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EXPROPRIATION

# Apartheid-era act close to being repealed

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PARLIAMENT is closer to finalising the repeal of the apartheid-era Expropriation Act after the public works and infrastructure portfolio committee on Tuesday adopted the bill and its report for tabling in the National Assembly.

However, one opposition party threatened to take the Expropriation Bill to the Constitutional Court to determine its constitutionality before it is signed by the president.

The bill, which was introduced in Parliament in October 2020, seeks to provide a framework to guide the processes and procedures for expropriation of property by organs of state for a public purpose or in the public interest.

It also provides for instances where expropriation with nil compensation may be just and equitable.

The summary of the bill says an organ of state is obliged to enter into negotiations with the owner of property and attempt to reach an agreement on the acquisition of the property before resorting to expropriation.

"The bill proposes that no property may be expropriated unless the prescribed procedures have been followed," reads the final version of the bill.

It will empower the minister of public works and infrastructure to expropriate property for the provision and management of the accommodation, land and infrastructure needs of organs of state.

On Tuesday, all the parties present – ANC, DA and ACDP – supported the adoption of the report on the bill, but the opposition rejected the proposed legislation.

DA MP Samantha Graham said her party supported the adoption of the report as it accurately reflected the minority report of the DA in opposition to the bill.

"We submitted a minority (report) that speaks to the clauses we disagree with. On the basis of the fact that there are a number of clauses that we feel are incorrectly included in the bill and that we feel clause 12.3 is unconstitutional, we can not support the bill in its current form," she said in reference to the provision for expropriation without compensation.

ACDP MP Wayne Thring said they were not unhappy with the process

that was followed regarding the bill.

"The ACDP will support the report even though we are not necessarily happy with the bill itself. There are some clauses within the bill that we are happy with, but the ACDP will not be supporting the bill," Thring said.

Committee chairperson Nolitha Ntobongwana noted that there was a minority report that did not agree with the bill and that there was agreement with the process that was followed.

"Let us take it from there. Last week we managed to express our views," Ntobongwana said.

Graham said the Expropriation Bill was never primarily intended to serve as a land reform instrument, but instead as an updated framework to govern state expropriation. "The Expropriation Bill as it stands today is a crude attempt by the ANC to sneak expropriation without compensation through the back door," she said.

Graham said the bill remained deeply flawed and posed a significant threat to private property rights.

"As a result of the ANC's failure to pass a constitutional amendment to allow for expropriation without compensation, they are now attempting to amend the Constitution through the back door by including the 'nil-compensation' wording within ordinary legislation."

Freedom Front plus leader Pieter Groenewald said the bill would make it possible to expropriate, among other things, land without any compensation.

"This is an attempt by the ANC to use the Expropriation Bill to carry out expropriation without compensation. This is despite the fact that the ruling party failed to gain the required two-thirds support in the National Assembly last year to amend Section 25 of the Constitution to allow for expropriation without compensation," he said.

Groenewald said they would engage with all the parties opposed to the bill as there was a technical provision for a bill to be first referred to the Constitutional Court if a third of MPs requested it.

"The Constitutional Court must determine whether the proposed law is constitutional or not before the president can sign it. The FF Plus will do everything in its power to prevent the bill from being passed into law," he said.