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THE PRESIDENCY

No. 112

4 February 2004

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

No. 48 of 2003: Restitution of Land Rights Amendment Act, 2003.



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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 28 January 2004.)

ACT

To amend the Restitution of Land Rights Act, 1994, so as to empower the Minister of Land Affairs to purchase, acquire in any other manner or expropriate land, a portion of land or a right in land for the purpose of the restoration or award of such land, portion of land or right in land to a claimant or for any other related land reform purpose; and to provide for matters connected therewith.

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

Amendment of section 35 of Act 22 of 1994, as amended by section 20 of Act 78 of 1996, section 25 of Act 63 of 1997 and section 9 of Act 18 of 1999

1. Section 35 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) 5
 (hereinafter referred to as the principal Act), is hereby amended by the deletion of subsections (5) and (5A).

Amendment of section 42A of Act 22 of 1994, as inserted by section 30 of Act 63 of 1997

2. Section 42A of the principal Act is hereby amended by the substitution for 10
 subsection (1) of the following subsection:

“(1) Where, in terms of this Act, **[the Court orders the State to acquire or expropriate]** land is acquired or expropriated in order to restore or award the land to a claimant, **[the claimant shall become owner thereof on the date of such acquisition or expropriation]** such land vests in the State, which must transfer it to the claimant.” 15

Amendment of section 42C of Act 22 of 1994, as inserted by section 30 of Act 63 of 1997 and amended by section 4 of Act 61 of 1998 and by section 11 of Act 18 of 1999

3. Section 42C of the principal Act is hereby amended by the substitution for 20
 subsection (1) of the following subsection:

“(1) The Minister may from money appropriated by Parliament for this purpose and on such conditions as he or she may determine, grant an advance or a subsidy for the development or management of, or to facilitate the settlement of persons on, land which is the subject of an order of the Court in terms of this Act or an agreement in terms of section 14(3) or 42D or which is expropriated in terms of section 42E, to— 25

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- (a) any claimant to whom restoration or the award of a right in land has been ordered;
- (b) any claimant who has entered into an agreement contemplated in section 14(3) or 42D;
- (c) any person resettled [**as a result of an order of the Court**] on such land.” 5

Amendment of section 42D of Act 22 of 1994, as inserted by section 30 of Act 63 of 1997 and substituted by section 12 of Act 18 of 1999

4. Section 42D of the principal Act is hereby amended by the deletion in subsection (1) of paragraph (d).

Insertion of section 42E in Act 22 of 1994 10

5. The following section is hereby inserted in the principal Act after section 42D:

“Acquisition of land, portion of land or right in land for land reform purposes

42E. (1) The Minister may purchase, acquire in any other manner or, consistent with the provisions of section 3 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), expropriate land, a portion of land or a right in land— 15

- (a) in respect of which a claim in terms of this Act has been lodged, for the purpose of—
 - (i) restoring or awarding such land, portion of land or right in land to a claimant who is entitled to restitution of a right in land in terms of section 2; or 20
 - (ii) providing alternative relief as contemplated in section 6(2)(b); and
- (b) in respect of which no such claim has been lodged but the acquisition of which is directly related to or affected by such claim, and which will promote the achievement of the purpose contemplated in paragraph (a). 25

(2) The Expropriation Act, 1975 (Act No. 63 of 1975), shall, with the necessary changes, apply to an expropriation under this Act, and any reference to the Minister of Public Works in that Act must be construed as a reference to the Minister for the purpose of such expropriation. 30

(3) Where the Minister expropriates land, a portion of land or a right in land under this Act, the amount of compensation and the time and manner of payment shall be determined either by agreement or by the Court in accordance with section 25(3) of the Constitution. 35

(4) The rules of the Court made under section 32 shall govern the procedure of the Court in the determination of compensation in terms of subsection (3).”

Short title 40

6. This Act is called the Restitution of Land Rights Amendment Act, 2003.