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Employer group warns of land grabs if bills passed

● *Neasa says proposed and existing expropriation law will substantially weaken property rights*

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The government's proposed legislation on land expropriation along with existing laws will collectively weaken property rights, and that can result in widespread land grabs, further destabilising SA's already fragile economy, according to the National Employers' Association of SA (Neasa).

The "collective drive" will give the government the power to take "custodianship" of any and all property in the guise of "public benefit or interest", all without compensation being compulsory, Rona Bekker, a senior policy adviser at Neasa, said on Thursday.

Neasa represents about 8,000 businesses.

The Expropriation Bill has sparked fear among many landowners that the proposed reforms can lead to a situation similar to that in Zimbabwe, where attempts to address skewed land ownership patterns dating back to the colonial era resulted in government-sanctioned land grabs and an economic and social crisis from which that country still struggles to recover.

"What should be intensely concerning and unsettling to all South Africans is not only the Expropriation Bill, but the possible dispensation being created by this bill, in conjunction with the Land Courts Bill... and other existing legislation such as the Prevention of Illegal Eviction



Not only land: The SA Institute of Race Relations says the Expropriation Bill covers far more than land. /123RF/Loes Kleboom

from and Unlawful Occupation of Land Act," Bekker said.

The act provides for the prohibition of unlawful eviction and stipulates arguably cumbersome procedures for the eviction of unlawful occupiers.

She said the end results may be "massive land grabs, with the EFF constantly fuelling the fire of unlawful occupation, with property owners facing an uphill battle to protect their property rights without governmental support".

Parliament this week adopted the Expropriation Bill at committee level, while the Land Courts Bill was adopted by the portfolio committee on justice & correctional services. The

Expropriation Bill, which was adopted by the public works committee on Tuesday, despite objections by the DA and smaller parties, is intended to provide clarity on undertaking expropriation in broad terms and on what basis, in the public interest and public purpose.

The bill has provision for no compensation and indicates that any compensation will be determined by the courts.

The Land Courts Bill provides for the establishment of a specialist court and court of appeal to handle all claims and land rights to speed up restitution.

Both bills will be forwarded to the National Assembly for debate and processing, followed

by the National Council of Provinces before being sent to the president for assent.

Critics contend that the two bills are an attempt by the government to enable expropriation without compensation through the back door after its push to change a property clause in the constitution failed to get the required two-thirds majority in parliament in December last year. Ordinary bills require a simple majority (50% plus 1) to pass, meaning the two bills could sail through as the ANC holds 230 of the 400 seats in the National Assembly.

Bekker indicated that legal challenges were on the cards.

"South Africans need to take note of the ANC's ill-conceived drive to ruin the SA property regime, which is the cornerstone of any hope of maintaining a prosperous economy.

"Should this socialist agenda succeed, it will cause irreparable damage to our economy and shut the door to any possible growth. Should this [Expropriation] Bill be passed, the only avenue that remains will be an extensive legal challenge on constitutional grounds," she said.

The SA Institute of Race Relations said previously that the Expropriation Bill offered no solution to land reform. Anthea Jeffery, the institute's head of policy research, stressed that contrary to popular belief the bill covers far more than land.

"Instead, it covers homes, pensions, business premises, mining rights, shares and unit

trusts – all of which will fall within the bill's definition of 'property' – and all of which will be vulnerable to expropriation for 'nil or inadequate compensation," Jeffery said.

That will not solve land-reform problems, which stem largely from inefficiency, corruption and an absence of secure ownership, she said.

Jeffery has also said the Land Courts Bill will serve to facilitate expropriation where no compensation is paid and, in her view, the courts are not likely to be independent.

"Disputes have to be settled by ordinary courts, not by tribunals set up by the government to do its bidding," she said.

Bulelani Magwanishe, the chair of the portfolio committee on justice & correctional services, said this week that the Land Courts Bill was necessary to fast-track restitution.

"The Restitution Act never envisaged a permanent court with permanent judges. Instead the land claims court was established as a dedicated court with a limited lifespan to deal with claims for restitution of land.

"However, the restitution process became protracted and is still not completed. A lack of permanency of judges presiding over matters before the court and the absence of a permanent seat has contributed to the slow processing of and backlogs in land restitution claims to the dissatisfaction of land claimants," said Magwanishe.

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