

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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GOVERNMENT GAZETTE

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DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1933.

23 October 1974.

No. 1933.

23 Oktober 1974.

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

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

o. 61 of 1974: Expropriation (Establishment of Undertakings) Amendment Act, 1974.

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

EXPROPRIATION (ESTABLISHMENT OF UNDERTAKINGS)
AMENDMENT ACT, 1974.

Act No. 61, 1974

ACT

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

(English text signed by the State President.)
(Assented to 16 October 1974.)

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

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

Amendment of
section 1 of
Act 39 of 1951.

- (a) by the substitution for the definition of "land" of the following definition:
"land' includes a real right in or over land;";
- (b) by the substitution for the definition of "local authority" of the following definition:
"local authority' means any institution, council or body referred to in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); and".

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

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

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

- (a) the objects or functions of such undertaking; or
(b) the conveyance of any solid, liquid or gas, including any pipe line, conveyor belt, cableway, cocopan tramline, rackrailway, private railway branch line, railway siding or road.

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

"Expropriation and temporary use of land by certain persons.

EXPROPRIATION (ESTABLISHMENT OF UNDERTAKINGS) Act No. 61, 1974
AMENDMENT ACT, 1974.

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

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

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

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

(4) The Minister may—

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

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

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

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

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

EXPROPRIATION (ESTABLISHMENT OF UNDERTAKINGS) Act No. 61, 1974
AMENDMENT ACT, 1974.

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

4. The following section is hereby substituted for section 4 of the principal Act: Substitution of section 4 of Act 39 of 1951.
- “Power of local authority to alienate and to grant certain rights. 4. A local authority shall have power to alienate any land held by it or to grant any real right or temporary right of use thereof, to a person referred to in subsection (1) of section 2, for any purpose for which such person may acquire such land or temporary right of use in respect thereof in terms of the said subsection.”.
5. The following section is hereby substituted for section 5 of the principal Act: Substitution of section 5 of Act 39 of 1951.
- “Effect of expropriation by local authority. 5. If any land in respect of which a real right or temporary right of use has been acquired under this Act, is expropriated by a local authority, the expropriation shall not in any way affect such real right or temporary right of use.”.
6. The following section is hereby substituted for section 6 of the principal Act: Substitution of section 6 of Act 39 of 1951.
- “Effect of restrictive conditions. 6. Any land which, or in respect of which a temporary right of use, has been acquired under this Act may, notwithstanding any restrictive condition registered against the title deeds thereof or imposed under any law relating to the establishment of townships or in terms of any town planning scheme, be used for the purpose for which it or such temporary right of use has been so acquired.”.
7. The following long title is hereby substituted for the long title of the principal Act: Substitution of long title of Act 39 of 1951, as amended by section 2 of Act 52 of 1955.
- “ACT
To provide for the expropriation of land and the taking of the right to use land temporarily for or in connection with the objects or functions of undertakings of national importance.”.
8. This Act shall be called the Expropriation (Establishment of Undertakings) Amendment Act, 1974. Short title.