

7TH DRAFT
18 JULY 1994

BILL

To provide for the restitution of rights in land of which persons or communities were dispossessed under or for the purpose of furthering the objects of any racially discriminatory law, the establishment of a Commission on Restitution of Land Rights and of a Land Claims Court; and to provide for matters in connection therewith

WHEREAS the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), provides for the restitution of a right in land to a person or community dispossessed under or for the purpose of furthering the objects of any discriminatory law;

AND WHEREAS provision is to be made for measures designed to achieve adequate protection and advancement of persons, groups or categories of persons disadvantaged by unfair discrimination, in order to enable their full and equal enjoyment of rights in land:

NOW THEREFORE BE IT ENACTED by the President and the Parliament of the Republic of South Africa, as follows:-

CHAPTER I

RIGHT TO RESTITUTION OF RIGHTS IN LAND

Entitlement to restitution of rights in land

1. Subject to the provisions of this Act -

- (a) a person shall be entitled to restitution of a right in land if -
 - (i) such person was dispossessed of such right at any time on or after 19 June 1913; or
 - (ii) such person is a direct descendant of a person so dispossessed; and
- (b) such dispossession was effected under or for the purposes of furthering the objects of any law which would have been inconsistent with the prohibition of racial discrimination contained in section 8(2) of the Constitution had that section been in operation at the time of such dispossession.

Limitations

2.(1) No person shall in terms of this Act be entitled to enforce restitution of a right in land as contemplated in section 1 -

- (a) if such right was expropriated under the Expropriation Act, 1975 and if just and equitable compensation as contemplated in section 123(4) of the Constitution was paid in respect of such expropriation; and
- (b) unless the claim for the restitution of such a right is lodged within three years from a date to be fixed by the Minister by notice in the *Gazette*.

(2) The date contemplated in subsection (1)(b), shall be a date not earlier than the dates contemplated in section 44(1).

Claims against nominees

3. Subject to the provisions of this Act a person, including a legal person, shall be entitled to claim title in property if such claimant or his or her antecedents -

- (a) was prevented from obtaining or retaining title to the claimed property because of a law which would have been inconsistent with the prohibition of racial discrimination contained in section 8(2) of the Constitution; and
- (b) proves that the current registered owner of the property, holds title as a result of a transaction between such registered owner or his or her antecedents and the claimant or his or her antecedents, in terms of which such registered owner or his antecedents held the property on behalf of the claimant or his antecedents.

CHAPTER II

COMMISSION ON RESTITUTION OF LAND RIGHTS

Establishment of Commission on Restitution of Land Rights

4.(1) There is hereby established a commission to be known as the Commission on Restitution of Land Rights.

(2) The Commission shall have a head office and such other offices, with such areas of jurisdiction, as the Minister may determine.

(3) The Commission shall consist of a Chief Land Claims Commissioner, a Deputy Land Claims Commissioner and as many Regional Land Claims Commissioners, as may be appointed by the Minister.