

Chapter D3

LAND TENURE RIGHTS

The Restitution of Land Rights Act 22 of 1994

came in operation on 2 December 1994.

1. PURPOSE OF THE ACT

The purpose of the Act is to provide for the restitution of rights in land to persons or communities dispossessed of such rights after 19 June 1913 as a result of past racially discriminatory laws or practices.

1.1 Definitions - Section 1

“Claim” means -

- (a) any claim for restitution of a right in land lodged with the Commission in terms of this act; or
- (b) any application lodged with the registrar of the Court for the purpose of claiming restitution of a right in land.

“Claimant” means any person who has lodged a claim.

“Community” means any group of persons whose rights in land are derived from shared rules determining access to land held in common by such group, and includes part of any such group.

“Equitable redress” means any equitable redress, other than the restoration of a right in land, arising from the dispossession of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices, including-

- (a) the granting of an appropriate right in alternative state-owned land;
- (b) the payment of compensation.

“Restoration of a right in land” means the return of a right in land or a portion of land dispossessed after 19 June 1913 as a result of past racially discriminatory laws or practices.

“Right in land” means any right in land whether registered or unregistered, and may include the interest of a labour tenant and sharecropper, a customary law

interest, the interest of a beneficiary under a trust arrangement and beneficial occupation for a continuous period of not less than 10 years prior to the dispossession in question.

1.2 Entitlement to restitution - Section 2

- “(1) A person shall be entitled to restitution of a right in land if-
- (a) he or she is a person dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; or
 - (b) It is a deceased estate dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; or
 - (c) he or she is the direct descendant of a person referred to in paragraph (a) who has died without lodging a claim and has no ascendant who-
 - i) is a direct descendant of a person referred to in paragraph (a); and
 - ii) has lodged a claim for the restitution of a right in land; or
 - (d) it is a community or part of a community dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices; and
 - (e) The claim for such restitution is lodged not later than 31 December 1998.
- (2) No person shall be entitled to restitution of a right in land if-
- (a) Just and equitable compensation as contemplated in section 25 (3) of the constitution; or
 - (b) any other consideration which is just and equitable, calculated at the time of any dispossession of such right, was received in respect of such dispossession.
- (3) If a natural person dies after lodging a claim but before the claim is finalised and-
- (a) leaves a will by which the right or equitable redress claimed has been disposed of, the executor of the deceased estate, in his or her capacity as the representative of the estate, alone or, failing the executor, the heirs of the deceased alone; or
 - (b) does not leave a will contemplated in paragraph (a), the direct descendants alone,
- may be substituted as claimant or claimants.
- (4) If there is more than one direct descendant who have lodged claims for and are entitled to restitution, the right or equitable redress in question shall be divided not according to the number of individuals but by lines of succession.”