

REPUBLIC OF SOUTH AFRICA

**RESTITUTION OF LAND
RIGHTS JUDICIAL
AMENDMENT BILL**

(As introduced in the National Assembly)

(The English text is the official text of the Bill)

(MINISTER OF RURAL DEVELOPMENT AND LAND REFORM)

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 Restitution of Land Rights Act, 1994, so as to amend the appointment, tenure of office and the terms and conditions of service of judges of the Land Claims Court

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

Amendment of section 22 of Act 22 of 1994

1 Section 22 of the principal Act is hereby amended—
(a) by the substitution for subsections (3), (4), (5), (6) and (7) of the following subsections:

“(3) The Court shall consist of a Judge President and at least four additional judges.

(4) The Judge President and a judge of the Land Claims Court must be -

(a) a judge of the High Court; or

(b) another appropriately qualified, fit and proper person.

(5) The Judge President and judges of the Court are appointed by the President acting on the advice of the Judicial Service Commission.

(6) A judge as contemplated in paragraph (b) of subsection (4), upon appointment, also becomes a judge of the High Court.

(7) Judges of the Court shall serve both the Court and the High Court in accordance with the directions of the Chief Justice, given in consultation with the judge presidents of the

Court and the appropriate division or divisions of the High Court.

(8) When the office of the Judge President of the Court is vacant, or when the Judge President of the Court is temporarily unable to perform the functions of that office for any reason, the longest serving judge of the Court must perform the functions of Judge President of the Court.

(9) The Judge President and any other judge of the Court holds office until discharged or otherwise released from active service in terms of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act 47 of 2001).

(10) A judge of the Court contemplated in paragraph (a) of subsection (4) may resign as a judge of the Court by giving written notice to the President.

(11) The tenure of office, the remuneration and the terms and conditions of service applicable to-

(a) judges of the Court shall, with the changes required by the context, be those pertaining to a judge president or judge, as the case may be, of the High Court in terms of the Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001); and

(b) a judge as contemplated in paragraph (a) of subsection (4) are not affected by the appointment and concurrent tenure of office as a judge of the Court.”; and

(b) by the renumbering of, and substitution for, subsection (8) of the following subsection:

“(12) In case of a vacancy in the office of the Judge President or judge of the Court or if there is sufficient reason the [**President of the Republic**] Minister of Justice may, after consultation with the Judge President of the Court, and in accordance with section 175(2) of the Constitution, appoint an acting judge of the Court for such term as [**the**] that [**President of the Republic**] Minister shall determine: Provided that the Minister of Justice, after consultation with the President of the Court, may make such an appointment in respect of a term not exceeding one month].”.

Insertion of section 22A in Act 22 of 1994

2 The following section is hereby inserted after section 22 of the principal Act:

“Transitional arrangements

22A. A judge of a High Court who, on the date of commencement of the Restitution of Land Rights Judicial Amendment Act, 2017, was seconded to the Court in terms of section 26A, becomes a judge of the Court except where such a judge indicates, in writing to the Secretary of the Judicial Service Commission, that he or she does not wish to hold a concurrent appointment as a judge of the Court.”.

Repeal of section 23 of Act 22 of 1994

3 Section 23 of the principal Act is hereby repealed.

Repeal of section 26 of Act 22 of 1994

4 Section 26 of the principal Act is hereby repealed.

Repeal of section 26A of Act 22 of 1994

5 Section 26A of the principal Act is hereby repealed.

Short title

6 This Bill is called the Restitution of Land Rights Judicial Amendment Bill, 2017.