

REPUBLIC OF SOUTH AFRICA

UPGRADING OF LAND TENURE RIGHTS AMENDMENT BILL

*(As amended to by the Portfolio Committee on Agriculture, Land Reform and
Rural Development (National Assembly))
(The English text is the official text of the Bill)*

(MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT)

[B 6B—2020]

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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 Upgrading of Land Tenure Rights Act, 1991, so as to provide for the application for conversion of land tenure rights to ownership; to provide for the notice of informing interested persons of an application to convert land tenure rights into ownership; to provide for an opportunity for interested persons to object to conversion of land tenure rights into ownership; to provide for the institution of inquiries to assist in the determination of land tenure rights; to provide for application to court by an aggrieved person for appropriate relief; to provide for the recognition of conversions that took effect in good faith in the past; and to provide for matters connected therewith.

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

Amendment of section 2 of Act 112 of 1991, as amended by section 30 of Act 139 of 1992

1. Section 2 of the Upgrading of Land Tenure Rights Act, 1991 (hereinafter referred to as the “principal Act”), is hereby amended—

(a) by the substitution for the heading of the following heading:

“[Conversion] Application for conversion of land tenure rights mentioned in Schedule 1;”;

(b) by the substitution for subsection (1) of the following subsection: 10

“(1) [Any land tenure right mentioned in Schedule 1 and which was granted in respect of] Any person who is the registered holder of a land tenure right according to the register of land rights in which that land tenure right was registered in terms of the provisions of any law, or could have been a holder of that land tenure right had it not been for laws or practices that unfairly discriminated against such person, may apply to the Minister, in the manner prescribed, for the conversion of such land tenure right into ownership in respect of—

(a) any erf or any other piece of land in a formalized township for which a township register was already opened at the commencement of this Act [, shall at such commencement be converted into ownership]; 20

- (b) any erf or any other piece of land in a formalized township for which a township register is opened after the commencement of this Act [**shall at the opening of the township register be converted into ownership**]; or
- (c) any piece of land which is surveyed under a provision of any law and does not form part of a township [, **shall at the commencement of this Act be converted into ownership,**

and as from such conversion the ownership of such erf or piece of land shall vest exclusively in the person who, according to the register of land rights in which that land tenure right was registered in terms of a provision of any law, was the holder of that land tenure right immediately before the conversion].”; and

- (c) by the insertion after subsection (1) of the following subsections:

“(1A) (a) The Minister shall on receipt of such application cause to be published in the *Gazette*, one local newspaper, relevant social media and at the local municipality office a notice, as prescribed, which informs all interested persons of the application for conversion.

(b) The Minister must inform in writing, the affected parties of the progress of such application.

(1B) The notice as contemplated in subsection (1A) must provide all interested persons—

(a) with an opportunity to object to the conversion; and

(b) time frames within which to object to the conversion, which must not be less than one calendar month.

(1C) An objection to a conversion may be lodged in the prescribed manner with the Minister.

(1D) The Minister must, upon receipt of an application or objection contemplated in subsections (1A) and (1B) designate a person as contemplated under section 24D in order to assist the Minister in determining the facts relating to the conversion of land tenure rights and the objection thereto, in order to assist the Minister in determining the facts and to make a decision relating to the conversion of land tenure rights, the objection thereto and the vesting of ownership.”

(1E) The person designated in terms of subsection (1D) shall—

(a) have the powers of a designated person contemplated in section 24D; and

(b) assist the parties in mediating on the objection and report to the Minister on the outcome of such mediation.”.

Amendment of section 4 of Act 112 of 1991

2. Section 4 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Notwithstanding anything to the contrary contained in any law but subject to subsections (2) and (3), a land tenure right mentioned in Schedule 1 and which has been granted in respect of any erf or any other piece of land in a formalized township for which a township register has not yet been opened shall bestow, pending the conversion thereof into ownership in terms of section 2 (1)(b) as soon as a township register is opened, on the person who is, according to a register of land rights of the township, the holder thereof, or could have been the holder thereof but for laws or practices that unfairly discriminated against such person, all rights and powers as if he or she is the owner of the erf or the land in respect of which the land tenure right has been granted.”.

Insertion of section 14A in Act 112 of 1991

3. The following section is hereby inserted in the principal Act after section 14:

“Court applications

14A. (1) Notwithstanding the provisions of this Act or any other law, any person aggrieved by a conversion of a land tenure right which took effect from 27 April 1994 may approach the court for an order—

(a) setting aside such conversion and registration of land tenure right; or

- (b) that is just and equitable.
- (2) Transfers of ownership of any erf or any other piece of land from 27 April 1994 in which a land tenure right had been converted in respect of—
 - (a) any erf or any other piece of land purchased by third parties acting in good faith;
 - (b) any erf or any other piece of land which has been inherited by a third party acting in good faith and the estate has been finalized in terms of the law of succession and the Reform of Customary Law of Succession and Regulation of Related Matters Act, 2009 (Act No. 11 of 2009), has been applied; or
 - (c) any erf or any other piece of land which has been converted to ownership in favour of a woman in terms of this Act acting in good faith, remain valid.

Substitution of section 25A of Act 112 of 1992, as inserted by section 1 of Act 61 of 1998 and substituted by section 46 of Act 11 of 2004 15

4. The following section is hereby substituted for section 25A of the principal Act:

“Application of Act

25A. As from coming into operation of the Land Affairs General Amendment Act, 1998, the provisions of this Act, excluding sections 19 and 20, shall apply throughout the Republic. 20

Short title and commencement

5. This Act is called the Upgrading of Land Tenure Rights Amendment Act, 2020, and comes into operation on a date determined by the President by proclamation in the *Gazette*.