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LAND ACQUISITION ACT

CHAPTER 20:10

LAND ACQUISITION ACT

*Act 3/1992.*

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AN ACT to empower the President and other authorities to acquire land and other immovable property compulsorily in certain circumstances; to provide for the designation of rural land; 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.]

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”, subject to subsections (2) and (4), means the President or any person acting in terms of section *three or four*;

“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 *seventeen*;

“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*;

“fair compensation”, in relation to designated rural land, means compensation fixed by the Compensation Committee in accordance with such—

- (a) guidelines given to it by the Minister in terms of subsection (3) of section *nineteen*; and
- (b) principles prescribed in the Schedule; as are applicable to the acquisition of the designated rural land concerned;

“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) Where any enactment applies any provision of this Act to any acquisition of land, taking of materials from land or payment of compensation by any person, any reference to an acquiring authority in any such provision of this Act shall be construed as including a reference to the person empowered by that enactment to acquire land or take materials or required to pay compensation, as the case may be.

(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) Anything required or permitted to be done by an acquiring authority in terms of this Act may be done by any person truly authorized by the acquiring authority for that purpose.

## PART II

### ACQUISITION OF LAND

#### 3 Acquisition of land by President

(1) Subject to this Act, the President may compulsorily acquire—

- (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 may acquire any land that has been declared derelict in terms of section *forty-two*.

(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

(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 designated rural land; and

(b) serve on—

- (i) the owner of the land to be acquired and the holder of any other registered real right in that land; and
- (ii) any other person who it appears to the acquiring authority may suffer loss or deprivation of rights by such acquisition;

whose whereabouts are ascertainable after diligent inquiry, notice in writing providing for the matters referred to in subparagraphs (i), (ii) and (iii) of paragraph (a).

(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—

- (a) for a period of one year from the date of publication of the preliminary notice in the *Gazette*; or
- (b) until withdrawn by the acquiring authority in terms of subsection (7); or
- (c) until the land is acquired in terms of section *eight*.

(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 fine not exceeding two thousand dollars or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

## 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.

## 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) Where an acquiring authority intends to apply for an order in terms of subsection (1), he shall, not less than fourteen days before the date on which the application is to be heard by the Administrative Court, give notice of the application to every person on whom the preliminary notice has been served.

(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.

(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) An application in terms of subsection (1) shall be determined within thirty days of the date thereof unless the Administrative Court is satisfied that there are special reasons, which shall be recorded by the Administrative Court, why a longer period should be allowed for such determination.

## 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—
  - (a) the owner of the land to be acquired and the holder of any other registered real right therein; and

(b) any other person who it appears to the acquiring authority may suffer loss or deprivation of rights by such acquisition;

whose whereabouts are ascertainable after diligent inquiry, acquire land not specified in the preliminary notice, and, where the land is not designated rural land, any such person shall be given a reasonable opportunity to submit a claim for compensation in terms of section *twenty-two* accordingly;

(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.

(2) An acquiring authority may, immediately after making an order in terms of subsection (1), 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:

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.

(3) 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 and, subject to section *nine*, shall be free of all rights and encumbrances except, subject to subsection (4)—

(a) any interest or right in the land which may be specified in the order as not being extinguished thereby; and

(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 (e) of subsection (3) without the consent in writing of a Minister or the local authority or statutory body concerned, as the case may be.

(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.

## 9 Eviction of owner or occupier

(1) Subject to subsection (5) of section *seven*, subsections (3) and (4) of section *eight* and this section, any person who, immediately prior to the date an order is made in terms of subsection (1) of section *eight*, was occupying, holding or using the land to which such order relates shall, if so required by 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.

(2) Any person who, immediately prior to the date an order is made in terms of subsection (1) of section *eight*, was leasing land to which such order relates shall not be required to vacate that land unless he has been given at least three months' notice or the period of notice provided for in the agreement of lease for the termination thereof by the lessor, whichever is the less.

(3) If the owner or a usufructuary of land which has been acquired in terms of this Part is occupying that land, he shall not be required to vacate that land unless at least three months' notice in writing has been given to him.

## 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; 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.

### 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

#### 12 Designation of rural land

(1) Subject to this section, the Minister may at any time designate any area or piece of rural land as land that will be acquired in terms of this Act for any purpose referred to in subsection (1) of section three.

(2) When designating any rural land in terms of subsection (1), the Minister shall specify—

- (a) the purpose for which it is intended to acquire the rural land concerned; and  
(b) the acquiring authority that intends to acquire the rural land concerned; and  
(c) the period, not exceeding ten years, within which it is intended to acquire the rural land.

(3) The Minister shall not specify any person or authority, other than the President, in terms of subsection (2) as the acquiring authority that will acquire designated rural land, unless that person or authority has consented to being so specified.

(4) Whenever he has designated any rural land in terms of subsection (1), the Minister shall without delay—

- (a) publish a notice in the *Gazette* describing the area, situation and extent of the rural land so designated and specifying the particulars referred to in subsection (2) relating to the land; and  
(b) take such reasonable steps as may be necessary to inform the owner of every piece of rural land so designated of the fact that his land has been

designated and of the particulars referred to in subsection (2); and

- (c) cause maps, plans and other documents showing—  
(i) the area, extent and situation of the rural land so designated; and  
(ii) the particulars referred to in subsection (2) relating to the rural land so designated;

to be available for inspection by members of the public during office hours at the head office of his Ministry and at such other places as he may think necessary.

(5) The Minister may at any time amend or revoke any designation in terms of subsection (1):

Provided that the Minister shall not—

- (a) revoke the designation of any piece of rural land; or  
(b) extend beyond an aggregate of ten years the period specified as the period within which it is intended to acquire any piece of rural land;

without the consent of the owner of that rural land.

#### 13 Representations re designation of land

(1) Any owner of designated rural land or holder of a registered real right in designated rural land who objects to the designation of that land may make written representations to the Minister setting out the reasons for his objection.

(2) On receipt of representations in terms of subsection (1), the Minister—

- (a) may make such investigation into the matter as he thinks necessary; and  
(b) may accord the person who made the representations an opportunity to make further representations, either orally or in writing as the Minister may specify.

(3) After making any investigation in terms of subsection (2) and considering any representations made in terms of that subsection, the Minister may in his absolute discretion amend or revoke the notice designating the rural land concerned, and the Minister's decision in the matter shall be final.

(4) The fact that the Minister is considering representations made in terms of subsection (1) in relation to any rural land shall not—

- (a) invalidate the designation of the rural land concerned; or  
(b) prevent an acquiring authority from acquiring the rural land concerned in terms of this Act.

#### 14 Restriction on sale or disposal of designated rural land

(1) Subject to subsection (4), no person shall sell, lease or otherwise dispose of any designated rural land, except in accordance with the written permission of the Minister given prior to such sale, lease or disposal.

(2) An application for the Minister's permission in terms of subsection (1) shall be made in writing, specifying—

- (a) the person to whom it is proposed to sell, lease or dispose of the designated rural land concerned, and  
(b) the terms and conditions of the proposed sale, lease or disposal; and  
(c) the reasons for the proposed sale, lease or disposal; and

(d) such other particulars as may be prescribed; and shall be accompanied by a copy of the title deed of the designated rural land concerned and a statement from the person specified in terms of paragraph (a) to the effect that he is able and willing to buy, lease or otherwise acquire the land on the terms and conditions specified in terms of paragraph (b).

(3) Not later than ninety days after receipt of an application in terms of subsection (2), the Minister shall—

- (a) grant the applicant his written permission for the sale, lease or other disposal, as the case may be, of the designated rural land concerned; or
- (b) notify the applicant, in writing, that he refuses to grant permission for the sale, lease or other disposal, as the case may be, of the designated rural land concerned;

Provided that, if the applicant proves to the satisfaction of the Minister that an agreement for the sale, lease or other disposal of the designated rural land was concluded before the rural land was designated in terms of section twelve, the Minister shall grant his written permission for the sale, lease or other disposal, as the case may be, of the designated rural land in accordance with the agreement.

(4) Where the Minister has refused to grant permission in terms of this section for the sale, lease or other disposal of any designated rural land, the owner of the land may, by notice in writing to the acquiring authority specified in the notice published in terms of section twelve, call upon the acquiring authority to acquire the land, and the acquiring authority shall forthwith take steps to acquire the land concerned in terms of this Act.

(5) Any purported sale, lease or disposal of designated rural land effected without the permission of the Minister in terms of this section shall be void.

#### 15 Effect of designation of rural land

(1) Where the Minister has designated any rural land in terms of section twelve, the acquiring authority concerned shall acquire the rural land in terms of this Act within the period specified in terms of paragraph (c) of subsection (2) of that section, or, where that period has been extended in terms of subsection (3) of that section, within that extended period.

(2) The designation of any rural land in terms of section twelve shall not—

- (a) affect the rights of the owner of the designated rural land or the holder of any registered real right in such land to use and occupy the land, pending the issue of any preliminary notice in respect of the land; or
- (b) preclude any acquiring authority from acquiring, in terms of this Act, land which has not been so designated;

Provided that, where any rural land that is not designated rural land is acquired, compensation in respect of the acquisition shall be assessed and paid in terms of section twenty.

### PART V

#### CLAIMS FOR AND ASSESSMENT AND PAYMENT OF COMPENSATION

#### 16 Duty to pay compensation

Subject to this Part, an acquiring authority shall pay—

- (a) fair compensation to the owner of any designated rural land and any other person whose right or interest in the designated rural land has been acquired in terms of this Act;
- (b) fair compensation within a reasonable time to the owner of any land which is not designated rural land 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.

#### 17 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 for which the Minister is responsible, who shall be the chairman of the Committee; and
- (b) the Director of Agricultural, Technical and Extension Services; and
- (c) the Chief Government Valuation Officer; and
- (d) not more than three 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 (d) of subsection (1).

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

#### 18 Procedure for assessing compensation for designated rural land

(1) As soon as possible after a preliminary notice has been published in respect of any designated rural land, a designated valuation officer shall prepare a preliminary estimate of the compensation payable 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 authorized 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 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
- (c) invite every person whom it has notified in terms of paragraph (b), 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 paragraph (c) of subsection (3), the Compensation Committee shall, subject to sections nineteen and twenty-one, fix the compensation payable in respect of the acquisition concerned and shall give written notification of its assessment to the acquiring authority and 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.



### 19 Assessment of compensation for designated rural land and manner and period of payment

(1) In assessing or estimating the amount of compensation payable to any person in respect of the acquisition of any designated rural land, the Compensation Committee and every designated valuation officer shall be bound by such of the principles prescribed in the Schedule as are applicable to the acquisition concerned.

(2) Compensation payable for the acquisition of designated rural land shall not extend to compensation for loss suffered or expense incurred by the owner or occupier of the designated rural 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 designated rural land concerned in terms of section *nine*; or
- (c) his inability to conduct any activity on the designated rural 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 designated rural land concerned.

(3) The Minister, with the approval of the Minister responsible for finance, may from time to time give the Compensation Committee written guidelines as to the fixing of compensation payable in respect of all or any types or classes of designated rural land, and the Compensation Committee shall fix compensation in accordance with any such guidelines.

(4) Guidelines given by the Minister in terms of subsection (3) may relate to the amounts of compensation payable for any designated rural land or to the principles to be applied in assessing such compensation:

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

(5) 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 respect of the acquisition of designated rural land, or any class of such land, in terms of this Act:

Provided that, unless the person to whom the compensation is paid agrees otherwise—

- (a) at least one-half of the compensation shall be paid at the time the designated rural land concerned is acquired, or within a reasonable time thereafter; and
- (b) of the remainder of the compensation payable, at least one-half shall be paid within two years after the designated rural land concerned was acquired; and
- (c) the balance of the compensation payable shall be paid within five years after the designated rural land was acquired.

(6) Without derogation from the generality of subsection (5), 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 respect of the acquisition of designated rural land 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.

### 20 Assessment of compensation for land other than designated rural land

(1) In respect of any acquisition of land which is not designated rural land, compensation shall be paid in terms of section *sixteen* for—

- (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 designated rural land is acquired temporarily, compensation shall be assessed in terms of subsection (1) on the rental value of the land.

(4) If, immediately before the date of publication of the preliminary notice in the *Gazette*, land that is not designated rural land 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.

(5) Where materials are taken from land that is not designated rural land 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.

### 21 General considerations regarding assessment of compensation

(1) In the assessment of compensation in terms of section *nineteen* or *twenty*, 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.

(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 *nineteen* or *twenty*, any failure so to mitigate his loss shall be taken into account.

(3) Where part only of a piece of land, other than designated rural land, 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.

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

- (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 designated rural land shall submit a written claim for compensation specifying in detail—

- (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 designated rural land 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*.

## **23 Review of assessments of compensation for designated rural land**

(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 designated rural land, has not observed any of the principles prescribed or referred to in section *nineteen* or *twenty-one*, he may refer the assessment to the Administrative Court for a review of the Compensation Committee's decision.

(2) An assessment may be referred to the Administrative Court in terms of subsection (1) within sixty days after the Compensation Committee's assessment of the compensation payable in respect of the acquisition of the designated rural land concerned.

(3) The Administrative Court may, on the application of the Compensation Committee or an acquiring authority, order a claimant to furnish further particulars of the grounds on which he seeks a review of the Compensation Committee's decision, in order that the Compensation Committee may adjust its assessment, and, if necessary, the Administrative Court may postpone or adjourn a hearing for that purpose.

(4) In a review of an assessment in terms of subsection (1), the Administrative Court shall have the same powers as are exercisable by the High Court on a review of a decision of a tribunal:

Provided that 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 *nineteen* or *twenty-one*.

## **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 designated rural land.

(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 review or determination, in terms of section *twenty-three* or *twenty-four*, the acquiring authority shall—

- (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 seven days after the date referred to in paragraph (a)—
  - (i) where the compensation relates to the acquisition of designated rural land, 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 *nineteen* on the date on which the land was acquired;
  - (ii) where the compensation relates to the acquisition of land other than designated rural land, pay to the claimant the full amount offered in terms of paragraph (a);

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 to the Master of the High Court, and after such payment the acquiring authority shall cease to be liable in respect of that amount.

(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 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.

**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 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 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 who is not in the full-time employment of the State, a statutory corporation or a local authority shall be paid—

- (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 one thousand dollars or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

## 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) Subject to subsection (3), for the purposes of hearing any matter in connection with its functions in terms of this Act, the Administrative Court shall consist of a President of the Administrative Court and two assessors appointed by the President of the Administrative Court from the list of persons referred to in subsection (2).

(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) The Administrative Court shall order the acquiring authority to pay the costs reasonably incurred by any other party in connection with any proceedings before the Administrative Court in terms of this Act:

Provided that, if the Administrative Court is satisfied that any opposition to an application in terms of subsection (1) of section *seven*, or any review or reference of a question in terms of section *twenty-three* or *twenty-four*, is frivolous or unreasonable, it may make such order as to costs in connection with the application or reference as it thinks fit.

(2) Where the Administrative Court, in terms of the proviso to subsection (1), orders any claimant to pay any costs of the acquiring authority, the acquiring authority may deduct the amount so payable by the claimant from the amount of compensation payable to him.

(3) In determining any appeal from a decision of the Administrative Court in terms of section 19 of the Administrative Court Act [*Chapter 7:01*] the Supreme Court shall order the acquiring authority to pay the costs reasonably incurred by any other party in connection with the appeal:

Provided that, if the Supreme Court is satisfied that any such appeal by such other party is frivolous or unreasonable, it may make such order as to costs as it thinks fit.

### 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 prohibit the sale or disposal of rural land unless the person selling or disposing of the land has offered it for sale to the Minister or such other person or authority as may be specified in the regulations.

#### 48 Designated valuation officers

(1) The Minister may designate as a valuation officer any member of the Public Service 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.

(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 designated rural land, where the preliminary notice relating to the acquisition was published before the date of commencement of the statutory instrument effecting the amendment.

**SCHEDULE (Sections 19, 23 and 50)****PRINCIPLES REGARDING ASSESSMENT OF COMPENSATION FOR DESIGNATED RURAL LAND**

1. Compensation is to be assessed taking the piece of designated rural land concerned as a whole, consideration being given to—
  - (a) its size; and
  - (b) the 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. Buildings and other improvements must be taken into account in the valuation of the land.
3. In valuing buildings, the quality of their construction must be assessed according to standards set by the Ministry of Public Construction and National Housing for the types of building concerned. The age and condition of the buildings must also be taken into account.
4. In valuing land, the following factors must 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 varieties of crops that are being grown on it and the yield obtainable from those crops; and
  - (d) the use to which non-arable parts of the land are being or may be put.
5. For the classification of soil types, Agritex soil classification maps must be used, and these soil types must be linked to the natural regions as shown on the appropriate maps which are available for inspection at the head office of the Ministry of Lands and Water Resources and at all provincial offices of the Ministry.
6. When valuing uncleared virgin land, consideration must be paid to the costs of clearing the land.
7. Grazing veld must 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.
8. The same amounts will be payable for improved pastures as for grazing veld of the same carrying capacity.
9. 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 20:22] such rights have been granted:
 

Provided that, where the piece of designated rural land being valued contains irrigable land in excess of the land that may be irrigated and cultivated under such rights, this additional irrigable land, not exceeding in area the area to which such rights apply, may be classified as irrigable land for the purposes of this paragraph.
10. In valuing land on which there are perennial or plantation crops such as coffee, tea, fruit, timber and sugar-cane, regard must 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, fertilized and sprayed.
11. In valuing tobacco curing facilities, the following principles must be applied—
  - (a) tobacco curing facilities such as tunnels, chongololos and Dawson systems are to be valued at a rate comparable to the values given to conventional tobacco barns of equivalent output;
  - (b) bulk curers which are movable property will not be acquired by the Government except by special agreement with the owner of the land.
12. Equipment relating to grain bulk delivery facilities will not be acquired by Government except by special agreement with the owner of the land.
13. In valuing dip-tanks and spray-races, additional compensation may be paid where the handling facilities are good.
14. In valuing fencing—
  - (a) lower values are to 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, half the values will normally be paid;
  - (c) regard must be paid to any contribution made by the Government towards the erecting of the fences concerned.
15. Subject to paragraph 2, the value of land should normally be regarded as enhanced by the availability of a mains electricity supply, and regard should be paid to the number of connection points on the land.