

REPUBLIC OF SOUTH AFRICA

CONSTITUTION TWENTY-SECOND AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 74(2)); explanatory summary of
Bill and prior notice of its introduction published in Government Gazette No. 53086 of 28
July 2025)*
(The English text is the official text of the Bill)

(MR M MANYI, MP)

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Constitution of the Republic of South Africa, 1996, so as to affirm that land and natural resources are the common heritage of all citizens of South Africa; to provide for custodianship of land and natural resources by the state and traditional or Khoi-San leadership; to provide for the expropriation of land without compensation for a public purpose or in the public interest; to remove all references to compensation in section 25 of the Constitution; to extend the historical cut-off date for restitution of land to 6 April 1652; and to provide for the repeal of the existing section 25 upon the enactment of enabling legislation.

WHEREAS the land of South Africa is the primary source of life, dignity, identity, and economic livelihood for the people of the Republic;

AND WHEREAS the dispossession of land from the indigenous peoples of South Africa since 6 April 1652 constitutes a fundamental injustice that must be redressed;

AND WHEREAS the Constitution recognises the need to ensure equitable access to land, secure tenure, and redress for past land dispossession;

AND WHEREAS the democratic state, in partnership with recognised traditional and Khoi-San leadership, must act as the custodian of land and natural resources on behalf of the people as a whole,

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

Amendment of section 25 of the Constitution

1. Section 25 of the Constitution of the Republic of South Africa, 1996, is hereby amended—

(a) by the deletion of subsection (1);

(b) by the insertion after subsection (1) of the following subsection:

“(1A)(a) Land and natural resources in the Republic belong to the people of South Africa collectively.

(b) The custodianship of land and natural resources vests in the democratic state on behalf of the people, and may be exercised, where applicable, in partnership with recognised traditional and Khoi-San leadership structures, in accordance with the Constitution and national legislation.”;

5

10

- (c) by the substitution for subsection (2) of the following subsection:
- “(2) Property may be expropriated **[only in terms of law of general application]** without payment of compensation—
- (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]** only in terms of a law of general application.”
- (d) by the deletion of subsection (3);
- (e) by the substitution for subsection (7) of the following subsection:
- “(7) A person or community dispossessed of property after **[19 June 1913] 6 April 1652** 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.”; and
- (f) by the addition after subsection (9) of the following subsections:
- “(10) Parliament must enact national legislation to give effect to this section, including—
- (a) the expropriation of property without the payment of any form of compensation;
- (b) the custodianship and administration of land and natural resources by the state on behalf of the people; and
- (c) the recognition and role of traditional and Khoi-San leadership structures, in the custodianship of land and natural resources.
- (11) Subsections (2) to (8) shall be repealed upon the enactment of the legislation referred to in subsection (10), and thereafter the rights and responsibilities concerning land shall be governed by that legislation.”.

Short title and commencement

2. This Act is called the Constitution Twenty-Second Amendment Act, 2025, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE CONSTITUTION TWENTY-SECOND AMENDMENT BILL, 2025

1. INTRODUCTION

The Constitution Twenty-Second Amendment Bill seeks to amend section 25 of the Constitution of the Republic of South Africa, 1996 (“the Constitution”), to address the historical injustice of land dispossession dating from 6 April 1652, and to correct the structural legacy of inequality in land ownership. The Bill proposes a transformative reconstitution of land relations by affirming the collective ownership of land and natural resources by the people of South Africa and establishing a framework of custodianship by the democratic State and traditional authorities.

2. OBJECTS OF BILL

The purpose of the Constitution Twenty-Second Amendment Bill, 2025 (“the Bill”), is to enable expropriation of land without compensation for a public purpose or in the public interest, and to extend the restitution cut-off date to 6 April 1652. The Bill seeks to recognise land as a collective national heritage held in custodianship and affirm the role of traditional and Khoi-San leadership, including royalty, in the custodianship and administration of land. The Bill will provide for the repeal of the current section 25 upon the enactment of the enabling legislation.

3. CONTENTS OF BILL

3.1 Clause 1 proposes an amendment to section 25 of the Constitution to provide—

- 3.1.1 for the collective ownership and custodianship of land;
- 3.1.2 that where property is expropriated for a public purpose or in the public interest, such expropriation must be without the payment of any form of compensation, provided that it must be done in terms of a law of general application;
- 3.1.3 for the deletion of subsection (3) in order to remove any reference to compensation and the calculation thereof;
- 3.1.4 for the substitution of subsection (7) to amend the date from which claims for restitution of land may be made, for persons previously dispossessed of land; and
- 3.1.5 for the addition of subsections (10) and (11) to ensure that Parliament enacts legislation to provide for measures pertaining to expropriation of property without the payment of compensation and for the custodianship of all property by the State and for the repeal of subsections (2) to (8) upon the enactment of the legislation.

4. FINANCIAL IMPLICATIONS

There are no direct financial implications from the Bill itself. Costs associated with implementation of enabling legislation will be managed through the normal budgetary process.

5. CONSULTATIONS

This Bill draws from the public consultation process conducted by the Parliamentary *Ad Hoc* Committee on Section 25 (2018–2019), where more than 700,000 written submissions were received, the majority in support of expropriation without compensation and state-traditional custodianship of land.

6. PARLIAMENTARY PROCEDURE

- 6.1 The Member proposes that the Bill must be dealt with in accordance with the procedure established by section 74(2) of the Constitution since its object is to amend a section within Chapter 2 of the Constitution of the Republic of South Africa, 1996.
- 6.2 The Member is of the opinion that it is necessary to refer this Bill to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), as the Bill directly affects traditional or Khoi-San communities and contains provisions pertaining to customary law or customs of traditional or Khoi-San communities.

Printed by Creda Communications

ISBN 978-1-4850-1040-1