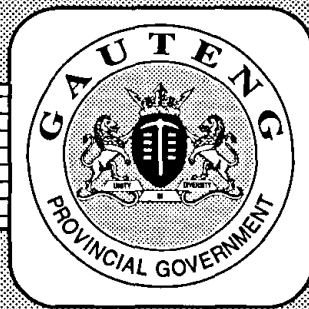


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PRETORIA, 11 FEBRUARY  
FEBRUARIE 1998

**No. 451**

**PREMIER'S NOTICE**

**No. 13**

**11 February 1998**

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

**No. 9 of 1997: Gauteng Land Administration Amendment Act**

**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.

# ACT

To provide the Premier with the power to expropriate property for a public purpose or in the public interest; to provide for the registration of land availability agreements; and to preclude provincial property from acquisitive prescription; and to provide for matters connected therewith.

(English text signed by the Premier)  
(Assented to 18 December 1997)

**B**E IT ENACTED by the Provincial Legislature of Gauteng, as follows:—

**Proposed amendment of the Gauteng Land Administration Act, No. 11 of 1996**

1. The Gauteng Land Administration Act is hereby amended by—

(a) the insertion in section 1, Definitions, in the correct alphabetical position, of the following definitions:

“expropriation” means expropriation as provided in the Expropriation Act, 1975 (Act No. 63 of 1975);

“date of expropriation” means the date of expropriation as contemplated in section 2E;

“compensation” means market-related compensation;

“notice of expropriation” means a notice contemplated in section 2B;

“for a public purpose or in the public interest” has the meaning contemplated in section 25(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

“property” means immovable property as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“owner” means owner as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);

(b) the insertion of the following sections after section 2:

**2A** **Power of the Premier to expropriate property for a public purpose**  
Subject to payment of market-related compensation, the Premier may expropriate any property or a real right in property for a public purpose or in the public interest.

**2B** **Notification that property is to be expropriated**

(1) When the Premier decides to expropriate property or a real right in property in terms of section 2A, he or she shall serve the owner in question with an appropriate notice in accordance with section 2C.

- (2) The notice of expropriation shall—
  - (a) contain a clear and full description of the property affected;
  - (b) state the date of expropriation;
  - (c) offer market-related compensation.
- (3) Where the proposed expropriation affects only a portion of property or a real right in a portion of property—
  - (a) the notice of expropriation shall contain a sketch plan indicating the approximate location and extent of the area affected;
  - (b) the owner may request the Premier to furnish further particulars of the portion within 30 days from the date appearing on the notice so as to enable the owner to determine the position or extent of the portion affected.
- (4) For the purposes of this Act, the date on which the Premier furnishes the particulars shall be the effective date of notice.
- (5) The Premier must inform the Registrar of the effective date of notice as contemplated in subsection 4.

**2C Service of notice of expropriation**

The Premier shall—

- (a) serve the original or a true copy of the notice of expropriation and all other notices and documents on the owner by delivery or registered mail;
- (b) if the whereabouts of the owner of the affected property are unknown or not readily ascertainable, publish the notice of expropriation once in the *Provincial Gazette* and once for two consecutive weeks in a newspaper circulating in the area in which the property is situated.

**2D Passing of ownership in expropriated property**

- (1) On the date of expropriation ownership of the property shall vest in the Gauteng Province.
- (2) All risk, costs, rates and taxes relating to the expropriated property shall pass to the Gauteng Province on the date of the expropriation.

**2E Non acceptance of compensation**

Within 60 days from the date of the notice, an owner whose property has been expropriated under this Act and who finds the compensation inadequate may provide the Premier with a written statement—

- (a) to the effect that the compensation is unacceptable;
- (b) containing the grounds on which the compensation has been rejected.

**2F Disputes in regard to compensation**

- (1) Disputes in regard to the amount of compensation paid will be referred for mediation or arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).
- (2) Only if arbitration fails may the parties approach the provincial or local High Court in the area in which the property is situated by means of an application to determine the compensation to be paid for a property expropriated by the Premier.
- (3) An application referred to in subsection (2) shall not for the purposes of determining compensation, affect the rights of the Premier as the owner of the expropriated property.

**2G Withdrawal of expropriation**

- (1) If the Premier is of the opinion that it is in the public interest to withdraw an expropriation of property, he or she may withdraw the expropriation at any time before registration of the property in

terms of the Deeds Registries Act, 1937 (Act No. 47 of 1937), has taken place.

- (2) The withdrawal of the expropriation shall be done in the manner contemplated in section 2B, and ownership of the property shall vest in the owner from whom the property was expropriated from the date of the withdrawal notice.
- (3) Compensation paid to the owner shall be refunded to the Province by the owner of the expropriated property.
- (4) The owner shall be entitled to claim damages which he or she has directly or indirectly sustained owing to such expropriation.

#### **2H Registrar of Deeds to note land availability agreements**

If the Premier disposes of provincial property by means of a land availability agreement, the Registrar of Deeds shall:

- (a) record a notice against the property concerned, that such an agreement exists, or that such an agreement existed but has been cancelled, as contemplated by section 3(1)(w) of the Deeds Registries Act, 1937 (Act No. 47 of 1937);
- (b) keep the original or a certified copy of the land availability agreement at the offices of the Registrar of Deeds for record purposes; and
- (c) register a power of attorney as contemplated by section 3(1)(u) of the Deeds Registries Act, 1937 (Act No. 47 of 1937) if the developer acts as agent of the Province.

#### **2I Provincial land not subject to acquisitive prescription**

Notwithstanding any rule of law to the contrary provincial land shall, from the date of commencement of this Act, not be subject to acquisition by any person by prescription.”,

- (c) the amendment of section 5(1), by the insertion in line three after the words “section 2” of the expression: “, 2A”;
- (d) the amendment of section 6 by the substitution for subsection (9) of the following subsection:
 

“(9) Surplus moneys in the Fund which cannot be readily utilised for the acquisition of Provincial land shall [be invested in such manner as may be determined by the Member of the Executive Council responsible for finance] at the discretion of the provincial treasury be surrendered to provincial income”.
- (e) **Short Title and commencement**  
This Act shall be called the Gauteng Land Administration Amendment Act, 1997 and will come into operation on the date of publication of the amended Act.







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