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PRESIDENT'S OFFICE

No. 1878.

20 November 1996

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

No. 78 of 1996: Land Restitution and Reform Laws Amendment Act, 1996.

KANTOOR VAN DIE PRESIDENT

No. 1878.

20 November 1996

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

No. 78 van 1996: Wysigingswet op Grondherstel- en Grondhervormingswette, 1996.

GENERAL EXPLANATORY NOTE:

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

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

ACT

To amend the Restitution of Land Rights Act, 1994, so as to insert certain definitions; to effect certain textual improvements; to provide that no person shall be entitled to enforce restitution of a right in land dispossessed if just and equitable compensation was paid; to provide for the appointment of certain organisations to advise the Commission on Restitution of Land Rights, to facilitate meetings of interested parties and to mediate and settle disputes; to require the leave of the Land Claims Court for the lodging of a claim in respect of land in certain circumstances; to alter the powers and duties of a regional land claims commissioner; to prohibit a person from selling, exchanging, donating, leasing, subdividing or rezoning land in respect of which a notice in terms of section 11(1) has been published without having given the regional land claims commissioner notice of his or her intention to do so; to provide that certain claims referred to the Court shall be accompanied by a document containing a list of the parties who have an interest in the claim; to prohibit the referral of claims to the Court in terms of section 14 until the Minister has issued certificates in terms of section 15 or has refused to do so; to extend the powers of the Court; to amend the provisions relating to assessors; to provide that gratuities and certain allowances of the President and judges of the Court shall not be taxable; to empower the Minister of Justice with the concurrence of the Minister of Finance to determine allowances for travelling and subsistence expenses incurred by the President and judges of the Court; to clarify the provisions relating to the manner of arriving at decisions of the Court; to provide for the seals of the Court; to provide that the proceedings of the Court shall be conducted in open court; to empower the Court to refer particular matters for investigation by a referee; to prohibit the issue of process against a judge of the Court without the consent of the Court; to provide for judgment by default; to provide for the manner of securing attendance of witnesses or the production of any document or thing in proceedings before the Court; to make special provision for the manner in which witnesses may be dealt with on refusal to give evidence or produce any document or thing; to provide for the examination by interrogatories of persons whose evidence is required in proceedings before the Court; to empower the Minister of Justice to appoint officers of the Court; to make special provision for finances and accountability in respect of the administration and functioning of the Court; to provide for the scope and execution of process of the Court; to provide for offences relating to execution; to provide for witness fees; to provide for the powers of the Court on the hearing of appeals; to provide for the application of Chapter III in respect of the performance by the Court of its functions in terms of other legislation; to express more clearly the provisions relating to the intervention of parties and legal representation; to provide that certified copies of records of the Court shall be admissible as evidence; to express more clearly the provisions relating to the power of the President of the Court to make rules in respect of the procedure of the Court; to empower the Court to make an order for costs against the State or the Commission; to empower the Court to rescind, vary or correct orders and judgments granted by the Court; to

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordeningen aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordeningen aan.
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WET

Tot wysiging van die Wet op Herstel van Grondregte, 1994, ten einde sekere woordomskrywings in te voeg; sekere teksverbeterings aan te bring; voorsiening te maak dat geen persoon geregtig is om herstel van 'n reg in grond wat ontneem is af te dwing nie, indien billike en regverdigde vergoeding betaal is; voorsiening te maak vir die aanstelling van sekere organisasies om die Kommissie op Herstel van Grondregte te adviseer, vergaderings van belanghebbende partye te fasiliteer en geskille te bemiddel en te besleg; in sekere gevalle die verlof van die Hof vir Grondeise vir die indiening van 'n eis ten opsigte van grond te vereis; die bevoegdhede en pligte van 'n streekgrondeisekommissaris aan te pas; 'n persoon te verbied om grond ten opsigte waarvan 'n kennisgwing ingevolge artikel 11(1) gepubliseer is, te verkoop, te verruil, te skenk, te verhuur, onder te verdeel of te hersoneer sonder dat die streekgrondeisekommissaris kennis gegee is van sy of haar voorname om aldus te doen; voorsiening te maak dat sekere eise wat na die Hof verwys word, vergesel moet gaan van 'n dokument wat 'n lys bevat van die partye wat 'n belang by die eis het; die verwysing van eise na die Hof ingevolge artikel 14 te verbied totdat die Minister sertifikate ingevolge artikel 15 uitgereik het of geweier het om dit te doen; die bevoegdhede van die Hof uit te brei; om die bepalings betreffende assessore te wysig; om voorsiening te maak dat gratifikasies en sekere toelaes van die President en regters van die Hof nie belasbaar is nie; die Minister van Justisie te magtig om met die instemming van die Minister van Finansies toelaes vir reis- en verblyfuitgawes aangegaan deur die President en regters van die Hof te bepaal; die bepalings betreffende die wyse waarop tot beslissings van die Hof geraak word duideliker te stel; voorsiening te maak vir die seëls van die Hof; voorsiening te maak dat die verrigtinge van die Hof in ope hof gevoer word; die Hof te magtig om bepaalde aangeleenthede vir ondersoek deur 'n skeidsregter te verwys; die uitreiking van prosesstukke teen 'n regter van die Hof sonder die toestemming van die hof te verbied; voorsiening te maak vir vonnis by verstek; voorsiening te maak vir die wyse waarop die aanwesigheid van getuies of die oorlegging van enige stuk of saak in verrigtinge voor die Hof verseker word; spesiale voorsiening te maak vir die wyse waarop met getuies gehandel kan word by weiering om getuenis af te lê of enige dokument of saak oor te lê; voorsiening te maak vir die ondervraging op vraagpunte van persone van wie getuenis in verrigtinge voor die Hof verlang word; die Minister van Justisie te magtig om beampies van die Hof aan te stel; spesiale voorsiening te maak vir finansies en rekenpligtigheid ten opsigte van die administrasie en funksionering van die Hof; voorsiening te maak vir die strekking en tenuityvoerlegging van proses van die Hof; voorsiening te maak vir misdrywe in verband met uitwinning; voorsiening te maak vir getuiegelde; voorsiening te maak vir die bevoegdhede van die Hof by die verhoor van appelle; voorsiening te maak vir die toepassing van Hoofstuk III ten opsigte van die verrigting deur die Hof van sy werkzaamhede ingevolge ander wetgewing; die bepalings betreffende die toetreden van partye enregsvertegenwoordiging duidelicker te stel; voorsiening te maak dat gesertifiseerde afskrifte van stukke van die Hof as getuenis toelaatbaar is; die bepalings betreffende die bevoegdheid van die President van die Hof om reëls te maak ten opsigte van die prosedure van die Hof duideliker te stel; die Hof te magtig om 'n bevel met

clarify the Court's power to review any act or decision of the Minister; to provide for the procedure pertaining to appeals from the Court; to require registrars of deeds to remove certain notes from their records; and to provide that references to judges of the Supreme Court in laws shall be construed so as to include judges of the Court; to amend the Land Reform (Labour Tenants) Act, 1996, so as to include references to inserted sections and to effect certain textual improvements; and to provide for matters connected therewith.

*(Afrikaans text signed by the President.)
(Assented to 6 November 1996.)*

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

Amendment of section 1 of Act 22 of 1994

1. Section 1 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) (hereinafter referred to as the principal Act), is hereby amended— 5
- (a) by the insertion after the definition of "Court" of the following definition:
~~"'day', in the computation of any period of time expressed in days, means any day which is not a Saturday, Sunday or public holiday and which does not fall within the period 24 December to 2 January,";~~
 - (b) by the insertion after the definition of "Minister" of the following definition: 10
~~"'organisation' means any association of persons, incorporated or unincorporated, registered in terms of a law or unregistered and also any branch, section or committee of such association or any local, regional or subsidiary body which forms part of such association;"~~; and
 - (c) by the insertion after the definition of "prescribed" of the following 15 definition:
~~"'presiding judge', in relation to a hearing before more than one judge, means the judge designated as such by the President of the Court;"~~.

Amendment of section 2 of Act 22 of 1994

2. (1) Section 2 of the principal Act is hereby amended— 20
- (a) by the substitution for subsection (1) of the following subsection:
~~"(1) A person shall be entitled to enforce restitution of a right in land if—~~
 - (a) he or she is a person or community contemplated in section 121(2) of the Constitution or a direct descendant of such a person; [and]
 - (b) the claim is not precluded by section 121(4) of the Constitution; and
 - (b)(c) the claim for such restitution is lodged within three years after a date fixed by the Minister by notice in the *Gazette*."; and
 - (b) by the insertion after subsection (1) of the following subsection: 25
~~"(1A) No person shall be entitled to enforce restitution of a right in land if just and equitable compensation as contemplated in section 123(4) of the Constitution, calculated at the time of any dispossession of such right, was paid in respect of such dispossession."~~
- (2) Subsection (1) shall be deemed to have come into operation on 2 December 1994. 30

betrekking tot koste teen die Staat of die Kommissie uit te reik; om die Hof te magtig om uitsprake of bevele deur die Hof gegee, nietig te verklaar, te wysig of reg te stel; die Hof se bevoegdheid om enige handeling deur of beslissing van die Minister te hersien, duidelik te stel; voorsiening te maak vir die prosedure met betrekking tot appelle vanaf die Hof; om te vereis dat registrateurs van aktes sekere aantekeninge wat in hul rekords voorkom, moet verwijder; en om voorsiening te maak dat verwysings in wette na regters van die Hoogereghof, uitgelê word om regters van die Hof in te sluit; tot wysiging van die Wet op Grondhervorming (Huurarbeiders), 1996, ten einde verwysings na ingevoegde bepalings in te sluit en om sekere teksverbeterings aan te bring; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die President geteken.)
(Goedgekeur op 6 November 1996.)*

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

Wysiging van artikel 1 van Wet 22 van 1994

1. Artikel 1 van die Wet op Herstel van Grondregte, 1994 (Wet No. 22 van 5 1994)(hieronder die Hoofwet genoem), word hierby gewysig—
- (a) deur voor die omskrywing van “die reëls” die volgende omskrywing in te voeg:
“dag by die berekening van enige tydperk uitgedruk in dae, enige dag wat nie ’n Saterdag, Sondag of openbare vakansiedag is nie en wat nie binne die tydperk 24 Desember tot 2 Januarie val nie;”;
 - (b) deur na die omskrywing van “voorgeskryf” die volgende omskrywing in te voeg:
“voorsittende regter”, met betrekking tot ’n verhoor voor meer as een regter, die regter as sodanig deur die President van die Hof aangewys;”; en
 - (c) deur na die omskrywing van “openbare grond” die volgende omskrywing in te voeg:
“organisasie” enige vereniging van persone, met of sonder regspersoonlikheid en ongeag of dit ooreenkomsdig ’n wet geregistreer is al dan nie, en ook enige tak, afdeling of komitee van so ’n vereniging of enige plaaslike, streeks- of ondergeskikte liggaam wat deel van so ’n vereniging uitmaak.”.

Wysiging van artikel 2 van Wet 22 van 1994

2. (1) Artikel 2 van die Hoofwet word hierby gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
“(1) ’n Persoon is geregtig om herstel van ’n reg in grond af te dwing, indien—
(a) hy of sy ’n persoon of gemeenskap beoog in artikel 121(2) van die Grondwet of ’n direkte afstammeling van so ’n persoon is; [en]
(b) die eis nie deur artikel 121(4) van die Grondwet uitgesluit is nie; en
[(b)](c) die eis vir sodanige herstel binne drie jaar vanaf ’n datum deur die Minister by kennisgewing in die Staatskoerant bepaal, ingedien is;”; en
 - (b) deur na subartikel (1) die volgende subartikel in te voeg:
“(1A) Geen persoon is geregtig om herstel van ’n reg in grond af te dwing nie indien billike en regverdigte vergoeding soos beoog in artikel 123(4) van die Grondwet, bereken ten tye van ’n ontneming van sodanige reg, ten opsigte van sodanige ontneming betaal is.”.
(2) Subartikel (1) word geag op 2 Desember 1994 in werking te getree het.

Amendment of section 6 of Act 22 of 1994

- 3.** Section 6 of the principal Act is hereby amended—
- (a) by the substitution in subsection (2) for paragraph (c) of the following paragraph:
- “(c) [refer questions of law and interpretation] on notice to interested parties, apply to the Court for a declaratory order on a question of law as contemplated in section 22(1)(cA);”;
- (b) by the addition of the following subsection:
- “(3) Where the regional land claims commissioner having jurisdiction has reason to believe that the sale, exchange, donation, lease, subdivision or rezoning of land which may be the subject of any order of the Court, or in respect of which a person or community is entitled to claim restitution of a right in land, will defeat the achievement of the objects of this Act, he or she may—
- (a) after a claim has been lodged in respect of such land;
 - (b) after the owner of the land has been notified of such claim and referred to the provisions of this subsection; and
 - (c) with the approval of the Chief Land Claims Commissioner, which approval may be granted either in general or in particular, on reasonable notice to interested parties, apply to the Court for an interdict prohibiting the sale, exchange, donation, lease, subdivision or rezoning of the land, and the Court may, subject to such terms and conditions and for such period as it may determine, grant such an interdict or make any other order it deems fit.”.

Substitution of section 9 of Act 22 of 1994

- 4.** The following section is hereby substituted for section 9 of the principal Act:

“Appointment of persons or organisations to assist Commission on *ad hoc* basis

- 9.** (1) The Chief Land Claims Commissioner may from time to time—
- (a) appoint one or more persons or organisations with particular knowledge or specific expertise relevant to the achievement of the Commission's objects to advise the Commission regarding any matter connected with the performance of its functions;
 - (b) appoint one or more persons or organisations with specific expertise in relation to dispute resolution to facilitate meetings of interested parties, mediate and settle disputes, and report to the Commission in writing on the outcome of such negotiations;
 - (c) request any government department, provincial administration, local authority or person in the service of the State, a [province] provincial administration or local authority who has particular knowledge or specific expertise to advise the Commission regarding any matter connected with the performance of its functions.
- (2) Payment for the services rendered by a person appointed in terms of subsection (1) who is not in the full-time service of the State or an organisation appointed in terms of subsection (1) in which the State has no material financial interest [may] shall be made 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] and shall be determined by the Minister in consultation with the Minister of Finance.”.

Amendment of section 11 of Act 22 of 1994

- 5.** Section 11 of the principal Act is hereby amended—
- (a) by the substitution in subsection (1) for paragraph (b) of the following paragraph:

Wysiging van artikel 6 van Wet 22 van 1994

3. Artikel 6 van die Hoofwet word hierby gewysig—
- (a) deur in subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:
- “(c) [regsvrae en uitlegvrae na] met kennisgewing aan belanghebbende partye by die Hof [verwys] aansoek doen om 'n verklarende bevel op 'n regsvraag soos beoog in artikel 22(1)(cA);”; en
- (b) deur die volgende subartikel by te voeg:
- “(3) Waar die streekgrondeisekommisaris wat jurisdiksie het rede het om te glo dat die verkoop, ruiling, skenking, verhuur, onderverdeling of hersoneering van grond wat onderworpe kan wees aan enige bevel van die Hof of ten opsigte waarvan 'n persoon of 'n gemeenskap geregtig is om herstel van 'n reg in grond te eis, die bereiking van die oogmerke van hierdie Wet sal verydel, kan hy of sy—
- (a) nadat 'n eis ten opsigte van sodanige grond ingedien is;
- (b) nadat die eienaar van die grond van sodanige eis in kennis gestel is en na die bepalings van hierdie subartikel verwys is; en
- (c) met die goedkeuring van die Hoofgrondeisekommisaris, welke goedkeuring hetsy in die algemeen of in die besonder verleen kan word, met redelike kennis aan belanghebbende partye, by die Hof aansoek doen om 'n interdik wat die verkoop, ruiling, skenking, verhuur, onderverdeling of hersoneering van die grond verbied, en die Hof kan, onderworpe aan die bedinge en voorwaardes en vir die tydperk wat hy bepaal, so 'n interdik of enige ander bevel wat hy goedvind, toestaan.”.

Vervanging van artikel 9 van Wet 22 van 1994

- 25 4. Artikel 9 van die Hoofwet word hierby deur die volgende artikel vervang:

“Aanstelling van personele van organisasies om Kommissie op 'n ad hoc-gronds slag by te staan

- 30 9. (1) Die Hoofgrondeisekommisaris kan van tyd tot tyd—
- (a) een of meer personele van organisasies met besondere kennis of spesifieke kundigheid met betrekking tot die bereiking van die Kommissie se doelstellings, aanstel om die Kommissie te adviseer ten opsigte van enige aangeleentheid wat verband hou met die verrigting van sy werksaamhede;
- (b) een of meer personele van organisasies met spesifieke kundigheid rakende die beslegting van geskille, aanstel om vergaderings van belanghebbende partye te faciliteer, geskille te bemiddel en te besleg, en skriftelik verslag te doen aan die Kommissie oor die uitslag van sodanige onderhandelings;
- (c) 'n staatsdepartement, provinsiale administrasie, plaaslike owerheid of persoon in diens van die Staat, 'n [provinsie] provinsiale administrasie of plaaslike owerheid, wat besondere kennis of spesifieke kundigheid het, versoek om die Kommissie te adviseer ten opsigte van enige aangeleentheid wat verband hou met die verrigting van sy werksaamhede.
- 40 45 (2) Betaling vir dienste gelewer deur 'n persoon aangestel ingevolge subartikel (1) wat nie in die heelydse diens van die Staat of 'n organisasie ingevolge subartikel (1) aangestel waarin die Staat nie 'n wesenlike finansiële belang het nie, is nie, [kan] geskied uit geld vir dié doel deur die Parlement bewillig [die besoldiging en toelaes ten opsigte van dienste deur hom of haar gelewer, betaal word wat] en word deur die Minister in oorleg met die Minister van Finansies bepaal.”.

Wysiging van artikel 11 van Wet 22 van 1994

5. Artikel 11 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (1) paragraaf (b) deur die volgende paragraaf te vervang:

- “(b) the claim is not precluded by the provisions of section 2(1) or (1A);”.
- (b) by the substitution for subsection (5) of the following subsection:
- “(5) If an order has been made by the Court as contemplated in section [35] 123 of the Constitution in respect of a right or rights in land, [the claimant] no person may [, subject to the provisions of section 2(1), make application to the Court for permission to] lodge a claim in respect of that land without the leave of the Court.”;
- (c) by the substitution for subsection (6) of the following subsection:
- “(6) Immediately after publishing the notice referred to in subsection (1), the regional land claims commissioner shall by notice in writing—
- (a) advise the owner of the land in question and any other party which, in his or her opinion, might have an interest in the claim of the publication of the notice; and
- (b) refer the owner and such other party to the provisions of subsection (7).”; and
- (d) by the substitution for subsection (7) of the following subsection:
- “(7) Once a notice has been published in respect of any land [and a temporary note has been made in the records as contemplated in subsection (6)(b)]—
- (a) no person may in an improper manner obstruct the passage of the claim;
- (aa) no person may sell, exchange, donate, lease, subdivide or rezone the land in question without having given the regional land claims commissioner one month’s written notice of his or her intention to do so, and any sale, exchange, donation, lease, subdivision or rezoning of land in respect of which such notice was not given, may be set aside by the Court if it is satisfied that such sale, exchange, donation, lease, subdivision or rezoning was not done in good faith, or the Court may grant any other order it deems fit;
- (b) no claimant who was resident on the land in question at the date of commencement of this Act may be evicted from the said land without the written authority of the Chief Land Claims Commissioner;
- (c) no person shall in any manner whatsoever remove or cause to be removed, destroy or cause to be destroyed or damage or cause to be damaged, any improvements upon the land without the written authority of the Chief Land Claims Commissioner;
- (d) no claimant or other person may enter upon and occupy the land without the permission of the owner or lawful occupier.”.

Insertion of section 11A in Act 22 of 1994

6. The following section is hereby inserted in the principal Act after section 11:

“Withdrawal or amendment of notice of claim

- 11A.(1)** Any person affected by the publication of the notice of a claim in terms of section 11(1) may make representations to the regional land claims commissioner having jurisdiction for the withdrawal or amendment of that notice.
- (2) Where during the investigation of a claim by the Commission the regional land claims commissioner having jurisdiction has reason to believe that any of the criteria set out in paragraphs (a), (b), (c) and (d) of section 11(1) have not been met, he or she shall publish in the *Gazette* and send by registered post to—
- (a) the claimant;
- (b) the owner; and

- “(b) die eis nie deur die bepalings van artikel 2(1) of(1A) uitgesluit is nie;”.
- (b) deur subartikel (5) deur die volgende subartikel te vervang:
- “(5) Indien 'n bevel deur die Hof soos in artikel [35] 123 van die Grondwet beoog ten opsigte van 'n reg of regte in grond, gemaak is, [kan die eiser behoudens die bepalings van artikel 2(1), by] mag geen persoon sonder verlof van die Hof [aansoek doen om toestemming om] 'n eis ten opsigte van daardie grond [in te dien] indien nie.”;
- (c) deur subartikel (6) deur die volgende subartikel te vervang:
- “(6) Onmiddellik nadat die streekgrondeisekommissaris die kennisgewing bedoel in subartikel (1) gepubliseer het, moet hy of sy by skriftelike kennisgewing—
- (a) die eienaar van die betrokke grond en enige ander party wat na sy of haar mening 'n belang by die eis mag hê oor die publikasie van die kennisgewing inlig; en
- (b) die eienaar en sodanige ander party na die bepalings van subartikel (7) verwys.”; en
- (d) deur subartikel (7) deur die volgende subartikel te vervang:
- “(7) Sodra 'n kennisgewing ten opsigte van enige grond gepubliseer is [en 'n tydelike inskrywing in die betrokke rekords soos beoog in subartikel (6)(b) aangebring is]—
- (a) mag geen persoon die afhandeling van die eis op 'n onbehoorlike wyse belemmer nie;
- (aA) mag geen persoon die betrokke grond verkoop, verruil, skenk, verhuur, onderverdeel of hersoneer nie sonder dat die streekgrondeisekommissaris een maand skriftelike kennis gegee is van sy of haar voorname om aldus te doen, en enige verkoop, ruiling, skenking, verhuur, onderverdeling of hersonering van grond ten opsigte waarvan sodanige kennis nie gegee is nie, kan deur die Hof ter syde gestel word indien hy oortuig is dat sodanige verkoop, ruiling, skenking, verhuur, onderverdeling of hersonering nie te goeder trou gedoen is nie, of die Hof kan enige ander bevel wat hy goedvind, toestaan;
- (b) mag geen eiser wat op die datum van die inwerkingtreding van hierdie Wet op die betrokke grond woonagtig was sonder die skriftelike goedkeuring van die Hoofgrondeisekommissaris daarvan verwyder word nie;
- (c) mag geen persoon op enige wyse hoegenaamd sonder die skriftelike goedkeuring van die Hoofgrondeisekommissaris enige verbeterings op die grond verwyder of laat verwyder, dit vernietig of laat vernietig of dit beskadig of laat beskadig nie;
- (d) mag geen eiser of ander persoon die grond sonder die skriftelike toestemming van die eienaar of regmatige okkuperer betree en bewoon nie.”.

45 Invoeging van artikel 11A in Wet 22 van 1994

6. Die volgende artikel word hierby in die Hoofwet na artikel 11 ingevoeg:

“Intrekking of wysiging van kennisgewing van eis

- 11A.(1)** Iemand wat deur die publisering van die kennisgewing van 'n eis ingevolge artikel 11(1) geraak word, kan vertoe rig tot die streekgrondeisekommissaris wat jurisdiksie het vir die intrekking of wysiging van daardie kennisgewing.
- (2) Waar die streekgrondeisekommissaris wat jurisdiksie het gedurende die ondersoek van 'n eis deur die Kommissie rede het om te glo dat enige van die maatstawwe uiteengesit in paragrawe (a), (b), (c) en (d) van artikel 11(1) nie nagekom is nie, moet hy of sy 'n kennisgewing in die Staatskoerant publiseer en per aangetekende pos aan—
- (a) die eiser;
- (b) die eienaar; en

Act No. 78, 1996**LAND RESTITUTION AND REFORM LAWS
AMENDMENT ACT, 1996**

- (c) where applicable, a person who has made representations in terms of subsection (1) and any other party, who to his or her knowledge, may have an interest in the claim,
 a notice stating that at the expiry of the period mentioned in the notice, the notice of the claim published in terms of that section will be withdrawn unless cause to the contrary has been shown to his or her satisfaction. 5
- (3) At the expiry of the period contemplated in subsection (2), the regional land claims commissioner shall, unless cause to the contrary has been shown to his or her satisfaction, withdraw the notice of claim and—
 (a) advise the persons mentioned in that subsection by notice sent by registered post;
 (b) cause notice of his or her decision to be published in the *Gazette*; and
 (c) take other steps to make his or her decision known in the district in which the land in question is situated. 10
- (4) The regional land claims commissioner having jurisdiction may, during the investigation of a claim by the Commission and after following the procedure set out in subsection (2), unless cause to the contrary has been shown to his or her satisfaction, amend the notice published in terms of section 11(1), whereafter the provisions of paragraphs (a), (b) and (c) of subsection (3) shall apply *mutatis mutandis*: Provided that the regional land claims commissioner may, without following the procedure set out in subsection (2), amend the notice to correct any obvious error in it, and cause notice of his or her decision to be published in the *Gazette*.". 15 20

Amendment of section 14 of Act 22 of 1994

- 7.** Section 14 of the principal Act is hereby amended— 25
 (a) by the substitution in subsection (2) for paragraph (c) of the following paragraph:
 “(c) containing a list of the parties who [ought to have the right to make representations to the Court in respect of] have an interest in the claim;”; 30
 (b) by the insertion after subsection (5) of the following subsection:
 “(5A) No claim shall be referred to the Court in terms of this section until—
 (a) in the case of land contemplated in section 123(1)(a) or (b) of the Constitution, the Minister has issued or refused to issue a certificate in terms of subsections (1) and (3) of section 15;
 (b) in the case of an order contemplated in section 123(3)(a) of the Constitution, the Minister has issued or refused to issue a certificate in terms of section 15(2).”; and 35
 (c) by the deletion of subsection (7). 40

Amendment of section 15 of Act 22 of 1994

- 8.** Section 15 of the principal Act is hereby amended—
 (a) by the substitution for subsection (1) of the following subsection:
 “(1) [Upon] Prior to referral of a claim contemplated in section 121(2) of the Constitution to the Court in terms of section 14, the Chief Land Claims Commissioner shall request the Minister to certify whether—
 (a) in the case of land contemplated in section 123(1)(a) of the Constitution, [restoration] restitution of the right in question is feasible;
 (b) in the case of land contemplated in section 123(1)(b) of the Constitution, acquisition of the right in question is feasible.”; 50
 (b) by the substitution for subsection (2) of the following subsection:
 “(2) [Upon] Prior to referral of a claim for an order contemplated in section 123(3)(a) of the Constitution to the Court in terms of section 14, the Chief Land Claims Commissioner shall request the Minister to certify whether it is feasible to designate alternative state-owned land.”; and 55
 (c) by the substitution for subsection (10) of the following subsection:

- (c) waar toepaslik, iemand wat vertoë ingevolge subartikel (1) gerig het en enige ander party wat na sy of haar wete, 'n belang in die eis mag hê,
 5 stuur wat meld dat by die verstryking van die tydperk in die kennisgewing vermeld, die kennisgewing van die eis gepubliseer ingevolge daardie artikel, tensy redes daarteen tot sy of haar bevrediging aangevoer is, ingetrek sal word.
- (3) By die verstryking van die tydperk in subartikel (2) beoog, moet die streekgrondeisekommissaris, tensy redes daarteen tot sy of haar bevrediging aangevoer is, die kennisgewing van eis intrek en—
 10 (a) die persone in daardie subartikel genoem by kennisgewing inlig, wat per aangetekende pos gestuur word;
 (b) kennis van sy of haar besluit laat publiseer in die *Staatskoerant*; en
 15 (c) ander stappe doen om sy of haar besluit bekend te maak in die distrik waarin die betrokke grond geleë is.
- (4) Die streekgrondeisekommissaris wat jurisdiksie het, kan, gedurende die ondersoek van 'n eis deur die Kommissie nadat die prosedure in subartikel (2) uiteengesit, nagekom is, tensy redes daarteen tot sy of haar bevrediging aangevoer is, die kennisgewing ingevolge artikel 11(1) gepubliseer, wysig, waarna die bepalings van paragrawe (a), (b) en (c) van subartikel (3) *mutatis mutandis* van toepassing is: Met dien verstande dat die streekgrondeisekommissaris, sonder dat die prosedure in subartikel (2) uiteengesit, nagekom is, die kennisgewing kan wysig ten einde 'n klaarblyklike fout daarin reg te stel, en kennis van sy of haar besluit in die *Staatskoerant* laat publiseer.”.

Wysiging van artikel 14 van Wet 22 van 1994

7. Artikel 14 van die Hoofwet word hierby gewysig—
 (a) deur subartikel (2) paragraaf (c) deur die volgende paragraaf te vervang:
 30 “(c) 'n lys bevat van [al] die partye wat [**die reg behoort te hê om vertoë tot die Hof te rig met betrekking tot**] 'n belang by die eis het;”;
 (b) deur na subartikel (5) die volgende subartikel in te voeg:
 35 “(5A) Geen eis word ingevolge hierdie artikel na die Hof verwys nie totdat—
 (a) in die geval van grond beoog in artikel 123(1)(a) of (b) van die Grondwet, die Minister 'n sertifikaat ingevolge subartikels (1) en (3) van artikel 15 uitgereik het of geweier het om dit te doen;
 (b) in die geval van 'n bevel beoog in artikel 123(3)(a) van die Grondwet, die Minister 'n sertifikaat ingevolge artikel 15(2)
 40 uitgereik het of geweier het om dit te doen.”; en
 (c) deur subartikel (7) te skrap.

Wysiging van artikel 15 van Wet 22 van 1994

8. Artikel 15 van die Hoofwet word hierby gewysig—
 (a) deur subartikel (1) deur die volgende subartikel te vervang:
 45 “(1) [**Wanneer**] **Voordat** 'n eis beoog in artikel 121(2) van die Grondwet ingevolge artikel 14 na die Hof verwys [**is**] word, moet die Hoofgrondeisekommissaris die Minister versoek om te sertificeer of—
 (a) in die geval van grond beoog in artikel 123(1)(a) van die Grondwet, die herstel van die betrokke reg uitvoerbaar is;
 (b) in die geval van grond beoog in artikel 123(1)(b) van die Grondwet, die verkryging van die betrokke reg uitvoerbaar is.”;
 50 (b) deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) [**Wanneer**] **Voordat** 'n eis vir 'n bevel beoog in artikel 123(3)(a) van die Grondwet ingevolge artikel 14 na die Hof verwys [**is**] word, moet die Hoofgrondeisekommissaris die Minister versoek om te sertificeer of die aanwysing van alternatiewe Staatsgrond uitvoerbaar is.”;
 55 en
 (c) deur subartikel (10) deur die volgende subartikel te vervang:

“(10) [The] Any decision of the Minister in terms of this section shall be subject to review by the Court, the hearing of which review may, at the discretion of the Court, be conducted at the same time as the hearing of the claim in question.”.

Substitution of section 18 of Act 22 of 1994

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9. The following section is hereby substituted for section 18 of the principal Act:

“Limitation of liability

18. The Commission, members of the Commission, any person or organisation appointed under section 9 or any officer contemplated in section 8, shall not be liable in respect of any act or omission in good faith while performing a function in terms of any provision of this Act.”. 10

Amendment of section 22 of Act 22 of 1994, as amended by section 1 of Act 84 of 1995

10. Section 22 of the principal Act is hereby amended—

(a) by the insertion in subsection (1) after paragraph (c) of the following paragraph: 15

“(cA) at the instance of any interested person and in its discretion, to grant a declaratory order on a question of law relating to section 121, 122 or 123 of the Constitution or to this Act or to any other law or matter in respect of which the Court has jurisdiction, notwithstanding that such person might not be able to claim any relief consequential upon the granting of such order;”; 20

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

“(2) [The] Subject to Chapter 7 of the Constitution, the Court shall have jurisdiction throughout the Republic and shall have— 25

(a) all such powers in relation to matters falling within its jurisdiction as are possessed by a provincial division of the Supreme Court having jurisdiction in civil proceedings at the place where the land in question is situated, including the powers of such a division in relation to any contempt of the Court; 30

(b) all the ancillary powers necessary or reasonably incidental to the performance of its functions, including the power to grant interlocutory orders and interdicts.”; and

(c) by the substitution for subsection (8) of the following subsection:

“(8) If there is sufficient reason the President of the Republic may, after consultation with the President of the Court, appoint an [additional or] acting judge of the Court for such term as the President of the Republic shall determine: Provided that the Minister of Justice, after consultation with the President of the Court, may make such an appointment in respect of a term not exceeding one month.”. 35 40

Substitution of section 25 of Act 22 of 1994

11. The following section is hereby substituted for section 25 of the principal Act:

“Holding of office

25. (1) The provisions of section 104 of the Constitution with regard to making of an oath or a solemn affirmation and the removal or suspension of judges shall apply mutatis mutandis to judges [and assessors] of the Court. 45

“(10) [Die] Enige besluit van die Minister ingevolge hierdie artikel is onderhewig aan hersiening deur die Hof, en die verhoor van die hersiening kan, na die goeddunke van die Hof, gelyktydig met die aanhoor van die betrokke eis geskied.”.

5 Vervanging van artikel 18 van Wet 22 van 1994

9. Artikel 18 van die Hoofwet word hierby deur die volgende artikel vervang:

“Beperking van aanspreeklikheid

10 18. Die Kommissie, lede van die Kommissie, 'n persoon of organisasie kragtens artikel 9 aangestel of 'n beampete beoog in artikel 8 is nie aanspreeklik nie vir enige handeling of versuim te goeder trou terwyl hy of sy 'n werksaamheid ingevolge 'n bepaling van hierdie Wet verrig.”.

Wysiging van artikel 22 van Wet 22 van 1994, soos gewysig deur artikel 1 van Wet 84 van 1995

15 10. Artikel 22 van die Hoofwet word hierby gewysig—

(a) deur in subartikel (1) na paragraaf (c) die volgende paragraaf in te voeg:
 “(cA) indien deur 'n belanghebbende daartoe genader, na goeddunke
 'n verklarende bevel aangaande 'n regsvraag wat op artikel 121,
 122 of 123 van die Grondwet, hierdie Wet of enige ander wet of
 aangeleentheid ten opsigte waarvan die Hof jurisdiksie het,
 betrekking het, toe te staan, al het so iemand nie enige aanspraak
 op verligting uit hoofde van die toestaan van sodanige bevel
 nie.'”;

(b) deur subartikel (2) deur die volgende subartikel te vervang:

“(2) [Die] Behoudens Hoofstuk 7 van die Grondwet het die Hof [**het**] jurisdiksie regdeur die Republiek en het—

(a) al die bevoegdhede van 'n provinsiale afdeling van die Hoog-
 gereghof wat in siviele verrigtinge met jurisdiksie beklee is by die
 plek waar die betrokke grond geleë is, met betrekking tot aan-
 geleenthede wat onder die jurisdiksie van die Hof ressorteer, met
 inbegrip van die bevoegdhede van so 'n afdeling met betrekking tot
 minagtig van die Hof;

(b) al die bykomende bevoegdhede wat noodsaklike wys of redeli-
 kerwys verbandhoudend is met die verrigting van sy werksaam-
 hede, met inbegrip van die bevoegdheid om tussentydse bevele en
 interdikte toe te staan.”; en

(c) deur subartikel (8) deur die volgende subartikel te vervang:

“(8) Indien daar voldoende rede bestaan, kan die President van die Republiek, na oorleg met die President van die Hof, 'n [**bykomende of**] waarnemende regter van die Hof aanstel vir die termyn wat die President van die Republiek bepaal: Met dien verstande dat die Minister van Justisie, na oorleg met die President van die Hof, sodanige aanstelling kan doen ten opsigte van 'n termyn van hoogstens een maand.”.

Vervanging van artikel 25 van Wet 22 van 1994

45 11. Artikel 25 van die Hoofwet word hierby deur die volgende artikel vervang:

“Aampsbekleding

50 25. (1) Die bepalings van artikel 104 van die Grondwet ten opsigte van die aflê van 'n eed of 'n plegtige verklaring en die afdanking of skorsing van regters, is mutatis mutandis van toepassing op regters [**en assessore**] van die Hof.

Act No. 78, 1996**LAND RESTITUTION AND REFORM LAWS
AMENDMENT ACT, 1996**

(2) An assessor shall take an oath or make a solemn affirmation that he or she will, on the evidence placed before him or her, give a true verdict or considered opinion upon the issues to be tried.

(3) An assessor's oath or affirmation shall be administered by the presiding judge at the commencement of the hearing of every matter, before any evidence is led.”. 5

Amendment of section 26 of Act 22 of 1994, as amended by section 2 of Act 84 of 1995**12. Section 26 of the principal Act is hereby amended—**

(a) by the insertion after subsection (1) of the following subsections:

“(2) Notwithstanding anything to the contrary contained in any other law, a gratuity included in the remuneration determined in terms of subsection (1) and payable after vacation of office, shall not be taxable.

(3) An allowance included in the remuneration determined in terms of subsection (1) shall not be taxable, unless Parliament expressly provides otherwise.”; 15

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

“[2] (4) The President and a judge of the Court may be paid such allowances for travelling and subsistence expenses incurred by him or her in the performance of his or her functions in terms of this Act as the Minister of Justice may determine with the concurrence of the Minister of Finance.”; and 20

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

“[3] (5) The provisions of subsections (1) [and (2)], (3) and (4) shall apply also to a person appointed under section 22(7) and (8).”.

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Substitution of section 27 of Act 22 of 1994**13. The following section is hereby substituted for section 27 of the principal Act:****“Appointment of assessors**

27. (1) The [Court] assessors contemplated in section 28(4) shall be assisted by assessors] appointed by the presiding judge from a list compiled from time to time by the Minister after— 30

(a) inviting nominations from the general public; and

(b) consultation with the President of the Court.

(2) [No person shall be appointed as an] An assessor of the Court [unless he or she] shall be a person who, in the opinion of the Minister, has skills and knowledge relevant to the work of the Court: Provided that it shall not be a requirement [of appointment] that an assessor shall have any legal qualifications. 35

(3) An assessor shall receive such remuneration and be entitled to such [vacation and other] benefits as may be determined by the Minister of Justice in consultation with the Minister of Finance and the President of the Court.”. 40

Amendment of section 28 of Act 22 of 1994**14. Section 28 of the principal Act is hereby amended—**

(a) by the substitution for subsection (4) of the following subsection:

“(4) At least one assessor shall [participate at the hearing of any disputed case] assist the Court at a contested hearing of—

(a) any claim contemplated in section 121 of the Constitution which has been referred to the Court; and

(b) any application in terms of section 34:

Provided that this requirement shall not apply in respect of—

(i) any hearing where the only matters in dispute are questions of law; or

(ii) any interlocutory or preliminary hearing or pre-trial proceedings.”;

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- (2) 'n Assessor lê 'n eed of 'n plegtige verklaring af dat hy of sy op die getuienis wat aan hom of haar voorgelê word 'n ware uitspraak of oorwoë mening sal gee met betrekking tot die geskilpunte wat verhoor staan te word.
- 5 (3) 'n Assessor se eed of plegtige verklaring word afgeneem deur die voorsittende regter by die aanvang van die verhoor van elke aangeleentheid, voor enige getuienis aangevoer word.”.

Wysiging van artikel 26 van Wet 22 van 1994, soos gewysig deur artikel 2 van Wet 84 van 1995

- 10 **12.** Artikel 26 van die Hoofwet word hierby gewysig—
(a) deur na subartikel (1) die volgende subartikels in te voeg:
“(2) Ondanks enige andersluidende wetsbepalings, is 'n gratifikasie betaalbaar na ampsontruiming wat ingesluit is in die besoldiging ingevolge subartikel (1) bepaal, nie belasbaar nie.
- 15 (3) 'n Toelae wat ingesluit is in die besoldiging ingevolge subartikel (1) bepaal, is nie belasbaar nie, tensy die Parlement uitdruklik anders bepaal.”;
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
“[2](4) Die President en 'n regter van die Hof kan die toelaes vir reisen verblyfuitgawes deur hom of haar aangegaan by die verrigting van sy of haar werkzaamhede ingevolge hierdie Wet betaal word wat die Minister van Justisie met die instemming van die Minister van Finansies bepaal.”; en
- 20 (c) deur subartikel (3) deur die volgende subartikel te vervang:
“[3] (5) Die bepalings van subartikels (1) [en (2)], (3) en (4) is ook van toepassing op 'n persoon kragtens artikel 22(7) en (8) aangestel.”.

Vervanging van artikel 27 van Wet 22 van 1994

- 13.** Artikel 27 van die Hoofwet word hierby deur die volgende artikel vervang:

“Aanstelling van assessor

- 30 **27.** (1) Die [Hof] assessor beoog in artikel 28(4) word [bygestaan deur assessor] deur die [Minister] voorsittende regter aangestel vanaf 'n lys van tyd tot tyd saamgestel deur die Minister na—
(a) uitnodiging aan die algemene publiek om benoemings te doen; en
(b) oorlegpleging met die President van die Hof.
- 35 (2) [Niemand word as assessor] 'n Assessor van die Hof [aangestel nie tensy hy of sy,] moet 'n persoon wees wat, na die oordeel van die Minister, oor vaardighede en kennis beskik wat toepaslik is ten opsigte van die werk van die Hof. Met dien verstande dat dit nie 'n [aanstellingsvereiste] vereiste is dat 'n assessor oor 'n regskwalifikasie beskik nie.
- 40 (3) 'n Assessor ontvang die vergoeding en is geregtig op die [vakansie- en ander] voordele wat die Minister van Justisie in oorleg met die Minister van Finansies en die President van die Hof bepaal.”.

Wysiging van artikel 28 van Wet 22 van 1994

- 14.** Artikel 28 van die Hoofwet word hierby gewysig—
(a) deur subartikel (4) deur die volgende subartikel te vervang:
“(4) Ten minste een assessor moet [by elke] die Hof bystaan by 'n betwiste [saak sitting neem] verhoor van—
(a) enige eis beoog in artikel 121 van die Grondwet wat na die Hof verwys is; en
(b) enige aansoek ingevolge artikel 34:
Met dien verstande dat hierdie vereiste nie van toepassing is nie ten opsigte van—
(i) enige verhoor waar die enigste aangeleenthede wat in geskil is, respuinte is; of
(ii) enige tussentydse of preliminäre verhoor of voorverhoor.”;

(b) by the substitution for subsection (5) of the following subsection:

“(5) An assessor, other than an assessor contemplated in subsection (6), shall be a member of the Court and the decision or finding of the majority of the members of the Court shall be the decision or finding of the Court: Provided that an assessor shall not decide upon a question of law or upon a question whether or not any matter constitutes a question of law: Provided further that a decision in respect of a matter referred to in section 33 or 34(6) shall be deemed not to be a question of law.”; and

(c) by the addition of the following subsections:

“(6) In any proceedings, other than those contemplated in paragraphs (a) and (b) of subsection (4), the Court may summon to its assistance no more than two assessors to act in an advisory capacity.

(7) Subject to the provisos to subsection (5), in the event of an equality of votes—

(a) at a hearing where one or more members of the Court are assessors, the vote of the judge, or, if there is more than one judge, the vote of the majority of the judges, shall prevail;

(b) at any other hearing, the hearing shall be adjourned and commenced before a new court constituted in such manner as the President of the Court or, in his or her absence, the most senior available judge may determine.

(8) If at any stage during the hearing of any matter where two or more judges are members of the Court, any judge of such Court dies or retires or is otherwise incapable of acting or is absent, the hearing shall proceed before the remaining members of such Court: Provided that such members shall include at least one judge.

(9) If at any stage during the hearing of any matter an assessor who is a member of the Court dies or, in the opinion of the presiding judge, becomes unable to act as assessor or is absent, the presiding judge may direct—

(a) that the hearing proceed before the remaining member or members of the Court; or

(b) that the hearing shall commence *de novo*, unless all the parties to the proceedings agree unconditionally in writing to accept the decision of the remaining member or members as the decision of the Court.

(10) Subsections (5) and (7) shall apply *mutatis mutandis* when a hearing proceeds before the remaining member or members of the Court in the circumstances set out in subsection (8) or (9).”

Insertion of sections 28A, 28B, 28C, 28D, 28E, 28F, 28G, 28H, 28I, 28J, 28K, 28L, 28M, 28N and 28O in Act 22 of 1994

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15. The following sections are hereby inserted in the principal Act after section 28:

“Seals of Court

28A. The Court shall have for use as occasion may require, a seal of such design as may be prescribed by the President of the Republic by proclamation in the *Gazette* and such seal shall be kept in the custody of the registrar of the Court.

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Proceedings to be conducted in open court

28B. All hearings in the Court shall, except in so far as the Court may in special cases direct otherwise, be conducted in open court.

- (b) deur subartikel (5) deur die volgende subartikel te vervang:
- “(5) 'n Assessor, uitgesonderd 'n assessor in subartikel (6) beoog, is 'n lid van die Hof en die beslissing of bevinding van die meerderheid van die lede van die Hof is die beslissing of bevinding van die Hof: Met dien verstande dat 'n assessor nie beslis oor 'n regsvraag of oor 'n vraag of 'n aangeleentheid 'n regsvraag is nie: Met dien verstande voorts dat 'n beslissing ten opsigte van 'n aangeleentheid bedoel in artikel 33 of 34(6) nie as 'n regsvraag geag word nie.”;
- (c) deur die volgende subartikels by te voeg:
- “(6) By enige verrigtinge, uitgesonderd dié beoog in paragrawe (a) en (b) van subartikel (4), kan die Hof na goeddunke nie meer as twee assessore nie, aansê om in 'n raadgewende hoedanigheid op te tree.
- (7) Behoudens die voorbehoudsbepalings by subartikel (5), in die geval van 'n staking van stemme—
- (a) by 'n verhoor waar een of meer lede van die Hof assessor is, is die regter se stem of, indien daar meer as een regter is, die stem van die meerderheid van die regters, die beslissende stem;
- (b) by enige ander verhoor, word die verhoor verdaag en begin dit voor 'n nuwe hof saamgestel op die wyse wat die President van die Hof of, in sy of haar afwesigheid, die mees senior beskikbare regter bepaal.
- (8) Indien op enige stadium gedurende die verhoor van enige aangeleentheid waar twee of meer regters lede van die Hof is, enige regter van sodanige Hof te sterwe kom of aftree of andersins onbekwaam word om op te tree, of afwesig is, word die verhoor voortgesit voor die oorblywende lede van sodanige Hof: Met dien verstande dat sodanige lede ten minste een regter insluit.
- (9) Indien op enige stadium gedurende die verhoor van enige aangeleentheid 'n assessor wat 'n lid van die Hof is, te sterwe kom of, na die oordeel van die voorsittende regter, onbekwaam word om as assessor op te tree, of afwesig is, kan die voorsittende regter gelas—
- (a) dat die verhoor voortgesit word voor die oorblywende lid of lede van die Hof; of
- (b) dat die verhoor *de novo* begin, tensy al die partye tot die verrigtinge onvoorwaardelik en skriftelik ooreenkoms om die beslissing van die oorblywende lid of lede as die beslissing van die Hof te aanvaar.
- (10) Subartikels (5) en (7) is *mutatis mutandis* van toepassing wanneer 'n verhoor onder die omstandighede in subartikel (8) of (9) uiteengesit, voor die oorblywende lid of lede van die Hof voortgesit word.”.

Invoeging van artikels 28A, 28B, 28C, 28D, 28E, 28F, 28G, 28H, 28I, 28J, 28K, 28L, 28M, 28N en 28O in Wet 22 van 1994

15. Die volgende artikels word hierby in die Hoofwet na artikel 28 ingevoeg:

“Seëls van Hof

45 28A. Die Hof moet 'n seël vir gebruik na vereiste van omstandighede hê
waarvan die ontwerp deur die President van die Republiek by proklamasie in die *Staatskoerant* voorgeskryf word en sodanige seël word in die bewaring van die griffier van die Hof gehou.

Verrigtinge word in ope hof gevoer

50 28B. Alle verrigtinge in die Hof, behalwe vir sover die Hof in spesiale gevalle anders gelas, word in ope hof gevoer.

Reference of particular matters for investigation by referee

28C. (1) In any proceedings the Court may, with the consent of the parties, refer—

(a) any matter which requires extensive examination of documents or scientific, technical or local investigation which cannot be conveniently conducted by the Court;

(b) any matter which relates wholly or in part to accounts; or

(c) any other matter arising in such proceedings,

for enquiry and report to a referee, and the Court may, after hearing such evidence or arguments as may be adduced or presented by the parties—

(i) adopt the report of any such referee, either wholly or in part, and either with or without modifications;

(ii) remit such report for further enquiry or report or consideration by such referee; or

(iii) make any other order in regard thereto.

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(2) Any finding in such report or any part thereof which is adopted by the Court, whether with or without modifications, shall have effect as if it were a finding by the Court in the proceedings in question.

(3) Any such referee shall for the purpose of such enquiry have such powers and shall conduct the enquiry in such manner as may be prescribed by a special order of court or by the rules.

(4) For the purpose of procuring the attendance of any witness, including any witness detained in custody under any law, and the production of any document or thing before a referee, an enquiry under this section shall be deemed to be proceedings before the Court: Provided that the referee shall not have jurisdiction in respect of the criminal offences created by this section.

(5) Any person summoned to appear and give evidence or produce any document or thing before a referee, and who, without sufficient cause—

(a) fails to attend at the time and place specified or to remain in attendance until the conclusion of the enquiry or until he or she is excused by the referee from further attendance;

(b) refuses to be sworn or to make affirmation as a witness;

(c) having been sworn or having made affirmation as a witness, fails, without just excuse, to answer fully and satisfactorily any question put to him or her;

(d) fails to produce any document or thing in his or her possession or custody or under his or her control which he or she was summoned to produce,

shall be guilty of an offence and liable on conviction either by the Court by way of the procedures set out in section 28F or by a criminal court having jurisdiction, to a fine or to imprisonment for a period not exceeding three months.

(6) Any person who, after having been sworn or having made affirmation, gives false evidence before a referee at any enquiry, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(7) Any referee shall be entitled to such fees as may be prescribed by the rules or, if no such fees have been so prescribed, to such fees as the Court may determine, and to any reasonable expenditure incurred by him or her for the purposes of the enquiry, and any such fees and expenditure shall be taxed by the taxing master of the Court and shall be costs in the cause: Provided that the Court may order the State to pay the said fees and expenditure.

Verwysing van bepaalde aangeleenthede vir ondersoek deur skeidsregister

28C. (1) Die Hof kan in enige verrigtinge, met die toestemming van die partye—

- (a) enige aangeleenthed wat 'n uitgebreide ondersoek van dokumente of wetenskaplike, tegniese of plaaslike ondersoek verg wat nie geredelik deur die Hof ingestel kan word nie;
 - (b) enige aangeleenthed wat geheel en al of gedeeltelik op rekening betrekking het; of
 - (c) enige ander aangeleenthed wat uit bedoelde verrigtinge voortspruit, vir ondersoek en verslag na 'n skeidsregter verwys, en die Hof kan, na die aanhoor van die getuenis of betoog wat aangebied of aangevoer is deur die partye—
 - (i) die verslag van so 'n skeidsregter in sy geheel of gedeeltelik aanvaar, met of sonder wysisings;
 - (ii) so 'n verslag vir verdere ondersoek of verslag of oorweging deur bedoelde skeidsregter terugverwys; of
 - (iii) 'n ander bevel ten opsigte daarvan uitvaardig.
- (2) Enige bevinding in so 'n verslag of enige deel daarvan wat deur die Hof aanvaar word, hetsy met of sonder wysisings, het die uitwerking van 'n bevinding van die Hof in die betrokke verrigtinge.
- (3) So 'n skeidsregter het vir die doeleinnes van bedoelde ondersoek die bevoegdhede en behartig die ondersoek op die wyse wat by 'n spesiale hofbevel of by die reëls voorgeskryf word.
- (4) Vir die doeleinnes van die verkryging van die aanwesigheid van 'n getuie, met inbegrip van 'n getuie wat kragtens 'n wetsbepaling in hegenis gehou word, en die oorlegging van 'n dokument of saak voor 'n skeidsregter, word 'n ondersoek kragtens hierdie artikel verrigtinge voor die Hof geag: Met dien verstande dat die skeidsregter nie jurisdiksie het ten opsigte van die misdrywe deur hierdie artikel geskep nie.
- (5) Iemand wat gedagvaar is om voor 'n skeidsregter te verskyn en getuenis af te lê of 'n dokument of saak oor te lê, en wat sonder voldoende rede—
- (a) in gebreke bly om op die bepaalde tyd en plek aanwesig te wees of om aanwesig te bly totdat die ondersoek voltooi is of totdat die skeidsregter hom of haar verlof gee om nie meer aanwesig te wees nie;
 - (b) weier om as getuie die eed of 'n plegtige verklaring af te lê;
 - (c) na eedaflegging of die aflê van 'n plegtige verklaring as getuie, sonder voldoende rede in gebreke bly om 'n vraag aan hom of haar gestel volledig en op bevredigende wyse te beantwoord;
 - (d) in gebreke bly om 'n dokument of saak in sy of haar besit of bewaring of onder sy of haar beheer en tot oorlegging waarvan hy of sy gedagvaar is, oor te lê,
- (6) Iemand wat na eedaflegging of die aflê van 'n plegtige verklaring valse getuenis voor 'n skeidsregter by 'n ondersoek aflê, met die wete dat die getuenis vals is of sonder dat hy of sy weet of glo dat dit waar is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die regtens voorgeskrewe strawwe vir meineed.
- (7) 'n Skeidsregter is geregtig op die besoldiging wat by die reëls voorgeskryf word of, indien geen sodanige besoldiging aldus voorgeskryf is nie, op die besoldiging wat die Hof bepaal, en op enige redelike uitgawes deur hom of haar vir die doeleinnes van die ondersoek aangaan, en sodanige besoldiging en uitgawes word deur die takseermeester van die Hof getakseer en is koste in die geding: Met dien verstande dat die Hof die Staat kan gelas om sodanige besoldiging en uitgawes te betaal.

No process to be issued against judge of Court except with consent of court

28D. (1) Notwithstanding anything to the contrary contained in any law, no summons or subpoena against the President or any other judge of the Court shall in any civil action be issued out of any court without the consent of such court: Provided that no such summons or subpoena shall be issued out of a lower court unless the provincial division of the Supreme Court which has jurisdiction to hear and determine an appeal in a civil action from such lower court, has consented thereto.

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(2) Where the issuing of a summons or subpoena against a judge of the Court to appear in a civil action has been consented to, the date upon which such judge must attend court shall be determined in consultation with the President of the Court or, in his or her absence, the most senior available judge of the Court.

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(3) For the purposes of subsection (1) "lower court" means any court, other than the Constitutional Court or a court of a division of the Supreme Court, which is required to keep a record of its proceedings, and includes a court of a regional division and a magistrate's court established in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944).

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Judgment by default

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28E. A judgment by default may be granted by the Court in the manner and in the circumstances prescribed in the rules: Provided that the Court shall be satisfied that there was proper service of the process by which the case was initiated.

Manner of securing attendance of witnesses or production of any document or thing in proceedings before Court

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28F. (1) A party to proceedings before the Court may procure the attendance of any witness or the production of any document or thing in the manner provided for in the rules.

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(2) Whenever any person subpoenaed to attend any proceedings before the Court as a witness or to produce any document or thing fails without reasonable excuse to obey the subpoena and it appears from the return of the proper officer or from evidence given under oath that the subpoena was served upon the person to whom it is directed and that his or her reasonable expenses calculated in accordance with the tariff referred to in section 28M have been paid or offered to him or her, or that he or she is evading service of the subpoena, or if any person who has attended in obedience to a subpoena fails to remain in attendance until excused, the Court may issue a warrant directing that he or she be arrested and brought before the Court at a time and place stated in the warrant or as soon thereafter as possible.

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(3) A person arrested under any such warrant may be detained thereunder before the Court or in any prison or lock-up or other place of detention or in the custody of the person who is in charge of him or her with a view to securing his or her presence as a witness or to produce any document or thing at the said proceedings: Provided that the Court may release him or her on a recognizance with or without sureties for his or her appearance to give evidence or to produce any document or thing as required and for his or her appearance at the enquiry referred to in subsection (4).

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(4) The Court may in a summary manner, enquire into such person's evasion of the service of the subpoena or failure to obey the subpoena or to remain in attendance, and may, if it finds such person guilty, sentence him or her to a fine or to imprisonment for a period not exceeding three months.

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(5) Any sentence imposed by the Court under subsection (4) shall be

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Prosesstukke word nie sonder toestemming van Hof teen regter uitgereik nie

28D.(1) Ondanks andersluidende wetsbepalings, word geen dagvaarding of getuiedagvaarding in 'n siviele geding teen die President of enige ander regter van die Hof, sonder die toestemming van sodanige hof, uitgereik nie: Met dien verstande dat geen sodanige dagvaarding of getuiedagvaarding uit 'n laer hof uitgereik word nie tensy die provinsiale afdeling van die Hooggereghof wat bevoeg is om 'n appèl in 'n siviele geding van sodanige laerhof te verhoor en daaroor te beslis, toestemming tot die uitreiking daarvan verleen het.

(2) Waar toestemming tot die uitreiking van 'n dagvaarding of getuiedagvaarding teen 'n regter van die Hof om in 'n siviele saak te verskyn, verleent is, word die datum waarop so 'n regter die hof moet bywoon in oorleg met die President van die Hof of, by sy of haar afwesigheid, die mees senior beskikbare regter van die Hof bepaal.

(3) By die toepassing van subartikel (1) beteken "laer hof" enige hof, uitgesonderd die Konstitusionele Hof of die hof van 'n afdeling van die Hooggereghof, wat notule van sy verrigtinge moet hou, en omvat 'n hof van 'n streekafdeling en 'n landdroshof wat ingevolge die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), ingestel is.

Vonnis by verstek

28E. 'n Vonnis by verstek kan deur die Hof toegestaan word op die wyse en in die omstandighede wat in die reëls voorgeskryf word: Met dien verstande dat die Hof oortuig is dat daar behoorlike betekening was van die proses waardeur die geding ingestel is.

Wyse waarop verskyning van getuies of oorlegging van 'n stuk of saak in verrigtinge in Hof verseker word

28F.(1) 'n Party by verrigtinge in die Hof kan die aanwesigheid van 'n getuie of die oorlegging van 'n stuk of saak verkry op die wyse in die reëls bepaal.

(2) Wanneer iemand wat gedagvaar is om as 'n getuie by verrigtinge in die Hof aanwesig te wees of om 'n stuk of saak oor te lê, sonder redelike verskoning versuum om die dagvaarding te gehoorsaam en dit uit die relas van die bevoegde beampete of uit getuienis onder eed afgelê, blyk dat die dagvaarding bestel is aan die persoon aan wie dit gerig is en dat sy of haar redelike uitgawes bereken ooreenkomsdig die tarief bedoel in artikel 28M aan hom of haar betaal of aangebied is, of dat hy of sy bestelling van die dagvaarding ontwyk, of indien iemand wat ter voldoening aan 'n dagvaarding opgedaag het, versuum om aanwesig te bly totdat hy of sy verskoon word, kan die Hof 'n lasbrief uitrek waarby gelas word dat hy of sy in hegtenis geneem en op 'n tyd en plek in die lasbrief vermeld of so spoedig moontlik daarna voor die Hof gebring word.

(3) Iemand wat ingevolge so 'n lasbrief in hegtenis geneem word, kan daaronder aangehou word voor die Hof of in 'n gevangenis of opluisplek of ander aanholdingsplek of in die bewaring van die persoon wat hom of haar in bewaring het, ten einde sy of haar aanwesigheid as 'n getuie of die oorlegging van 'n stuk of saak by die betrokke verrigtinge te verseker: Met dien verstande dat die Hof hom of haar onder borgakte met of sonder borge vir sy of haar verskyning om getuienis af te lê of om 'n stuk of saak oor te lê soos vereis en vir sy of haar verskyning by die in subartikel (4) bedoelde ondersoek kan vrylaat.

(4) Die Hof kan summier ondersoek instel na so iemand se ontwyking van bestelling van die dagvaarding of versuum om die dagvaarding te gehoorsaam of om aanwesig te bly, en kan, indien sodanige persoon skuldig bevind word, hom of haar vonnis tot 'n boete of tot gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(5) 'n Vonnis ingevolge subartikel (4) deur die Hof opgelê, word ten

Act No. 78, 1996**LAND RESTITUTION AND REFORM LAWS
AMENDMENT ACT, 1996**

enforced and shall be subject to appeal as if it were a sentence imposed in a criminal case.

(6) If a person who has entered into any recognizance for his or her appearance to give evidence at such proceedings or to produce any document or thing or for his or her appearance at any enquiry referred to in subsection (4) fails so to appear, he or she may, apart from the forfeiture of his or her recognizance, be dealt with as if he or she had failed to obey a subpoena to attend such proceedings or appear at such enquiry.

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Manner in which witnesses may be dealt with on refusal to give evidence or produce any document or thing

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28G. (1) Whenever any person who appears either in obedience to a subpoena or by virtue of a warrant issued under section 28F or is present and is verbally required by the Court to give evidence in any proceedings refuses to be sworn or to make an affirmation, or, having been sworn or having made an affirmation, without any just excuse refuses or fails to answer such questions as are put to him or her, or to produce any document or thing which he or she is required to produce the Court may adjourn the proceedings for any period not exceeding eight days and may, in the meantime, by warrant commit the person so refusing or failing to prison unless he or she consents to do what is required of him or her.

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(2) If at the resumed hearing of the proceedings, any person referred to in subsection (1) again refuses without just excuse to do what is so required of him or her, the Court may again adjourn the proceedings and commit him or her to prison for a like period and so again from time to time until such person consents to do what is required of him or her.

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(3) Nothing contained in this section shall prevent the Court from giving judgment in any case or otherwise disposing of the proceedings according to any other sufficient evidence taken.

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(4) No person shall be bound to produce any document or thing not specified or otherwise sufficiently described in the subpoena unless he or she actually has it in court.

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(5) When a subpoena is issued to procure the attendance of any person to give evidence or to produce any book, paper, document or thing in any proceedings before the Court, and it appears—

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(a) that he or she is unable to give any evidence or to produce any book, paper, document or thing which would be relevant to any issue in such proceedings;

(b) that to compel him or her to attend would be an abuse of the judicial process,

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the Court may, notwithstanding anything contained in this section, after reasonable notice by the registrar of the Court to the party who sued out of the subpoena and after hearing that party in chambers if he or she appears, make an order cancelling such subpoena.

Examination by interrogatories of persons whose evidence is required in proceedings before Court

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28H. (1) The Court may in connection with any proceedings pending before it, order that the evidence of a person who resides or is for the time being outside the area of jurisdiction of the Court be taken by means of interrogatories.

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(2) Whenever an order is made under subsection (1), the registrar of the Court shall certify that fact and transmit a copy of his or her certificate to a commissioner of the Court, together with any interrogatories duly and lawfully framed which it is desired to put to the said person and the fees and

uitvoer gelê en is onderhewig aan appèl asof dit 'n vonnis is wat in 'n strafsaak opgelê is.

(6) Indien iemand wat 'n borgakte aangegaan het om te verskyn ten einde in sodanige verrigtinge getuienis af te lê of om 'n stuk of saak oor te lê of om by 'n in subartikel (4) bedoelde ondersoek te verskyn, versuim om aldus te verskyn, kan daar, afgesien van die verbeurdverklaring van sy of haar borgakte, met betrekking tot hom of haar gehandel word asof hy of sy versuim het om 'n dagvaarding om by bedoelde geding aanwesig te wees, te gehoorsaam of om by bedoelde ondersoek te verskyn.

10 Wyse waarop met getuies gehandel kan word by weiering om getuienis af te lê of enige dokument of saak oor te lê

28G. (1) Wanneer iemand wat óf ter voldoening aan 'n dagvaarding óf ingevolge 'n kragtens artikel 28F uitgereikte lasbrief verskyn of aanwesig is en deur die Hof mondeling verlang word om in enige verrigtinge getuienis af te lê, weier om 'n eed of 'n plegtige verklaring af te lê of nadat hy of sy 'n eed of 'n plegtige verklaring afgelê het, sonder grondige rede weier of versuim om die vrae te beantwoord wat aan hom of haar gestel word, of om 'n stuk of saak oor te lê waarvan die oorlegging van hom of haar vereis word, kan die Hof die verrigtinge vir 'n tydperk van hoogstens agt dae verdaag en die persoon wat aldus weier of versuim intussen by lasbrief gevange sit tensy hy of sy instem om te doen wat van hom of haar verlang word.

(2) Indien 'n in subartikel (1) bedoelde persoon by die hervatting van die verhoor van die verrigtinge weer sonder grondige rede weier om te doen wat aldus van hom of haar verlang word, kan die Hof weer eens die verrigtinge verdaag en hom of haar vir 'n dergelike tydperk gevange sit en dit van tyd tot tyd herhaal totdat bedoelde persoon instem om te doen wat van hom of haar verlang word.

(3) Die bepalings van hierdie artikel belet nie die Hof om in enige saak uitspraak te gee of die verrigtinge andersins af te handel op grond van ander voldoende getuienis wat afgeneem is nie.

(4) Niemand is verplig om 'n stuk of saak oor te lê wat nie in die dagvaarding vermeld of andersins genoegsaam beskryf is nie, tensy hy of sy dit werklik in die Hof het.

(5) Wanneer 'n dagvaarding uitgereik word om die aanwesigheid van iemand te verkry om getuienis af te lê of 'n boek, stuk, dokument of saak oor te lê in enige verrigtinge voor die Hof, en dit blyk—

(a) dat hy of sy nie in staat is om getuienis te lewer of 'n boek, stuk, dokument of saak oor te lê wat by 'n geskilpunt in die verrigtinge ter sake sou wees nie;

(b) dat om hom of haar te verplig om aanwesig te wees op misbruik van die geregtelike proses sou neerkom,

kan die Hof, ondanks enigiets in hierdie artikel vervat, na redelike kennisgewing deur die griffier van die Hof aan die party wat die dagvaarding uitgeneem het en nadat daardie party in kamers aangehoor is indien hy of sy verskyn, 'n bevel uitvaardig waarby die dagvaarding gekanselleer word.

Ondervraging op vraagpunte van persone van wie getuienis in verrigtinge voor Hof verlang word

50 28H. (1) Die Hof kan in verband met enige verrigtinge wat voor hom aanhangig is, beveel dat die getuienis van iemand wat buite die regsgebied van die Hof woon of hom of haar dan daarbuite bevind, by wyse van vraagpunte afgeneem word.

(2) Wanneer 'n bevel kragtens subartikel (1) uitgevaardig word, moet die griffier van die Hof daardie feit sertificeer en 'n afskrif van sy of haar sertifikaat aan 'n kommissaris van die Hof stuur, tesame met behoorlik en wettig opgestelde vraagpunte waaroor ondervraging van die betrokke persoon verlang word, asook die gelde en die bedrag van die onkoste aan

the amount of the expenses payable to the said person for his or her appearance as hereinafter provided.

(3) Upon receipt of the aforesaid certificate and of the interrogatories and amounts aforesaid, the commissioner shall summon the said person to appear before him or her, and upon his or her appearance shall take his or her evidence as if he or she were a witness in proceedings before the Court, and shall put to him or her the interrogatories aforesaid with any other questions calculated to obtain full and true answers to the said interrogatories and shall take down or cause to be taken down the evidence so obtained, and shall transmit the same, certified as correct, to the registrar of the Court.

(4) The commissioner shall further transmit to the said registrar a certificate showing the amount paid to the person concerned in respect of the expenses of his or her appearance, and the cost of the issue and service of the process for summoning such person before him or her.

(5) Any person summoned to appear as provided in this section who without reasonable excuse fails to appear at the time and place mentioned in the summons, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding three months.

(6) Any interrogatories taken and certified under this section, shall, subject to all lawful exceptions, be received as evidence in the aforesaid proceedings.

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Appointment of officers of Court

28I. (1) The Minister of Justice may, subject to the laws governing the public service, appoint registrars, assistant registrars and other officers for the Court whenever they may be required for the administration of justice or the execution of the functions of the Court.

(2) Whenever by reason of absence or incapacity a registrar or assistant registrar is unable to carry out the functions of his or her office, or his or her office becomes vacant, the Minister of Justice may authorise any other competent officer in the public service to act in the place of the absent or incapacitated officer during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided that when any such vacancy has remained unfilled for a continuous period exceeding six months that fact shall be reported to the Public Service Commission established by section 209 of the Constitution.

(3) Any officer in the public service appointed under subsection (1) may simultaneously hold more than one of the offices mentioned in that subsection.

(4) (a) The President of the Court may, in consultation with the Minister of Justice, from time to time, appoint one or more persons to undertake such research or perform such duties for the Court as the President of the Court may determine.

(b) The remuneration and other terms and conditions of service of a person appointed in terms of paragraph (a) shall be as determined, either generally or in any specific case, by the President of the Court in consultation with the accounting officer referred to in section 28J(3).

(5) The Minister of Justice may delegate to an officer in the Department of Justice any of the powers vested in him or her by this section.

Finances and accountability

28J. (1) Expenditure in connection with the administration and functioning of the Court shall be defrayed from monies appropriated by Parliament for such purpose.

(2) Requests for the funds needed for the administration and functioning of the Court, as determined by the President of the Court after consultation with the Minister of Justice, shall be addressed to Parliament by the

daardie persoon betaalbaar ten opsigte van sy of haar verskyning soos hieronder bepaal.

(3) By ontvangs van bedoelde sertifikaat en van bedoelde vraagpunte en gelde, dagvaar die kommissaris die betrokke persoon om voor hom of haar te verskyn, en by sy of haar verskyning neem die kommissaris sy of haar getuienis af asof hy of sy 'n getuie in verrigtinge voor die Hof is en stel die kommissaris aan hom of haar voormalde vraagpunte asook ander vrae wat bereken is om volledige en juiste antwoorde op bedoelde vraagpunte te verkry, en neem die kommissaris die aldus verkreë getuienis af of laat dit afneem, en die kommissaris moet dit as korrek sertifiseer en stuur aan die griffier van die Hof.

(4) Die kommissaris moet voorts aan bedoelde griffier 'n sertifikaat stuur wat die bedrag aan die betrokke persoon ten opsigte van die onkoste verbonde aan sy of haar verskyning betaal, en die koste van uitreiking en bestelling van die prosesstukke waarby daardie persoon gedagvaar is om voor hom of haar te verskyn, aantoon.

(5) Iemand wat gedagvaar word om volgens voorskrif van hierdie artikel te verskyn, en wat sonder redelike verskoning versuim om op die in die dagvaarding vermelde tyd en plek te verskyn, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(6) Getuienis op vraagpunte ingevolge hierdie artikel afgeneem en gesertifiseer, word, onderworpe aan alle wetlike eksepsies, as getuienis in voormalde verrigtinge aangeneem.

25 Aanstelling van beampies van Hof

28I. (1) Die Minister van Justisie kan met inagneming van die wetsbepalings op die staatsdiens, vir die Hof griffiers, assistent-griffiers en ander beampies aanstel wanneer hulle vir die regspleging of die verrigting van die werkzaamhede van die Hof nodig is.

(2) Wanneer 'n griffier of assistent-griffier weens afwesigheid of onbekwaamheid nie sy of haar amspspligte kan uitvoer nie of sy of haar amp vakant word, kan die Minister van Justisie 'n ander bevoegde beampie in die staatsdiens magtig om in die plek van die afwesige of onbekwame beampie op te tree solank hy of sy aldus afwesig of onbekwaam is of om in die vakante betrekking waar te neem totdat die vakature gevul word: Met dien verstande dat wanneer so 'n vakture vir 'n ononderbroke tydperk van meer as ses maande nie gevul is nie, daardie feit aan die Staatsdienskommissie ingestel by artikel 209 van die Grondwet gerapporteer moet word.

(3) 'n Kragtens subartikel (1) aangestelde beampie in die staatsdiens kan gelyktydig meer as een van die in daardie subartikel bedoelde ampte beklee.

(4) (a) Die President van die Hof kan in oorleg met die Minister van Justisie van tyd tot tyd vir die Hof een of meer persone aanstel ten einde die navorsing te doen of die pligte te verrig wat die President van die Hof bepaal.

(b) Die besoldiging en ander diensvoorraarde van 'n persoon ingevolge paragraaf (a) aangestel, word, het sy in die algemeen of in 'n bepaalde geval, deur die President van die Hof in oorleg met die rekenpligtige beampie bedoel in artikel 28J(3) bepaal.

(5) Die Minister van Justisie kan aan 'n beampie in die Departement van Justisie enige bevoegdheid deleger wat by hierdie artikel aan hom of haar verleen word.

Finansies en rekenpligtigheid

28J. (1) Uitgawes in verband met die administrasie en werkzaamhede van die Hof word bestry uit fondse wat deur die Parlement vir daardie doel bewillig word.

(2) Versoeke om die fondse wat vir die administrasie en werkzaamhede van die Hof benodig word, soos deur die President van die Hof na oorleg

Minister of Justice in the manner prescribed for the budgetary process of Departments of State.

(3) The Director-General of Justice or an officer of the Department of Justice designated by him or her for such purpose shall, subject to the Exchequer Act, 1975 (Act No. 66 of 1975)—

(a) be charged with the responsibility of accounting for money received or paid out for or on account of the administration and functioning of the Court; and

(b) cause the necessary accounting and other related records to be kept, which records shall be audited by the Auditor-General appointed in terms of section 191 of the Constitution.

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Scope and execution of process of Court

28K. (1) The process of the Court shall run throughout the Republic and its sentences, rulings, judgments, writs, summonses, orders, warrants, commands and other processes shall be executed in any area in like manner as if they were processes of the provincial division of the Supreme Court having jurisdiction in such area.

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(2) A sheriff or a deputy sheriff of the Supreme Court appointed for the area in which any process is to be served, shall execute all sentences, rulings, judgments, writs, summonses, orders, warrants, commands and other processes of the Court directed to him or her and any reference in this Act to a sheriff or a deputy sheriff shall be deemed to be a reference to a sheriff or deputy sheriff of the Supreme Court acting in terms of this section.

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(3) A sheriff or deputy sheriff performing his or her duties in terms of this Act shall have all the powers and rights and be subject to all the obligations and duties applicable to the execution by such sheriff or deputy sheriff of the process of the provincial division of the Supreme Court for which he or she is appointed.

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(4) The return of a sheriff or a deputy sheriff of what has been done in connection with any process of the Court, shall be *prima facie* evidence of the matters therein stated.

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(5) A refusal by the sheriff or any deputy sheriff to do any act which he or she is, in terms of this Act, empowered or obliged to do, shall be subject to review by the Court on application *ex parte* or on notice as the circumstances may require.

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(6) Any warrant or other process for the execution of a judgment given or order issued against any association of persons, corporate or unincorporated, partnership or firm may be executed by attachment of the property or assets of such association, partnership or firm.

Offences relating to execution

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28L. Any person who is guilty of the conduct referred to in section 40 of the Supreme Court Act, 1959 (Act No. 59 of 1959), in relation to the execution by a sheriff or deputy sheriff of his or her duties in terms of this Act, shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding six months.

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Witness fees

28M. (1) A witness in any proceedings of the Court and any person who accompanies any such witness on account of the youth or infirmity of such witness, shall be paid such allowances as may be prescribed in terms of section 42 of the Supreme Court Act, 1959.

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(2) Notwithstanding anything to the contrary contained in any other law, the Court may order that no allowances or only a portion of the prescribed allowances shall be paid to any witness.

met die Minister van Justisie bepaal, word deur die Minister van Justisie aan die Parlement gerig op die wyse wat vir begrotingsprosedures van Staatsdepartemente voorgeskryf word.

(3) Die Direkteur-generaal van Justisie of 'n beampie van die Departement van Justisie wat vir dié doel deur hom of haar aangewys word—

(a) is, behoudens die Skatkiswet, 1975 (Wet No. 66 van 1975), belas met die verantwoording van geld ontvang of uitbetaal vir die administrasie en werksaamhede van die Hof; en

(b) laat, behoudens, die Skatkiswet, 1975, die nodige rekeningkundige en ander verwante aantekeninge hou, welke aantekeninge deur die Ouditeur-generaal aangestel ingevolge artikel 191 van die Grondwet, geouditeer moet word.

Strekking en tenuitvoerlegging van proses van Hof

28K. (1) Die proses van die Hof geld dwarsdeur die Republiek en sy vonnisse, bevele, uitsprake, bevelskrifte, dagvaardings, orders, lasbriewe, lasgewings en ander prosesstukke word in enige gebied ten uitvoer gelê op dieselfde wyse asof dit prosesstukke van die provinsiale afdeling van die Hooggereghof is wat in so 'n gebied jurisdiksie het.

(2) 'n Balju of 'n adjunkbalju van die Hooggereghof wat aangestel is vir die gebied waarin 'n prosesstuk beteken moet word, moet alle vonnisse, bevele, uitsprake, bevelskrifte, dagvaardings, orders, lasbriewe, lasgewings en ander prosesstukke van die Hof wat aan hom of haar gerig is, ten uitvoer lê en enige verwysing in hierdie Wet na 'n balju of 'n adjunkbalju word geag 'n verwysing te wees na 'n balju of adjunkbalju van die Hooggereghof wat 'n handeling ingevolge hierdie artikel verrig.

(3) 'n Balju of 'n adjunkbalju wat sy of haar pligte ingevolge hierdie Wet verrig, beskik oor al die bevoegdhede en regte en is onderworpe aan al die verpligtinge en pligte wat van toepassing is by die tenuitvoerlegging deur sodanige balju of adjunkbalju van die prosesstukke van die provinsiale afdeling van die Hooggereghof waarvoor hy of sy aangestel is.

(4) Die relaas van 'n balju of 'n adjunkbalju van die stappe wat in verband met 'n prosesstuk van die Hof gedoen is, is *prima facie* getuenis van die aangeleenthede daarin vermeld.

(5) 'n Weiering deur die balju of 'n adjunkbalju om 'n handeling te verrig wat hy of sy ingevolge hierdie Wet gemagtig of verplig is om te verrig, is onderworpe aan hersiening deur die Hof by aansoek *ex parte* of na kennisgewing, al na die omstandighede vereis.

(6) 'n Lasbrief of ander prosesstuk vir die tenuitvoerlegging van 'n uitspraak gegee of bevel uitgevaardig teen 'n vereniging van persone met of sonder regspersoonlikheid, vennootskap of firma kan deur beslaglegging op die eiendom of bates van die vereniging, vennootskap of firma ten uitvoer gelê word.

Oortredings in verband met uitwinning

28L. Iemand wat skuldig is aan die gedrag in artikel 40 van die Wet op die Hooggereghof, 1959 (Wet No. 59 van 1959), bedoel met betrekking tot die uitvoering deur 'n balju of 'n adjunkbalju van sy of haar pligte ingevolge hierdie Wet, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens ses maande.

Getuiegdele

28M. (1) 'n Getuie in enige verrigtinge in die Hof en iemand wat so 'n getuie moet begelei weens die jeug of gebrek van so 'n getuie, word die toelaes betaal wat voorgeskryf word ingevolge artikel 42 van die Wet op die Hooggereghof, 1959.

(2) Ondanks andersluidende bepalings van die een of ander wet, kan die Hof gelas dat geen toelaes of slegs 'n gedeelte van die voorgeskrewe toelaes aan 'n getuie betaal word.

Powers of Court on hearing of appeals

28N. The Court shall, at the hearing of any appeal in terms of any law conferring upon it any appellate jurisdiction, have the power—

- (a) to receive further evidence;
 - (b) to remit the case to the court or other tribunal of first instance or to the arbitrator concerned, for further hearing, with such instructions as regards the taking of further evidence or otherwise as the Court considers necessary; or
 - (c) to confirm, amend or set aside the judgment, order or decision which is the subject matter of the appeal and to give any judgment, order or decision which the circumstances may require,
- unless such law provides otherwise.

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Application of provisions of this Chapter in respect of performance by Court of its functions under other legislation

28O. The provisions of this Chapter regulating the procedures, powers and obligations of the Court shall apply *mutatis mutandis*, to the performance by the Court of its functions in terms of any other law in respect of which it has jurisdiction, unless such application is excluded expressly or by necessary implication.”.

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Substitution of section 29 of Act 22 of 1994

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16. The following section is hereby substituted for section 29 of the principal Act:

“Intervention to proceedings before Court, right to appear and legal representation

29. (1) [Any party listed in the document referred to in section 14(2), or any interested party in relation to an application in terms of section 34, may appear before the Court, either in person or represented by an advocate or attorney: Provided that the State shall have the right to be heard in all cases and that a person or community not listed in the document referred to in section 14(2) may apply to the Court for permission to appear before it.] Any interested person, including an organisation, may apply to the Court for leave to intervene as a party to any proceedings before the Court.

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(2) The State shall have the right to intervene as a party to all proceedings before the Court.

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(3) Any party appearing before the Court may do so in person or may be represented by an advocate or attorney.

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[2] (4) Where a party can not afford to pay for legal representation itself, the Chief Land Claims Commissioner may take steps to arrange legal representation for such party, either through the State legal aid system or, if necessary, at the expense of the Commission.”.

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Amendment of section 30 of Act 22 of 1994

17. Section 30 of the principal Act is hereby amended by the addition of the following subsection:

“(4) Whenever an order, judgement or other record of the Court is required to be proved or inspected or referred to in any manner, a copy of such order, judgment or other record duly certified as such by the registrar of the Court under its seal shall be *prima facie* evidence thereof without proof of the authenticity of such registrar’s signature.”.

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Bevoegdhede van Hof by verhoor van appèl

28N. Die Hof is bevoeg om by die verhoor van 'n appèl ingevolge enige wet wat appèlbevoegdheid aan hom opdra—

- (a) verdere getuienis te ontvang;
- (b) die saak vir verdere verhoor na die hof of ander liggaam van eerste instansie of die betrokke arbiter terug te verwys, met 'n opdrag wat betref die afneem van verdere getuienis of andersins wat vir die Hof nodig blyk; of
- (c) om die uitspraak, bevel of beslissing wat die onderwerp van die appèl is, te bevestig, te wysig of tersyde te stel, en om enige uitspraak, bevel of beslissing te gee wat die omstandighede vereis, tensy sodanige wet anders bepaal.

Toepassing van bepalings van hierdie Hoofstuk ten opsigte van uitvoering deur Hof van sy funksies kragtens ander wetgewing

28O. Die bepalings van hierdie Hoofstuk wat die procedures, bevoegdhede en verpligte van die Hof reël is *mutatis mutandis* van toepassing op die uitvoering deur die Hof van sy werkzaamhede ingevolge enige ander wet ten opsigte waarvan die Hof jurisdiksie het, tensy sodanige toepassing uitdruklik of by noodsaaklike implikasie uitgesluit is.”.

20 Vervanging van artikel 29 van Wet 22 van 1994

16. Artikel 29 van die Hoofwet word hierby deur die volgende artikel vervang:

“Toetrede tot verrigtinge voor Hof, reg om te verskyn en regsvereenwoording

29. (1) [Enige party wat gelys is in die dokument bedoel in artikel 14(2), of enige belanghebbende party ten opsigte van 'n aansoek ingevolge artikel 34, kan voor die Hof verskyn, hetsy persoonlik of verteenwoordig deur 'n advokaat of prokureur: Met dien verstande dat die Staat die reg het om in alle sake aangehoor te word en dat 'n persoon of gemeenskap wat nie gelys is in die dokument bedoel in artikel 14(2) nie by die Hof aansoek kan doen vir toestemming om voor die Hof te verskyn.] Enige belanghebbende persoon, met inbegrip van 'n organisasie, kan by die Hof aansoek doen om verlof om as 'n party toe te tree tot enige verrigtinge voor die Hof.

(2) Die Staat het die reg om as 'n party toe te tree tot enige verrigtinge voor die Hof.

(3) Enige party wat voor die Hof verskyn, kan dit persoonlik doen of kan deur 'n advokaat of prokureur verteenwoordig word.

[2](4) Indien 'n party nie self regsvereenwoording kan bekostig nie, kan die Hoofgrondeisekommissaris stappe doen om regsvereenwoording vir sodanige persoon te reël, hetsy deur die Staat se regshulpstelsel of, indien nodig, op koste van die Kommissie.”.

Wysiging van artikel 30 van Wet 22 van 1994

17. Artikel 30 van die Hoofwet word hierby gewysig deur die volgende subartikel by te voeg:

“(4) Wanneer 'n uitspraak, bevel of ander stuk van die Hof bewys of geïnspekteer moet word of daar op enige wyse daarna verwys moet word, is 'n afskrif van so 'n uitspraak, bevel of ander stuk wat behoorlik deur die griffier van die Hof onder die seël daarvan as sodanig gesertifiseer is, *prima facie* bewys daarvan sonder bewys van egtheid van handtekening van bedoelde griffier.”.

Amendment of section 32 of Act 22 of 1994

18. Section 32 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The President of the Court may make rules to govern the procedure of the Court, including rules providing for—

(a) any of the matters listed in paragraphs (a) to (s) of subsection (1) of section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), insofar as they are appropriate to the functions of the Court;

(b) the circumstances under which opinion and oral evidence may be submitted to the Court;

(c) the suspension or execution of judgments, orders or sentences of the Court pending—

(i) applications or petitions for leave to appeal; and

(ii) the prosecution of appeals; and

(d) generally, any matter which may be necessary or useful to be prescribed for the proper despatch and conduct of the functions of the Court.”.

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Amendment of section 34 of Act 22 of 1994

19. Section 34 of the principal Act is hereby amended by the deletion of subsection (7).

Amendment of section 35 of Act 22 of 1994

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20. Section 35 of the principal Act is hereby amended—

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

“(g) make such orders for costs as it deems just, including an order for costs against the State or the Commission;”.

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(b) by the deletion of subsection (8); and

(c) by the addition of the following subsections:

“(11) The Court may, upon application by any person affected thereby and subject to the rules made under section 32, rescind or vary any order or judgment granted by it—

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(a) in the absence of the person against whom that order or judgment was granted;

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(b) which was void from its inception or was obtained by fraud or mistake common to the parties;

(c) in respect of which no appeal lies; or

(d) in the circumstances contemplated in section 11(5):

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Provided that where an appeal is pending in respect of such order, or where such order was made on appeal, the application shall be made to the Constitutional Court or the Appellate Division of the Supreme Court, as the case may be.

(12) The Court may, upon application by any person affected thereby, or of its own accord—

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(a) if a person is, in the circumstances contemplated in subsection (1), registered as a preferential claimant, rescind or vary the order contemplated in that subsection:

(b) correct patent errors in any order or judgment.”.

Amendment of section 36 of Act 22 of 1994

21. Section 36 of the principal Act is hereby amended by the substitution for subsection(1) of the following subsection:

“(1) Any party aggrieved by any act [of] or decision of the Minister, 50 Commission or any functionary acting or purportedly acting in terms of this Act, may apply to have such act or decision reviewed by the Court.”.

Wysiging van artikel 32 van Wet 22 van 1994

18. Artikel 32 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) Die President van die Hof kan reëls maak om die prosedure van die Hof te reël, met inbegrip van reëls wat voorsiening maak vir—
- (a) enige van die aangeleenthede in paragrawe (a) tot (s) van subartikel (1) van artikel 6 van Wet op die Reëlsraad vir Geregshoewe, 1985 (Wet No. 107 van 1985), genoem, in soverre daardie aangeleenthede toepaslik is met betrekking tot die werksaamhede van die Hof;
 - (b) die omstandighede waaronder opinie- en mondeline getuienis voor die Hof gebring kan word;
 - (c) die opskorting of tenuitvoerlegging van uitsprake, bevele of vonnisse van die Hof hangende—
 - (i) aansoeke of petisies om verlof om te appelleer; en
 - (ii) die voortsetting van appelle; en
 - (d) oor die algemeen enige aangeleenthed wat nodig of nuttig mag wees om voor te skryf vir die behoorlike afhandeling en reëling van die werksaamhede van die Hof.”.

Wysiging van artikel 34 van Wet 22 van 1994

20 **19.** Artikel 34 van die Hoofwet word hierby gewysig deur subartikel (7) te skrap.

Wysiging van artikel 35 van Wet 22 van 1994

20. Artikel 35 van die Hoofwet word hierby gewysig—

- (a) deur in subartikel (2) paragraaf (g) deur die volgende paragraaf te vervang:

“(g) die bevele met betrekking tot koste uitrek wat hy regverdig ag, met inbegrip van 'n bevel met betrekking tot koste teen die Staat of die Kommissie’;”;
- (b) deur subartikel (8) te skrap; en
- (c) deur die volgende subartikels by te voeg:

“(11) Die Hof kan, op aansoek van enige persoon wat daardeur geraak word en behoudens die reëls kragtens artikel 32 gemaak, 'n uitspraak of bevel deur hom gegee—

 - (a) in die afwesigheid van die persoon teen wie daardie uitspraak of bevel gegee is;
 - (b) wat van die begin af nietig is of wat deur bedrog of ten gevolge van 'n aan die partye gemeenskaplike dwaling verkry is;
 - (c) wat nie aan appèl onderhewig is nie; of
 - (d) in die omstandighede in artikel 11(5) beoog, nietig verklaar of wysig: Met dien verstande dat waar 'n appèl hangende is ten opsigte van so 'n bevel, of waar so 'n bevel op appèl gegee is, die aansoek by die Konstitusionele Hof of die Appèlafdeling van die Hooggereghof, na gelang van die geval, gedoen moet word.

(12) Die Hof kan op aansoek van enige persoon wat daardeur geraak word, of uit eie beweging—

 - (a) indien iemand, onder die omstandighede in subartikel (1) beoog, geregistreer is as 'n voorkeureiser, die bevel in daardie subartikel beoog, nietig verklaar of wysig;
 - (b) klaarblyklike foute in 'n uitspraak of bevel regstel.”.

Wysiging van artikel 36 van Wet 22 van 1994

21. Artikel 36 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

- “(1) Enige party wat gegrief voel oor enige handeling deur of beslissing van die Minister, Kommissie of deur enige funksionaris wat optree of skynbaar optree ingevolge hierdie Wet, kan aansoek doen om die hersiening van sodanige handeling of beslissing deur die Hof.”.

Substitution of section 37 of Act 22 of 1994

22. The following section is hereby substituted for section 37 of the principal Act:

"Appeals from Court"

37. (1) [Appeals] No appeal shall lie against [decisions by] a judgment or order of the Court [shall lie either to the Constitutional Court] except with leave of the Court or [to], where such leave has been refused, with the leave of the Appellate Division of the Supreme Court (hereinafter referred to as the Appellate Division).

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(2) [The] An appeal from a judgment or order of the Court shall [in each case determine the court to which an appeal shall lie] be heard by the Appellate Division.

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(3) The Appellate Division may, in granting leave to appeal, vary any order for costs made by the Court in refusing leave to appeal.

(4) The power to grant leave to appeal as contemplated in subsection (1)—

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(a) shall not be limited by reason only of the value of the matter in dispute or the amount claimed or awarded in the suit or by reason only of the fact that the matter in dispute is incapable of being valued in money; and

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(b) shall be subject to the provisions of any other law which specifically limits it or specifically grants, limits or excludes any right of appeal.

(5) Leave to appeal may be granted subject to such conditions as the Court or the Appellate Division, as the case may be, considers appropriate, including a condition that the applicant shall find security for the costs of the appeal.

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(6) The Appellate Division may grant leave to appeal on application made to it within 15 days, or such longer period as may on good cause be allowed, after the Court has refused leave to appeal.

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(7) (a) An application to the Appellate Division in terms of subsection (6)—

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(i) shall be brought on notice of motion supported by an affidavit as to the facts upon which the applicant relies for relief;

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(ii) shall be addressed to the registrar of the Appellate Division, to the registrar of the Court and to all other parties in the proceedings before the Court.

(b) The application shall be considered by two judges of the Appellate Division designated by the Chief Justice, and in the case of a difference of opinion, also by the Chief Justice or any other such judge so designated.

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(c) The judges considering the application may order that the application be argued before them at a time and place appointed, and may, whether or not they have so ordered—

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(i) grant or refuse the application; or

(ii) refer the application to the Appellate Division for consideration, whether upon argument or otherwise,

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and where an application has been so referred, the Appellate Division may thereupon grant or refuse the application.

(d) The decision of the majority of the judges considering the application, or the decision of the Appellate Division, as the case may be, to grant or refuse the application shall be final.

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(e) Notice of the date and place fixed for the hearing of the application shall be given to the applicant and the respondent by the registrar of the Appellate Division.

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(8) The Appellate Division shall, on the hearing of any appeal from the Court have the power—

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(a) to receive further evidence;

(b) to remit the case to the Court for further hearing, with such instructions as regards the taking of further evidence or otherwise as the Appellate Division considers necessary; or

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(c) to confirm, amend or set aside the judgment or order which is the subject of the appeal and to give any judgment or make any order which the circumstances may require.

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Vervanging van artikel 37 van Wet 22 van 1994

22. Artikel 37 van die Hoofwet word hereby deur die volgende artikel vervang:

“Appèlle vanaf Hof

- 5 **37.** (1) [Appèlle] Daar is geen appèl teen [beslissings] 'n uitspraak of bevel van die Hof [is óf na die Konstitusionele Hof óf] behalwe met verlof van die Hof of [na], waar sodanige verlof geweiер is, met verlof van die Appèlafdeling van die Hooggereghof (hierna die Appèlafdeling genoem).
- 10 (2) [Die] 'n Appèl teen 'n uitspraak of bevel van die Hof [bepaal in elke geval na welke hof 'n appèl is] word deur die Appèlafdeling verhoor.
- 15 (3) Die Appèlafdeling kan by die verlening van verlof om te appelleer enige bevel met betrekking tot koste uitgereik deur die Hof by die weiering van verlof om te appelleer, wysig.
- 20 (4) Die bevoegdheid om verlof om te appelleer, te verleen soos in subartikel (1) beoog—
- (a) is nie beperk bloot op grond van die waarde van die saak in geskil of die bedrag in die geding geëis of toegeken nie of bloot op grond daarvan dat die saak in geskil nie in geld bereken kan word nie; en
- 25 (b) is onderworpe aan die bepalings van enige ander wet wat dit uitdruklik beperk of 'n reg van appèl uitdruklik verleen, beperk of uitsluit.
- 30 (5) Verlof om te appelleer kan verleen word onderworpe aan die voorwaardes wat die Hof of die Appèlafdeling, na gelang van die geval, toepaslik ag, met inbegrip van 'n voorwaarde dat die applikant sekuriteit stel vir die koste van die appèl.
- 35 (6) Die Appèlafdeling kan verlof om te appelleer verleen op aansoek aan hom gerig binne 15 dae, of die langer tydperk wat op goeie gronde toegelaat word, nadat die Hof verlof om te appelleer, geweiер het.
- (7) (a) 'n Aansoek aan die Appèlafdeling ingevolge subartikel (6)—
- 40 (i) geskied by kennisgewing van mosie, gesteun deur 'n beëdigde verklaring wat die feite bevat waarop applikant vir regshulp steun;
- 45 (ii) word aan die griffler van die Appèlafdeling, die griffler van die Hof en alle ander partye tot die verrigtinge voor die Hof gerig.
- (b) Die aansoek word oorweeg deur twee regters van die Appèlafdeling deur die Hoofregter aangewys, en in die geval van 'n verskil van mening, ook deur die Hoofregter of 'n ander sodanige regter aldus aangewys.
- 50 (c) Die regters wat die aansoek oorweeg, kan gelas dat die aansoek op 'n bepaalde tyd en plek voor hulle beredeneer word, en kan, hetsy hulle aldus gelas het al dan nie—
- (i) die aansoek toestaan of weier; of
- 55 (ii) die aansoek na die Appèlafdeling verwys vir oorweging, hetsy na beredenering of andersins,
en waar 'n aansoek aldus verwys is, kan die Appèlafdeling daarop die aansoek toestaan of weier.
- (d) Die beslissing van die meerderheid van die regters wat die aansoek oorweeg of die beslissing van die Appèlafdeling, na gelang van die geval, om die aansoek toe te staan of te weier, is afdoende.
- (e) Daar word deur die griffler van die Appèlafdeling van die datum en plek vir die verhoor van die aansoek vasgestel, aan die applikant en die respondent kennis gee.
- (8) Die Appèlafdeling het by die verhoor van enige appèl vanaf die Hof die bevoegdheid om—
- (a) verdere getuienis te ontvang;
- 55 (b) die saak terug te verwys na die Hof vir die verdere verhoor daarvan, met die instruksies betreffende die afneem van verdere getuienis of andersins wat die Appèlafdeling noodsaaklik ag; of
- (c) die uitspraak of bevel wat die onderwerp van die appèl is, te bevestig, te wysig of tersyde te stel en enige uitspraak te gee of enige bevel uit te vaardig wat die omstandighede vereis.

(9) Nothing in this section contained shall be construed as preventing an appeal from a judgment or order of the Court being made directly to the Constitutional Court, if such an appeal is allowed by national legislation and by the rules of the Constitutional Court.”.

Registrar to remove certain notes

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23. Every registrar of deeds shall, upon the commencement of this Act, remove any note entered in his or her records in terms of section 11(6)(b) of the principal Act.

Interpretation of reference to judges of Supreme Court in laws

24. Unless it would in any particular case be inconsistent with the context or otherwise obviously be inappropriate, having regard to the objects of the principal Act, any reference in a law to a judge of the Supreme Court shall be construed as including a reference to a judge of the Land Claims Court established by section 22 of the principal Act.

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Amendment of section 3 of Act 3 of 1996

25. Section 3 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), is hereby amended by the substitution for subsection (1) of the following subsection:

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“(1) Notwithstanding the provisions of any other law, but subject to the provisions of subsection (2), a person who was a labour tenant on 2 June 1995 shall have the right with his or her family members [to occupy and use that part of the farm in question]—

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- (a) to occupy and use that part of the farm in question which he or she or his or her associate was using and occupying on that date; [and]
- (b) to occupy and use that part of the farm in question the right to [the] occupation and use of which is restored to him or her in terms of this Act or any other law.”.

25

Substitution of section 5 of Act 3 of 1996

26. The following section is hereby substituted for section 5 of the Land Reform (Labour Tenants) Act, 1996:

“Prohibition on eviction

5. Subject to the provisions of section 13, [A] a labour tenant or his or her associate may only be evicted in terms of an order of the Court issued under this Act.”.

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Amendment of section 17 of Act 3 of 1996

27. Section 17 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended by the substitution in subsection (4) for the words preceding paragraph (a) of the following words:

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“The owner of affected land shall within one calendar month of receipt of the notice referred to in subsection 2(a), inform the Director-General in writing—”.

Amendment of section 18 of Act 3 of 1996

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28. Section 18 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended by the substitution for subsection (9) of the following subsection:

“(9) Any nomination referred to in subsection [7](8) shall be in writing, signed by all the parties, and submitted to the President of the Court.”.

(9) Hierdie artikel word nie so vertolk dat dit 'n appèl teen 'n uitspraak op bevel van die Hof direk na die Konstitusionele Hof verhoed nie, indien so 'n appèl deur nasionale wetgewing of deur die reëls van die Konstitusionele Hof toegelaat word.”.

5 Registrateur moet sekere aantekeninge verwyder

23. Elke registrateur van aktes moet by die inwerkingtreding van hierdie Wet enige aantekening wat in sy of haar registers ingevolge artikel 11(6)(b) van die Hoofwet aangebring is, verwyder.

Uitleg van verwysing na regters van die Hooggereghof in wette

10 **24.** Tensy dit in 'n bepaalde geval, met inagneming van die doelstellings van die Hoofwet, onbestaanbaar met die samehang is of andersins klaarblyklik ontoepaslik is, word 'n verwysing in enige wet na 'n regter van die Hooggereghof uitgelê om 'n verwysing na 'n regter van die Hof vir Grondeise ingestel by artikel 22 van die Hoofwet, in te sluit.

15 Wysiging van artikel 3 van Wet 3 van 1996

25. Artikel 3 van die Wet op Grondhervorming (Huurrabieders), 1996 (Wet No. 3 van 1996), word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

20 “(1) Ondanks die bepalings van enige ander wet, maar behoudens die bepalings van subartikel (2), het 'n persoon wat op 2 Junie 1995 'n huurrabieder was, die reg om saam met sy of haar familielede **[daardie gedeelte van die betrokke plaas te bewoon en te gebruik]**—
 (a) **daardie gedeelte van die betrokke plaas te bewoon en te gebruik** wat hy of sy of sy of haar geassosieerde op daardie datum gebruik en bewoon het; **[en]**
 25 (b) **daardie gedeelte van die betrokke plaas te bewoon en te gebruik** ten opsigte waarvan die reg om dit te bewoon en te gebruik ingevolge hierdie Wet of enige ander wet aan hom of haar herstel word.”.

Vervanging van artikel 5 van Wet 3 van 1996

26. Artikel 5 van die Wet op Grondhervorming (Huurrabieders), 1996, word hierby 30 deur die volgende artikel vervang:

“Verbod op uitsetting

5. Behoudens die bepalings van artikel 13, kan 'n **[Huurrabieder]** huurrabieder of sy of haar geassosieerde **[kan]** slegs op grond van 'n bevel van die Hof, wat kragtens hierdie Wet uitgereik is, uitgesit word.”.

35 Wysiging van artikel 17 van Wet 3 van 1996

27. Artikel 17 van die Wet op Grondhervorming (Huurrabieders), 1996, word hierby gewysig deur in subartikel (4) die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

40 “Die eienaar van geaffekteerde grond moet binne een kalendermaand vanaf ontvangs van die kennisgewing in subartikel **2(a)** bedoel die Direkteur-generaal skriftelik in kennis stel—”.

Wysiging van artikel 18 van Wet 3 van 1996

28. Artikel 18 van die Wet op Grondhervorming (Huurrabieders), 1996, word hierby gewysig deur subartikel (9) deur die volgende subartikel te vervang:

45 “(9) Enige nominasie bedoel in subartikel **[7](8)** moet skriftelik wees, deur al die partye onderteken, en aan die President van die Hof voorgelê word.”.

Amendment of section 19 of Act 3 of 1996

29. Section 19 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended by the substitution in subsection (2) for paragraph (a) of the following paragraph:

“(a) a person nominated by the parties in terms of section [18(7)]18(8); or”.

Amendment of section 30 of Act 3 of 1996

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30. Section 30 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The provisions of sections 22, 24, 25, 28, 28B, 28C, 28D, 28E, 28F, 28G, 28H, 28J, 28K, 28L, 28M, 28N, 29, 30, 31, 32, 37 and 38 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), shall apply *mutatis mutandis* 10 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.”.

Substitution of section 35 of Act 3 of 1996

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31. The following section is hereby substituted for section 35 of the Land Reform (Labour Tenants) Act, 1996:

“Effect of order of Court

35. For the purposes of the Deeds Registries Act, 1937 (Act No. 47 of 1937), an order of the Court shall have the same force as an order of the 20 Supreme Court.”.

Amendment of section 39 of Act 3 of 1996

32. Section 39 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended by the substitution for the words preceding paragraph (a) of the following words:

“The right of a labour tenant to apply [**to buy**] for an award of land or a right in land 25 in terms of this Act—”.

Short title

33. This Act shall be called the Land Restitution and Reform Laws Amendment Act, 1996.

Wysiging van artikel 19 van Wet 3 van 1996

29. Artikel 19 van die Wet op Grondhervorming (Huurrarbeiders), 1996, word hierby gewysig deur in subartikel (2) paragraaf (a) deur die volgende paragraaf te vervang:
“(a) ’n persoon deur die partye ingevolge artikel [18(7)]18(8) genomineer; of”.

5 Wysiging van artikel 30 van Wet 3 van 1996

30. Artikel 30 van die Wet op Grondhervorming (Huurrarbeiders), 1996, word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Die bepalings van artikels 22, 24, 25, 28, 28B, 28C, 28D, 28E, 28F,
10 28G, 28H, 28J, 28K, 28L, 28M, 28N, 29, 30, 31, 32, 37 en 38 van die Wet
op Herstel van Grondregte, 1994 (Wet No. 22 van 1994), is *mutatis mutandis*
ingevolge hierdie Wet: Met dien verstande dat die verwysing na die
15 Kommissie op Herstel van Grondregte in artikel 32(3) van genoemde Wet vir
die doeleindes van hierdie Wet geag word ’n verwysing na die Direkteur-
generaal te wees.”.

Vervanging van artikel 35 van Wet 3 van 1996

31. Artikel 35 van die Wet op Grondhervorming (Huurrarbeiders), 1996, word hierby deur die volgende artikel vervang:

“Gevolg van bevel van Hof

20 **35.** Vir die doeleindes van die Registrasie van Aktes Wet, 1937 (Wet No.
47 van 1937), het ’n bevel van die Hof dieselfde krag as ’n bevel van die
Hooggereghof.”.

Wysiging van artikel 39 van Wet 3 van 1996

32. Artikel 39 van die Wet op Grondhervorming (Huurrarbeiders), 1996, word hierby gewysig deur die woorde wat paragraaf (a) voorafgaan deur die volgende woorde te vervang:

“Die reg van ’n huurrarbeider om ingevolge hierdie Wet aansoek te doen om die
toekenning van grond of ’n reg in grond [**te koop**]—”.

Kort titel

30 **33.** Hierdie Wet heet die Wysigingswet op Grondherstel- en Grondhervormingswette, 1996.



