

REPUBLIC OF SOUTH AFRICA

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# LAND COURT BILL

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*(As introduced in the National Assembly (proposed section 75); explanatory summary  
of Bill and prior notice of its introduction published in Government Gazette No. 44480 of  
23 April 2021)  
(The English text is the official text of the Bill)*

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(MINISTER OF JUSTICE AND CORRECTIONAL SERVICES)

[B 11—2021]

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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.

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# BILL

**To provide for the establishment of a Land Court and a Land Court of Appeal; to make provision for the administration and judicial functions of the Land Court and Land Court of Appeal; to make provision for budgetary matters; to provide for the exclusive jurisdiction of the Land Court and Land Court of Appeal for certain matters; to provide for mediation and arbitration procedures; to amend certain laws relating to the adjudication of land matters by other courts; and to provide for matters connected therewith.**

## PREAMBLE

**NOTING THAT** section 25 of the Constitution of the Republic of South Africa, 1996, which is enshrined in the Bill of Rights—

- (a) obliges the State to take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis; and
- (b) envisages the State taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination;

**NOTING FURTHER** that section 7 of the Constitution of the Republic of South Africa, 1996—

- (a) proclaims that the Bill of Rights is a cornerstone of democracy in South Africa and that it enshrines the rights of all people in the country and affirms the values of human dignity, equality and freedom;
- (b) obliges the State to respect, protect, promote and fulfil the rights in the Bill of Rights;

**AND ALSO NOTING THAT** section 166(e) of the Constitution of the Republic of South Africa, 1996, recognises courts established in terms of an Act of Parliament with a status similar to either the High Court of South Africa or the Magistrates' Courts;

**AND RECOGNISING** that, with the advent of the democratic constitutional dispensation in 1994, South Africa inherited a fragmented, unequal and divisive dispensation relating to all aspects of land, which was derived from our colonial history and further structured to serve the segregation objectives of the apartheid dispensation;

**AND SINCE** land reform initiatives to address the destructive impact of colonialism and apartheid have not progressed at the desired pace, sometimes giving rise to expensive and protracted litigation, to the detriment of the poorest of the poor and most vulnerable in society;

**AND SINCE THEREFORE IT IS** necessary that land reform in its entirety be accelerated in a lawful and equitable manner, guided by progressive jurisprudence;

**AND SINCE IT IS FURTHERMORE** necessary and desirable that there should be specialised, well-resourced, accessible and streamlined adjudication structures in place with the institutional, transformative and social justice wherewithal in land matters, in order to enhance and promote fairness and equity at all stages of the adjudication processes before and during court proceedings,

**P**ARLIAMENT of the Republic of South Africa enacts, as follows:—

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**CHAPTER 1****DEFINITIONS, PURPOSE AND OBJECTS****Definitions**

<b>1.</b>	In this Act, unless the context indicates otherwise—	25
	“ <b>claim</b> ” means—	
	(a) any claim for restitution of a right in land lodged with the Commission in terms of the Restitution of Land Rights Act; or	
	(b) any application lodged with the registrar of the Court for the purpose of claiming restitution of a right in land;	30
	“ <b>claimant</b> ” means any person who has lodged a claim;	
	“ <b>Commission</b> ” means the Commission on Restitution of Land Rights established by section 4 of the Restitution of Land Rights Act;	
	“ <b>Constitution</b> ” means the Constitution of the Republic of South Africa, 1996;	
	“ <b>Court</b> ” means the Land Court established by section 3;	35
	“ <b>dispute</b> ” means a dispute arising from a matter in respect of which the Court has jurisdiction, and includes an alleged dispute;	
	“ <b>High Court</b> ” means the High Court of South Africa referred to in section 6(1) of the Superior Courts Act;	
	“ <b>Judicial Service Commission</b> ” means the Judicial Service Commission contemplated in section 178 of the Constitution;	40
	“ <b>Land Court of Appeal</b> ” means the Land Court of Appeal established by section 34;	
	“ <b>Minister</b> ” means the Cabinet member responsible for the administration of justice;	
	“ <b>prescribed</b> ” means prescribed by regulation;	
	“ <b>President</b> ” means the President of the Republic;	45
	“ <b>registrar</b> ” means the registrar of the Court contemplated in section 11, and includes the assistant registrar;	
	“ <b>Restitution of Land Rights Act</b> ” means the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994);	
	“ <b>rules</b> ” means the applicable rules of the Court or the Land Court of Appeal;	50
	“ <b>Rules Board</b> ” means the Rules Board for Courts of Law established by section 2 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985);	