

## SUMMARY OF THE EXPROPRIATION BILL [B4B-2015]

### 1. INTRODUCTION

- 1.1 The purpose of this summary is to give a plain and simple understanding of the Expropriation Bill, 2015 (the Bill) in order to assist the public and relevant stake holders. This will assist in providing informed comments on the Bill and facilitate the required participation in the law making process.
- 1.2 The fact that legislation affects everybody in the country makes it important for all persons to not only know the laws, but also the legislative processes involved in enacting them so as to effectively participate in the process and make meaningful contributions. The public is therefore invited to actively participate in the law making process by giving inputs so that their views will be represented in the laws that are passed.

### 2. THE SUMMARY

It is relevant to begin with clarifying the difference between the terms “appropriate” and “expropriate” as they are often used, incorrectly so, interchangeably.

- 2.1 **Appropriation** is the designation by the government or an individual of the use to which a fund of money is to be applied. To appropriate something is not necessarily to deprive another of possession.
- 2.2 **Expropriation** is the taking of private property for public use or in the public interest.
- 2.3 This Bill taking tune from section 25 of the Constitution of the Republic of South Africa, 1996, seeks to provide for the expropriation of property for a public purpose or in the public interest, subject to just and equitable compensation.

- 2.4 This Bill grants a general power to the Minister of Public Works to expropriate for purposes connected with the execution of his or her mandate, which includes the provision and management of the accommodation, land and infrastructure needs of the state.
- 2.5 In terms of this Bill, an expropriating authority may not expropriate property arbitrarily or for a purpose other than a public purpose or in the public interest.
- 2.6 The Bill also requires an expropriating authority to first enter into negotiations with the owner of the property required for a public purpose and attempt to reach an agreement on the acquisition of the property before resorting to expropriation.
- 2.7 The Bill also provides for a pre-expropriation phase with its procedures which will be used to ascertain the suitability of the property for the purpose for which it is required and to gather information on the existence of registered and unregistered rights in such property and the impact of such rights on the intended use thereof.
- 2.8 The Bill goes on to provide for the determination and payment of compensation to persons whose property or rights are expropriated, aligning such determination with the provisions of section 23(3) of the Constitution.
- 2.9 The Bill also provides for the matters which must not be taken into account when the amount of compensation is being determined.
- 2.10 This Bill further provides for the determination of the dispute by a court in the absence of an agreement between the expropriating authority and the expropriated owner or holder. This process is commenced through a court playing the role of a mediator. However, if still the mediation cannot work, a competent court must be approached by any of the parties to make a determination of the matter and such a determination shall have a binding effect.

- 2.11 The Bill also deals with urgent expropriations, which may be done in the case of a disaster or where ordered by a court for a temporary period not exceeding 12 months.
- 2.12 The Bill also empowers the Minister to delegate or assign any power in terms of the Act to an officer in the Department, except key powers like the power to:
- expropriate;
  - expropriate urgently on a temporary basis;
  - withdraw an expropriation; or
  - make regulations on certain matters.

### **3. CONCLUSION**

Members of the public are urged to comment on the Bill as it will affect them once it is passed into law. Copies of the Bill may be obtained at [www.parliament.gov.za](http://www.parliament.gov.za) or at [www.eclegislature.gov.za](http://www.eclegislature.gov.za) or from Ms A Sileku the Committee Coordinator for the Portfolio Committee on Roads and Public Works ,who may be contacted by dropping an email at [asileku@ecleg.gov.za](mailto:asileku@ecleg.gov.za).

Verbal comments on the Bill may be submitted to Members of the Portfolio Committee who will be visiting various areas in the Province conducting public hearings.

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