

TITLE 20

Chapter 20:10

PREVIOUS CHAPTER**LAND ACQUISITION ACT**

Acts 3/1992, 15/2000, 14/2001, 6/2002,22/2001, 6/2002,10/2002, 1/2004.

S.I. 338/2001

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PART II PRINCIPLES REGARDING ASSESSMENT OF COMPENSATION FOR AGRICULTURAL LAND REQUIRED FOR RESETTLEMENT PURPOSES

AN ACT to empower the President and other authorities to acquire land and other immovable property compulsorily in certain circumstances; to make special provision for the compensation payable for agricultural land required for resettlement purposes; to provide for the establishment of the Derelict Land Board; to provide for the declaration and acquisition of derelict land; and to provide for matters connected with or incidental to the foregoing.

[Date of commencement: 8th May, 1992.]

[long title amended by Act 15 of 2000 with effect from 7th November, 2000 – which amending Act contains the following Savings clause –

The principal Act as amended by this Act shall be deemed to have come into operation on the date of commencement of the Presidential Powers (Temporary Measures) (Land Acquisition) Regulations, 2000, published in Statutory Instrument 148A of 2000 (hereinafter called “the Regulations”), and anything done in terms of the Regulations or in terms of the principal Act as amended by the Regulations shall be valid as if it had been done in terms of the principal Act as amended by this Act.]

Savings clause in s.7 of Act 14 /2001 –

(1) Sections 2, 3, 5 and 46 of the principal Act as amended by the Land Acquisition Amendment Act, 2000, and this Act shall be deemed to have come into operation on the 23rd May, 2000.

(2) For the avoidance of doubt, anything done under the principal Act on or after the 23rd May, 2000, and before the date of commencement of this Act in the exercise of any authority given in terms of the principal Act shall be valid as if it had been done in terms of the principal Act as amended by this Act.

(3) General Notice 507A of 2000, published in terms of subsection (3) of section 29C of the principal Act in the Gazette dated the 10th November, 2000, shall be deemed to apply to all land in relation to which preliminary notices of acquisition of agricultural land required for resettlement purposes were issued on or after the 23rd May, 2000. This note serves to distinguish this Act (which is the authentic Act No. 14 of 2001) from the document erroneously published under cover of General Notice 291A of 2001.

Editor’s note on S.I.338 /2001 – This Instrument was gazetted on the 9th November, 2001 under the Presidential Powers (Temporary Measures) Act – Chapter 10:20 – as the Presidential Powers (Temporary Measures) (Land Acquisition) (No.2) Regulations, which are deemed, under Section 4 thereof, to have come into operation on the 23rd May, 2000. – See further note under Section 5 after Act 1/2004 promulgated.

Land Acquisition Amendment Act, 2002 (date of commencement: 10th May, 2002).

Section 6 of the Act (“Savings”) is as follows—

Sections 8, 9 and 10 of, and the Schedule to, the principal Act as amended by this Act shall be deemed to have come into operation on the 23rd May, 2000:

Provided that where an order in terms of subsection (1) of section 8 of the principal Act was made before the date of commencement of this Act, the date of the notice referred to in paragraph (b) of subsection (1) of section 9 of the principal Act, and the date from which the period of three months referred to in proviso (i) to that paragraph shall be counted, shall be the date of commencement of this Act.

Land Acquisition Amendment (No.2) Act, 2002 (date of commencement: 25th October, 2002).

(1) Subject to subsection (2), sections 5, 7 and 9 of the principal Act as amended by this Act shall be deemed to have come into operation on the 23rd May, 2000.

(2) For the avoidance of doubt, it is declared that section 9 of the principal Act as amended by paragraph (a) of section four shall not apply to any owner or occupier of land who contravened section 9 of the principal Act before it was so amended.

[Section 9 of the Land Acquisition Amendment Act No.1 of 2004 , promulgated on the 12th March, 2004 is published immediately below – Editor.]

9 Declaratory provisions respecting application of the Land Reform Programme

(1) In this section—

(a) the term “Land Reform Programme” means the Land Reform and Resettlement Programme and Implementation Plan (Phase 2), published in April, 2001 (as re-issued and amended from time to time), in connection with the programme of acquiring agricultural land for resettlement purposes which commenced under the terms of the principal Act on the 23rd May, 2000;

(b) any word or expression to which a meaning has been assigned in any provision of the principal Act shall have the same meaning when used in this section.

(2) For the avoidance of doubt it is declared that—

(a) the criteria listed in the Land Reform Programme for the acquisition of agricultural land required for resettlement purposes are not binding on the acquiring authority; accordingly the fact that the land to be acquired—

(i) is a plantation farm engaged in large-scale production of tea, coffee, timber, citrus fruit, sugar cane or other plantation crops;

(ii) is an agro-industrial property involved in the integrated production, processing or marketing of poultry, beef and dairy products and seed-multiplication;

(iii) is within an export processing zone or operates under a permit issued by the Zimbabwe Investment Centre;

(iv) is an approved conservancy;

(iii) is the only piece of land belonging to the owner;

shall not constitute valid grounds for any objection to the compulsory acquisition of the land nor shall such criteria form the basis of any claim or right in law;

(b) the total hectareage of land required for resettlement purposes specified in the Land Reform Programme is indicative only of the minimum hectareage of such land; accordingly, the acquiring authority is not prevented by that Programme from acquiring land in excess of the hectareage so specified.

(3) For public information it is declared that the State intends to acquire not less than eleven million hectares of agricultural land for resettlement purposes in terms of the Land Reform Programme.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Land Acquisition Act [Chapter 20:10].

2 Interpretation

In this Act—

“acquiring authority” means—

(a) the President, or any Minister duly authorised by the President, acting in terms of subsection (1) or (2) of section three; or

(b) the President or any person acting in terms of section four; or

(c) the person empowered or required by any enactment to acquire land, take materials from land or pay compensation therefor, where the enactment applies any provision of this Act to such acquisition, taking of materials or payment of

compensation; or

(d) in relation to anything required or permitted to be done by an acquiring authority in terms of this Act or an enactment referred to in paragraph (c), including the capacity to institute proceedings in terms of this Act and to sue and be sued either in his own official capacity or in the name of the acquiring authority, any person duly authorised by the acquiring authority for that purpose.

[substituted by Act 14/2001 with effect from 12th June 2001.]

“agricultural land required for resettlement purposes” means any rural land the acquisition of which is reasonably necessary for resettlement purposes and which is identified in a preliminary notice as being required for such purposes.

[inserted by Act 15 of 2000 with effect from 7th November, 2000.]

“agricultural purposes” includes forestry, fruit-growing and animal husbandry, including the keeping of poultry, bees or fish;

“Chief Land Officer” means the Chief Land Officer referred to in section forty;

“Compensation Committee” means the Compensation Committee established by section twenty-nine A;

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

“Derelict Land Board” means the Derelict Land Board established by section thirty;

“designated rural land” means rural land within an area that has been designated in terms of section twelve;

[Editor’s note- Although this definition is repealed by s.2(c) of Act 15 of 2000 with effect from 7th November, 2000, this term occurs in the section headings for Sections 20, 22 and 24 infra, and in the corresponding entries in the Arrangement of Sections. What should be substituted is “ Agricultural Land required for resettlement purposes”]

“designated valuation officer” means a person who is designated as a valuation officer in terms of subsection (1) of section forty-eight;

[inserted by Act 15 of 2000 with effect from 7th November, 2000.]

“fair compensation”, in relation to the acquisition of agricultural land required for resettlement purposes, means compensation fixed by the Compensation Committee in accordance with the provisions of section twenty-nine C;

[substituted by Act 15 of 2000 with effect from 7th November, 2000.]

“improvements”, in relation to agricultural land required for resettlement purposes, means any of the improvements prescribed in Part I of the Schedule;

[inserted by Act 15 of 2000 with effect from 7th November, 2000.]

“land” includes—

(a) anything permanently attached to or growing on land; and

(b) any interest or right in land;

“member” means a member of the Derelict Land Board, including the chairman, appointed in terms of section thirty;

“Minister” means the Minister of Lands and Water Resources or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“piece of land” means a piece of land registered as a separate entity in a Deeds Registry, and includes anything permanently attached to or growing on such land and any interest or right in such land;

“preliminary notice” means a notice referred to in subsection (1) of section five;

“rural land” means any land other than land which is—

(a) Communal Land; or

(b) in a municipal area, town area or local government area;

(c) in a town ward of a rural district council or an area declared to be a specified area in terms of the Rural District Councils Act [Chapter 29:13]; or

(d) in the area of any township as defined in the Land Survey Act [Chapter 20:12]; or

(e) State land the layout of which has been approved in terms of section 43 of the Regional, Town and Country Planning Act [Chapter 29:12]; or

(f) State land specified in the Third Schedule to the Agricultural and Rural Development Authority Act [Chapter 18:01];

“structure” includes any wall, fence, dam, earthwork, well, borehole or other permanent improvement on or to land.

(2)

[repealed by Act 14/2001 with effect from 12th June 2001.]

(3) Any reference in this Act to the acquisition of land shall, unless inconsistent with the context, be construed as including a reference to the taking of materials from land.

(4)

[amended by Act 15 of 2000 with effect from 7th November, 2000, and repealed by Act 14/2001 with effect from 12th June 2001.]

PART II

ACQUISITION OF LAND

3 Acquisition of land by President

(1) Subject to this Act, the President, or any Minister duly authorised by the President for that purpose, may compulsorily acquire—

[substituted by Act 14/2001 with effect from 12th June 2001.]

(a) any land, where the acquisition is reasonably necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the utilization of that or any other property for a purpose beneficial to the public generally or to any section of the public;

(b) any rural land, where the acquisition is reasonably necessary for the utilization of that or any other land—

(i) for settlement for agricultural or other purposes; or

(ii) for purposes of land reorganization, forestry, environmental conservation or the utilization of wild life or other natural resources; or

(iii) for the relocation of persons dispossessed in consequence of the utilization of land for a purpose referred to in subparagraph (i) or (ii).

(2) Subject to this Act, the President, or any Minister duly authorised by the President for that purpose, may acquire any land that has been declared derelict in terms of section forty-two.

[substituted by Act 14/2001 with effect from 12th June 2001.]

(3) Subsections (1) and (2) shall not empower an acquiring authority to acquire—

(a) minerals which are the subject of rights; or

(b) rights;

acquired in terms of the Mines and Minerals Act [Chapter 21:05].

(4) Notwithstanding subsections (1) and (2), no Communal Land, materials from Communal Land or interest or right in Communal Land may be acquired by an acquiring authority otherwise than in accordance with the Communal Land Act [Chapter 20:04]

4 Acquisition by resumption of ownership in certain cases

Nothing in this Act shall preclude the President or any other person from resuming ownership of any land in accordance with any condition contained in a title deed to the land.

PART III

PROCEDURE FOR COMPULSORY ACQUISITION OF LAND

5 Preliminary notice of compulsory acquisition

[See Editor's notes below regarding commencements dates of this Section.]

(1) Where an acquiring authority intends to acquire any land otherwise than by agreement, he shall—

(a) publish once in the Gazette and once a week for two consecutive weeks, commencing with the day on which the notice in the Gazette is published, in a newspaper circulating in the area in which the land to be acquired is situated and in such other manner as the acquiring authority thinks will best bring the notice to the attention of the owner, a preliminary notice—

(i) describing the nature and extent of the land which he intends to acquire and stating that a plan or map of such land is available for inspection at a specified place and at specified times; and

(ii) setting out the purposes for which the land is to be acquired; and

(iii) calling upon the owner or occupier or any other person having an interest or right in the land who—

A. wishes to contest the acquisition of the land, to lodge a written objection with the acquiring authority within thirty days from the date of publication of the notice in the Gazette; or

B. wishes to claim compensation in terms of Part V for the acquisition of the land, to submit a claim in terms of section twenty-two, where the land is not agricultural land required for resettlement purposes;

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

and

(b) serve on the owner of the land to be acquired and the holder of any other registered real right in that land whose whereabouts are ascertainable after diligent inquiry at the Deeds Registry and, if necessary, in the appropriate companies register, notice in writing providing for the matters referred to in subparagraphs (i), (ii) and (iii) of paragraph (a).

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

Provided that in respect of agricultural land required for resettlement purposes the publication of a preliminary notice in the Gazette and once a week for two consecutive weeks (commencing on the day on which the notice in the Gazette is published) in a newspaper circulating in the area in which the land to be acquired is situated, shall be deemed to constitute service of notice in writing on the owner of the land to be acquired and the holder of any other registered real right in that land;

[Proviso inserted by Section 2 (1) (a) of Act 1/2004 promulgated on the 12th March, 2004. But Section 2 (2) of this same amending Act 1/2004 provides that – Section 5 as amended above shall be deemed to have come into effect on the 23rd May, 2000 – Editor.]

(2) Where the acquiring authority has published a preliminary notice in the Gazette in respect of any land, no person shall, while the notice remains in force in terms of subsection (4)—

(a) subdivide or apply in terms of section 40 of the Regional, Town and Country Planning Act [Chapter 29:12]; for a permit to subdivide such land; or

(b) construct permanent improvements therein or thereon; or

(c) dispose of such land;

without the permission in writing of the acquiring authority.

(3) The acquiring authority may, by notice in writing served on the owner or occupier of any land specified in a preliminary notice, at any time on or after the date of publication of the preliminary notice in the Gazette, prohibit on such land any activity that he may specify.

(4) A preliminary notice or a notice in terms of subsection (3) shall remain in force

for a period of two years from the date of publication of the notice in the Gazette:
Provided that any period during which an application to the Administrative Court in terms of section seven, or any action in any other court in relation to the acquisition of the land in question, is pending or undetermined shall not be counted as part of the period of two years referred to in this subsection.

[substituted by Act 14/2001 with effect from 12th June 2001.]

(5) A copy of the preliminary notice shall be lodged with—

(a) the Registrar of Deeds, who shall thereafter not register any transfer of any land described in such notice to any person other than the acquiring authority unless—

(i) the preliminary notice ceases to be in force in terms of paragraph (a) or (b) of subsection (4); or

(ii) in pursuance of a valid contract of sale entered into prior to the date the preliminary notice was published in the Gazette; or

(iii) the consent in writing of the acquiring authority has been given; and

(b) the Director of Physical Planning and the appropriate local planning authority as defined in section 2 of the Regional, Town and Country Planning Act [Chapter 29:12].

(6) Where, after a preliminary notice has been published in the Gazette, the land described in the notice is transferred in pursuance of a valid contract of sale entered into prior to the date of publication of the preliminary notice, it shall not be necessary to publish a further preliminary notice in respect of that land nor to serve a further copy of the preliminary notice upon the person to whom the land has been transferred.

(7) An acquiring authority may at any time—

(a) withdraw a preliminary notice, by publishing notice of its withdrawal in the Gazette and serving notice of its withdrawal on every person on whom the preliminary notice was served;

(b) withdraw a notice in terms of subsection (3), by serving written notice of its withdrawal on every person on whom the first-mentioned notice was served.

(8) Any person who, after a preliminary notice has been published in the Gazette and while that notice is in force in terms of subsection (4), demolishes, damages, alters or in any other manner impairs the land described in that preliminary notice without the permission in writing of the acquiring authority, otherwise than in the exercise of rights acquired in terms of the Mines and Minerals Act [Chapter 21:05], shall be guilty of an offence and liable to—

(a) a fine—

(i) equivalent to so much of the amount of the prejudice caused to the land in relation to the purpose for which it is to be acquired as is ascertainable in monetary terms;

or

(ii) not exceeding level ten;
whichever is the greater amount; or

(b) imprisonment for a period not exceeding two years;

or to both such fine and such imprisonment.

[Subsection (8) substituted by Act 15 of 2000 with effect from 7th November, 2000; which Act was passed into law before Act 22/2001 which – although drafted earlier– only came into effect on the 10th September, 2002 – with the following provisions- in italics :-

In section 5 by the deletion from subsection (8) of “and liable to a fine not exceeding two thousand dollars or to imprisonment for a period not exceeding two years or to

both such fine and such imprisonment” and the substitution of—

“ ..and liable to—

- (a) a fine not exceeding—
 - (i) level ten; or
 - (ii) three times the amount by which he has diminished the

value of the land;

whichever is the greater; or

- (b) imprisonment for a period not exceeding one year;
or to both such fine and such imprisonment.”

[Because there is a discrepancy in the wording purportedly amended by the subsequent Act 22/2001, it is probably of no force or effect, and the earlier amendment by Act 15 of 2000 prevailed until the 12th March, 2004 when Act 1/2004 was promulgated , substituting the above subparas (a) and (b) . –Editor.]

(9) The fact that a preliminary notice—

[amended by Act 10 of 2002 with effect from 25th October, 2002.]

- (a) or a notice in terms of subsection (3) has lapsed—

[amended by Act 10 of 2002 with effect from 25th October, 2002.]

(i) before the substitution of subsection (4) by the Land Acquisition Amendment Act, 2000, or the Land Acquisition Amendment Act, 2001; or

- (ii) in terms of subsection (4);

shall not prevent the acquiring authority from issuing a fresh notice in terms of subsection (1) or (3), as the case may be, in respect of the same land after a period of one year from the date when such notice lapsed or, if so agreed by the acquiring authority and the owner of the land concerned, at any earlier time; or

(b) or a notice in terms of subsection (3) has been withdrawn in terms of subsection (7), whether before, on or after the date of commencement of the Land Acquisition Amendment Act, 2000, or the Land Acquisition Amendment Act, 2001, shall not prevent the acquiring authority from issuing a fresh notice in terms of subsection (1) or (3), as the case may be, in respect of the same land.

[subs.(9) inserted by Act 15/ 2000, substituted by Act 14/2001 with effect from 12th June 2001, and amended by Act 10 of 2002 with effect from 25th October, 2002.]

or

(c) is not served on the holder of any registered real right in the land to be acquired at the same time as it is served on the owner of the land shall not render the preliminary notice invalid as long as it is served on such holder at any time^{3/4}

(i) not less than thirty days before the making of an order in terms of subsection (1) of section eight; or

(ii) where more than one order referred to in subparagraph (i) is made because the original order was or became invalid for any reason, not less than thirty days before the making of the subsequent order.

[inserted by Act 10 of 2002 with effect from 25th October, 2002.]

6 Owner may demand acquisition of whole property

(1) Where—

(a) an acquiring authority has served a preliminary notice of intention to acquire part only of a piece of land; and

(b) the owner considers that the acquisition of that part will render the remainder of the piece of land unsuitable for the purpose for which, immediately prior to the date of the service on him of that notice or of a notice in terms of subsection (3) of section seven, whichever is the earlier, it was being used or was bona fide intended to be used;

the owner may call upon the acquiring authority to acquire the whole of that piece of

land and the acquiring authority shall, subject to subsection (2), comply therewith unless the preliminary notice expires in terms of paragraph (a) of subsection (4) of section five or is withdrawn in terms of subsection (7) of that section.

(2) If the acquiring authority considers that the acquisition of a part of any piece of land referred to in subsection (1) will not render the remainder of such piece of land unsuitable as referred to in that subsection, the matter shall be referred to the Administrative Court, which may make such order as it thinks fit.

6A. Circumstances under which owner may offer land in substitution for, or in lieu of the acquisition of, land to be acquired for resettlement purposes

[These two Sections 6A and 6B were repealed by Section 3(1) of Act 1/2004 promulgated on the 12th March 2004. Because the resultant effect thereof is further enacted below, I have not removed the text of either Section 6A or 6B herefrom, but have replaced them in italics, to distinguish the text from the repealing Section 3 of Act /2004 published below – Editor.]

(1) In this section—

“acquiring authority”, for the purposes of this section, includes an authority proposing to acquire land in terms of this Act.

(2) Subject to this section, where an acquiring authority has served a preliminary notice in respect of any agricultural land required for resettlement purposes, the owner concerned may, at any time before the title of the State in that land is registered in terms of section ten, offer and agree to the acquisition of any other piece of land owned by him in substitution for the land described in the preliminary notice.

(3) Subject to this section, an owner of rural land may, in anticipation of the service upon him of a preliminary notice referred to in subsection (2), offer and agree to the acquisition of such land.

(4) Subject to this section, an owner of more than one piece of rural land may, in anticipation of the service upon him of a preliminary notice referred to in subsection (2), offer and agree to the acquisition of any such piece of land, whether or not it is the piece of land to which the anticipated notice relates.

(5) An acquiring authority shall not accept an offer made in the circumstances described in subsection (2), (3) or (4), unless the owner agrees to its being acquired in terms of subsection (6).

(6) If an acquiring authority accepts any offer referred to in subsection (2), (3) or (4), this Part and Parts V and VA shall apply as if the acquisition of the land in question was an acquisition of agricultural land required for resettlement purposes in respect of which no objection has been lodged.

[inserted by Act 15 of 2000 with effect from 7th November, 2000.]

6B. Circumstances under which owner may subdivide land to be acquired for resettlement purposes

(1) In this section—

“acquiring authority”, for the purposes of this section, includes an authority proposing to acquire land in terms of this Act.

(2) Subject to this section, where an acquiring authority has served a preliminary notice in respect of any agricultural land required for resettlement purposes, the owner concerned may, at any time before the title of the State in that land is registered in terms of section ten, offer and agree to the acquisition of a portion of that land in substitution for the whole of the land described in the preliminary notice.

(3) Subject to this section, an owner of rural land may, in anticipation of the service upon him of a preliminary notice referred to in subsection (2), offer and agree to the acquisition of a portion of such land.

(4) When considering an offer made in the circumstances described in subsection (2)

or (3) the acquiring authority shall take into account the maximum size prescribed in regulations made under the Rural Land Act [Chapter 20:18] for any piece of land that may be owned by any person for farming or other purposes in the natural region in which such land is located, but shall not accept such offer unless the owner agrees to the portion of land in question being acquired in terms of subsection (5).

(5) If an acquiring authority accepts any offer referred to in subsection (2) or (3), this Part and Parts V and VA shall apply as if the acquisition of the land in question was an acquisition of agricultural land required for resettlement purposes in respect of which no objection has been lodged.

(6) Upon acceptance of an offer referred to in subsection (2) or (3) the acquiring authority shall, subject to subsection (7), proceed to acquire the portion of the land in question and may survey, demarcate and allocate that land for resettlement purposes, notwithstanding that any formalities relating to the subdivision and transfer of the land in terms of the Regional Town and Country Planning Act [Chapter 29:12], the Deeds Registries Act [Chapter 20:05] or any other enactment have not been completed.

(7) An application for a permit to subdivide any land pursuant to this section shall be made by or on behalf of the owner of the land to the local planning authority in terms of section 40 of the Regional Town and Country Planning Act [Chapter 29:12] no later than fourteen days after the acceptance by the acquiring authority of an offer made by the owner in terms of subsection (2) or (3), and such application shall be deemed to have been granted by the local planning authority unless—

(a) within fourteen days of the lodgement of the application the local planning authority notifies the Minister responsible for town and country planning (“the responsible Minister”) that there is or may be a substantial objection to the proposed subdivision; and

(b) the responsible Minister, upon receiving a notice in terms of paragraph (a) and after consulting the acquiring authority, allows the local planning authority a longer specified period within which to determine the application.

(8) No offer in terms of subsection (2) or (3) which is accepted by an acquiring authority shall bind the acquiring authority if an application referred to in subsection (7) is refused.

[inserted by Act 15 of 2000 with effect from 7th November, 2000.]

[Section 3(2) and (3) of the Land Acquisition Act No.1 of 2004 promulgated on the 12th March ,2004 is published below.—Editor.]

(2) The repeal of sections 6A and 6B of the principal Act by subsection (1) shall have the effect of cancelling the acceptance of every offer of the whole or any portion of agricultural land required for resettlement purposes as defined in the principal Act.

(3) The fact that –

(a) any land was offered in substitution for agricultural land required for resettlement purposes, whether in terms of section 6A or 6B of the principal Act or otherwise ; or

(b) any portion of agricultural land required for resettlement purposes was offered in substitution for the whole of such land, whether in terms of section 6A or 6B of the principal Act or otherwise ;

(c) the offer of any land or portion of agricultural land was accepted in terms of section 6A or 6B of the principal Act and, before the commencement of this Act, was confirmed by the Administrative Court after the owner had initially objected to the proposed acquisition in terms of section 5 of the principal Act

shall not constitute valid grounds for an objection to the compulsory acquisition of the whole or part (as the case may be) of the agricultural land required for

resettlement purposes, nor shall it form the basis of any claim or right in law.

7 Application for authorizing or confirming order where acquisition contested

(1) Where an objection to a proposed acquisition has been lodged in terms of subparagraph A of subparagraph (iii) of paragraph (a) of subsection (1) of section five, the acquiring authority shall—

(a) before any acquisition takes place; or

(b) not later than thirty days after the coming into force of an order made in terms of section eight;

apply to the Administrative Court for an order authorizing or confirming the acquisition, as the case may be.

(2) An application in terms of subsection (1) shall be accompanied by a statement setting out the purpose of the acquisition.

(3) The acquiring authority shall give notice of an application in terms of subsection (1) to the owner of the land concerned and to every other person on whom the relevant preliminary notice has been served as soon as is reasonably practicable after the application has been lodged with the Administrative Court.

[substituted by Act 15 of 2000 with effect from 7th November, 2000.]

Provided that in respect of agricultural land required for resettlement purposes^{3/4}

(a) the publication in the Gazette of a notice of the application and particulars of where and the time within which any related documentation may be collected by the owner of the land to be acquired and the holder of any other registered real right in that land shall be deemed to constitute sufficient service of the notice of the application upon the owner and any other party concerned in the application;

(b) it shall not be necessary for the purposes of proviso (a) to identify by name the holder of any registered real right in the land who is not the owner of the land.

[Proviso inserted by Act 1/2004 with effect from the 12th March, 2004 .]

(3a) The Administrative Court shall have jurisdiction in the first instance to hear and determine any application (whether or not made at the same time as the application for an order referred to in subsection (1)) to review the proceedings and decisions of the acquiring authority on any of the grounds specified in section 27 of the High Court Act [Chapter 7:06], and may exercise in relation to such application the same powers that the High Court has on review of civil proceedings or decisions.

[Subsection (3a) inserted by Act 1/2004 with effect from the 12th March, 2004 .]

(4) The Administrative Court shall not grant an order referred to in subsection (1) unless it is satisfied—

(a) that the acquisition of the land is reasonably necessary in the interests of defence, public safety, public order, public morality, public health, town and country planning or the utilization of that or any other property for a purpose beneficial to the public generally or to any section of the public; or

(b) where the acquisition relates to rural land, that the acquisition is reasonably necessary for the utilization of that or any other land—

(i) for settlement for agricultural or other purposes; or

(ii) for purposes of land reorganization, forestry, environmental conservation or the utilization of wild life or other natural resources; or

(iii) for the relocation of persons dispossessed in consequence of the utilization of land for a purpose referred to in subparagraph (i) or (ii);

(c) where the acquisition relates to only part of a piece of land, that the acquisition will not render the remainder of that piece of land unsuitable for the purpose for which it was being used or was bona fide intended to be used

immediately before the acquisition.

(4a) If an application in terms of subsection (1) is accompanied by a statement in terms of subsection (2) stating that the land concerned^{3/4}

(a) was at any time within the preceding fifty years used for agricultural purposes; and

(b) is to be acquired for resettlement for agricultural purposes;
it shall be presumed that the land is suitable for resettlement for agricultural purposes.
[inserted by Act 10 of 2002 with effect from 25th October, 2002.]

(5) Where the Administrative Court refuses to grant an order referred to in subsection (1), the Administrative Court shall—

(a) order the acquiring authority to withdraw the preliminary notice and any notice served in terms of subsection (3) of section five; and

(b) if the acquiring authority has already acted in terms of section eight or nine, order the acquiring authority to return the land acquired.

(6) The failure for any reason whatsoever to determine an application in terms of this section or the refusal by the Administrative Court to grant an order in terms of this section authorising or confirming the acquisition of any land, whether before, on or after the date of commencement of the Land Acquisition Amendment Act, 2000, or the Land Acquisition Amendment Act, 2001, shall—

(a) not affect the validity of a preliminary notice issued in respect of that land if the notice is still in force in terms of subsection (4) of section five, nor prevent the acquiring authority from making a fresh application in respect of that land in terms of section seven;

(b) where the preliminary notice has lapsed, not prevent the acquiring authority from issuing a fresh preliminary notice in terms of section five and subsequently acquiring that land in terms of this Act:

Provided that the acquiring authority shall not be entitled to acquire the same land on the same grounds as those on which the Administrative Court had refused the original application.

[repealed and substituted by Act 15 of 2000 with effect from 7th November, 2000, and substituted by Act 14 of 2001 with effect from 12th June, 2001.]

8 Vesting of land, taking of materials and exercise of rights over land

(1) Subject to section seven, the acquiring authority may, not less than thirty days after the date of publication of the preliminary notice in the Gazette, acquire, by order describing the nature and extent of the land affected and served on the owner of the land concerned, all or any of the land described in that notice:

Provided that—

(i) the acquiring authority may, with the consent of the owner of the land to be acquired and the holder of any other registered real right therein whose whereabouts are ascertainable after diligent inquiry at the Deeds Registry and, if necessary, in the appropriate companies register, acquire land not specified in the preliminary notice, and, where the land is not agricultural land required for resettlement purposes, any such person shall be given a reasonable opportunity to submit a claim for compensation in terms of section twenty-two accordingly;

[proviso substituted by Act 15 of 2000 with effect from 7th November, 2000.]

(ii) if the whereabouts of the owner of any land to be acquired is unknown to the acquiring authority after diligent inquiry, he may acquire the land concerned by notice in the Gazette specifying—

(a) the land that is being acquired; and

(b) the name of the registered owner of such land.

(iii) in the case of agricultural land required for resettlement purposes, the

acquiring authority shall acquire the land concerned by notice in the Gazette specifying—

- (a) the land that is being acquired; and
- (b) the name of the registered owner of such land.

[proviso (iii) inserted by of Act 6/2002 with deemed effect from the 23rd May, 2000 and substituted by Act 1/2004 with effect from the 12th March, 2004 .]

(2) Immediately after making an order in terms of subsection (1) an acquiring authority may—

(a) in relation to land other than agricultural land required for resettlement purposes, exercise any right specified in that order if the exercise of that right does not require the eviction of the owner or occupier of the land concerned; and

(b) in relation to any agricultural land required for resettlement purposes, exercise any right of ownership, including the right to survey, demarcate and allocate the land concerned for agricultural purposes, without undue interference to the living quarters of the owner or occupier of that land:

Provided that this subsection shall not permit an acquiring authority, other than the President or a Minister, to do anything which interferes with rights acquired in terms of the Mines and Minerals Act [Chapter 21:05] without the permission in writing of the Minister responsible for mines.

[subs.(2) substituted by s. 2 of Act 6/2002 with deemed effect from the 23rd May, 2000.]

(3) Subject to section ten A, the effect of an order made in terms of subsection (1) shall be that the ownership of the land specified therein shall, subject to subsection (5) of section seven, immediately vest in the acquiring authority whether or not compensation has been agreed upon, fixed or paid in terms of Part V or VA and, subject to section nine, shall be free of all rights and encumbrances except, subject to subsection (4)—

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(a) such interest or right in the land as may be specified in the order; and

[substituted by Act 15 of 2000 with effect from 7th November, 2000.]

(b) any right acquired in terms of the Mines and Minerals Act [Chapter 21:05]; and

(c) any right of the State, a local authority or a statutory body;

(d) any restriction on the use or occupation of the land which is in force by virtue of the Regional, Town and Country Planning Act [Chapter 29:12]; which were enforceable immediately prior to the serving of the order and which bind the acquiring authority thereafter.

(4) An acquiring authority may state in an order made in terms of subsection (1) that the land acquired in terms of that order is to be free of any right referred to in paragraph (b) or (c) of subsection (3) and the land shall thereupon be acquired free of any such right:

Provided that an acquiring authority other than the President or a Minister shall not interfere with—

(a) any right referred to in paragraph (b) of subsection (3) without the permission in writing of the Minister responsible for mines; or

(b) any right referred to in paragraph (c) of subsection (3) without the consent in writing of a Minister or the local authority or statutory body concerned, as the case may be.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(5) The acquisition by an acquiring authority of part of a piece of land in terms of subsection (1) shall not be construed as a subdivision of that piece of land for the

purposes of the Regional, Town and Country Planning Act [Chapter 29:12].

(6) A copy of an order served on the owner of the land referred to in subsection (1) or published in the Gazette in terms of proviso (ii) to subsection (1) shall be served on any other person on whom the preliminary notice was served.

(7) Any owner or occupier of the land concerned or other person who, after an order is made in terms of subsection (1), interferes with the exercise by the acquiring authority of any right in terms of subsection (2) or anything done pursuant to the exercise of such right, without the permission in writing of the acquiring authority, otherwise than in the exercise of rights acquired in terms of the Mines and Minerals Act [Chapter 21:05], shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[subs.(7) inserted by S.I.338/2001 and by s. 2 of Act 6/2002 with deemed effect from the 23rd May, 2000 and amended by Act 1/2004 with effect from the 12th March, 2004.]

9 Eviction of owner or occupier

(1) The following provisions shall, subject to subsection (5) of section seven and subsections (2), (3), (4) and (7) of section eight, apply to the vacation by the owner or occupier of land acquired in terms of this Act—

(a) in relation to land other than agricultural land required for resettlement purposes, any person who, immediately prior to the date on which an order is made in terms of subsection (1) section eight, owned, occupied, held or used the land to which such order relates shall, if so required by not less than three months' notice in writing by the acquiring authority, cease to occupy, hold or use that land, and if he fails to do so, he shall be liable to be evicted by order of a competent court;

(b) in relation to any agricultural land required for resettlement purposes, the making of an order in terms of subsection (1) of section eight shall constitute notice in writing to the owner or occupier to cease to occupy, hold or use that land forty-five days after the date of service of the order upon the owner or occupier, and if he fails to do so, he shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment:

[amended by Act 6/2002 and by Act 10 of 2002 with effect from 25th October, 2002 and by Act 1 of 2004 with effect from the 12th March, 2004.]

Provided that

(i) the owner or occupier of that land may remain in occupation of his living quarters on that land for a period of not more than ninety days after the date of service of the order;

(ii) the owner or occupier shall cease to occupy his living quarters after the period referred to in proviso (i), and if he fails to do so he shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[amended by Act 6/2002 and by Act 10 of 2002 with effect from 25th October, 2002 and by Act 1 of 2004 with effect from the 12th March, 2004.]

(2) Where an order made in terms of subsection (1) of section eight in relation to any agricultural land required for resettlement purposes is or becomes invalid by reason of the failure^{3/4}

(a) to serve a preliminary notice on the owner of any registered real right in the land; or

(b) to apply to the Administrative Court for an order confirming the acquisition within thirty days after the coming into force of the order;

or for any other reason whatsoever, the service on the owner or occupier of the land of a subsequent order in substitution for the invalid order^{3/4}

(i) before the expiry of ninety days from the date of service of the invalid order shall constitute notice in writing to the owner or occupier to cease to occupy, hold or use that land or his living quarters on that land, or both such land and living quarters, as the case may be, before the expiry of the unexpired period of notice that would have applied if the invalid order were still in force; or

(ii) after the expiry of ninety days from the date of service of the invalid order shall constitute notice in writing to the owner or occupier to cease to occupy, hold or use that land and his living quarters on that land seven days after the date of service of the subsequent order on the owner or occupier;

and if he fails to do so, he shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

[inserted by Act 6/2002 and amended by Act 10 of 2002 with effect from 25th October, 2002 and by Act 1 of 2004 with effect from 12th March, 2004.]

(3) A court which has convicted a person of an offence in terms of paragraph (b) of subsection (1) or proviso (ii) thereto or subsection (2) shall issue an order to evict the person convicted from the land to which the offence relates.

[inserted by Act 10 of 2002 with effect from 25th October, 2002.]

10 Registration of land acquired

(1) Where the ownership of any land has vested in an acquiring authority in terms of subsection (1) of section eight, the acquiring authority shall, as soon as practicable thereafter, notify the Registrar of Deeds in writing of that fact and lodge with him—

(a) a copy of the order made in terms of that subsection;

[amended by Act 6 of 2002 with effect from 10th May, 2002 and by Act 1 of 2004 with effect from 12th March, 2004.]

and

(b) if the ownership of part only of a piece of land has vested in the acquiring authority, a diagram signed by a land surveyor showing the extent of the land acquired.

(2) Where a servitude has vested in an acquiring authority in terms of subsection (1) of section eight, the acquiring authority shall notify the Registrar of Deeds of that fact and the Registrar of Deeds shall make such entries in his registers and endorsements on deeds registered in the Deeds Registry as he considers necessary, and for that purpose may require the acquiring authority to lodge with him a diagram of the land affected by the servitude showing the nature and extent of the servitude.

(3) On receiving notification in terms of subsection (1) the Registrar of Deeds shall, subject to subsection (5) of section seven—

(a) if the whole of a piece of land has vested in the acquiring authority, record the acquisition by making the appropriate entries in his registers and an endorsement on the registry duplicate of the title deed of the piece of land concerned and, if at any time the owner's copy of such deed is lodged in the Deeds Registry for any purpose, he shall cause a similar endorsement to be made thereon;

(b) if part only of a piece of land has vested in the acquiring authority and paragraph (b) of subsection (1) has been complied with—

(i) issue and register a title deed in respect of that part in a form approved by the Chief Registrar of Deeds and annex thereto the diagram referred to in paragraph (b) of subsection (1); and

(ii) endorse the fact of the acquisition on the registry duplicate of the title deed of the piece of land concerned and, if at any time the owner's copy of such deed

is lodged in the Deeds Registry for any purpose, he shall cause a similar endorsement to be made thereon;

(c) if part only of a piece of land has vested in the acquiring authority, not register any transfer or real right in respect of the remainder of such piece of land until the title deed referred to in subparagraph (i) of paragraph (b) has been registered.

(4) No duty, fee or other charge of office shall be payable in respect of any entry or endorsement or any cancellation of any entry or endorsement made or title deed issued in terms of this section.

10A Revocation of order acquiring land

(1) Subject to this section, not later than six months after making an order in terms of subsection (1) of section eight the acquiring authority may revoke the order, and thereupon^{3/4}

(a) ownership of the land concerned shall vest again in the person in whom it vested immediately before the order was made; and

(b) any rights, interests or encumbrances affected by the order shall continue to apply in all respects as if the order had not been made.

(2) A revocation of an order in terms of subsection (1) shall be done by notice in the Gazette, which notice shall—

(a) describe the land concerned; and

(b) specify the names of the owner of the land concerned and the holder of any registered real right therein:

Provided that, unless the whereabouts of the owner or holder are unknown to the acquiring authority after diligent inquiry at the Deeds Registry and, if necessary, in the appropriate companies register, the acquiring authority shall cause a written notice of the revocation to be served on the owner and on the holder as soon as possible after the publication of the notice in the Gazette.

(3) As soon as practicable after revoking an order in terms of subsection (1), the acquiring authority shall notify the Registrar of Deeds of the revocation, and subsections (3) and (4) of section ten shall apply, mutatis mutandis, in relation to the revocation.

(4) The revocation of an order made in terms of subsection (1) of section eight shall not prevent the acquiring authority from subsequently acquiring the land concerned in accordance with this Act.

[new Section inserted by Act 15 of 2000 with effect from 7th November, 2000.]

11 Investigation of land to be acquired

(1) Subject to this section, whenever an acquiring authority is empowered to acquire land subject to this Act and it is considered desirable that any land be acquired, any duly authorized representative or employee of the acquiring authority may, whether the acquiring authority has acted in terms of section five or not, enter upon the land at all reasonable times with such men, vehicles and equipment and do such acts thereon as are necessary to ascertain—

(a) the suitability of the land for the purposes of the acquiring authority; and

(b) the value and extent of the land.

(2) Before any powers conferred by subsection (1) are exercised, not less than fourteen days' notice in writing shall be given to the occupier, if any, of the land in question unless such notice is waived by the occupier.

(3) The acquiring authority shall not have the right to enter any dwelling-house without the permission of the occupant.

(4) As little damage and inconvenience as possible shall be caused by the exercise of any of the powers conferred by subsection (1).

PART IV

DESIGNATION OF RURAL LAND FOR RESETTLEMENT AND OTHER PURPOSES

[Part IV repealed by Act 15 of 2000 with effect from 7th November, 2000.]

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PART V

CLAIMS FOR AND ASSESSMENT AND PAYMENT OF COMPENSATION

16 Duty to pay compensation

Subject to this Part and Part VA, an acquiring authority shall pay fair compensation within a reasonable time—

(a) to the owner of any land which is not agricultural land required for resettlement purposes and to any other person who suffers loss or deprivation of rights as a result of any action taken by the acquiring authority in respect of the acquisition of that land in terms of this Act;

(b) to the owner of any agricultural land required for resettlement purposes and to any other person whose right or interest in the land has been acquired in terms of this Act.

[Section substituted by Act 15 of 2000 with effect from 7th November, 2000.]

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[Section repealed by Act 15 of 2000 with effect from 7th November, 2000.]

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[Section repealed by Act 15 of 2000 with effect from 7th November, 2000.]

- 19

[Section repealed by Act 15 of 2000 with effect from 7th November, 2000.]

20 Assessment of compensation for land other than designated rural land

(1) In respect of any acquisition of land which is not agricultural land required for resettlement purposes, compensation shall be paid in terms of section sixteen for—

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(a) the loss of the land; and

(b) any actual expense or loss which has been or may reasonably be incurred or suffered directly as a result of the action taken by the acquiring authority and which has not already been taken into account, directly or indirectly, in assessing compensation for the loss referred to in paragraph (a):

Provided that, in relation to any damage to any area of land or any building or structure thereon, compensation for such damage shall not exceed the value of the area of land, building or structure, as the case may be.

(2) Compensation shall be assessed in terms of subsection (1) so as to endeavour to arrive at compensation that is fair and reasonable, having regard to—

(a) the right of the claimant to be compensated for his loss; and

(b) the general public interest in the acquisition of the land concerned;

and, subject to this section and section twenty-one, in assessing such compensation the value of the land shall be taken into account regard being had to its nature, location and quality and any other factor bearing on its value.

(3) Where land that is not agricultural land required for resettlement purposes is acquired temporarily, compensation shall be assessed in terms of subsection (1) on the rental value of the land.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(4) If, immediately before the date of publication of the preliminary notice in the

Gazette, land that is not agricultural land required for resettlement purposes was used for a purpose and adapted for that purpose in such a way that there is no general demand or market for the land so used and adapted, and if the justice of the case so requires, compensation shall be assessed in terms of subsection (1) on the basis of the reasonable cost of adapting other land in such a way that the claimant is restored as closely as possible to the position in which he was immediately prior to that date or on any other basis which is considered fair.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(5) Where materials are taken from land that is not agricultural land required for resettlement purposes and there is no general demand or market for those materials, compensation shall be assessed in terms of subsection (1) as the amount which would have been payable if the area of land from which the materials were taken had been acquired in terms of this Act.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

21 General considerations regarding assessment of compensation

(1) In the assessment of compensation in terms of section twenty or twenty-nine C, regard shall be had to the value of any other property or rights of the claimant, and to any benefit which the claimant will receive, due to any works undertaken by the acquiring authority in connection with the acquisition of the land.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(2) A claimant shall take reasonable steps to mitigate any adverse effect which action taken by the acquiring authority may cause to his rights or interest in the land concerned and, in the assessment of compensation for such loss in terms of section twenty or twenty-nine C, any failure so to mitigate his loss shall be taken into account.

(3) Where part only of a piece of land, other than agricultural land required for resettlement purposes, has been acquired, compensation for that part shall be assessed as the difference between the price or value of the whole piece of land determined in terms of section twenty, and the price or value so determined of the remainder of that piece of land.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(4) In the assessment of compensation in terms of section twenty or twenty-nine C, the following factors may be disregarded—

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(a) anything done in contravention of subsection (2) of section five or a notice in terms of subsection (3) of that section;

(b) any change in the price or value of any land resulting from any action taken or to be taken by the acquiring authority connected with the acquisition of the land or resulting from the purpose for which or in connection with which the land is being acquired or taken or is to be used;

(c) the special suitability or usefulness of any land for the purpose for which it is required by the acquiring authority if it is unlikely that, but for the acquiring authority's requirements, the land would have been purchased for that purpose on the open market;

(d) any increase in the price or value of any land where such increase is due to the use of the land in a manner which is illegal, detrimental to the land or restrainable;

(e) the compulsory nature of the acquisition;

(f) any right in any land which is adequately compensated for in terms of section twenty-six or twenty-seven;

(g) any loss of trade resulting from a reduction of traffic over any road due to an alteration of the course of such road or the closure or change of status of such road as a result of any action taken or to be taken by the acquiring authority connected with the acquisition of the land or resulting from the purpose for which or in connection with which any land is being acquired or is to be used;

(h) any improvement effected mala fide on any land in order to increase any compensation payable in terms of this Act;

(i) any reduction in the price or value of any land resulting from any unusual or extraordinary circumstances existing immediately prior to the acquisition of the land.

22 Claims for compensation: land other than designated rural land

(1) Any person who wishes to claim compensation payable in terms of this Part in respect of the acquisition of land other than agricultural land required for resettlement purposes shall submit a written claim for compensation specifying in detail—

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(a) the nature of his loss or deprivation of rights; and

(b) the amount of compensation claimed by him and the basis on which he has calculated that amount and any actual expense or loss which has been or may reasonably be incurred or suffered directly as a result of the action taken by the acquiring authority.

(2) A claim for compensation in respect of the acquisition of land other than agricultural land required for resettlement purposes shall be submitted within sixty days, or such longer period as the acquiring authority may for good cause allow, from the date on which the preliminary notice is served on the claimant or, if the preliminary notice is not served on him, from the date of the publication of the preliminary notice in the Gazette.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

23

[repealed by Act 15 of 2000 with effect from 7th November, 2000.]

24 Reference of disputes re compensation to Administrative Court: land other than designated rural land

(1) This section shall apply only in respect of the acquisition of land that is not agricultural land required for resettlement purposes.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(2) If the parties cannot agree upon a claimant's right to compensation in terms of this Act or upon the amount of compensation payable to him in terms of this Part, either party may refer the question to the Administrative Court.

(3) A matter may be referred to the Administrative Court in terms of subsection (1) at any time after the expiry of the period of thirty days calculated from the date of service or publication of the order in terms of subsection (1) of section eight or the date of the granting of the order referred to in subsection (1) of section seven authorizing or, as the case may be, confirming the acquisition giving rise to the claim: Provided that, where the acquiring authority does not acquire the land concerned, either party may refer the question of compensation to the Administrative Court at any time after the lapsing or withdrawal of the preliminary notice or the refusal by the Administrative Court to grant an order authorizing or confirming the acquisition, as the case may be.

(4) The Administrative Court may, on the application of an acquiring authority, order a claimant to furnish further particulars of his claim for compensation in order that the acquiring authority may make an offer of payment in full settlement of the claim, and, if necessary, the Administrative Court may postpone or adjourn a hearing for that

purpose.

(5) In determining any question referred to it in terms of subsection (1), the Administrative Court shall ensure that fair compensation is paid within a reasonable time in respect of the acquisition of the land concerned.

25 Advance payment of compensation

(1) Where a question regarding compensation is referred to the Administrative Court for determination or on appeal, in terms of section twenty-four or twenty nine D the acquiring authority shall—

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(a) on or before the date on which the opening day of the hearing is finally fixed, make a final offer of an amount by way of compensation; and

(b) not later than three months after the date referred to in paragraph (a)—

(i) where the compensation relates to the acquisition of agricultural land required for resettlement purposes, pay to the claimant such proportion, if any, of the amount offered in terms of paragraph (a) as would have been payable in terms of section twenty-nine C on the date on which the land was acquired;

(ii) where the compensation relates to the acquisition of land other than agricultural land required for resettlement purposes, pay to the claimant the full amount offered in terms of paragraph (a);

[(b) amended by Act 15 of 2000 with effect from 7th November, 2000.]

together with interest calculated in terms of section twenty-nine:

Provided that, on application by the acquiring authority, the Administrative Court may, on good cause shown, declare that all or any of the provisions of this subsection shall not apply in any particular case.

(2) If after payment of an amount in terms of subsection (1) a different amount is agreed by the parties or finally determined to be payable as compensation and the amount agreed or determined—

(a) is less than the amount paid in terms of paragraph (b) of subsection (1), the claimant shall, within three months, refund to the acquiring authority the difference together with the interest paid in terms of that paragraph in respect of the amount refunded;

(b) is more than the amount paid in terms of paragraph (b) of subsection (1), the acquiring authority shall, within three months, pay to the claimant the difference together with interest calculated in terms of section twenty-nine in respect of the difference paid.

26 Discharge of debt secured by mortgage bond over land

Where any land acquired in terms of this Act was, immediately prior to its acquisition, mortgaged or hypothecated, the acquiring authority shall not, subject to section twenty-seven, pay out any portion of the compensation payable for that land until he is satisfied that the amount of the debt secured by such mortgage or hypothec will, so far as is possible, be paid or otherwise secured.

27 Payment of certain taxes and other moneys out of compensation

Where any land is acquired in terms of this Act, the acquiring authority may, after consultation with the owner of the land or his representative, utilize a portion of the compensation payable for the land in order to pay any rate, levy, tax or other moneys on behalf of the owner of the land, where production of a receipt or certificate showing the payment of such moneys is a prerequisite for the passing of transfer of the land by the Registrar of Deeds.

28 Payment of compensation moneys to Master and retention thereof by acquiring authority in certain cases

(1) If—

(a) any land acquired in terms of this Act was burdened with a fidei commissum, usufruct or other like interest; or

(b) compensation is payable in terms of this Act to a minor or a person incapable of managing his own affairs or whose place of residence is not known; the acquiring authority may pay the amount of the compensation payable in terms of this Part or Part VA to the Master of the High Court, and after such payment the acquiring authority shall cease to be liable in respect of that amount.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(2) Any moneys received by the Master in terms of subsection (1) shall, subject to the order of a competent court—

(a) if the property in question was burdened with a fidei commissum, usufruct or other like interest, be subject, mutatis mutandis, to all the terms and conditions contained in the will or other instrument by which such fidei commissum, usufruct or other like interest was constituted; and

(b) subject to paragraph (a), be paid into the Guardian's Fund referred to in section 97 of the Administration of Estates Act [Chapter 6:01] for the benefit of the persons who are or may become entitled thereto, and interest shall be payable thereon as if the money had been received in terms of that Act.

(3) Where moneys are paid into the Guardian's Fund in respect of land acquired which is subject to a fidei commissum, usufruct or other like interest and all interested parties are majors and consent to the money being withdrawn from the Guardian's Fund, or the High Court consents to such withdrawal on behalf of any interested party who is not a major or who is incapable of managing his affairs, then the Master may pay out such moneys in terms of any such consent.

(4) If a dispute or doubt arises as to the person who is to receive any compensation payable in terms of this Part or Part VA or if the acquiring authority is not satisfied that the amount of any debt referred to in section twenty-six will, so far as is possible, be paid or otherwise secured, the acquiring authority shall retain the amount of such compensation until the dispute has been settled or the doubt has been resolved or he is so satisfied, as the case may be.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

29 Payment of interest on compensation moneys

Interest shall be paid by an acquiring authority at a rate, being not less than the current rate of interest prescribed in terms of the Prescribed Rate of Interest Act [Chapter 8:09] on compensation awarded to a claimant in terms of this Part or Part VA for the period extending from the date on which the land was acquired in terms of this Act to the date the money is paid to the claimant or paid to the Master of the High Court in terms of subsection (1) of section twenty-eight.

PART VA

COMPENSATION FOR AGRICULTURAL LAND REQUIRED FOR RESETTLEMENT PURPOSES

[inserted by Act 15 of 2000 with effect from 7th November, 2000.]

29A Compensation Committee

(1) There is hereby established a committee, to be known as the Compensation Committee, which shall consist of—

(a) the Secretary of the Ministry responsible for lands, who shall be the chairman of the Committee; and

(b) the Secretary of the Ministry responsible for justice; and

(c) the Secretary of the Ministry responsible for finance; and

(d) the Director of Agricultural, Technical and Extension Services in the Ministry responsible for lands; and

- (e) the Chief Land Officer; and
- (f) the Chief Government Valuation Officer; and
- (g) not more than five other members appointed by the Minister.

(2) The provisions of sections thirty-one to thirty-eight which apply to the Derelict Land Board and its members shall apply, mutatis mutandis, to the Compensation Committee and those of its members who are appointed in terms of paragraph (g) of subsection (1).

(3) The functions of the Compensation Committee shall be to determine the compensation payable in respect of the acquisition of agricultural land required for resettlement purposes and to perform such other functions as may be assigned to it by or in terms of this Act or any other enactment.

29B Procedure for assessing compensation

(1) As soon as possible after a preliminary notice has been published in respect of any agricultural land required for resettlement purposes, a designated valuation officer shall prepare a preliminary estimate of the compensation payable for improvements or the land, as the case may be, in terms of this Part in respect of the acquisition, and shall transmit his preliminary assessment to the Compensation Committee.

(2) For the purpose of preparing a preliminary estimate of compensation in terms of subsection (1), a designated valuation officer may exercise the powers conferred by section eleven upon an authorised representative of an acquiring authority.

(3) On receipt of a preliminary assessment of compensation in terms of subsection (1), the Compensation Committee, after carrying out such further investigations as it considers necessary, shall without delay—

(a) prepare its own estimate of the compensation payable in terms of this Part in respect of the acquisition concerned; and

(b) give written notification—

(i) of its estimate to every person who is entitled in terms of section sixteen to be paid compensation in respect of the acquisition concerned; and

(ii) inviting every person whom it has notified in terms of subparagraph (i), if he disputes the Compensation Committee's estimate, to submit, in such manner and within such reasonable time as the Compensation Committee may specify, any representations, whether in the form of a claim for compensation or otherwise, that he may wish to make in regard to the Compensation Committee's estimate of compensation payable to him.

(4) After considering any representations submitted in response to an invitation in terms of subparagraph (ii) of paragraph (b) of subsection (3), the Compensation Committee shall, subject to sections twenty-one and twenty-nine C, fix the compensation payable for improvements or the land, as the case may be, and shall give written notification of its assessment to the owner of the land concerned and every other person who is entitled in terms of section sixteen to be paid compensation in respect of the acquisition concerned.

29C Assessment of compensation and manner and period of payment

(1) In respect of the acquisition of agricultural land required for resettlement purposes, compensation shall only be payable for any improvements on or to the land, in accordance with this section:

Provided that compensation shall be payable for the land or any interest or right therein where an adequate fund for that purpose is established in accordance with subsection (1) of section 16A of the Constitution.

(2) In assessing or estimating the amount of compensation payable to any person for improvements on or to the land in terms of subsection (1), the Compensation

Committee and every designated valuation officer shall be bound by such of the principles prescribed in Part I of the Schedule as are applicable to the acquisition concerned:

Provided that, where the fund referred to in the proviso to subsection (1) is established, the principles prescribed in Part II of the Schedule shall apply in assessing the amount of compensation payable for the land or any interest or right therein.

(3) The Minister, with the approval of the Minister responsible for finance, may fix the form and manner in which and the period within which compensation shall be paid in terms of subsection (1), whether generally or in respect of any type or class of land:

Provided that—

(a) at least one quarter of the compensation payable shall be paid at the time the land concerned is acquired, or within a reasonable time thereafter; and

(b) a further one quarter of the compensation payable shall be paid within two years after the land concerned was acquired; and

(c) the balance of the compensation payable shall be paid within five years after the land concerned was acquired.

(4) Without derogation from the generality of subsection (3), in fixing the form, manner and period within which compensation shall be paid in terms of that subsection, the Minister may direct that the whole or any part of the compensation payable in terms of subsection (1) shall be paid—

(a) in a lump sum or in instalments; or

(b) in cash or in bonds or other securities issued by the Government.

(5) Compensation payable in terms of subsection (1) shall not extend to compensation for loss suffered or expense incurred by the owner or occupier of the agricultural land arising out of—

(a) any investigation conducted by or on behalf of the acquiring authority in terms of section eleven; or

(b) the removal or eviction of the owner or occupier from the land concerned in terms of section nine; or

(c) his inability to conduct any activity on the land concerned, whether as a result of a notice in terms of subsection (3) of section five or otherwise; or

(d) any other circumstances incidental to the acquisition of the land concerned.

(6) The Minister, with the approval of the Minister responsible for finance, may from time to time give the Compensation Committee written guidelines relating to the amounts of compensation payable in terms of subsection (1), whether generally or in respect of any type or class of land, and the Compensation Committee shall fix compensation in accordance with any such guidelines:

Provided that no such guidelines shall be inconsistent with the principles prescribed in this Act.

29D Appeals under this Part

(1) If a claimant for compensation or an acquiring authority considers that the Compensation Committee, in assessing the compensation payable in respect of the acquisition of any agricultural land required for resettlement purposes, has not observed any of the principles prescribed or referred to in section twenty-one or twenty-nine C, he may appeal to the Administrative Court.

(2) An appeal in terms of subsection (1) shall be made within thirty days after the Compensation Committee's assessment of the compensation payable in respect of the acquisition of the land concerned.

(3) In an appeal in terms of subsection (1), neither the Administrative Court nor any other court shall set aside an assessment unless the court is satisfied that the Compensation Committee, in making the assessment, did not observe any of the principles prescribed or referred to in section twenty-one or twenty-nine C.

PART VI

DERELICT LAND BOARD

30 Establishment of Derelict Land Board

(1) There is hereby established a board, to be known as the Derelict Land Board, which shall consist of not fewer than three and not more than five members who shall be appointed by the Minister, of whom—

(a) one shall be appointed from a list of not fewer than three names submitted by such association or associations of farmers as the Minister may determine; and

(b) the remainder of whom shall be appointed by the Minister; after consultation with the President and in accordance with such directions as the President may give.

(2) The Minister shall designate one member to be chairman of the Derelict Land Board.

31 Disqualifications for membership of Derelict Land Board

(1) A person shall not be appointed as a member, and no person shall be qualified to hold office as a member, if—

(a) he has been adjudged or otherwise declared insolvent or bankrupt in terms of a law in force in any country and has not been rehabilitated or discharged; or

(b) he has made an assignment to or arrangement or composition with his creditors in terms of a law in force in any country, and the assignment, arrangement or composition has not been rescinded or set aside; or

(c) within the period of five years immediately preceding the date of his proposed appointment, he has been sentenced in any country, for conduct which, if committed in Zimbabwe, would have constituted an offence, to a term of imprisonment imposed without the option of a fine, whether or not any portion of the sentence has been suspended, and has not received a free pardon.

(2) A member of Parliament shall not be appointed as a member, nor shall he be qualified to hold office as a member.

32 Terms and conditions of office of members

(1) A member shall hold office for such period, not exceeding three years, as the Minister may fix on his appointment.

(2) On the expiry of the period for which a member has been appointed, he shall continue to hold office until he has been reappointed or his successor has been appointed:

Provided that a member shall not continue to hold office in terms of this subsection for a period exceeding six months.

(3) Members shall hold office on such conditions as the Minister, with the approval of the Minister responsible for finance, may fix.

(4) A member who retires shall be eligible for reappointment.

33 Vacation of office by members and filling of vacancies

(1) A member shall vacate his office and his office shall become vacant—

(a) after giving the Minister such period of notice of intention to resign as may be fixed in his conditions of service or, if no such period has been fixed, after the expiry of one month after the date he gives such notice, or after the expiry of such other period of notice as he and the Minister may agree; or

(b) on the date he begins to serve a sentence of imprisonment the term of

which is not less than three months, whether or not any portion has been suspended, imposed in any country; or

(c) if he, becomes disqualified in terms of paragraph (a) or (b) of subsection (1) of section thirty-one to hold office as a member; or

(d) if he is required in terms of subsection (2) to vacate his office.

(2) The Minister, after consulting the Derelict Land Board, may require a member to vacate his office if the member—

(a) has been guilty of conduct which renders him unsuitable to continue to hold office as a member; or

(b) has failed to comply with any conditions of his office fixed in terms of section thirty-two; or

(c) is mentally or physically incapable of efficiently exercising his functions as a member.

(3) The Minister, on the recommendation of the Derelict Land Board, may require a member to vacate his office if the Minister is satisfied that the member has been absent without the permission of the chairman of the Derelict Land Board from three consecutive meetings of the Board, of which he has been given not less than seven days' notice, and that there was no just cause for the member's absence.

(4) On the death of or the vacation of office by a member, the Minister may, subject to section thirty, appoint a person to fill the vacancy.

34 Meetings and procedure of Derelict Land Board

(1) The Derelict Land Board shall hold its first meeting on such date and at such place as the Minister may fix and thereafter the Derelict Land Board shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and procedure as it thinks fit.

(2) The chairman of the Derelict Land Board may himself at any time and shall, at the request in writing of not fewer than three members, convene a special meeting of the Board, which meeting shall be convened for a date not sooner than seven days nor later than thirty days after the receipt of such request.

(3) Subject to subsection (4), the chairman of the Derelict Land Board shall preside at meetings of the Board.

(4) If at a meeting of the Derelict Land Board the chairman is absent, the members present may elect one of their number to preside at that meeting as chairman.

(5) A majority of members shall form a quorum at any meeting of the Derelict Land Board.

(6) All acts, matters or things authorized or required to be done by the Derelict Land Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(7) At all meetings of the Derelict Land Board each member present shall have one vote on each question before the Board:

Provided that—

(i) in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to a deliberative vote;

(ii) no member shall take part in the consideration or decision of, or vote on, any question before the Board which relates to his reappointment or vacation of office as a member.

(8) The Derelict Land Board may, with the approval of the Minister, co-opt any person to assist it as assessor or adviser on any professional or technical question at any of its proceedings, but a co-opted person shall have no vote in any decision by the Board.

(9) No member shall vote upon or take part in a discussion if he has, directly or

indirectly, any pecuniary interest in the matter before the Derelict Land Board.

(10) Any proposal circulated among all members and agreed to in writing by a majority of them shall be of the same effect as a resolution passed at a duly constituted meeting of the Derelict Land Board and shall be incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that any such proposal be placed before the Board, this subsection shall not apply to the proposal.

(11) Except as otherwise provided in this Part, the procedure for the convening and conduct of meetings of the Derelict Land Board shall be as fixed from time to time by the Board.

35 Minutes of proceedings of Derelict Land Board

(1) The Derelict Land Board shall cause minutes of all proceedings of and decisions taken at all meetings of the Board to be entered in books kept for the purpose.

(2) Any minutes referred to in subsection (1) which purport to be signed by the chairman of the meeting to which the minutes relate or by the chairman of the next following meeting of the Derelict Land Board shall be accepted for all purposes as prima facie evidence of the proceedings of and decisions taken at the meeting concerned.

36 Remuneration and allowances of members

A member shall be paid—

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

(a) such remuneration as the Minister, with the approval of the Minister responsible for finance, may fix for members generally; and

(b) such allowances as the Minister, with the approval of the Minister responsible for finance, may fix to meet any reasonable expenses incurred by the member in connection with the business of the Derelict Land Board.

37 Expenses of Derelict Land Board

Any expenses incurred by the Derelict Land Board in carrying out its functions in terms of this Act shall be met, on the direction of the Minister, from moneys appropriated for the purpose by Act of Parliament.

38 Validity of decisions and acts of Derelict Land Board

No decision or act of the Derelict Land Board and no act done under the authority of the Board shall be invalid solely because, at the time the decision was taken or the act was done or authorized—

(a) there were one or more vacancies in the membership of the Board; or

(b) a disqualified person acted as a member of the Board;

if the duly appointed members who were present when the decision was taken or the act was done or authorized by the Board constituted a quorum in terms of subsection (5) of section thirty-four.

39 Powers of Derelict Land Board

(1) The powers, rights and privileges of the Derelict Land Board and its members in the exercise of the Board's functions in terms of this Act shall be the same as those conferred upon a commissioner by the Commissions of Inquiry Act [Chapter 10:07], other than the power to order a person to be detained in custody, and sections 9 to 13 and 15 to 18 of that Act shall apply, mutatis mutandis, in relation to an inquiry or investigation conducted by the Board and to a person summoned to give evidence or giving evidence at the inquiry or investigation.

(2) If any person summoned to give evidence or to produce books, plans, accounts or other documents fails to appear before the Derelict Land Board or refuses to be examined on oath or to answer any question or to produce any such document, he shall be guilty of an offence and liable to a fine not exceeding level four or to

imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[amended by Act 22 of 2001, with effect from the 10th September, 2002.]

PART VII

PROVISIONS RELATING TO DERELICT LAND

40 Appointment of Chief Land Officer and other land officers

(1) There shall be a Chief Land Officer and such other land officers as may be required, whose offices shall be public offices and form part of the Public Service.

(2) Any land officer, when performing the functions of the Chief Land Officer in terms of this Act, shall be subject to the direction of the Chief Land Officer.

(3) The Chief Land Officer and any land officer appointed in terms of subsection (1) may at all reasonable times enter upon any land to ascertain the nature and extent of occupation thereon and for other purposes reasonably connected with their functions in terms of this Act:

Provided that, before any entry is made in terms of this subsection, the owner or occupier of the land shall be given not less than fourteen days' notice unless such notice is waived by such owner or occupier.

41 Reports on derelict land

(1) Where the Chief Land Officer has reason to believe that any land is derelict, he shall investigate the matter and, if satisfied that the land in question is derelict, shall submit a report to the Derelict Land Board accordingly.

(2) The Derelict Land Board shall consider any report submitted to it in terms of subsection (1) and, if it considers that there is substance in the report, shall hold an inquiry in terms of section forty-two for the purpose of determining whether or not the land concerned should be declared derelict.

42 Inquiry by Derelict Land Board and declaration of derelict land

(1) If the Derelict Land Board decides to hold an inquiry for the purpose of determining whether any land which is the subject of a report by the Chief Land Officer should or should not be declared derelict, it shall give notice of such inquiry—

(a) in writing to any person who appears to the Board to have any interest or right in the land and whose whereabouts are ascertainable after diligent inquiry; and

(b) by publication—

(i) once in the Gazette; and

(ii) once a week for three consecutive weeks in a newspaper circulating in the area where the land concerned is situated.

(2) A notice given in terms of subsection (1) shall—

(a) specify the place of the inquiry and the date thereof, which date shall not be less than thirty days from the date of the last publication required to be made in a newspaper in terms of subparagraph (ii) of paragraph (b) of subsection (1); and

(b) call upon any person having an interest or right in the land to show cause at the inquiry why the land concerned should not be declared derelict.

(3) On the day fixed by the Derelict Land Board for the purposes of subsection (2), the Board shall consider the matter and, after hearing evidence from the Chief Land Officer and any land officer and from any person who makes representations, the Derelict Land Board may, subject to subsection (4), determine the land in question to be derelict.

(4) In determining whether or not any land is derelict, the Derelict Land Board shall have regard to—

(a) whether the land is or has been occupied; and

- (b) whether the land is being worked or cultivated; and
- (c) whether the owner can be found; and
- (d) the control which the owner has exercised over the land; and
- (e) the extent of compliance with any law regarding the payment of rates, levies or taxes in respect of the land; and
- (f) any other matter which the Board may consider appropriate.

(5) Where the Derelict Land Board has determined that any land is derelict, the Board shall declare it to be such and shall publish notice of its declaration in the Gazette.

(6) Any person who is aggrieved by any notice published in terms of subsection (5) may, within three months of the date of publication of the notice or such longer period as the Administrative Court may for good cause allow, appeal to the Administrative Court.

(7) The Administrative Court may, on an appeal in terms of subsection (6), confirm, vary or set aside the decision appealed against or give such decision as the case may require, and may in respect of any appeal—

(a) receive such evidence and order the production of such documents as it considers necessary;

(b) remit the matter to the Derelict Land Board for reconsideration, with such instructions as regards the taking of further evidence or otherwise as the Administrative Court thinks fit;

(c) take any other course which it considers will lead to the just, speedy and inexpensive settlement of the matter.

(8) Where an appeal in terms of subsection (6) is dismissed or where there is no appeal after the expiry of the period of three months referred to in that subsection, the President may, by order describing the nature and extent of the land affected, acquire the land.

43 Eviction of persons and registration of land

Sections nine and ten shall apply, mutatis mutandis, in relation to the eviction of persons from any land acquired by the President in terms of this Part and to the registration of such land.

44 Compensation not to be paid for derelict land

No compensation shall be paid in respect of any land declared to be derelict and acquired in terms of this Part.

PART VIII

SPECIAL PROVISIONS RELATING TO ADMINISTRATIVE COURT

45 Composition of Administrative Court for purposes of this Act

(1) The Administrative Court—

(a) shall consist of a President sitting alone for the purpose of hearing an application in terms of subsection (1) of section seven for an order authorising or confirming an acquisition of agricultural land required for resettlement purposes;

(b) shall, subject to paragraph (c), consist of a President and two assessors appointed by the President of the Administrative Court from the list of persons referred to in subsection (2) for the purpose of hearing any matter other than a matter referred to in paragraph (a);

(c) may consist of a President sitting alone for the purpose of hearing any matter referred to in paragraph (b) which is unopposed or during any pre-trial proceedings.

[substituted by Act 15 of 2000 with effect from 7th November, 2000.]

(2) The Presidents of the Administrative Court shall, with the approval of the Chief Justice and the Minister, draw up a list of names of not fewer than ten persons who

have ability and experience in administration, agriculture or commerce or have professional qualifications and who are otherwise suitable for appointment as assessors, but who are not members of the Public Service.

46 Costs

(1) In determining any question before it, the Administrative Court may make such order as to costs as it may deem just.

(2) The costs in connection with any proceedings before the Administrative Court shall be payable in accordance with the scale of costs for the time being in use in the court of a magistrate in civil cases or such other scale of costs as the Minister responsible for the administration of justice, after consultation with the Presidents of the Administrative Court, may provide by notice in the Gazette:

Provided that if the Administrative Court is satisfied that the grounds for opposing an application in terms of subsection (1) of section seven are frivolous or vexatious, or that any claim for compensation submitted by any person in terms of this Act is unreasonable, it may award costs against the person concerned in accordance with the scale of costs for the time being in use in the High Court.

(3) Any costs awarded by the Administrative Court shall be taxed by the Registrar in terms of subsection (2) and the taxation of such costs shall be subject to appeal to the President of the Administrative Court.

(4) Where the Administrative Court orders any claimant to pay the whole or part of the costs of the acquiring authority, the acquiring authority may deduct the amount so payable by that claimant from the amount of compensation payable to him.

[substituted by Act 15 of 2000 with effect from 7th November, 2001.]

PART IX

GENERAL

47 Regulations

(1) The Minister may by regulation provide for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Act.

(2) Regulations made in terms of subsection (1) may provide for—

(a) the prohibition of the sale of rural land unless it has been offered for sale to the Minister or to such other person or authority as may be specified in the regulations;

(b) notification to the Minister or to such other person or authority as may be specified in the regulations, before control over any company or body corporate that owns rural land is transferred from one person to another, whether through a sale or transfer of shares or otherwise.

[subs (2) substituted by Act 15 of 2000 with effect from 7th November, 2000.]

48 Designated valuation officers

(1) The Minister may designate as a valuation officer any person who, in the Minister's opinion, is qualified to carry out valuations and to exercise the other functions of a designated valuation officer in terms of this Act:

Provided that the Minister shall not designate a person who is not a member of the Public Service unless that person has consented to the designation.

[subs (1) substituted by Act 15 of 2000 with effect from 7th November, 2000.]

(2) The Minister shall provide every designated valuation officer with a certificate indicating his appointment and the designated valuation officer shall produce such certificate to any interested person on demand.

49 References to Compensation Court in other enactments and documents

Any reference in any other enactment or deed of title, memorandum, agreement or

other document to the Compensation Court shall be construed as a reference to the Administrative Court as constituted in terms of Part VIII exercising, subject to any other enactment, its jurisdiction and powers in terms of this Act.

50 Amendment of Schedule

(1) The Minister may, by statutory instrument, from time to time amend the Schedule by adding any principle thereto or by altering or deleting any principle prescribed therein.

(2) An amendment made to the Schedule in terms of subsection (1) shall not affect the compensation payable for the acquisition of any agricultural land required for resettlement purposes, where the preliminary notice relating to the acquisition was published before the date of commencement of the statutory instrument effecting the amendment.

[amended by Act 15 of 2000 with effect from 7th November, 2000.]

Schedule (Sections 29C and 50)

PART I

PRINCIPLES REGARDING ASSESSMENT OF COMPENSATION FOR IMPROVEMENTS ON OR TO AGRICULTURAL LAND REQUIRED FOR RESETTLEMENT PURPOSES

1. In assessing compensation generally—

(a) the age, nature and condition of the improvements on or to the land shall be taken into account;

(b) regard shall be paid to any contribution made by the State towards the improvements concerned.

2. In valuing buildings, the quality of their construction shall be assessed according to standards set by the Ministry responsible for housing standards for the types of building concerned. The age and condition of the buildings shall also be taken into account.

3. In relation to grazing veld, compensation shall be payable for dams, dips, spray-races, fencing and other improvements enhancing its value for grazing purposes.

4. In relation to irrigated land, compensation shall be payable for dams, boreholes, canals, irrigation equipment embedded in the ground and other improvements enhancing its value for irrigation purposes.

5. In valuing perennial or plantation crops such as coffee, tea, fruit, timber and sugar-cane, regard shall be paid to the potential yield of such crops and their marketability, but only where the crops are maintained in a satisfactory condition and are well-pruned, fertilised and sprayed.

6. In valuing tobacco curing facilities, the following principles shall be applied—

(a) tobacco curing facilities such as tunnels, chongololos and Dawson systems shall be valued at a rate comparable to the values given to conventional tobacco barns of equivalent output;

(b) bulk curers which are movable property shall not be acquired by the acquiring authority except by special agreement with the owner of the land.

7. In valuing fencing—

(a) lower values shall be placed on fences that are not erected to standards prescribed in terms of the Fencing Act [Chapter 20:06] or with pressure-treated poles;

(b) for boundary fences, only half the values shall be paid.

8. In relation to electrical installations, the costs of installing any mains electricity supply and connection points on the land shall be taken into account.

9. In addition to the improvements specifically mentioned in paragraphs 2 to 8, compensation shall be payable for any other improvements on or to the land which enhance its value for agricultural purposes and, with the agreement of the owner, for

movables used in connection with that land for agricultural purposes, including irrigation equipment not embedded in the ground, tractors, ploughs, disc harrows, trailers, combine harvesters, pumps not permanently attached to the land, sprinklers, risers and movable storage facilities.

[inserted by Act 6/2002 with effect deemed from 23rd May, 2000 and amended by Act 1 of 2004 with effect from 12th March, 2004.]

PART II

PRINCIPLES REGARDING ASSESSMENT OF COMPENSATION FOR AGRICULTURAL LAND REQUIRED FOR RESETTLEMENT PURPOSES

1. In general, compensation shall be assessed taking the piece of land concerned as a whole, consideration being given to—

- (a) its size; and
- (b) the age, nature and condition of the buildings and improvements on it;

and

- (c) the agricultural and other activities that are or can be carried out on it.

2. In valuing buildings, the quality of their construction shall be assessed according to standards set by the Ministry responsible for housing standards for the types of building concerned. The age and condition of the buildings shall also be taken into account.

3. In valuing land, the following factors shall be taken into account—

- (a) the soil types to be found on the land; and
- (b) the extent of cultivation carried out on it; and
- (c) the use to which non-arable parts of the land are being or may be put.

4. For the classification of soil types, Agritex soil classification maps shall be used, and these soil types shall be linked to the natural regions as shown on the appropriate maps which are available for inspection at the offices of the Ministry responsible for lands.

5. In valuing cleared virgin land, consideration shall be given to the costs of clearing the land.

6. Grazing veld shall be valued according to its carrying capacity for livestock; the highest values may be given only to fully equipped pastures with good water supplies, dips and well-fenced paddocks.

7. The same amounts shall be payable for improved pastures as for grazing veld of the same carrying capacity.

8. Land may not be classified as irrigable for the purpose of valuation unless—

- (a) it is capable of being placed under full year-round irrigation; and
- (b) where it can be irrigated only in terms of rights granted under the

Water Act [Chapter 20:24], such rights have, in fact, been granted.

9. In valuing land on which there are perennial or plantation crops such as coffee, tea, fruit, timber and sugar-cane, regard shall be paid to the potential yield of such crops and their marketability, but only where the crops are maintained in a satisfactory condition and are well-pruned, fertilised and sprayed.

10. In valuing tobacco curing facilities, the following principles shall be applied—

- (a) tobacco curing facilities such as tunnels, chongololos and Dawson systems shall be valued at a rate comparable to the values given to conventional tobacco barns of equivalent output;

- (b) bulk curers which are movable property shall not be acquired by the acquiring authority except by special agreement with the owner of the land.

11. In valuing dip-tanks and spray-races, additional compensation may be paid where the handling facilities are good.

12. In valuing fencing—

(a) lower values shall be placed on fences that are not erected to standards prescribed in terms of the Fencing Act [Chapter 20:06] or with pressure-treated poles;

(b) for boundary fences, only half the values shall be paid.

13. In relation to electrical installations, the value of land shall be regarded as enhanced by the availability of a mains electricity supply, and regard shall be paid to the number of connection points on the land.

14. In assessing compensation generally regard shall be paid to any contribution made by the State towards the value of the land concerned.

15. In addition to the improvements specifically mentioned in this Schedule, compensation shall be payable for any other improvements on or to the land which enhance its value for agricultural purposes.

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