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GOVERNMENT GAZETTE

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KAAPSTAD, 23 OKTOBER 1974

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1933.

23 October 1974.

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

No. 61 of 1974: Expropriation (Establishment of Undertakings) Amendment Act, 1974.

No. 1933.

23 Oktober 1974.

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

No. 61 van 1974: Wysigingswet op Onteiening (Oprigting van Ondernemings), 1974.

Wet No. 61, 1974

WYSIGINGSWET OP ONTEIENING (OPRIGTING VAN
ONDERNEMINGS), 1974.

WET

Tot wysiging van die bepalings van die Wet op Onteining (Oprigting van Ondernemings), 1951, betreffende woordomskrywings; en die onteieningsbevoegdhede van sekere persone; en om voorsiening te maak dat sekere persone die reg kan neem om sekere grond tydelik te gebruik; en vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die Staatspresident geteken.)
(Goedgekeur op 16 Oktober 1974.)*

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

Wysiging van
artikel 1 van
Wet 39 van 1951.

1. Artikel 1 van die Wet op Onteining (Oprigting van Ondernemings), 1951 (hieronder die Hoofwet genoem), word hierby gewysig—

- (a) deur die omskrywing van „grond” deur die volgende omskrywing te vervang:
„grond’ ook ’n saaklike reg in of oor grond;”;
- (b) deur die omskrywing van „plaaslike bestuur” deur die volgende omskrywing te vervang:
„plaaslike bestuur’ ’n instelling, raad of liggaam bedoel in artikel 84 (1) (f) van die Grondwet van die Republiek van Suid-Afrika, 1961 (Wet No. 32 van 1961); en”.

Vervanging van
artikel 2 van
Wet 39 van 1951,
soos gewysig deur
artikel 1 van
Wet 52 van 1955
en artikel 26 van
Wet 55 van 1965.

2. Artikel 2 van die Hoofwet word hierby deur die volgende artikel vervang:

„Onteining
en tydelike
gebruik van
grond deur
sekere
persone.

2. (1) Met die goedkeuring van die Minister, verleen op skriftelike aansoek van ’n persoon wat ’n onderneming opgerig het of voornemens is om ’n onderneming op te rig wat by besluit van albei Huise van die Parlement tot ’n onderneming verklaar is waarop hierdie Wet van toepassing is, kan daardie persoon, op die wyse in artikel 3 bedoel en onderworpe aan ’n verpligting om vergoeding te betaal en die voorwaardes wat die Minister oplê, grond in die aansoek beskryf of soveel van daardie grond as wat die Minister bepaal, verkry of die reg neem om die grond aldus beskryf of bepaal tydelik te gebruik vir of in verband met—

- (a) die doelstellinge of werksaamhede van daardie onderneming; of
- (b) die vervoer van enige vaste stof, vloeistof of gas, met inbegrip van ’n pyplyn, vervoerband, kabelbaan, koekepanspoor, tandratspoorweg, private spoorwegtaklyn, spoorwegsylyn of pad.

(2) Die Minister kan, alvorens hy goedkeuring kragtens subartikel (1) verleen, die aansoek ingevolge artikel 9 (1) (m) van die Wet op die Raad van Handel en Nywerheid, 1944, na die raad vir ondersoek en verslag verwys, en verleen nie sy goedkeuring nie tensy hy oortuig is—

EXPROPRIATION (ESTABLISHMENT OF UNDERTAKINGS)
AMENDMENT ACT, 1974.

Act No. 61, 1974

ACT

To amend the provisions of the Expropriation (Establishment of Undertakings) Act, 1951, relating to definitions; and to the powers of expropriation of certain persons; and to provide that certain persons may take the right to use land temporarily; and for matters connected therewith.

(English text signed by the State President.)

(Assented to 16 October 1974.)

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

1. Section 1 of the Expropriation (Establishment of Undertakings) Act, 1951 (hereinafter referred to as the principal Act), is hereby amended—

Amendment of
section 1 of
Act 39 of 1951.

(a) by the substitution for the definition of "land" of the following definition:

"'land' includes a real right in or over land;";

(b) by the substitution for the definition of "local authority" of the following definition:

"'local authority' means any institution, council or body referred to in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); and".

2. The following section is hereby substituted for section 2 of the principal Act:

Substitution of
section 2 of
Act 39 of 1951,
as amended by
section 1 of
Act 52 of 1955
and section 26 of
Act 55 of 1965.

2. (1) With the approval of the Minister, granted on the written application of any person who has established or intends to establish any undertaking which has by resolution of both Houses of Parliament been declared to be an undertaking to which this Act applies, such person may, in the manner contemplated in section 3 and subject to an obligation to pay compensation and to such conditions as the Minister may impose, acquire, or take the right to use temporarily, any land described in the application or so much of such land as the Minister may determine, for or in connection with—

(a) the objects or functions of such undertaking; or

(b) the conveyance of any solid, liquid or gas, including any pipe line, conveyor belt, cableway, cocopan tramline, rackrailway, private railway branch line, railway siding or road.

(2) The Minister may, before granting his approval under subsection (1), refer the application to the board under section 9 (1) (m) of the Board of Trade and Industries Act, 1944, for enquiry and report, and shall not grant his approval unless he is satisfied—

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- (a) dat die verkryging van die grond of die tydelike gebruiksreg daarvan nodig is om die onderneming op te rig, beter te dryf of in stand te hou;
- (b) dat die verkryging van die grond of die tydelike gebruiksreg daarvan van nasionale belang is;
- (c) dat die grond of die tydelike gebruiksreg daarvan in die gewone loop van sake nie gereedelik of op redelike voorwaardes verkry kan word nie; en
- (d) in die geval van 'n aansoeker wat voornemens is om so 'n onderneming op te rig, dat dit sy vaste voorneme is om dit te doen, en òf dat hy voldoende middele besit om dit te doen òf dat die reëlings waardeur hy van plan is om daardie middele te verkry, bevredigend is.

(3) Alvorens die Minister sy goedkeuring kragtens subartikel (1) verleen, laat hy, op koste van die aansoeker, òf—

- (a) op die geregistreerde eienaar van grond waarop die aansoek betrekking het, en indien bedoelde eienaar nie die plaaslike bestuur is nie, ook op die plaaslike bestuur binne wie se regsgebied die grond geleë is, 'n kennisgewing deur die pos dien waarin die omvang van die aangevraagde onteining van die grond of tydelike gebruiksreg daarvan luidens die aansoek, vermeld word; òf
- (b) in die *Staatskoerant* en in 'n nuusblad wat in omloop is in die distrik waarin die betrokke grond geleë is, 'n kennisgewing publiseer waarin 'n plek binne die distrik genoem word waar 'n afskrif van die aansoek asook, in die geval van 'n struktuur bedoel in subartikel (1) (b), 'n roetekaart van die voorgestelde struktuur ingesien kan word,

en bied by bedoelde kennisgewing aan die eienaar van enige sodanige grond en aan bedoelde plaaslike bestuur (as daar een is) die geleentheid om binne 'n daarin vermelde tydperk van minstens tien dae na die datum van die kennisgewing of na die laaste publikasie daarvan ingevolge paragraaf (b), na gelang van die geval, enige skriftelike verzoek wat bedoelde eienaar of plaaslike bestuur in verband met die aansoek wil maak, by die Minister in te dien.

(4) Die Minister kan—

- (a) in die geval van 'n aansoeker wat grond verkry het, te eniger tyd voordat daardie grond op die naam van daardie aansoeker geregistreer is;
- (b) in die geval van 'n aansoeker wat die reg geneem het om grond tydelik te gebruik, te eniger tyd,

sy kragtens subartikel (1) verleende goedkeuring intrek, indien die betrokke aansoeker versuim het om 'n kragtens genoemde subartikel opgelegde voorwaarde na te kom, en daarop word dit geag dat geen sodanige goedkeuring ten opsigte van die betrokke grond verleen is nie.”

Vervanging van artikel 3 van Wet 39 van 1951, soos vervang deur artikel 27 van Wet 55 van 1965.

3. Artikel 3 van die Hoofwet word hierby deur die volgende artikel vervang:

„Toepassing van wetsbepalings betreffende onteining. 3. Sodra die Minister kragtens artikel 2 (1) sy goedkeuring ten opsigte van enige grond verleen het, is die bepalinge van artikels 4 tot en met 13 van die Onteieningswet, 1965 (Wet No. 55 van 1965), *mutatis mutandis* van toepassing ten opsigte van die verkryging van daardie grond of die tydelike gebruiksreg daarvan, na gelang van die geval, deur

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- (a) that the acquisition of the land or the temporary right of use thereof is necessary for the establishment, better carrying on or maintenance of the undertaking;
- (b) that the acquisition of the land or the temporary right of use thereof is of national importance;
- (c) that the land or the temporary right of use thereof cannot in the ordinary course of business be acquired readily or on reasonable terms; and
- (d) in the case of an applicant who intends to establish any such undertaking, that it is his firm intention to do so, and either that he has adequate means for doing so or that the arrangements by which he proposes to obtain such means are satisfactory.

(3) Before granting his approval under subsection (1) the Minister shall, at the expense of the applicant, either—

- (a) cause to be served by post upon the registered owner of any land to which the application relates, and if such owner is not the local authority, also upon the local authority within whose area of jurisdiction such land is situated, a notice specifying the extent of the proposed expropriation of such land or temporary right of use thereof in terms of the application; or
- (b) cause to be published in the *Gazette* and in a newspaper circulating in the district in which the land in question is situated, a notice specifying a place within the district where a copy of the application and, in the case of a structure referred to in subsection (1) (b), a plan showing the route of the proposed structure may be inspected,

and by such notice invite the owner of any such land and such local authority (if any) to lodge with the Minister within a period specified therein (which shall not be less than ten days after the date of the notice or after its last publication under paragraph (b), as the case may be) any representations in writing which such owner or local authority may wish to make in connection with the application.

(4) The Minister may—

- (a) in the case of an applicant who acquired land, at any time before such land has been registered in the name of such applicant;
- (b) in the case of an applicant who took the right to use land temporarily, at any time, withdraw his approval granted under subsection (1), if the applicant concerned has failed to comply with any condition imposed under the said subsection, and thereupon it shall be deemed that no such approval has been granted in respect of the land in question.”.

3. The following section is hereby substituted for section 3 of the principal Act:

“Applica-
tion of
laws
relating to
expropria-
tion.

3. Upon the approval of the Minister being granted under section 2 (1) in respect of any land, the provisions of sections 4 to 13, inclusive, of the Expropriation Act, 1965 (Act No. 55 of 1965), shall *mutatis mutandis* apply in respect of the acquisition of that land or the temporary right of use thereof, as the case may be, by the person to

Substitution of
section 3 of
Act 39 of 1951,
as substituted by
section 27 of
Act 55 of 1965.

Wet No. 61, 1974

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die persoon aan wie die goedkeuring verleen is, en by sodanige toepassing daarvan word 'n verwysing daarin na die Minister en die Staat as 'n verwysing na daardie persoon uitgelê."

Vervanging van artikel 4 van Wet 39 van 1951.

4. Artikel 4 van die Hoofwet word hierby deur die volgende artikel vervang:

„Bevoegdheid van plaaslike bestuur om te vervreem en sekere regte te verleen.

4. 'n Plaaslike bestuur is bevoeg om grond wat by besit, te vervreem of 'n saaklike reg of tydelike gebruiksreg ten opsigte daarvan te verleen aan 'n in subartikel (1) van artikel 2 bedoelde persoon, vir enige doel waarvoor daardie persoon daardie grond of 'n tydelike gebruiksreg ten opsigte daarvan luidens genoemde subartikel kan verkry."

Vervanging van artikel 5 van Wet 39 van 1951.

5. Artikel 5 van die Hoofwet word hierby deur die volgende artikel vervang:

„Uitwerking van onteining deur plaaslike bestuur.

5. Indien grond ten opsigte waarvan 'n saaklike reg of tydelike gebruiksreg kragtens hierdie Wet verkry is, deur 'n plaaslike bestuur onteien word, word daardie saaklike reg of tydelike gebruiksreg nie op enige wyse deur die onteining geraak nie."

Vervanging van artikel 6 van Wet 39 van 1951.

6. Artikel 6 van die Hoofwet word hierby deur die volgende artikel vervang:

„Uitwerking van beperkende voorwaardes.

6. Grond wat, of ten opsigte waarvan 'n tydelike gebruiksreg, kragtens hierdie Wet verkry is, kan, ondanks enige beperkende voorwaarde wat teen die titelbewyse daarvan geregistreer is of wat kragtens 'n wet op die stigting van dorpe of luidens 'n dorpsaanlegskema opgelê is, gebruik word vir die doel waarvoor dit of daardie tydelike gebruiksreg aldus verkry is."

Vervanging van lang titel van Wet 39 van 1951, soos gewysig deur artikel 2 van Wet 52 van 1955.

7. Die lang titel van die Hoofwet word hierby deur die volgende lang titel vervang:

„WET

Om voorsiening te maak vir die onteining van grond en die neem van die reg om grond tydelik te gebruik vir of in verband met die doelstellings of werksaamhede van ondernemings van nasionale belang."

Kort titel.

8. Hierdie Wet heet die Wysigingswet op Onteining (Op-origting van Ondernemings), 1974.

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whom the approval has been granted, and in such application thereof any reference therein to the Minister and the State shall be construed as a reference to such person.”.

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

“Power of local authority to alienate and to grant certain rights.

4. A local authority shall have power to alienate any land held by it or to grant any real right or temporary right of use thereof, to a person referred to in subsection (1) of section 2, for any purpose for which such person may acquire such land or temporary right of use in respect thereof in terms of the said subsection.”.

5. The following section is hereby substituted for section 5 of the principal Act:

5. If any land in respect of which a real right or temporary right of use has been acquired under this Act, is expropriated by a local authority, the expropriation shall not in any way affect such real right or temporary right of use.”.

6. The following section is hereby substituted for section 6 of the principal Act:

“Effect of restrictive conditions.

6. Any land which, or in respect of which a temporary right of use, has been acquired under this Act may, notwithstanding any restrictive condition registered against the title deeds thereof or imposed under any law relating to the establishment of townships or in terms of any town planning scheme, be used for the purpose for which it or such temporary right of use has been so acquired.”.

7. The following long title is hereby substituted for the long title of the principal Act:

“ACT
To provide for the expropriation of land and the taking
of the right to use land temporarily for or in connection
with the objects or functions of undertakings of
national importance.”.

8. This Act shall be called the Expropriation (Establishment Short title. of Undertakings) Amendment Act, 1974.

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Act No. 61, 1974

whom the approval has been granted, and in such application thereof, any reference therein to the Minister and the State shall be construed as a reference to such person."

4. The following section is hereby substituted for section 4 of the principal Act:
Section 4 of Act 39 of 1951.

"4. A local authority shall have power to alienate any land held by it or to grant any real right or temporary right of use thereof to a person referred to in subsection (1) of section 2, for any purpose for which such person may acquire such land or temporary right of use in respect thereof in terms of the said subsection."

5. The following section is hereby substituted for section 5 of the principal Act:
Section 5 of Act 39 of 1951.

"5. If any land in respect of which a real right or temporary right of use has been acquired under this Act is expropriated by a local authority, the expropriation shall not in any way affect such real right or temporary right of use."

6. The following section is hereby substituted for section 6 of the principal Act:
Section 6 of Act 39 of 1951.

"6. Any land which, or in respect of which a temporary right of use, has been acquired under this Act may, notwithstanding any restrictive condition registered against the title deeds thereof or imposed under any law relating to the establishment of townships or in terms of any town planning scheme, be used for the purpose for which it or such temporary right of use has been so acquired."

7. The following long title is hereby substituted for the long title of the principal Act:
Long title of Act 39 of 1951, as amended by section 2 of Act 52 of 1955.

"ACT
To provide for the expropriation of land and the taking of the right to use land temporarily for or in connection with the objects or functions of undertakings of national importance."

8. This Act shall be called the Expropriation (Establishment of Undertakings) Amendment Act, 1974.