat oteien of geneem word en sê bedoelde eienaar aan om die bedrag, as daar is, te meld wat hy as vergoeding eis vir die saak of vir skade wat hy na bewering as gevolg van die oteiening of die neem gely het, of vermeld die bedrag wat as vergoeding vir die saak aangebied word.
- (b) Die kennisgewing word of deur persoonlike lewering of per aangetekende pos beteken, en waar dit deur persoonlike lewering beteken word, word dit geag behoorlik beteken te gewees het indien 'n ware afskrif daarvan aan die eienaar of die ander betrokke persoon oorhandig is nadat die oorspronklike daarvan aan hom getoon is.

Prosedure wat in
verband met
onteiening of neem
van 'n saak gevolg
moet word.

(2) Indien die verblyfplek van die eienaar of die in subartikel (1) bedoelde ander persoon nie gereedlik vasgestel kan word nie, of indien die Korporasie oortuig is dat betekening van 'n kennisgewing ingevolge subartikel (1) nie doenlik is nie vanweë die getal eienaars of ander persone wat betrokke is, of indien, in die geval van goed, die goed aan 'n fideikommis onderhewig is en dit nie aan die Korporasie bekend is wie almal fideikommisêre erfgename is of sal wees nie, laat die Korporasie een maal in die *Staatskoerant* en een maal per week vir twee agtereenvolgende weke in 'n nuusblad wat in omloop is in die distrik waarin die saak is of geleë is met betrekking waartoe die oteiening van toepassing is, 'n kennisgewing publiseer wat aan die bepalings van subartikel (1) voldoen.

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(3) The notice under subsection (1) shall be signed by the Managing Director or a Divisional General Manager of the Corporation or an official of the Corporation expressly designated for the purpose by the said Managing Director or Divisional General Manager.

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

6. (1) The ownership in any matter described in a notice referred to in section 5 shall vest in the Corporation on the date of expropriation, released from all mortgage bonds, if any, but if such matter is land, it shall remain subject to any registered servitude or other registered real right, excluding any mortgage bond, in favour of third parties which attached to it immediately prior to the date of expropriation, until such servitude or other real right has expressly been expropriated from the owner thereof in accordance with the provisions of section 5.

(2) Notwithstanding the vesting of ownership in the Corporation under subsection (1), the Corporation shall not be entitled to enter upon, take possession of or use immovable property before the expiration of a period of sixty days with effect from the date of expropriation: Provided that if the immovable property which is to be or has been expropriated is urgently required by the Corporation, it shall be competent for the Corporation, except where the property is a building which is actually occupied for residential purposes, to obtain the right forthwith to enter upon, take possession of or use the property—

- (a) by incorporating a notification to that effect in the notice of expropriation; or
- (b) by serving a notification to that effect on the owner by personal delivery or registered post subsequent to the date of expropriation; or
- (c) where the notice of expropriation is published in the manner provided for in section 5 (2), by incorporating a notification to that effect in such notice or by subsequently publishing such a notification in one issue of a newspaper circulating in the district in which the property is situated.

Assessment of
compensation.

7. (1) Subject to the succeeding provisions of this section, compensation shall be paid by the Corporation for or in respect of any matter expropriated or taken by it, or for or in respect of any right or interest in or over land which has been injuriously affected, or any other loss or damage sustained, by reason of the expropriation or the taking or the exercising of any other power conferred by this Act.

(2) The compensation shall, in the case of property, not exceed the amount which the property in question would have realized if sold in the open market by a willing seller to a willing buyer on the date of expropriation: Provided that where the property expropriated consists of a portion only of land held by the owner in one block, whether or not it is held under one title, and the value of the portion expropriated, determined as aforesaid, is less than the difference between the value of the owner's land as it was immediately prior to the expropriation and the value of the remaining land immediately after the expropriation (such values to be determined as aforesaid), the compensation payable may be equal to the amount of such difference.

- (3) (a) Where property which has been expropriated was encumbered by a registered mortgage bond immediately prior to the expropriation, the Corporation shall not pay out any portion of the compensation money except to such person and on such terms as may

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(3) Die kennisgewing ingevolge subartikel (1) word onder-
teken deur die Besturende Direkteur of 'n Afdelingshoof-
bestuurder van die Korporasie of 'n beampte van die Kor-
porasie wat uitdruklik deur bedoelde Besturende Direkteur of
Afdelingshoofbestuurder vir die doel aangewys is.

6. (1) Die eiendomsreg in 'n saak wat in 'n in artikel 5 bedoelde kennisgewing beskryf word, gaan op die datum van oorgang van
onteiening op die Korporasie oor, bevry van alle verbande, as eiendomsreg in
daar is, maar as bedoelde saak grond is, bly dit aan 'n geregi- onteiene saak en
streerde serwituut of ander geregistreerde saaklike reg, uit- uitoefening van
gesonderd 'n verband, ten gunste van derde partye waarmee dit reg om goed te
onmiddellik voor die datum van onteiening beswaar was, gebruik.
onderhewig totdat bedoelde serwituut of ander saaklike reg
uitdruklik van die eienaar daarvan ooreenkomstig die bepalings
van artikel 5 onteien is.

(2) Nieteenstaande dat eiendomsreg ingevolge subartikel (1)
op die Korporasie oorgaan, is die Korporasie nie geregtig om
onroerende goed voor die verstryking van 'n tydperk van sestig
dae met ingang van die datum van onteiening te betree, in besit
te neem of te gebruik nie: Met dien verstande dat as die on-
roerende goed wat onteien word of is, dringend deur die Kor-
porasie benodig is, die Korporasie bevoeg is, behalwe waar die
goed 'n gebou is wat werklik vir verblyfdoeleindes bewoon
word, om die reg te verkry om onverwyld die goed te betree, in
besit te neem of te gebruik—

- (a) deur 'n kennisgewing met daardie strekking by die
kennisgewing van onteiening in te lyf; of
- (b) deur na die datum van onteiening 'n kennisgewing
met daardie strekking aan die eienaar by wyse van
persoonlike lewering of per aangetekende pos te
beteken; of
- (c) waar die kennisgewing van onteiening op die in
artikel 5 (2) bepaalde wyse gepubliseer word, deur
'n kennisgewing met daardie strekking by bedoelde
kennisgewing in te lyf of deur so 'n kennisgewing
daarna te publiseer in een uitgawe van 'n koerant
wat in omloop is in die distrik waarin die goed geleë
is.

7. (1) Behoudens die hieropvolgende bepalings van hierdie Vastelling van
artikel, word vergoeding deur die Korporasie betaal vir of ten vergoeding.
opsigte van 'n saak wat deur hom onteien of geneem is, of vir
of ten opsigte van 'n reg of belang in of oor grond wat nadelig
geraak is, of enige ander verlies of skade wat gelyk is, ten gevolge
van die onteiening of die neem of die uitoefening van 'n ander
bevoegdheid wat deur hierdie Wet verleen word.

(2) Die vergoeding gaan, in die geval van goed, nie die bedrag
te bowe wat die betrokke goed sou behaal het as dit op die
datum van onteiening op die ope mark deur 'n gewillige ver-
koper aan 'n gewillige koper verkoop was nie: Met dien ver-
stande dat waar die onteiene goed bestaan uit slegs 'n gedeelte
van grond wat deur die eienaar in een blok besit word, hetsy
dit kragtens een titelbewys besit word al dan nie, en die waarde
van die onteiene gedeelte, soos voormeld vasgestel, minder is
as die verskil tussen die waarde van die eienaar se grond soos
dit onmiddellik voor die onteiening was en die waarde van die
oorblywende grond onmiddellik na die onteiening (sodanige
waardes soos voormeld vasgestel te word), die vergoeding wat
betaalbaar is gelyk kan wees aan die bedrag van sodanige
verskil.

(3) (a) Wanneer goed wat onteien is, onmiddellik vóór die
onteiening met 'n geregistreerde verband beswaar was,
betaal die Korporasie geen gedeelte van die ver-
goedingsgeld uit nie behalwe aan die persoon en op die

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have been agreed upon between the owner and the mortgagee and notified by them in writing to the Corporation.

(b) If agreement in terms of paragraph (a) cannot be reached between the owner and the mortgagee, the Corporation may, on notice to the owner and the mortgagee, apply to the court which would in terms of section 9 (1) have been competent to determine any dispute with regard to the compensation to be paid by the Corporation in respect of the property, for directions as to the disposal of the compensation money, and the court may make such order on the application as it deems fit.

(c) The court shall order the costs incurred by the Corporation in connection with such application to be paid by either of the respondents, or by them jointly in such proportions as the court may think proper, and any amount thus becoming payable by the owner or the mortgagee shall form a first charge against any portion of the compensation money which, in terms of the court's order, is to be paid to him.

(4) In the determination of the amount of the compensation payable by the Corporation in terms of subsection (1), the following rules shall apply in so far as they may be relevant to the particular matter being dealt with:—

(a) No allowance shall be made on account of the owner having been deprived of the matter without his consent;

(b) the special suitability or usefulness of the matter for the purpose for which it is required by the Corporation shall not be taken into account if it is unlikely that the matter would have been purchased for that purpose in the open market;

(c) no allowance shall be made for indirect damage or for or in respect of anything done with the object of obtaining compensation therefor, except where improvements have been effected on or to property involved in order properly to maintain existing improvements or where such improvements have been undertaken in terms of an obligation incurred prior to the date of expropriation;

(d) any enhancement, before or after the date of expropriation, in the value of the matter in question, which may be due to the purpose for which or in connection with which the matter is being expropriated or is to be used, or which is a consequence of any work or act which the Corporation may carry out or perform or intends to carry out or perform in connection with such purpose, shall not be taken into account;

(e) account shall be taken of—

(i) the cost of any works which the Corporation may have constructed or undertaken to construct for the benefit of the person claiming compensation, with a view to mitigating his damage;

(ii) any benefit which will, in consequence of the expropriation or the taking of the matter or the use thereof for the purpose for which it was expropriated or taken by the Corporation, enure to the person claiming compensation.

Parts of buildings
and useless
severed areas
of land.

8. (1) No person shall be compelled by the Corporation to part with only a portion of any house or other building belonging to him if he is able and willing to part with the whole of such house or building, unless in the opinion of the court assessing the compensation such portion can be severed from the whole without material damage thereto.

(2) If, by reason of the construction of the line of railway, or other works in connection therewith, across or on any land

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voorwaardes waarop tussen die eienaar en die verbandhouer ooreengekom en deur hulle skriftelik aan die Korporasie meegedeel is.

- (b) Indien die eienaar en die verbandhouer nie ingevolge paragraaf (a) met mekaar kan ooreenkom nie, kan die Korporasie, na kennisgewing aan die eienaar en die verbandhouer, aansoek doen by die hof wat ingevolge artikel 9 (1) bevoeg sou gewees het om 'n geskil met betrekking tot die vergoeding deur die Korporasie ten opsigte van die goed betaalbaar, te besleg, om 'n opdrag omtrent hoe daar oor die vergoedingsgeld beskik moet word, en die hof kan aan die hand van die aansoek die bevel gee wat hy goedvind.

- (c) Die hof moet beveel dat die koste wat deur die Korporasie in verband met die aansoek aangegaan is, betaal word deur die een of die ander van die respondente, of deur hulle gesamentlik in sulke gedeeltes as wat die hof goeddink, en 'n bedrag wat aldus deur die eienaar of die verbandhouer betaalbaar word, maak 'n preferente vordering uit teen enige gedeelte van die vergoedingsgeld wat ingevolge die bevel van die hof aan hom betaal moet word.

(4) By die vasstelling van die bedrag van die vergoeding wat ingevolge subartikel (1) deur die Korporasie betaalbaar is, is die volgende voorskrifte van toepassing vir sover hulle ter sake is by die bepaalde aangeleentheid waarmee gehandel word:—

- (a) Dit word buite rekening gelaat dat die saak die eienaar sonder sy toestemming ontnem is;
- (b) die besondere geskiktheid of bruikbaarheid van die saak vir die doel waarvoor die Korporasie dit nodig het, word buite rekening gelaat as dit onwaarskynlik is dat die goed vir daardie doel op die ope mark gekoop sou geword het;
- (c) geen bedrag word toegelaat vir onregstreekse skade of vir of ten opsigte van enigiets wat gedoen is met die oogmerk om vergoeding daarvoor te verkry nie, behalwe waar verbeterings aangebring is op of aan die betrokke goed om bestaande verbeterings behoorlik in stand te hou of waar sodanige verbeterings onderneem is ingevolge 'n verpligting wat vóór die datum van onteining aangegaan is;
- (d) 'n verhoging vóór of ná die datum van onteining in die waarde van die betrokke saak wat toegeskryf kan word aan die doel waarvoor of in verband waarmee die saak onteien of gebruik gaan word, of wat 'n gevolg is van werk of 'n handeling wat die Korporasie in verband met sodanige doel uitvoer of verrig of voornemens is om uit te voer of te verrig, word nie in aanmerking geneem nie;
- (e) rekening word gehou met—
- (i) die koste van enige werke wat die Korporasie gebou het of onderneem het om te bou ten bate van die persoon wat vergoeding eis, met die oog op vermindering van sy skade;
- (ii) 'n voordeel wat ten gevolge van die onteining of die neem van die saak of die gebruik daarvan vir die doel waarvoor dit deur die Korporasie onteien of geneem is, die persoon toekom wat vergoeding eis.

8. (1) Niemand word deur die Korporasie verplig om afstand te doen van slegs 'n gedeelte van 'n huis of ander gebou wat aan hom behoort nie, indien hy in staat en bereid is om van die geheel van sodanige huis of gebou afstand te doen, tensy so 'n gedeelte na die oordeel van die hof wat die vergoeding bepaal, sonder wesenslike skade daaraan van die geheel geskei kan word.

Gedeeltes van geboue en nuttelose afgesnyde stukke grond.

(2) Indien uit hoofde van die bou van die spoorlyn, of ander werke in verband daarmee, oor of op grond, daardie grond so

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that land is or will be so cut through and divided as to leave, either on both sides or on one side of the line of railway or such other works, a piece of land smaller in extent than five hectares, to which the owner does or will not have reasonable access for the purposes for which the land is normally used, the Corporation shall be obliged, if required thereto by the owner of such piece or pieces of land, to acquire such piece or pieces along with the other land required.

Dispute as to
compensation to be
determined by
court.

9. (1) Should any dispute arise as to the amount of compensation to be paid by the Corporation under section 7, such dispute shall be determined by action to be instituted by the person claiming compensation, if the amount claimed is less than two thousand rand, in the magistrate's court for the district in which the matter in question is or is situated, or if the amount claimed is two thousand rand or more, in the division of the Supreme Court within whose area of jurisdiction the matter in question is or is situated.

(2) In proceedings in terms of subsection (1) the magistrate or judge, as the case may be, 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.

(3) Any such assessor shall receive remuneration at the rate applicable in respect of assessors in a magistrate's court or a superior court, as the case may be.

(4) (a) Proceedings in terms of subsection (1) shall be instituted and conducted by way of action.

(b) The law of procedure applicable in civil proceedings in the court in which the said proceedings are conducted shall, subject to the provisions of this Act, *mutatis mutandis* apply in respect of such proceedings, and any award of compensation shall be regarded as if it were a civil judgment of that court.

Order as to costs.

10. (1) Where the compensation awarded by the court—

- (a) is equal to or exceeds the amount last claimed by the plaintiff before the commencement of the proceedings, costs shall be awarded against the Corporation;
- (b) is equal to or less than the amount last offered by the Corporation before the commencement of the proceedings, costs shall be awarded against the plaintiff;
- (c) is less than the amount last claimed by the plaintiff but exceeds the amount last offered by the Corporation, no order as to costs shall be made.

(2) Costs in any proceedings in terms of section 9 shall be calculated in accordance with the table of costs applicable in the court in question.

(3) The liability of the plaintiff for costs and taxation fees shall be a first charge against the money to be paid to him pursuant to the judgment of the court, and that money shall be applied as far as may be necessary towards the payment of those costs and fees.

Payment of
compensation
money to Master,
and retention
thereof by
Corporation in
certain cases.

11. (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, the Corporation may pay the amount of the compensation payable in terms of this Act to the Master of the Supreme Court appointed for the area in which the property is or is situated, and after such payment the Corporation shall cease to be liable in respect of that amount.

(2) Any moneys received by a 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

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deursny en verdeel is of sal word dat daar aan weerskante of aan een kant van die spoorlyn of ander werke 'n stuk grond minder as vyf hektaar groot gelaat word waartoe die eienaar nie redelike toegang het of sal hê vir die doeleindes waarvoor die grond normaalweg gebruik word nie, is die Korporasie verplig, indien die eienaar van sodanige stuk of stukke grond dit van hom vereis, om daardie stuk of stukke grond te verkry saam met die ander grond wat benodig is.

9. (1) Indien daar 'n geskil ontstaan oor die bedrag van die vergoeding wat deur die Korporasie ingevolge artikel 7 betaal moet word, word sodanige geskil besleg in 'n regsgeeding wat deur die persoon wat vergoeding eis, ingestel word in die landdroshof van die distrik waarin die betrokke saak is of geleë is as die bedrag wat geëis word minder as tweeduisend rand is, of in die afdeling van die Hooggeregshof binne wie se regsgebied die betrokke saak is of geleë is, as die bedrag wat geëis word tweeduisend rand of meer bedra.

Geskil oor vergoeding word deur hof besleg.

(2) In verrigtinge ingevolge subartikel (1) kan die landdros of regter, na gelang van die geval, die hulp inroep van hoogstens twee persone wat in die saak kundig en ervare is en bereid is om as assessore in 'n raadgewende hoedanigheid te sit.

(3) So 'n assessor ontvang vergoeding teen die skaal van toepassing ten opsigte van assessore in 'n landdroshof of 'n hoër hof, na gelang van die geval.

(4) (a) 'n Geding ingevolge subartikel (1) word by wyse van aksie ingestel en gevoer.

(b) Die prosesreg wat geld in siviele gedinge in die hof waarin bedoelde geding gevoer word, geld *mutatis mutandis* en behoudens die bepalinge van hierdie Wet ten opsigte van so 'n geding, en 'n toekenning van vergoeding word beskou asof dit 'n siviele vonnis van daardie hof was.

10. (1) Waar die vergoeding deur die hof toegeken—

Bevel insake koste.

(a) gelyk is aan of meer is as die bedrag wat die eiser laas vóór die aanvang van die geding geëis het, word koste teen die Korporasie toegeken;

(b) gelyk is aan of minder is as die bedrag wat die Korporasie laas vóór die aanvang van die geding aangebied het, word koste teen die eiser toegeken;

(c) minder is as die bedrag wat laas deur die eiser geëis is maar meer is as die bedrag wat laas deur die Korporasie aangebied is, word geen bevel betreffende koste gegee nie.

(2) Koste in 'n geding ingevolge artikel 9 word bereken volgens die tabel van koste van toepassing in die betrokke hof.

(3) Die aanspreeklikheid van die eiser vir koste en taksasie-gelde is 'n preferente vordering teen die geld wat ingevolge die hofvonnis aan hom betaal moet word, en daardie geld word vir sover nodig ter vereffening van bedoelde koste en gelde aangewend.

11. (1) Indien goed wat kragtens hierdie Wet onteien is, met 'n fideikommis belas was, of indien vergoeding ingevolge hierdie Wet betaalbaar is aan iemand wie se verblyfplek onbekend is, kan die Korporasie die bedrag van die vergoeding wat ingevolge hierdie Wet betaalbaar is, inbetaal by die Meester van die Hooggeregshof wat aangestel is vir die gebied waarin die goed is of geleë is, en na so 'n inbetaling is die Korporasie nie verder ten opsigte van daardie bedrag aanspreeklik nie.

Inbetaling van vergoedingsgeld by Meester, en terughouding daarvan deur Korporasie in sekere gevalle.

(2) Geld wat ingevolge subartikel (1) deur 'n Meester ontvang word—

(a) is, indien die betrokke goed met 'n fideikommis belas was, *mutatis mutandis* onderworpe aan al die bepalinge en voorwaardes wat vervat is in die testament of ander geskrif waardeur dié fideikommis geskep is; en

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- (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 such moneys.

(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, the Corporation shall retain the amount of such compensation until the dispute has been settled or the doubt has been resolved.

Noting of
expropriation of
land on title deeds,
and transfer of
ownership of
expropriated land.

12. (1) (a) Whenever any immovable property has been expropriated in terms of this Act, the Corporation shall, if the expropriated property is land, immediately after the expropriation, and may, if the expropriated property is a servitude or other real right in or over land, at any time after the expropriation, lodge with the registrar in charge of the appropriate deeds registry a certified copy of the notice of expropriation and two copies of the relevant expropriation plan of the land, servitude or other right in question.

(b) The registrar shall thereupon cause a note of the expropriation to be made in his register against the land affected, and an endorsement on the office copy of the title deed, and if at any time the original of the title deed is lodged in his registry for any purpose he shall cause a similar endorsement to be made thereon, and a copy of the expropriation plan shall be annexed thereto.

(c) Except when the entire extent of a piece of land recognized as a separate entity in a deeds registry has been expropriated, the existence of such an endorsement shall not debar the registered owner from transferring or otherwise dealing with the land on the title deed whereof the endorsement appears.

(d) The noting of the expropriation of a servitude or other real right in or over land in terms of paragraph (b) shall not be deemed to preclude the Corporation from availing itself of the provisions of section 32 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), in any case where the Corporation deems it expedient to procure the registration of a deed of cession evidencing such servitude or other right, and upon the registration of such deed of cession all notings in the registers and endorsements on the relevant title deeds that were made in terms of the said paragraph, shall be deemed to be superseded by such deed.

(2) No formal transfer or registration in any deeds registry shall be required in order to vest in the Corporation the ownership of any immovable property expropriated by it.

(3) Whenever any land of which the Corporation has acquired the ownership by expropriation has not been registered in its name in any deeds registry and the Corporation has entered into an agreement in writing with the person in whose name such land is registered whereby it disposes of such land to the said person, the Corporation shall lodge with the registrar in charge of the deeds registry concerned a copy of the said agreement together with an application for the cancellation of any notings in his registers and endorsements on the relevant title

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- (b) word, behoudens die bepalinge van paragraaf (a), ten voordele van die persone wat daarop geregtig is of word, in die Voogdyfonds vermeld in artikel 86 van die Boedelwet, 1965 (Wet No. 66 van 1965), gestort, en dra rente teen 'n koers wat die Minister van Finansies van tyd tot tyd bepaal.
- (3) Die bepalinge van subartikels (1) en (2) raak nie die bevoegdheid van 'n hof om ten opsigte van sodanige geld 'n bevel te gee nie.
- (4) In die geval van 'n geskil of twyfel oor wie enige vergoeding moet ontvang wat ingevolge hierdie Wet betaalbaar is, of in die geval van die uitreiking van 'n interdik ten opsigte van die uitbetaling van sodanige vergoeding, hou die Korporasie die bedrag van sodanige vergoeding totdat die geskil besleg is of die twyfel verdwyn het.

12. (1) (a) Wanneer onroerende goed ingevolge hierdie Wet onteien is, moet die Korporasie, as die onteiene goe grond is, onmiddellik na die onteiening, en kan hy, as die onteiene goe 'n serwituut of ander saaklike reg op of oor grond is, te eniger tyd na die onteiening, 'n gewaarmerkte afskrif van die onteieningskennisgewing en twee afskrifte van die betrokke onteieningsplan van die betrokke grond, serwituut of ander reg, by die registrateur in beheer van die betrokke aktekantoor indien.
- (b) Die registrateur laat daarop 'n aantekening van die onteiening teen die betrokke grond in sy register aanbring, asook 'n endossement op die kantoorafskrif van die titelbewys, en indien die oorspronklike van die titelbewys te eniger tyd vir enige doel by sy registrasiekantoor ingedien word, laat hy 'n dergelike endossement daarop aanbring en word 'n afskrif van die onteieningsplan daaraan geheg.
- (c) Behalwe wanneer 'n stuk grond wat as 'n afsonderlike eenheid in 'n aktekantoor erken word, in sy geheel onteien is, verhinder die bestaan van so 'n endossement nie die geregistreerde eienaar om die grond op die titelbewys waarvan die endossement verskyn, oor te dra of anders daarmee te handel nie.
- (d) Die aantekening van die onteiening van 'n serwituut of ander saaklike reg op of oor grond ingevolge paragraaf (b) word nie geag die Korporasie te verhinder om van die bepalinge van artikel 32 van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), gebruik te maak in 'n geval waar die Korporasie dit dienstig ag om die registrasie van 'n akte van sessie waaruit bedoelde serwituut of ander reg blyk, te verkry nie, en as so 'n akte van sessie geregistreer word, word alle aantekeninge in die registers en endossemente op die betrokke titelbewyse wat ingevolge bedoelde paragraaf aangebring is, geag deur daardie akte vervang te wees.
- (2) Geen formele oordrag of registrasie in 'n aktekantoor word vereis ten einde die eiendomsreg op onroerende goe wat deur hom onteien is, op die Korporasie te laat oorgaan nie.
- (3) Wanneer grond waarvan die Korporasie die eiendomsreg deur onteiening verkry het, nie op sy naam in 'n aktekantoor geregistreer is nie en die Korporasie met die persoon op wie se naam sodanige grond geregistreer is, 'n skriftelike ooreenkoms aangegaan het waarvolgens hy daardie grond aan daardie persoon van die hand sit, moet die Korporasie by die registrateur in beheer van die betrokke aktekantoor 'n afskrif van bedoelde ooreenkoms indien, tesame met 'n aansoek om die kansellering van alle aantekeninge in sy registers en endossemente op die betrokke titelbewyse wat ingevolge subartikel (1) (b)

Aantekening van onteiening van grond op titelbewyse, en oordrag van eiendomsreg op onteiene grond.

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deeds that were made in terms of subsection (1) (b), and the ownership in such land shall not vest in the said person until such cancellation has been registered.

(4) Whenever the expropriation of any servitude or other real right in or over land has been noted in a deeds registry in terms of subsection (1) (b) and the Corporation has entered into an agreement in writing with the owner of the land in or over which such servitude or other right exists, whereby it abandons such servitude or other right, the registrar in charge of the deeds registry concerned shall, upon there being lodged with him by the Corporation a copy of such agreement together with an application for the cancellation of any notings in his registers and endorsements on the relevant title deeds that were made in terms of the said subsection, cancel all such notings and endorsements, and thereupon the servitude or other right shall lapse.

Penalties.

13. Any person who wilfully obstructs any person doing any of the acts authorized by section 3 (2) or section 4, or who wilfully fills up, destroys, damages or displaces any excavation, trench, beacon, mark or weir made or erected under section 4, shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Sections 62 and 63
of Act 70 of 1957
not to apply to the
line of railway.

14. Sections 62 and 63 of the Railways and Harbours Control and Management (Consolidation) Act, 1957, shall not apply with reference to the line of railway.

State bound.

15. This Act shall bind the State.

Short title.

16. This Act shall be called the Sishen-Saldanha Bay Railway Construction Act, 1973.

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aangebring is, en gaan die eiendomsreg op sodanige grond nie op daardie persoon oor nie totdat sodanige kansellering geregistreer is.

(4) Wanneer die onteining van 'n serwituut of ander saaklike reg op of oor grond in 'n aktekantoor ingevolge subartikel (1) (b) aangeteken is en die Korporasie met die eienaar van die grond waarop of waaroor so 'n serwituut of ander reg bestaan, 'n skriftelike ooreenkoms aangegaan het waarvolgens die Korporasie van daardie serwituut of ander reg afstand doen, moet die registrateur in beheer van die betrokke aktekantoor, wanneer die Korporasie 'n afskrif van sodanige ooreenkoms by hom indien tesame met 'n aansoek om die kansellering van alle aantekeninge in sy registers en endossemente op die betrokke titelbewyse wat ingevolge bedoelde subartikel aangebring is, alle sodanige aantekeninge en endossemente kanselleer, en daarop verval die serwituut of ander reg.

13. Elkeen wat opsetlik iemand hinder by die verrigting van Strafbepalings. een of ander handeling wat deur artikel 3 (2) of artikel 4 veroorloof word, of wat 'n uitgraving, sloot, baken, merk of dam kragtens artikel 4 gemaak of opgerig, opsetlik opvul, vernietig, beskadig of verskuif, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens vyfhonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sodanige boete sowel as sodanige gevangenisstraf.

14. Artikels 62 en 63 van die Konsolidasiewet op die Beheer en Bestuur van Spoorweë en Hawens, 1957, is nie met betrekking tot die spoorlyn van toepassing nie. Artikels 62 en 63 van Wet 70 van 1957 is nie op die spoorlyn van toepassing nie.

15. Hierdie Wet bind die Staat.

Staat gebind.

16. Hierdie Wet heet die Sishen-Saldanhabaai-spoorlynaan- Kort titel. legwet, 1973.

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