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GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**NOTICE 116 OF 2020****DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT: UPGRADING OF LAND TENURE AMENDMENT BILL, 2020**

The Minister of Agriculture, Land Reform and Rural Development intends introducing the Upgrading of Land Tenure Rights Amendment Bill, 2020 in the National Assembly during the first quarter of 2020. The Draft Bill is hereby published in accordance with Rule 241 of the Rules of the National Assembly.

The Bill seeks to amend the Upgrading of Land Tenure Rights Act, 1991, so as to provide for the applications for conversion of land tenure rights into ownership, to provide for the notice of intention to convert land tenure rights; to provide for objections to conversions by interested persons; to provide for the inquiries to assist in the determination of land tenure rights; to provide for the recognition of conversions that took effect in good faith in the past; and to provide for matters connected therewith.

A copy of the Bill can be found on the website of the Department of Agriculture, Land Reform and Rural Development (www.ruraldevelopment.gov.za), and may, after introduction, also be obtained from:

1. Government Printers – Cape Town and Pretoria.
2. The Director-General
(For attention: Adv. Sello Ramasala)
Department of Agriculture, Land Reform and Rural Development
Private Bag X833
PRETORIA
0001
Telephone: (012) 312 8724
E-mail: sello.ramasala@drdlr.gov.za

REPUBLIC OF SOUTH AFRICA

UPGRADING OF LAND TENURE RIGHTS AMENDMENT BILL, 2020

*(As introduced in the National Assembly proposed section 76; explanatory
summary of Bill and prior notice of its introduction ;
published in Government Gazette No. 43045 of 25 February 2020)
(The English text is the official text of the Bill)*

**(MINISTER OF AGRICULTURE, LAND REFORM AND RURAL
DEVELOPMENT)**

[B —2020]

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.

BILL

To amend the Upgrading of Land Tenure Rights Act, 1991, so as to provide for the application for conversion of land tenure rights to ownership, to provide for the notice of intention to convert land tenure rights into ownership; to provide for an opportunity for interested persons to object to conversion of land tenure rights into ownership; to provide for the institution of inquiries to assist in the determination of land tenure rights; to provide for the recognition of conversions that took effect in good faith in the past; and to provide for matters connected therewith.

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

Amendment of section 2 of Act 112 of 1991, as amended by section 30 of Act 139 of 1992

1. Section 2 of the Upgrading of Land Tenure Rights Act, 1991 (Act No. 112 of 1991) (hereinafter referred to as the “principal Act”), is hereby amended—

(a) by the substitution for the heading of the following heading:

[Conversion] Application for the conversion of land tenure rights mentioned in Schedule 1”;

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

“(1) Any person who, is the registered holder of a land tenure right according to the register of land rights in which that land tenure right was registered in terms of the provisions of any law or could have been a holder of that land tenure right but could not as a result of laws or practices that unfairly discriminated against such person, may apply, as prescribed, for the conversion of such land tenure right into ownership in respect of—

(a) any erf or any other piece of land in a formalized township for which a township register was already opened at the commencement of this Act;

(b) any erf or any other piece of land in a formalized township for which a township register is opened after the commencement of this Act; or

(c) any piece of land which is surveyed under a provision of any law and does not form part of a township.”; and

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

“(1A) The Minister shall on receipt of such application, cause to be published in the *Gazette*, a notice as prescribed, which informs family members, putative holders and other interested persons of the application for conversion.

(1B) The notice as contemplated in subsection (1A) must provide family members, putative holders and other interested persons—

(a) with an opportunity to object to the conversion;

(b) time frames within which to object to the conversion, which must not be less than one calendar month.

(1C) An objection to a conversion may be lodged in the prescribed manner with the Minister.

(1D) The Minister must, upon receipt of the application or objection institute an inquiry in the prescribed manner, in order to assist the Minister in determining the facts and to make a decision relating to the conversion of land tenure rights, the objection thereto and the vesting of ownership.”.

Amendment of section 4 of Act 112 of 1991

2. Section 4 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Notwithstanding anything to the contrary contained in any law but subject to subsections (2) and (3), a land tenure right mentioned in Schedule 1 and which has been granted in respect of any erf or any other piece of land in a formalized township for which a township register has not yet been opened shall bestow, pending the conversion thereof into ownership in terms of section 2 (1) (b) as soon as a township register is opened, on the person who is, according to a register of land rights of the township, the holder thereof, or could have been the holder thereof but for laws or practices that unfairly discriminated against such person, all rights and powers as if he is the owner of the erf or the land in respect of which the land tenure right has been granted.”.

Insertion of section 14A of Act 112 of 1991

3. The following section is hereby inserted in the principal Act after section 14:

"14A (1) Notwithstanding the provisions of this Act or any other law, any person aggrieved by a conversion of a land tenure right which took effect from 27 April 1994 may approach the courts for an order—

(a) setting aside such conversion and registration of land tenure right; or

(b) that is just and equitable.

(2) Transfers of ownership of any property from 27 April 1994 in which a land tenure right had been converted in respect of —

(a) property purchased by third parties acting in good faith;

(b) property which has been inherited by a third party acting in good faith and the estate has been finalized in terms of the law of succession and the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No. 11 of 2009) has been applied; or

(c) property which has been converted to ownership in favour of a woman in terms of this Act acting in good faith, remain valid."

Substitution of section 25A of Act 112 of 1992, as amended by section 1 of Act 61 of 1998

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

“25A. Application of Act.—As from the coming into operation of the Land Affairs General Amendment Act, 1998, the provisions of this Act, **[excluding sections 3, 19 and 20,]** shall apply throughout the Republic.”.

Short Title

5. This Act is called the Upgrading of Land Tenure Rights Amendment Act, 2020.

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