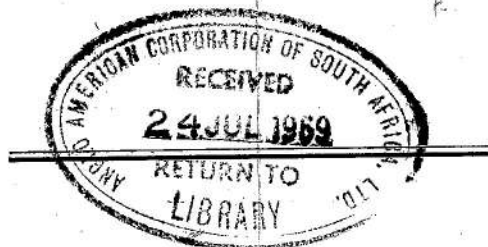




STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA



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DEPARTEMENT VAN DIE EERSTE MINISTER.

DEPARTMENT OF THE PRIME MINISTER.

No. 1157.

9 Julie 1969.

No. 1157.

9th July, 1969.

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

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

No. 96 van 1969: Wet op Onteining van Minerale Regte (Dorpe), 1969.

No. 96 of 1969: Expropriation of Mineral Rights (Townships) Act, 1969.

Act No. 96, 1969

EXPROPRIATION OF MINERAL RIGHTS (TOWNSHIPS)
ACT, 1969.**ACT**

To empower the Administrator of any province to expropriate mineral rights in the public interest in connection with the establishment or development of a township; to amend section 2 of Act 84 of 1967 so as to authorize the alteration, suspension or removal of certain restrictions or obligations which prevent or prejudice the establishment or development of any township; and to provide for incidental matters.

(Afrikaans text signed by the State President.)

(Assented to 19th June, 1969.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context otherwise indicates—

- (i) "Administrator", in relation to rights to minerals in land, the Administrator of the province in which the land is situate, acting with the consent of the Executive Committee; (i)
- (ii) "owner", in relation to mineral rights, the owner thereof as contemplated in section 1 of the Expropriation Act, 1965 (Act No. 55 of 1965). (ii)

Circumstances under which mineral rights may be expropriated, and procedure.

2. (1) Where rights to minerals in land required for the establishment or development of a township are registered in the name of any person other than the owner of the land, and the Administrator is satisfied—

- (a) that the owner of such rights is not prepared to grant his consent for the establishment or development of the township or relinquish those rights for a consideration or under conditions which the Administrator, with the concurrence of the Minister of Community Development and the Minister of Mines and with due regard to the value of those rights as determined by the Minister of Mines, regards as a fair consideration or as fair conditions; and
- (b) that, if such rights are expropriated under subsection (3), no circumstance which will or may prevent the establishment or development of the township will exist or is likely to arise,

the Administrator may cause a notice to be served on that owner by having it delivered to him or sent to him by registered post, in which he is called upon to submit to the Administrator in writing, within a period specified in the notice or such further period as the Administrator may allow, reasons why those rights should not be expropriated under subsection (3), including such proposals or such fresh proposals as that owner may wish to make in connection with any such consideration or conditions.

(2) Where rights to minerals in such land are so registered and the Administrator is satisfied—

WET OP ONTEIENING VAN MINERAALREGTE
(DORPE), 1969.

Wet No. 96, 1969

WET

Om die Administrateur van 'n provinsie te magtig om mineraal-regte in die openbare belang in verband met die stigting of ontwikkeling van 'n dorp te onteien; om artikel 2 van Wet 84 van 1967 te wysig ten einde die wysiging, opskorting of opheffing te magtig van sekere beperkings of verpligtings wat die stigting of ontwikkeling van 'n dorp verhinder of benadeel; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Afrikaanse teks deur die Staatspresident geteken.)
(Goedgekeur op 19 Junie 1969.)*

DAAR WORD BEPAAL deur die Staatspresident, die Senaat en die Volksraad van die Republiek van Suid-Afrika, soos volg:—

1. Tensy uit die samehang anders blyk, beteken in hierdie Wet— Woordomskriving.

- (i) „Administrateur”, met betrekking tot regte op minerale in grond, die Administrateur van die provinsie waarin die grond geleë is, handelend met die instemming van die Uitvoerende Komitee; (i)
- (ii) „eienaar”, met betrekking tot mineraalregte, die eienaar daarvan soos bedoel in artikel 1 van die Onteieningswet, 1965 (Wet No. 55 van 1965). (ii)

2. (1) Waar regte op minerale in grond wat vir die stigting of ontwikkeling van 'n dorp nodig is, op die naam van iemand anders as die eienaar van die grond geregistreer is, en die Administrateur oortuig is— Omstandighede waaronder mineraalregte onteien kan word, en prosedure.

- (a) dat die eienaar van bedoelde regte nie bereid is om toestemming tot die stigting of ontwikkeling van die dorp te verleen of van daardie regte afstand te doen nie teen vergoeding of op voorwaardes wat die Administrateur, met die instemming van die Minister van Gemeenskapsbou en die Minister van Mynwese en met inagneming van die waarde van daardie regte soos deur die Minister van Mynwese bepaal, as 'n billike vergoeding of as billike voorwaardes beskou; en

- (b) dat, indien bedoelde regte kragtens subartikel (3) onteien word, daar geen omstandigheid sal bestaan of waarskynlik sal ontstaan wat die stigting of ontwikkeling van die dorp sal of kan verhinder nie,

kan die Administrateur aan daardie eienaar 'n kennisgewing laat bestel deur dit aan hom te laat oorhandig of per aange-tekende pos aan hom te laat stuur, waarin hy aangesê word om binne 'n tydperk in die kennisgewing vermeld, of die verdere tydperk wat die Administrateur toelaat, skriftelik redes aan die Administrateur voor te lê waarom daardie regte nie kragtens subartikel (3) onteien moet word nie, met inbegrip van die voor- stelling of die nuwe voorstelling wat daardie eienaar wil doen in verband met so 'n vergoeding of sodanige voorwaardes.

(2) Waar regte op minerale in sodanige grond aldus geregi- streer is en die Administrateur oortuig is—

Act No. 96, 1969

EXPROPRIATION OF MINERAL RIGHTS (TOWNSHIPS)
ACT, 1969.

- (a) that it is not practicable to obtain such consent or those rights by agreement with the owner or owners of those rights on account of the number of owners or because the whereabouts of the owner or of every owner is not readily ascertainable or because those rights are subject to a fideicommissum and it cannot be readily ascertained who all the fideicommissaries are or will be; and
- (b) that, if those rights are expropriated under subsection (3), no circumstance which will or may prevent the establishment or development of the township will exist or is likely to arise,

the Administrator may cause to be published once in the *Official Gazette* of the province in question and twice with an interval of not less than one week in an Afrikaans and an English newspaper circulating in the district in which the land in question is situate, a notice in which all owners of those rights are called upon to submit to the Administrator in writing, within a period specified in the notice or such further period as the Administrator may allow, reasons why those rights should not be expropriated under subsection (3), including such proposals as any such owner may wish to make in connection with the consideration for which or the conditions on which he would be prepared to grant such consent or relinquish those rights.

(3) If the Administrator, with the concurrence of the Minister of Community Development and the Minister of Mines and after consideration of any representations submitted in terms of subsection (1) or (2) and such further information as the Administrator or any of the aforesaid Ministers may deem necessary to obtain, or, if no representations have been so submitted, after the lapse of the period referred to in subsection (1) or (2) and after consideration of such information as the Administrator or any of the aforesaid Ministers may deem necessary to obtain, is still satisfied as contemplated in subsection (1) or (2), and is of the opinion that in the public interest it is expedient that the land in question be used for the establishment or development of the township rather than for the exploitation of any mineral to which the mineral rights in question relate, the Administrator may expropriate those mineral rights.

(4) The provisions of sections 1, 3, 4, 5, 6, 6A, 7 (2), 11, 12 and 13 of the Expropriation Act, 1965 (Act No. 55 of 1965), shall *mutatis mutandis* apply in relation to any expropriation under subsection (3) as if it were an expropriation of the mineral rights in question for public purposes as contemplated in that Act, and for that purpose—

- (a) any reference in that Act to the Minister of Agriculture shall be construed as a reference to the Administrator;
- (b) any reference in that Act to the *Government Gazette* shall be construed as a reference to the *Official Gazette* of the province in question;
- (c) any reference in that Act to land shall be construed as a reference to the mineral rights in question or the land in respect of which those rights exist, as the context may require;
- (d) the reference in section 7 (2) of that Act to an application to any court shall be construed as a reference to an application contemplated in section 3 (1) of this Act.

Determination of compensation in absence of agreement.

3. (1) In the absence of agreement and subject to the provisions of section 7 (2) of the Expropriation Act, 1965 (Act No. 55 of 1965), as applied by subsection (4) of section 2 of this Act, the compensation for mineral rights expropriated under the last-mentioned section shall on the application of the owner of those rights be determined by the Administrator in consultation with the Minister of Community Development and the Minister of Mines after consideration of such written representations or

WET OP ONTEIENING VAN MINERAALREGTE
(DORPE), 1969.

Wet No. 96, 1969

- (a) dat dit nie doenlik is om sodanige toestemming of daardie regte deur middel van ooreenkoms met die eienaar of eienaars van daardie regte te verkry nie vanweë die aantal eienaars of omdat die verblyfplek van die eienaar of van elke eienaar nie gereedelik vasgestel kan word nie of omdat daardie regte aan 'n fideikommis onderworpe is en dit nie gereedelik vasgestel kan word wie almal fideikommisssere erfgename is of gaan wees nie; en
- (b) dat, indien bedoelde regte kragtens subartikel (3) onteien word, daar geen omstandigheid sal bestaan of waarskynlik sal ontstaan wat die stigting of ontwikkeling van die dorp sal of kan verhinder nie,
- kan die Administrateur 'n kennisgewing een maal in die *Offisiële Koerant* van die betrokke provinsie en twee maal met 'n tussenpoos van minstens 'n week in 'n Afrikaanse en in 'n Engelse nuusblad wat in omloop is in die distrik waarin die betrokke grond geleë is, laat publiseer waarin alle eienaars van daardie regte aangesê word om binne 'n tydperk in die kennisgewing vermeld of die verdere tydperk wat die Administrateur toelaat, skriftelik redes aan die Administrateur voor te lê waarom daardie regte nie kragtens subartikel (3) onteien moet word nie, met inbegrip van die voorstelle wat so 'n eienaar wil doen in verband met die vergoeding waarvoor of die voorwaardes waarop hy bereid sou wees om sodanige toestemming te verleen of van daardie regte afstand te doen.

(3) Indien die Administrateur, met die instemming van die Minister van Gemeenskapsbou en die Minister van Mynwese en na oorweging van vertoë ingevolge subartikel (1) of (2) voorgelê en die verdere inligting wat die Administrateur of enige van die voormelde Ministers nodig ag om in te win, of, indien geen vertoë aldus voorgelê is nie, na verloop van die in subartikel (1) of (2) bedoelde tydperk en na oorweging van die inligting wat die Administrateur of enige van die voormelde Ministers nodig ag om in te win, nog oortuig is soos in subartikel (1) of (2) beoog, en van mening is dat dit in die openbare belang dienstig is dat die betrokke grond gebruik word vir die stigting of ontwikkeling van die dorp eerder as vir die ontginning van 'n mineraal waarop die betrokke mineraalregte betrekking het, kan die Administrateur daardie mineraalregte onteien.

(4) Die bepalings van artikels 1, 3, 4, 5, 6, 6A, 7 (2), 11, 12 en 13 van die Onteieningswet, 1965 (Wet No. 55 van 1965), is *mutatis mutandis* van toepassing met betrekking tot 'n onteiening kragtens subartikel (3) asof dit 'n onteiening van die betrokke mineraalregte vir openbare doeleindes was soos in daardie Wet bedoel, en by sodanige toepassing—

- (a) word 'n verwysing in daardie Wet na die Minister van Landbou uitgelê as 'n verwysing na die Administrateur;
- (b) word 'n verwysing in daardie Wet na die *Staatskoerant* uitgelê as 'n verwysing na die *Offisiële Koerant* van die betrokke provinsie;
- (c) word 'n verwysing in daardie Wet na grond uitgelê as 'n verwysing na die betrokke mineraalregte of die grond ten opsigte waarvan daardie regte bestaan, na vereiste van die samehang;
- (d) word die verwysing in artikel 7 (2) van daardie Wet na 'n aansoek aan 'n hof uitgelê as 'n verwysing na 'n in artikel 3 (1) van hierdie Wet bedoelde aansoek.

3. (1) By ontstentenis van ooreenkoms en behoudens die bepalings van artikel 7 (2) van die Onteieningswet, 1965 (Wet No. 55 van 1965), soos toegepas deur subartikel (4) van artikel 2 van hierdie Wet, word die vergoeding vir mineraalregte wat kragtens laasgenoemde artikel onteien word, op aansoek van die eienaar van daardie regte deur die Administrateur in oorleg met die Minister van Gemeenskapsbou en die Minister van Mynwese bepaal na oorweging van die skriftelike vertoë of

Bepaling van vergoeding by ontstentenis van ooreenkoms.

Act No. 96, 1969

EXPROPRIATION OF MINERAL RIGHTS (TOWNSHIPS)
ACT, 1969.

information as may accompany the application or as the Administrator or any of the said Ministers may deem necessary to obtain.

(2) The determination of any compensation in terms of subsection (1) shall be final.

Expropriation at request.

4. (1) The Administrator may in his discretion exercise the powers conferred on him by section 2 also at the request of any person (including the owner of the land in question) who has an interest in the establishment or development of the township.

(2) The provisions of section 3 (1), (2) and (3) of the Removal of Restrictions Act, 1967 (Act No. 84 of 1967), shall *mutatis mutandis* apply in respect of any such request.

Recovery of costs.

5. (1) The Administrator may require any person making a request in terms of section 4, to give security to the satisfaction of the Administrator for the payment of costs in terms of subsection (2).

(2) The Administrator may recover the costs incurred in connection with the exercise of his powers in terms of section 2 pursuant to any such request, or such part of those costs as he may determine, from the person who made the request.

Transfer of mineral rights to person at whose request such rights were expropriated.

6. (1) If the Administrator has expropriated mineral rights under section 2 pursuant to a request made in terms of section 4, and has under section 5 recovered all the costs incurred in connection with such expropriation, including the amount of the compensation paid for such mineral rights, he shall, subject to the provisions of subsections (2) and (3), transfer such mineral rights to the person at whose request such rights were expropriated.

(2) The transferee shall pay the costs of such transfer.

(3) The Administrator may transfer such mineral rights subject to such conditions as he, with the concurrence of the Minister of Community Development and the Minister of Mines, may deem necessary in order to ensure that the possession of the mineral rights by the transferee will not prevent or prejudice the establishment or development of the township.

Amendment of section 2 of Act 84 of 1967, as amended by section 61 of Act 70 of 1968.

7. Section 2 of the Removal of Restrictions Act, 1967, is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) that it is desirable to do so in the interest of the establishment or development of any township or in the interest of any area, whether it is situate in an urban area or not, or in the public interest;”;

and

(b) by the insertion after that subsection of the following subsection:

“(1A) For the purposes of paragraph (bbb) of subsection (1), any restriction or obligation which is binding on the owner of the land by virtue of a restrictive condition or servitude registered against the title deed of the land, shall be deemed also to relate to the purpose for which the land may be used if, in the opinion of the Administrator, the restriction or obligation prevents or prejudices the establishment or development of any township.”.

Short title.

8. This Act shall be called the Expropriation of Mineral Rights (Townships) Act, 1969.

WET OP ONTEIENING VAN MINERAALREGTE
(DORPE), 1969.

Wet No. 96, 1969

inligting wat die aansoek vergesel of wat die Administrateur of enige van die gemelde Ministers nodig ag om in te win.

(2) Die bepaling van vergoeding ingevolge subartikel (1) is afdoende.

4. (1) Die Administrateur kan na goëddunke die bevoegdhede wat by artikel 2 aan hom verleen word ook uitoefen op versoek van iemand (met inbegrip van die eienaar van die betrokke grond) wat 'n belang by die stigting of ontwikkeling van die dorp het. Onteiening op versoek.

(2) Die bepalings van artikel 3 (1), (2) en (3) van die Wet op Opheffing van Beperkings, 1967 (Wet No. 84 van 1967), is *mutatis mutandis* ten opsigte van so 'n versoek van toepassing.

5. (1) Die Administrateur kan van iemand wat 'n versoek ingevolge artikel 4 doen, vereis dat hy sekuriteit ten genoeg van die Administrateur verstrek vir die betaling van koste Verhaal van koste.

(2) Die Administrateur kan die koste wat in verband met die uitoefening van sy bevoegdhede ingevolge artikel 2 aangegaan word na aanleiding van so 'n versoek, of die gedeelte van sodanige koste wat hy bepaal, op die persoon verhaal wat die versoek gedoen het.

6. (1) Indien die Administrateur mineraalregte kragtens artikel 2 onteien het na aanleiding van 'n versoek ingevolge artikel 4 gedoen en al die koste wat in verband met die onteiening aangegaan is, met inbegrip van die bedrag van die vergoeding wat vir die mineraalregte betaal is, kragtens artikel 5 verhaal het, moet hy, behoudens die bepalings van subartikels (2) en (3), bedoelde mineraalregte oordra aan die persoon op wie se versoek dit onteien is. Oordrag van mineraalregte aan persoon op wie se versoek dit onteien is.

(2) Die oordragnemer betaal die koste van sodanige oordrag.

(3) Die Administrateur kan bedoelde mineraalregte oordra op die voorwaardes wat hy, met die instemming van die Minister van Gemeenskapsbou en die Minister van Mynwese, nodig ag ten einde te verseker dat die besit van die mineraalregte deur die oordragnemer nie die stigting of ontwikkeling van die dorp sal verhinder of benadeel nie.

7. Artikel 2 van die Wet op Opheffing van Beperkings, 1967, word hierby gewysig— Wysiging van artikel 2 van Wet 84 van 1967, soos gewysig deur artikel 61 van Wet 70 van 1968.

(a) deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

„(a) dat dit in die belang van die stigting of ontwikkeling van 'n dorp of in die belang van enige gebied, hetsy dit binne 'n stadsgebied val al dan nie, of in die openbare belang wenslik is om dit te doen;” en

(b) deur na daardie subartikel die volgende subartikel in te voeg:

„(1A) By die toepassing van paragraaf (bbb) van subartikel (1) word 'n beperking of verpligting wat vir die eienaar van die grond bindend is uit hoofde van 'n beperkende voorwaarde of serwituut wat teen die titelbewys van die grond geregistreer is, geag ook op die doel waarvoor die grond gebruik kan word betrekking te hê indien die beperking of verpligting na die oordeel van die Administrateur die stigting of ontwikkeling van 'n dorp verhinder of benadeel.”

8. Hierdie Wet heet die Wet op Onteiening van Mineraal- Kort titel. regte (Dorpe), 1969.

