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OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA



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DRAFT ORDINANCE

ONTWERPORDONNANSIE

The following Draft Ordinance is published for general information.

H. P. F. GOUS,
Secretary for South West Africa.

Administration of South West Africa,
Windhoek.

Die volgende Ontwerpordonnansie word vir algemene inligting gepubliseer.

H. P. F. GOUS,
Sekretaris van Suidwes-Afrika.

Administrasie van Suidwes-Afrika,
Windhoek.

DRAFT ORDINANCE

To provide for the expropriation of land and other property for public and certain other purposes, and for matters incidental thereto.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President, in so far as such consent is necessary, previously obtained and communicated to the Assembly by message from the Administrator, as follows:—

Definitions.

1. Unless the context otherwise indicates —

- (a) "Administration" means the Administration of the Territory; (a)
- (b) "date of expropriation" means the appropriate date contemplated by section 5(2)(b); (j)
- (c) "date of notice" means the date upon which a notice of expropriation is in terms of the provisions of section 5(3) delivered, tendered or posted to a person or is in terms of the provisions of section 5(5) published in the *Official Gazette* and if such a notice is, in respect of the same property so delivered, tendered or posted and published, the date upon which it is so published; (g)
- (d) "date of offer of compensation" means if an amount is mentioned as compensation in the notice of expropriation in question, the date of notice in question or, the date upon which an amount is in terms of the provisions of section 8(2) or (4) offered as compensation, if such an amount is not mentioned in such notice but is offered in terms of the provisions of the said section 8(2) or (4); (b)
- (e) "Executive Committee" means the Executive Committee contemplated by section 6 of the South West Africa Constitution Act, 1968 (Act 39 of 1968); (o)
- (f) "immovable property" includes a real right in or over immovable property; (i)
- (g) "local authority" means the Council of a municipality constituted or established under the provisions of the Municipal Ordinance, 1963 (Ordinance 13 of 1963), a Village Management Board established under the provisions of the Vil-

ONTWERPORDONNANSIE

Om voorsiening te maak vir die onteiening van grond en ander goed vir openbare en sekere ander doeleindes, en vir aangeleenthede wat daarmee in verband staan.

Die Wetgewende Vergadering van die Gebied Suidwes-Afrika, met die toestemming van die Staatspresident dermate sodanige toestemming nodig is, vooraf verkry en by boodskap van die Administrateur aan die Vergadering meegedeel, VERORDEN SOOS VOLG:—

1. Tensy uit die samehang anders blyk, beteken —

Woordbepaling.

(a) “Administrasie” die Administrasie van die Gebied;
(a)

(b) “datum van die vergoedingsaanbod” die betrokke kennisgewingsdatum, indien ’n bedrag as vergoeding in die betrokke onteieningskennisgewing vermeld word, of die datum waarop ’n bedrag as vergoeding ingevolge die bepalings van artikel 8(2) of (4) aangebied word, indien so ’n bedrag nie in sodanige kennisgewing vermeld word nie maar ingevolge die bepalings van genoemde artikel 8(2) of (4) aangebied word; (d)

(c) “eienaar” —

(i) met betrekking tot grond of ’n geregistreerde reg in of oor grond, die persoon op wie se naam die betrokke grond of reg geregistreer is, en —

(aa) indien die eienaar van goed oorlede is, die eksekuteur van sy boedel;

(bb) indien die boedel van die eienaar van goed gesekwestreer is, die kurator van sy insolvente boedel;

(cc) indien die eienaar van goed ’n maatskappy is wat gelikwideer word, die likwidateur daarvan;

(dd) indien goed oorgegaan het op ’n beredderaar of kurator wat ingevolge die bepalings van die Wet op Landboukrediet, 1966 (Wet 28 van 1966), gekies of aangestel is, daardie beredderaar of kurator;

lage Management Boards Ordinance, 1963 (Ordinance 14 of 1963), and a Peri-Urban Development Board established under the provisions of the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970); (m)

(h) "Master", in relation to particular property, means the Master of the South West Africa Division of the Supreme Court; (h)

(i) "notice of expropriation" means a notice contemplated by section 5; (k)

(j) "owner" means —

(i) in relation to land or a registered right in or over land, the person in whose name the land or right in question is registered and —

(aa) if the owner of property is deceased, the executor in his estate;

(bb) if the estate of the owner of property has been sequestrated, the trustee of his insolvent estate;

(cc) if the owner of property is a company which is being wound up, the liquidator thereof;

(dd) if property has passed to a liquidator or trustee elected or appointed in terms of the provisions of the Agricultural Credit Act, 1966 (Act 28 of 1966), that liquidator or trustee;

(ee) if the owner of any property is otherwise under a legal disability, his legal representative;

(ff) if any property has been attached in terms of an order of a court, also the messenger of the court, the sheriff or deputy-sheriff concerned, as the case may be;

(gg) in relation to a holding allotted, leased, sold or granted in terms of the provisions of the Land Settlement Consolidation and Amendment Proclamation, 1927 (Proclamation 310 of 1927, of the Republic of South Africa), the person to whom such holding was so allotted, leased, sold or granted or the cessionary or sublessee of that person;

(hh) includes the authorised representative in the Territory, of a person who qualifies as

- (ee) indien die handelingsbevoegdheid van die eienaar van goed andersins beperk is, sy verteenwoordiger in regte;
- (ff) indien op goed beslag gelê is ingevolge 'n bevel van 'n hof, ook die betrokke geregsbode, balju of adjunk-balju, na gelang van die geval;
- (gg) met betrekking tot 'n hoewe wat ingevolge die bepalings van die Landnedersetting Gekonsolideerde en Wysigingsproklamasie 1927 (Proklamasie 310 van 1927 van die Republiek van Suid-Afrika), toegeken, verhuur, verkoop of uitgegee is, die persoon aan wie sodanige hoewe aldus toegeken, verhuur, verkoop of uitgegee is, of die sessionaris of onderhuurder van daardie persoon;
- (hh) ook die gevolmagtigde verteenwoordiger in die Gebied, van 'n persoon wat ingevolge die bepalings van hierdie subparagraaf as eienaar kwalifiseer; en
 - (ii) waar daar in hierdie Ordonnansie verwys word na die eienaar van onteiene goed of van goed wat onteien is, word so 'n verwysing, ondanks die bepalings van artikel 6(1), uitgelê as 'n verwysing na die persoon wat onmiddellik voor die onteieningsdatum ingevolge, onder andere, die voorafgaande bepalings van hierdie subparagraaf, eienaar van die betrokke goed is;
 - (ii) met betrekking tot ander goed as grond of 'n geregistreerde reg in of oor grond, ook die persone bedoel by subparagraaf (i)(aa), (bb), (cc), (dd), (ee), (ff), (hh) en (ii): Met dien verstande dat enige verwysing na goed in daardie subparagraaf vir die doeleindes van hierdie subparagraaf uitgelê word as 'n verwysing na ander goed as grond of 'n geregistreerde reg in of oor grond; (j)
- (d) "Gebied" die Gebied Suidwes-Afrika; (n)
- (e) "goed" roerende sowel as onroerende goed; (k)
- (f) "hierdie Ordonnansie" ook die regulasies; (o)
- (g) "kennisgewingsdatum" die datum waarop 'n onteieningskennisgewing ingevolge die bepalings van artikel 5(3) aan iemand oorhandig, aangebied of gepos of ingevolge die bepalings van artikel 5(5) in die *Offisiële Koerant* gepubliseer word, en indien so 'n kennisgewing ten opsigte van dieselfde goed aldus

an owner in terms of the provisions of this subparagraph;

- (ii) where there is in this Ordinance referred to the owner of expropriated property or of property which has been expropriated, such a reference shall, notwithstanding the provisions of section 6(1), be construed as a reference to the person who, immediately prior to the date of expropriation, is the owner of the property in question in terms of, *inter alia*, the preceding provisions of this subparagraph;
- (ii) in relation to property other than land or a registered right in or over land, includes the persons contemplated by subparagraph (i)(aa), (bb), (cc), (dd), (ee), (ff), (hh) and (ii): Provided that any reference to property in that subparagraph shall for the purposes of this subparagraph be construed as a reference to property other than land or a registered right in or over land; (c)
- (k) "property" means both movable and immovable property; (e)
- (l) "public purposes" includes any purposes connected with the administration of the provisions of some or other law by an authoritative body; (l)
- (m) "regulation" means a regulation made under the provisions of section 20 of this Ordinance; (n)
- (n) "Territory" means the Territory of South West Africa; (d)
- (o) "this Ordinance" includes the regulations. (f)

Power of Executive Committee to expropriate or otherwise acquire property for public and certain other purposes or to take the right to use property temporarily for public purposes.

2. (1) Subject to the provisions of this Ordinance the Executive Committee may, subject to the obligation to pay compensation, expropriate any property for public purposes or take the right to use temporarily any property for public purposes.

(2) The power of the Executive Committee in terms of the provisions of subsection (1) to expropriate property for public purposes, and a power in terms of the provisions of any other law to expropriate or otherwise acquire any property on behalf of the Administration shall, if in the opinion of the Executive Committee the expropriation or acquisition of certain immovable property in terms of the provisions of the said subsection or other law affects or will affect any other immovable property, also include the power to expropriate so much of such other immovable property as the Executive Committee for any reason deems expedient.

oorhandig, aangebied of gepos en gepubliseer word, die datum waarop dit aldus gepubliseer word; (c)

- (h) "Meester", met betrekking tot bepaalde goed, die Meester van die Suidwes-Afrika Afdeling van die Hooggeregshof; (h)
- (i) "onroerende goed", ook 'n saaklike reg in of oor onroerende goed; (f)
- (j) "onteieningsdatum" die toepaslike datum by artikel 5(2)(b) beoog; (b)
- (k) "onteieningskennisgewing" 'n kennisgewing by artikel 5 bedoel; (i)
- (l) "openbare doeleindes" ook enige doeleindes wat in verband staan met die uitvoering van die bepalings van die een of ander wet deur 'n owerheidsorgaan; (l)
- (m) "plaaslike bestuur" die raad van 'n munisipaliteit gestig of ingestel ingevolge die bepalings van die Munisipale Ordonnansie, 1963 (Ordonnansie 13 van 1963), 'n dorpsbestuur ingestel ingevolge die bepalings van die Ordonnansie op Dorpsbesture, 1963 (Ordonnansie 14 van 1963), en 'n Raad vir Buitestedelike Ontwikkeling ingestel ingevolge die bepalings van die Ordonnansie op die Raad vir Buitestedelike Ontwikkeling, 1970 (Ordonnansie 19 van 1970); (g)
- (n) "regulasie" 'n regulasie wat kragtens die bepalings van artikel 20 van hierdie Ordonnansie uitgevaardig is; (m)
- (o) "Uitvoerende Komitee" die Uitvoerende Komitee bedoel by artikel 6 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968). (e)

2. (1) Behoudens die bepalings van hierdie Ordonnansie kan die Uitvoerende Komitee, onderworpe aan die verpligting om vergoeding te betaal, enige goed vir openbare doeleindes onteien of die reg neem om enige goed vir openbare doeleindes tydelik te gebruik.

(2) Die bevoegdheid van die Uitvoerende Komitee ingevolge die bepalings van subartikel (1) om goed vir openbare doeleindes te onteien, en 'n bevoegdheid ingevolge die bepalings van enige ander wet om namens die Administrasie goed te onteien of andersins te verkry, sluit ook die bevoegdheid in om, indien die onteiening of verkryging van sekere onroerende goed ingevolge die bepalings van bedoelde subartikel of ander wet na die oordeel van die Uitvoerende Komitee enige ander onroerende goed raak of sal raak, soveel van sodanige ander onroerende goed te onteien as wat die Uitvoerende Komitee om die een of ander rede dienstig ag.

Bevoegdheid van Uitvoerende Komitee om goed vir openbare en sekere ander doeleindes te onteien of andersins te verkry of om die reg te neem om goed vir openbare doeleindes tydelik te gebruik.

(3) The power of the Executive Committee in terms of the provisions of subsection (2) to expropriate immovable property which, in the opinion of the Executive Committee, is affected by an expropriation, shall, in the case where only a portion of a piece of land is expropriated in terms of the provisions of this section, at the request of the owner concerned include the power to expropriate also the remainder of that piece of land if the owner satisfies the Executive Committee that the said remainder has become useless to the owner in consequence of the expropriation of the aforesaid portion.

Executive Committee may confer its powers in relation to land in terms of this Ordinance upon a local authority.

3. (1) The Executive Committee may, with the exception of the power contemplated by section 19, confer any of its powers in relation to land or a right in, over or in respect of land in terms of the provisions of this Ordinance upon a local authority to the extent contemplated by subsection (2), and in the exercise of such a power by such local authority the provisions of this Ordinance shall apply and any reference therein to the Executive Committee and the Administration shall be construed as a reference to such local authority.

(2) The Executive Committee may confer the powers referred to in subsection (1) either in general or in relation to particular land or in respect of a particular case.

Inspection of property for purposes of expropriation or taking of right of temporary use.

4. (1) If any property or the temporary use of any property is required for public purposes, the Executive Committee may —

(a) in order to ascertain whether any particular property is suitable for the purposes or use contemplated, or in order to determine the value of such property, authorise any person to —

(i) enter upon any land in question with the necessary workmen, equipment and vehicles;

(ii) survey that land and to determine the area and levels thereof;

(iii) dig or bore on or into that land;

(iv) construct and maintain a measuring weir in any river or stream;

(v) in so far as it is necessary to gain access to that land, enter upon and go across any other land with the necessary workmen, equipment and vehicles; and

(b) authorise any person to demarcate the boundaries of any land required for the said purposes or use:

Provided that such person shall enter no building nor enter upon any enclosed yard or garden attached to any building

(3) Die bevoegdheid van die Uitvoerende Komitee om ingevolge die bepalings van subartikel (2) onroerende goed wat volgens eie oordeel van die Uitvoerende Komitee deur 'n onteiening geraak word, te onteien, sluit die bevoegdheid in om, in die geval waar slegs 'n gedeelte van 'n stuk grond ingevolge die bepalings van hierdie artikel onteien word, op versoek van die betrokke eienaar ook die restant van daardie stuk grond te onteien indien die eienaar die Uitvoerende Komitee oortuig dat bedoelde restant as gevolg van die onteiening van voornoemde gedeelte vir die eienaar nutteloos geword het.

3. (1) Die Uitvoerende Komitee kan, met uitsondering van die bevoegdheid by artikel 19 beoog, enige van sy bevoegdhede met betrekking tot grond of 'n reg in, oor of ten opsigte van grond ingevolge die bepalings van hierdie Ordonnansie, aan 'n plaaslike bestuur verleen in die mate by subartikel (2) beoog, en by die uitoefening van so 'n bevoegdheid deur sodanige plaaslike bestuur is die bepalings van hierdie Ordonnansie van toepassing en word enige verwysing daarin na die Uitvoerende Komitee en die Administrasie as 'n verwysing na sodanige plaaslike bestuur uitgelê.

Uitvoerende Komitee kan sy bevoegdhede met betrekking tot grond ingevolge hierdie Ordonnansie aan 'n plaaslike bestuur verleen.

(2) Die Uitvoerende Komitee kan die bevoegdhede waarna in subartikel (1) verwys word óf in die algemeen óf met betrekking tot bepaalde grond of ten opsigte van 'n bepaalde geval verleen.

4. (1) Indien enige goed of die tydelike gebruik van enige goed vir openbare doeleindes benodig word, kan die Uitvoerende Komitee —

Ondersoek van goed vir doeleindes van onteiening of neem van reg op tydelike gebruik.

(a) ten einde vas te stel of enige bepaalde goed vir die beoogde doeleindes of gebruik geskik is of ten einde die waarde van sodanige goed te bepaal, iemand magtig om —

(i) enige betrokke grond met die nodige werksmense, toerusting en voertuie te betree;

(ii) daardie grond op te meet en die oppervlakte en hoogtes daarvan te bepaal;

(iii) op of in daardie grond te grawe of te boor;

(iv) 'n meetdam in enige rivier of stroom te bou en in stand te hou;

(v) vir sover dit nodig is om toegang tot daardie grond te verkry, met die nodige werksmense, toerusting en voertuie enige ander grond te betree en daarvoor te gaan; en

(b) iemand magtig om die grense van enige grond wat vir genoemde doeleindes of gebruik benodig is, af te baken:

Met dien verstande dat so iemand geen gebou mag binnegaan of 'n afgekampte werf of tuin aan enige gebou ver-

without the consent of the owner or lawful occupier thereof, unless such person has given the said owner or occupier at least twenty-four hours' notice of his intention to do so.

(2) If any person has suffered damage as a result of the exercise of any power conferred in terms of the provisions of subsection (1), the Administration shall be liable to pay damages or to repair that damage.

(3) Any proceedings by virtue of the provisions of subsection (2) shall be instituted within six months after the damage in question has been caused or within six months after the completion of the acts contemplated by subsection (1), whichever is the longer period: Provided that no such proceedings shall be instituted before the prospective plaintiff has given the Executive Committee at least one month's notice thereof and has stated, together with such notice, the cause of the alleged damage.

Provisions applicable to the notice that property is to be expropriated or is to be used temporarily.

5. (1) Whenever the Executive Committee has decided to expropriate or to take the right to use temporarily any property in terms of the provisions of section 2, the said Committee shall, subject to the provisions of subsection (5), cause an appropriate notice of expropriation to be served upon the owner of the property in question in accordance with the provisions of subsection (3).

(2) The notice of expropriation shall —

(a) contain a clear and full description of the property in question and, in the case of the taking of the right to use property temporarily, also of such right, as well as, in the case where only a portion of a piece of land or a real right in or over only such a portion is expropriated, or where the right is taken to use temporarily only such a portion a sketch plan showing the approximate position of the portion in question and stating the approximate extent of such portion: Provided that whenever only a portion of a piece of land or a real right in or over only such a portion is expropriated, or where the right is taken to use temporarily only the said portion, the owner of the said portion may, within thirty days from the date of notice, request the Executive Committee by registered post to furnish, in the manner contemplated by subsection (3), further particulars of the portion in question so as to enable the said owner to determine the position or extent of that portion, and upon the furnishing of such further particulars, the date of the notice in which such further particulars were furnished, shall, in applying this Ordinance, be deemed to be the date of the notice of expropriation;

bonde, mag betree sonder die toestemming van die eienaar of wettige okkupeerder daarvan nie, tensy so iemand bedoelde eienaar of okkupeerder minstens vier-en-twintig uur kennis gegee het van sy voorneme om dit te doen.

(2) Indien iemand skade gely het as gevolg van die uitoefening van enige bevoegdheid ingevolge die bepalings van subartikel (1) verleen, is die Administrasie aanspreeklik om skadevergoeding te betaal of om daardie skade te herstel.

(3) Enige geding uit hoofde van die bepalings van subartikel (2) moet ingestel word binne ses maande nadat die betrokke skade veroorsaak is of binne ses maande na die voltooiing van die handelinge by subartikel (1) beoog, welke tydperk ook al die langste is: Met dien verstande dat geen sodanige geding ingestel mag word nie alvorens die voornemende eiser die Uitvoerende Komitee minstens een maand kennis gegee het daarvan en tesame met sodanige kennisgewing die oorsaak van die beweerde skade vermeld het.

5. (1) Wanneer die Uitvoerende Komitee besluit het om ingevolge die bepalings van artikel 2 goed te onteien of om die reg te neem om goed tydelik te gebruik, moet bedoelde Komitee, behoudens die bepalings van subartikel (5), 'n gepaste onteieningskennisgewing aan die eienaar van die betrokke goed laat bestel ooreenkomstig die bepalings van subartikel (3).

Bepalings van toepassing op die kennisgewing dat goed onteien of tydelik gebruik gaan word.

(2) Die onteieningskennisgewing moet —

- (a) 'n duidelike en volledige beskrywing van die betrokke goed bevat, en, in die geval van die neem van die reg om goed tydelik te gebruik, ook van sodanige reg, asook, in die geval waar slegs 'n gedeelte van 'n stuk grond of 'n saaklike reg in of oor slegs so 'n gedeelte onteien word, of waar die reg geneem word om slegs so 'n gedeelte tydelik te gebruik, 'n sketsplan wat die benaderde ligging van die betrokke gedeelte aandui en die benaderde grootte van bedoelde gedeelte vermeld: Met dien verstande dat wanneer slegs 'n gedeelte van 'n stuk grond of 'n saaklike reg in of oor slegs so 'n gedeelte onteien word, of waar die reg geneem word om slegs bedoelde gedeelte tydelik te gebruik, die eienaar van bedoelde gedeelte die Uitvoerende Komitee binne dertig dae vanaf die kennisgewingsdatum per aangetekende pos kan versoek om op die wyse by subartikel (3) beoog, verdere besonderhede van die betrokke gedeelte te verstrek ten einde bedoelde eienaar in staat te stel om die ligging of grootte van daardie gedeelte te bepaal, en by verstreking van sodanige verdere besonderhede, word die datum van die kennisgewing waarin sodanige verdere besonderhede verstrek is, by die toepassing van hierdie Ordonnansie geag die datum van die onteieningskennisgewing te wees;

(b) state the date of expropriation, or, in the case of the taking of the right to use property temporarily, the date as from which the property will be so used as well as the date upon which the right to so use the property shall be terminated: Provided that the last-mentioned date shall not be later than one hundred and eighty days after the date of notice: Provided further that the date as from which the property may be used, shall not be earlier than sixty days as from the date of notice unless the Executive Committee is of the opinion that the said property is urgently required for a purpose for which it will be used by the Administration;

(c) either state the amount which is offered as compensation for the property or for the temporary use thereof, or request the owner of the property to advise the Executive Committee in writing within sixty days as from the date of notice of the amount which that owner claims as such compensation and how much of the last-mentioned amount represents each of the respective amounts contemplated by section 9(1)(a)(i) and (ii) or (b) with full particulars regarding the composition of such amounts:

Provided that if that owner requests the Executive Committee in writing within thirty days as from the date of notice to extend the said period, the Executive Committee shall extend such period by a further sixty days;

(d) if an amount is therein offered as compensation, draw the attention of the owner of the property to the fact that if any person has, in respect of the said property, a right contemplated by section 7(1)(d)(i), (iii) or (iv) of which the Executive Committee had no knowledge on the date of notice, the Executive Committee may withdraw the said offer.

(3) Subject to the provisions of subsection (5), the Executive Committee shall cause the notice of expropriation to be served by causing the original notice or a true and correct copy thereof to be tendered or presented or sent by registered post to the owner in question.

(4) If the property to be expropriated or used temporarily is land, the Executive Committee shall, subject to the provisions of subsection (5), cause a copy of the notice contemplated by subsection (2), or a notice to the effect that the land is being expropriated or that the right to use the land temporarily is being taken, and in which is stated the particulars regarding such expropriation or the taking of such right (as the case may be), to be served in accordance with the provisions of subsection (3) —

(a) upon every person who has an interest in that land according to —

(b) die datum van onteining vermeld, of, in die geval van die neem van die reg om goed tydelik te gebruik, die datum vanaf wanneer die goed aldus gebruik sal word sowel as die datum waarop die reg om die goed aldus te gebruik, beeindig sal word: Met dien verstande dat laasgenoemde datum nie later mag wees nie as honderd en tagtig dae na die kennisgewingsdatum: Met dien verstande voorts dat die datum vanaf wanneer die goed gebruik mag word, nie vroeër mag wees nie as sestig dae vanaf die kennisgewingsdatum tensy die Uitvoerende Komitee van oordeel is dat bedoelde goed dringend nodig is vir 'n doel waarvoor dit deur die Administrasie gebruik gaan word;

(c) óf die bedrag vermeld wat as vergoeding vir die goed of vir die tydelike gebruik daarvan aangebied word óf die eenaar van die goed versoek om die Uitvoerende Komitee binne sestig dae vanaf die kennisgewingsdatum skriftelik in kennis te stel van die bedrag wat daardie eenaar as sodanige vergoeding eis en hoeveel van laasgenoemde bedrag elk van die onderskeie bedrae beoog by artikel 9(1)(a)(i) en (ii) of (b) verteenwoordig met volledige besonderhede betreffende die samestelling van daardie bedrae: Met dien verstande dat indien daardie eenaar die Uitvoerende Komitee binne dertig dae vanaf die kennisgewingsdatum skriftelik versoek om bedoelde tydperk te verleng, die Uitvoerende Komitee daardie tydperk vir 'n verdere sestig dae verleng;

(d) indien 'n bedrag as vergoeding daarin aangebied word, die eenaar van die goed se aandag daarop vestig dat indien iemand 'n reg bedoel by artikel 7(1)(d)(i), (iii) of (iv) ten opsigte van bedoelde goed het waarvan die Uitvoerende Komitee op die kennisgewingsdatum nie geweet het nie, die Uitvoerende Komitee bedoelde aanbod kan terugtrek.

(3) Behoudens die bepalings van subartikel (5) moet die Uitvoerende Komitee die onteieningskennisgewing laat bestel deur die oorspronklike kennisgewing of 'n ware en juiste afskrif daarvan aan die betrokke eenaar te laat oorhandig of aanbied of per aangetekende pos te laat stuur.

(4) Indien die goed wat onteien of tydelik gebruik gaan word grond is, moet die Uitvoerende Komitee, behoudens die bepalings van subartikel (5), 'n afskrif van die kennisgewing by subartikel (2) beoog of 'n kennisgewing met die strekking dat die grond onteien is of dat die reg om die grond tydelik te gebruik, geneem is, en waarin vermeld word die besonderhede betreffende sodanige onteining of die neem van sodanige reg (na gelang van die geval), ooreenkomstig die bepalings van subartikel (3) laat bestel —

(a) aan iedereen wat volgens —

- (i) the title deed of the land;
 - (ii) the registers of the Registrar of Deeds; and
 - (iii) the registers of any other government office in which rights granted in terms of any law relating to prospecting or mining activities, are recorded; and
- (b) if the land —
- (i) is situated within the area of a local authority, upon the local authority in question; and
 - (ii) to the knowledge of the Executive Committee, is the subject of an agreement contemplated by section 7(1)(d)(ii), upon the purchaser concerned.
- (5) Whenever the Executive Committee —
- (a) is unable readily to ascertain the dwelling place or head office of —
 - (i) the owner or of every owner of the property in question; and
 - (ii) any or every person or institution who has, in terms of the provisions of subsection (4), an interest in the land in question; or
 - (b) (i) by reason of the number of persons who are in terms of the provisions of paragraph (a) owners or interested parties; or
 - (ii) for any other reason is convinced that the service of a notice in accordance with the provisions of subsection (3) is not expedient; or
 - (c) in the case where the property is subject to a fideicommissum, does not know who all the fideicommissary heirs are or will be,

the Executive Committee shall, in addition to or instead of causing a notice to be served in accordance with the provisions of subsection (3), cause to be published once in the *Official Gazette* and once a week for two consecutive weeks in an English and in an Afrikaans newspaper circulating in the area in which the property in question is or is situated an appropriate notice which complies with the requirements of subsection (2): Provided that in the case where there is in circulation in the said area only a newspaper in which the news service is provided in both the English and the Afrikaans languages, the Executive Committee shall, in applying this subsection, cause the said notice to be published in the last-mentioned newspaper in both those languages.

- (i) die titelbewys van die grond;
 - (ii) die registers van die Registrateur van Aktes; en
 - (iii) die registers van enige ander owerheidskantoor waar regte toegestaan ingevolge enige wet op prospekter- of mynbouwerkzaamhede, aangeteken word
- 'n belang in daardie grond het; en
- (b) indien die grond —
- (i) binne die gebied van 'n plaaslike bestuur geleë is, aan die betrokke plaaslike bestuur; en
 - (ii) na die wete van die Uitvoerende Komitee die onderwerp is van 'n ooreenkoms by artikel 7(1)(d)(ii) bedoel, aan die betrokke koper.
- (5) Indien die Uitvoerende Komitee —
- (a) nie die verblyfplek of hoofkantoor van —
- (i) die eienaar of van iedere eienaar van die betrokke goed; en
 - (ii) enige of iedere persoon of instansie wat ingevolge die bepalings van subartikel (4) 'n belang in die betrokke goed het
- geredelik kan vasstel nie; of
- (b) (i) vanweë die aantal persone wat ingevolge die bepalings van paragraaf (a) eienaars of belanghebendes is; of
- (ii) om enige ander rede oortuig is dat die bestelling van 'n kennisgewing ooreenkomstig die bepalings van subartikel (3) nie doenlik is nie; of
- (c) in die geval waar die goed aan 'n fideikommis onderworpe is, nie weet wie almal fideikommisêre erfgename is of gaan wees nie,

moet die Uitvoerende Komitee, benewens of in plaas van om 'n kennisgewing ooreenkomstig die bepalings van subartikel (3) te laat bestel, een maal in die *Offisiële Koerant* en een maal per week vir twee agtereenvolgende weke in 'n Afrikaanse en in 'n Engelse nuusblad wat in omloop is in die streek waar die betrokke goed is of geleë is, 'n gepaste kennisgewing wat aan die vereistes van subartikel (2) voldoen, laat publiseer: Met dien verstande dat in die geval waar daar in bedoelde streek slegs 'n nuusblad in omloop is waarin beriggewing in sowel die Afrikaanse as die Engelse tale verskaf word, die Uitvoerende Komitee, by die toepassing van hierdie subartikel, bedoelde kennisgewing in albei daardie tale in laasgenoemde nuusblad moet laat publiseer.

Passing of ownership in respect of expropriated property and exercise of right to use property temporarily.

6. (1) The ownership of property which has been expropriated in terms of the provisions of this Ordinance shall, subject to the provisions of subsection (3), on the date of expropriation, pass to the Administration released from all mortgage bonds (if any) with which such property is burdened immediately prior to such date and, if the property thus expropriated is land, the said land shall remain subject to all such rights (except mortgage bonds) as are immediately prior to the date of expropriation registered in favour of third parties in respect of the land in question unless or until such time as those rights have been expropriated from the owner thereof in accordance with the provisions of this Ordinance.

(2) If the Executive Committee has in terms of the provisions of section 2 taken the right to use any property for some or other purpose, the Administration may, as from the date of expropriation, exercise that right.

(3) Notwithstanding the fact that in terms of subsection (1) the ownership in expropriated property passes to the Administration already on the date of expropriation and subject to the provisions of subsection (5), the Administration shall not, in the case where immovable property has been expropriated, take possession of the property in question until —

- (a) a period of not less than sixty days, calculated as from the date of expropriation, has expired; or
- (b) in the case where the period contemplated by paragraph (a) has been extended by agreement between the Executive Committee and the owner concerned, that extended period has expired:

Provided that if the property in question is, in the opinion of the Executive Committee, urgently required for the purposes for which it was expropriated, the Executive Committee may cause that property to be taken into possession at any time prior to the expiration of the period contemplated by paragraph (a) or (b), as the case may be: Provided further that the aforesaid accelerated taking into possession shall only be effected on the date which has been specifically designated therefor in the notice of expropriation or other appropriate notice which must be served or published in accordance with the provisions of section 5(3) or (5).

(4) Any owner of expropriated immovable property —

- (a) shall, with due regard to the provisions of paragraph (b), take care of and maintain the immovable property in question during the period which runs from the date of expropriation to the date upon which the Administration takes that property into possession, and shall be compensated by the Executive Committee for any costs which were, in the opinion of the Executive Committee, necessarily incurred during the said period in connection with such care or maintenance;

6. (1) Die eiendomsreg van goed wat ingevolge die bepalings van hierdie Ordonnansie onteien is, gaan behoudens die bepalings van subartikel (3), op die onteieningsdatum op die Administrasie oor bevry van alle verbande (indien enige) waarmee sodanige goed onmiddellik voor sodanige datum beswaar is en, indien die aldus onteiene goed grond is bly daardie grond onderworpe aan al sodanige regte (uitgesonderd verbande) as wat onmiddellik voor die onteieningsdatum ten gunste van derdes ten opsigte van die betrokke grond geregistreer is, tensy of tot sodanige tydstip as wat daardie regte van die eienaar daarvan onteien is ooreenkomstig die bepalings van hierdie Ordonnansie.

Oorgang van eiendomsreg ten opsigte van onteiene goed en uitoefening van reg om goed tydelik te gebruik.

(2) Indien die Uitvoerende Komitee ingevolge die bepalings van artikel 2 die reg geneem het om enige goed vir die een of ander doel te gebruik, kan die Administrasie vanaf die onteieningsdatum daardie reg uitoefen.

(3) Ondanks die feit dat die eiendomsreg op onteiene goed ingevolge die bepalings van subartikel (1) reeds op die onteieningsdatum op die Administrasie oorgaan, en behoudens die bepalings van subartikel (5) mag die Administrasie, in die geval waar onroerende goed onteien is, nie die betrokke goed in besit neem nie voordat —

- (a) 'n tydperk van minstens sestig dae bereken vanaf die onteieningsdatum verstryk het; of
- (b) in die geval waar die tydperk by paragraaf (a) beoog by ooreenkoms tussen die Uitvoerende Komitee en die betrokke eienaar verleng is, daardie verlengde tydperk verstryk het:

Met dien verstande dat indien die betrokke goed volgens die oordeel van die Uitvoerende Komitee dringend nodig is vir die doeleindes waarvoor dit onteien is, die Uitvoerende Komitee daardie goed in besit kan laat neem te eniger tyd voor die verstryking van die tydperk bedoel by paragraaf (a) of (b), na gelang van die geval: Met dien verstande voorts dat voornoemde vervroegde inbesitneming slegs mag plaasvind op die datum wat spesifiek daarvoor aangewys is in die onteieningskennisgewing of ander toepaslike kennisgewing wat ooreenkomstig die bepalings van artikel 5(3) of (5) bestel of gepubliseer moet word.

(4) Enige eienaar van onteiene onroerende goed —

- (a) moet, met inagneming van die bepalings van paragraaf (b), die betrokke onroerende goed versorg en in stand hou gedurende die tydperk wat loop vanaf die onteieningsdatum tot op die datum waarop die Administrasie daardie goed in besit neem, en word deur die Uitvoerende Komitee vergoed vir enige koste wat, volgens die oordeel van die Uitvoerende Komitee, noodsaaklikerwys gedurende bedoelde tydperk aangegaan is in verband met sodanige versorging of instandhouding;

(b) who wilfully, or negligently fails to take care of and to maintain the immovable property in question or to take care of or to maintain it in accordance with the provisions of this subsection, with the result that that property depreciates in value, is, if the Executive Committee so decides, indebted to the Administration for the amount of such depreciation which amount may, at any time after such decision, be recovered by the Executive Committee from such owner.

(5) If the owner of expropriated immovable property desires to place the Administration in possession of that property before the appropriate period contemplated by subsection (3) has expired, the said owner shall give the Executive Committee not less than twenty-one day's written notice of the date of the intended accelerated placing into possession, whereupon the Executive Committee shall be deemed to have caused the property in question to be taken possession of on that date.

(6) The owner of expropriated property shall, during the period which runs from the date of expropriation to the date upon which the Administration may or shall take possession of that property, be entitled to the use of and to the fruits and income from that property, and shall during such period be liable for the payment of taxes and for any other costs which were incurred in respect of the expropriated property as if that property had never been expropriated.

Duties of owner whose property has been expropriated or which is to be used by the Administration.

7. (1) An owner whose property has been expropriated in terms of the provisions of this Ordinance, shall, within sixty days from the date of notice in question, deliver or cause to be delivered to the Executive Committee a written statement in which is indicated —

- (a) if there was in the notice of expropriation any compensation offered for the property in question whether or not the said owner accepts that compensation and, if he does not accept it, the amount claimed by him as compensation and how much of that amount represents each of the respective amounts contemplated by section 9(1)-(a)(i) and (ii) or (b) and full particulars regarding the composition of those amounts;
- (b) if no compensation has been offered for the property in question in the manner contemplated by paragraph (a) of this subsection, the amount which the said owner claims as compensation and how much of that amount represents each of the respective amounts contemplated by section 9(1)-(a)(i) and (ii) or (b) and full particulars regarding the composition of those amounts;
- (c) if the expropriated property is land and any amount is claimed in terms of the provisions of paragraph (a) or (b) of this subsection, full particulars of all improvements effected on the said land which, in the

- (b) wat opsetlik of nalatiglik versuim om die betrokke onroerende goed te versorg en in stand te hou of dit ooreenkomstig die bepalings van hierdie subartikel te versorg of in stand te hou, met die gevolg dat daardie goed in waarde verminder, is, indien die Uitvoerende Komitee so besluit, die bedrag van sodanige waardevermindering aan die Administrasie verskuldig welke bedrag te eniger tyd na sodanige besluit deur die Uitvoerende Komitee op die betrokke eenaar verhaal kan word.

(5) Indien die eenaar van onteiene onroerende goed die Administrasie in besit van daardie goed wil stel voordat die toepaslike tydperk bedoel by subartikel (3) verstryk het, moet bedoelde eenaar die Uitvoerende Komitee minstens een-en-twintig dae skriftelike kennis gee van die datum van die voorgenome vervroegde inbesitstelling, waarop die Uitvoerende Komitee geag word die betrokke goed op daardie datum in besit te laat neem het.

(6) Die eenaar van onteiene goed is, gedurende die tydperk wat loop vanaf die onteieningsdatum tot op die datum waarop die Administrasie daardie goed in besit kan of moet neem, geregtig op die gebruik van en op die vrugte en inkomste uit daardie goed, en is gedurende sodanige tydperk vir die betaling van belastings en vir enige ander koste wat ten opsigte van die onteiene goed aangegaan is, aanspreeklik asof daardie goed nooit onteien was nie.

7. (1) 'n Eenaar wie se goed ingevolge die bepalings van hierdie Ordonnansie onteien is, moet binne sestig dae vanaf die betrokke kennisgewingsdatum aan die Uitvoerende Komitee lewer of laat lewer 'n skriftelike verklaring waarin aangedui word —

Pligte van eenaar wie se goed onteien is of wat deur die Administrasie gebruik gaan word.

- (a) indien daar in die onteieningskennisgewing enige vergoeding vir die betrokke goed aangebied is, of bedoelde eenaar daardie vergoeding aanneem of nie, en, indien hy dit nie aanneem nie, wat die bedrag is wat hy as vergoeding eis en hoeveel van daardie bedrag elk van die onderskeie bedrae beoog by artikel 9(1)(a)(i) en (ii) of (b) verteenwoordig en volledige besonderhede betreffende die samestelling van daardie bedrae;
- (b) indien geen vergoeding vir die betrokke goed op die wyse by paragraaf (a) van hierdie subartikel beoog, aangebied is nie, wat die bedrag is wat bedoelde eenaar as vergoeding eis en hoeveel van daardie bedrag elk van die onderskeie bedrae beoog by artikel 9(1)(a)(i) en (ii) of (b) verteenwoordig en volledige besonderhede betreffende die samestelling van daardie bedrae;
- (c) indien die onteiene goed grond is, en enige bedrag ingevolge die bepalings van paragraaf (a) of (b) van hierdie subartikel geëis word, volledige besonderhede van alle verbeterings aangebring op

opinion of the said owner, affect the value of the land in question;

(d) if the expropriated property is land —

- (i) which prior to the date of notice was leased for business or agricultural purposes in terms of an unregistered contract of lease, the name and address of the lessee concerned, accompanied by the relevant contract of lease or a certified copy thereof, where that contract is in writing, or full particulars regarding the contract, where the contract of lease is not in writing;
- (ii) which, prior to the date of notice, was sold by the said owner, the name and address of the buyer concerned together with the relevant contract of purchase and sale or a certified copy thereof;
- (iii) upon which a building has been erected which is subject to a builder's lien by virtue of a written building contract, the name and address of the builder concerned together with the relevant building contract or a certified copy thereof;
- (iv) which was on the date of notice farmed by a sharecropper, the name and address of the sharecropper concerned accompanied by the relevant sharecropper contract or a certified copy thereof, if that contract is in writing, or full particulars regarding the contract where the sharecropper contract is not in writing;

(e) the address to which the said owner desires that further documents in connection with the expropriation be posted to him:

Provided that the Executive Committee may at its discretion extend the said period of sixty days, and that, if the said owner requests the Executive Committee in writing within thirty days as from the date of notice to extend the said period of sixty days, the Executive Committee shall extend that period by a further sixty days.

(2) The Executive Committee may, after the receipt of the written statement contemplated by subsection (1) request the owner of the expropriated property in question to deliver or cause to be delivered to the Executive Committee within the period determined by such Committee (which period shall not be less than one month), in writing the further particulars which are required in that request in respect of some or other matter contemplated by the said subsection and which the Executive Committee considers necessary for the determination of the amount of the compensation.

bedoelde grond wat, na die oordeel van bedoelde eienaar, die waarde van die betrokke grond beïnvloed;

(d) indien die onteiene goed grond is —

(i) wat voor die kennisgewingsdatum vir sake- of landboudoeleindes ingevolge 'n ongeregistreerde huurkontrak verhuur is, die naam en adres van die betrokke huurder, vergesel van die tersaaklike huurkontrak of 'n gewaarmerkte afskrif daarvan, waar daardie kontrak op skrif is, of volledige besonderhede betreffende die kontrak, waar die huurkontrak nie op skrif is nie;

(ii) wat voor die kennisgewingsdatum deur bedoelde eienaar verkoop is, die naam en adres van die betrokke koper, tesame met die tersaaklike koopkontrak of 'n gewaarmerkte afskrif daarvan;

(iii) waarop 'n gebou opgerig is wat onderworpe is aan 'n retensiereg ten gunste van 'n bouer uit hoofde van 'n skriftelike boukontrak, die naam en adres van die betrokke bouaannemer, tesame met die tersaaklike boukontrak of 'n gewaarmerkte afskrif daarvan;

(iv) wat op die kennisgewingsdatum deur 'n deelsaaier bewerk is, die naam en adres van die betrokke deelsaaier vergesel van die tersaaklike deelsaaierskontrak of 'n gewaarmerkte afskrif daarvan, indien daardie kontrak op skrif is, of volledige besonderhede betreffende die kontrak, waar die deelsaaierskontrak nie op skrif is nie;

(e) die adres waarheen bedoelde eienaar verlang verdere stukke in verband met die onteining aan hom gepos kan word:

Met dien verstande dat die Uitvoerende Komitee na goeddunke genoemde tydperk van sestig dae kan verleng, en dat, indien bedoelde eienaar die Uitvoerende Komitee binne dertig dae vanaf die kennisgewingsdatum skriftelik versoek om genoemde tydperk van sestig dae te verleng, die Uitvoerende Komitee daardie tydperk met 'n verdere sestig dae moet verleng.

(2) Die Uitvoerende Komitee kan na die ontvangs van die skriftelike verklaring bedoel by subartikel (1) die eienaar van die betrokke onteiene goed versoek om binne die tydperk deur sodanige Komitee bepaal (welke tydperk nie minder as 'n maand mag wees nie), die verdere besonderhede wat in daardie versoek vereis word ten opsigte van die een of ander aangeleentheid bedoel by genoemde subartikel wat die Uitvoerende Komitee vir die vasstelling van die bedrag van vergoeding nodig ag, skriftelik aan die Uitvoerende Komitee te lewer of te laat lewer.

(3) If the property being expropriated is immovable property, the Executive Committee may, in the manner contemplated by section 5(3) or (5) —

(a) request the owner of the property in question to deliver or caused to be delivered to the Executive Committee —

(i) within sixty days the title deed of that property; or

(ii) if the title deed of that property is not in the possession or under the control of that owner, written particulars of the name and address of the person who has the possession of or the control over the said property;

(b) request any person in respect of whom particulars have been furnished in terms of the provisions of paragraph (a)(ii), to deliver or cause to be delivered to the Executive Committee within sixty days the title deed of the property in question.

(4) The provisions of subsection (1)(a), (b) and (c) shall *mutatis mutandis* apply in respect of the taking, in terms of the provisions of section 2, of a right to use any property for public purposes temporarily.

(5) Any person who wilfully furnishes false or misleading particulars in any written instrument which he, by virtue of the provisions of subsection (1), (2) or (3)(a) delivers or causes to be delivered to the Executive Committee, shall be guilty of an offence and on conviction liable to be punished as if he had been convicted of fraud.

(6) Any person who refuses or fails to comply with a request by the Executive Committee in terms of the provisions of subsection (3) shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Consequences of failure by owner to inform Executive Committee concerning compensation offered or desired, further offer by Executive Committee, and failure to institute action.

8. (1) If compensation has in an expropriation notice been offered for the property in question and the owner of that property fails to indicate in terms of the provisions of section 7(1)(a) whether or not he accepts that compensation or fails, after he has indicated that he does not accept such compensation, to furnish the relevant information in terms of the provisions of section 7(1)(a) and (2) and, if the property in question is land, also 7(1)(c) and (d), the Executive Committee may apply to an appropriate court contemplated by section 11(1) for the determination by such court of the amount of the compensation, in which event no interest up to the date of such determination, and no costs, shall be payable by the Administration unless the said owner satisfies that court that notwithstanding such failure, there exist special reasons which justify the payment by the

(3) Indien die goed wat onteien word onroerende goed is, kan die Uitvoerende Komitee op die wyse by artikel 5(3) of (5) beoog —

(a) die eienaar van die betrokke goed versoek om —

(i) binne sestig dae die titelbewys van daardie goed; of

(ii) indien die titelbewys van daardie goed nie in die besit of onder die beheer van daardie eienaar is nie, skriftelike besonderhede van die naam en adres van die persoon wat die besit van of die beheer oor bedoelde goed het,

aan die Uitvoerende Komitee te lewer of te laat lewer;

(b) iemand ten opsigte van wie besonderhede ingevolge die bepaling van paragraaf (a)(ii) verstrekk is, versoek om binne sestig dae die titelbewys van die betrokke goed aan die Uitvoerende Komitee te lewer of te laat lewer.

(4) Die bepaling van subartikel (1)(a), (b) en (c) is *mutatis mutandis* van toepassing ten opsigte van die neem, ingevolge die bepaling van artikel 2, van 'n reg om goed vir openbare doeleindes tydelik te gebruik.

(5) Iemand wat opsetlik valse of misleidende besonderhede verstrekk in 'n skriftelike stuk wat hy uit hoofde van die bepaling van subartikel (1), (2) of (3)(a) aan die Uitvoerende Komitee lewer of laat lewer, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar asof hy aan bedrog skuldig bevind was.

(6) Iemand wat weier of versuim om te voldoen aan 'n versoek van die Uitvoerende Komitee ingevolge die bepaling van subartikel (3), is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens tweehonderd rand of met gevangenisstraf vir 'n tydperk van hoogstens ses maande of met beide sodanige boete en sodanige gevangenisstraf.

8. (1) Indien vergoeding vir die betrokke goed in 'n onteieningskennisgewing aangebied is en die eienaar van daardie goed versuim om ingevolge die bepaling van artikel 7(1)(a) aan te dui of hy daardie vergoeding aanneem al dan nie, of nadat hy aangedui het dat hy nie daardie vergoeding aanneem nie, versuim om die tersaaklike inligting ingevolge die bepaling van artikel 7(1)(a) en (2) en, indien die betrokke goed grond is, ook 7(1)(c) en (d), te verstrekk, kan die Uitvoerende Komitee by 'n gepaste hof beoog by artikel 11(1) aansoek doen dat die bedrag van die vergoeding deur sodanige hof vasgestel word, in welke geval geen rente tot op die datum van sodanige vasstelling, en geen koste deur die Administrasie betaalbaar is nie tensy bedoelde eienaar daardie hof oortuig dat, ondanks sodanige versuim, daar spesiale redes bestaan wat die betaling deur die

Gevolge van versuim van eienaar om Uitvoerende Komitee aangaande aangebode of verlangde vergoeding in te lig, verdere aanbod deur Uitvoerende Komitee en versuim om aksie in te stel.

Administration of such interest or costs or a portion of such interest or costs: Provided that, if the property in question is land, the Executive Committee shall cause a copy of such application or particulars thereof to be served —

- (a) upon the said owner; and
- (b) upon every holder of a mortgage bond over that land; and
- (c) where that land, to the knowledge of the Executive Committee, is the subject of an agreement contemplated by section 7(1)(d)(ii), upon the buyer concerned,

in the manner, *mutatis mutandis*, contemplated by section 5(3) or (5).

(2) If no compensation was in the expropriation notice offered for the property in question and the owner of the property in question fails to furnish any relevant information in terms of the provisions of section 7(1)(b) and (2) and, if the property in question is land, also 7(1)(c) and (d), the Executive Committee shall offer the owner concerned an amount as compensation for that property, in the manner *mutatis mutandis*, contemplated by section 5(3) or (5), and in the case where the property in question is land the provisions of section 5(4) shall, *mutatis mutandis*, apply in connection with such an offer.

(3) If the owner of the property in question does not within thirty days after an offer in terms of the provisions of subsection (2) or (4) notify the Executive Committee that he does not accept that offer, the provisions of subsection (1) shall *mutatis mutandis* apply.

(4) If an owner has in terms of the provisions of section 7(1)(a) or (b) indicated what amount is claimed by him as compensation and has complied with the relevant provisions of section 7(1)(a), (b) and (2) and, if the property in question is land, also 7(1)(c) and (d), and the Executive Committee is not prepared to pay that amount as compensation, the Executive Committee shall offer him an amount as compensation and indicate how much of that amount represents each of the respective amounts contemplated by section 9(1)(a)(i) and (ii) or (b) and furnish full particulars regarding the composition of such amounts.

(5) If an amount has been offered as compensation by the Executive Committee in terms of the provisions of this Ordinance, the owner of the property in question shall be deemed to have accepted that offer if —

- (a) an application for the determination of an amount as compensation is not made by that owner to an appropriate court contemplated by section 11(1) within eight months (or such longer period as the Executive Committee may determine) from the date of the offer of compensation in question; and

Administrasie van sodanige rente of koste of 'n gedeelte van sodanige rente of koste regverdig: Met dien verstande dat, indien die betrokke goed grond is, die Uitvoerende Komitee 'n afskrif of besonderhede van so 'n aansoek laat bestel —

- (a) aan bedoelde eienaar; en
- (b) aan elke houer van 'n verband oor daardie grond; en
- (c) waar daardie grond na die wete van die Uitvoerende Komitee die onderwerp is van 'n ooreenkoms by artikel 7(1)(d) (ii) beoog, aan die betrokke koper

en wel op die wyse, *mutatis mutandis*, by artikel 5(3) of (5) beoog.

(2) Indien geen vergoeding vir die betrokke goed in die onteieningskennisgewing aangebied is nie en die eienaar van die betrokke goed versuim om tersaaklike inligting ingevolge die bepalings van artikel 7(1)(b) en (2) en, indien die betrokke goed grond is, ook 7(1)(c) en (d), te verstrek, moet die Uitvoerende Komitee die betrokke eienaar 'n bedrag as vergoeding vir daardie goed aanbied, en wel op die wyse *mutatis mutandis* by artikel 5(3) of (5) beoog, en is die bepalings van artikel 5(4), in die geval waar die betrokke goed grond is, *mutatis mutandis* in verband met so 'n aanbod van toepassing.

(3) Indien die eienaar van die betrokke goed nie binne dertig dae na 'n aanbod ingevolge die bepalings van subartikel (2) of (4) die Uitvoerende Komitee in kennis stel dat hy daardie aanbod nie aanneem nie, is die bepalings van subartikel (1) *mutatis mutandis* van toepassing.

(4) Indien 'n eienaar ingevolge die bepalings van artikel 7(1)(a) of (b) aangedui het welke bedrag as vergoeding deur hom geëis word en die tersaaklike bepalings van artikel 7(1)(a), (b) en (2) en, indien die betrokke goed grond is ook 7(1)(c) en (d) nagekom het en die Uitvoerende Komitee nie bereid is om daardie bedrag as vergoeding te betaal nie, moet die Uitvoerende Komitee hom 'n bedrag as vergoeding aanbied en aandui hoeveel van daardie bedrag elk van die onderskeie bedrae beoog by artikel 9(1)(a)(i) en (ii) of (b) verteenwoordig en volledige besonderhede verstrek betreffende die samestelling van daardie bedrae.

(5) Indien 'n bedrag as vergoeding deur die Uitvoerende Komitee ingevolge die bepalings van hierdie Ordonnansie aangebied is, word die eienaar van die betrokke goed geag daardie aanbod te aanvaar het, indien —

- (a) 'n aansoek om die vasstelling van 'n bedrag as vergoeding nie binne agt maande (of sodanige langer tydperk as wat die Uitvoerende Komitee bepaal) vanaf die datum van die betrokke vergoedingsaanbod deur daardie eienaar by 'n gepaste hof by artikel 11(1) beoog, ingedien word nie; en

- (b) the Executive Committee has, not later than thirty days prior to the expiration of the period contemplated by paragraph (a), by way of written notice which is served in accordance with the provisions of section 5(3), directed the attention of the said owner to the preceding provisions of this subsection, unless that owner and the Executive Committee have prior to the expiration of the period contemplated by paragraph (a), agreed to refer the matter in dispute to arbitration.

Basis upon which compensation is calculated.

9. (1) The amount which is to be paid as compensation to an owner in terms of the provisions of this Ordinance in respect of property which has been expropriated from him in terms of the provisions of this Ordinance, or in respect of the taking, in terms of the provisions of this Ordinance, of a right to use his property temporarily, shall not, subject to the provisions of subsection (2), exceed —

(a) in the case where the property in question consists of property other than a right, the aggregate of —

(i) the amount which would have been paid for the property in question if that property had been sold on the date of notice in the open market by a willing seller to a willing buyer; and

(ii) an amount to make good the actual financial loss which is caused by the expropriation; and

(b) in the case of a right, an amount to make good the actual financial loss or the inconvenience which is caused by the expropriation or taking of the right.

(2) Notwithstanding any provisions to the contrary contained in this Ordinance, an amount, equal to ten per cent of the amount payable in accordance with the provisions of subsection (1)(a)(i) shall, in the case of land, be added to the last-mentioned amount: Provided that the amount which is thus added shall not exceed ten thousand rand.

(3) Subject to the provisions of subsection (4) interest at a rate determined from time to time by the Executive Committee shall be paid in respect of any outstanding portion of the amount of the compensation payable in accordance with the provisions of subsection (1)(a)(i) in respect of expropriated property with effect from the date upon which the Administration, in terms of the provisions of section 6(3) or (5), takes possession of the property in question: Provided that in a case contemplated by section 16(4), in respect of the period calculated as from the expiration of thirty days from the date upon which —

- (b) die Uitvoerende Komitee nie later nie as dertig dae voor verstryking van die tydperk by paragraaf (a) bedoel, by wyse van skriftelike kennisgewing wat ooreenkomstig die bepaling van artikel 5(3) bestel word, die aandag van bedoelde eienaar op die voorafgaande bepaling van hierdie subartikel gevestig het, tensy daardie eienaar en die Uitvoerende Komitee voor die verstryking van die tydperk by paragraaf (a) beoog ooreengekom het om die aangeleentheid in geskil na arbitrasie te verwys.

9. (1) Die bedrag wat ingevolge die bepaling van hierdie Ordonnansie as vergoeding aan 'n eienaar betaal moet word ten opsigte van goed wat ingevolge die bepaling van hierdie Ordonnansie van hom onteien is, of ten opsigte van die neem, ingevolge die bepaling van hierdie Ordonnansie, van 'n reg om sy goed tydelik te gebruik, mag, behoudens die bepaling van subartikel (2), nie meer beloop nie as —

Grondslag waarop vergoeding bereken word.

- (a) in die geval waar die betrokke goed uit ander goed as 'n reg bestaan, die som van —
- (i) die bedrag wat vir die betrokke goed betaal sou word indien daardie goed op die kennisgewingsdatum op die ope mark deur 'n gewillige verkoper aan 'n gewillige koper verkoop was; en
- (ii) 'n bedrag om die werklike geldelike verlies wat deur die onteiening veroorsaak word, te vergoed; en
- (b) in die geval van 'n reg, 'n bedrag om die werklike geldelike verlies of die ongerief wat deur die onteiening of neem van die reg veroorsaak word, te vergoed.

(2) Ondanks enige andersluidende bepaling van hierdie Ordonnansie word daar, in die geval van grond, 'n bedrag gelyk aan tien persent van die bedrag wat ooreenkomstig die bepaling van subartikel (1)(a)(i) betaalbaar is, by laasgenoemde bedrag gevoeg: Met dien verstande dat die bedrag wat aldus bygevoeg word nie tienduise rand mag oorskry nie.

(3) Rente teen 'n koers wat van tyd tot tyd deur die Uitvoerende Komitee bepaal word, moet, behoudens die bepaling van subartikel (4), betaal word ten opsigte van enige uitstaande gedeelte van die bedrag van die vergoeding wat ooreenkomstig die bepaling van subartikel (1)(a)(i) betaalbaar is ten opsigte van onteiene goed, en wel met ingang van die datum waarop die Administrasie ingevolge die bepaling van artikel 6(3) of (5) besit neem van die betrokke goed: Met dien verstande dat in 'n geval beoog by artikel 16(4) ten opsigte van die tydperk bereken vanaf die beëindiging van dertig dae na die datum waarop —

- (a) the property in question was so taken possession of, if compensation for the said property was offered or agreed upon before that date; or
- (b) compensation for the property in question was offered or agreed upon, if the date of such offer or agreement is later than the date upon which the said property was so taken possession of

to the date upon which, within the meaning of the said section 16(4), the dispute was settled or the doubt was resolved or the owner and the buyer or the mortgagee notified the Executive Committee in terms of the provisions of section 14 as to the payment of the compensation money, the amount which is so payable shall for the purposes of the payment of interest not be deemed to be an outstanding amount.

(4) If the owner of property which has been expropriated occupies or utilises that property or any portion thereof, no interest shall in respect of the period during which he so occupies or utilises the said property, be paid in terms of the provisions of subsection (3) on so much of the outstanding amount as, in the opinion of the Executive Committee, relates to the property which is so occupied or utilised.

(5) In determining the amount of compensation which is to be paid in terms of the provisions of this Ordinance, the following rules shall apply, namely —

- (a) the fact that the property or the right to use property temporarily has been taken without the consent of the owner concerned, shall not be taken into account;
- (b) the special suitability or usefulness of the property in question for the purpose for which it is required by the Administration, shall not be taken into consideration if it is unlikely that the said property would have been purchased for that purpose on the open market or that the right to use the property for that purpose would have been so purchased;
- (c) if the value of the property has been enhanced in consequence of the use of such property in a manner which is unlawful or detrimental to the health of any person, such enhancement shall not be taken into account;
- (d) improvements which, after the date of notice, were made on or to the property in question (except where such improvements were necessary for the proper maintenance of improvements which existed up to and on that date or where those improvements were undertaken in pursuance of obligations entered into before the date of notice), shall not be taken into consideration;

(a) die betrokke goed aldus in besit geneem is, indien voor daardie datum vergoeding vir bedoelde goed aangebied is of daaromtrent ooreengekom is; of

(b) vergoeding vir die betrokke goed aangebied of daaromtrent ooreengekom is, indien die datum van sodanige aanbod of ooreenkoms later is as die datum waarop bedoelde goed aldus in besit geneem is,

tot op die datum waarop, binne die bedoeling van genoemde artikel 16(4), die geskil besleg is of die twyfel verdwyn het of, ingevolge die bepalings van artikel 14, die eienaar en die koper of the houer van die verband die Uitvoerende Komitee aangaande die uitbetaling van die vergoedingsgeld in kennis gestel het, die bedrag wat aldus betaalbaar is vir die doeleindes van die betaling van rente nie geag word 'n uitstaande bedrag te wees nie.

(4) Indien die eienaar van goed wat onteien is daardie goed of enige gedeelte daarvan okkupeer of benut, word ten opsigte van die tydperk waarop hy bedoelde goed aldus okkupeer of benut, geen rente ingevolge die bepalings van subartikel (3) betaal nie op soveel van die uitstaande bedrag as wat, volgens die oordeel van die Uitvoerende Komitee, betrekking het op die goed wat aldus geokkupeer of benut word.

(5) By die vasstelling van die bedrag van vergoeding wat ingevolge die bepalings van hierdie Ordonnansie betaal moet word, geld die volgende reëls, naamlik —

(a) die feit dat die goed of die reg op die tydelike gebruik van goed sonder die toestemming van die betrokke eienaar geneem is, word buite rekening gelaat;

(b) die besondere geskiktheid of bruikbaarheid van die betrokke goed vir die doel waarvoor dit deur die Administrasie benodig is, word nie in aanmerking geneem nie indien dit onwaarskynlik is dat bedoelde goed vir daardie doel op die ope mark gekoop sou word of dat die reg om die goed vir daardie doel te gebruik, aldus gekoop sou word;

(c) indien die waarde van die goed verhoog is ten gevolge van die gebruik van sodanige goed op 'n wyse wat onwettig of skadelik is vir die gesondheid van iemand, word geen rekening met bedoelde verhoging gehou nie;

(d) verbeterings wat na die kennisgewingsdatum op of aan die betrokke goed aangebring is (behalwe waar sodanige verbeterings nodig was om verbeterings wat tot en met daardie datum bestaan het, behoorlik in stand te hou of waar daardie verbeterings onderneem is ter nakoming van verpligtings wat vóór die kennisgewingsdatum aangegaan is), word nie in aanmerking geneem nie;

(e) an unregistered right in respect of any other property, or any indirect damage or anything which is done with the object of obtaining compensation therefor shall not be taken into account;

(f) any enhancement or depreciation before or after the date of notice in the value of the property in question which may be attributed to the purpose for which or in connection with which the property is being expropriated or is to be used, or which is the result of any work or act which the Administration carries out or performs or has already carried out or performed or intends to carry out or perform in connection with that purpose, shall not be taken into consideration;

(g) account shall also be taken of —

(i) any benefit which the person who is to be compensated in terms of the provisions of this Ordinance, obtains or will obtain from any works which the Administration has built or constructed or has undertaken to build or construct on behalf of that person in order to compensate the said person in whole or in part for any financial loss which he suffers or will suffer in consequence of the expropriation or, as the case may be, the taking of the right in question;

(ii) any benefit which the person concerned obtains or will obtain in consequence of the expropriation of the property or the use thereof for the purpose for which it was expropriated or, as the case may be, the right in question was taken;

(iii) any amount payable as compensation in terms of the provisions of section 10(1) in respect of an unregistered right;

(h) in respect of the goodwill of any business or profession which is, on the date of expropriation, conducted or pursued by any person upon the land which has been expropriated, there shall be paid no more than —

(i) the highest net profit which, according to written proof, had been obtained from such business or profession during any twelve consecutive months of the period of thirty-six months or part thereof which immediately preceded the date of expropriation; or

(ii) where such business or profession has, on the date of expropriation, been conducted or pursued for a period of less than twelve months, an amount equal to the net profit for a period of twelve months, which amount shall

- (e) 'n ongeregistreerde reg ten opsigte van enige ander goed of enige indirekte skade of enige iets wat gedoen is met die oogmerk om vergoeding daarvoor te verkry, word buite rekening gelaat;
- (f) 'n verhoging of verlaging, vóór of ná die kennisgewingsdatum, in die waarde van die betrokke goed wat toe te skryf is aan die doel waarvoor of in verband waarmee die goed onteien word of gebruik gaan word, of wat die gevolg is van enige werk of handeling wat die Administrasie in verband met daardie doel uitvoer of verrig of reeds uitgevoer of verrig het of voornemens is om uit te voer of te verrig, word nie in aanmerking geneem nie;
- (g) rekening word ook gehou met —
 - (i) enige voordeel wat die persoon, wat ingevolge die bepalings van hierdie Ordonnansie vergoed moet word, behaal of sal behaal uit enige werke wat die Administrasie gebou of aangelê het of onderneem het om te bou of aan te lê ten bate van daardie persoon ten einde bedoelde persoon in die geheel of ten dele te vergoed vir enige geldelike verlies wat hy as gevolg van die onteiening of, na gelang van die geval, die neem van die betrokke reg ly of sal ly;
 - (ii) enige voordeel wat die betrokke persoon behaal of sal behaal as gevolg van die onteiening van die goed of die gebruik daarvan vir die doel waarvoor dit onteien is, of, na gelang van die geval, die betrokke reg geneem is;
 - (iii) enige bedrag wat ingevolge die bepalings van artikel 10(1) ten opsigte van 'n ongeregistreerde reg as vergoeding betaalbaar is;
- (h) ten opsigte van die klandisiewaarde van enige saak of beroep wat op die onteieningsdatum deur iemand gedryf of beoefen word op die grond wat onteien is, word daar nie meer betaal nie as —
 - (i) die hoogste netto wins wat, volgens skriftelike bewys, uit sodanige saak of beroep verkry is gedurende enige agtereenvolgende twaalf maande van die tydperk van ses-en-dertig maande of 'n deel daarvan, wat die onteieningsdatum onmiddellik voorafgegaan het; of
 - (ii) indien op die onteieningsdatum sodanige saak of beroep vir 'n tydperk van minder as twaalf maande gedryf of beoefen is, 'n bedrag gelyk aan die netto wins vir 'n tydperk van twaalf maande, welke bedrag bereken word in

be computed in relation to the net profit which was, according to written proof, in fact obtained from that business or profession during the period in which such business or profession was conducted or pursued on the land in question.

Payment of compensation in respect of certain unregistered rights in respect of expropriated land.

10. (1) Any person who by virtue of a contract contemplated by section 7(1)(d)(i), (iii) or (iv), possesses a right in respect of land, which right is, in terms of the provisions of section 17 terminated on the date upon which that land is expropriated, shall, subject to the provisions of subsections (2) and (3) of this section, after the expropriation of that land, be entitled to the payment of compensation as if the said right were a registered right in respect of the land in question and such registered right were also expropriated on the date of expropriation in respect of such land.

(2) The Executive Committee shall, in the manner, *mutatis mutandis*, contemplated by section 5(3) or (5), offer any person contemplated by subsection (1) of this section an amount as compensation and, in applying this Ordinance such an amount so offered shall be deemed to have been offered in terms of the provisions of section 5(2)(c).

(3) If an owner of expropriated land fails to comply with the provisions of section 7(1)(d)(i), (iii) or (iv), the Administration shall not be obliged to pay compensation to the lessee, builder or sharecropper concerned in respect of the unregistered right in question, but such owner shall be liable to any such lessee, builder or sharecropper for any damage sustained by him in consequence of the expropriation of the land in question.

Determination of compensation by magistrate's court or South West Africa Division of Supreme Court.

11. (1) Subject to the provisions of subsection (7) of this section and section 8(1) and (3), the compensation which is to be paid by the Administration for any property expropriated by the Executive Committee or for any right to use property temporarily which was taken by the Executive Committee, shall, in the absence of agreement, on the application of any party concerned, be determined —

- (a) if the amount of the compensation claimed is less than ten thousand rand, by the magistrate's court of the district in which the property in question is or is situated;
- (b) if the amount of the compensation claimed is ten thousand rand or more, by the South West Africa Division of the Supreme Court.

(2) If there is no claim in terms of which it can be determined which court has jurisdiction under the provisions of subsection (1)(a) or (b), the amount last offered as compensation by the Executive Committee shall, for the purposes of determining such jurisdiction, be deemed to be the amount claimed: Provided that this subsection shall not be construed so as to prevent any such court from awarding

verhouding tot die netto wins wat, volgens skriftelike bewys, werklik uit daardie saak of beroep verkry is gedurende die tydperk wat die saak of beroep op die betrokke grond gedryf of beoefen is.

10. (1) Iemand wat uit hoofde van 'n kontrak bedoel by artikel 7(1)(d)(i), (iii) of (iv) ten opsigte van grond 'n reg besit, welke reg ingevolge die bepalinge van artikel 17 beëindig word op die datum waarop daardie grond onteien is, is, behoudens die bepalinge van subartikels (2) en (3) van hierdie artikel, ná die onteiening van daardie grond geregtig op die betaling van vergoeding asof bedoelde reg 'n geregistreerde reg ten opsigte van die betrokke grond was en sodanige geregistreerde reg ook op die onteieningsdatum ten opsigte van die grond onteien is.

Betaling van vergoeding ten opsigte van sekere ongeregistreerde regte ten opsigte van onteiene grond.

(2) Die Uitvoerende Komitee moet aan iemand by subartikel (1) van hierdie artikel bedoel, 'n bedrag as vergoeding aanbied op die wyse, *mutatis mutandis*, beoog by artikel 5(3) of (5), en by die toepassing van hierdie Ordonnansie word so 'n bedrag aldus aangebied geag ingevolge die bepalinge van artikel 5(2)(c) aangebied te gewees het.

(3) Indien 'n eienaar van onteiene grond versuim om die bepalinge van artikel 7(1)(d)(i), (iii) of (iv) na te kom, is die Administrasie nie verplig om aan die betrokke huurder, bouer of deelsaaiër vergoeding ten opsigte van die betrokke ongeregistreerde reg te betaal nie, maar is sodanige eienaar teenoor so 'n huurder, bouer of deelsaaiër aanspreeklik vir enige skade wat hy as gevolg van die onteiening van bedoelde grond ly.

11. (1) Behoudens die bepalinge van subartikel (7) van hierdie artikel en artikel 8(1) en (3), word die vergoeding wat die Administrasie moet betaal vir goed wat deur die Uitvoerende Komitee onteien is of vir 'n reg om goed tydelik te gebruik wat deur die Uitvoerende Komitee geneem is, by ontstentenis van ooreenkoms op aansoek van enige betrokke party vasgestel —

Vasstelling van vergoeding deur landdroshof of Suidwes-Afrika Afdeling van Hooggeregshof.

(a) indien die bedrag van die vergoeding wat geëis word minder as tienduisend rand is, deur die landdroshof van die distrik waarin die betrokke goed is of geleë is;

(b) indien die bedrag van die vergoeding wat geëis word tienduisend rand of meer is, deur die Suidwes-Afrika Afdeling van die Hooggeregshof.

(2) Indien daar geen eis is waarvolgens bepaal kan word welke hof ingevolge die bepalinge van subartikel (1)(a) of (b) jurisdiksie het nie, word, vir die doeleinde van die bepaling van sodanige jurisdiksie, die bedrag wat deur die Uitvoerende Komitee laas aangebied is as vergoeding geag die geëiste bedrag te wees: Met dien verstande dat hierdie subartikel nie so uitgelê word nie as sou dit 'n bedoelde hof belet om 'n ander bedrag as die bedoelde bedrag deur die

an amount other than the said amount last offered by the Executive Committee, as the amount of compensation.

(3) Any proceedings contemplated by subsection (1)(b) shall be instituted and conducted by way of action.

(4) The law of procedure which is applicable in respect of civil proceedings in the Court mentioned in subsection (1)(b) shall, subject to the provisions of this Ordinance, apply *mutatis mutandis* also in respect of any proceedings contemplated by that subsection, and any order or judgment of the Court in such last-mentioned proceedings shall be deemed to be an order or a judgment in civil proceedings.

(5) Notwithstanding any provisions to the contrary contained in any other law a Court may, after the close of pleadings in any proceedings contemplated by subsection (1)(b), in its discretion regulate the further procedure in the conducting of the said proceedings and, without derogating from the generality of such power —

(a) call upon the parties to file a written instrument setting out —

(i) the relevant facts not in issue;

(ii) the relevant facts in issue;

(iii) the grounds upon which each of the parties concerned disputes a fact in issue;

(iv) any other matters which the Court considers to be of importance; and

(b) issue directions in respect of inspections and all other matters which are connected with the preparation for and the hearing of the said proceedings.

(6) In any proceedings contemplated by subsection (1)(b), the judge may invoke the assistance of not more than two persons who are skilled and experienced in the relevant matter and are prepared to sit as assessors in an advisory capacity.

(7) The provisions of this section shall not be construed so as to prohibit the Executive Committee and the owner in question from —

(a) submitting by agreement any dispute concerning the amount of the compensation which is to be paid in terms of the provisions of this Ordinance in consequence of the expropriation of property or the taking of any right to use property temporarily, to arbitration in accordance with the provisions of the Arbitration Act, 1965 (Act 42 of 1965); or

(b) having, by agreement, the amount of the compensation contemplated by paragraph (a) of this

Uitvoerende Komitee laas aangebied, as die bedrag van vergoeding toe te ken.

(3) 'n Geding beoog by subartikel (1)(b) word by wyse van aksie ingestel en gevoer.

(4) Die prosesreg wat ten opsigte van siviele gedinge van toepassing is in die Hof in subartikel (1)(b) genoem, geld, behoudens die bepalings van hierdie Ordonnansie *mutatis mutandis* ook ten opsigte van 'n geding by daardie subartikel beoog, en 'n bevel of vonnis van die Hof in so 'n laasgenoemde geding word geag 'n bevel of vonnis in 'n siviele geding te wees.

(5) Ondanks andersluidende bepalings van enige ander wet kan 'n Hof na sluiting van die pleitstukke in 'n geding beoog by subartikel (1)(b), na goeddunke die verdere prosedure by die voering van bedoelde geding reël, en sonder om afbreuk aan die algemeenheid van sodanige bevoegdheid te doen —

(a) die partye aansê om 'n skriftelike stuk in te dien waarin uiteengesit word —

(i) die tersaaklike feite wat nie in geskil is nie;

(ii) die tersaaklike feite wat in geskil is;

(iii) die gronde waarop elk van die betrokke partye 'n feit wat in geskil is betwis;

(iv) enige ander aangeleenthede wat die Hof van belang ag; en

(b) voorskrifte uitreik ten opsigte van ondersoeke en alle ander aangeleenthede wat met die voorbereiding vir en die verhoor van bedoelde geding in verband staan.

(6) In 'n geding beoog by subartikel (1)(b) kan die regter die hulp inroep van hoogstens twee persone wat in die tersaaklike aangeleentheid kundig en ervare is en bereid is om as assessore in 'n raadgewende hoedanigheid sitting te neem.

(7) Die bepalings van hierdie artikel word nie so uitgelê nie as sou die Uitvoerende Komitee en die betrokke eenaar daardeur belet word om by ooreenkoms —

(a) enige geskil aangaande die bedrag van die vergoeding wat ingevolge die bepalings van hierdie Ordonnansie betaal moet word ten gevolge van die onteining van goed of die neem van enige reg om goed tydelik te gebruik, na arbitrasie te verwys ooreenkomstig die bepalings van die Wet op Arbitrasie, 1965 (Wet 42 van 1965); of

(b) die bedrag van die vergoeding by paragraaf (a) van hierdie subartikel beoog, te laat vasstel deur 'n hof

subsection determined by a court contemplated by subsection (1)(a), notwithstanding the fact that the amount claimed as such compensation exceeds the amount of ten thousand rand.

Orders as to costs in Supreme Court.

12. (1) Costs in any proceedings contemplated by section 11(1)(b) shall be calculated in accordance with the table of costs applicable in the court in question.

(2) If the compensation which is awarded by the court in any proceedings contemplated by section 11(1)(b) —

(a) is equal to or exceeds the amount which was last claimed by the owner concerned one month prior to the date for which the proceedings were for the first time placed on the roll, costs shall be awarded against the Executive Committee;

(b) is equal to or less than the amount which was last offered by the Executive Committee one month prior to the date contemplated by paragraph (a), costs shall be awarded against the owner in question;

(c) is less than the amount last so claimed by the owner concerned but exceeds the amount last so offered by the Executive Committee, the liability for the total costs of such proceedings shall be divided between the Executive Committee and that owner in accordance with the relation which the difference between the amount of the compensation thus awarded and the amount of the compensation thus offered bears to the difference between the amount of the compensation thus awarded and the amount of the compensation thus claimed: Provided that the last-mentioned difference shall not be deemed to be a negative amount.

(3) In any case not mentioned in subsection (2), the court shall in its discretion decide as to costs.

(4) The liability for costs and taxation fees of a party who is in terms of the provisions of this Ordinance entitled to compensation shall be a first charge against the moneys which, in terms of an order of court in any proceedings contemplated by section 11, and the interest which in terms of the provisions of section 9(3) is to be paid to him, and such moneys and interest shall be applied, as far as may be required, towards the payment of those costs and fees.

Effect of application for determination of compensation, and of noting of appeal.

13. Notwithstanding any application in terms of the provisions of section 11(1) for the determination of compensation, or an appeal against the decision of a court contemplated by that section, the other provisions of this Ordinance shall apply as if no such application had been made or no such appeal had been noted.

bedoel by subartikel (1)(a), ondanks die feit dat die bedrag wat as sodanige vergoeding geëis word, die bedrag van tienduisend rand oorskry.

12. (1) Die koste van 'n geding beoog by artikel 11(1)(b) word bereken ooreenkomstig die tabel van koste van toepassing in die betrokke hof.

Kostebevele in Hoogeregshof.

(2) Indien die vergoeding wat deur die Hof toegeken word in 'n geding by artikel 11(1)(b) beoog —

(a) gelyk is aan of meer is as die bedrag wat laas deur die betrokke eenaar geëis is een maand vóór die datum waarvoor die geding vir die eerste maal ter rolle geplaas is, word koste teen die Uitvoerende Komitee toegeken;

(b) gelyk is aan of minder is as die bedrag wat laas deur die Uitvoerende Komitee een maand vóór die datum bedoel by paragraaf (a) aangebied is, word koste teen die betrokke eenaar toegeken;

(c) minder is as die bedrag wat laas deur die betrokke eenaar aldus geëis is, maar meer is as die bedrag wat laas deur die Uitvoerende Komitee aldus aangebied is, word die aanspreeklikheid vir die totale koste van sodanige geding tussen die Uitvoerende Komitee en daardie eenaar verdeel ooreenkomstig die verhouding waarin die verskil tussen die bedrag van die vergoeding aldus toegeken en die bedrag van die vergoeding aldus aangebied, staan tot die verskil tussen die bedrag van die vergoeding aldus toegeken en die bedrag van die vergoeding aldus geëis: Met dien verstande dat die laasgenoemde verskil geag word nie 'n negatiewe bedrag te wees nie.

(3) In 'n geval nie in subartikel (2) vermeld nie, beslis die hof na goëddunke oor koste.

(4) Die aanspreeklikheid vir koste en taksasiegelde van 'n party wat ingevolge die bepalings van hierdie Ordonnansie op vergoeding geregtig is, is 'n preferente vordering teen die gelde wat ingevolge 'n hofbevel in 'n geding beoog by artikel 11 en die rente wat ingevolge die bepalings van artikel 9(3) aan hom betaal moet word, en sodanige gelde en rente word vir sover nodig ter betaling van daardie koste en gelde aangewend.

13. Ondanks enige aansoek ingevolge die bepalings van artikel 11(1) om die vasstelling van vergoeding, of 'n appél teen die beslissing van 'n hof by daardie artikel beoog, is die ander bepalings van hierdie Ordonnansie van toepassing asof geen sodanige aansoek gedoen of geen sodanige appél aangeteken was nie.

Uitwerking van aansoek om vasstelling van vergoeding, en van aantekening van appél.

Discharge of debt secured by mortgage bond over immovable property, and payment of compensation in case of certain unregistered rights affected by expropriation.

14. (1) If any immovable property which has been expropriated under the provisions of this Ordinance was immediately prior to the date of expropriation encumbered by a registered mortgage bond, or to the knowledge of the Executive Committee the subject of an agreement contemplated by section 7(1)(d)(ii), the Executive Committee shall, subject to the provisions of sections 15 and 16, not pay out any portion of the compensation money in question, except to the person upon whom and on the terms upon which there have been agreed upon between the owner of that property and the mortgagee or buyer concerned, as the case may be, of whom and of which the Executive Committee has been notified in writing by the said owner and the said mortgagee or buyer.

(2) If an owner of immovable property which has been expropriated fails to comply with the provisions of section 7(1)(d)(ii), and the buyer concerned in consequence of such failure receives no portion of the compensation money by virtue of the provisions of subsection (1) of this section, the said owner shall be liable to that buyer for any damage which such buyer may have sustained in consequence of the expropriation, and the Executive Committee shall not be under an obligation to pay compensation in respect of that damage.

Payment of certain taxes and other moneys out of compensation moneys.

15. (1) If land which has been expropriated is situated within the area of a local authority, such local authority shall, upon receipt or publication of a relevant notice contemplated by section 5, forthwith inform the Executive Committee in writing of any outstanding tax or other moneys in respect of the payment of which the production of a receipt or certificate is in terms of some or other law a prerequisite for the passing of a transfer of that land by a registrar of deeds.

(2) The Executive Committee may utilise so much of the compensation moneys which are payable in terms of the provisions of this Ordinance in respect of the expropriation of land, as is necessary for the full payment, on behalf of the owner of the land in question, of any tax or other moneys contemplated by subsection (1).

Deposit of compensation money with Master and retention thereof by Executive Committee in certain cases.

16. (1) If property which has been expropriated under the provisions of this Ordinance was burdened with a *fideicommissum* or if compensation is payable in terms of the provisions of this Ordinance to a person whose place of residence is not known, or if compensation is so payable and there is no person to whom that compensation can be paid, the Executive Committee may deposit the amount of such compensation with the Master, after which deposit the Executive Committee shall no longer be liable in respect of that amount.

(2) Any money received by the Master in terms of the provisions of subsection (1) shall —

(a) if the property in question was burdened with a *fideicommissum*, *mutatis mutandis* be subject to all

14. (1) Indien onroerende goed wat kragtens die bepalinge van hierdie Ordonnansie onteien is, onmiddellik vóór die onteieningsdatum met 'n geregistreerde verband beswaar was of, na die wete van die Uitvoerende Komitee, die onderwerp was van 'n ooreenkoms bedoel by artikel 7(1)(d)-(ii), mag die Uitvoerende Komitee, behoudens die bepalinge van artikels 15 en 16, geen gedeelte van die betrokke vergoedingsgeld uitbetaal nie, behalwe aan die persoon op wie, en op die voorwaardes waarop, daar tussen die eienaar van daardie goed en die betrokke verbandhouer of koper, na gelang van die geval, ooreengekom is en van wie en waarvan bedoelde eienaar en bedoelde verbandhouer of koper die Uitvoerende Komitee skriftelik in kennis gestel het.

Delging van skuld ver-sekureer deur verband oor onroerende goed, en uitbetaling van vergoeding in geval van sekere ongeregisteerde regte wat deur onteiening geraak word.

(2) Indien 'n eienaar van onroerende goed wat onteien is, versuim om die bepalinge van artikel 7(1)(d)(ii) na te kom en die betrokke koper as gevolg van sodanige versuim geen gedeelte van die vergoedingsgeld uit hoofde van die bepalinge van subartikel (1) van hierdie artikel ontvang nie, is bedoelde eienaar teenoor daardie koper aanspreeklik vir enige skade wat sodanige koper as gevolg van die onteiening gely het, en rus daar geen verpligting op die Uitvoerende Komitee om vergoeding ten opsigte van daardie skade te betaal nie.

15. (1) Indien grond wat onteien is binne die gebied van 'n plaaslike bestuur geleë is, moet sodanige plaaslike bestuur by ontvangs of publikasie van 'n tersaaklike kennisgewing by artikel 5 beoog, die Uitvoerende Komitee onverwyld skriftelik in kennis stel van enige uitstaande belasting- of ander gelde ten opsigte van die betaling waarvan die voorlegging van 'n kwitansie of sertifikaat ingevolge die een of ander wet 'n voorvereiste is vir die gee van 'n oordrag van daardie grond deur 'n registrateur van aktes.

Betaling van sekere belasting- en ander gelde uit vergoedingsgelde.

(2) Die Uitvoerende Komitee kan van die vergoedingsgelde wat ingevolge die bepalinge van hierdie Ordonnansie betaalbaar is ten opsigte van die onteiening van grond, soveel aanwend as wat nodig is vir die volle vereffening, namens die eienaar van die betrokke grond, van enige belasting- of ander gelde by subartikel (1) beoog.

16. (1) Indien goed wat kragtens die bepalinge van hierdie Ordonnansie onteien is met 'n fideikommis belas was, of indien vergoeding ingevolge die bepalinge van hierdie Ordonnansie betaalbaar is aan iemand wie se verblyfplek onbekend is, of indien vergoeding aldus betaalbaar is en daar niemand is aan wie daardie vergoeding oorbetal kan word nie, kan die Uitvoerende Komitee die bedrag van sodanige vergoeding by die Meester stort ná welke storting die Uitvoerende Komitee nie verder ten opsigte van daardie bedrag aanspreeklik is nie.

Storting van vergoedingsgelde by Meester en terughouding daarvan deur Uitvoerende Komitee, in sekere gevalle.

(2) Enige gelde wat ingevolge die bepalinge van subartikel (1) deur die Meester ontvang word —

(a) is, indien die betrokke goed met 'n fideikommis belas was, *mutatis mutandis* onderworpe aan al die bepalinge

the terms and conditions which are contained in the will or other instrument by which that *fideicommissum* was constituted; and

- (b) subject to the provisions of paragraph (a), be deposited into the Guardian's Fund contemplated by section 86 of the Administration of Estates Act, 1965 (Act 66 of 1965), for the benefit of the persons who are or may become entitled thereto, and bear interest at a rate determined from time to time by the Minister of Finance.

(3) The provisions of subsections (1) and (2) shall not affect the jurisdiction of any court to make an order in respect of any moneys in question.

(4) Whenever, in respect of any compensation payable in terms of the provisions of this Ordinance —

- (a) a dispute or doubt exists as to the person who is to receive any such compensation; or
- (b) an interdict is issued in respect of the payment of any such compensation; or
- (c) in the case of immovable property, the owner and any mortgagee or buyer have not, in terms of the provisions of section 14, notified the Executive Committee in regard to the payment of such compensation,

the Executive Committee shall pay the amount of compensation in question to the Master.

Termination of un-registered rights in respect of expropriated land.

17. If a notice of expropriation relates to the expropriation of land, all rights in respect of that land which are not registered or recorded against the title deed of the said land or in an office contemplated by section 5(4), shall terminate on the date of expropriation and the Administration shall, subject to the provisions of sections 10 and 14, not be obliged to pay any compensation for such rights.

Withdrawal of expropriation.

18. (1) Notwithstanding any provisions to the contrary contained in any law, the Executive Committee may, if it is of the opinion that it is in the public interest or otherwise expedient that an expropriation of property be withdrawn, withdraw such expropriation as from the date mentioned in the notice contemplated by subsection (2): Provided that an expropriation of property shall not be withdrawn after the expiration of a period of three months as from the date of expropriation or, if the property which has been expropriated is immovable property, transfer of the property in question in consequence of the expropriation has already been registered, whichever is the shorter period.

(2) Whenever the Executive Committee has decided, in terms of the provisions of subsection (1), to withdraw any expropriation of property, the Executive Committee shall,

ings en voorwaardes wat vervat is in die testament of ander geskrif waarby daardie fideikommis geskep is; en

- (b) word, behoudens die bepalings van paragraaf (a) ten bate van die persone wat daarop geregtig is of mag word, in die Voogdyfonds bedoel by artikel 86 van die Boedelwet, 1965 (Wet 66 van 1965), gestort en dra rente teen 'n koërs wat die Minister van Finansies van tyd tot tyd bepaal.

(3) Die bepalings van subartikels (1) en (2) raak nie die bevoegdheid van enige hof om ten opsigte van betrokke geld 'n bevel uit te reik nie.

(4) Wanneer ook al, ten opsigte van enige vergoeding betaalbaar ingevolge die bepalings van hierdie Ordonnansie

- (a) 'n geskil of twyfel bestaan oor welke persoon enige sodanige vergoeding moet ontvang; of
- (b) 'n interdik ten opsigte van die uitbetaling van enige sodanige vergoeding uitgereik word; of
- (c) in die geval van onroerende goed, die eienaar en 'n verbandhouer of enige koper nie die Uitvoerende Komitee ingevolge die bepalings van artikel 14 aangaande die uitbetaling van sodanige vergoeding in kennis gestel het nie,

betaal die Uitvoerende Komitee die bedrag van die betrokke vergoeding oor aan die Meester.

17. Indien 'n onteieningskennisgewing op die onteiening van grond betrekking het, word alle regte ten opsigte van daardie grond wat nie teen die titelbewys van bedoelde grond of in 'n kantoor bedoel by artikel 5(4), geregistreer of aangeteken is nie, op die onteieningsdatum beëindig, en is die Administrasie, behoudens die bepalings van artikels 10 en 14, nie verplig om enige vergoeding vir sodanige regte te betaal nie.

Beëindiging van ongeregisteerde regte ten opsigte van onteienende grond.

18. (1) Ondanks enige andersluidende bepalings vervat in enige wet, kan die Uitvoerende Komitee, indien hy van oordeel is dat dit in die openbare belang of andersins dienstig is dat 'n onteiening van goed ingetrek word, sodanige onteiening intrek vanaf die datum vermeld in die kennisgewing by subartikel (2) beoog: Met dien verstande dat 'n onteiening van goed nie ingetrek word nie na afloop van 'n tydperk van drie maande vanaf die onteieningsdatum of, indien die goed wat onteien is onroerende goed is, die oordrag van die betrokke goed ten gevolge van die onteiening reeds geregistreer is, welke tydperk ook al die kortste is.

Intrekking van onteiening.

(2) Wanneer die Uitvoerende Komitee besluit het om 'n onteiening van goed in te trek ingevolge die bepalings van subartikel (1), moet die Uitvoerende Komitee, behoudens die

subject to the provisions of subsection (5), serve or cause to be served in accordance with the provisions of subsection (4) upon the owner from whom the property in question has been expropriated and upon every person or institution upon whom or upon which a notice of expropriation is to be served in terms of the provisions of section 5(4), a notice which contains the particulars mentioned in subsection (3) (hereinafter referred to as the notice of withdrawal).

(3) The notice of withdrawal shall state —

- (a) that the expropriation of the property set out in that notice, is being withdrawn;
- (b) the date upon which the withdrawal contemplated by paragraph (a) comes into effect, subject to the provisions of subsection (1);
- (c) such other particulars or instructions as are necessary in the discretion of the Executive Committee.

(4) The Executive Committee shall, subject to the provisions of subsection (5), cause the notice of withdrawal to be served by causing the original notice or a true and correct copy thereof to be tendered or presented or sent by registered post to the owner and other persons or institutions referred to in subsection (2) of this section.

(5) Whenever the Executive Committee —

(a) is unable readily to ascertain the dwelling place of —

- (i) the owner from whom the property in question has been expropriated or of every such owner; and
- (ii) any or every person or institution who or which has, in terms of the provisions of section 5(4) an interest in the land in question; or

(b) (i) by reason of the number of persons or institutions who or which are the kinds of owners or interested parties contemplated by paragraph (a); or

(ii) for any other reason

is convinced that the service of a notice in accordance with the provisions of subsection (4) of this section is not expedient; or

(c) in the case where the property is subject to a *fidei-commissum*, does not know who all the *fidei-commissary* heirs are or will be,

bepalings van subartikel (5), 'n kennisgewing wat die besonderhede genoem in subartikel (3) bevat (hieronder die intrekingskennisgewing genoem), ooreenkomstig die bepaling van subartikel (4) van hierdie artikel bestel of laat bestel aan die eenaar van wie die betrokke goed onteien is en aan iedere persoon of instansie aan wie of waarop ingevolge die bepaling van artikel 5(4) 'n onteieningskennisgewing bestel moet word.

(3) Die intrekingskennisgewing moet vermeld —

- (a) dat die onteiening van die goed in daardie kennisgewing uiteengesit, ingetrek word;
- (b) die datum waarop die intrekking by paragraaf (a) bedoel, van krag word, onderworpe aan die bepaling van subartikel (1);
- (c) sodanige ander besonderhede of opdragte, as wat volgens die oordeel van die Uitvoerende Komitee nodig is.

(4) Behoudens die bepaling van subartikel (5), moet die Uitvoerende Komitee die intrekingskennisgewing laat bestel deur die oorspronklike kennisgewing of 'n ware en juiste afskrif daarvan aan die eenaar en ander persone of instansies waarna in subartikel (2) van hierdie artikel verwys word, te laat oorhandig of aanbied of per aangetekende pos te laat stuur.

(5) Indien die Uitvoerende Komitee —

(a) nie die verblyfplek van —

(i) die eenaar van wie die betrokke goed onteien is of van iedere sodanige eenaar; en

(ii) enige of iedere persoon of instansie wat ingevolge die bepaling van artikel 5(4) 'n belang in die betrokke goed het

geredelik kan vasstel nie; of

(b) (i) vanweë die aantal persone of instansies wat die soort eenaars of belanghebbendes is wat by paragraaf (a) bedoel word; of

(ii) om enige ander rede

oortuig is dat die bestelling van 'n kennisgewing ooreenkomstig die bepaling van subartikel (4) van hierdie artikel nie doenlik is nie; of

(c) in die geval waar die goed aan 'n fideikommis onderworpe is, nie weet wie almal fideikommissêre erfgename is of gaan wees nie,

such Committee shall, in addition to or instead of causing a notice to be served in accordance with the provisions of subsection (4) of this section, cause to be published once in the *Official Gazette* and once a week for two consecutive weeks in an English and in an Afrikaans newspaper circulating in the area in which the property in question is or is situated, an appropriate notice which complies with the requirements of subsections (2) and (3) of this section: Provided that in the case where there is in circulation in the said area only a newspaper in which the news service is provided in both the English and the Afrikaans languages, the Executive Committee shall, in applying this subsection, cause the said notice to be published in the last-mentioned newspaper in both those languages.

(6) Any person who in a direct or indirect manner suffers any damage in consequence of the withdrawal of an expropriation, shall be entitled to compensation by the Administration for that damage.

(7) If the expropriation of property is withdrawn in terms of the provisions of this section after the Administration has already paid compensation in connection with that expropriation, the amount of the said compensation shall be a debt payable to the Administration.

(8) If an expropriation of property is withdrawn in terms of the provisions of this section —

- (a) the right of ownership in the property in question shall again pass to the owner from whom that property was expropriated;
- (b) all mortgage bonds, servitudes and any other rights which have been discharged or terminated in connection with the expropriation, shall revive

as from the date contemplated by subsection (1) and the registrar of deeds concerned shall, on receipt of a copy of the notice contemplated by subsection (4) or on publication in the *Official Gazette* of the notice contemplated by subsection (5), cancel every endorsement made in connection with that expropriation in the registers in question and on the title deed of the land in question.

Assignment of powers and duties by Executive Committee.

19. The Executive Committee may either generally or in relation to particular property or in any particular case assign to an officer in the service of the Administration any power or duty conferred or imposed on him by or in terms of the provisions of this Ordinance, other than a power contemplated by sections 18 and 20.

Regulations.

20. The Executive Committee may make such regulations as it deems necessary or expedient for achieving the objects and purposes of this Ordinance.

Application of Ordinance.

21. (1) The provisions of this Ordinance shall not derogate from any power conferred by any other law to

moet sodanige Komitee, benewens of in plaas van om 'n kennisgewing ooreenkomstig die bepalings van subartikel (4) van hierdie artikel te laat bestel, een maal in die *Offisiële Koerant* en een maal per week vir twee agtereenvolgende weke in 'n Afrikaanse en in 'n Engelse nuusblad wat in omloop is in die streek waar die betrokke goed is of geleë is, 'n gepaste kennisgewing wat aan die vereistes van subartikels (2) en (3) van hierdie artikel voldoen, laat publiseer: Met dien verstande dat in die geval waar daar in bedoelde streek slegs 'n nuusblad in omloop is waarin beriggewing in sowel die Afrikaanse as die Engelse tale verskaf word, die Uitvoerende Komitee, by die toepassing van hierdie subartikel, bedoelde kennisgewing in albei daardie tale in laasgenoemde nuusblad moet laat publiseer.

(6) Enige persoon wat op regstreekse of onregstreekse wyse skade ly ten gevolge van die intrekking van 'n onteïening is geregtig op vergoeding van daardie skade deur die Administrasie.

(7) Indien die onteïening van goed ingetrek word in gevolge die bepalings van hierdie artikel nadat die Administrasie alreeds vergoeding in verband met daardie onteïening betaal het, is die bedrag van bedoelde vergoeding 'n skuld wat aan die Administrasie betaalbaar is.

(8) Indien 'n onteïening van goed ingetrek word in gevolge die bepalings van hierdie artikel —

(a) gaan die eiendomsreg op die betrokke goed weer oor op die eienaar van wie daardie goed onteien is;

(b) herleef alle verbande, serwitute en enige ander regte wat in verband met die onteïening afgelos of beëindig is

met ingang van die datum by subartikel (1) bedoel, en moet die betrokke registrateur van aktes by ontvangs van 'n afskrif van die kennisgewing by subartikel (4) beoog of by die publikasie in die *Offisiële Koerant* van die kennisgewing by subartikel (5) beoog, iedere endossement in verband met daardie onteïening in die betrokke registers en op die titelbewys van die betrokke grond aangebring, rojeer.

19. Die Uitvoerende Komitee kan enige bevoegdheid of plig by of in gevolge die bepalings van hierdie Ordonnansie aan hom verleen of opgedra, uitgesonderd 'n bevoegdheid by artikels 18 en 20 bedoel, óf in die algemeen óf met betrekking tot bepaalde goed of in enige bepaalde geval aan 'n beampte in die diens van die Administrasie oordra.

Oordrag van bevoegdhede en pligte deur Uitvoerende Komitee.

20. Die Uitvoerende Komitee kan sodanige regulasies uitvaardig as wat hy nodig of dienstig ag vir die verwesenliking van die oogmerke en doeleindes van hierdie Ordonnansie.

Regulasies.

21. (1) Die bepalings van hierdie Ordonnansie doen nie afbreuk nie aan 'n bevoegdheid wat by enige ander wet

Toepassing van Ordonnansie.

expropriate or to take any property or to take the right to use property temporarily: Provided that if such a power is exercised after the commencement of this Ordinance, the expropriation or the taking of the property or the taking of the right to use the property temporarily, and the determination of the amount of the compensation therefor, shall be effected, *mutatis mutandis*, in accordance with the provisions of this Ordinance.

(2) The fact that the provisions of any other law make provision for the expropriation of any property, or any right or interest in or over any property shall, subject to the provisions of subsection (3), not be a bar to such property, right or interest being expropriated in accordance with the provisions of this Ordinance.

(3) The purposes for which the Administration of the South African Railways and Harbours requires or intends to use any property, shall, in applying this Ordinance, not be regarded as public purposes.

Repeal of laws.

22. Subject to the provisions of section 23(1), the Expropriation Ordinance, 1967 (Ordinance 32 of 1967), and the Expropriation Amendment Ordinance, 1970 (Ordinance 19 of 1970), are hereby repealed.

Provisions applicable in the case of matters pending at commencement of this Ordinance.

23. (1) If, prior to the commencement of this Ordinance —

(a) any expropriation has been commenced with by the Executive Committee; or

(b) proceedings have been instituted by or against the Executive Committee for the determination of compensation

in terms of the provisions of the laws repealed by section 22, the said expropriation and proceedings shall be proceeded with as if this Ordinance had never been passed: Provided that the parties concerned in such an expropriation or such proceedings may agree to proceed with such expropriation or proceedings in accordance with the provisions of this Ordinance, in which case the relevant provisions of this Ordinance shall apply in connection with the continuation of such expropriation or proceedings as if it were a continuation of an expropriation or of proceedings for the determination of compensation in terms of the provisions of this Ordinance.

(2) In applying subsection (1) "Executive Committee" shall be construed so as to include a juristic person who is by law authorised to acquire property by way of expropriation.

Short title.

24. This Ordinance shall be called the Expropriation Ordinance, 1977.

verleen word om goed te onteien of te neem of om 'n reg te neem om goed tydelik te gebruik: Met dien verstande dat, indien so 'n bevoegdheid na die inwerkingtreding van hierdie Ordonnansie uitgeoefen word, die onteiening of die neem van die goed of die neem van die reg om die goed tydelik te gebruik, en die vasstelling van die bedrag van die vergoeding daarvoor, *mutatis mutandis* ooreenkomstig die bepalings van hierdie Ordonnansie moet geskied.

(2) Die feit dat die bepalings van enige ander wet vir die onteiening van enige goed of enige reg of belang in of oor enige goed voorsiening maak, belet, behoudens die bepalings van subartikel (3), nie dat sodanige goed, reg of belang ooreenkomstig die bepalings van hierdie Ordonnansie onteien word nie.

(3) Die doeleindes waarvoor die Administrasie van die Suid-Afrikaanse Spoorweë en Hawens enige goed benodig of wil gebruik, word hy die toepassing van hierdie Ordonnansie nie as openbare doeleindes beskou nie.

22. Die Onteieningsordonnansie, 1967 (Ordonnansie 32 van 1967), en die Wysigingsordonnansie op Onteiening, 1970 (Ordonnansie 15 van 1970), word, behoudens die bepalings van artikel 23(1), hierby herroep.

Herroeping van wette.

23. (1) Indien daar reeds voor die inwerkingtreding van hierdie Ordonnansie —

Bepalings van toepassing in die geval van aangeleenthede wat hangende is by inwerkingtreding van hierdie Ordonnansie.

(a) met enige onteiening deur die Uitvoerende Komitee begin is; of

(b) verrigtinge deur of teen die Uitvoerende Komitee ingestel is vir die vasstelling van vergoeding

ingevolge die bepalings van die wette by artikel 22 herroep, bedoelde onteiening en verrigtinge voortgesit asof hierdie Ordonnansie nooit aangeneem was nie: Met dien verstande dat die partye betrokke by so 'n onteiening of sulke verrigtinge kan ooreenkom om sodanige onteiening of verrigtinge ooreenkomstig die bepalings van hierdie Ordonnansie voort te sit, in welke geval die tersaaklike bepalings van hierdie Ordonnansie van toepassing is in verband met die voortsetting van sodanige onteiening of verrigtings asof dit 'n voortsetting is van 'n onteiening of van verrigtinge ter vasstelling van vergoeding ingevolge die bepalings van hierdie Ordonnansie.

(2) By die toepassing van subartikel (1) word "Uitvoerende Komitee" so uitgelê as sou dit enige regs persoon insluit wat by wet gemagtig is om goed by wyse van onteiening te verkry.

24. Hierdie Ordonnansie heet die Onteieningsordonnansie, 1977.

Kort titel.

