

More clarity emerges on expropriation in new bill

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The revised Expropriation Bill approved by Cabinet on Wednesday appears to indicate that cool heads are beginning to prevail in the debate around land expropriation without compensation.

The bill - which will now go to Parliament to be debated and approved - will for the first time spell out the requirements for expropriation without compensation and the cases where it would apply.

Replacing the present Expropriation Act, which dates back to 1975, is a different process to the amendment of the property clause in the Constitution, which is also the subject of heated debate.

City Press' sister publication Rapport this week saw a copy of the draft bill, which has not yet been released for public comment, in which expropriation without compensation will only apply in very specific cases.

These are contained in article 12(3) of the proposed bill and make it clear that zero compensation can constitute "just and equitable" compensation where land is expropriated in the public interest, in specific cases. These cases "include, but are not limited to", the following examples:

- Where the land is owned for "purely speculative" reasons;
- Where the land is owned by a state-owned company or any other entity owned by the state;
- Where the landowner has given up the land or abandoned it;
- Where the market value of the land is equal to or

less than the present value of direct state investment or subsidisation for the purchase of beneficial capital improvement of the land; and

- Where the land is occupied or used by a labourer who lives on the farm, as defined in the bill.

This article is ostensibly aimed at leasehold farmers, who are farmers who have qualified for property rights to the land they live and work on since 1996.

A highly placed government source said on Friday that the state believed there were about 20 000 families in KwaZulu-Natal that live on, or use, leasehold land: "It's land they or their forefathers lost to white farmers and to which they have a claim for property rights."

The source added that such people were obvious beneficiaries for expropriation at zero compensation.

The process of replacing the Expropriation Act began in 2015 and a previous version was already accepted by Parliament. It would have been signed into law this year.

But Public Works Minister Thulas Nxesi and his deputy, Jeremy Cronin, withdrew the bill in August so it could be amended to more clearly set out the circumstances under which expropriation without compensation could take place.

A senior ANC source with first-hand knowledge of the process this week said it was also important to note that the bill only applied to land.

"If there are any buildings on the land, the owner still has to be compensated for them. Only the land that the buildings are built on can be expropriated without compensation."