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GENERAL NOTICE

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DEPARTMENT OF LAND AFFAIRS

LAND REFORM (LABOUR TENANTS) BILL, 1995

PRETORIA, 2 JUNE 1995

The Land Reform (Labour Tenants) Bill, 1995, is hereby published for comment.

Interested persons may furnish written comments and representations to the Director-General, Department of Land Affairs, Private Bag X833, Pretoria, 0001, on or before **14 July 1995**.

BACKGROUND

Labour tenancy is a semi-feudal relationship between a landowner and a labour tenant in terms of which the tenant is obliged to provide free, or virtually free, labour in exchange for the right to occupy and use a portion of farm land.

The basis for the system of labour tenancy can be traced back to the history of land occupation and the application of apartheid laws of the past. Many black people who found themselves dispossessed of the ownership of their land in the last century, adapted by becoming tenants and sharecroppers on the land and continued to farm and occupy it in return for paying their new white "masters" either a share of the crop or cash rent.

However, the 1913 Land Act prohibited sharecropping and other lease arrangements by black people. All black people resident in such white rural areas were meant to become fulltime "servants". The only alternative and the only way to preserve some measure of independent farming activity, was to become a labour tenant. In terms of this system labour tenants had to provide the registered owner of the land with free labour for half of the year.

The system of labour tenancy was outlawed on a district by district basis between 1966 and 1980. It was replaced in law by the system of wage labour. What this meant in practice for labour tenants was that well over a million people were evicted from their homes in the white rural areas and removed to the homelands. The labour tenancy system was ended in most parts of the country with the notable exceptions of northern Natal and the south eastern Transvaal, where it continued to exist in practice outside the law. In these areas the system remains widespread. It is estimated that there are between 30 000 and 40 000 labour tenants who continue to operate under this system.

CURRENT SITUATION

From the early 1990s farmers began to evict labour tenants in northern Natal and the south eastern Transvaal on an unprecedented scale. One of the reasons was the expectation that the new government would introduce legislation to protect the rights of labour tenants. The current situation has been marked by murders of tenants and farmers, strikes, marches, evictions and boycotts - as well as long, bitter, and expensive legal battles, fence cutting, cattle theft, arson, violence and threats of violence. Both the Minister of Land Affairs and the Premier of the Eastern Transvaal have been called in to mediate explosive disputes. The KwaZulu-Natal Provincial Government has also been involved in resolving similar disputes.

The disputes are mostly sparked by evictions. The only "solutions" so far have been "moratoria on eviction". The Transitional Executive Council tried unsuccessfully to impose a moratorium in December 1993. In Natal the Provincial Administration declared a moratorium in December 1993. In the Eastern Transvaal a moratorium was agreed upon between farmers and tenants, and similarly in Weenen in northern KwaZulu-Natal. However, enforcement of these moratoria has proven to be

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impossible as individual farmers remain legally entitled to evict whenever they so choose. In all the areas affected by the moratorium evictions have continued to take place, thereby undermining the tenants' faith in negotiated solutions and the credibility of those land owners who are committed to finding a fair long-term solution.

OBJECTS OF THE BILL

The objects of the Bill are twofold. On the one hand the Bill makes provision for the protection of the existing rights of labour tenants. On the other hand the Bill provides for the acquisition of property rights for existing labour tenants as part of the Land Reform Programme. The aim of the Bill is to provide a lasting solution to the endemic conflict and human rights abuses in those parts of the country where the system of labour tenancy still exists.

Limited scope

The application of the Bill is limited to certain specified districts where labour tenancy is prevalent. The Bill applies only to existing labour tenants. A labour tenant is defined as a person who provides labour to the owner of a farm in return (wholly or mostly) for the right to occupy and use land, and who is a second generation labour tenant. The Bill thus does not apply to farm workers in general.

Protective tenancy

The Bill provides for protective tenure for labour tenants. These provisions are similar to protective tenancy systems all over the world. Tenants cannot be evicted simply because the owner decides to give them notice, but only when the tenants have breached the contract or are guilty of misconduct, or the owner has very specific needs for the land. Furthermore the process of eviction is circumscribed and has to follow particular procedures. An additional feature is that the land owner must pay evicted tenants compensation for the houses they have built on the land as well as for unreaped crops.

The proposed Bill does not take away any land which the landowner was using before. The Bill confirms in law the pre-existing reality that portions of farms were not used by the landowner, but were historically used by the labour tenants. By providing a legislative framework which governs the relationship between owners and tenants, the Bill also provides a legislative remedy for landowners in situations of conflict and breach.

Right to acquire the land occupied by the labour tenant

The other main feature of the Bill is that it provides labour tenants with the right to acquire ownership of the areas of land which they have historically used and occupied. This will stabilise and legitimise the property relationship and provide the benefits of property ownership.

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The right of acquisition is subject to the payment of compensation to the landowner, the amount of which is governed by the compensation formula in section 28 of the Constitution plus additional factors set out in the Bill. The Bill provides for State subsidies to assist labour tenants to raise the money necessary to pay for the land.

In order to encourage pragmatic and locally negotiated solutions, the Bill provides the landowner with the opportunity to put forward alternative proposals with regard to the location of the land to be acquired by the labour tenant. It also provides for mediation of such negotiations.

Preventing pre-emptive evictions

Once the Bill becomes public, the danger of escalating pre-emptive evictions is very serious. To prevent this, a provision has been included in the Bill in terms of which the right to protective tenancy will be effective from the date of this Gazette, in which the Bill is published for comment.

CONSISTENCY WITH NATIONAL AND INTERNATIONAL PRACTICES AND PRINCIPLES

The two main pillars of the Bill - protective tenancy and the right of long-term occupants to acquire rights to land - are internationally accepted and widespread practices. In South Africa they are embodied in the Rent Control Act of 1976 and in upgrading of land rights legislation introduced under the previous government. Elements of protected tenancies exist in virtually all free market societies.

The practice of converting the rights of long-term occupants of land into independent ownership is the way in which the transition from feudalism took place all over the world. In those countries where anomalous semi-feudal relations continue to exist in modern societies, similar measures have been introduced to uphold the rights of the long-term occupants. A recent example is the Crofters (Scotland) Act, 1993. The Crofters Act provides for forced sale of the portions of land used and occupied by long-term tenants. This does not detract from the right of the current owner to receive fair payment for the areas of land which are acquired in this way.

Conclusion: There is general agreement that the system of labour tenancy is archaic and inequitable. The aim of the Bill is neither to promote nor to entrench the system, but to ensure that in the process of its transformation and demise, the basic human rights of all parties are protected under a stable legal system.

LAND REFORM (LABOUR TENANTS) BILL

To provide for security of tenure of labour tenants and those persons occupying or using land on account of their alliance with labour tenants; to provide for the acquisition of land and rights in land by labour tenants; and to provide for matters connected therewith.

WHEREAS the institution of labour tenancy is the result of racially discriminatory laws and practices, and has led to systematic human rights abuses;

WHEREAS labour tenancy is anachronistic, but nevertheless continues to exist in a limited number of specific districts of South Africa;

WHEREAS it is desirable to institute measures to achieve the adequate protection of labour tenants, who are persons who were disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of human rights and freedoms;

WHEREAS it is desirable, in order to create a stable and functional system of property rights, to institute measures to assist people so disadvantaged to obtain secure tenure and, where feasible, ownership of land;

AND WHEREAS it is desirable to ensure that such people are not further disadvantaged by the government's stated intention to assist them.

NOW THEREFORE BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

CHAPTER I

Introductory provisions

Definitions

1. In this Act, unless the context indicates otherwise -

- (i) "**affected land**" means land in respect of which a claim has been lodged in terms of section 18 of this Act; (vi)
- (ii) "**affected owner**" means an owner of affected land; (v)
- (iii) "**claimant**" means a labour tenant who has lodged a claim in terms of section 18 of this Act; (iii)

- (iv) **"Court"** means the Land Claims Court established by section 22 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); (viii)
- (v) **"Director-General"** means the Director-General of the Department of Land Affairs or an official of that Department designated by him or her, either generally or in respect of a particular case; (i)
- (vi) **"family member"** of a labour tenant means that person's parents, spouse (including a partner in a customary union, whether or not the union is registered), or dependents in terms of the applicable customary law; (iv)
- (vii) **"grazing land"** means farm land used to meet the feed requirements of stock, and which the owner has set aside or permitted to be used for that purpose; (xiii)
- (viii) **"labour tenant"** means a person residing on a farm in a scheduled district
 - (a) who has or has had the use of arable or grazing land on such farm, on the basis that he or she will provide or has provided labour to the owner or lessee of such farm, in return (wholly or mostly) for the right to occupy and use the land; and
 - (b) whose parent or grandparent resided on such farm (or another farm within the scheduled districts) and had the use of arable or grazing land on such farm, on the basis that he or she provided or would provide labour to the owner or lessee of the farm, in return (wholly or mostly) for the right to occupy and use the land,and includes the spouse, partner in a customary union or descendant of such a person, who after the death or departure from the farm of such person, is or has been elected to be his or her successor by his or her family members who are resident on the farm; (x)
- (ix) **"lessee"** means any person who leases a farm, or any portion thereof, on which labour tenants reside; (ix)
- (x) **"Minister"** means the Minister of Land Affairs; (x)
- (xi) **"owner"** in relation to any farm means the registered owner of the farm and in relation to the definition of a labour tenant includes his or her successors and predecessors in title; (ii)
- (xii) **"prescribed"** means prescribed by or under this Act; (xiii)
- (xiii) **"right in land"** includes any real or personal right or share in land, whether registered or unregistered, and whether or not capable of being registered; (xii)

- (xiv) **"scheduled district"** means a district listed in the Schedule to this Act.
(vii)

Application of Act

2. This Act shall apply to land in the scheduled districts.

CHAPTER II

Right to occupy and use land

Right to occupy and use land

3. A person who was a labour tenant on the date of publication in the *Gazette* for general comment of the Land Reform (Labour Tenants) Bill, 1995, shall, unless and until he or she voluntarily leaves the relevant farm in a scheduled district, or after the commencement of this Act is evicted in terms of this Act, have the right to use and/or occupy that portion of the farm -

- (a) which he or she (or his or her predecessor) was using and occupying on that date; and
- (b) which he or she (or his or her predecessor) was not so using and occupying, but had a right to use and occupy for a substantial period at any time during a period of five years preceding the date of commencement of this Act, and of which he or she was unilaterally deprived, unless equivalent land and services have been or are made available to him or her; and
- (c) to which he or she is reinstated in terms of any law.

Rights of family members

4. The family members of a labour tenant shall, subject to the provisions of this Act, have the right to live on the farm with him or her, at his or her homestead.

Provision of labour

5.(1) A labour tenant shall have the right to nominate another person acceptable to the owner or lessee of the farm concerned to provide labour in his or her stead.

(2) The owner or lessee shall not unreasonably refuse to accept the nomination of a person referred to in subsection (1).

(3) No person who provides labour to an owner or lessee under a labour tenancy arrangement in terms of this Act shall be required to work under conditions that are less favourable than those applicable to farm workers in terms of the Basic Conditions of Employment Act, 1983 (Act No 3 of 1983).

Waiver or diminution of rights

6. The rights of a labour tenant to the occupation or use of land may not be waived or diminished except by written agreement signed by the owner and the labour tenant. Any such waiver or diminution of rights shall be of no force or effect unless approved in writing by the Minister.

Eviction of labour tenants

Prohibition on eviction

7. No person may evict a labour tenant or a person having the right to reside on a farm with him or her except in accordance with an order of the Court in terms of this Act.

Proceedings for eviction

8.(1) No person other than the owner may institute proceedings in the Court for an order for the eviction of a labour tenant or a person occupying the farm on account of his or her alliance with such labour tenant, unless the owner gives evidence on oath that he or she supports the institution of those proceedings.

(2) No owner shall be obliged or under any duty, whether by reason of a contract or for any reason whatsoever, to support the institution of such proceedings, and any provision of any contract to the contrary shall be void.

Order of eviction

9.(1) The Court may, on application made or action instituted by an owner, order the eviction of a labour tenant or a person occupying the farm on account of his or her alliance with such labour tenant.

(2) Subject to the other provisions of this Act, an order for the ejectment of a labour tenant shall include an order for the ejectment of the persons occupying such land on account of their alliance with such labour tenant.

Grounds of eviction

10. No order of eviction shall be made unless it is fair and equitable and -

- (a) the labour tenant has committed a material breach of any obligation to provide labour and has failed, after one clear calendar month's written notice has been given, to remedy such breach; or
- (b) the labour tenant or a person occupying such land on account of his or her alliance with such labour tenant has committed some other act which amounts to a fundamental breach of the relationship between the labour tenant and the owner or lessee such that it is not practicably possible to remedy it, either at all or in a manner which could reasonably restore the relationship; or
- (c) the owner requires, for his or her own agricultural operations, the land used or occupied by the labour tenant or persons who occupy or use the land on account of their alliance with such labour tenant: Provided that no order of eviction shall be made in terms of this subsection unless the owner satisfies the court that greater hardship will be done to him or her if the labour tenant is not evicted, than will be done to the labour tenant if he or she is evicted: Provided further that if the owner does not use the said land for agricultural purposes within twelve months of the carrying out of an order of eviction made in terms of this subsection, the said order shall lapse and be of no force or effect.

Limitations

11.(1) Notwithstanding the provisions of section 10, a labour tenant shall not be evicted on the grounds referred to in that subsection if -

- (a) as a result of disability he or she is unable personally to provide labour to the owner or lessee; or
- (b) he or she has attained the age of sixty-five years.

(2) If a labour tenant would be liable to eviction but for the provisions of subsection (1), on his or her death all persons formerly occupying the farm on account of their alliance with him or her shall be liable to eviction after six months' notice has been given to them.

Effect of order for eviction

12.(1) An order for the eviction of a labour tenant shall be subject to the payment by the owner to the labour tenant of compensation equal to the replacement value of all structures and improvements made on the farm by the labour tenant or his or her predecessors, plus the value of the crops of the labour tenant, unless he or she is

given a reasonable opportunity to reap them.

(2) No order for eviction in terms of section 10 shall come into effect until the owner has paid the labour tenant compensation in terms of subsection (1) and, where applicable, has given an undertaking acceptable to the Court that he or she will give the labour tenant a reasonable opportunity to reap his or her crops.

(3) An order for eviction in terms of section 11(2) shall be subject to the payment by the owner to the persons to be evicted of compensation equal to the replacement value of all structures and improvements made on the farm by the labour tenant or his or her predecessors, plus the value of the crops of the labour tenant and persons formerly occupying such land on account of their alliance with him or her, unless they are given a reasonable opportunity to reap the crops.

(4) No order for eviction in terms of section 11(2) shall come into effect until the owner has paid the persons to be evicted compensation in terms of subsection (3) and, where applicable, has given an undertaking acceptable to the Court that he or she will give such persons a reasonable opportunity to reap the crops concerned.

Notice of intended eviction

13.(1) An owner who intends to sue for the eviction of a labour tenant shall give the labour tenant and the Minister not less than three months' written notice of his intention to institute eviction proceedings, and shall set out the cause of action in such notice.

(2) The Minister shall during the period referred to in subsection (1) convene a meeting between the labour tenant and the owner in order to attempt to mediate a settlement of the dispute between the labour tenant and owner on such terms as may be agreed by the owner and labour tenant.

Reinstatement

14.(1) A labour tenant or other person who has a right to use and occupy land in terms of section 3 or 4 of this Act, and who vacates or is for any reason or by any process evicted from such land before the commencement of this Act, may institute proceedings in the Court for an order of reinstatement of such rights.

(2) The Court may in such proceedings -

- (a) order the reinstatement of such labour tenant or other person on such terms as it deems just; and
- (b) order the payment to the labour tenant or other person of such compensation as it deems just, having regard *inter alia* to the provisions of section 12; and

- (c) make such order for costs as it deems just.

Proceedings already instituted

15. Any labour tenant or person occupying land on account of his or her alliance with such labour tenant shall be entitled to all of the rights conferred on such persons by this Act, and shall be subject to all of the obligations imposed by this Act, notwithstanding any pending proceedings which may already have been instituted against him or her.

Eviction pending claim for acquisition of rights in land

16. No labour tenant may be evicted while a claim by him or her in terms of Chapter III is pending.

Urgent proceedings for eviction

17. Notwithstanding the other provisions of this Chapter, an owner or lessee may make urgent application for the removal of any person from the farm pending the outcome of proceedings for a final order, and the Court may grant an order for the removal of that person if it is satisfied that -

- (a) there is a real and imminent danger of substantial damage to the owner or lessee or his or her property if the person concerned is not removed from the farm;
- (b) there is no other effective remedy available to the owner or lessee; and
- (c) the likely harm to the owner or lessee if an order for removal is not granted, exceeds the likely harm to the person against whom the order is sought, if an order for removal is granted.

CHAPTER III

Acquisition of ownership or other rights in land by labour tenant

Right to acquire ownership or other right in land

18.(1) Subject to the provisions of this Act, a labour tenant shall have the right to acquire ownership of or another right in the land equal to the right and/or portion of the land which he or she and his or her family used for a period of five years prior to the commencement of this Act as a dwelling, the land which they habitually used for cultivating produce, the land which they used for grazing, and any servitudinal right of

access as may be necessary.

(2) A labour tenant may enforce this right by lodging a claim in the prescribed manner with the Director-General, either at the head office of the Department of Land Affairs or at a regional office of that Department which has been established to carry out the functions of the Department in respect of the area in which the said land is situated.

Notice of claim and initial procedure

19.(1) On receiving a claim in terms of section 18, the Director-General shall forthwith give notice of the claim to the owner of the land, either by registered mail or through service in the manner provided for service of summons in the Rules of Court made in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), read with section 6(3) of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985).

(2) The owner of affected land shall within 30 days of receipt of such notice inform the Director-General in writing -

- (a) whether he or she disputes that the claimant is a labour tenant within the meaning of this Act; and
- (b) if he or she disputes that the claimant is a labour tenant, the grounds on which he or she does so.

(3) If the owner fails to inform the Director-General that he or she denies that the claimant is a labour tenant, he or she shall be deemed to have admitted that the claimant is a labour tenant, and such admission shall be sufficient proof of this fact in any proceedings in the Court.

(4) If the owner disputes the labour tenant's claim to be a labour tenant, either party shall be entitled to institute proceedings in the Court for an order determining this issue.

Resolution of claim by agreement

20.(1) An affected owner who admits that the claimant is a labour tenant may, within 60 days of receipt of the notice referred to in section 19(1), submit to the Director-General alternative proposals as to an equitable means of disposing of the claim other than by the acquisition of rights in the affected land by the claimant, including but not limited to the acquisition of rights in land elsewhere on that farm or in that district.

(2) The Director-General shall forthwith give notice and a copy of any such proposal to the claimant.

(3) The Director-General may appoint a mediator to assist the claimant and the

affected owner to discuss any such proposal and to arrive at an agreed resolution of the claim.

(4) The claimant may reject any such proposal and persist with his or her original claim: Provided that he or she shall not be entitled to do so until a period of 60 days has passed from the time when the proposal was received by the Director-General: Provided further that the previous proviso shall not apply to any proposals which are submitted to the Director-General later than the period referred to in subsection (1).

(5) No agreement for the settlement of any claim shall be valid and binding unless the Minister has certified that it is reasonable and equitable.

Proceedings in Court

21.(1) If a claim has been duly lodged in terms of section 18, and the owner and the claimant do not conclude an agreement as contemplated in section 20 for the settlement of the claim, the claimant may institute proceedings in the Court for an order or make application to the Court for appropriate relief.

(2) The Court may order the transfer by the owner to the claimant of a right or rights in land and if such an order is granted, shall determine the following:

- (a) The definition and nature of the rights in land to be acquired by the claimant;
- (b) the compensation to be paid by the claimant to the owner;
- (c) the manner and period of payment of compensation;
- (d) the time when the relevant rights in land shall pass to or be acquired by the claimant; and
- (e) any other matter which, in the opinion of the Court, requires to be regulated by the order of the Court.

Owner's right to compensation

22.(1) The owner shall be entitled to just and equitable compensation, as contemplated in the Constitution, for the acquisition by the claimant of a right in land or any other property in terms of an agreed settlement of the claim.

(2) The amount of compensation shall, failing agreement, be determined by the Court.

(3) In determining the amount of compensation the Court shall take into account, in addition to the factors stipulated in the Constitution, the following:

- (a) What use, if any, the owner has had of the affected land;
- (b) when last the owner had use of the affected land;
- (c) what labour, if any, the labour tenant provided to the owner; and
- (d) the market value of the affected land with the labour tenant and other persons with a right to so do, occupying it subject to the provisions of this Act.

Payment of compensation

23.(1) The manner and period of payment of compensation shall, failing agreement, be determined by the Court.

(2) In determining the manner and period of compensation the Court shall have regard to all relevant factors, including -

- (a) the ability of the claimant to pay the compensation;
- (b) the time when the rights in the land will be acquired by or pass to the claimant, and the likely effect of such acquisition or passing on the reasonable financial needs of the owner;
- (c) the possibility that the claimant may obtain an advance or subsidy from the Minister in terms of this Act, or any other relevant grant or subsidy, and when it can reasonably be anticipated that such advance or subsidy will be granted.

Failure to pay compensation

24.(1) If the claimant does not make any payment due in terms of the order, the owner may give the claimant one clear calendar month's written notice to make such payment.

(2) If the claimant fails to make such payment to the owner within the said period of one month, the order of the Court shall lapse, provided that the owner has paid to the claimant and the Minister the amounts which he or she has received from them respectively in respect of the compensation.

(3) If an order of the Court lapses as provided by subsection (2), the owner shall return to the claimant any money which he or she has paid as a deposit.

Advances or subsidies

25.(1) The Minister may, from moneys appropriated by Parliament for this purpose, grant advances or subsidies to labour tenants for the acquisition of land or rights in land in terms of this Act, and for the development of land occupied or to be occupied by labour tenants.

(2) Such advances or subsidies may be applied to the acquisition by labour tenants of affected land, or any other land which may be acquired in order to settle any claim by a labour tenant in terms of this Act, and of any right in such land.

Application for advance or subsidy

26.(1) A labour tenant who has a right to acquire land in terms of this Act may make an application to the Minister for an advance or subsidy in terms of section 25.

(2) In determining the amount and conditions of any advance or subsidy to be granted in terms of section 25, the Minister shall have regard *inter alia* to the following factors:

- (a) The desirability of assisting labour tenants to establish themselves on farms on a viable and sustainable basis;
- (b) the desirability of remedying past violations of human rights;
- (c) the requirements of equity and justice; and
- (d) the willingness of the owner and labour tenant concerned to make such reasonable contribution as is within their capacity to the settlement of the claim in question.

Assistance to persons not qualifying under this Act

27. Advances or subsidies referred to in section 25 may also, subject to such conditions as the Minister may determine, be applied to the acquisition of land or rights in land by displaced former labour tenants.

CHAPTER IV***The Court******Jurisdiction***

28. The Court shall have jurisdiction in terms of this Act throughout the Republic and shall have all the ancillary powers necessary or reasonably incidental to the performance of its functions in terms of this Act, including the power to grant interlocutory orders and interdicts.

Application of provisions of Restitution of Land Rights Act

29. The provisions of sections 24, 30, 31, 32, 37 and 38 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), shall *mutatis mutandis* apply to the performance by the Court of its functions in terms of this Act: Provided that the reference to the Commission on Restitution of Land Rights in section 32(3) of the said Act shall for the purposes of this Act be deemed to be a reference to the Director-General.

Powers of review

30. The Court shall exercise all of the Supreme Court's powers of review with regard to any act (including an omission) or decision of any functionary acting or purportedly acting in terms of this Act, to the exclusion of the provincial and local divisions thereof.

Additional powers of Court

31. The Court may, in addition to other matters referred to in this Act, -

- (a) order the transfer to a claimant of the ownership of affected land or any other right in such land;
- (b) order that specified persons shall have ownership of an undivided share in land used commonly or jointly by the claimant, the owner and any other persons;
- (c) determine conditions which must be fulfilled before any right in land shall be transferred to a claimant;
- (d) if a claimant is required to make any payment before the right in question is transferred, determine the time for and method of such payment;
- (e) give any other directive as to how its orders shall be carried out,

including the setting of time limits for the implementation of its orders;

- (f) make such orders for costs as it deems just.

Application to Court for further directives or orders

32. An interested party which is of the opinion that an order of the Court has not been fully or timeously complied with may make application to the Court for further directives or orders in that regard.

Effect of order of Court

33. An order of the Court shall have the same force as an order of the Supreme Court for the purposes of the Deeds Registries Act, 1937 (Act No. 47 of 1937).

CHAPTER V

Miscellaneous provisions

Mediation

34.(1) The Minister or the Director-General, as the case may be, may appoint one or more persons with expertise in relation to dispute resolution to facilitate meetings of interested parties, and to attempt to mediate and settle a dispute in terms of sections 13 and 20 : Provided that the parties may at any time during the course of mediation or negotiation by agreement appoint another person to mediate the dispute.

(2) A person appointed by the Minister in terms of subsection (1) who is not in the full-time service of the State may, from moneys appropriated by Parliament for this purpose, be paid such remuneration and allowances in respect of the services performed by him or her as may be determined by the Minister in consultation with the Minister of Finance.

(3) All discussions taking place and all disclosures and submissions made during the mediation process shall be privileged, unless the parties agree to the contrary.

Provision of technical information to parties

35. The Director-General shall take steps to ensure that on request, officials of the Department of Land Affairs provide cadastral and other technical information to parties to claims lodged or to be lodged under Chapter III.

Deeds registration

36.(1) Where the Court has made an order in respect of land or a right in land, such land or right shall be deemed to be land or a right in land for the purposes of the Deeds Registries Act, 1937 (Act No. 47 of 1937).

(2) Transfer of such land or right in land to a labour tenant shall be effected by Deed of Transfer registered in the Deeds Office in terms of the provisions of the said Deeds Registries Act, 1937.

(3) The Minister may direct that any transfer duty or other fees payable by a claimant in respect of the transfer of any such land or right in land in terms of this Act shall be defrayed in full or in part from money appropriated by Parliament for that purpose.

(4) The Minister may, in consultation with the Minister of Finance, direct that no transfer duty, stamp duty or other fees contemplated in subsection (3) shall be paid in respect of a particular transfer under this Act.

Attachment of right to claim right in land

37. The right of a labour tenant to claim a right in land in terms of this Act shall not be capable of being attached in terms of the order of any court, and shall not be regarded as an asset in terms of the Insolvency Act, 1936 (Act No. 24 of 1936).

Amendment of Schedule

38.(1) The Minister may amend the Schedule to this Act by notice in the *Gazette*.

(2) Any such notice shall be laid upon the Table of Parliament in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if Parliament by resolution disapproves of any such notice or any provision thereof, such notice or provision, as the case may be, shall cease to be of force and effect.

Regulations

39. The Minister may make regulations regarding -

- (a) any matter required or permitted to be prescribed in terms of this Act; and
- (b) generally, all matters which in his or her opinion are necessary or expedient to be prescribed in order to achieve the objects of this Act.

Delegation and assignment of powers

40.(1) The Minister may delegate or assign any power or duty conferred or imposed upon him or her by or under this Act, except the powers conferred upon him or her by sections 38 and 39, to any officer of the Department of Land Affairs designated by him or her for the purpose, either generally or in a particular case.

(2) A delegation or assignment under subsection (1) shall not prevent the Minister from himself or herself exercising the power or performing the duty in question.

Short title

41. This Act shall be called the Land Reform (Labour Tenants) Act, 1995.

SCHEDULE

The Magisterial Districts of Amersfoort, Bergville, Bethal, Carolina, Ermelo, Estcourt, Ladysmith, Middelburg (Eastern Transvaal Province), Newcastle, Ngotshe, Paulpietersburg, Piet Retief, Standerton, Utrecht, Volksrust, Vryheid, Wakkerstroom and Weenen.