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No. 51964

THE PRESIDENCY

No. 5784 **24 January 2025**

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

Act No.13 of 2024: Expropriation Act, 2024

BOPRESIDENTE

No. 5784 **24 Januarie 2025**

Go tsebišwa gore Mopresidente o dumeletše Molao wo o latelago, wo o phatlalatšwago bakeng sa tshedimošo ya kakaretšo:—

Nomoro 13 ya 2024: Molao Wa Go Tsea Dithoto, 2024

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(English text signed by the President)
(Assented to 20 December 2024)
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ACT

To provide for the expropriation of property for a public purpose or in the public interest; to regulate the procedure for the expropriation of property for a public purpose or in the public interest, including payment of compensation; to identify certain instances where the provision of nil compensation may be just and equitable for expropriation in the public interest; to repeal the Expropriation Act, 1975 (Act No. 63 of 1975); and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 25 of the Constitution of the Republic of South Africa, 1996, provides as follows:

“Property

25. (1) No one may be deprived of property except in terms of law of general application, and no law may permit arbitrary deprivation of property.

(2) Property may be expropriated only in terms of law of general application—

- (a) for a public purpose or in the public interest; and
- (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.

(3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including—

- (a) the current use of the property;
- (b) the history of the acquisition and use of the property;
- (c) the market value of the property;
- (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
- (e) the purpose of the expropriation.

(4) For the purposes of this section—

- (a) the public interest includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources; and
- (b) property is not limited to land.

(5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.

(6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

(English text signed by the President)
(Assented to 20 December 2024)

MOLAO

Go fana ka dipeelano tša go tšewa ga dithoto ka morero wa setšhaba goba ka kgahlego ya setšhaba; go laola tšhepedišo ya go tšewa ga dithoto ka morero wa setšhaba goba ka kgahlego ya setšhaba, go akaretšwa tefelo ya tefo; go hlatha mabaka a mangwe moo e tla bago e le toka le tekatekano go tšea dithoto mabapi le kgahlego ya setšhaba ntle le go lefa tefo; go fediša Molao wa Go Tšea Dithoto, wa 1975 (Molao wa No. ya 63 wa 1975); le go fana ka dipeelano mabapi le merero ye e amanago le ye.

KETAPELE

MOO karolo ya 25 ya Molaotheo wa Repabliki ya Afrika Borwa, 1996, o laelago ka mo go latelago:

“Thoto

25. (1) Ga go motho yo a ka amogwago thoto ntle le go ya ka mabaka a setlwaedi a tšhomišo ya molao, ebile ga gona molao wo o ka dumelelago go amogwa thoto ka boithatelo.

(2) Thoto e ka tšewa fela go ya ka molao wa setlwaedi wa tšhomišo ya molao—

- (a) ka morero wa setšhaba goba ka kgahlego ya setšhaba; le
- (b) ge tefo e lefilwe, ka boleng bja tefo, nako le mokgwa wa go dira tefo wo go dumelelanwego ka wona magareng ga bao ba amegilego goba woo o dumeletšwego ke kgorotsheko.

(3) Boleng bja tefo gammogo le nako le mokgwa wa tefelo di swanetše go ba tša toka le tekatekano, tše di bontšhago toka le tekatekano magareng ga kgahlego ya setšhaba le dikgahlego tša bao ba amegilego, go elwa hloko maemo ka moka ao a amegago, go akaretšwa—

- (a) tšhomišo ya gabjale ya thoto;
- (b) histori ya go hwetša le go šomišwa ga thoto;
- (c) boleng bja thoto bja thekišo go mebaraka;
- (d) bogolo bja peeletšo ya mmušo ya thwii le thušo ya ditšhelete ka go hwetša kaonafatšo ya khpetilele ye e holago ya thoto; le
- (e) morero wa go tšea thoto.

(4) Ka morero wa karolo ye—

- (a) kgahlego ya setšhaba e akaretša boikgafo bja bosetšhaba bja go mpshafatša naga, le go dipeakanyoleswa tša go tliša phihlelelo ya tekatekano go methopo ka moka ya tlhago ya Afrika Borwa; le
- (b) thoto ga e šupi fela naga.

(5) Mmušo o swanetše go tšea magato a go kwagala a go dira melao le a mangwe, ka gare go methopo ya wona yeo e lego gona, go godiša maemo ao a kgontšhago badudi go hwetša phihlelelo ya naga ka tselo ya tekatekano.

(6) Motho goba setšhaba seo go ba le naga ga sona go sa šireletšegago ka molao ka lebaka la melao goba mekgwa ya nakong ye e fetilego ya kgethollo ya semorafe se na le maswanedi, go fihla bokgole bjo bo filwego ke Molao wa Palamente, go hwetša tšhireletšo ya naga yeo go ya ka molao goba go lokišetšwa ka mokgwa wo o lekanego.

(7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress.

(8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).

(9) Parliament must enact the legislation referred to in subsection (6).”;
and

WHEREAS section 33(1) of the Constitution provides that everyone has the right to administrative action that is lawful, reasonable and procedurally fair; and

WHEREAS section 34 of the Constitution provides that everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum; and

WHEREAS uniformity across the nation is required in order to deal effectively with these matters;

AND IN ORDER TO ENABLE expropriation in accordance with the Constitution,

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

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DEFINITIONS AND APPLICATION OF ACT

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2. Application of Act

CHAPTER 2

POWERS OF MINISTER TO EXPROPRIATE

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CHAPTER 3

INVESTIGATION AND VALUATION OF PROPERTY

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INTENTION TO EXPROPRIATE AND EXPROPRIATION OF PROPERTY

7. Notice of intention to expropriate
8. Notice of expropriation
9. Vesting and possession of expropriated property 20
10. Verification of unregistered rights in expropriated property
11. Consequences of expropriation of unregistered rights and duties of expropriating authority

(7) Motho goba setšhaba seo se amogilwego thoto ka morago ga di 19 June 1913 ka lebaka la melao goba mekgwa ya nakong ye e fetilego ya kgethollo ya semorafe se na le tokelo, go fihla bokgole bjo bo filwego ke Molao wa Palamente, go bušetšwa thoto yeo goba go lokišetšwa ka mogwa wo o lekanego.

(8) Ga go peelano ya karolo ye yeo e ka šitišago mmušo go tšea magato a molao le a mangwe go fihlelela naga, meetse le mpshafatšo ye e amanago le yona, nepo e le go lokiša dipoelo tša kgethollo ya semorafe ya nako ye e fetilego, ge fela phapano le dipeelano tša karolo ye e sepelelana le dipeelano tša karolo ya 36(1).

(9) Palamente e swanetše go dira molao wo o ngwadilwego ka go karolwana ya (6).”; le

MOO karolo ya 33(1) ya Molaotheo e laelago gore batho ka moka ba na le tokelo ya go tšea magato a taolo ao a lego molaong, a kwagalago le ao a lokilego a tšhepedišo; le

MOO karolo ya 34 ya Molaotheo e laelago gore batho ka moka ba na le tokelo ya go ba le ngangišano efe goba efe yeo e ka rarollwago ka tšhomišo ya molao, ka sephetho seo se tšerwego ka gare go theeletšo ya setšhaba ya toka pele go kgorotsheko goba, moo go lego maleba, lekgotla la magoši le lengwe leo le ikemego leo le sa tšeeo lehlakore goba foramo; le

MOO tšhepedišo ya go swana go ralala le naga e nyakegago go šogana gabotse le merero ye;

LE GO KGONTŠHA go tšea dithoto go ya ka Molaotheo,

KA GONA O DIRWA MOLAO KE Palamente ya Repabliki ya Afrika Borwa, ka mo go latelago:—

PEAKANYO YA DIKAROLO

KGAOLO YA 1

DITLHALOŠO LE TŠHOMIŠO YA MOLAO

5

1. Ditlhalošo
2. Tšhomišo ya Molao

KGAOLO YA 2

MAATLA A TONA A GO TŠEA DITHOTO

3. Maatla a Tona a go tšea dithoto
4. Kabo goba phetišetšo ya maatla le mešomo ya Tona

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KGAOLO YA 3

NYAKIŠIŠO LE TLHAHLOBO YA BOLENG BJA THOTO

5. Nyakišišo le kgoboketšo ya tshedimošo ka morero wa go tšea thoto
6. Therišano le masepala ka nako ya nyakišišo

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KGAOLO YA 4

MAIKEMIŠETŠO A GO TŠEA THOTO LE GO TŠEWA GA THOTO

7. Tsebišo ya maikemišetšo a go tšea thoto
8. Tsebišo ya go tšewa ga thoto
9. Phetišetšo ya bongthoto le go swara thoto ye e tšerwego
10. Netefatšo ya ditokelo tše di sa ngwadišwago go thoto ye e tšerwego
11. Ditlamorago tša go tšewa ga ditokelo tše di sa ngwadišwago gammogo le maikarabelo a bolaodi bja go tšea dithoto

20

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COMPENSATION FOR EXPROPRIATION

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20. Urgent expropriation

CHAPTER 8
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21. Withdrawal of expropriation

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CHAPTER 1
DEFINITIONS AND APPLICATION OF ACT

Definitions

- | | |
|--|---------------------|
| <p>1. (1) In this Act, unless the context indicates otherwise—</p> <p>“claimant” means a person who has lodged a claim for compensation;</p> <p>“Constitution” means the Constitution of the Republic of South Africa, 1996;</p> <p>“court” means a Division of the High Court or a court of similar status within whose area of jurisdiction—</p> <p style="margin-left: 20px;">(a) the immovable property in question is situated;</p> <p style="margin-left: 20px;">(b) the movable property in question is situated at the time the expropriating authority implements section 5 or 20; or</p> <p style="margin-left: 20px;">(c) the owner of the movable or intangible property in question resides or has its principal place of business;</p> | <p>35</p> <p>40</p> |
|--|---------------------|

KGAOLO YA 5
TEFO YA GO TŠEWA GA DITHOTO

- | | | |
|-----|--|----|
| 12. | Tekanyo ya boleng bja tefo | |
| 13. | Tswala ya tefo | |
| 14. | Kgopelo ya dintlha | 5 |
| 15. | Tefelo ya tefo | |
| 16. | Thoto ye e rekilwego ka sekoloto goba e nago lengwalo la thekišo | |
| 17. | Tefelo ya ditekanyo tša thoto ya masepala, metšhelo le ditefišo tše dingwe gotšwa tšheleteng ya tefo | |
| 18. | Go tšhela tšhelete ya tefo go akhaonte ya Molaodimogolo | 10 |

KGAOLO YA 6
NAMOLO LE THAROLLO YA KGOROTSHEKO

19. Namolo le tharollo ya kgorotsheko

KGAOLO YA 7
GO TŠEWA GA THOTO KA TŠHOGANYETŠO 15

20. Go tšewa ga thoto ka tšhoganyetšo

KGAOLO YA 8
KGOGELONTHAGO YA GO TŠEWA GA THOTO

21. Kgogelonthago ya go tšewa ga thoto

KGAOLO YA 9 20
MERERO YA GO AMANA

- | | | |
|-----|--|----|
| 22. | Go išwa le go gatišwa ga dingwalwa gammogo le leleme leo le šomišitšwego ka go tšona | |
| 23. | Katološo ya nako | |
| 24. | Rejisetara ya go tšea dithoto | 25 |
| 25. | Ditlolamolao le difaene | |
| 26. | Melawana | |
| 27. | Melawana, dingwalwa tša molao le magato ao a šomago ka fase a itšego | |
| 28. | Tlhathollo ya melao ye mengwe yeo e lebanego le go tšewa ga dithoto | |
| 29. | Phedišo | 30 |
| 30. | Dipeakanyo tša go fetogela go molao wo moswa | |
| 31. | Thaetlele ye kopana le mathomo | |

KGAOLO YA 1
DITLHALOŠO LE TŠHOMIŠO YA MOLAO

Ditlhalošo 35

- 1.** (1) Mo go Molao wo, ntle le ge diteng di šupa se sengwe—
“motho yo a tlišago kleime” e ra motho yo a tlišitšego kleime gore a hwetše tefo;
“Molaotheo” e ra Molaotheo wa Repabliki ya Afrika Borwa, wa 1996;
“kgorotsheko” e ra Lekala la Kgorotsheko ya Godimo goba kgorotsheko ya maemo a go swana ka gare go lefelo la yona la taolo— 40
- (a) moo thoto ye e sa šuthego yeo go bolelwago ka yona e lego gona;
- (b) moo thoto ye e šutišwago yeo go bolelwago ka yona e lego gona ka nako ya ge bolaodi bja go tšea dithoto bo phethagatša karolo ya 5 goba 20; goba
- (c) moo mongthoto wa thoto ye e šutišwago goba thoto ye e bonalago yeo go bolelwago ka yona a dulago goba a na le lefelo la yona le legolo la kgwebo; 45

- “**deliver**”, in relation to any document, includes delivery by hand, post, registered post and by electronic communication as defined in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);
- “**Department**” means the Department responsible for Public Works and Infrastructure;
- “**Director-General**” means the Director-General of the Department; 5
- “**disputing party**” means an owner, mortgagee, holder of a right, including an owner and holder, of a right contemplated in section 20, expropriated owner or expropriated holder, who rejects the expropriating authority’s offer of compensation;
- “**expropriating authority**” means an organ of state or person empowered by this Act or any other legislation to expropriate property or to bring about the compulsory acquisition of property contemplated in section 2(3) for a public purpose or in the public interest; 10
- “**expropriation**” means the compulsory acquisition of property for a public purpose or in the public interest by an expropriating authority, or an organ of state upon request to an expropriating authority, and “expropriate” has a corresponding meaning; 15
- “**holder of a right**” means the holder of an unregistered right in property, but excludes an unregistered owner;
- “**land parcel**” means land that has been surveyed and is either registered or yet to be registered in a deeds registry;
- “**Master**” means the Master of the High Court for the Division with the necessary jurisdiction; 20
- “**Minister**” means the Minister responsible for Public Works and Infrastructure;
- “**notice of expropriation**” means a notice contemplated in section 8;
- “**organ of state**” means an organ of state as defined in section 239 of the Constitution;
- “**owner**” means the owner of property in terms of the common law and customary law and where the ownership of the property or right in question must be registered, the person in whose name such property or right is registered, and— 25
- (a) if the owner of any property or registered right in land is deceased, means the executor of his or her estate and if no executor has been appointed or his or her appointment has lapsed, the Master; 30
 - (b) if the estate of the owner of any property or registered right in land has been sequestrated, means the provisional or final trustee of his or her insolvent estate, as the case may be, or if no such appointment has been made, the Master;
 - (c) if the owner of any land or registered right in property is a company that is being wound up, means the provisional or final liquidator of that company, or if no such appointment has been made, the Master; 35
 - (d) if any property or registered right in property is vested in a liquidator or trustee in terms of any other law, means that liquidator or trustee;
 - (e) if the owner of any property or registered right in property is otherwise under a legal disability, means his or her representative by law; 40
 - (f) if any land or registered right in property has been attached in terms of an order of a court, means the sheriff or deputy sheriff, as the case may be;
 - (g) in the case of a public place, road or street under the control of a municipality, means that municipality; 45
 - (h) for the purposes of section 5, includes a lawful occupier of the land concerned; and
 - (i) includes an authorised representative of the owner, who is ordinarily resident in the Republic; 50
- “**possession**” includes the exercise of a right;
- “**prescribed**” means prescribed by regulation;
- “**property**” means property as contemplated in section 25 of the Constitution;

- “**go išwa**”, mabapi le sengwalwa sefe goba sefe, go akaretšwa go išwa ga sona ka letsogo, poso, poso ye e ngwadišitšwego le ka kgokagano ya elektroniki bjalo ka ge go hlalošitšwe ka go karolo ya 1 ya Molao wa Dikgokagano le Ditšhomišo tša Elektroniki, wa 2002 (Molao wa No. ya 25 wa 2002);
- “**Kgoro**” e ra Kgoro ye e nago maikarabelo a Mešomo ya Setšhaba le Mananeokgoparara; 5
- “**Molaodipharephare**” e ra Molaodipharephare wa Kgoro;
- “**mongangišani**” e ra mongthoto, motho yo a rekilego ntlo ka sekoloto, motho yo a nago tokelo ya thoto, go akaretšwa mongthoto le motho yo a nago tokelo ya thoto yo a ngwadilwego ka go karolo ya 20, yo e lego mongthoto goba motho yo a nago tokelo ya thoto ye e tšerwego, yo a gananago le boleng bja tefo gotšwa go bolaodi bja go tšea dithoto; 10
- “**bolaodi bja go tšea dithoto**” e ra lekala la mmušo goba motho yo a filwego maatla ke Molao wo goba molao ofe goba ofe wo mongwe wa go tšea dithoto goba wa go dira gore e be kgapeletšo go tšea dithoto bjalo ka ge go ngwadilwe ka go karolo ya 2(3) ka morero wa setšhaba goba ka kgahlego ya setšhaba; 15
- “**go tšewa ga thoto**” e ra go tšewa ga thoto ka kgapeletšo ka lebaka la morero wa setšhaba goba ka lebaka la kgahlego ya setšhaba ke bolaodi bja go tšea dithoto, goba ke lekala la mmušo ka morago ga go dira kgopelo go bolaodi bja go tšea dithoto, ebile le “go tšea thoto” go na le tlhalošo ya go swana; 20
- “**motho yo a nago tokelo ya thoto**” e ra motho yo a nago tokelo ya thoto ye e sa ngwadišwago, fela e sa akaretše mongthoto yo a sa ngwadišwago;
- “**seripa sa naga**” e ra naga ye e lekotšwego ebile yeo e ngwadišitšwego goba ye e sa hlwago e ngwadišwa ka gare go rejisetara ya mangwalo a bongthoto;
- “**Molaodimogolo**” e ra Molaodimogolo wa Kgorotsheko ya Godimo ya Lekala leo le nago le taolo ye e nyakegago; 25
- “**Tona**” e ra Tona ye e nago maikarabelo a Mešomo ya Setšhaba le Mananeokgoparara;
- “**tsebišo ya go tšewa ga thoto**” e ra tsebišo ye e hlalošitšwego ka go karolo ya 8;
- “**lekala la mmušo**” e ra lekala la mmušo leo le hlalošitšwego ka go karolo ya 239 ya Molaotheo; 30
- “**mongthoto**” e ra mongthoto go ya ka molao wa setlwaedi le molao wa setšo moo bongthoto bja thoto goba tokelo ya thoto ye go bolelwago ka yona e swanetšwego go ngwadišwa, motho yo thoto e ngwadišitšwego ka leina la gagwe goba a na le tokelo ya thoto yeo, le—
- (a) ge mongthoto wa thoto efe goba efe goba motho yo a nago tokelo ya thoto yeo e ngwadišitšwego a hlokošetše, gona mohlokamedi wa lefa la gagwe goba ge a sena mohlokamedi wa lefa yo a kgethilwego goba nako ya gagwe e fedile, Molaodimogolo; 35
- (b) ge e ba thoto ya mongthoto efe goba efe goba motho yo a nago tokelo ya naga o tšebetšwe thoto yeo, gona go ra gore bahlokamedi ba thoto ba nakwana goba ba mafelelo ba thoto ya gagwe ya dikoloto, ge e ba go bjalo, goba ge e ba kgetho ye bjalo e dirilwe, Molaodimogolo; 40
- (c) ge e ba mongthoto wa naga efe goba efe goba motho yo a nago le tokelo ya thoto yeo e ngwadišitšwego e le khamphani yeo e fedišwago, gona gora gore phatlalatšo ya nakwana goba ya mafelelo ya khamphani yeo, goba ge e ba gona kgetho ye bjalo ye e dirilwego, Molaodimogolo; 45
- (d) ge e ba thoto efe goba efe goba tokelo ya thoto ye e ngwadišitšwego e filwe mophatlalatši goba mohlokamedi go ya ka molao wo mongwe, e ra gore mophatlalatši goba mohlokamedi; 50
- (e) ge e ba mongthoto wa thoto efe goba efe goba motho yo a nago le tokelo ya thoto yo a ngwadišitšwego o ka fase ga bogolofadi bja molao, gona gora gore moemedi wa gagwe wa molao; 50
- (f) ge e ba naga efe goba efe goba tokelo ya thoto ye e ngwadišitšwego e akareditšwe go ya taelo ya kgorotsheko, gona gora gore šerife goba motlatši wa šerife, ge go ka ba bjalo; 55
- (g) go lefelo la setšhaba, tsela goba mmila wo o lego ka fase ga taolo ya masepala, gona gora gore masepala; 55
- (h) ka lebaka la morero wa karolo ya 5, o akaretša modudi yo a dutšwego go ya ka molao nageng yeo e amegago; le
- (i) se se akaretša moemedi yo a dumeletšwego wa mongthoto, yo ka setlogo e lego modudi wa Repabliki; 60
- “**go swara**” go akaretša go šomiša tokelo;
- “**e laetšwego**” e ra ye e laetšwego ke molawana;
- “**thoto**” e ra thoto ye e hlalošitšwego ka go karolo ya 25 ya Molaotheo;

“**public interest**” includes the nation’s commitment to land reform, and to reforms to bring about equitable access to all South Africa’s natural resources in order to redress the results of past racial discriminatory laws or practices;

“**public purpose**” includes any purposes connected to the administration of any law by an organ of state, in terms of which the property concerned will be used by or for the benefit of the public; 5

“**registered**” means registered or recorded with a government office in which rights in respect of land, minerals or any other property are registered or recorded for public record in terms of any law;

“**regulation**” means a regulation made in terms of section 26; 10

“**service**” means service as contemplated in section 22(1), and “**serve**” has a corresponding meaning;

“**this Act**” includes any regulations made under this Act;

“**unregistered right**” means a right in property, recognised and protected by law, including customary law, which does not require registration and includes a right to occupy or use land; 15

“**valuer**” means a person who is suitably qualified to value particular property and includes a person registered as a professional valuer or professional associated valuer in terms of section 19 of the Property Valuers Profession Act, 2000 (Act No. 47 of 2000).

(2) (a) A Saturday, Sunday or public holiday must not be reckoned as part of any period calculated in terms of this Act. 20

(b) The period 20 December to 7 January inclusive, must not be reckoned as part of any period calculated in terms of this Act.

Application of Act

2. (1) Despite the provisions of any law to the contrary, an expropriating authority may not expropriate property or cause it to be acquired under subsection (3) arbitrarily or for a purpose other than a public purpose or in the public interest. 25

(2) Subject to section 20, a power to expropriate property may not be exercised unless the expropriating authority has without success attempted to reach an agreement with the owner or holder of a right in property for the acquisition thereof on reasonable terms. 30

(3) This Act applies, with the necessary changes, to the compulsory acquisition of property directly or indirectly by a third-party beneficiary through an expropriating authority in the public interest, including for the purposes contemplated in section 25(4) to (8) of the Constitution.

(4) An expropriating authority may expropriate property in terms of a power conferred on it by law of general application and in accordance with sections 5 to 25 and 28. 35

(5) The power to expropriate includes the power to acquire a right to use property temporarily in terms of section 20.

CHAPTER 2 40

POWERS OF MINISTER TO EXPROPRIATE

Powers of Minister to expropriate

3. (1) Subject to the provisions of Chapter 5, the Minister may expropriate property for a public purpose or in the public interest.

(2) The Minister may expropriate property on behalf of an organ of state, which has been established by or under any law but is not an expropriating authority, if— 45

(a) the member of the executive responsible for the administration of that law requests the Minister to do so in writing; and

(b) the Minister is satisfied that the organ of state requires the property for a public purpose or in the public interest. 50

(3) The Minister’s power to expropriate property in terms of subsections (1) and (2) includes the power to expropriate property to be used for the provision and management of the accommodation, land and infrastructure needs of an organ of state.

- “**kgahlego ya setšhaba**” e akaretša boikgafo bja bosetšhaba go mpshafatša naga, le go dipeakanyoleswa tša go tliša phihlelelo ya tekatekano go methopo ka moka ya tlhago ya Afrika Borwa ka nepo ya go lokiša dipoelo tša melao le mekgwa ya kgale ya kgethollo ya semorafe;
- “**morero wa setšhaba**” o akaretša merero efe goba efe yeo e kgokaganego le tshapedišo ya molao ofe goba ofe wa lekala la mmušo, yeo go ya ka yona thoto ye e amegago e tlogo šomišwa ke goba go hola setšhaba; 5
- “**ye e ngwadišitšwego**” e ra ye e ngwadišitšwego goba e nago rekoto le kantoro ya mmušo yeo go yona ditokelo mabapi le naga, diminerale goba thoto efe goba efe ye nngwe e ngwadišitšwego goba e lego ka go rekoto ya setšhaba go ya molao ofe goba ofe; 10
- “**molawana**” e ra molawana wo o dirilwego go ya ka karolo ya 26;
- “**tirelo ya go išwa**” e ra tirelo ya go išwa ye e hlalošitšwego ka go karolo ya 22(1), gomme le “go iša” go na le le tlhalošo ya go swana;
- “**Molao wo**” e akaretša melawana efe goba efe ye e dirilwego ka fase ga Molao wo; 15
- “**tokelo ye e sa ngwadišwago**” e ra tokelo ya thoto, yeo e amogetšwego le go šireletšwa ke molao, go akaretšwa molao wa setšo, wo o sa nyakego ngwadišo gomme o akaretša tokelo ya go dula goba go šomiša naga; 15
- “**mohlalobi**” e ra motho yo a nago maswanedi a maleba a go hlaloba boleng bja thoto ye e itšego gomme se se akaretša motho yo a ngwadišitšwego bjalo ka mohlalobi wa boleng wa profeshenale goba mohlalobi wa boleng yo a amanago le yena wa profeshenale go ya ka karolo ya 19 ya Molao wa Profeshene ya Bahlalobi ba Boleng, wa 2000 (Molao wa No. ya 47 wa 2000). 20
- (2) (a) Mokibelo, Sontaga goba letšatši la maikhutšo la setšhaba ga se la swanela go balwa bjalo ka karolo ya nako efe goba efe ye e balwago go ya ka Molao wo.
- (b) Nako ya di 20 Disemere go fihla ka di 7 Janeware ye e akareditšwego, ga se ya swanela go balwa bjalo ka karolo ya nako efe goba efe ye e balwago go ya ka Molao wo. 25

Tšhomišo ya molao

2. (1) Le ge go ka ba le dipeelano tša molao ofe goba ofe tša go fapana, bolaodi bja go tšea dithoto bo ka se tšee thoto goba bja dira gore e hwetšwe ka fase ga karolwana ya (3) ka boithatelo goba ka morero wo mongwe ntle le morero wa setšhaba goba go ya ka kgahlego ya setšhaba. 30
- (2) Go ya ka karolo ya 20, maatla a go tšea thoto a ka se šomišwe ntle le ge bolaodi bja go tšea dithoto bo lekile ntle katlego go fihlelela tumelelano le mongthoto goba motho yo a nago tokelo ya thoto go hwetša thoto yeo ka fase ga mabaka ao a kwagalago.
- (3) Molao wo o šomišwa, ka diphetogo tšeo di nyakegago, malebana le go tšewa ka kgapeletšo ga thoto, e ka ba thwii goba ka mokgwa wo o sego wa thwii ke motšeakarolo wa boraro ka go šomiša bolaodi bja go tšea dithoto go tšea thoto yeo ka kgahlego ya setšhaba go akaretšwa le ka lebaka la merero yeo e hlalošitšwego ka go karolo ya 24(4) go ya go (8) ya Molaotheo. 35
- (4) Bolaodi bja go tšea dithoto bo ka tšea thoto go ya ka maatla ao bo a filwego ke molao wa tšhomišo ya setlwaedi le go ya ka dikarolo tša 5 go ya go ya 25 le 28. 40
- (5) Maatla a go tšea dithoto a akaretša maatla a go hwetša tokelo ya go šomiša thoto nakwana go ya ka karolo 20.

KGAOLO YA 2

MAATLA A TONA A GO TŠEA DITHOTO

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Maatla a Tona a go tšea dithoto

3. (1) Go ya ka dipeelano tša Kgaolo ya 5, Tona e ka tšea thoto ka lebaka la morero wa setšhaba goba ka lebaka la kgahlego ya setšhaba.
- (2) Tona a ka tšea thoto legatong la lekala la mmušo, leo le hlamilwego ke goba ka fase ga molao ofe goba ofe fela le se bolaodi bja go tšea dithoto, ge e ba— 50
- (a) leloko la khuduthamaga leo le nago maikarabelo a tshapedišo ya molao woo le kgopela Tona go dira seo ka lengwalo; le ge
- (b) Tona a kgotsofetše gore lekala la mmušo le nyaka thoto yeo ka lebaka la morero wa setšhaba goba ka kgahlego ya setšhaba.
- (3) Maatla a Tona a go tšea thoto go ya ka dikarolwana tša (1) le (2) a akaretša maatla a go tšea thoto yeo e tlogo šomišwa go kabo le taolo ya dinyakwa tša madulo, naga le mananeokgoparara a lekala la mmušo. 55

- (4) Where only a portion of a land parcel is to be expropriated, the Minister may expropriate that portion together with the remainder of the land parcel, if—
- (a) the owner so requests; and
 - (b) the Minister is satisfied that partial expropriation would impair the use or potential use of the remainder, and that it would be just and equitable to the owner to expropriate the remainder. 5
- (5) When the Minister expropriates property in terms of subsection (2)—
- (a) the ownership of the property vests in the relevant organ of state on the date of expropriation;
 - (b) the right to possession of the property vests in the relevant organ of state in terms of section 9; 10
 - (c) subject to section 9(5)(b), the relevant organ of state is liable for the fees, duties and other charges which would have been payable by that organ of state in terms of any law as if it had purchased that property; and
 - (d) all costs incurred by the Minister in the performance of his or her functions on behalf of an organ of state must be refunded by the relevant organ of state within a reasonable time. 15

Delegation or assignment of Minister's powers and duties

4. (1) Subject to subsection (2), the Minister may delegate or assign, either generally or in relation to a particular property or a particular case, a power or duty under this Act to an official of the Department. 20
- (2) The Minister may not delegate or assign the powers or duties conferred by sections 3, 20(1), 21(1) and 26.

CHAPTER 3

INVESTIGATION AND VALUATION OF PROPERTY 25

Investigation and gathering of information for purposes of expropriation

5. (1) The expropriating authority must consider all relevant circumstances when deciding whether to expropriate property and must ascertain—
- (a) the suitability of the property for the required purpose;
 - (b) the existence of registered and unregistered rights in the property; and 30
 - (c) facts relevant to calculating an amount of compensation that accords with section 12 and formulate an offer of just and equitable compensation for each person, who would be affected if the property were expropriated.
- (2) Subject to subsection (3), if the property is land, an expropriating authority may authorise in writing— 35
- (a) a person with the necessary skills or expertise, for the purposes of subsection 1(a), to—
 - (i) enter upon the property with the necessary workers, equipment and vehicles at all reasonable times or as may be agreed to by the owner or occupier of the property; 40
 - (ii) survey and determine the area and levels of the land;
 - (iii) dig or bore on or into the land;
 - (iv) construct and maintain a measuring weir in any river or stream;
 - (v) insofar as it may be necessary to gain access to the property, enter upon and go across another property with the necessary workers, equipment and vehicles; and 45
 - (vi) demarcate the boundaries of the property required for the said purpose; and
 - (b) a valuer to enter upon the land and any building on such land and to do the necessary inspections and investigations for the purpose of valuing it. 50

- (4) Moo go swanetšego gore go tšewe fela seripa sa naga, Tona a ka tšea seripa seo gammogo le seripa seo e šetšego, ge e ba—
- (a) mongthoto a kgopela; ebile le ge
 - (b) Tona a kgotsofetše gore go tšewa ga seripa fela go tla senya tšhomišo goba bokgoni bja go šomiša naga yeo e šetšego, le gore e tla ba e le toka le tekatekano go mongthoto go tšeelwa naga yeo e šetšego. 5
- (5) Ge Tona e tšea thoto go ya ka karolwana ya (2)—
- (a) bongthoto bja thoto bo fiwa lekala la mmušo la maleba ka letšatšikgwedi la go tšewa ga thoto;
 - (b) tokelo ya go swara thoto e fiwa lekala la mmušo la maleba go ya ka karolo ya 10 9;
 - (c) go ya ka karolo ya 9(5)(b), lekala la mmušo leo le amegago la maleba le na le maikarabelo a ditefišo, maikarabelo le ditefišo tše di bego di tla lefelwa ke lekala la mmušo go ya ka molao ofe goba ofe bjalo ka ge le be le swanetše go dira ge e be le rekile thoto yeo; le 15
 - (d) Ditshenyagalelo ka moka tšeo di dirilwego ke Tona ge a phethagatša mešomo ya gagwe legatong la lekala la mmušo di swanetšwe go bušetšwa morago ke lekala la mmušo leo le amegago ka nako ye e kwagalago.

Kabo goba phetišetšo ya maatla le mešomo ya Tona

4. (1) Go ya ka karolwana ya (2), Tona a ka abela goba a fetišetša, e ka ba ka kakaretšo goba mabapi le thoto ye itšego goba go tiragalo ye e itšego, maatla goba mošomo wa gagwe ka fase ga Molao wo go mošomi wa Kgoro. 20

(2) Tona a ka se abe goba a fetišetša maatla goba mešomo yeo a e filwego ke dikarolo tša 3, 20(1), 21(1) le 26.

KGAOLO YA 3

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NYAKIŠIŠO LE TLHAHLOBO YA BOLENG BJA THOTO

Nyakišišo le kgoboketšo ya tshedimošo ka morero wa go tšea thoto

5. (1) Bolaodi bja go tšea dithoto bjo swanetše go ela hloko maemo ao a amegago ka moka a ge bo tšea sephetho sa ge e ba bo tla tšea thoto gomme bo swanetše go kgonthišiša— 30

- (a) bokgoni bja go šomišega ga thoto mabapi le morero wo e nyakelwago wona;
- (b) go ba gona ga ditokelo tše di ngwadišitšwego le tše di sa ngwadišwago tša thoto yeo; le
- (c) dintlha tše di swanetšego go akaretšwa ge go balwa tšhelete ya tefo yeo e dumelelanago le karolo ya 12 ebile bo hlame tekanyo ya boleng bja tefo ya toka le ya tekatekano go motho yo mongwe le yo mongwe, yo a bego a tla amega ge thoto e ka tšewa. 35

(2) Go ya ka karolwana ya (3), ge thoto e le naga, bolaodi bja go tšea dithoto bo ka dumelela ka go ngwala—

- (a) motho yo a nago mabokgoni le bokgoni bjo bo nyakegago, ka mabaka a karolwana ya 1(a), go— 40
 - (i) tsena ka gare ga thoto le bašomi ba ba nyakegago, gammogo le didirišwa le difatanaga ka dinako ka moka tše di kwagalago goba bjalo ka ge go dumelelwane le mongthoto goba modudi wa thoto yeo;
 - (ii) go lekola le go hlatha lefelo le maemo a naga; 45
 - (iii) go epa goba go bora godimo goba ka gare ga naga;
 - (iv) go aga le go hlokomela lešoba la go ela nokeng efe goba efe goba moela;
 - (v) go fihla bokgoleng bjo go ka nyakegago go hwetša phihlelelo go thoto, go tsena le go feta ka gare go thoto ye nngwe le bašomi bao ba nyakegago, le didirišwa le difatanaga; le 50
 - (vi) go hlaola mellwane ya thoto yeo e nyakegago ka morero wo o boletšwego; le
- (b) gore mohlalobi wa boleng a tsene ka go naga le moago ofe goba ofe nageng ye bjalo le go dira ditlahlobo le dinyakišišo tše di nyakegago ka nepo ya go lekanyetša boleng bja thoto. 55

- (3) No person contemplated in subsection (2) may enter the property without written authorisation from the expropriating authority and—
- (a) the written consent of the owner or occupier of the property, including the written consent of the owner or occupier of a property contemplated in subsection (2)(a)(v), to perform an act contemplated in subsection (2); or 5
 - (b) in the event of the owner or occupier refusing or failing to grant consent contemplated in paragraph (a), a court order authorising entry on to the land, including any building thereon, for purposes of conducting the investigations contemplated in subsection (2).
- (4) The valuer contemplated in subsection (2)(b) may— 10
- (a) require the owner or occupier of the property to give access to a document in the possession or under the control of the owner or occupier which the valuer reasonably requires for the purposes of valuing the property;
 - (b) extract information from or make copies of a document to which access is given in terms of paragraph (a); 15
 - (c) in writing require the owner or occupier of the property to provide, either in writing or orally, particulars of the property that are reasonably required for the purposes of valuing the property; and
 - (d) despite the provisions of any law to the contrary, require the municipality in whose area the land is situated, to provide— 20
 - (i) access to building plans of improvements on such land;
 - (ii) a copy or copies of building plans relating to the land and any improvements at the cost of the valuer or valuers; and
 - (iii) information about municipal property rates or other charges, land use rights such as zoning, the availability of engineering services, which information is in the possession of the municipality concerning the land and which is reasonably required for the valuation of the said land by the valuer. 25
- (5) Unless the information has already been obtained, the expropriating authority must— 30
- (a) deliver a notice to the following persons to provide the names and addresses of all holders of rights in the property known to them, as well as particulars of those rights, by written reply within 20 days of delivery of the notice:
 - (i) The owner;
 - (ii) a person apparently in charge of the property; 35
 - (iii) the holder of a right, known to the expropriating authority; and
 - (iv) the mortgagee; and
 - (b) if the property is land, consult—
 - (i) the Departments responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation and any other organ of state whose functions and responsibilities will be materially affected by the intended expropriation, for the purposes of establishing the existence of and the impact of expropriation on rights therein; and 40
 - (ii) the municipality as contemplated in section 6, unless the expropriating authority is the municipal council. 45
- (6)(a) A person contemplated in subsection (2) must—
- (i) provide the owner or occupier of the property with a copy of the written authority;
 - (ii) at all times while performing any authorised act, be in possession of the written authority; and 50
 - (iii) provide written identification to the owner or occupier of the property by means of an official identification document.
- (b) The owner or occupier of the property may refuse entry to the property to a person contemplated in subsection (2) who fails to comply with paragraph (a), or 55 may refuse to allow an act contemplated in subsection (2).

- (3) Ga go motho yo a hlalošitšwego ka go karolwana ya (2) yo a ka tsenago thotong ntle le tumelelo ye e ngwadilwego gotšwa go bolaodi bja go tšea dithoto le—
- (a) tumelelo ye e ngwadilwego ya mongthoto goba modudi wa thoto, go akaretšwa tumelelo ye e ngwadilwego ya mongthoto goba modudi wa thoto yeo e hlalošitšwego ka go karolwana ya (2)(a)(v), go phethagatša tiro yeo e hlalošitšwego ka go karolwana ya (2); goba 5
- (b) ge go ka direga gore mongthoto goba modudi wa thoto a gane goba a palelwe ke go fana ka tumelelo yeo e ngwadilwego go temana ya (a), go tla hwetšwa lengwalo la kgorotshoko leo le dumelelago go tsena go naga yeo, go akaretšwa moago ofe goba ofe wo o lego go wona, ka maikemišetšo a go dira dinyakišišo tšeo di hlalošitšwego ka go karolwana ya (2). 10
- (4) Mohlahlobi wa boleng bja thoto yo a hlalošitšwego ka go karolwana ya (2)(b) a ka—
- (a) nyaka mongthoto goba modudi wa thoto go fana ka sengwalwa seo se lego go yena goba seo se lego ka fase go taolo ya mongthoto goba modudi wa thoto, seo mohlahlobi wa boleng a se nyakago ka mo go kwagalago ka nepo ya go lekanyetša boleng bja thoto; 15
- (b) go ntšha tshedimošo go tšwa go goba a dire dikhopi tša sengwalwa seo se filwego go ya ka temana ya (a);
- (c) ka go ngwala a nyake gore mongthoto goba modudi wa thoto a fane ka, e ka ba ka go ngwala goba ka molomo, dintlha tša thoto tšeo di nyakegago ka mo go kwagalago ka nepo ya go lekanyetša boleng bja thoto; le 20
- (d) le ge go ka ba le dipeelano tša molao ofe goba ofe tša go fapana, a nyake masepala wo naga e lego tikologong ya wona, gore o fane ka—
- (i) phihlelelo ya maano a go aga a dikaonafatšo mo nageng ye bjalo; 25
- (ii) khopi goba dikhopi tša maano tša go aga tšeo di amanago le naga gammogo le dikaonafatšo dife goba dife ka ditshenyagalelo tša mohlahlobi wa boleng goba bahlahlobi ba boleng; le
- (iii) tshedimošo mabapi le ditekanyo tša ditefo tša thoto ya masepala goba ditefišo tše dingwe, ditokelo tša tšhomišo ya naga go swana le go arolwa ga naga, go ba gona ga ditirelo tša bointšenerere, gore ke tshedimošo efe yeo e lego ka diatleng tša masepala mabapi le naga yeo e nyakegago ka mo go kwagalago ka nepo ya go lekanyetša boleng bja naga yeo go boletwago ka yona ke mohlahlobi wa boleng. 30
- (5) Ntle le ge tshedimošo e šetše e hweditšwe, bolaodi bja go tšea thoto bo swanetše— 35
- (a) go iša tsebišo go batho bao ba latelago, go fana ka maina le diaterese tša batho ka moka bao ba nago le ditokelo tša thoto bao bo ba tsebago, gammogo le dintlha tša ditokelo tšeo, ka karabo yeo e ngwadilwego mo matšatšing a 20 ka morago ga go tlišwa ga tsebišo: 40
- (i) Mongthoto;
- (ii) Motho yo go bonalago gore o laola thoto yeo;
- (iii) Motho yo a nago tokelo ya thoto yeo, yo a tsebjago ke bolaodi bja go tšea dithoto; le
- (iv) Motho yo a rekilego ntlo ka sekoloto; le 45
- (b) Ge thoto e le naga, bo rerišane le—
- (i) Dikgoro tšeo di nago maikarabelo a tlabollo ya dinagamagae le mpshafatšo ya naga, ya merero ya tikologo, ya methopo ya diminerae le ya meetse le tlhwekišo le makala afe goba afe a mangwe a mmušo ao mešomo le maikarabelo a wona a tlo amago kudu ke maikemišetšo a go tšea naga, ka lebaka la go hlama go ba gona ga le khuetšo ya go tšewa ga ditokelo tša thoto tšeo di lego go yona; le 50
- (ii) Masepala bjalo ka ge go hlalošitšwe ka go karolo ya 6, ntle le ge bolaodi bja go tšea dithoto e le khansele ya masepala.
- (6)(a) Motho yo a hlalošitšwego ka go karolwana ya (2) o swanetše go— 55
- (i) fa mongthoto goba modudi wa thoto khopi ya lengwalo la taolo;
- (ii) ka dinako ka moka ge a dira tiro efe goba efe ye e dumeletšwego, a sware lengwalo la taolo; le go
- (iii) fana ka boitsebišo bjo bo ngwadilwego go mongthoto goba modudi wa thoto ka go šomiša lengwalo la boitsebišo la semmušo. 60
- (b) Mongthoto goba modudi wa thoto a ka ganetša motho yo a hlalošitšwego ka go karolwana ya (2) gore a tsene ka thotong goba yo a palelwago ke go obamela temana ya (a), goba a ka gana go dumelela tiro yeo e hlalošitšwego ka go karolwana ya (2).

(7) If the property in question is damaged through an act contemplated in subsection (2), an affected person may deliver written demand to the expropriating authority and the expropriating authority must repair the damage to a reasonable standard or compensate for the damage without undue delay.

(8) Any legal proceedings arising out of a claim under subsection (7) must comply with the Institution of Legal Proceedings Against Certain Organs of State Act, 2002 (Act No. 40 of 2002). 5

(9) The powers, authority and obligations conferred or imposed by this section are subject to the laws governing the protection of personal and private information, and must be exercised accordingly. 10

(10) If the property is not land, the expropriating authority may authorise a suitably qualified person or valuer to ascertain its suitability and value for determining an amount of compensation to be offered.

Consultation with municipality during investigation

6. (1) When considering whether to expropriate land, an expropriating authority must, if not already established, make a written request to the municipal manager of the municipality where the land is situated to explain how the contemplated expropriation would affect municipal planning. 15

(2) The request contemplated in subsection (1) must include—

(a) a statement that the expropriating authority is contemplating the acquisition of land; 20

(b) a full description of the land in question;

(c) details of the purpose for which the land is required; and

(d) other details that the expropriating authority considers necessary.

(3) The municipal manager must deliver a written response to the request contemplated in subsection (1) within 20 days of receipt or within a reasonable time to be agreed between the expropriating authority and municipal manager. 25

(4) If the expropriating authority is the municipal council of the municipality where the land is situated, the request contemplated in subsection (1) is not required.

CHAPTER 4

30

INTENTION TO EXPROPRIATE AND EXPROPRIATION OF PROPERTY

Notice of intention to expropriate

7. (1) If an expropriating authority intends to expropriate property, it must—

(a) serve a notice of intention to expropriate on the owner, mortgagee and holder of a right known to it at the time; and 35

(b) publish the notice of intention to expropriate under section 22(2).

(2) A notice of intention to expropriate must include—

(a) a statement of the intention to expropriate the property;

(b) a full description of the property;

(c) a short description of the purpose for which the property is required; 40

(d) the address at which documents detailing the purpose of the expropriation may be inspected and at which particulars of the purpose may be obtained during business hours;

(e) the reason for the intended expropriation of that particular property;

(f) the intended future date of expropriation; 45

(g) the future date on which the expropriating authority intends to take possession of the property;

(h) an invitation to any person who may be affected by the intended expropriation to lodge with the expropriating authority within 30 days after the publication of the said notice— 50

(i) any objections to the intended expropriation;

(ii) any submissions relating to the intended expropriation;

(iii) a postal address, email address or facsimile number for the expropriating authority to communicate with that person; and

(iv) the preference of official language for further written communication; 55

(7) Ge thoto yeo go bolelwago ka yona e sentšwe ka tiro ye e hlalošitšwego ka go karolwana ya (2), motho yo a amegilego a ka iša lengwalo la dinyakwa go bolaodi bja go tšea dithoto gomme bolaodi bja go tšea dithoto bo swanetše go lokiša tshenygo go fihla maamong ao a kwagalago goba bo lefele tshenygo ntle le tiego ye e sa swanelago.

(8) Ditshepedišo dife goba dife tša molao tšeo di tšwelelago go kleime ka fase ga karolwana ya (7) di swanetše go obamela Molao wa Instithušene ya Ditshepedišo tša Molao Kgahlanong le Makala a Mmušo, wa 2002 (Molao wa No. ya 40 wa 2002).

(9) Maatla, taolo le ditlamo tšeo di filwego goba di beilwego ke karolo ye di laolwa ke melao yeo e laolago tšhireletšo ya tshedimošo ya bomotho le ya poraebete, gomme di swanetše go šomišwa ka mokgwa wa maleba.

(10) Ge thoto e se naga, bolaodi bja go tšea dithoto bo ka dumelela motho yo a nago maswanedi a maleba goba mohlalobi wa boleng go kgonthišiša go swanelega ga yona le boleng bja yona ka lebaka la go lekanyetša tšhelete ya tefo yeo e swanetšwego go fiwa.

Therišano le masepala ka nako ya nyakišišo

6. (1) Ge go lebelelwa ge e ba go ka tšewa naga, bolaodi bja go tšea dithoto bo swanetše go, ge e ba ga se bja hlwa bo dira bjalo, bo dire kgopelo ka lengwalo go molaodi wa masepala wo naga e lego go wona go hlaloša ka fao go tšewa ga naga ka mo go naganwego go tla amago dipeakanyo tša masepala.

- (2) Kgopelo ye e hlalošitšwego ka go karolwana ya (1) e swanetše go akaretša—
- (a) pego ya gore bolaodi bja go tšea dithoto bo nagana go tšea naga;
 - (b) tlhathollo ye e feletšego ya naga yeo e go bolelwago ka yona;
 - (c) dintlha ka botlalo tša morero wo naga e nyakegago ka wona; le
 - (d) dintlha tše dingwe tšeo bolaodi bja go tšea dithoto bo bonago di le bohlokwa.

(3) Molaodi wa masepala o swanetše go tliša phetolo ye e ngwadilwego ya kgopelo ye e hlalošitšwego ka go karolwana ya (1) mo matšatšing a 20 ka morago ga kamogelo goba mo nakong ye e kwagalago yeo go tla dumelelanwago ka yona magareng ga bolaodi bja go tšea dithoto le molaodi wa masepala.

(4) Ge e le gore bolaodi bja go tšea dithoto ke khansele ya masepala wo naga e lego go wona, kgopelo yeo e hlalošitšwego ka go karolwana ya (1) ga e hlokege.

KGAOLO YA 4

MAIKEMIŠETŠO A GO TŠEA THOTO LE GO TŠEWA GA THOTO

Tsebišo ya maikemišetšo a go tšea thoto

7. (1) Ge e ba bolaodi bja go tšea dithoto bo ikemišeditše go tšea thoto, bo swanetše go—

- (a) fana ka tsebišo ya maikemišetšo a go tšea thoto go mongthoto, motho yo a rekilego ntlo ka sekoloto gammogo le motho yo a nago tokelo ya thoto yo a tsebjago ke bjona ka nako yeo; le
- (b) gatiša tsebišo ya maikemišetšo a go tšea thoto ka fase ga karolo ya 22(2).

(2) Tsebišo ya maikemišetšo a go tšea thoto e swanetše go akaretša—

- (a) pego ya maikemišetšo a go tšea thoto;
- (b) tlhathollo ye e feletšego ya thoto;
- (c) tlhalošo ye kopana ya morero wo thoto e nyakelwago wona;
- (d) aterese yeo dingwalwa tšeo di hlalošago ka botlalo morero wa go tšea thoto di ka hlahlobjago go yona le yeo go yona dintlha tša morero di ka hwetšwago ka dinako tša mošomo;

- (e) lebaka la maikemišetšo a go tšea thoto yeo e itšego;
- (f) letšatšikgwedi leo le akantšwego la go tšewa ga thoto;
- (g) letšatšikgwedi la nako ye e tlogo moo bolaodi bja go tšea dithoto bo ikemišeditšwego go tšea thoto;

(h) taletšo go motho ofe goba ofe yo a ka amago ke maikemišetšo a go tšewa ga dithoto go tliša tše di latelago go bolaodi bja go tšea dithoto mo matšatšing a 30 ka morago ga kgatišo ya tsebišo ye go bolelwago ka yona—

- (i) dikganetšo dife goba dife tša maikemišetšo a go tšea thoto;
- (ii) ditlhagišo dife goba dife tšeo di amanago le maikemišetšo a go tšea thoto;
- (iii) aterese ya poso, aterese ya i-meile goba nomoro ya fekese gore bolaodi bja go tšea dithoto bo ikgokagantšhe le motho yoo; le
- (iv) kgetho a leleme la semmušo malebana le kgokagano ya go tšwela pele;

- (i) the names of the recipients of the notice and their interest in the property;
- (j) a directive to the owner, mortgagee and a holder of a right contemplated in subsection (1)(a) to deliver, within 30 days of service of the notice, a written list of the names and addresses of any holders of rights, other than those listed, and particulars of those rights of which the recipient is aware; 5
- (k) an offer of compensation which the expropriating authority considers just and equitable and an explanation of how the amount was arrived at with reference to supporting information;
- (l) a statement that the expropriating authority may adjust the amount of compensation under sections 10 and 11, if a holder of a right, of whom the expropriating authority had no prior knowledge, later claims compensation; 10
- (m) a statement drawing attention to sections 14, 19, 23 and 25; and
- (n) the details of the empowering law authorising the intended expropriation.
- (3) If the property is land, the expropriating authority must also deliver a copy of the notice referred to in subsection (1) to— 15
- (a) the Directors-General responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation, and the accounting authority of any other organ of state whose functions and responsibilities will be materially affected by the intended expropriation: Provided that if the expropriating authority is the executive authority of one of the departments or organs of state concerned, delivery of such notice to the relevant Director-General or accounting authority is not required; and 20
- (b) the municipal manager of the municipality where the property is situated, unless the expropriating authority is the municipal council.
- (4) A person responding to a notice contemplated in subsection (1), within 30 days of the service or publication of the notice, must— 25
- (a) deliver to the expropriating authority a written statement—
- (i) stating whether he or she accepts the offer of compensation;
- (ii) requesting further particulars under section 14; or
- (iii) disputing, in terms of section 19, the amount of compensation offered; 30
- (b) if the property is land, give the name and address of—
- (i) the lessee, whose unregistered lease of the whole or part of the property was concluded before the notice was issued, together with the lease or a certified copy;
- (ii) the buyer, to whom the property was sold but not yet transferred before the notice was issued, together with the contract of purchase and sale or a certified copy; or 35
- (iii) the builder, who erected a building on the property in terms of a written building contract and holds a builder's lien, along with the building contract or a certified copy; and 40
- (c) state the address at which further documents in connection with the expropriation may be sent and the preferred language of communication.
- (5) The expropriating authority must consider the statements contemplated in subsection (4), as well as any objections or submissions lodged in terms of subsection (2)(h), in deciding whether to proceed with the expropriation of the property. 45
- (6)(a) The expropriating authority may decide to expropriate the property after the compensation, the amount of which and the time and manner of payment of which have been agreed with the owner, mortgagee or holder of a right, or approved or decided by a court, subject to section 19(8).
- (b) If the expropriating authority decides— 50
- (i) to expropriate, it must serve a notice of expropriation in terms of section 8(1) within a reasonable time; or

- (i) maina a baamogedi ba tsebišo le kgahlego ya bona go thoto;
- (j) taelo go mongthoto, motho yo a rekilego ntlo ka sekoloto le motho yo a nago le tokelo ya thoto yeo e hlalošitšwego ka go karolwana ya (1)(a) gore a tliše, mo matšatšing a 30 ka morago ga go fiwa tsebišo, lenaneopalo la maina le diaterese tša batho bafe goba bafe bao ba nago le ditokelo go thoto yeo, ntle le bao ba ngwadilwego, gammogo le dintlha tšeo tša ditokelo tšeo moamogedi a di tsebago; 5
- (k) tekanyo ya boleng bja tefo yeo bolaodi bja go tšea dithoto bo e bonago e le ye e lokilego ebile e lekanego gammogo le tlhalošo ya ka fao boleng bja tšhelete bo fihleletšwego ka gona go ya ka tshedimošo ya tlaleletšo; 10
- (l) pego ya gore bolaodi bja go tšea dithoto bo ka lokiša tšhelete ya tefo ka fase ga dikarolo tša 10 le 11, ge e ba motho yo a nago le tokelo ya thoto, yo bolaodi bja go tšea dithoto bo bego bo sa tsebe ka ga yena peleng, ka morago o tliša kleime ya tefo; 15
- (m) pego yeo e gogelago šedi go dikarolo tša 14, 19, 23, le 25; le 15
- (n) dintlha tša molao wo o fanago ka maatla ao a dumelelago go tšewa ga dithoto.
- (3) Ge thoto e le naga, bolaodi bja go tšea dithoto bo swanetše go iša khopi ya tsebišo yeo e ngwadilwego ka go karolwana ya (1) go—
- (a) Molaodipharephare yo a nago le maikarabelo a tlhabollo ya dinagamagae le mpshafatšo ya naga, ya merero ya tikologo, ya methopo ya dimenerale le ya meetse le tlhwekišo, le bolaodi bja diakhaonto tša lekala lefe goba lefe la mmušo leo mešomo le maikarabelo a lona a tla amago kudu ke maikemišetšo a go tšea thoto: Ge e le gore bolaodi bja go tšea dithoto ke khuduthamaga ya ye nngwe ya dikgoro goba makala a mmušo ao a amegago, go išwa ga tsebišo ye bjalo go Molaodipharephare goba bolaodi bja diakhaonto tša ditšhelete ga go hlokege; le 25
- (b) Molaodi wa masepala wo thoto e lego go wona, ntle le ge bolaodi bja go tšea dithoto e le khansele ya masepala.
- (4) Motho yo a arabago tsebišo yeo e hlalošitšwego ka go karolwana ya (1), mo matšatšing a 30 ka morago ga go e fiwa goba go gatišwa ga tsebišo, o swanetše— 30
- (a) go iša pego ye e ngwadilwego go bolaodi bja go tšea dithoto—
- (i) ye e ngwadilwego ge e ba o dumela tekanyo ya boleng bja tefo;
- (ii) a kgopela dintlha tše dingwe tša tlaleletšo ka fase ga karolo ya 14; goba
- (iii) a ganana, ka fase ga karolo 19, le boleng bja tšhelete ya tefo yeo e filwego; 35
- (b) ge thoto e le naga, a fane ka leina le aterese ya—
- (i) mohiriši, yoo khiri ya gagwe yeo e sa ngwadišwago ya thoto ka moka goba karolo ya yona e phethilwego pele tsebišo e ntšhwa, gammogo le konteraka ya khirišo goba khopi ye e netefaditšwego;
- (ii) moreki, yo thoto e rekišitšwego yena fela e sešo ya fetišetšwa go yena pele tsebišo e ntšhwa, gammogo le konteraka ya theko le thekišo goba khopi ye e netefaditšwego; goba 40
- (iii) moagi, yo a agilego moago lefelong leo go ya ka konteraka ya go aga ye e ngwadilwego gomme a swere tšhireletšo ya moagi, gotee le konteraka ya go aga goba khopi ye e netefaditšwego; le gore a 45
- (c) ngwale aterese yeo dingwalwa tše dingwe tša tlaleletšo mabapi le go tšewa ga thoto di ka romelwago gona gammogo le kgetho ya gagwe ya leleme la kgokagano.
- (5) Bolaodi bja go tšea dithoto bo swanetše go lebelela dipego tšeo di hlalošitšwego ka go karolwana ya (4), gammogo le dikganetšo goba ditlhagišo dife goba dife tšeo di tlišitšwego go ya ka karolwana ya (2)(h), ge bo tšea sephetho sa ge e ba bo tla tšwela pele ka go tšea thoto. 50
- (6)(a) Bolaodi bja go tšea dithoto bo ka tšea sephetho sa go tšea thoto ka morago ga go lefa, tekano ya boleng bja tšhelete mmogo le ka nako le ka mokgwa wa go lefa wo go dumelelwanego ka wona le ga ge go dumelelwane ka tšhelete ya tefo le mongthoto, motho yo a rekilego ntlo ka sekoloto goba motho yo a nago tokelo ya thoto, goba yeo e dumeletšwego goba kgorotsheko e tšerego sephetho ka yona, go ya ka karolo ya 19(8). 55
- (b) Ge bolaodi bja go tšea dithoto bo tšea sephetho sa go—
- (i) tšea thoto, bo swanetše go fana ka tsebišo ya go tšea thoto go ya ka karolo ya 8(1) ka nako yeo e kwagalago; goba 60

- (ii) not to expropriate, it must inform the owner, mortgagee or holder of a right accordingly in writing within a reasonable time and must publish a notice in the *Gazette* of his or her decision not to proceed in terms of section 22(2).

Notice of expropriation

8. (1) If the expropriating authority decides to expropriate the property, the expropriating authority must cause a notice of expropriation to be served upon the expropriated owner, mortgagee and expropriated holder of a right in their preferred language. 5

(2) The expropriating authority must cause a copy of the notice of expropriation to be— 10

- (a) published in accordance with section 22(1)(c) or (2);
- (b) delivered to a known holder of a right whose rights have not been expropriated; and
- (c) if the property is land, delivered to—
 - (i) the municipal manager of the municipality where the property is situated, unless the expropriating authority is the municipal council; 15
 - (ii) the Directors-General responsible for rural development and land reform, environmental affairs, mineral resources, and for water and sanitation, and the accounting authority of any other organ of state whose functions and responsibilities will be materially affected by the intended expropriation; 20
 - (iii) if the expropriating authority is the executive authority of one of the departments or organs of state referred to in subparagraph (ii), delivery of the notice to the Director-General of that department or accounting authority of that organ of state is not required; 25
 - (iv) a mortgagee if the land is encumbered by a registered mortgage bond;
 - (v) the buyer, if the property is subject to a contract contemplated in section 7(4)(b)(ii); and
 - (vi) the builder, if a building on the property is subject to a lien contemplated in section 7(4)(b)(iii). 30

(3) The notice of expropriation must contain—

- (a) a statement of the expropriation of the property;
- (b) the full description of the property, including—
 - (i) in the case where the expropriation applies to a portion of a land parcel, the approximate extent of such portion in relation to the whole; or 35
 - (ii) where the expropriation applies to a right in land, a description of the approximate area and position of the land subject to the right;
- (c) a short description of the purpose for which the property is required and the address at which documents setting out that purpose may be inspected and particulars of that purpose may be obtained during business hours; 40
- (d) the reason for the expropriation of that particular property;
- (e) the date of expropriation or, where the expropriation is for the temporary use of the property as contemplated in section 20, the intended period of such temporary use;
- (f) the future date on which the right to possession of the property will pass to the expropriating authority after expropriation; 45
- (g) subject to section 20, the amount of compensation agreed upon or approved or decided by a court under section 19; and
- (h) the details of the empowering law authorising the expropriation.

(4) The notice of expropriation served in terms of subsection (1) must be accompanied by documents detailing the following: 50

- (a) The date or dates on which the expropriating authority proposes to pay the compensation and any interest payable in respect thereof in terms of section 13;

- (ii) se tšee thoto, bo swanetše go tsebiša mongthoto, motho yo a rekilego ntlo ka sekoloto goba yo a nago tokelo ya thoto ka go ngwala mo nakong yeo e kwagalago ebile bo swanetše go gatiša tsebišo ka go Kuranta ya Mmušo ka ga sephetho sa bjona sa go se tšwele pele go ya ka karolo ya 22(2).

Tsebišo ya go tšewa ga thoto

5

8. (1) Ge bolaodi bja go tšea dithoto bo tšea sephetho sa go tšea thoto, bolaodi bja go tšea dithoto bo swanetše go dira gore tsebišo ya go tšea thoto e fiwe mongthoto, motho yo a rekilego ntlo ka sekoloto le motho yo a tšeešwego tokelo ya thoto ka leleme la gagwe la kgetho.

(2) bolaodi bja go tšea dithoto bo swanetše go dira gore khopi ya tsebišo ya go tšea thoto e— 10

- (a) gatišwe go ya ka karolo ya 22(1)(c) goba (2);
- (b) išwe go motho yo a nago tokelo ya thoto yo a tsebegago ebile yo ditokelo tša gagwe di sego tša tšewa; le
- (c) ge thoto e le naga, e swanetše go išwa go— 15
- (i) molaodi wa masepala wo thoto e lego go wona, ntle le ge bolaodi bja go tšea dithoto e le khansele ya masepala;
- (ii) Molaodipharephare yo a nago le maikarabelo a tlhabollo ya dinagamagae le mpshafstšo ya naga, ya merero ya tikologo, ya methopo ya diminerale, le meetse le tlhwekišo, gammogo le bolaodi bja diakhaonto tša lekala lefe goba lefe la mmušo leo mešomo le maikarabelo a lona a tla amago kudu ke maikemišetšo a go tšea thoto; 20
- (iii) ge e le gore bolaodi bja go tšea dithoto ke khuduthamaga ya ye nngwe ya dikgoro goba makala a mmušo ao a ngwadilwego ka go temafasana ya (ii), go išwa ga tsebitšo go Molaodipharephare wa kgoro goba bolaodi bja diakhaonto bja lekala leo la mmušo ga go hlokege; 25
- (iv) motho yo a rekilego ntlo ka sekoloto ebile a imelwa ke tefelo yeo e ngwadišitšwego ya sekoloto sa ntlo;
- (v) moreki, ge thoto e le ka fase ga konteraka yeo e hlalošitšwego ka go karolo ya 7(4)(b)(ii); le 30
- (vi) moagi, ge moago wo o lego mo lefelong leo o le ka fase ga tšhireletšo yeo e hlalošitšwego ka go karolo ya 7(4)(b)(iii).

(3) Tsebišo ya go tšea thoto e swanetše go ba le—

- (a) pego ya mabapi le go tšewa ga thoto;
- (b) tlhalošo ye e feletšego ya thoto, go akaretšwa— 35
- (i) go maemo ao go tšewa ga thoto go šupago karolo ya seripa sa naga, tlhalošo ya bogolo bjo bo akantšwego bja seripa seo ge bo bapetšwa le ge naga e feletše; goba
- (ii) moo go tšewa ga thoto go šupago go ba le tokelo go naga, tlhalošo ya bogolo bjo bo akantšwego le lefelo leo naga e lego go lona go ya ka tokelo; 40
- (c) tlhalošo ye kopana ya morero wo thoto e nyakelwago wona le aterese yeo go yona dingwalwa tšeo di hlalošago morero woo di ka hlahlobjago le dintlha tša morero woo di ka hwetšwago ka dinako tša mošomo;
- (d) lebaka la go tšewa ga thoto yeo e itšego; 45
- (e) letšatšikgwedi leo thoto e tlo tšewago goba, moo thoto e tlo tšewago ka lebaka la tšhomišo ya nakwana bjalo kage go hlalošitšwe ka go karolo ya 20, mmogo le nako yeo e akantšwego ya tšhomišo yeo ya nakwana;
- (f) letšatšikgwedi le le tlogo leo ka lona tokelo ya go swara thoto e tlogo fetišetšwa go bolaodi bja go tšea dithoto morago ga gore thoto e tšewe; 50
- (g) go ya ka karolo ya 20, boleng bja tšhelete ya tefo bjo go dumelelanwego ka bjona goba bjoo bo dumeletšwego goba bjoo go tšerwego sephetho ka bjona ke kgorotsheko ka fase ga karolo ya 19; le
- (h) dintlha tša molao wo o fanago ka maatla ao a dumelelago go tšewa ga dithoto.

(4) Tsebišo ya go tšea thoto yeo e filwego go ya ka karolwana ya (1) e swanetše go akaretšwa le dingwalwa tšeo di hlalošago tše di latelago: 55

- (a) Letšatšikgwedi goba matšatšikgwedi ao bolaodi bja go tšea dithoto bo s' išinnyago go lefa tefo le tswala efe goba efe yeo e lefelwego mabapi le yona go ya ka karolo ya 13;

- (b) where the expropriation applies to a portion of a land parcel, a survey diagram or sketch plan showing the approximate position of such portion in relation to the whole;
 - (c) where the expropriation applies to a right in land, a survey diagram or sketch plan on which the approximate position of the right in land on such land is indicated, unless the right in land is accurately described without such survey diagram or sketch plan; 5
 - (d) an explanation of how the amount of compensation was arrived at, together with supporting documents;
 - (e) a statement that the expropriating authority may adjust the amount of compensation, if a holder of a right, of whom the expropriating authority had no prior knowledge before the compensation was agreed on or approved or decided by a court, later claims compensation; and 10
 - (f) a statement drawing the attention of the expropriated owner, expropriated holder of a right or any other affected person to the provisions of section 25. 15
- (5) If the property expropriated is land—
- (a) the expropriated owner must deliver or cause to be delivered to the expropriating authority, subject to section 23, within 30 days of the expropriating authority requesting the title deed to such land or, if it is not in his or her possession or under his or her control, written particulars of the name and address of the person in whose possession or under whose control the title deed is; and 20
 - (b) the person referred to in paragraph (a) in whose possession the title deed may be, must deliver or cause to be delivered the title deed in question to the expropriating authority within 20 days of the expropriating authority requesting it, subject to section 23. 25

Vesting and possession of expropriated property

9. (1) The effect of an expropriation of property is that—
- (a) subject to paragraphs (c) and (d), the ownership of the property described in the notice of expropriation vests in the expropriating authority or in the person on whose behalf the property was expropriated, as the case may be, on the date of expropriation; 30
 - (b) all unregistered rights in such property are simultaneously expropriated on the date of expropriation unless—
 - (i) the expropriation of those unregistered rights is expressly excluded in the notice of expropriation; or 35
 - (ii) those rights, including permits or permissions, were granted or exist in terms of the provisions of the Mineral and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);
 - (c) in the case of a right to use property temporarily, the expropriating authority or the person on whose behalf the property was expropriated may as from the date of expropriation exercise that right for its duration; 40
 - (d) with the exception of a mortgage, the property remains subject to all registered rights in favour of third parties, with which the property was burdened prior to expropriation, unless or until such registered rights are expropriated from the holder of a right; and 45
 - (e) the date of expropriation may not be before the date of service of the notice of expropriation.
- (2)(a) The expropriating authority, or the person on whose behalf the property was expropriated, must take possession of the expropriated property on the date stated in terms of section 8(3)(f) or such other date as may be agreed upon with the expropriated owner or expropriated holder of a right. 50
- (b) The right to possession passes on the relevant date contemplated in paragraph (a) to the person referred to therein.

- (b) moo go tšewa ga naga go šupago seripa sa naga, sethalotshwantšho sa tlhahlobo goba sethalwa sa leano sa lefelo seo se bontšhago bogolo bja naga le mo e felelago ge e bapetšwa le naga ka moka ge e feletše;
- (c) moo go tšewa ga naga go šupago tokelo go naga, sethalotshwantšho sa tlhahlobo goba sethalwa sa leano sa lefelo seo se bontšhago bogolo bja naga le mo e felelago gona, ntle le ge tokelo yeo e hlalošitšwe gabotse ntle le tšhomišo ya sethalwatshwantšho sa tlhahlobo goba sethalwa sa leano; 5
- (d) tlhalošo ya ka fao boleng bja tšhelete ya tefo bo fihleletšwego ka gona, go akaretšwa dingwalwa tša thekgo;
- (e) pego ya gore bolaodi bja go tšea dithoto bo ka lokiša tšhelete ya tefo, ge e le gore motho yo a nago tokelo ya thoto, yoo bolaodi bja go tšea dithoto bo bego bo sena tsebo ka yena peleng, pele ga ge tumelelano ya tefo e fihlelelwa goba go tšerwe sephetho ka yona ke kgorotsheko, ka morago a dire dikleime tša ho hwetša tefo; le 10
- (f) pego ye e gogago šedi ya mongthoto yo a tšeešwego thoto, motho yo a tšeešwego tokelo ya thoto goba motho ofe goba ofe yo mongwe yo a amegilego go dipeelano tša karolo ya 25. 15
- (5) Ge thoto yeo e tšerwego e le naga—
- (a) mongthoto yo a tšeešwego thoto o swanetše go tliša goba a dira gore go išwe go bolaodi bja go tšea dithoto, go ya ka karolo ya 23, mo matšatšing a 30 morago ga gore bolaodi bja go tšea dithoto bo nyake lengwalo la bongthoto la thoto ye bjalo, ge e ba ga se a e swara goba e se ka fase ga taolo ya gagwe, dintlha tše di ngwadilwego tša leina le aterese tša motho yo lengwalo la bongthoto le lego go yena goba le lego ka fase ga taolo ya gagwe; le 20
- (b) motho yo go bolelwego ka yena go temana ya (a) yoo lengwalo la bongthoto le swerego ke yena, o swanetše go le tliša goba a dire gore le išwe go bolaodi bja go tšea dithoto mo matšatšing a 20 ka morago ga ge bolaodi bja go tšea dithoto bo le kgopetše, go ya ka karolo ya 23. 25

Phetišetšo ya bongthoto le go swara thoto ye e tšerwego

9. (1) Ditlamorago tša go tšea thoto ke gore— 30
- (a) go ya ka ditemana tša (c) le (d), bongthoto bjo bo hlalošitšwego ka go tsebišo ya go tšea thoto bo wela ka go bolaodi bja go tšea dithoto goba go motho yo thoto e tšerwego legatong la gagwe, ka mokgwa wo go tla bago go le ka gona, ka letšatšikgwedi la go tšea thoto;
- (b) ditokelo ka moka tše di sa ngwadišwago tša thoto ye bjalo di tšewa ka nako e tee ka letšatšikgwedi la go tšewa ga thoto ntle le ge— 35
- (i) go tšewa ga ditokelo tše di sa ngwadišwago go le molaleng gore ga se gwa akaretšwa ka go tsebišo ya go tšea thoto; goba
- (ii) ditokelo tše, go akaretšwa le diphemiti le ditumelelo, di filwe goba di le gona go ya ka dipeelano tša Molao wa Tlhabollo ya Methopo ya Diminerale le Petroleamo, wa 2002 (Molao wa No. ya 28 wa 2002); 40
- (c) mabapi le tokelo ya go šomiša thoto nakwana, bolaodi bja go tšea dithoto goba motho yo thoto e tšerwego legatong la gagwe a ka thoma go šomiša tokelo yeo nako yeo e beilwego go tloga ka letšatšikgwedi la go tšewa ga thoto; 45
- (d) ntle le motho yo a rekilego ntlo ka sekoloto, thoto e dula e le ka fase ga ditokelo ka moka tše di ngwadišitšwego go hola batšekarolo ba boraro, bao thoto e bego e le go bona pele ga ge e tšewa, ntle le goba go fihlela ditokelo tše bjalo tše di ngwadišitšwego di tšeelwa mong wa tšona yo di filwego yena; le 50
- (e) letšatšikgwedi la go tšewa ga thoto ga se la swanela go ba pele ga letšatšikgwedi la go tlišwa ga tsebišo ya go tšewa ga thoto.
- (2)(a) Bolaodi bja go tšea dithoto, goba motho yo thoto e tšerwego legatong la gagwe, o swanetše go tšea thoto ye e tšerwego ka letšatšikgwedi leo le ngwadilwego go ya ka karolo ya 8(3)(f) goba letšatšikgwedi leo go ka dumelelanwago ka lona le mongthoto yo a tšeešwego thoto goba motho yo a tšeešwego tokelo ya thoto. 55
- (b) Tokelo ya go swara thoto e fetišwa ka letšatšikgwedi leo le amegago leo le hlalošitšwego ka go temana ya (a) go motho yo a ngwadilwego ka gare go sengwalwa.

(3)(a) The expropriated owner or expropriated holder of a right who is in possession of the property concerned must take all reasonable steps to maintain the property from the date of expropriation to the date referred to in subsection (2) or (4).

(b) The expropriating authority may recover the amount for the loss of value caused by the willful or negligent failure of an expropriated owner or the expropriated holder of a right to maintain the property. 5

(c) The expropriating authority must compensate the expropriated owner or expropriated holder of a right for costs necessarily incurred after the date of expropriation in respect of such maintenance.

(4) If the expropriated owner or expropriated holder of a right wishes to transfer the right to possession of the property before the date contemplated in section 8(3)(f) but the expropriating authority does not agree, the expropriated owner or expropriated holder of a right may pass the right to possession to the expropriating authority by giving the expropriating authority prior written notice of at least 20 days. 10

(5) The expropriated owner or expropriated holder of a right who is in possession of the property from the date of expropriation to the date referred to in subsection (2)(b), remains— 15

(a) entitled to the use of and the income from the expropriated property; and

(b) responsible for the municipal property rates, taxes, levies and other charges, and normal operating costs in respect of the expropriated property. 20

Verification of unregistered rights in expropriated property

10. (1) If, after the date of expropriation, a person claims to have held an unregistered right in the expropriated property, for which that person has not been compensated, and was not served with a notice of expropriation, the expropriating authority must request that person to deliver to the expropriating authority, in the manner prescribed in the notice within 30 days of receipt and subject to section 23— 25

(a) evidence of that person's unregistered right in the expropriated property; or

(b) a copy of any written instrument evidencing or giving effect to that person's unregistered right, if such instrument is in the person's possession or under the person's control, or any other evidence to substantiate the person's claim. 30

(2) If the unregistered right, claimed as contemplated in subsection (1), pertains to the use of improvements on expropriated land, the evidence required in terms of subsection (1) must include—

(a) a full description of those improvements;

(b) an affidavit or affirmation by the person concerned stating whether those improvements were erected by that person and if so, whether the materials used for erecting those improvements were owned by that person; and 35

(c) the amount claimed as compensation for such unregistered right, together with details or a report, if any, on how the amount is computed.

(3) After receipt of the evidence requested in terms of subsection (1) and if the unregistered right claimed pertains to land, the expropriating authority may forward that evidence to the Directors-General responsible for rural development and land reform, for environmental affairs, for mineral resources and for water and sanitation, and to the accounting authority of any other organ of state, as the case may be, for assistance in the verification of such claim. 40 45

(4) A Director-General or accounting authority referred to in subsection (3) must submit comments within 30 days of receipt of the request for assistance in the verification of the claim as contemplated therein.

(3)(a) Mongthoto goba motho yo a tšeešwego tokelo ya thoto yo a swerego thoto yeo e amegago o swanetše go tšea magato ka moka ao a kwagalago go hlokomela thoto go tloga ka letšatšikgwedi la go tšewa ga thoto yeo go fihla letšatšikgwedi leo go bolelwago ka lona ka go karolwana ya (2) goba ya (4).

(b) Bolaodi bja go tšea dithoto bo ka bušetša morago tekano ya tšhelete efe goba efe yeo e lobilwego ka lebaka la go palelwa ka boomo goba go se šetše ga mongthoto goba motho yo a š tšeešwego tokelo ya thoto go hlokomela thoto yeo. 5

(c) Bolaodi bja go tšea dithoto bo swanetše go lefela mongthoto goba motho yo a tšeešwego tokelo ya thoto ditshenyagalelo tšeo di dirilwego ka morago ga letšatšikgwedi la go tšewa ga thoto malebana le tlhokomelo yeo. 10

(4) Ge mongthoto goba motho yo a tšeešwego tokelo ya thoto a rata go fetišetša tokelo ya go swara thoto pele ga letšatšikgwedi leo le hlalošitšwego ka karolo ya 8(3)(f) fela bolaodi bja go tšea dithoto bo sa dumelelane le seo, mongthoto goba motho yo a tšeešwego tokelo ya thoto a ka fetišetša tokelo ya go swara thoto go bolaodi bja go tšea dithoto ka go fa bolaodi bja go tšea dithoto tsebišo pele ka lengwalo ka bonnyane bja matšatšikgwedi a 20. 15

(5) Mongthoto goba motho yo a tšeešwego tokelo ya thoto yo ebile a sa swerego thoto go tloga ka letšatšikgwedi la go tšewa ga thoto go fihla ka letšatšikgwedi leo go bolelwago ka lona ka go karolwana ya (2)(b), o sa—

(a) na le tokelo ya go šomiša le go hwetša letseno gotšwa go thoto ye e tšerwego; 20
le

(b) na le maikarabelo a ditekanyo tša thoto ya masepala, metšhelo le ditefišo tše dingwe, le ditshenyagalelo tša tshepedišo tše di tlwaelegilego mabapi le thoto yeo e tšerwego.

Netefatšo ya ditokelo tše di sa ngwadišwago go thoto ye e tšerwego

25

10. (1) Ge, ka morago ga letšatšikgwedi la go tšewa ga thoto, motho a dira kleime ya gore o be a swere tokelo yeo e sa ngwadišwago ya thoto ye e tšerwego, moo e lego gore motho wa gona ga se a lefelwa malebana le yona, ebile ga se a fiwa tsebišo ya go tšewa ga thoto, bolaodi bja go tšea dithoto bo swanetše go kgopela motho yoo go tliša mo matšatšing a 30 morago ga go dira kleime, ebile ka go šomiša mokgwa wo o laetšwego ka gare ga tsebišo le go ya ka karolo ya 23— 30

(a) bohlatse bja tokelo yeo e sa ngwadišwago ya motho yoo malebana le thoto ye e tšerwego; goba

(b) khopi ya sengwalwa seo se hlatselago goba se fago maatla tokelo yeo e sa ngwadišwago ya motho yoo, ge e ba sengwalwa se bjalo se swere goba se ka fase ga taolo ya motho yoo, goba bohlatse bofe goba bofe bjo bongwe bjo bo hlatselago kleime ya motho yoo. 35

(2) Ge tokelo ya thoto ye e sa ngwadišwago, ye go tlišwago kleime ka yona go ya ka karolwana ya (1), e amana le tšhomišo ya dikaonafatšo tše di dirilwego go naga ye e tšerwego, bohlatse bjo bo nyakegago go ya karolwana ya (1) bo swanetše go akaretša— 40

(a) tlhalošo ye e feletšego ya dikaonafatšo;

(b) Afitafti goba netefatšo gotšwa go motho yo a amegago, yeo e bolelago ge e ba dikaonafatšo tšeo di hlomilwe ke yena le gona ge e ba go bjalo, e ka ba didirišwa tše di šomišitšwego go dira dikaonafatšo tšeo ke tša motho yoo; le

(c) boleng bja tšhelete yeo e kleimelwago bjalo ka tefo ya tokelo ya thoto yeo e sa ngwadišwago, go akaretšwa le dintlha le pego, ge e le gona, ya ka fao tšhelete e balwago ka gona. 45

(3) Ka morago ga go amogela bohlatse bjo bo kgopetšwego go ya ka karolwana ya (1) le gona ge e ba kleime ya tokelo ye e sa ngwadišwago e amana le naga, bolaodi bja go tšea dithoto bo ka fetišetša bohlatse bjo go Molaodipharephare yo a nago le maikarabelo a tlhabollo ya dinagamagae le mpshafatšo ya naga, ya merero ya tikologo, ya methopo ya diminera le meetse le tlhwekišo, gammogo le go bolaodi bja diakhaonto bja lekala lefe goba lefe la mmušo, ka mokgwa wo go ka bago go le ka gona, go thuša ka netefatšo ya kleime ye bjalo. 50

(4) Molaodipharephare goba bolaodi bja diakhaonto bjo go bolelwago ka bjona ka go karolwana ya (3) bo swanetše go romela ditshwayotshwayo mo matšatšing a 30 ka morago ga go amogela kgopelo ya thušo ya go netefatša kleime yeo e hlalošitšwego ka gare go sengwalwa. 55

(5)(a) The expropriating authority must decide on the claim contemplated in subsection (1) within 20 days of expiry of the period referred to in subsection (4) and notify the claimant in writing of the decision.

(b) If the expropriating authority accepts the claim contemplated in subsection (1), the expropriating authority must serve the notice contemplated in section 11(2) on such claimant. 5

(c) If the expropriating authority does not accept the claim contemplated in subsection (1), the expropriating authority must inform the claimant accordingly in writing and must provide reasons for the rejection.

(6) The expropriating authority may require the expropriated owner to compensate a person who held an unregistered right, if that person was not given notice of the expropriation as provided in this Act, and if the owner ought reasonably to have identified that person in terms of section 7(2)(j) but did not do so. 10

(7) The expropriating authority may exercise the power in terms of subsection (6) only after giving the expropriated owner a reasonable opportunity to make representations in that regard. 15

Consequences of expropriation of unregistered rights and duties of expropriating authority

11. (1) A person who becomes an expropriated holder of a right by the operation of section 9(1)(b), subject to section 10 and this section, is entitled to compensation. 20

(2) If the expropriating authority becomes aware that an unregistered right in the expropriated property has been expropriated by the operation of section 9(1)(b) and becomes aware of the identity of the expropriated holder of a right thereof, the expropriating authority must serve on that expropriated holder of a right a notice that the unregistered right has been expropriated, together with a copy of the notice of expropriation served on the expropriated owner in terms of section 8(1). 25

(3) The notice contemplated in subsection (2) must—

(a) inform the expropriated holder of a right of the date on which the right to possession of the expropriated property passed to the expropriating authority in terms of section 9(2) or (4); 30

(b) contain a statement contemplated in section 8(3)(f), if applicable; and

(c) except if this information was furnished in terms of section 10(1), request the expropriated holder of a right to deliver to the expropriating authority, within 20 days of receipt of the notice, subject to section 23, a copy of any written instrument in their possession or under their control which evidences the unregistered right. 35

(4) When a notice in terms of subsection (2) has been served on the expropriated holder of a right concerned, this Act applies with the changes required by the context as if such notice were a notice of expropriation in terms of section 8(1) in respect of such unregistered right, but if that expropriated holder of a right is a lessee, he or she remains liable to pay rental to the expropriated owner until the right to possession passes in terms of section 9(2) or (4) and, if applicable, thereafter to the expropriating authority. 40

(5) If the expropriated owner or expropriated holder of a right knew of the existence of an unregistered right contemplated in subsection (2) and failed to inform the expropriating authority of the existence thereof, the expropriated owner or expropriated holder of a right, as the case may be, is liable to the expropriating authority for any loss incurred in the event of the expropriating authority having to pay compensation for the expropriation of the unregistered right after the date of payment of compensation to the expropriated owner or expropriated holder of a right, as the case may be. 45

(5)(a) Bolaodi bja go tšea dithoto bo swanetše go tšea sephetho ka ga kleime ye e hlalošitšwego ka go karolwana ya (1) mo matšatšing a 20 ka morago ga go fela ga nako yeo go bolelwago ka yona ka go karolwana ya (4) gomme bo tsebiše motho yo a dirilego kleime ka ga sephetho sa bjona ka ka lengwalo.

(b) Ge bolaodi bja go tšea dithoto bo amogela kleime yeo e hlalošitšwego ka go karolwana ya (1), bolaodi bja go tšea dithoto bo swanetše go fana ka tsebišo yeo e hlalošitšwego ka go karolo ya 11(2) go motho yo a tlišago kleime. 5

(c) Ge bolaodi bja go tšea dithoto bo sa amogele kleime yeo e hlalošitšwego ka go karolwana ya (1), bolaodi bja go tšea dithoto bo swanetše go tsebiša motho yo a dirago kleime ka mokgwa wa maleba ka lengwalo ebile bo swanetše go fana ka mabaka a go gana. 10

(6) Bolaodi bja go tšea dithoto bo ka nyaka gore mongthoto yo a tšeešwego thoto a lefele motho yo a nago le tokelo ya thoto yeo e sa ngwadišwago, ge e le gore motho yoo ga se a fiwa tsebišo ya go tšewa ga thoto bjalo ka ge go laeditšwe ka go Molao wo, le ge mongthoto a be a swanetše a tsebišitše motho yoo go ya ka karolo ya 7(2)(j) fela a se dire bjalo. 15

(7) Bolaodi bja go tšea dithoto bo ka šomiša maatla go ya ka karolwana ya (6) fela ka morago ga go fa mongthoto yo a tšeešwego thoto sebaka se se kwagalago sa go dira ditlhagišo mabapi le taba yeo.

Ditlamorago tša go tšewa ga ditokelo tše di sa ngwadišwago le maikarabelo a bolaodi bja go tšea dithoto 20

11. (1) Motho yo a fetogago go ba motho yo a tšeešwego tokelo ya thoto go ya ka tšhepedišo ya karolo ya 9(1)(b), go ya ka karolo ya 10 le karolo ye, o na le maswanedi a go fiwa tefo.

(2) Ge bolaodi bja go tšea dithoto bo ka lemoga gore go na le tokelo ye e sa ngwadišwago ya thoto ebile e tšerwe go ya ka tšhepedišo ya karolo ya 9(1)(b) gomme ya lemoga gape boitsebišo bja motho yo a tšeešwego tokelo ya thoto yeo e sa ngwadišwago ka morago ga moo, bolaodi bja go tšea dithoto bo swanetše go fa motho yo a tšeešwego tokelo ya thoto yeo e tšerwego tsebišo ya gore tokelo yeo e tšerwe, go akaretšwa le khopi ya tsebišo ya go tšewa ga thoto yeo e filwego mongthoto yo a tšeešwego thoto go ya ka karolo ya 8(1). 30

(3) Tsebišo yeo e hlalošitšwego ka go karolwana ya (2) e swanetše—

(a) go tsebiša motho yo a tšeešwego tokelo ya thoto ka ga letšatšikgwedi leo tokelo ya go swara thoto yeo e tšerwego e fetišeditšwego go bolaodi bja go tšea dithoto go ya ka karolo ya 9(2) goba (4); 35

(b) go akaretša pego yeo e hlalošitšwego ka go karolo ya 8(3)(f), ge e ba go hlokega; le

(c) ntle le ge tshedimošo e filwe go ya ka karolo ya 10(1), e kgopele motho yo a tšeešwego tokelo ya thoto go iša go bolaodi bja go tšea dithoto, mo matšatšing a 20 ka morago ga go amogela tsebišo, le go ya ka karolo ya 23, khopi ya sedirišwa sefe goba sefe seo se ngwadilwego seo a nago sona goba se lego ka fase go taolo ya gagwe seo se hlatselago tokelo ya thoto ye e sa ngwadišwago. 40

(4) Ge tsebišo go ya ka karolwana ya (2) e filwe motho yo a tšeešwego tokelo ya thoto yo a amegago, Molao wo o šoma ka diphetogo tše di nyakegago go ya ka diteng tša wona tšeo di latelwago e ka tsebišo yeo e be e le tsebišo ya go tšewa ga thoto go ya ka karolo ya 8(1) malebana le tokelo ya thoto yeo e sa ngwadišwago, fela ge e le gore motho yo a nago tokelo ya thoto yeo e tšerwego ke mohiriši, o sa dula a na le maikarabelo a go lefa khiri go mongthoto yo a tšeešwego thoto go fihlela tokelo ya go swara thoto e fetišetšwa go ya ka karolo ya 9(2) goba (4) le, ge e ba go a hlokega, ka morago ga moo go bolaodi bja go tšea dithoto. 50

(5) Ge e le gore mongthoto goba motho yo a tšeešwego tokelo ya thoto o be a tseba ka go ba gona ga motho yo a nago tokelo ya thoto ye e sa ngwadišwago yeo e hlalošitšwego ka go karolwana ya (2) gomme a palelwa ke go tsebiša bolaodi bja go tšea dithoto ka ga go ba gona ga yona, mongthoto goba motho yo a tšeešwego tokelo ya thoto, ge go ka ba go le bjalo, o na le maikarabelo go bolaodi bja go tšea dithoto mabapi le ditahlegelo tšefe goba tšefe tšeo di dirilwego ge go ka direga gore bolaodi bja go tšea dithoto bo swanele ke go lefa tefo ya go tšewa ga tokelo yeo e sa ngwadišwago ka morago ga letšatšikgwedi la tefelo ya tefo go mongthoto goba motho yo a tšeešwego tokelo ya thoto, ge go ka ba go le bjalo. 60

CHAPTER 5

COMPENSATION FOR EXPROPRIATION

Determination of compensation

12. (1) The amount of compensation must be just and equitable reflecting an equitable balance between the public interest, the interests of those affected, including an owner, holder of a right a mortgagee, having regard to all relevant circumstances, including— 5
- (a) the current use of the property;
 - (b) the history of the acquisition and use of the property;
 - (c) the market value of the property;
 - (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and 10
 - (e) the purpose of the expropriation.
- (2) In determining the amount of compensation to be paid in terms of this Act, the expropriating authority must not, unless there are special circumstances in which it would be just and equitable to do so, take account of— 15
- (a) the fact that the property has been taken without the consent of the owner or holder of a right;
 - (b) the special suitability or usefulness of the property for the purpose for which it is required by the expropriating authority, if it is unlikely that the property would have been purchased for that purpose in the open market; 20
 - (c) any enhancement in the value of the property, if such enhancement is a consequence of the use of the property in a manner which is unlawful;
 - (d) improvements made to the property in question after the date on which the notice of expropriation was served upon the expropriated owner or expropriated holder, as the case may be, except where the improvements were agreed to in advance by the expropriating authority or where they were undertaken in pursuance of obligations entered into before the date of expropriation; 25
 - (e) anything done with the object of obtaining compensation therefor; and
 - (f) any enhancement or depreciation, before or after the date of service of the notice of expropriation, in the value of the property in question, which can be directly attributed to the purpose in connection with which the property was expropriated. 30
- (3) It may be just and equitable for nil compensation to be paid where land is expropriated in the public interest, having regard to all relevant circumstances, including but not limited to— 35
- (a) where the land is not being used and the owner's main purpose is not to develop the land or use it to generate income, but to benefit from appreciation of its market value;
 - (b) where an organ of state holds land that it is not using for its core functions and is not reasonably likely to require the land for its future activities in that regard, and the organ of state acquired the land for no consideration; 40
 - (c) notwithstanding registration of ownership in terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), where an owner has abandoned the land by failing to exercise control over it despite being reasonably capable of doing so; 45
 - (d) where the market value of the land is equivalent to, or less than, the present value of direct state investment or subsidy in the acquisition and beneficial capital improvement of the land.
- (4) When a court or arbitrator determines the amount of compensation in terms of section 23 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), it may be just and equitable for nil compensation to be paid, having regard to all relevant circumstances. 50
- (5) If the property is land, the expropriating authority must consider the amount of outstanding municipal property rates, taxes, levies and charges relating to the property when making an offer of just and equitable compensation. 55

KGAOLO YA 5
TEFO YA GO TŠEWA GA DITHOTO

Tekanyo ya boleng bja tefo

12. (1) Boleng bja tšhelete ya tefo bo swanetše go ba bja toka le tekatekano bjo bo laetšago tekatekano magareng ga kgahlego ya setšhaba dikgahlego tša bao ba amegilego, go akaretšwa mongthoto motho yo aswereco tokelo ya thoto le motho yo a lepelago sekoloto sa ntlo le dikgahlego tša mongthoto goba motho yo a nago tokelo ya thoto ye e tšerwego, gape go elwa hloko maemo ka moka ao amegago, go akaretšwa—
- (a) tšhomišo ya gabjale ya thoto;
- (b) histori ya go hwetša le tšhomišo thoto;
- (c) boleng bja thekišo ya thoto go mebaraka;
- (d) bogolo bja peeletšo ya mmušo ya thwii le thušo ya ditšhelete le go hwetša kaonafatšo ya khepetlele ye e holago ya thoto; le
- (e) morero wa go tšewa ga dithoto.
- (2) Ge go dirwa ditekanyetšo tša tšhelete ya tefo yeo e swanetšego go lefelwa go ya ka Molao wo, bolaodi bja go tšea dithoto ga se bja swanelwa go, ntle le ge go na le maemo ao a kgethegilego ao go wona e tla bago e le toka le tekatekano go dira bjalo, go ela hloko gore—
- (a) taba ya gore thoto e tšerwe ntle le tumelelo ya mongthoto le motho yo a swerego tokelo ya thoto yeo;
- (b) go swanelega le tšhomišo ya go ikgetha ya thoto go morero wo e nyakelwago wona ke bolaodi bja go tšea dithoto, ge go be go ka se kgonege gore thoto ye bjalo e rekwe ka morero woo go mmaraka wo o bulegilego;
- (c) kaonafatšo efe goba efe ya boleng bja thoto, ge e le gore kaonafatšo ye bjalo ke ka lebaka la tšhomišo ya thoto ka tsela yeo e sego molaong;
- (d) dikaonafatšo tše di dirilwego go thoto ye go bolelwago ka yona ka morago ga letšatšikgwedi leo tsebišo ya go tšea thoto e filwego mongthoto le motho yo a swerego tokelo ya thoto yeo, go ya ka moo go ka bago go le gona, ntle le moo dikaonafatšo tše bjalo go dumelelwanwe ka tšona pele le bolaodi bja go tšea dithoto goba moo di dirilwego go obamela ditlamo tšeo di tsenetšwego pele ga letšatšikgwedi la go tšewa ga thoto;
- (e) selo se sengwe le se sengwe seo se dirilwego ka maikemišetšo a go hwetša tefo ka morago ga moo; le
- (f) kaonafatšo efe goba efe goba phokotšo, pele goba ka morago ga letšatšikgwedi la go fana ka tsebišo ya go tšewa ga thoto, ya boleng bja theko ya thoto yeo go bolelwago ka yona, ye e ka amantšhwago thwii le morero wo o amanago le wa lebaka la go tšewa ga thoto.
- (3) Go ka ba toka le tekatekano gore go be le tefo ya lefela moo naga e tšewago ka lebaka la kgahlego ya setšhaba, go elwa hloko le maemo ka moka ao a amegago, go akaretšwa eupša e sego fela—
- (a) moo naga e sa šomišwego ebile morero wo mogolo wa mongthoto e se go hlabolla naga goba go e šomiša go tšweletša letseno, eupša a nyaka go holega go kgolo ya boleng bja theko ya yona mmarakeng;
- (b) moo lekala la mmušo le swerego naga yeo le sa e šomišwego mešomong ya lona ye bohlokwa ebile go se na kgonagalo ye e kwagalago ya go nyaka naga yeo mabapi le mešomo ya lona ya ka moso, ebile moo lekala la mmušo le hweditšego naga le sa e gopolela;
- (c) go sa šetšwe ngwadišo ya bongthoto go ya ka Molao wa Direjisetara tša Mangwalo a Bongthoto (Molao wa No. ya 47 wa 1937), moo mongthoto a tlogetšego naga ka go palelwa ke go šomiša taolo godimo ga yona le ge a be a na le bokgoni bja go dira seo;
- (d) moo boleng bja thekišo ya naga mmarakeng bo lekanago le, goba bo lego ka fase ga, boleng bja gabjale bja peeletšo ya mmušo goba thušo ya ditšhelete go hwetša kaonafatšo ya khepetlele ye e holago naga.
- (4) Ge kgorotshoko goba moahlodi a lekanya boleng bja tefo go ya ka karolo ya 23 ya Molao wa Mphafatšo ya Naga (Bahiri ba Bašomi), wa 1996 (Molao wa No. ya 3 wa 1996), go ka ba toka le tekatekano gore go be le tefo ya lefela, go elwa hloko maemo ka moka ao a amegago.
- (5) Ge thoto e le naga, bolaodi bja go tšea dithoto bo swanetše go ela hloko boleng bja tšhelete ya ditekanyo tša thoto ya masepala, metšhelo, le ditefišo tšeo di amanago le thoto ge bo dira tekanyo ya boleng bja tefo ya toka le tekatekano.

Interest on compensation

13. Interest, at the rate determined from time to time in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999), from the date the expropriating authority, or the person on whose behalf the property was expropriated, takes possession of the expropriated property, accrues on any outstanding portion of the amount of compensation payable in accordance with section 12 and becomes payable in the manner contemplated in section 15: Provided that— 5

- (a) until the claimant complies with the requirement of section 15(5), the amount so payable during the period of such failure and for the purposes of the payment of interest, is not regarded as an outstanding amount, provided that if the expropriated owner or expropriated holder of a right disputes the amount of compensation, it may issue a provisional tax invoice for the amount of compensation offered without prejudice to its right to dispute the amount of compensation offered by the expropriating authority; 10
- (b) interest due in terms of this subsection must be regarded as having been paid on the date on which the amount has been made available or has been electronically transferred to the bank account of the expropriated owner or of the expropriated holder of a right, or in a manner as agreed to by the parties or as decided or approved by a court in terms of section 19, as the case may be; and 15
- (c) a payment, utilisation or deposit of an amount in terms of section 15(1), 17(2) or 18(1) or (2) must be regarded as being a payment to the expropriated owner or an expropriated holder of a right and no interest accrues on any such amount as from the date on which it has been so paid, utilised or deposited. 20

Requests for particulars

14. (1) The owner, mortgagee and holder of a right may request the expropriating authority, in writing, to provide reasonable particulars about the offer of compensation and particulars so requested must be furnished within 20 days of such request.

(2) If the expropriating authority fails to provide the requested particulars, the person making such a request in terms of subsection (1) may, on notice, apply to a court for an order directing the expropriating authority to comply with subsection (1) and the court may make such an order. 30

(3) An offer of just and equitable compensation remains in force until—

- (a) revised by the expropriating authority;
- (b) the amount of compensation has been agreed upon; or 35
- (c) the compensation has been decided or approved by a court.

Payment of compensation

15. (1) Subject to sections 16, 17 and 18, an expropriated owner or expropriated holder of a right is entitled to payment of compensation on the date and in the manner as agreed to by the parties or as decided or approved by a court in terms of section 19. 40

(2) The payment, utilisation or deposit of any amount contemplated in sections 16, 17 and 18 does not preclude the determination of an amount by agreement or by a court: Provided that where the amount so determined is less than the amount paid, the difference must be refunded to the expropriating authority together with interest at the rate contemplated in section 13 from the date on which the amount was so paid, utilised or deposited. 45

Tswala ya tefo

13. Tswala, go ya ya tekanyo ye e bewago nako le nako go ya ka karolo ya 80(1)(b) ya Molao wa Taolo ya Ditšhelete tša Setšhaba, wa 1999 (Molao wa No. ya 1 wa 1999), go tloga ka letšatšikgwedi leo bolaodi bja go tšea dithoto, goba motho yo thoto e tšerwego legatong la gagwe, a tšea go taolo ya thoto ye e tšerwego, dikoketšo go karolo ye e šetšego ya boleng bja tefo bjo bo swanetšego go lefelwa go ya ka karolo ya 12 e ka lefelwa ka mohuta wo o hlalošitšwego ka go karolo ya 15: Ge fela—

- (a) go fihlela ge motho yo a tlišitšego kleime a obamela dinyakwa tša karolo ya 15(5), boleng bjo bo bego bo swanetše go lefelwa nakong ya ge a paletše ke go obamela le ka merero ya go lefela tswala, ga bo tšewe bjalo ka tšhelete yeo e sa lefelwago, ntle le ge fela e le gore mongthoto goba motho yo a tšeešwego tokelo ya thoto o ngangišana le boleng bja tšhelete yeo a tlo e hwetšago, bolaodi bja go tša dithoto bo ka ntšha lenaneotheko la motšhelo la nakwana malebana le tekano ya boleng bja tšhelete yeo a tlo e fiwago ntle le go nyatša boleng bja tšhelete bjoo bolaodi bja go tšea dithoto bo nyakago go mo fa bjona; 15
- (b) tswala yeo e swanetšego go lefelwa go ya karolwana ye, e swanetše go tšewa bjale ka yeo e lefilwego ka letšatšikgwedi leo boleng bja tšhelete bo dirilwego gore bo hwetšagale goba bo rometšwe ka tšhomišo ya mararankodi a elektroniki go akhaonte ya pankya ya mongthoto goba motho yo a tšeešwego tokelo ya thoto, goba ka tšhomišo ya mokgwa wo go dumelelanwego ka wona ke batšeakarolo goba bjalo ka ge go laetšwe goba go dumeletšwe ke kgorotshoko go ya ka karolo ya 19, go ya le goba bo rometšwe go mongthoto goba motho yo a nago tokelo ya thoto ye e tšerwego yo a amegago ka poso ye e ngwadišitšwego, goba bo fetišeditšwe ka mokgwa wa elektroniki go akhaonto ya gagwe, ka mokgwa wo go tla bago go le ka gona; le 25
- (c) tefo, tšhomišo goba go tsenywa ga boleng bja tšhelete go ya ka karolo ya 15(1), 17(2) goba 18(1) goba (2) e swanetšwe go tšewa bjalo ka tefo go mongthoto goba motho yo a tšeešwego tokelo ya thoto ebile ga gona tswala ye e oketšegago godimo ga boleng bofe goba bofe bja tšhelete ye bjalo go tloga ka letšatšikgwedi leo e lefilwego, e šomišitšwego goba e tsentšwego. 30

Kgopelo ya dintlha

14. (1) Mongthoto, motho yo a rekilego ntlo ka sekoloto le motho yo a nago tokelo ya thoto a ka kgopela bolaodi bja go tšea dithoto, ka go ngwala, gore bo fane ka dintlha tše di kwagalago mabapi le tekanyo ya boleng bja tefo gomme dintlha tše di kgopetšwego ka tsela yeo di swanetše go fiwa mo matšatšing a 20 ka morago ga kgopelo yeo. 35

(2) Ge bolaodi bja go tšea dithoto bo palelwa ke go fana ka dintlha tše di kgopetšwego, motho yo a dirago kgopelo ye bjalo go ya ka karolwana ya (1) a ka, ka tsebišo, a dira kgopelo ya lengwalotaelo go kgorotshoko leo le laelago bolaodi bja go tšea dithoto go obamela karolwana ya (1) gomme kgorotshoko e ka dira lengwalotaelo le le bjalo. 40

(3) Tekanyo ya boleng bja tefo ya toka le tekatekano e tla dula e šoma go fihlela—

- (a) e fetolwa ke bolaodi bja go tšea dithoto; 45
- (b) go dumelelwane ka boleng bja tefo; goba
- (c) go tšerwe sephetho ka tefo goba e dumeletšwe ke kgorotshoko. 45

Tefelo ya tefo

15. (1) Go ya ka dikarolo tša 16, 17 le 18, mongthoto goba motho yo a tšeešwego tokelo ya thoto ye e tšerwego o na le maswanedi a go hwetša tefelo ka letšatšikgwedi le ka mokga woo go dumelelanwego ka wona ke batšeakarolo goba bjalo ka ge go laetšwe goba go dumeletšwe ke koprotshoko go ya ka karolo 19. 50

(2) Tefo, tšhomišo goba go tsenywa ga boleng bja tšhelete efe goba efe yeo e hlalošitšwego ka go dikarolo tša 16, 17 le 18 ga e thibeke tlhagišo ya boleng bjo go dumelelanwego ka bjona goba bja sephetho sa kgorotshoko: Ge e le gore ge tlhagišo ya boleng bja tšhelete ye e swanetšego go lefša e le ka fase ga yeo e lefilwego, tšhelete yeo ya tlaletšo e swanetše go bušetšwa go bolaodi bja go tšea dithoto go akaretšwa le tswala ye e dirilwego ka tekanyo yeo e hlalošitšwego ka go karolo ya 13 go tloga ka letšatšikgwedi leo boleng bo lefilwego, šomišitšwego goba bo tsentšwego ka lona. 55

(3) Any delay in payment of compensation to the expropriated owner or expropriated holder of a right by virtue of subsection (2), or any other dispute arising after the expropriating authority has decided to expropriate will not prevent the passing of the right to possession to the expropriating authority in terms of section 9(2) or (4), unless a court orders otherwise. 5

(4) If the expropriating authority, expropriated owner or expropriated holder of a right has proposed a later date than the date contemplated in subsection (1) for the payment of compensation, the party proposing later payment may, in the absence of agreement, apply to court for an order for payment on such later date, and the court may make an appropriate order, having regard to all relevant circumstances. 10

(5) If value-added tax is leviable by a claimant in terms of section 7(1)(a) of the Value-Added Tax Act, 1991 (Act No. 89 of 1991), by virtue of section 8(21) of that Act, payment of compensation must be made by the expropriating authority only upon receipt of a tax invoice as required in terms of section 20 of that Act from the claimant, together with confirmation of the tax compliance status of the claimant by the South African Revenue Service. 15

(6) The Minister may prescribe the information and documentation to be delivered by a person to whom compensation or interest is payable in terms of this Act, in order to facilitate electronic payment thereof.

Property subject to mortgage or deed of sale

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16. (1) If property expropriated in terms of this Act was, immediately prior to the date of expropriation, encumbered by a registered mortgage or subject to a deed of sale, the expropriating authority may not pay out any portion of the compensation money except to such person and on such terms as may have been agreed upon between the expropriated owner or expropriated holder of a right and the mortgagee or buyer concerned, as the case may be, after the claimant has notified the expropriating authority of the agreement. 25

(2) The expropriated owner or expropriated holder of a right or the mortgagee or buyer, as the case may be, must notify the expropriating authority by no later than 30 days from the date contemplated in section 9(2) or (4), of their agreement and its terms contemplated in subsection (1), failing which the expropriating authority may deposit the compensation money with the Master in terms of section 18(2). 30

(3) In the event of a dispute arising out of subsection (1), the expropriating authority may deposit the compensation money with the Master, and any of the disputing parties may apply to a court of competent jurisdiction for an order directing the Master to pay out the compensation money in such manner and on such terms as the court may determine. 35

Payment of municipal property rates, taxes and other charges out of compensation money

17. (1) The expropriating authority must pay outstanding municipal rates, taxes, levies and other charges out of the compensation money. 40

(2) If land which has been expropriated is subject to the charges contemplated in subsection (1), the municipal manager must, within 30 days of receipt of a copy of the notice of expropriation in terms of section 8(2)(c)(i), inform the expropriating authority in writing of such charges, as at the date contemplated in section 9(2) or (4), unless the expropriating authority is the municipal council of the municipality where the land is situated. 45

(3)(a) The expropriating authority must, in writing, notify the expropriated owner or expropriated holder of a right of any outstanding charges contemplated in subsection (1). 50

(3) Tiego efe goba efe ya tefelo ya tefo go mongthoto goba motho yo a tšeešwego tokelo ya thoto go ya ka karolwana ya (2), goba ngangišano efe goba efe ye nngwe yeo e tšwelelago ka morago ga ge bolaodi bja go tšea sepheto sa go tšea thoto yeo, e ka se thibele go fetišetšwa ga tokelo ya go swara thoto go bolaodi bja go tšea dithoto go ya ka karolo ya 9(2) goba (4), ntle le ge kgorotsheko e ka laela ka mokgwa wo mongwe. 5

(4) Ge bolaodi bja go tšea dithoto, mongthoto goba motho yo a tšeešwego tokelo ya thoto a šišinya letšatšikgwedi la ka morago ga letšatšikgwedi leo le hlalošitšwego ka go karolwana ya (1) mabapi le tefelo ya tefo, motšekarolo yo a šišinyago letšatšikgwedi la ka morago a ka, ge go sena tumelelano, a dire kgopelo ya lengwalotaelo go kgorotsheko mabapi le tefelo ya tefo ka letšatšikgwedi le bjalo la ka morago, gomme kgorotsheko e ka dira lengwalotaelo la maleba, ka go lebelela maemo ao a amegago ka moka. 10

(5) Ge e le gore motho yo a dirago kleime a ka kgopela go lefelwa motšhelo wa boleng bjo bo okeditšwego go ya ka karolo ya 7(1)(a) ya Molao wa Motšhelo wa Boleng bjo bo Okeditšwego, wa 1991 (Molao wa No. ya 89 wa 1991), go ya ka karolo ya 8(21) ya Molao wo, tefelo ya tefo e swanetšwe go dirwa ke bolaodi bja go tšea dithoto fela ka morago ga kamogelo ya lengwalopalo la motšhelo bjalo ka ge go nyakega go ya ka karolo ya 20 ya Molao woo gotšwa go motho yo a dirago kleime, go akaretšwa le netefatšo ya gore o obamela ditaello tša motšhelo wa Ditirelo tša Letseno la Afrika Borwa. 15 20

(6) Tona a ka laela gore tshedimošo le dingwalwa tšeo di swanetšego di tlišwe ke motho yo tefo goba tswala e lefelwago go yena go ya ka Molao wo, ka nepo ya go nolofatša tefo ya mohuta wa elektroniki ka morago.

Thoto ye e rekilwego ka sekoloto goba e nago lengwalo la thekišo

16. (1) Ge ele gore thoto yeo e tšerwego go ya ka Molao wo e be e, ka nako yona yeo pele ga letšatšikgwedi la go tšewa ga thoto, e imetšwe ke sekoloto seo se ngwadišitšwego goba e na le lengwalo la gore e a rekišwa, bolaodi bja go tšea dithoto bo ka na bja se lefe karolo efe goba efe ya tšhelete ya tefo ntle le go lefela motho yo bjalo go ya ka mabaka ao a tla bago a be a dumelelwane ka wona magareng go mongthoto goba motho yo a tšeešwego tokelo ya thoto le motho yo a rekilego ntlo ka sekoloto goba moreki wa thoto yo a amegago, go ya le ka mokgwa wo go tlabago go le ka gona, ka morago ga ge motho yo a dirago kleime a tsebišitše bolaodi bja go tšea dithoto ka ga tumelelano yeo. 25 30

(2) Mongthoto goba motho yo a tšeešwego tokelo ya thoto goba motho yo a rekilego ntlo ka sekoloto goba moreki wa thoto, ka mokgwa wo go tla bago go le ka gona, o swanetše go tsebiša bolaodi bja go tšea dithoto mo matšatšing ao a sa fetego a 30 go tloga letšatšikgwedi leo le hlalošitšwego ka go karolo ya 9(2) goba (4), ka ga tumelelano le dipeelano tša bona tšeo di hlalošitšwego ka go karolwana ya (1), go palelwa ke seo go tla ra gore bolaodi bja go tšea dithoto bo ka tsenya tšhelete ya tefo go akhaonte ya Molaodimogolo go ya ka karolo ya 18(2). 35 40

(3) Ge go ka ba le ngangišano yeo e tšwelelago gotšwa ka go karolwana ya (1), bolaodi bja go tšea dithoto bo ka tsenya tšhelete ya tefo ka go akhaonte ya Molaodimogolo, gomme mang goba mang wa bao ba ngangišanago a ka dira kgopelo ya lengwalotaelo go kgorotsheko ye e nago le bokgoni leo le laelago Molaodimogolo go ntšha tšhelete ya tefo ka mokgwa wo le ka mabaka ao kgorotsheko e ka a beago. 45

Tefelo ya ditekanyo tša thoto ya masepala, metšhelo le ditefišo tše dingwe gotšwa tšheleteng ya tefo

17. (1) Bolaodi bja go tšea dithoto bo swanetše go lefela ditekanyetšo tša thoto ya masepala, metšhelo, ditefišo gammogo le ditefo tše dingwe tšeo di sa lefelwago gotšwa go tšhelete ya tefo. 50

(2) Ge naga yeo e tšerwego e swanetše go ba le ditefišo tše di hlalošitšwego ka go karolwana (1), molaodi wa masepala o swanetše, mo matšatšing a 30 ka morago ga go amogela khopi ya tsebišo ya go tšewa ga thoto go ya ka karolo ya 8(2)(c)(i), a tsebiše bolaodi bja go tšea dithoto ka go ngwala ka ga ditefišo tšeo, ka letšatšikgwedi leo le hlalošitšwego ka go karolo ya 9(2) goba (4), ntle le ge bolaodi bja go tšea dithoto e le khansele ya masepala woo naga e lego go wona. 55

(3)(a) Bolaodi bja go tšea dithoto bo swanetše, ka go ngwala, bo tsebiše mongthoto goba motho yo a tšeešwego tokelo ya thoto ka ditefišo dife goba dife tše di sa lefelwago tšeo di hlalošitšwego ka go karolwana ya (1).

(b) If the expropriated owner or expropriated holder of a right does not dispute the outstanding charges contemplated in paragraph (a), within 20 days of the notification, the expropriating authority may utilise as much of the compensation money in question as is necessary for the payment, on behalf of the expropriated owner or expropriated holder of a right, of any outstanding charges contemplated in subsection (1). 5

(4) If the municipal manager fails to inform the expropriating authority of the outstanding charges contemplated in subsection (1) within the period of 30 days as contemplated in subsection (2), the expropriating authority may pay the compensation to the expropriated owner or expropriated holder of a right without regard to the outstanding municipal property rates or other charges, and in such an event and despite the provisions of any law to the contrary— 10

- (a) the Registrar of Deeds must register the transfer of the expropriated property;
- (b) the expropriating authority or the person on whose behalf the property was expropriated, as the case may be, is not liable to the municipality concerned before or after such registration for the outstanding municipal property rates or other charges; and 15
- (c) despite the provisions of any other law, the expropriated owner remains liable to the municipality for rates and other charges levied on the property until the right to possession vests in the expropriating authority in terms of section 8(3)(f) or section 9(4). 20

Deposit of compensation money with Master

18. (1) The expropriating authority must deposit the amount of compensation payable in terms of this Act with the Master after which the expropriating authority ceases to be liable in respect of that amount—

- (a) if a property expropriated under this Act was left in terms of a will or testament to an undetermined beneficiary or beneficiaries; 25
- (b) if compensation is payable in terms of this Act to a person whose address is not readily ascertainable or who, unless otherwise agreed, fails to supply the prescribed information and documentation for electronic payment within 20 days of being given written notice to do so; or 30
- (c) if compensation is payable and the expropriating authority, after reasonable endeavours, is unable to determine to whom it must be paid.

(2) In the event of a dispute or doubt as to the person who is entitled to receive compensation payable in terms of this Act, or in the event that an interdict prevents the expropriating authority from paying compensation to that person, the expropriating authority may deposit the amount of compensation with the Master. 35

(3) Any money received by the Master in terms of subsection (1) or (2) must be paid into the guardian's fund referred to in section 86 of the Administration of Estates Act, 1965 (Act No. 66 of 1965), for the benefit of the persons who are or may become entitled thereto and bear interest at the interest rate determined in terms of section 80(1)(b) of the Public Finance Management Act, 1999 (Act No. 1 of 1999). 40

(4) A court of competent jurisdiction may make an order which it may deem expedient in respect of money received by the Master in terms of subsection (1) or (2).

(b) Ge mongthoto goba motho yo a tšeešwego tokelo ya thoto a sa ganetšane le ditefišo tše di sa lefelwago tše di hlalošitšwego go temana ya (a), mo matšatšing a 20 ka morago ga tsebišo, bolaodi bja go tšea dithoto bo ka šomiša palo ya tšhelete yeo e hlokegago ya tefo yeo go bolelwago ka yona go lefa, legatong la mongthoto goba motho yo a tšeešwego tokelo ya thoto, ditefišo dife goba dife tše di sa lefelwago tše di hlalošitšwego ka go karolwana ya (1). 5

(4) Ge molaodi wa masepala a ka palelwa ke go tsebiša bolaodi bja go tšea dithoto ka ga ditefišo tše di sa lefelwago tše di hlalošitšwego ka go karolwana ya (1) mo nakong ya matšatši a 30 ka ge go hlalošitšwe ka go karolwana ya (2), bolaodi bja go tšea dithoto bo ka lefa tefo go mongthoto goba motho yo a tšeešwego tokelo ya thoto ntle le go lebelela ditekanyetšo tša thoto ya masepala le ditefišo tše dingwe tša masepala tše di sa lefelwago, ebile ge go ka direga ka tsela ye gomme le ge go ka ba le dipeelano tša molao ofe goba ofe wo o fapanago le se— 10

(a) mongwadiši wa Mangwalo a Bongthoto o swanetše go ngwadiša phetišetšo ya thoto ye e tšerwego; 15

(b) bolaodi bja go tšea dithoto goba motho yo thoto e tšerwego legatong la gagwe, ka mokgwa wo go tla bago go le ka gona, ga a na maikarabelo go masepala wo o amegago pele goba ka morago ga ngwadišo ye bjalo malebana le ditekanyo tša thoto ya masepala goba ditefišo tše dingwe tše di sa lefelwago; le 20

(c) le ge go na le dipeelano tša molao ofe goba ofe wo mongwe, mongthoto yo thoto ya gagwe e tšerwego o dula a na le maikarabelo a ditekanyetšo tša thoto ya masepala le ditefišo tše dingwe tše di lefišwago thoto go fihlela tokelo ya go swara e fetišetšwa go bolaodi bja go tšea dithoto go ya ka karolo ya 8(3)(f) goba karolo ya 9(4). 25

Go tšhela tšhelete ya tefo go akhaonte ya Molaodimogolo

18. (1) Bolaodi bja go tšea dithoto bo swanetše go tsenya boleng bja tefo ye e lefelwago go ya ka Moloa wo go akhaonte ya Molaodimogolo ka morago ga moo bolaodi bja go tšea dithoto bo tla kgaotša go ba le maikarabelo malebana le tšhelete yeo— 30

(a) ge thoto yeo e tšerwego ka fase ga Molao wo e tlogetšwe go ya ka lengwalotaelo la goba kano ya mohu go moholegi goba baholegi bao ba sa tsebjego;

(b) ge tefo e lefelwa go ya ka Molao wo go motho yo aterese ya gagwe e sa kgonthišegego ga bonolo goba yo, ntle le ge go dumelelwane ka tsela ye nngwe, a palelwago ke go aba tshedimošo ye e beilwego gammogo le dingwalwa tše di nyakegago gore a lefelwe ka tefelo ya mohuta wa elektroniki mo matšatšing a 20 ka morago ga go fiwa tsebišo ya gore go dirwe bjalo; goba 35

(c) ge e le gore tefo yeo e swanetše go lefelwa, fela bolaodi bja go tšea dithoto, ka morago ga maitapišo ao a kwagalago, ga bo kgone go bona gore e swanetše go lefelwa mang. 40

(2) Ge go ka ba le ngangišano goba pelaelo mabapi le motho yo a nago le maswanedi a go amogela tefo yeo e lefelwago go ya ka Molao wo, goba ge go ka direga gore lengwalothibelo le thibele bolaodi bja go tšea dithoto go lefa motho yoo, bolaodi bja go tšea dithoto bo ka tsenya boleng bja tefo ka go akhaonte ya Molaodimogolo. 45

(3) Tšhelete efe goba efe yeo e amogetšwego ke Molaodimogolo go ya ka karolwana ya (1) goba (2) e swanetše go lefelwa ka go sekhwama sa mohlokomedi se go bolelwago ka sona ka go karolo ya 86 ya Molao wa Phatlalatšo ya Mafa, wa 1965 (Molao wa No. ya 66 wa 165), go hola batho bao ba nago maswanedi a yona ebile e dire tswala go ya tekanyo ya tswala yeo e beilwego go ya ka karolo ya 80(1)(b) ya Molao wa Taolo ya Ditšhelete tša Setšhaba, wa 1999 (Molao wa No. ya 1 ya 1999). 50

(4) Kgorotshoko ya taolo ye e nago le bokgoni e ka dira lengwalotaelo leo le bonago le swanetše mabapi le tšhelete yeo e amogetšwego ke Molaodimogolo go ya ka karolwana (1) goba (2).

CHAPTER 6

MEDIATION AND DETERMINATION BY COURT

Mediation and determination by court

19. (1) If the expropriating authority and a disputing party do not agree on the amount, time and manner of payment of compensation, they may attempt to settle the dispute by mediation, which must be initiated and finalised without undue delay by either party. 5

(2) If the expropriating authority and disputing party do not settle the dispute by consensus or mediation, either party may, within 180 days of the date of the notice of expropriation, institute proceedings in a competent court for the court to decide or approve the amount, time and manner of payment of just and equitable compensation. 10

(3) The disputing party may, instead of instituting such proceedings himself or herself, within 90 days of the date of the notice of expropriation request the expropriating authority, in writing, to institute such proceedings and the expropriating authority must institute such proceedings within 180 days of receiving such request.

(4) A court may extend the time periods in subsections (2) and (3) on good cause shown and if the interests of justice so require. 15

(5) The onus or burden of proof is not affected by whether it is the expropriating authority or the disputing party which institutes the proceedings referred to in this section.

(6) Subsection (2) does not preclude a person from approaching a court on any matter relating to the application of this Act. 20

(7) Where a court finds that a provision of this Act has not been complied with, it may make such order as it considers just and equitable, having regard to all relevant circumstances, including—

- (a) the nature and extent of the interest of the person who has challenged the conduct in question; 25
- (b) the materiality of the non-compliance;
- (c) the stage which has been reached in the expropriation process; and
- (d) the interests of other persons which may be affected by the relief which is ordered. 30

(8) Despite section 18 of the Superior Courts Act, 2013 (Act No. 10 of 2013), any appeal against the decision of a court on the amount of compensation will not prevent the expropriating authority from expropriating for the amount approved or decided, unless a court grants an interim interdict based on compelling prospects of success of the appeal. 35

(9) A court may make any order as to costs that it considers just and equitable for proceedings contemplated in subsections (2) and (3).

CHAPTER 7

URGENT EXPROPRIATION

Urgent expropriation 40

20. (1) An expropriating authority may, if a property is required on an urgent basis for public purpose or in the public interest, exercise a right to use property temporarily for so long as it is urgently required but for no longer than 12 months.

(2) The power referred to in subsection (1) may be exercised only if suitable property held by the national, provincial or local government is not available and under the following circumstances: 45

- (a) In the case of a disaster as defined in the Disaster Management Act, 2002 (Act No. 57 of 2002); or
- (b) where a court grants an order that an expropriating authority is entitled to use the provisions of this section due to— 50
 - (i) urgent and exceptional circumstances that justify action under subsection (1);

KGAOLO YA 6**NAMOLO LE THAROLLO YA KGOROTSHEKO****Namolo le tharollo ya kgorotsheko**

19. (1) Ge bolaodi bja go tšea dithoto le motšekarolo yo a ngangišanago ba sa dumelelane ka boleng nako le mokgwa wa go lefela tšhelete ya tefo, ba ka leka go rarolla ngangišano ka namolo, yeo e swanetšego go thoma le go fetšwa ntle le tiego ye e sa swanelago gotšwa go lehlakore lefe goba lefe. 5

(2) Ge bolaodi bja go tšea dithoto le motšekarolo yo a ngangišanago ba sa rarolle ngangišano ka kwano goba ka namolo, motšekarolo ofe goba ofe a ka, mo matšatšing a 180 go tloga ka letšatšikgwedi la tsebišo ya go tšewa ga thoto, a thome ditshepedišo go kgorotsheko ye e nago le bokgoni gore kgorotsheko e tšee sephetho goba e dumelele boleng nako le mokgwa wa go lefela tšhelete ya tefo yeo e lego ya toka le tekatekano. 10

(3) Motšekarolo yo a ngangišanago a ka, go e na le gore a thome ditshepedišo tše bjalo ka boyena, mo matšatšing a 90 go tloga ka letšatšikgwedi la tsebišo ya go tšewa ga thoto a kgopele bolaodi bja go tšea dithoto, ka go ngwala, go thoma ditshepedišo tše bjalo gomme bolaodi bja go tšea dithoto bo swanetše go thoma ditshepedišo tšeo mo matšatšing a 180 a go amogela kgopelo ye bjalo. 15

(4) Kgorotsheko e ka katološa dinako tše di lego ka go dikarolwana (2) le (3) ka lebaka le lebotse leo le bontšhitšwego le ge e ba dikgahlego tša toka di nyaka. 20

(5) Morwalo goba maikarabelo a bohlatse ga a ame ke gore e ka ba ke bolaodi bja go tšea dithoto goba ke motšekarolo yo a ngangišanago yo a thomago ditshepedišo tšeo go bolelwago ka tšona ka go karolo ye. 25

(6) Karolwana ya (2) ga e thibele motho go leba kgorotsheko ka taba efe goba efe yeo e amanago le tšhomišo ya Molao wo. 25

(7) Moo kgorotsheko e hwetšago gore taelo ya Molao wo ga se ya obamelwa, e ka dira taelo ye e e bonago e le ya toka le tekatekano, e lebeletše maemo ka moka a maleba, go akaretšwa — 25

(a) tlhago le bogolo bja kgahlego ya motho yo a hlohlilego maitshwaro ao a go bolelwago ka wona;

(b) bogolo bja go se obamele; 30

(c) kgato yeo e fihleletšwego go tšhepedišo ya go tšewa ga thoto; le

(d) dikgahlego tša batho ba bangwe tšeo di ka amago ke kimollo ye e laetšwego.

(8) Ntle le go šetša karolo ya 18 ya molao wa Dikgorotsheko tša Godimo, wa 2013 (Molao wa No. ya 10 wa 2013), boipiletšo bofe goba bofe kgahlanong le sephetho sa kgorotsheko mabapi le boleng bja tšhelete ya tefo bo ka se thibele bolaodi bja go tšea dithoto go tšea thoto ka boleng bjo bo dumeletšwego goba go tšerwego sephetho ka bjona, ntle le ge kgorotsheko e fana ka lengwalotaelo la thibelo ya nakwana go ya ka mabaka ao a gapeletšago a kgonagalokgolo ya go ka atlega ga boipiletšo. 35

(9) Kgorotsheko e ka dira taelo efe goba efe mabapi le ditshenyagalelo tšeo e di bonago e le tše di lokilego le tše di lekalekanego go ditshepedišo tšeo di ngwadilwego ka go dikarolwana tša (2) le (3). 40

KGAOLO YA 7**GO TŠEWA GA THOTO KA TŠHOGANYETŠO****Go tšewa ga thoto ka tšhoganyetšo**

20. (1) Bolaodi bja go tšea dithoto, ge thoto e nyakega ka tšhoganyetšo ka morero wa setšhaba goba ka kgahlego ya setšhaba, bo ka bja šomiša tokelo ye e dumelelago go šomiša ga thoto nakwana ka ge e nyakega ka tšhoganyetšo fela ga se bja swanela go feta dikgwedi tse 12 yeo e sa fetego dikgwedi tše 12. 45

(2) Maatla ao go bolelwago ka wona ka go karolwana ya (1) a ka šomišwa fela ge thoto yeo e nyakegago ya maleba ye e swerego ke mmušo wa bosetšhaba, wa profense goba wa selegae e se gona le ka fase go maemo ao a latelago: 50

(a) tabeng ya masetlapelo bjalo a hlalošitšwe ka go Molao wa Taolo ya Masetlapelo, wa 2002 (Molao wa No. ya 57 wa 2002); goba

(b) moo kgorotsheko e fago taelo ya gore bolaodi bja go tšea dithoto bo na le maswanedi a go šomiša dipeelano tša karolo ye ka lebaka la— 55

(i) maemo a tšhoganyetšo le a go ikgetha ao a lokafatšago kgato ya ka fase go karolwana ya (1);

- (ii) real and imminent danger to human life or substantial injury or damage to property; or
- (iii) any other ground which in the view of the court justifies action under subsection (1).
- (3) Save for section 7(6)(a), the remaining provisions of this Act apply to urgent expropriations, but the expropriating authority may— 5
- (a) depart from the following provisions, if the degree of urgency so requires:
- (i) Sections 5(3) and (5);
- (ii) section 6;
- (iii) sections 7(2)(h), 7(2)(j), 7(2)(k), 7(2)(l), 7(4)(a) and 7(5); and 10
- (iv) section 15(1); and
- (b) reduce the periods in the following provisions to a reasonable period, given the degree of urgency:
- (i) Section 6(3); and
- (ii) sections 7(2)(h), 7(2)(j) and 7(4). 15
- (4) The owner or the holder of a right whose right in property has been taken for temporary use in terms of this section is entitled to just and equitable compensation as calculated, agreed or decided by courts and paid in terms of this Act.
- (5) If not already done in terms of section 7(2)(k), expropriating authority must make a written offer of compensation to the expropriated owner or expropriated holder of a right of a right as soon as reasonably possible, but no later than 30 days from the date on which the notice to use the property temporarily was given, and payment must be made as soon as reasonably possible thereafter: Provided that in the event of any dispute, section 19 applies. 20
- (6) If the property in question is damaged as a result of the performance of an act contemplated in subsection (1), the expropriating authority must repair to a reasonable standard, or compensate the affected person for that damage after delivery of a written demand by the affected person and without undue delay. 25
- (7)(a) If an expropriating authority wishes to extend the period of temporary usage beyond 12 months and the owner or the holder of a right whose right in property has been taken does not agree thereto, the expropriating authority may approach the court for an extension of the period. 30
- (b) The court may, on sufficient cause shown by the expropriating authority, extend the period of temporary usage.
- (c) The period of extension may not exceed 18 months from the date the property was taken for temporary use in terms of subsection (1). 35
- (8) If the court refuses to grant an extension as applied for in terms of subsection (7), the expropriating authority must return or vacate the property on the expiry of the period of temporary use or on the date agreed to by the parties or determined by the court. 40
- (9) An expropriating authority may at any time during the temporary use of the property, commence with the expropriation of the ownership of the property. and must comply with all relevant provisions of this Act.
- (10) If the property is land, the expropriating authority becomes liable for the municipal property rates, taxes, levies and similar charges from the date of expropriation. 45

CHAPTER 8

WITHDRAWAL OF EXPROPRIATION

Withdrawal of expropriation

21. (1)(a) Notwithstanding anything to the contrary contained in any law, the expropriating authority may withdraw any expropriation from a date mentioned in a notice of withdrawal, if the withdrawal of that expropriation is in the public interest, or the reason for which the property was expropriated is no longer applicable. 50

- (ii) kotsi ya kgonthe le yeo e lego kgauswi bophelong bja motho goba kgobalo e kgolo goba tshenyo ya dithoto; goba
- (iii) lebaka lefe goba lefe le lengwe leo go ya ka tebelelo ya kgorotsheko le lokafatšago kgatho ya ka fase go karolwana ya (1).
- (3) Go sa akaretšwe karolo ya 7(6)(a), dipeelano tše di lego gona tša Molao wo di a šomišwa malebana le go tšewa ga thoto ka tšhoganyetšo, fela bolaodi bja go tšea dithoto bo ka—
- (a) tlogela go latela dipeelano tše di latelago, ge e ba bogolo bja tšhoganyetšo bo nyaka gore go dirwe bjalo:
- (i) Dikarolo tša 5(3) le (5); 10
- (ii) karolo ya 6;
- (iii) dikarolo tša 7(2)(h), 7(2)(j), 7(2)(k), 7(2)(i), 7(4)(a) le 7(5); le
- (iv) karolo ya 15(1); le
- (b) fokotša tekano ya dinako tše di lego ka gare ga dipeelano gore e be nako yeo e kwagalago, go ya ka bogolo bja tšhoganyetšo: 15
- (i) Karolo ya 6(3); le
- (ii) dikarolo tša 7(2)(h), 7(2)(j) le 7(4).
- (4) Mongthoto goba motho yo a tšeešwego tokelo ya thoto nakwana go ya ka karolo ye o na le maswanedi a tefo ya toka le tekatekano bjalo ka ge e balwa, ya dumelelwa goba ya laelwa ke kgoro tsheko ebile ya lefelwa go ya ka Molao wo. 20
- (5) Ge e ba ga se bja tšwa bo dira go ya ka karolo ya 7(2)(k), bolaodi bja go tšea dithoto bo swanetše go dira tlhagišo ye e ngwadilwego ya tefo go mongthoto goba motho yo a tšeešwego tokelo ya thoto ka pela ka mo go kgonegago, fela e sego ka morago ga matšatši a 30 go tloga ka letšatšikgwedi leo tsebišo ya go šomiša thoto nakwana e filwego ka lona, gomme tefo e swanetše e dirwe ka pela ka mo go kgonegago ka morago ga moo: Gore ge fela go ka ba le ngangišano efe goba efe, karolo ya 19 e šomišwe. 25
- (6) Ge e ba thoto yeo go bolelwago ka yona e senyegile ka lebaka la tiro yeo e hlalošitšwego ka go karolwaba ya (1), bolaodi bja go tšea dithoto bo swanetše go e lokiša go fihla maemong ao a kwagalago, goba go lefela motho yo a amegilego malebana le tshenyego yeo ntle le tiego yeo e sa kwagalego ka morago ga go hwetša pego ya go nyaka tefelo gotšwa go motho yo a amegilego. 30
- (7)(a) Ge bolaodi bja go tšea dithoto bo rata go katološa nako ya tšhomišo ya nakwana go feta dikgwedi tše 12 gomme mongthoto goba motho yo a tšeešwego tokelo ya thoto a sa dumelelane le seo, bolaodi bja go tšea dithoto bo ka leba kgorotsheko go katološa nako yeo. 35
- (b) Kgorotsheko e ka, ka lebaka le le lekanego leo le bontšhitšwego ke bolaodi bja go tšea dithoto, e katološe nako ya tšhomišo ya nakwana.
- (c) Nako ya katološo ga se ya swanela go feta dikgwedi tše 18 go tloga ka letšatšikgwedi leo thoto e tšerwego go šomišwa nakwana go ya ka karolwana (1). 40
- (8) Ge kgorotsheko e gana go fana ka katološo bjalo ka ge go kgopetšwe go ya ka karolwana ya (7), bolaodi bja go tšea dithoto bo swanetše go bušetša goba go tšwa ka gare ga thoto ge nako ya tšhomišo ya nakwana e fela goba ka letšatšikgwedi leo go dumelelanwego ka lona ke batšeakarolo goba leo le beilwego ke kgorotsheko.
- (9) Bolaodi bja go tšea dithoto bo ka, ka nako efe goba efe nakong ya tšhomišo ya nakwana ya thoto, bja thoma ka tšhepedišo ya go tšewa ga bongthoto bja thoto yeo thoto ebile bo swanetše go obamela dipeelano ka moka tše di amegago tša Molao wo. 45
- (10) Ge thoto e le naga, bolaodi bja go tšea dithoto bo rwala maikarabelo a ditefišo tša meago ya masepala, metšhelo, ditšhelete le ditefišo tše di swanago gotšwa letšatšikgwedi leo naga e tšewago ka lona. 50

KGAOLO YA 8

KGOGELONTHAGO YA GO TŠEWA GA DITHOTO

Kgogelonthago ya go tšewa ga dithoto

21. (1)(a) Go sa kgathalege ge go na le selo se sengwe le se sengwe seo se fapanego seo se lego ka gare go molao ofe goba ofe, bolaodi bja go tšea dithoto bo ka gogela morago go tšewa ga thoto efe goba efe go tloga ka letšatšikgwedi leo le ngwadilwego ka go tsebišo ya kgogelonthago, ge e le gore kgogelonthago yeo ya go tšewa ga dithoto e le ka kgahlego ya setšhaba, goba lebaka leo thoto e tšewago ka lona le se sa le gona. 55

- (b) The notice of withdrawal contemplated in paragraph (a) must be served on every person on whom the notice of expropriation in question was served.
- (2) An expropriation may not be withdrawn—
- (a) after the expiration of three months from the date of expropriation, except with the written consent of the expropriated owner and all expropriated holders of a right or, in the absence of a written consent, if a court, on application by the expropriating authority, authorises the withdrawal on the ground that it is in the public interest that the expropriation be withdrawn; 5
 - (b) if, where the expropriated property is land, the property has already been registered in the name of the expropriating authority in consequence of the expropriation; or 10
 - (c) if the expropriating authority has already paid compensation in connection with such expropriation, unless the agreement in writing of every person to whom the compensation has been paid is obtained. 15
- (3) If an expropriation of property is withdrawn—
- (a) ownership of the property concerned again vests, from the date contemplated in subsection (1), in the owner from whom it was expropriated, and any mortgage or other rights discharged or expropriated in connection with or as a consequence of the expropriation are fully revived; 15
 - (b) the Registrar of Deeds or the registrar of any other office at which such expropriated right was registered or recorded must, on receipt of a copy of the notice of withdrawal, cancel any endorsement made in connection with the expropriation in his or her registers and on the title deed in question; and 20
 - (c) the expropriating authority is liable for all reasonable costs and damages incurred or suffered by a claimant as a result of such withdrawal. 25

CHAPTER 9

RELATED MATTERS

Service and publication of documents and language used therein

22. (1) Whenever a notice in terms of sections 7(1), 8(1), 11(2) or 17(3)(a) or a notice of withdrawal in terms of section 21(1)(b) is required to be served in terms of this Act, the original or a certified copy thereof must— 30
- (a) be delivered or tendered to the addressee personally at his or her residential address, place of work, place of business or at such address or place as the expropriating authority and the addressee may, in writing, agree upon; 35
 - (b) be posted by pre-paid registered post to the postal address of the addressee and delivered electronically to the electronic mail address of the addressee; 35
 - (c) be published in the manner contemplated in subsection (2)—
 - (i) if the whereabouts of the person concerned are unknown to the expropriating authority and is not readily ascertainable, after taking reasonable steps; or 40
 - (ii) if the identity of an heir or legatee, whose interest has passed or will pass to another person on the fulfilment of a condition, is unknown to the expropriating authority; or 40
 - (d) if none of the modes of service set out in paragraphs (a) to (c) is practicable under the circumstances, be served in accordance with such directions as the court, on application, may direct. 45

(b) Tsebišo ya kgogelonthago yeo e hlalošitšwego ka go temana ya (a) e swanetše go fiwa motho yo mongwe le yo mongwe yo tsebišo ya go tšewa ga thoto yeo go bolelwago ka yona a bego a e filwe.

(2) Go tšewa ga thoto go ka se gogelwe morago—

- (a) ka morago ga go fela ga dikgwedi tše tharo go tloga ka letšatšikgwedi la go tšewa ga thoto, ntle le ka tumelelo ye e ngwadilwego ya mongthoto goba batho ka moka bao ba tšeetšwego tokelo ya thoto goba, ge go se na tumelelo ye e ngwadilwego, ge kgorotsheko, ka kgopelo ya bolaodi bja go tšea dithoto, e dumelela kgogelonthago ya go tšewa ga thoto ka lebaka la ge e le kgahlego ya setšhaba gore go tšewa ga thoto go gogelwe morago; 5
- (b) ge e le gore, thoto ye e tšewago ke naga, ebile thoto yeo e šetše e ngwadišitšwe ka leina la bolaodi bja go tšea dithoto ka lebaka la go tšewa ga thoto yeo; goba 10
- (c) ge e le gore bolaodi bja go tšea dithoto bo šetše bo lefile tefo mabapi le go tšewa ga thoto yeo, ntle le ge tumelano ye e ngwadilwego ya motho yo mongwe le yo mongwe yo tefo e lefilwego go yena e hweditšwe. 15
- (3) Ge go tšewa ga thoto go gogetšwe morago—
- (a) bongthoto bja thoto ye e amegago bo wela gape, go tloga ka letšatšikgwedi leo le hlalošitšwego ka go karolwana ya (1), go mongthoto yo thoto e tšerwego go yena, gomme sekoloto sefe goba sefe sa ntlo goba ditokelo tše dingwe tšeo di lokolotšwego goba di tšerwego mabapi le goba ka lebaka la go tšewa ga thoto di tsošološwa ka botlalo; 20
- (b) Mongwadiši wa Mangwalo a bongthoto goba mongwadiši wa kantoro efe goba efe moo tokelo ye bjalo yeo e tšerwego e ngwadišitšwego goba e gatišitšwego o swanetše, ge a amogetše khopi ya tsebišo ya kgogelonthago, a phumule tiišetšo efe goba efe yeo e dirilwego mabapi le go tšewa ga thoto gotšwa go direjisetara tša gagwe le go lengwalo la bongthoto leo go bolelwago ka lona; le 25
- (c) bolaodi bja go tšea dithoto bo na le maikarabelo a ditshenyagalelo ka moka tše di kwagalago le tshenyo yeo e dirilwego ke kgogelonthago ya go tšewa ga thoto, yeo e amilego motho wa go dira kleime. 30

KGAOLO YA 9

MERERO YA GO AMANA

Go išwa le go gatišwa ga dingwalwa gammogo le leleme leo le šomišitšwego ka go tšona 35

22. (1) Nako le nako ge tsebišo go ya ka dikarolo tša 7(1), 8(1), 11(2) goba 17(3)(a) goba tsebišo ya kgogelonthago go ya ka karolo ya 21(1)(b) e nyakega gore e išwe go ya ka Molao wo, khopi ya mathomo goba ye e netefadišwego ya yona e swanetše—

- (a) go išwa goba go fiwa molebišwa ka sebele atereseng ya gagwe ya bodulo, lefelong la mošomo, lefelong la kgwebo goba go aterese goba lefelo leo bolaodi bja go tšea dithoto le molebišwa, ka go ngwala, ba ka dumelelanago ka lona; 40
- (b) e romelwe ka poso ye e ngwadišitšwego go aterese ya poso ya molebišwa le go e iša ka mokgwa wa elektroniki ka go e ror-ela go aterese ya i-meile ya mole bišwa; 45
- (c) e gatišwe ka mokgwa wo o hlalošitšwego ka go karolwana ya (2)—
- (i) ge e le gore motho yo a amegago ga a tsebje gore o kae ke bolaodi bja go tšea dithoto le gona go ka se kgonthišege bonolo, ka morago ga go tšea magato ao a kwagalago; goba
- (ii) ge e ba mojalefa goba motho yo a nago maswanedi a semolao, yoo dikgahlego tša gagwe di fetišitšwego goba di tlo fetišwago go motho yo mongwe go di phethagatša, ga a tsebje ke bolaodi bja go tšea dithoto; goba 50
- (d) ge e le gore ga go le e tee ya mekgwa ya go iša tsebišo yeo e hlalošitšwego ka go ditemana tša (a) go fihla go (c) yeo e ka šomago ka fase ga mabaka ao, gona e tla išwa ka dipeelano tša kgorotsheko, ka kgopelo, ka mokgwa wo e ka laelago. 55

- (2) Whenever the publication of a notice is required in terms of section 7(1) or (6)(b)(ii), or the publication of a notice of expropriation or other document is required by this Act, such publication must take place—
- (a) in English and in any other official language commonly used in the area where the property is situated, once in the *Gazette* and, simultaneously therewith or not more than one week thereafter, once in two widely circulated and accessible newspapers of different languages circulating in the area in which the property is situated; 5
 - (b) if the property is land, by the display of the notice in the languages referred to in paragraph (a), on such land in a conspicuous place, from not later than the date of publication in the *Gazette* contemplated in paragraph (a); and 10
 - (c) if the expropriating authority deems it necessary in the circumstances, by the advertising in such languages as may be appropriate on television or radio, transmitting to the area where the property is situated in the languages commonly used in that area, the contents of the advertisement to adhere as closely as is practicable to the contents of the notice or document so advertised. 15
- (3) Whenever a document must or may be delivered in terms of this Act, it must take place by delivering—
- (a) to the owner and holder of an unregistered right in a property known to the expropriating authority, at the address appointed in the notice in terms of section 7(1), the notice of expropriation, the notice in terms of section 11(2) or other document, as the case may be; and 20
 - (b) to any owner, holder of an unregistered right, person who has lodged an objection or submission contemplated in section 7(2)(h), expropriated owner and expropriated holder of a right, at the address or facsimile number appointed by such person in terms of this Act, or in the absence thereof— 25
 - (i) at an address supplied in respect of such person in terms of this Act;
 - (ii) at the residential or postal address of such person, if known to the expropriating authority; or 30
 - (iii) if no address of such person is known to or readily ascertainable by the expropriating authority, by publication in the manner contemplated in subsection (2)(a).
- (4) The delivery contemplated in subsection (3) must take place at the address in question either by— 35
- (a) hand;
 - (b) facsimile transmission: Provided that a confirmatory copy of the document is sent by ordinary mail or by any other suitable method within one day of such transmission;
 - (c) registered post; 40
 - (d) electronic mail; or
 - (e) in any other manner which may be prescribed by the Minister.
- (5) All documents must be in English and if an addressee has prior to a communication expressed in writing a preference for another official language, also in that preferred other official language. 45
- (6) Every addressee who has received a written communication from the expropriating authority is entitled to request, in writing, a translation of that communication into the official language indicated in the request.

Extension of time

23. (1) An expropriating authority may extend any period, which is applicable to persons mentioned in paragraphs (a) and (b), in terms of this Act on written request and good cause shown: 50

(2) Nako le nako kgatišo ya ge go na le kgatišo ya tsebišo e nyakega go ya ka karolo ya 7(1) goba (6) (b)(ii) goba ge kgatišo ya go, tsebišo ya go tšewa ga thoto goba sengwalwa se sengwe se nyakega go ya ka Molao wo, kgatišo ye bjalo e swanetše go dirwa—

- (a) ka Seisemane le ka leleme lefe goba lefe la semmušo leo ka setlwaedi le s'omišwago mo lefelong la moo thoto e lego go lona, ge e šetše e le ka go kuranta ya mmušo ebile, ka nako ye tee le yona goba e sego go feta beke e tee ka morago ga moo, ga tee ka go dikuranta tše di fihlelelwago ebile di phatlalatšwago kudu tša maleme a go fapana mo lefelong leo thoto e lego go lona; 5
- (b) ge thoto e le naga, pontšho ya tsebišo ye e lego ka maleme ao go bolelwago ka wona ka go temana ya (a), mo lefelong leo le bonalago gabotse la naga, go floga ka morago ga letšatšikgwedi la kgatišo ka go kuranta ya mmušo yeo e hlalošitšwego ka go temana ya (a); le 10
- (c) ge bolaodi bja go tšea dithoto bo bona e ke go a nyakega ka fase go maemo ao, ka go bapatša ka maleme a bjalo ao a tla bago maleba thelebišeneng goba ka go seyalemoya, seo se gašago ka maleme a setlwaedi ao a šomišwago mo lefelong leo naga e le lego go lona, diteng tša papatšo di swanetše go obamela tshedimošo ye e kwagalago ya diteng tša tsebišo goba sengwalwa seo se bapadišwego. 15
- (3) Nako le nako ge sengwalwa se swanetše go goba go išwa go ya ka Molao wo, se swanetše go išwa—
- (a) go mongthoto goba motho yo a nago tokelo ye e sa ngwadišwago ya thoto yeo e tsebjago ke bolaodi bja go tšea dithoto, go aterese yeo e kgethilwego go ya ka karolo ya 7(1), tsebišo ya go tšea dithoto, tsebišo ya go ya ka karolo ya 11(2) goba sengwalwa se sengwe, ka mokgwa wo go tla bago go le ka gona; le 25
- (b) go mongthoto ofe goba ofe, motho yo a tšeešwego tokelo ya thoto, motho yo a tlišitšwego kganetšo goba tlhagišo yeo e hlalošitšwego ka go karolo ya 7(2)(h), mongthoto le motho a nago tokelo ya thoto yeo e tšerwego, go aterese goba ka nomoro ya fekese ye e kgethilwego ke motho yo bjalo go ya ka Molao wo, goba ge e ka se be gona — 30
- (i) go aterese yeo e filwego malebana le motho yo bjalo go ya ka Molao wo;
- (ii) go aterese ya bodulo goba ya poso ya motho yo bjalo, ge e le gore ya tsebjaga ke bolaodi bja go tšea dithoto; goba 35
- (iii) ge go se na aterese ya motho yo bjalo yeo e tsebjago goba yeo e kgonthiššwago ga bonolo ke bolaodi bja go tšea dithoto, ka go gatiša ka mokgwa wo o hlalošitšwego ka go karolwana ya (2)(a).
- (4) Thomelo yeo e hlalošitšwego ka go karolwana ya (3) e swanetše go direga go aterese yeo e hlalošitšwego, e ka ba ka— 40
- (a) letsogo;
- (b) phetišetšo ya fekese: ge fela khopi ya sengwalwa sa netefatšo e romelwa ka poso ye e tlwaelegilego goba ka mokgwa ofe goba ofe wo mongwe wa maleba mo letšatšing le tee ka morago ga go romela fekese yeo; 45
- (c) ka poso ye e ngwadišitšwego;
- (d) i-meile; goba
- (e) ka mokgwa wo mongwe woo o ka laelwago ke Tona.
- (5) Dingwalwa ka moka di swanetše go ba ka Seisemane gomme ge e le gore molebišwa o rile peleng ka kgokagano yeo a bontšha ka go ngwala kgetho ya leleme le lengwe la semmušo, a ka hwetša sengwalwa gape ka leleme leo a le kgethilego la semmušo. 50
- (6) Molebišwa yo mongwe le yo mongwe yo a amogetšego kgokagano ye e ngwadilwego gotšwa go bolaodi bja go tšea dithoto o na le tokelo ya go kgopela, ka go ngwala, phetolelo ya kgokagano yeo ka leleme la semmušo leo le bontšhitšwego ka go kgopelo. 55

Katološo ya nako

23. (1) Bolaodi bja go tšea dithoto bo ka katološa nako efe goba efe, yeo e amanago le batho bao ba ngwadilwego go ditemana tša (a) le (b), go ya ka Molao wo ka kgopelo ya go ngwalwa le ge lebaka la go kwala le bontšhitšwe:

- (a) The relevant owner or holder of a right or other interested or affected person for a further period or periods as may be reasonable in the circumstances.
- (b) by another organ of state or functionary for a further period or periods as may be reasonable in the circumstances, but not more than double the original period. 5
- (2) An expropriating authority may extend any period applicable to itself in terms of this Act, if—
- (a) the owner, holder of a right or interested and affected person agrees to a written request by the expropriating authority; or
- (b) there is good cause for the extension. 10
- (3) For the purposes of subsections (1) and (2), good cause may include circumstances where compliance with the provision requires—
- (a) searching for and compiling a large number of documents and compliance with the original period would unreasonably interfere with the activities of the organ of state concerned, or would impose an unreasonable burden on the persons contemplated in subsection (1)(a); 15
- (b) searching for and compiling information or documents from a source not situated in the same town or city, as may be reasonable in the circumstances, the persons contemplated in subsections (1)(a), (b) and (2), the completion of which cannot reasonably be completed within the original period; 20
- (c) consultation among divisions of the organ of state or another organ of state, which is necessary and desirable for the purposes of this Act, but which cannot reasonably be completed within the original period; or
- (d) more than one of the circumstances contemplated in paragraphs (a), (b) and (c) exist, making compliance with the original period not reasonably possible. 25
- (4) If the expropriating authority extends a period—
- (a) in terms of subsection (1), it must notify the requestor as soon as reasonably possible, but in any event within 20 days of the outcome of the request; and
- (b) in terms of subsection (2), it must notify the owner, holder of a right or interested and affected person as soon as reasonably possible, but in any event within 20 days, of making the extension. 30
- (5) The notice in terms of subsection (4) must—
- (a) state the duration of the extension;
- (b) give adequate reasons for the extension, including the provisions of the Act relied on; and 35
- (c) if the recipient is a person contemplated in subsection (1)(a), draw attention to the provisions of section 19(6).

Expropriation register

24. (1) The Director-General must ensure that a register of all expropriations that are intended, effected and withdrawn, and of decisions not to proceed with a contemplated expropriation by all expropriating authorities, is opened, maintained and accessible to the public. 40

(2) All expropriating authorities must deliver to the Department a copy of any notice of an intended expropriation, notice of expropriation and notice of withdrawal of expropriation, and of any decision not to proceed with an intended expropriation, within 20 days of the service or delivery of such notices. 45

Offences and fines

25. (1) An owner or holder of a right commits a breach of this Act if that person fails to—
- (a) comply with a directive by the expropriating authority in terms of section 7(2)(j); or 50
- (b) deliver to the expropriating authority a statement contemplated in section 7(4)(b).

- (a) Ke mongthoto goba motho yo a nago tokelo ya thoto wa maleba goba motho yo a nago kgahlego goba yo a amegago gore a katološetšwe nako ka mo go kwalago go ya ka maemo.
- (b) ke lekala la mmušo le lengwe goba mošomi gore le katološetšwe nako ka mo go kwagalago go ya ka maemo, fela e se katološwe ka nako ye e menaganego ga bedi go feta ye e bego e beilwe mathomong. 5
- (2) Bolaodi bja go tšea dithoto bo ka katološa nako efe goba efe ya bjona go ya ka Molao wo, ge—
- (a) mongthoto, motho yo a nago tokelo ya thoto goba motho yo a nago kgahlego le yo a amegilego a dumelelana le kgopelo ya go ngwalwa ya gotšwa go bolaodi bja go tšea dithoto; goba 10
- (b) go na le lebaka la go kwala la katološo yeo.
- (3) Ka lebaka la merero ya dikarolwana tša (1) le (2), lebaka la go kwala le ka akaretša maemo ao go wona go obamela dipeelano go nyakago—
- (a) gore go nyakwe ebile go kgoboketšwe palo ye kgolo ya dingwalwa moo go obamela nako ye e beilwego mathomo go tla šitiša ka mo go sa kwagalego mešomo ya lekala la mmušo leo le amegago, goba go tla beago morwalo wo o sa kwagalego go batho bao ba hlalošitšwego ka go karolwana ya (1)(a); 15
- (b) gore go nyakwe ebile go kgoboketšwe tshedimošo goba dingwalwa gotšwa go lekala/motho yo a sa dulego motsesetoropong o tee, bjalo ka ge go kwala go ya ka maemo, ya batho bao ba hlalošitšwego ka go dikarolwana tša (1)(a), (b) le (2), moo kgoboketšo ye bjalo e ka se phethwego ka nako ye e bego e beilwe mathomo; 20
- (c) therišano magareng ga dikarolo tša lekala la mmušo goba lekala la mmušo le lengwe, yeo e hlokegago goba e nyakegago go ya ka morero wa Molao wo, fela yeo e ka se phethwego ka nako ye e bego e beilwe mathomo; goba 25
- (d) ge go na le maemo a go feta a tee ao a ahlaahlilwego ka go ditemana tša (a), (b) le (c), ao a dirago gore go obamela nako ye e bego e beilwe mathomo go se kgonege ka mo go kwagalago. 25
- (4) Ge bolaodi bja go tšea dithoto bo ka katološa nako— 30
- (a) go ya ka karolwana ya (1), bo swanetše go tsebiša mokgopedi ka pela ka mo go ka kgonegago, fela kudu mo matšatšing a 20 a sephetho sa kgopelo; le
- (b) go ya ka karolwana ya (2), bo swanetše go tsebiša mongthoto, motho yo a nago tokelo ya thoto le motho yo a nago kgahlego le yo a amegago ka pela ka mo go ka kgonegago, fela kudu mo matšatšing a 20, a go dira katološo. 35
- (5) Tsebišo go ya ka karolwana ya (4) e swanetše—
- (a) go ngwala nako ya katološo;
- (b) e fe mabaka ao a lekanego a katološo, go akaretšwa dipeelano tšeo Molao o ithekgilwego ka tšona; le
- (c) ge moamogedi e le motho yo a hlalošitšwego ka go karolwana ya (1)(a), e lebiše šedi go dipeelano tša karolo ya 19(6). 40

Rejisetara ya go tšea dithoto

24. (1) Molaodipharephare o swanetše go netefatša gore rejisetara ya maikemišetšo a go tšea dithoto, ya dithoto tšeo di tšerwego, dithoto tšeo di gogetšwego morago gammogo le ya diphetho tša gore dithoto di se ke tša tšewa ke balaodi ka moka ba go tšea dithoto, e a bulwa, e a hlokomelwa le gore e fihlelelwa ke setšhaba. 45

(2) Balaodi ka moka ba go tšea dithoto ba swanetše go iša khopi ya tsebišo efe goba efe ya maikemišetšo a go tšea thoto, tšebiso ya go tšewa ga ya thoto le tšebiso ya kgogethago ya go tšewa ga thoto, gammogo le ya sephetho sefe goba sefe sa go se tšwele pele ka maikemišetšo a go tšea thoto go Kgoro, mo matšatšing a 20 a kabo ya goba go išwa ga ditsebišo tše bjalo. 50

Ditlolamolao le difaene

25. (1) Mongthoto goba motho yo a nago tokelo ya thoto o tlola Molao wo ge motho yoo a palelwa ke—

- (a) go obamela taelo ya bolaodi bja go tšea dithoto go ya ka karolo ya 7(2)(j); goba 55
- (b) go iša pego yeo e hlalošitšwego ka go karolo ya 7(4)(b) go bolaodi bja go tšea dithoto.

(2) A civil court may impose a civil penalty up to a maximum prescribed amount, in favour of the National Revenue Fund, on a person referred to in subsection (1), upon application by the expropriating authority brought on notice to the affected person.

(3) The rules of the relevant court apply to the application referred to in subsection (2). 5

(4) A breach referred to in subsection (1) is not a criminal offence.

(5) A person who wilfully furnishes false or misleading information in any written instrument which he or she by virtue of this Act delivers or causes to be delivered to an expropriating authority, is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding three years. 10

Regulations

26. (1) The Minister may, by notice in the *Gazette*, make regulations regarding—

(a) any matter that may or must be prescribed in terms of this Act for its proper implementation, including administrative and procedural matters; 15

(b) any ancillary or incidental administrative or procedural matter that may be necessary for the proper implementation or administration of this Act;

(c) any notice or document required in terms of this Act; and

(d) any maximum civil penalty as contemplated in section 25(2).

(2)(a) The Minister must, before making any regulations contemplated in subsection (1), publish the draft regulations for public comment. 20

(b) The period for submitting comments must be at least 20 days from the date of publication of the draft regulations.

Regulations, legal documents and steps valid under certain circumstances

27. (1) A regulation or notice, or an authorisation, document, made or issued in terms of this Act— 25

(a) but which does not comply with any procedural requirement of this Act, is nevertheless valid if the non-compliance is not material and does not prejudice any person; and

(b) may be amended or replaced without following a procedural requirement of this Act if— 30

(i) the purpose is to correct an error; and

(ii) the correction does not change the rights or interests duties of any person materially.

(2) The failure to take any steps in terms of this Act as a prerequisite for any decision or action does not invalidate the decision or action if the failure— 35

(a) is not material;

(b) does not prejudice any person; and

(c) is not procedurally unfair.

Interpretation of other laws dealing with expropriation

28. (1) Subject to section 2, any law dealing with expropriation of property that was in force immediately before the date on which this Act came into operation, must be interpreted in a manner consistent with this Act, and for that purpose any reference in any such law to— 40

(a) a functionary authorised to expropriate property, must be construed as a reference to an expropriating authority; and 45

(b) compensation as provided for in sections 12 and 13 of the Expropriation Act, 1975 (Act No. 63 of 1975), must be construed as a reference to compensation

(2) Kgorotsheko ya setšhaba e ka bea kotlo ya setšhaba go fihla go boleng bja godimodimo bja tšhelete bjo bo beilwego, go thekga Sekhwama sa Letseno la Bosetšhaba, go motho yo go bolelwago ka yena ka go karolwana ya (1), ka kgopelo ya bolaodi bja go tšea dithoto yeo e tlišitšwego ka tsebišo go motho yo a amegago.

(3) Melao ya kgorotsheko ya maleba e a šoma go kgopelo yeo go bolelwago ka yona ka go karolwana ya (2). 5

(4) Tlolamolao yeo go bolelwago ka yona ka go karolwana ya (1) ga se molato wa bosenyi.

(5) Motho yo a fago tshedimošo ya maaka goba ye e lahletšago ka boomo ka gare ga sedirišwa sefe goba sefe seo se ngwadilwego seo a se tlišago goba a dira gore se išwe go ya ka Molao wo go bolaodi bja go tšea dithoto, o na le molato ebile o na le maikarabelo a go ka bonwa molato ka go fiwa kotlo ya faene goba kgolego mo nakong yeo e sa fetego mengwaga ye meraro. 10

Melawana

26. (1) Tona e ka, ka tsebišo ka go Kuranta ya Mmušo, a dire melawana malebana le— 15

(a) taba efe goba efe yeo e ka laelwago goba e swanetšego go laelwa go ya ka Molao wo malebana le phethagatšo ya wona ya maleba, go akaretšwa ditaba tša taolo le tša tshepedišo;

(b) taba efe goba efe ya thušo goba yeo e bego e sa letelwa ya taolo le tshepedišo yeo e ka nyakegago malebana le phethagatšo goba taolo ya maleba ya Molao wo; 20

(c) tsebišo efe goba efe goba sengwalwa sefe goba sefe seo se nyakegago go ya Molao wo; le

(d) kotlo efe goba efe ya godimodimo ya setšhaba bjalo ka ge go hlalošitšwe ka go karolo ya 25(2). 25

(2)(a) Tona e swanetše, pele a dira melawana efe goba efe yeo e hlalošitšwego ka go karolwana ya (1), a gatiše sethwalwa sa melawana gore setšhaba se dire ditshwayotshwayo.

(b) Nako ya go romela ditšhwayotshwayo e swanetše go ba bonnyane bja matšatši a go tloga letšatšikgwedi la kgatišo ya sethalwa sa melawana. 30

Melawana, dingwalwa tša molao le magato ao a šomago ka fase go maemo a itšego

27. (1) Molawana goba tsebišo, goba tumelelo, sengwalwa, seo se dirilwego goba se ntšhitšwego go ya ka Molao wo—

(a) fela woo o sa obamelego tshepedišo efe goba efe ye e nyakegago go ya Molao wo, o sa šoma ge e le gore go se obamele ga wona ga go bohlokwa ga kalo ebile ga o kgetholle motho ofe goba ofe; le 35

(b) o ka fetošwa goba gwa tsenywa wo mongwe ntle le go latela tshepedišo ye e nyakegago ya Molao wo ge e ba—

(i) morero ke go lokiša phošo; le 40

(ii) phošollo ga e fetošo kudu ditokelo dikgahlego goba mešomo ya motho ofe goba ofe.

(2) Go palelwa ke go tšea magato afe goba afe go ya ka Molao wo bjalo ka senyakwa sa pele sa sephetho sefe goba sefe goba sa tiragalo efe goba efe ga go fediše sephetho goba tiragalo yeo ge e le gore go palelwa— 45

(a) ga go bohlokwa;

(b) ga go kgetholle motho ofe goba ofe; le

(c) ga se go hloka toka ga tshepedišo.

Tlhathollo ya melao ye mengwe yeo e lebanego le go tšewa ga dithoto

28. (1) Go ya ka karolo ya 2, molao ofe goba ofe wo o lebanego le go tšewa ga thoto wo o bego o šoma pele ga letšatšikgwedi leo Molao wo o thomilego go šoma ka lona, o swanetše go hlathollwa ka mokgwa wo o sepelelanago le Molao wo, ebele ka lebaka leo, tšhupetšo efe goba efe ya molao wo bjalo go— 50

(a) mošomi yo a dumeletšwego go tšea thoto, o swanetše go hlathollwa bjalo ka tšhupetšo go bolaodi bja go tšea dithoto; le 55

(b) tefo ya tšhelete bjalo ka ge e laeditšwe go dikarolo tša 12 le 13 tša Molao wa go Tšea Dithoto, wa 1975 (Molao wa No. ya 63 wa 1975), e swanetše go

contemplated in the provisions of section 25(3) of the Constitution and the provisions of this Act.

(2) In the event of a conflict between this Act and any other law contemplated in subsection (1) in relation to matters dealt with in this Act, this Act prevails.

Repeal

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29. The Expropriation Act, 1975 (Act No. 63 of 1975), is hereby repealed.

Transitional arrangements and savings

30. (1) This Act does not apply to any expropriation initiated through delivery of a notice of expropriation prior to the date of commencement of this Act or to any consequences of any expropriation initiated prior to the date of commencement of this Act. 10

(2) Any proceedings for the determination of compensation in consequence of an expropriation contemplated in subsection (1) must be instituted, or if already instituted must be concluded, as if this Act had not been passed: Provided that the parties concerned may agree to the application of this Act to such expropriation or proceedings in which case the relevant provisions of this Act apply to the extent agreed upon between the parties as if it were an expropriation or proceedings for the determination of compensation in terms of this Act. 15

Short title and commencement

31. (1) This Act is called the Expropriation Act, 2024, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 20

(2) Different dates may be determined in respect of different provisions of this Act.

hlathollwa bjalo ka tšhupetšo ya tefo yeo e hlalošitšwego ka go dipeelano tša karolo ya 25(3) ya Molaotheo le dipeelano tša Molao wo.

(2) Ge go ka ba le thulano magareng ga molao wo le molao ofe goba ofe wo mongwe wo o hlalošitšwego ka go karolwana ya (1) malebana le merero yeo e šeditšwego ka go Molao wo, Molao wo ke wona o bušago. 5

Phedišo

29. Molao wa go Tšea Dithoto, wa 1975 (Molao wa No. ya 63 wa 1975), o a fedišwa.

Dipeakanyo tša go fetogela go molao wo moswa

30. (1) Molao wo ga o šome go tshepedišo ya go tšewa ga thoto efe goba efe yeo e thomilwego ka go išwa ga tsebišo pele ga ge Molao wo o thoma go šoma goba go ditlamorago dife goba dife tša go tšewa ga thoto efe goba efe tšeo di diregilego pele ga letšatšikgwedi la go thoma go šoma ga Molao wo. 10

(2) Ditshepedišo dife goba dife tša go lekanyetša tefo ka lebaka la go tšewa ga thoto tšeo di hlalošitšwego ka go karolwana ya (1) di swanetše go thongwa, goba ge di šetše di thomilwe di swanetše go phethagatšwa, bjalo ka ge e ka Molao wo ga se wa tšwa o fetišwa: Eupša ge batšeakarolo bao ba amegago ba ka dumelelana ka tšhomišo ya Molao wo go tshepedišo ya go tšewa ga thoto, gona dipeelano tše di amegago tša Molao wo di tla šomišwa go fihla bokgole bjo go dumelelanwego ka bjona magareng ga batšeakarolo bao gomme di tla šomišwa e ka go tšewa ga thoto goba ditshepedišo tša go lekanyetša tefo go dirilwe go ya ka Molao wo. 15 20

Thaetlele ye kopana le mathomo

31. (1) Molao wo o bitšwa Molao wa go Tšea Dithoto, wa 2024, ebile o thoma go šoma ka letšatšikgwedi leo le beilwego ke Mopresidente ka pego ya ka gare ga Kuranta ya Mmušo.

(2) Matšatšikgwedi a go fapana a ka bewa malebana le dipeelano tše di fapanego tša Molao wo. 25

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