



English

Expropriation Bill

Local, provincial and national authorities will use this legislation to expropriate land in the public interest for varied reasons that seek to amongst others, promote inclusivity and access to natural resources.

The introduction of the Expropriation Bill should not be confused with the amendment of section 25 of the Constitution. The amendment of section 25 of the Constitution seeks to allow expropriation without compensation whereas the Expropriation Bill seeks to outline how expropriation must be done i.e. guide the processes and procedures for expropriation of property by organs of state.

Who may expropriate?

Expropriation can be done by an expropriating authority as stipulated in Chapter 1 of the Bill i.e. “an organ of state or a person empowered by this Act or any other legislation to acquire property through expropriation”. For example, state departments in the three spheres of government (national, provincial and local). Courts also have the authority to rule over matters involving expropriation. Ministers may expropriate property for a public purpose or in the public interest (Chapter 2 of the Bill). The powers of expropriating authorities are stipulated in the Bill as well as certain limitations to expropriation.



Expropriation Bill

The Portfolio Committee on Public Works and Infrastructure invites stakeholders and interested persons to submit written submissions on the Expropriation Bill [B23-2020].

What is expropriation?

In Chapter 1 of the Bill, “Expropriation” is defined as the compulsory gaining of property by an expropriating authority or an organ of the state upon request to an expropriating authority.

Why the Expropriation Bill?

The Bill is a review of the Expropriation Act 63 of 1975 emanating from a Cabinet approval of 15 September 2004. For many years, expropriation of land and land reform in South Africa has been a contentious issue and has necessitated a review of current expropriation laws.

The main objective of this Bill is to ensure that expropriation laws are in line with the Constitution of South Africa. The Bill will clearly outline how expropriation can be done and on what basis. The Bill will assist all organs of State, including the local municipalities who provide services to vulnerable groups including women, children, youth, LGBTQI+ and people with disabilities.

What may be expropriated?

According to the Constitution of South Africa Section 25 (4)(b), “property is not limited to land” thus any property including movable property and immovable property may be expropriated.

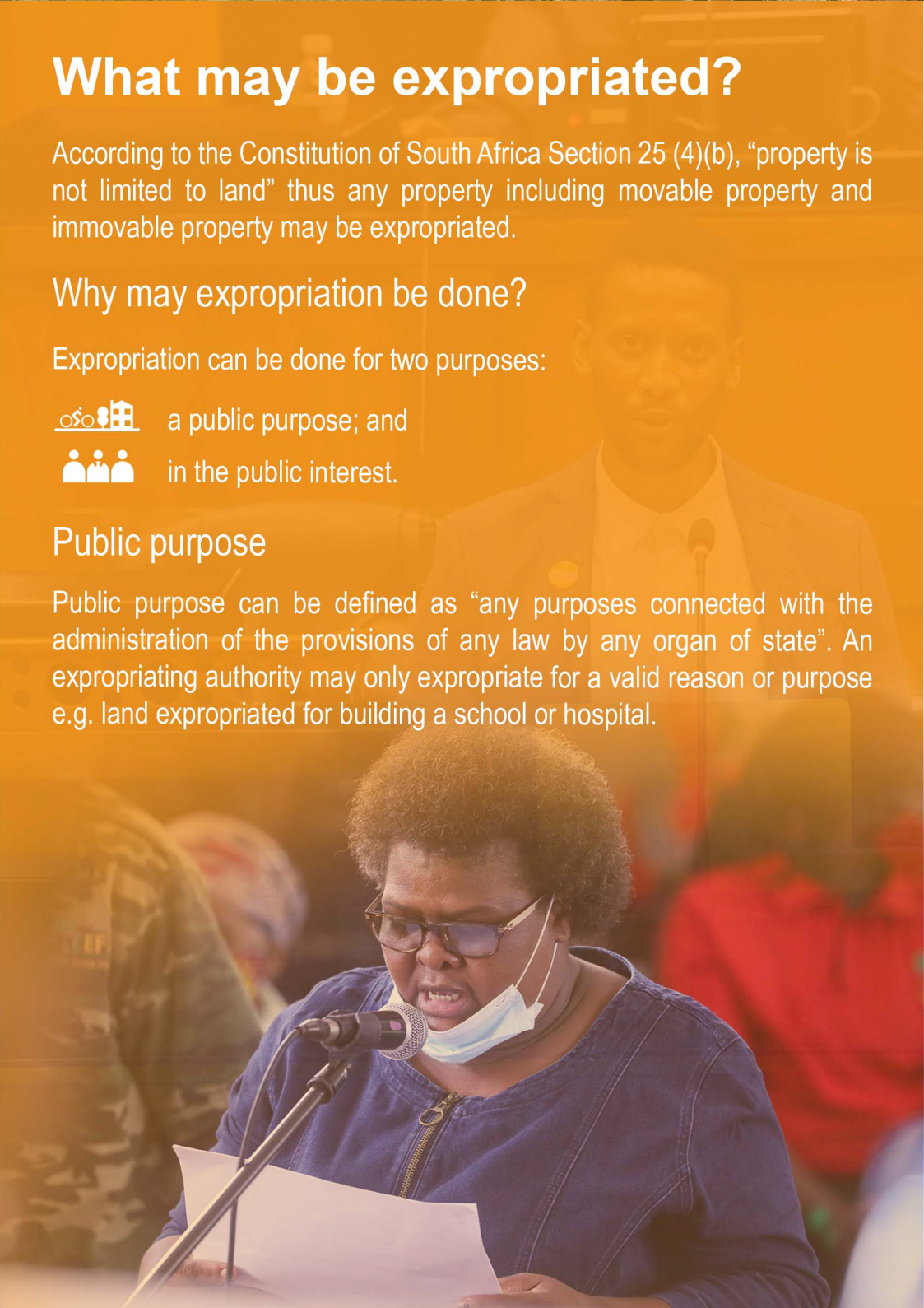
Why may expropriation be done?

Expropriation can be done for two purposes:

-  a public purpose; and
-  in the public interest.

Public purpose

Public purpose can be defined as “any purposes connected with the administration of the provisions of any law by any organ of state”. An expropriating authority may only expropriate for a valid reason or purpose e.g. land expropriated for building a school or hospital.





Public interest




In terms of section 25(4)(a) of the Constitution “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”. Section 25 (8) further states that the state may take “legislative steps and other measures ... in order to redress the results of past racial discrimination...”

Expropriation and land reform should be done in accordance with these two clauses. In the event of disputes, courts will determine compensation for expropriation.

What does urgent expropriation mean?

Chapter 7 of the Bill focuses on urgent expropriation. This section states, “An expropriating authority may, if a property is required on an urgent basis, exercise a right to use property temporarily for so long as it is urgently required for a period not exceeding 12 months”.

Urgent expropriation cannot be done if the property:

-  belonging to national, provincial or local government is available;
-  is needed in terms of the Disaster Management Act; or
-  is protected by a court order.








What happens after you have submitted your inputs to the Committee?

The committee will consider all public inputs on the amendments of the principal Act for the National Assembly to pass the Bill. The Bill will then be referred to the National Council of Provinces for further deliberation and concurrence. Thereafter, the Bill will be sent to the President for assent and signing into an Act of Parliament.

Parliament – Following up on our commitments to the People – Making your future work better

Did you know?

-  Parliament is made up of two Houses namely the National Assembly (NA) and the National Council of Provinces (NCOP).
-  Parliament is the national law-making body of South Africa.
-  Bills are mainly introduced to Parliament by the Minister of the specific government department.
-  For the bill to be passed into law, the President needs to sign it (assent to it).
-  Parliament is obliged by the Constitution to get views of the people before passing any bill into an act or law.

What happens after you have submitted your inputs to the Committee?

The committee will consider all public inputs on the amendments of the principal Act for the National Assembly to pass the Bill. The Bill will then be referred with or without amendments to the National Council of Provinces for further deliberation and concurrence. Thereafter, the Bill will be sent to the President for assent and signing into an Act.

HAVE YOUR SAY!

Who must participate and how?

All interested and affected parties, individuals and organised formations are invited to participate by completing a submission form on this link:

<https://forms.gle/UqG2TXTBNzhsy45i8> and email it to expropriationbill@parliament.gov.za or send it via WhatsApp on 060 550 9848.

Please indicate your interest in making a verbal presentation. Copies of the Bill may be obtained from www.parliament.gov.za.

Enquiries must be directed to Ms Nola Matinise, Cell: 083 709 8397

SUBMISSION GUIDELINES

Name of Bill	
Topic	
Name and Surname	
Name of organisation (if you belong to any)	
Your contact details	
Your comments on the Bill	
Recommendations	
	Who else supports you Name:..... Surname:.....

