

(3 August 2001 – to date)

## RESTITUTION OF LAND RIGHTS ACT 22 OF 1994

*(Gazette No. 16106, Notice No. 2011 dated 25 November 1994. Commencement date: 2 December 1994  
[Proc. No. R 176, Gazette No. 16166])*

### RULES REGARDING PROCEDURE OF COMMISSION

*Government Notice R703 in Government Gazette 16407 dated 12 May 1995. Commencement date:  
12 May 1995.*

#### As amended by:

*Government Notice R1961 in Government Gazette 17630 dated 29 November 1996. Commencement date:  
29 November 1996.*

*Government Notice R706 in Government Gazette 22521 dated 3 August 2001. Commencement date:  
3 August 2001.*

Under section 16(1) of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), I, Wetsho-otsile Joseph Seremane, Chief Land Claims Commissioner, after consultation with the Minister of Land Affairs, hereby make the rules set out in the Schedule.

**W. J. SEREMANE,**  
**Chief Land Claims Commissioner.**

### SCHEDULE

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Prepared by:

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## 1. Definitions

In these rules any expression to which a meaning has been assigned in the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), shall have that meaning and, unless the context indicates otherwise—

**“Chief Land Claims Commissioner”** means the Chief Land Claims Commissioner of the Commission appointed by the Minister in terms of section 4(3) of the Act;

**“Commission”** ...

*(Definition of “Commission” deleted by rule 2 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

**“Land Claims Court”** means the Court established by section 22 of the Act;

**“mediation”** means a process through which disputing parties use the services of an acceptable third person to assist them in arriving or attempting to arrive at an agreed solution through a process of negotiation and facilitation;

**“Regional Land Claims Commissioner”** means a Regional Land Claims Commissioner of the commission appointed by the Minister in terms of section 4(3) of the Act;

**“secretary”** means a person in the employ of the Commission who has been designated as secretary by the Chief Land Claims Commissioner;

**“the Act”** means the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).

## 2. ...

*(Rule 2 amended by rule 2 of Government Notice R1961 in Government Gazette 17630 dated 29 November 1996)*

*(Rule 2 repealed by rule 3 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

### **3. Acceptance of claim for investigation**

(1) A regional land claims commissioner having jurisdiction over the land in respect of which a claim is instituted shall accept the claim for investigation where he or she is satisfied—

- (a) subject to the provisions of section 11(2) of the Act, that the claim was lodged—
  - (i) substantially in the form of Annexure A together with such additional documents as are relevant to substantiate the claim; and
  - (ii) with any regional office or the Head Office of the Commission or the Department of Land Affairs not later than 31 December 1998;
- (b) that the claimant has reasonable grounds for arguing that the claim meets the criteria set out in section 2 of the Act; and
- (c) that the claim is not frivolous or vexatious,

whereupon he or she shall advise the claimant accordingly.

(2) In the case of an informal land right, the documents contemplated in paragraph (a)(i) of subrule (1) may include a sworn statement by the claimant, giving a full description of the land in question and the nature of the right being claimed.

*(Rule 3 substituted by rule 4 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

### **4. ...**

*(Rule 4 repealed by rule 5 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

### **5. Investigations by the Regional Land Claims Commissioner**

On acceptance of a claim for investigation, the Regional Land Claims Commissioner or a person designated by him or her, shall—

- (a) ensure that the outstanding information required in respect of the claim is obtained;
- (b) establish if the land is State-owned and, if not, obtain particulars of the owner, and the history of the acquisition of the land by the owner;
- (c) establish the purpose for which the land is used at that stage and the conditions of such use;
- (d) establish the date and circumstances of the dispossession of the right in such land;

- (e) establish whether any compensation or compensatory land has been received, the amount of such compensation, the basis on which such amount was calculated, and whether the compensation was properly determined and comparable to the value of the land dispossessed;
- (f) establish which Government Department or institution dealt with the dispossession, and which racially discriminatory law or practice gave rise to the dispossession;

*(Rule 5(f) substituted by rule 6(a) of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (g) investigate the nature of the right in land claimed, and obtain proof thereof;
- (h) establish whether or not the claimant is a person, deceased estate, direct descendant, community or part of a community as contemplated in section 2(1) or (3) of the Act;

*(Rule 5(h) substituted by rule 6(b) of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (i) establish whether there is more than one claim in respect of a specific area or property;
- (j) see to it that a topographical or compilation map indicating the location of the land is obtained from the Government Printer or the Surveyor-General;
- (k) establish factors which could give rise to priority treatment as contemplated in section 6(2)(d) of the Act;

- (l) ...

*(Rule 5(l) deleted by rule 6(c) of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (m) investigate options and make recommendations to the Minister in terms of section 6(2)(b) of the Act for appropriate alternative relief in respect of claimants who do not qualify for the restitution of land rights;
- (n) establish in terms of section 13(1)(c) of the Act whether the current owner or holder of rights in land claimed is opposed to the claim;

- (o) ...

*(Rule 5(o) deleted by rule 6(c) of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (p) obtain information regarding any other matter which is deemed to be necessary or desirable to be investigated in order to facilitate the task of the Regional Land Claims Commissioner.

## 6. Powers regarding investigation

At any stage during the course of an investigation, the Regional Land Claims Commissioner, or a person designated by him or her, may—

- (a) recommend to the Chief Land Claims Commissioner to exercise his or her powers in terms of sections 6(2)(d) or 13(1) of the Act;

*(Rule 6(a) substituted by rule 7 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (b) notify claimants of directives and options regarding section 6(2)(d) or 13(1) of the Act and request claimants to reply to questions so that the Commission can take the appropriate steps provided for in the aforementioned subsections;

*(Numbering for section 6(b) omitted by the Regulations in Government Notice 703, Gazette No. 16407 dated 12 May 1995)*

*(Rule 6(b) substituted by rule 7 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (c) where rights in land are being claimed by more than one claimant, jointly, or by a community, request the co-claimants to appoint a single person or entity with whom the Commission could deal;
- (d) request a claimant to indicate whether he or she intends pursuing a claim for compensation only; and
- (e) where rights in land are being claimed by more than one claimant, jointly, or by a community, request such claimants acting jointly, to provide the appropriate resolution or documentation to support their joint claims.

## 7. Registration

The Regional Land Claims Commissioner or a person assigned by him or her shall keep a register, which shall consist of separate sub-registers for urban and rural claims, and such other sub-registers as the Regional Land Claims Commissioner may consider appropriate, and he or she shall see to it that the particulars of every claim received each day are immediately recorded.

## 8. Allocation of numbers

The Regional Land Claims Commissioner shall allocate a number to the claim form, record such number in the appropriate register and supply the claimant with the number so allocated.

*(Rule 8 substituted by rule 8 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

## **9. Particulars to be recorded**

The particulars recorded in the register may include the following:

- (a) Name, telephone number and address of the claimant, and in the case of more than one claimant acting jointly, the name, telephone number and address of the appointed representative person or entity of a group of claimants or community as referred to in rule 6(c);
- (b) name, telephone number and address of the appointed agent or legal representative of the claimant, if any;
- (c) where applicable, the date on which the claim was referred to the regional office of the Department of Land Affairs in terms of rule 12;
- (d) whether the claim has been submitted on behalf of an individual or a community, or a group of claimants acting jointly;
- (e) number of co-claimants, where the claimants are acting jointly;
- (f) full particulars of the land, including the town or city, suburb, district and province, and the current Title Deed description, extent of the land and Title Deed number;
- (g) the date on which the claim was lodged;
- (h) the date of dispossession;
- (i) the date on which the claim was accepted for investigation in terms of rule 3 or not accepted in terms of section 11(4) of the Act;

*(Rule 9(i) substituted by rule 9 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (j) the date on which the report of the Regional Land Claims Commissioner was sent to the Chief Land Claims Commissioner; and
- (k) file numbers of all relevant files of the head office and the regional office of the Commission as well as the regional office of the Department of Land Affairs.

## **10. Documents subsequently delivered**

Prepared by:

Every document subsequently delivered in such a claim or in a subsequent claim in pursuance of such a claim shall be numbered with the original claim number.

#### **11. Filing [*sic*] of documents**

All documents delivered at the office of the Regional Land Claims Commissioner to be filed and all the documents referred to in section 14 of the Act shall be filed under the number of the claim concerned.

#### **12. Request for Information**

The Regional Land Claims Commissioner may request the head of the regional office of the Department of Land Affairs to obtain all or any of the information relevant to the investigation as contemplated in rule 5.

#### **13. Notice of claim in terms of section 11(1) of the Act**

(1) The notice referred to in section 11(1) of the Act shall contain, in addition to any other particulars, the following particulars:

(a) The Title Deed description of the land, its extent, the Title Deed Number, the name of the current registered owner, and any other detail that would help interested parties in the identification and location of the property that forms the subject of the claim.

*(Rule 13(1)(a) substituted by rule 3(a) of Government Notice R1961 in Government Gazette 17630 dated 29 November 1996)*

(b) The names by which the land or area is generally known, and where applicable, the street address, and, if the street address of the land has changed, the current street address.

(c) Particulars of claimants or, in the case of a group of co-claimants or community, their appointed representative person or entity.

(d) A request that any person who wishes to comment on or object to the claim shall deliver such comment or objection to the Regional Land Claims Commissioner concerned within the period specified in the notice.

*(Rule 13(1)(d) substituted by rule 10 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

(2) The steps referred to in section 11(1) of the Act shall include one or more of the following, in the appropriate languages for the region concerned:

*(Words preceding rule 13(2)(a) amended by rule 3(b) of Government Notice R1961 in Government Gazette 17630 dated 29 November 1996)*

- (a) Notice in a newspaper or a notice in a magazine or on radio or television.
- (b) The sending of copies of the notice of registered mail to all possible interested parties, including the registered land owner.
- (c) Verbal notice.
- (d) The display of a notice in a suitable place on the land concerned.
- (e) The display of a notice on a public building.

#### **14. Inventory of Assets on Land**

An inventory referred to in section 11(8) of the Act shall be provided substantially in the form of Annexure B and be noted in the register referred to in rule 7.

#### **15. Report to Chief Land Claims Commissioner**

- (1) When referring a matter to the Court in terms of section 14(1) or (3A) of the Act, the Regional Land Claims Commissioner shall provide the Chief Land Claims Commissioner with—
  - (a) a full report of the investigation into the merits of the claim, including copies of the claim form and accompanying documents;
  - (b) in the case of a referral contemplated in section 14(2) of the Act, a copy of the document contemplated in that subsection; and
  - (c) in the case of a referral in terms of section 14(3A) of the Act, a copy of the relevant deed of settlement and of the report contemplated in section 14(4) of the Act.

*(Rule 15(1) substituted by rule 11(a) of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (2) ...

*(Rule 15(2) deleted by rule 11(b) of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (3) If at any stage during the course of the Commission's investigation the Regional Land Claims Commissioner is of the opinion that a dispute should be settled by way of mediation in terms of section 13 of the Act, he or she shall submit a report to the Chief Land Claims Commissioner.



- (4) The report referred to in subrule (3) shall include a recommendation whether the claim should be referred for mediation with a view to resolving the dispute and, if so, what the issues between the parties are, as well as the person to be appointed as mediator.

#### **15A. Settlement agreements**

Subject to the provisions of subsections (3), (4) and (5) of section 42D of the Act, no agreement contemplated in subsection (1) of that section, shall be negotiated or entered into on behalf of the Department of Land Affairs without the prior written approval of the Minister.

*(Rule 15A inserted by rule 12 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

#### **16. Meetings**

- (1) The Chief Land Claims Commissioner shall preside at a meeting of the Commission and if he or she is absent or unable to perform his or her functions in terms of these Rules the Deputy Land Claims Commissioner shall act as chairman and while the Deputy Land Claims Commissioner so acts, he or she shall exercise all the powers and perform all the duties of the chairman.
- (2) Meetings of the Commission shall be open to the public and the media: Provided that the Commission may, on good cause shown, decide to exclude the public and the media from a meeting.
- (3) A member of the Commission shall at any meeting fully disclose any interest which he or she or his or her spouse or his or her business partner or employer, other than the State, may have in any matter under consideration by the Commission and, where necessary or appropriate, on the direction of the members present at a meeting, a member with an interest may be excluded from the deliberations or he or she may remain in attendance and be required not to participate.

#### **17. Minutes of meetings**

- (1) The minutes of each meeting shall be recorded by the secretary and, after signature, filed, with reference to, among other things—
- (a) the venue and date of the meeting;
  - (b) the names of the members present;
  - (c) the names of the members absent and the reasons for their absence;
  - (d) the times of commencement and conclusion of the meeting and the date and venue of the next meeting;

- (e) the names of other persons in attendance and of witnesses questioned; and
  - (f) the resolutions of the Commission.
- (2) The minutes of each meeting shall be confirmed at the next meeting and signed by the chairman.
  - (3) Resolutions passed by a casting vote shall be specifically recorded as such and, where the Court is provided with resolutions, it shall also be indicated whether the resolution was passed by means of a casting vote.
  - (4) The secretary shall bring all matters that have been held over from a previous meeting to the attention of the chairman.
  - (5) The public shall have access to the minutes of the Commission.

## **18. Transitional provision**

Where a claim has been received by the Commission before the date of publication of these Rules, it shall be deemed to have been duly and validly lodged in terms of these Rules: Provided that the Regional Land Claims Commissioner having jurisdiction may—

- (a) direct the claimant to complete the prescribed form; and

*(Rule 18(a) substituted by rule 13 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

- (b) direct the claimant to provide the Commission with any further information relevant to the application.

*(Rule 18(b) substituted by rule 13 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)*

**ANNEXURE A**  
**COMMISSION ON RESTITUTION OF LAND RIGHTS**

REGIONAL CLAND CLAIMS COMMISSIONER

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**LAND CLAIM FORM**

The following information is required for the Commission of Restitution of Land Rights to process your claim. Please supply as much information as possible. Please indicate where the information is not available. The more information you can supply, the more helpful it will be. Please note that the Commission is there to assist you, where needed.

**1. Property description: Rural/Urban (delete which is not applicable)**

1.1 If it is rural land, the portion(s), names(s) and number(s) of the farm and district in which it is situated

.....

.....

.....

1.2 If it is urban land, the street address and erf no. which appears on the deeds description

.....

.....

**2. Which department/body acquired the property? .....**

2.1 In what year was it acquired .....

2.2 What was the amount of compensation paid with regard to the:

- property .....
- improvements .....

2.3 Was any Land/housing allocated as compensation? .....

Remarks (additional information) .....

.....

.....

.....

.....

.....

.....

Prepared by:

**3. Full particulars of person who lost the right in Land:**

- Name Community Trust .....
- ID Number of individual claimant .....
- Male/Female (delete which is not applicable)

**4. Full particulars of applicant, if not the person who lost the right on land:**

Name Community Trust .....

Male/Female (delete which is not applicable)

If you are acting on behalf of a community trust, please give your:

- Name .....
- ID Number .....
- Male/Female (delete which is not applicable)
- In what capacity are you acting?  
.....

**5. Do you know about any other family member that might have an internal or claim on the land?**

5.1 If so, please give details

.....

**6. Please give the reason for your claim. (If you need more space please attach a separate page)**

.....  
.....  
.....  
.....  
.....  
.....

**7. Other evidence to substantiate your claim;**

.....  
.....  
.....  
.....

**8. Please attach the following documents where applicable and available to substantiate your claim(s):**

Prepared by:

- 8.1 If you are the original owner who lost a right in land:
- Certified copy of your identity document
  - Certified copy of the deed which was held by you with regard to the land being claimed.
- 8.2 If you are a descendant of the person who lost a right of land:
- Certified copy of your identity document and that of the person who has lost a right in land.
  - Power of Attorney to act on his behalf or claim the land if the original person who lost a right in land is still alive.
  - Certified copy of the deed which was held by the person who lost a right in the land being claimed.
- 8.3 Please attach any other document(s) which you wish, in support of your claim.
- 8.4 In case of inheritance through a will: (TESTATE)
- Certified copy of the will of the person who lost a right in land, or
  - Certified copy of the final liquidation and distribution account as submitted to the Master of the Supreme Court
- 8.5 In case of inheritance without a will (INTESTATE)
- Final liquidation and distribution account as submitted to the Master of Supreme Court, or
  - A sworn statement from the executor stating your relation to the person who lost a right in land and higher position with regard to any heirs
- 8.6 The written consent of all heirs with an Interest in the claim, or if you are the sole heir a sworn statement stating this fact.

**9. Any other information you would like to bring to the Commission's attention**

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.....

.....

.....

.....

**10.** I (full name) .....  
certify that the above mentioned information is correct to my knowledge.  
Signature ..... Date .....  
Place .....

**11. Contact address** .....  
.....

.....  
.....

Telephone number .....

**ANNEXURE B**  
**ASSET SURVEY CERTIFICATE IN ACCORDANCE WITH RULE No. 14 PUBLISHED IN GOVERNMENT**  
**NOTICE No. R 703 OF 12 MAY 1995**

**FILE REFERENCE:**

**A. PURPOSE OF SURVEY:**

.....  
.....  
.....

**B. PARTICULARS OF PROPERTY**

1. Owner:

.....  
.....

2. Title description of property:

.....  
.....  
.....  
.....

3. District:

.....

4. Surface area:

.....

5. Topography:

.....  
.....  
.....

6. Type of farming and other activities:

.....  
.....  
.....  
.....

**C. IMPROVEMENTS:**

(\*When applicable give description, surface area, estimated value and amount)

(a) Residential unit(s):

.....  
.....  
.....

(b) Garage(s):

.....  
.....  
.....

(c) Shed(s):

.....  
.....  
.....

Prepared by:

(d) Barn(s):

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.....

.....

(e) Milk stable/unit(s):

.....

.....

.....

(f) Engine room:

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.....

(g) Working quarters:

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#### D. GENERAL

(a) Grazing

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.....

(b) Dry land

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(c) Irrigation land

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(d) Fruit trees

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.....

(e) Plantations

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(f) Business facilities

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(g) Structures in respect of water-supply

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## (h) Borehole and borehole equipment

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## (i) Irrigation equipment

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## (j) Any other type of improvement

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## (k) Mining activities

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.....

**E. PARTICULARS OF PEOPLE WHO OCCUPY THE PROPERTY OR WHO ARE PRESENT ON THE PROPERTY:****E.**

Name of person/occupant and members of his family who are dependent on him			Particulars of permission to occupy the property	Terms and conditions of occupation	Remarks
Name	Women	Children			

**F. CERTIFICATE**

The former is a complete list with regard to the situation on the property, and the particulars as given are to the best of my knowledge true and correct.

Place .....

Date .....

Signature of owner:

.....

Signature of representative of Commission:

.....

(Annexure B amended by rule 14 of Government Notice R706 in Government Gazette 22521 dated 3 August 2001)

Prepared by: