

THE NATIONAL LAND REFORM FRAMEWORK BILL OF 2017

BILL

To provide a coherent framework of overall objectives and principles to guide the formulation and implementation of specific policies and programmes of land reform and the provision of support services to beneficiaries; to guide the establishment of institutional arrangements for land reform and service based on co-operative governance; and to guide the design of mechanisms for transparency and accountability in the implementation of land reform.

Preamble

WHEREAS:

past policies and practices based on racial discrimination led to patterns of landholding and use that were highly inequitable and unjust;

inequality in the distribution of land, water and natural resources and insecurity in the occupation, holding and use of land are among the important causes of deep-seated poverty and inequality in general;

inequality in access and rights to land has involved gross discrimination against women in particular;

the Constitution requires the State to take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis;

the Constitution provides that no provision of Section 25 may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination;

the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources, and responsibility for realizing this commitment is shared by the State and citizens;

the Constitution requires that South Africans whose tenure of land is insecure as a result of past discriminatory laws and practices must be provided with security of tenure, and the beneficiaries of land reform must occupy, hold and use land in a manner that offers them meaningful security of tenure;

the Constitution requires that the State must respect, protect, promote and fulfil the social, economic and environmental rights of all citizens, and in particular strive to meet the basic needs of previously disadvantaged communities;

the law should ensure that organs of State maintain, support, promote and give expression to these principles guiding the exercise of their functions in land reform and post-settlement support;

the law should establish procedures and institutional arrangements to facilitate and promote transparency and accountability in relation to land reform and post-settlement support;

it is the State's obligation to realise these constitutional imperatives, and it is the obligation of all persons to uphold the values of equity and justice in private relations in—

- a. section 24 of the Constitution, to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures, which include a land use planning system that is protective of the environment;
- b. section 25 of the Constitution, to ensure the protection and fulfilment of property rights including measures designed to foster conditions that enable citizens to gain access to land on an equitable basis;
- c. section 26 of the Constitution, to have the right of access to adequate housing which includes an equitable spatial pattern and sustainable human settlements; and
- d. section 27(1)(b) of the Constitution, to ensure that the State takes reasonable legislative measures, within its available resources, to achieve the progressive realisation of the right to sufficient food and water.

land reform and post-settlement support are complex undertakings involving many organs of state, which must therefore co-operate with, consult and support one another for land reform in a spirit of co-operative governance;

AND WHEREAS it is desirable that:

law promotes the empowerment through land reform of historically disadvantaged persons, and in particular the poorest members of society;

law develops a framework for integrating and co-ordinating all land reform and post-settlement support activities, including water allocation reform;

law establishes principles to guide the exercise of state functions affecting land reform and post-settlement support, which must facilitate and promote co-operative government and intergovernmental relations;

the law ensures that organs of state maintain, support, promote and give expression to these principles guiding the exercise of their functions in land reform and post-settlement support;

the law establishes procedures and institutional arrangements to facilitate and promote transparency and accountability in relation to land reform and post-settlement support;

it is now enacted, by the Parliament of the Republic of South Africa, as follows:

CHAPTER ONE

DEFINITIONS AND OBJECTS OF THE ACT

1. Definitions

In this Act, unless the context requires otherwise, the following terms are defined as follows:

‘access to land’ means the secure holding, access to and use of a defined portion of land, either by individuals, or families, or groups;

‘applicant’ or applicant means a person, including an individual, family or community, who submits a claim for land or registers for participation in a land reform project in a district or metropolitan municipality;

‘community’ means a group of people or a part of such a group who see themselves as sharing common interests in land and who regard themselves as a community;

‘equitable access’ means a pattern of access, holding and use of land that reduces inequality in land by race, class, gender and other relevant criteria;

‘land reform’ means the overall set of programmes (including land redistribution, land restitution, tenure reform and land development) designed to give effect to the commitments contained in section 25 of the Constitution, to create the conditions to foster equitable and secure access to land, as well as to secure the land tenure rights of South Africans who are legally insecure because of past racial discrimination, and to restitution for persons or communities dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices.

2. Objects

(1) The objects of the Bill are:

- a. to give effect to the land reform and related obligations of the State such as post-settlement support and water allocation reform;
- b. to clarify that the overall purpose of land reform is to foster the conditions that create equitable and secure access to land and beneficial use thereof, and thus help address the poverty and inequality that resulted from past discriminatory laws, policies and practices;
- c. to promote the empowerment through land reform and post-settlement support of historically disadvantaged persons, and in particular the poorest members of society, while also supporting social and economic development in general;
- d. to ensure that the system of land reform promotes social and economic inclusion;
- e. to define a clear set of principles to guide the implementation of land reform and post-settlement by all organs of state;
- f. to provide for a coherent and inclusive land reform programme, that focuses on rural land as part of a broader land reform programme that aims to address spatial inequality within society as a whole;

- g. to promote spatial restructuring at all scales including the country as a whole, provinces, regions, and localities;
- h. to define a land reform system as comprising the following components:
 - i. principles that direct decision making in all land reform planning and implementation, including at project level
 - ii. planning instruments
 - iii. district land reform frameworks and district land reform committees
 - iv. procedures and processes for land reform applicants
- i. to provide mechanisms for monitoring and evaluating the implementation of land and water reform in order to review progress and refine both its objectives and mechanisms for its implementation.

CHAPTER TWO

LAND REFORM PRINCIPLES

3. General land reform principles

- (1) The principles in this section shall apply throughout the Republic of South Africa to the actions of all organs of state responsible for aspects of land reform, and shall apply alongside all other appropriate and relevant considerations, including the state's responsibility to respect, protect, promote and fulfil socio-economic rights set out in Chapter 2 of the Constitution, and in particular the basic needs of categories of persons disadvantaged by unfair discrimination.
- (2) These principles shall serve as the general framework within which all land reform and post-settlement support plans are made and implemented, and by reference to which a conciliator appointed under the Act or a Land Rights Protector must make recommendations.
- (3) The principles shall guide the interpretation, administration and implementation of this Act, the Restitution of Land Rights Act 22 of 1994, the Land Reform (Labour Tenants) Act 2 of 1996, the Communal Property Associations Act 28 of 1996, the Interim Protection of Informal Land Rights Act 31 of 1996, the Extension of Security of Tenure Act 62 of 1997, the Transformation of Certain Rural Areas Act 94 of 1998, and any other law that concerns land reform.
- (4) Land reform must promote and support equitable and secure access to land as a means of empowering historically disadvantaged persons, and in particular the poorest and most vulnerable members of society, including women, while also supporting social and economic development in general.
- (5) The primary purpose of all programmes of land reform is to achieve equitable and secure access to land in order to meet a wide range of human needs, including agricultural production, human settlement in rural areas, access to natural resources, and access to environmental services.

- (6) The objectives of land reform cannot be met without the provision of appropriate forms of post-settlement support by organs of state, either on their own or in conjunction with other agencies, and these support services must be regarded as integral components of land reform.
- (7) Land reform must be supported by a water allocation reform programme that ensures that water is made available for land reform beneficiaries for domestic use, and for agriculture where the land is suitable for irrigation.
- (8) Land reform must support and promote forms of development that are socially, culturally and environmentally sustainable, and the objective of land reform is to remove the land-based barriers to the sustainable development of rural communities.
- (9) Land reform policies and programmes as a whole must provide coherent outcomes that promote equitable and secure access to land, and the different sub-programmes of land reform must not work at cross purposes or contradict one another.

4. Land redistribution principles

- (1) The Minister shall take reasonable measures to ensure that land is made available on an equitable basis, which means giving priority to people who are landless and poor.
- (2) A reasonable land reform programme is one that includes a primary focus on the poor and disadvantaged, considers land problems in their social, economic and historical context, considers the capacity of institutions responsible for implementing the programme, and is balanced and flexible.^[1]
- (3) The state must develop a coherent and comprehensive land redistribution programme which is sufficiently resourced and able to secure equitable and secure access to land and related resources including water.
- (4) Planning for land redistribution must proceed at both national level and at local level, so that appropriate land and water reform programmes are developed to guide the acquisition and redistribution of land. Coordination of the national and local plans remains the responsibility of the Minister.
- (5) In implementing a programme of land redistribution, the Minister shall ensure an equitable balance between the expressed demand for land for agricultural and non-agricultural purposes, including settlement, as well as multiple uses of land for both commercial and non-commercial purposes.
- (6) The Minister shall ensure that gender equality in access to land is promoted and that women's interests in gaining secure access to land are promoted.
- (7) State resources for land redistribution must be allocated and used in a manner designed to ensure that large numbers of poor and vulnerable South Africans benefit, and thus promote equitable access, taking due account of the need for post-settlement support and other relevant factors.

- (8) The land redistribution programme must be designed in such a manner that it assists to overcome the legacy of apartheid and apartheid geography, which separated zones of white and black ownership and occupation of land.
- (9) Racial integration in rural areas is to be promoted, as is the provision of opportunities for poor and landless people to gain access to land in areas previously dominated by the wealthy.
- (10) The land redistribution programme must guide the uses of land in rural but also peri-urban areas, so as to promote equitable access to land in such areas in a manner that contributes to the overcoming of the legacy of apartheid geography around urban centres.

5. Land restitution principles

- (1) Land restitution claimants have a choice as to the form in which they wish to have their claims resolved, and to select between restoration of their land, provision of alternative land, developmental compensation and cash compensation, or combinations thereof.
- (2) Individual land claimants are entitled to opt in or to opt out of group-based claims.
- (3) Land claimants *within the same claim* are entitled to take restitution in a form of their choosing, including the restoration of land, the provision of alternative land, the provision of developmental compensation and the provision of financial compensation, and the Commission shall facilitate such choices by enabling claimants to sub-divide group claims so that these different forms of restitution can be achieved, should this be necessary and appropriate.
- (4) People with historical claims to land which fall outside of the eligibility criteria for restitution, as contained in the Restitution of Land Rights Act 22 of 1994, as amended, including claims which relate to dispossession that pre-dated 19 June 1913, are entitled to participate in the land reform programme, and the Minister may grant such claims preferential status within the land redistribution programme.
- (5) The Minister must provide reasons to claimants whose claims fall outside the eligibility criteria for restitution under the Restitution of Land Rights Act of 1994 as to whether and why s/he has granted them priority within the land redistribution programme, or not, as the case .

6. Tenure reform principles

- (1) Tenure reform must build a unitary non-racial system of land rights for all South Africans, and move away from weak forms of rights such as permits.
- (2) People must be able to choose a tenure system appropriate to their circumstances, and select the governance arrangements and institutions needed to administer and support their land rights that they prefer.

- (3) All land reform initiatives must enable people to attain long-term and secure use and benefit rights, and to participate in deciding on the precise manner in which they will hold their land and on governance and institutional mechanisms for land administration.
- (4) Forms of land tenure such as those derived from customary law, which were actively discriminated against in the past, deserve extraordinary affirmative action support. This must be reflected in terms of the resources made available in order to uphold, recognize and develop these forms of tenure.
- (5) The Minister must take appropriate measures to ensure that such tenure forms are secured and that people holding such tenure are prioritised in the provision of state support. This also applies to access to water rights held under customary law.
- (6) Equal levels of support must be provided to family and other group based forms of communal tenure.
- (7) Any form of individual and communal tenure must be held without bias or discrimination against them by any organs of state.
- (8) Farm dwellers and labour tenants must be given the opportunity for apply for land (as indicated in Section 4 of the Extension of Security of Tenure Act, 62 of 1997 and section 16 of the Land Reform (Labour Tenants) Act 2 of 1996.
- (9) People who reside in informal settlements are entitled to recognition and to secure forms of land tenure.

CHAPTER THREE

TARGETS GROUPS, PRIORITISATION AND BENEFICIARY SELECTION

7. Identification of target groups and their prioritisation

- (1) Land reform must promote and support equitable and secure access to land as a means of empowering historically disadvantaged persons, and in particular the poorest and most vulnerable members of society, including women, while also supporting social and economic development in general.
- (2) The priority target groups of land reform are historically disadvantaged individuals and communities, and especially the poorest and most vulnerable members of society.
- (3) The promotion of equitable access to land requires in particular the promotion of women's access to land and rights in land, in order to achieve substantive gender equality.
- (4) The redistribution of land must in the first place prioritise those people who do not already hold sufficient land to support their livelihoods, but balance their needs and

wishes against those of previously disadvantaged people who have the desire and potential to use land and natural resources to produce primarily for the market.

8. Beneficiary selection

- (1) The selection of the beneficiaries of land reform must promote equitable access to land, and must be conducted in a transparent manner.
- (2) The state must determine the nature and extent of the need and demand for land via public consultations, as well as invitations for citizens to express their need for land by submitting their personal details, together with indications of how much of what type of land they require for what purposes, including criteria of size and location, and water needs, among other factors.
- (3) Public consultations and invitations to individuals to submit information on their demand for land must take place within all district municipalities every five years at minimum, and be held in a manner which is transparent and maximizes opportunities for participation by ordinary citizens.
- (4) The Department of Rural Development and Land Reform shall establish and maintain a record of all requests and all applications for land redistribution or for tenure upgrades in every district municipality, which must be reviewed and revised every five years at minimum.
- (5) The land demand register shall be a public document available for inspection at each district and provincial office of the Department of Rural Development and Land Reform, as well as being publicised online.
- (6) Prioritisation among the potential beneficiaries listed on a land demand register must be undertaken in a transparent manner.
- (7) Allocation of land to applicants must take into account the suitability of the land for the purposes and priorities of the applicants.
- (8) Selection of beneficiaries must be informed by the outcomes of substantial public and broad community engagement, including direct participation in the process through public meetings, public exhibitions, public debates and discourses in the media and any other forum or mechanisms that promote such direct involvement.

CHAPTER FOUR

DISTRICT LAND REFORM IMPLEMENTATION AND MUNICIPAL COMMONAGE

9. District land reform implementation frameworks

- (1) The state must develop a land reform implementation framework for every district municipality, and revise and update the framework every five years at minimum.
- (2) The purpose of a district land reform implementation framework is to:
 - a. clarify the nature and scale of the demand for land reform in the district or metro, including via the mapping of land claims, areas where occupiers request tenure upgrades, and areas where the expressed demand for land redistribution can best be met;
 - b. identify priority areas and zones in which land is to be first acquired, these priorities being updated on a regular basis;
 - c. provide the basis for proactive acquisition of identified land via negotiation for purchase, or alternatively expropriation, to make possible redistribution, restitution and tenure reform;
 - d. demonstrate how equitable access to land is to be advanced through the redistribution and restitution of land and the securing of tenure rights.
- (3) Every district land reform framework must contain:
 - a. the identification and characterization of the expressed needs for land, including specification of the socio-economic profile of people expressing a need or desire for land through informal requests or formal applications for land redistribution or land tenure reform;
 - b. an assessment of the varied and competing needs and demands and a statement as to how these will be prioritized and sequenced;
 - c. the specification of how available budgets will be allocated among competing demands within the district or metro, distinguishing between the interests of the main potential beneficiary target groups;
 - d. motivation and implementation plans for the integration and inclusion of the land reform project into the local economic development plans for the district or metro;
 - e. the current and projected land reform needs of land reform grantees and registered claimants under the Restitution of Land Rights Act, the Land Reform (Labour Tenants) Act, the Extension of Security of Tenure Act, the Transformation of Certain Rural Areas Act, and the Interim Protection of Informal Land Rights Act.

10. Commonage land

- (1) The Minister shall take reasonable measures, together with municipalities, to audit all land owned by municipalities and to demarcate commonage land to be made available for public use.
- (2) Municipalities shall maintain and make publicly available detailed information, including maps, of their municipal commonage land.

- (3) Municipalities must ensure that their commonages are used in pursuit of equitable access to land, prioritizing those in most need.
- (4) Municipalities must take reasonable steps to make available commonage land for the use of citizens and particularly to the landless and those who are most poor and in need of the use of that land.
- (5) Municipalities must ensure that leases on commonage land that has been rented out for commercial purposes and for rental income to the municipality are not renewed and that municipal commonage is restored to public use.
- (6) Allocation of land use rights to municipal commonage shall be conducted in an open and transparent manner, on the basis of public participation and prioritization of the voices of the landless, poor and most vulnerable, and with due recognition of women's land access and use priorities.
- (7) The Department of Rural Development and Land Reform shall make available funds to enable municipalities to manage their commonage land in the interests of providing equitable access to land, to expand their commonage and to provide appropriate infrastructural and governance support to commonage users.
- (8) The Minister shall, from funds allocated by Parliament, make available appropriate resources to enable municipalities to expand their municipal commonage, in order to meet the needs expressed through public participation and evident in district records of requests and applications for land redistribution and land tenure reform.
- (9) To have their right of access to and to acquire municipal commonage approved, groups of small scale farmers and / or community commonage bodies will have to meet a range of criteria as follows:
 - a. they will have to be properly constituted; and demonstrate that they are representative of the community;
 - b. they will be required to conduct a ballot to establish that the community as a whole, and the applicant farmers and tenants, support the application to exercise the right of access;
 - c. they must demonstrate that they have plans for the land that are compatible with its sustainable development and with the sustainable development of the community which they represent;
 - d. they must demonstrate that acquisition and / or expropriation would be in the public interest.

CHAPTER FIVE

LAND ACQUISITION, SUBDIVISION AND ALLOCATION

11. Land acquisition and the selection of land for redistribution

- (1) The Department of Rural Development and Land Reform shall determine priorities for land acquisition in consultation with local and district municipalities and metros, and in a participatory manner that enables citizens to express their views.
- (2) Consultation must give priority to the voices of the most poor and marginalized, balanced against the needs of those previously disadvantaged persons who have the desire and potential to use land and natural resources for production primarily for the market.
- (3) Determination of which land to acquire shall be based on a systematic assessment of land demand, including demands for land restitution and for tenure reform, and land redistribution opportunities, including for purposes of settlement.
- (4) Area-based planning must inform the prioritisation of land for acquisition for redistribution, restitution and tenure reform.
- (5) The state shall purchase or expropriate land identified through such a prioritisation process.
- (6) Expropriation shall be pursued in line with the Expropriation Act [xx] of 2017.
- (7) The state shall develop policy and regulations to guide the use of its expropriation powers with respect to land reform and the determination of compensation consistent with the Expropriation Act of 2017 and section 25 in the Constitution.
- (8) The redistribution of water rights and water allocation reform shall be considered alongside the redistribution of land to ensure that citizens who gain access to land also gain access to water rights for the improvement of their livelihoods.
- (9) The acquisition of land for settlement and production purposes shall be informed by considerations of access to services and infrastructure.

12. Subdivision of land holdings

- (1) The state shall proactively promote the subdivision of large-scale landholdings in situations where those in most need have expressed a need for smaller parcels of land than are currently available.
- (2) Where pursued, subdivision shall be undertaken to promote the availability of smallholdings in order to promote equitable access.
- (3) No state institution or official shall impede the subdivision of agricultural land for the purposes of providing equitable access to land.
- (4) Provincial departments of agriculture and other state institutions shall, in a spirit of cooperative governance, play their respective roles to facilitate subdivision and assist the Department of Rural Development and Land Reform in the subdivision and allocation of subdivided portions of land for the purposes of land reform.

- (5) The Department, together with other relevant government departments, such as those responsible for human settlements, shall initiate subdivision of farms prior to allocation of land use rights, with due regard to the prior entitlements of long-term farm occupiers, land claimants and others, and with due regard to the distribution of infrastructure and water availability, and road access, among subdivided portions.

13. Allocation of secured long-term use and benefit rights

- (1) The Department of Rural Development and Land Reform shall maintain a land rights register of those who have received land through land reform, including through transfer of ownership and provision of leasehold or other rights to land.
- (2) The Minister shall allocate funds and ensure the creation and support for staff posts in the Department to ensure adequate administration of state land and to ensure that such register is adequately maintained and available for public scrutiny, and at all times up to date.
- (3) The Minister shall ensure that provision of access to land is equitable and furthermore that tenure is held in an equitable and secure manner, and that there is equity among different holders of tenure and tenure forms.
- (4) Equitable access and secure tenure needs to be sustainable and needs to be supported by adequate budgetary provision, and enable sustainable land use and production.

CHAPTER SIX

GENERAL PROVISIONS

14. Transparency and accountability

- (1) The Director-General of the Department of Rural Development and Land Reform, together with the Minister, shall present an Annual Report to parliament that includes sufficiently detailed data to allow an accurate assessment of progress towards achieving the objectives of land reform and the problems being encountered by the department.
- (2) The Annual Report must include the following data:
 - a. hectares of land transferred and secured per district and province for each sub-programme of land reform
 - b. numbers, gender and socio-economic status of beneficiaries by district and province for each sub- programme of land reform
 - c. average expenditure on land reform per category of beneficiary, by district and province, and by gender and socio-economic status.

- (3) The Department must report on what it has found in its assessment of the size and character of the demand for land and what it has done to ensure that the identification land reform beneficiaries is a decentralized and transparent process.
- (4) As detailed above, each district office of the Department of Rural Development and Land Reform must develop a detailed district land reform implementation framework.
- (5) A district land reform implementation framework must contain the identification and characterization of the expressed needs for land, including specification of the socio-economic profile of people expressing a need or desire for land, thus summarizing the district's land demand register.
- (6) The framework must also detail issues of water availability to meet the expressed needs for agricultural land, to which end the Department of Water and Sanitation must be involved in the development of the framework.
- (7) An assessment of the varied and competing needs and demands and a statement as to how these will be prioritized and sequenced, must be reviewed and republished every five years.

15. Alternative dispute resolution

- (1) There must be fair decision-making in land reform and efforts must be made to manage and resolve conflict.
- (2) Anyone may request the Minister to appoint a facilitator to call and conduct meetings of interested and affected parties with the purpose of reaching agreement to refer a difference or disagreement to conciliation in terms of this Act, and the Minister may appoint a facilitator and determine the manner in which the facilitator must carry out his or her tasks, including time-limits.
- (3) To promote conciliation, the Minister or any district land reform committee where a difference or disagreement arises concerning the exercise of any of its functions which may significantly affect land reform, may, before reaching a decision, consider the desirability of first referring the matter to conciliation and must if he, she or it considers conciliation appoint a conciliator on the conditions, including time-limits, that he, she or it may determine.
- (4) The Land Claims Court may order the parties in a land reform dispute to submit the dispute to a conciliator appointed by the Minister in terms of this Act and suspend the proceedings pending the outcome of the conciliation.
- (5) Where a matter has been referred to conciliation in terms of this Act, the Director-General may, on the conditions, including time-limits, that he or she may determine, appoint a conciliator acceptable to the parties to assist in resolving a difference or disagreement, provided that if the parties to the difference or disagreement do not reach agreement on the person to be appointed, the Director-General may appoint a person who has adequate experience in or knowledge of conciliation of land reform disputes.

- (6) A conciliator appointed in terms of this Act must attempt to resolve the matter:
 - a. by obtaining such information whether documentary or oral as is relevant to the resolution of the difference or disagreement
 - b. by mediating the difference or disagreement;
 - c. by making recommendations to the parties to the difference or disagreement;
 - d. or in any other manner that he or she considers appropriate.
- (7) In carrying out his or her functions, a conciliator appointed in terms of this Act must take into account the principles contained in this Act.
- (8) A conciliator may keep or cause to be kept, whether in writing or by mechanical or electronic means, a permanent record of all or part of the proceedings relating to the conciliation of a matter.
- (9) Where such record has been kept, any member of the public may obtain a readable copy of the record upon payment of a fee.
- (10) Where conciliation does not resolve the matter, a conciliator may enquire of the parties whether they wish to refer the matter to arbitration and may with their concurrence endeavour to draft terms of reference for such arbitration.
- (11) The conciliator must submit a report to the Director-General, the parties and the person who referred the matter for conciliation, setting out the result of his or her conciliation, and indicating whether or not an agreement has been reached.
- (12) In the event of no agreement having been reached, the report may contain his or her recommendations and reasons therefor.
- (13) Where relevant, the report must contain the conciliator's comments on the conduct of the parties.
- (14) The report and any agreement reached as a result of the conciliation must be available for inspection by the public and any member of the public may obtain a copy thereof upon payment of a fee.
- (15) The Director-General may from time to time appoint persons or organisations with relevant knowledge or expertise to provide conciliation and mediation services.
- (16) Where land disputes relate to state institutions and state officials, including cases of alleged maladministration, corruption, neglect or abuse of power, any party to the dispute may refer the dispute directly to the Land Rights Protector for investigation.

16. Legal standing

- (1) Any person or group of persons may seek appropriate relief in respect of any breach or threatened breach of any provision of this Act, including a principle contained in Chapter 1, or any other statutory protection concerned with the provision of equitable access to land via its acquisition, redistribution and the securing of long-term tenure rights to it.

17. Short title and commencement

- (1) This Act is calling the Land Reform Framework Act, 2017, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

[1] Government of RSA and Others vs Grootboom and others (2001 (1) SA 46.

ANNEXURE 1:

The Land Rights Protector

1. A Land Rights Protector will be appointed by and report to a committee appointed by the National Assembly. [or: appointed by the President after nomination by a committee of the National Assembly]
2. The budget of the office of the Land Rights Protector will be provided by the Department of Rural Development and Land Reform.
3. The Land Rights Protector must provide a detailed written report on his/her activities and the outcomes of these activities, to both houses of parliament on an annual basis.
4. All reports by the Land Rights Protector must be open to the public, unless exceptional circumstances require that the report be kept confidential.
5. The Land Rights Protector will have the following functions:
 - a. To investigate complaints and disputes in relation to the adjudication, award and administration of land rights which have not been resolved through prior dispute resolutions processes convened or overseen by the department.
 - b. In particular, to investigate complaints and disputes over the adjudication, award and administration of land rights which involve any level of government, or state officials, including maladministration, corruption, neglect or abuse of power.
 - c. When appropriate, to endeavor to resolve disputes through processes of mediation, conciliation and negotiation.
 - d. When appropriate, to recommend administrative remedies to resolve complaints and disputes (including adjudication between competing claims where these have not been resolved by local-level or other institutions and processes)

- e. When appropriate, to refer complaints and disputes to further processes of mediation or arbitration, or to the courts.
 - f. The findings and recommended remedies of the Land Rights Protector can be taken on appeal to a magistrate's or higher court, including the Land Claims Court.
6. A particular focus of the Land Rights Protector will be complaints and disputes over opportunities for members to participate in group decision-making, cases where land rights are rendered insecure through maladministration, corruption, neglect or the abuse of power by a person performing a public function, and instances of improper and unlawful enrichment or advantage as a result of acts or omissions in the administration of land rights.
7. The land rights to be protected by the Land Rights Protector include:
- a. land rights subject to and conferred through land restitution claims;
 - b. land redistribution awards, grants and leases;
 - c. land rights held within all systems of rural land tenure, including private ownership, private leases, commonage land, the occupation rights of farmworkers, farm dwellers and labour tenants, rights held by members of Communal Property Associations and land-holding trusts, and informal land rights, as defined in (I)PILRA.
8. The budget for the office of the Land Rights Protector must be sufficient to allow the office to perform its functions efficiently and effectively. The budget must support the hiring and training of sufficient staff to perform these functions in both the national office and in provincial sub-offices. One sub-office must be established in each province.
9. The Land Rights Protector, or anyone designated by the Land Rights Protector, shall be competent to enter any premises or building for the purposes of an investigation, and seize anything on those premises relevant to the investigation. These premises may be entered only after a magistrate or judge has issued a warrant authorizing such entry.