

# Land expropriation issue rages on

**The Minister of Public Works has the power to either accept or reject a compensation offer made by an owner of a property which the government wants to expropriate.**

This is according to the revised draft bill which was published in the Government Gazette recently.

“The amount of compensation to be paid to an expropriated owner or expropriated holder must be just and equitable reflecting an equitable balance between the public interest and interests of expropriated owner and holder,” the bill said.

“Interested persons may submit written submissions on the draft expropriation bill not later than 60 days from the date of publication of the notice,” the minister said. The revised bill comes against the backdrop of the National Assembly agreeing to establish an ad hoc committee to initiate and introduce legislation - before the end of the fifth Parliament - to amend Section 25 of the Constitution so that expropriation of land without compensation could occur.

The bill, amending a law from the 1970s, was withdrawn from the parliamentary processes last year by the constitutional review committee that gauged whether there was need to amend the Constitution to allow land expropriation without compensation.

It was initially passed in 2016, but was sent back to Parliament by former president Jacob Zuma for reconsideration because there was lack of consultation.

The revised bill states that despite

provision of any law to the contrary, the expropriating authority may not expropriate property arbitrarily or for a purpose other than public purpose or in the public interest. “A power to expropriate property may not be exercised unless the expropriating authority has without success attempted to reach an agreement with the owner or the holder of an unregistered right in property for the acquisition thereof on reasonable terms.”

The bill empowers the Public Works Minister to expropriate property for a public purpose or in the public interest.

The minister may also act on behalf of the state upon their written request, and he or she can delegate their power to an official in the department.

According to the bill, when the minister is considering appropriating property, he or she should ascertain suitability of the property for its intended purpose and existence of registered and unregistered rights.

A value must also be dispatched to the property and the municipality where the property is located should be consulted.

The bill also sets out the process to be followed if expropriation is to be pursued.

This includes serving a notice of intention to expropriate to the owners and property owners. There is a 30-day period for affected persons to object to the intended expropriation, and owners to indicate claim amount that is “just and equitable compensation”.

The minister must within 20 days inform the owner or rights holder whether the compensation amount is accepted.