

GENERAL NOTICE

NOTICE OF 1997

DEPARTMENT OF LAND AFFAIRS

EXTENSION OF TENURE SECURITY BILL, 1997

PRETORIA, 4 FEBRUARY 1997

The Department of Land Affairs hereby publishes the draft Extension of Security of Tenure Bill for public information and comment.

Comments should be send to: The Director General, Department of Land Affairs, Private Bag X833, Pretoria 0001, for the attention of Mr Jan Truter, preferably on or before 14 February 1997.

BILL

To regulate the circumstances under which the right of persons to occupy land may be terminated; to regulate the circumstances under which persons, whose right of occupation has been terminated, may be evicted from land; to regulate the conditions of occupation of land; to provide measures to facilitate long-term security of tenure for such persons; and to provide for matters incidental thereto.

WHEREAS many South Africans do not have secure tenure of their homes and land;

WHEREAS people who do not have secure tenure of their homes and land are vulnerable to unfair eviction;

WHEREAS unfair evictions lead to great hardship, conflict and social instability;

WHEREAS this situation is in part the result of past racially discriminatory laws and practices;

WHEREAS it is desirable that the law should give due recognition to the legitimate rights and interests of owners and occupiers of land;

WHEREAS it is desirable that the law should fairly regulate the eviction of occupiers from land;

WHEREAS it is desirable that the law should promote the achievement of long-term tenure security for occupiers, where possible through the joint efforts of occupiers, owners, and government bodies;

AND WHEREAS it is desirable to ensure that occupiers are not further prejudiced:

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-

CHAPTER I

Introductory provisions

Definitions

1.(1) In this Act, unless the context indicates otherwise -

(i) "**Director-General**" means the Director-General of the Department of Land Affairs or an officer of that Department who has been designated by him or her generally, or in respect of a particular case, or in respect of cases of a particular nature; (i)

(ii) "**effective date**" means the date on which the Extension of Security of Tenure Bill, 1997, has for the first time been published in the *Gazette* for general information and comment; (ii);

(iii) "**evict**" means to deprive a person of the occupation or use of land by force or by unlawful action or threat of unlawful action, and "**eviction**" has a corresponding meaning; (ix)

(iv) "**Land Claims Court**" means the Court established by section 22 of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994); (iv)

(v) "**Minister**" means the Minister for Agriculture and Land Affairs; (v)

(vi) "**occupier**" means a person dwelling on land which belongs to another person, and who has or on the effective date had the express or tacit consent of the owner or person in charge to do so, but excluding -

- a. a labour tenant referred to in section 1 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996);
- b. a person using or intending to use the land in question mainly for industrial, mining, commercial or commercial farming purposes; (vii)

(vii) "**off-site development**" means a development on land other than land which the occupant or occupants concerned occupied prior to such development, and in respect of which the occupants obtain long-term tenure security; (vi)

(viii) "**on-site development**" means a development on land which the occupants

concerned currently occupy or previously occupied and in respect of which they obtain long-term tenure security; (viii)

(ix) "**owner**" or "**person in charge**" means the person who was the owner or person in charge of the land in question, as the case may be, at the time of the act, omission or conduct to which reference is made. (iii)

(2) In the case of land registered in the name of the State or an institution or functionary exercising powers on behalf of the State-

- a. "**owner or person in charge**" means a person who has been certified by the Director-General, on application made in the prescribed manner, to be the owner or person in charge, subject to such conditions as the Director-General may determine; and
- b. a certificate purportedly issued by the Director-General in terms of this subsection shall constitute prima facie evidence of the authority of the person named in it to act as owner or person in charge of the land concerned, and shall be admissible on its production in Court.

Application of Act

2. (1) Subject to the provisions of subsection (2), this Act applies to all land except a township established, approved, proclaimed or otherwise recognised as such under any law, but including any land within such a township which has been designated for agricultural purposes in terms of any law;

(2) The amendments referred to in sections 21, 22 and 23 of this Act shall apply throughout the Republic.

(3) In any civil proceedings in terms of this Act, the land in question shall be presumed to fall within the scope of the relevant provisions of this Act unless the contrary is proved.

Consent to occupy or use land

3.(1) For the purposes of this Act, the express or tacit consent of the owner or person in charge for the occupation or use of the land in question shall be effective regardless of whether some other official authority is required for such occupation or use.

(2) In any proceedings for eviction which are based on the absence of consent of the owner or person in charge, it shall be necessary to plead and prove the absence of such consent.

(3) If a person who occupied or used land on the effective date previously did so with the consent of the owner or person in charge, and such consent was withdrawn prior to the effective date -

- a. the person who occupied or used that land shall be deemed to be an occupier in terms of this Act, provided that he or she has continuously resided on that land since consent was given; and
- b. the withdrawal of consent by the owner or person in charge shall be deemed to be a valid withdrawal of consent in terms of section 6.

CHAPTER II

Right of occupiers to occupy and use land

Rights and duties of occupiers

4.(1) Subject to the provisions of this Act, an occupier has the right to occupy the land which he or she occupied on the effective date or subsequently with the express or tacit consent of the owner or person in charge.

(2) Subject to the provisions of this Act and to limitations which are reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, an occupier has the right to -

- a. security of tenure;
- b. human dignity;
- c. freedom of movement;
- d. freedom of association, including the right to receive visitors; and
- e. family life.

(3) An occupier may not -

- a. unreasonably cause damage to the property of the owner or person in charge;
- b. unreasonably interfere with the use of the land by the owner or person in charge;
- c. enable or assist unauthorised persons to establish new dwellings on the land in question.

(4) Any person shall have a right at reasonable times to visit and maintain his or her family graves on the land to which this Act applies.

(5) In interpreting the other provisions of this Act, a court shall have regard to the rights and duties referred to in this section.

Limitation on eviction

5.(1) Notwithstanding the provisions of any other law, an occupier may be evicted only in terms of an order of court issued under this Act.

(2) An order for eviction may be issued if -

- a. the occupier's right of occupation has been terminated in terms of section 6, and the conditions for an order for eviction in terms of section 7 or 8 have been satisfied; or
- b. the requirements of section 14 have been satisfied.

Termination of right of occupation

6.(1) If an occupier's right of occupation of land arises from a contract of employment, the right of occupation may be terminated if the contract of employment is lawfully terminated.

(2) If an occupier's right of occupation arises from a fixed term contract, the right of occupation may be terminated when the fixed term comes to an end, except where the occupier has a reasonable expectation of renewal of the contract on expiry of the fixed term.

(3) An occupier's right of occupation may be terminated on any other lawful ground, provided such termination or withdrawal is just and equitable having regard to all relevant factors and in particular to -

- a. the fairness of any agreement, provision in a contract or provision of law on which the owner or person in charge relies;
- b. the conduct of the parties giving rise to the termination;
- c. the interests of the parties, including the comparative hardship which will be caused to the owner or person in charge and the occupier if the right of occupation is or is not terminated;
- d. the fairness of the procedure followed by the owner or person in charge, including whether or not he or she gave the occupier an effective opportunity to make representations before making the decision to terminate the right of occupation.

(4) If the consent of an owner or person in charge to the occupation or use of land by an occupier was conditional on the consent which he or she has given to another person, the owner or person in charge may terminate the first person's right of occupation if he or she validly terminates the second person's right of occupation.

(5) The consent of the owner or person in charge to the occupation or use of land by an occupier may not be withdrawn except on the grounds set out in this section.

Order for eviction of person who was an occupier on effective date

7.(1) This section applies to any person who was an occupier of the land in question on the effective date.

(2) If an occupier's right of occupation has been terminated in terms of section 6, the owner or person in charge of the land may institute proceedings in court for an order for eviction.

(3) The court may grant an order of eviction against an occupier if -

- a. the occupier refuses a reasonable offer of other viable and affordable accommodation, and there is no appropriate alternative to eviction, having regard to the balance of the interests of the owner or person in charge and the occupier, and the possibility of providing tenure security through an on-site development; or
- b. the occupier has through his or her deliberate act or omission breached a material term of any agreement justifying the cancellation of his or her right of occupation, and has not remedied the breach despite being given one calendar month's notice in writing to do so; or
- c. the occupier has intentionally and maliciously harmed a person occupying the land or adjacent land, or his or her property; or
- d. the occupier has committed such a fundamental breach of the relationship between him or her and the owner or person in charge, that it is not practically possible to remedy it, either at all or in a manner which could reasonably restore the relationship; or
- e. the occupier has enabled or assisted unauthorised persons to establish new dwellings on the land, and the court is satisfied that it is just and equitable to grant an order of eviction.

(4) The court may order the suspension of an order for eviction for a period it considers just and equitable under the circumstances, with due regard to all relevant factors, including -

- a. how long the occupier has lived on the land in question;
- b. the availability to the occupier of other reasonable and affordable accommodation in the same area; and
- c. the balance of the interests of the owner or person in charge and the occupier.

(5) The court shall decide whether a term of a contract is material, or whether a breach of a relationship is fundamental, and shall not be bound by the terms of any agreement between the parties in this regard.

(6) The court may permit the plaintiff or applicant in proceedings in terms of this section to renew such proceedings from time to time.

(7) A person who institutes proceedings in terms of this section shall within one week furnish a copy of the summons or application to the Director-General.

Order for eviction of person who becomes an occupier after effective date

8.(1) This section applies to any person who first became an occupier of the land in question after the effective date.

(2) If an occupier's right of occupation has been terminated in terms of section 6, the

owner or person in charge may institute proceedings in court for an order for eviction.

(3) The court shall grant an order for eviction if it was an essential and inherent term of the consent given to the occupier to occupy the land in question, that the consent would terminate upon a fixed date or determinable date.

(4) In circumstances other than those referred to in subsection (3), the court may grant an order for eviction if it is just and equitable to do so.

(5) The court may order the suspension of an order for eviction for a period it considers just and equitable under the circumstances.

(6) In considering what is just and equitable in terms of subsections (4) and (5), the court shall have regard to all relevant factors, including-

- a. how long the occupier has lived on the land in question;
- b. the availability to the occupier of other reasonable and affordable accommodation in the same area; and
- c. the balance of the interests of the owner or person in charge and the occupier.

(7) The court shall decide what is an essential and inherent term of a contract, with due regard to the true nature of the contract, and shall not be bound by the terms of any agreement between the parties in this regard.

(8) The court may permit the plaintiff or applicant in proceedings in terms of this section to renew such proceedings from time to time.

(9) A person who institutes proceedings in terms of this section shall within one week furnish a copy of the summons or application to the Director-General.

Notice of intended eviction

9.(1) The court shall not grant an order for eviction in terms of section 7 or 8 unless the owner or person in charge has given the occupier and the Director-General two calendar months' written notice of his or her intention to ask the court to make such an order.

(2) The Director-General may appoint a mediator to attempt to settle the dispute.

(3) The notice referred to in subsection (1) shall, in addition to any prescribed particulars, set out the grounds for the intended eviction.

Prohibition on eviction

10.(1) An occupier who has lived on the land in question for twenty years and-

- a. has reached the age of 55 years; or
- b. is a former employee of the owner or person in charge, and as a result of disability is unable to supply labour to the owner or person in charge may not be evicted on the grounds set out in section 7(3)(a).

(2) On the death of an occupier who has retained the right to occupy land in terms of the provisions of subsection (1), his or her spouse and dependents may not be evicted on the grounds set out in section 7(3)(a) unless they have been given 12 calendar months' written notice to leave the land.

(3) Notwithstanding the other provisions of this section, if the court is of the opinion that the rights of the owner or person in charge of land are unfairly prejudiced by the operation of this section, it may grant such relief as it deems equitable under the circumstances.

(4) No person may terminate the right of occupation of an occupier or evict an occupier if one of the purposes of such termination or eviction is to prevent the occupier acquiring rights in terms of this section.

(5) Any person who contravenes the provisions of subsection (4) shall be guilty of an offence and liable on conviction to the penalties referred to in section 20.

Effect of order for eviction

11.(1) If the court makes an order for eviction in terms of section 7 or 8-

- a. the court shall order the owner to pay compensation for structures erected and improvements made by the occupier and any crops planted by the occupier, to the extent that it is just and equitable;
- b. the court may order the owner to give the occupier a fair opportunity to -
 - i. demolish any structures and improvements erected or made by the occupier and his or her predecessors, and to remove materials so salvaged;
 - ii. tend a crop to which he or she is entitled until it is ripe, and then to reap and remove it.

(2) In determining just and equitable compensation the court shall have regard to all relevant factors including -

- a. the replacement value of the structures and improvements;
- b. the value of materials which the occupier may remove;
- c. the value of materials supplied by the owner or his or her predecessors for the erection of the structures and the making of the improvements;
- d. if the occupier has not been given an opportunity to remove the crop, the value of the crop.

(3) An order for eviction in terms of section 7 or 8 may not be executed if the owner has not paid the compensation which is due in terms of subsection (1), except with the leave of the court granted subject to satisfactory guarantees for the payment of compensation.

Reinstatement and damages

12.(1) An occupier who has been evicted contrary to the provisions of this Act may institute proceedings in the court for an order in terms of subsection (3).

(2) A person who -

- a. in terms of section 4 would have had a right to occupy and use land if the provisions of this Act had been in force on the effective date, and
- b. between the effective date and the commencement of this Act vacated land or was evicted for any reason or by any process, may institute proceedings in the court for an order in terms of subsection (3).

(3) The court may in proceedings in terms of subsection (1) or (2) make an order, subject to such conditions as it may impose -

- a. for the reinstatement of the person concerned on such terms as it deems just;
- b. for the payment of compensation, having regard to the provisions of section 11;
- c. for the payment of punitive damages, having regard to the circumstances of the case; and
- d. for costs.

(4) Where the person referred to in subsection (2) was evicted in terms of an order of a court -

- a. the proceedings shall be instituted within one year of the commencement of this Act; and
- b. the court shall in addition to any other factors which it deems just and equitable, take into account -
 - i. whether the order of eviction would have been granted if the proceedings had been instituted after the commencement of this Act; and
 - ii. whether the person ordered to be evicted was effectively represented in those proceedings, either by himself or herself or by another person.

Pending proceedings

13. The provisions of sections 4, 5, 6, 7, 8, 9(2) and 10 shall apply to proceedings pending in any court at the commencement of this Act.

Urgent proceedings for eviction

14. Notwithstanding the other provisions of this Act, the owner or person in charge of land may make urgent application for the removal of an occupier from land pending the outcome of proceedings for a final order, and the court may grant an order for the removal of that person if it is satisfied that -

- a. there is a real and imminent danger of substantial injury or damage to any person or property if the occupier is not removed from the land;
- b. there is no other effective remedy available; and
- c. the likely hardship to the owner, person in charge or other affected person if an order is not granted, exceeds the likely hardship to the occupier against whom the order is sought, if an order for removal is granted.

CHAPTER III

Measures to facilitate long-term security of tenure for occupiers

Advances or subsidies

15.(1) The Minister shall grant advances or subsidies for on-site and off-site developments which provide long-term tenure security for occupiers.

(2) The advances or subsidies referred to in subsection (1) shall be made from moneys appropriated by Parliament for that purpose, and be granted, subject to the conditions the Minister may determine, -

- a. to facilitate the planning of on-site and off-site developments;
- b. for the acquisition of land or rights in land by occupiers; and
- c. for the development of land occupied or to be occupied by occupiers in terms of on-site or off-site developments.

(3) The Minister shall give priority to applications where -

- a. the development entails a mutual accommodation of the interests of occupiers and owners;
- b. the development is cost-effective;
- c. in the case of an off-site development under circumstances where the occupiers have indicated that they would prefer an on-site development, satisfactory reasons have been provided why an on-site development would not be a more appropriate solution;
- d. owners and occupiers have made a reasonable attempt to devise a development which satisfies subparagraphs (a) and (b);
- e. there is an urgent need for the development because occupiers have been evicted or are about to be evicted:

Provided that where an application is made by or on behalf of occupiers, it shall not be prejudiced by reason only of the absence of support from an owner.

(4) Advances or subsidies may also, subject to conditions which the Minister may determine, be applied to the acquisition of land or rights in land by former occupiers and persons who have been evicted from land in terms of the provisions of section 7 or 8.

(5) Where the persons intended to benefit from a development have been identified, a subsidy or advance shall not be granted unless the development is acceptable to them.

(6) The Minister may for the purposes set out in this section make advances and subsidies through an agreement with a provincial or local government, where -

- a. a local or provincial government will undertake or contract for the undertaking of an on-site or off-site development;
- b. the advance or subsidy is paid to the provincial or local government to enable it to undertake or contract for the undertaking of an on-site or off-site development;
- c. the local or provincial government will make funds available for the purposes set out in this section.

(7) Transfer duty shall not be payable in terms of the Transfer Duty Act, 1949 (Act No. 40 of 1949) in respect of any transaction for the acquisition of land in terms of this section or in respect of any transaction for the acquisition of land which is financed, either wholly or partially, by a subsidy in terms of this section.

(8) The Minister may expropriate land for the purpose of facilitating any development contemplated in this section.

(9) In the event of expropriation, compensation shall be paid as prescribed by the Constitution.

(10) The provisions of sections 6 to 11 and 13 to 23 of the Expropriation Act, 1975 (Act No. 63 of 1975) shall *mutatis mutandis* apply to the expropriation of land in terms of this section, and any reference in that Act to "the Minister" shall be construed as a reference to the Minister for Agriculture and Land Affairs.

CHAPTER IV

Miscellaneous provisions

Powers of court

16.(1) A court may, in addition to other powers set out in this Act -

- a. direct how the order of the court shall be carried out, including the setting of time limits for the implementation of such orders;
- b. make such orders for costs as it deems just.

Magistrate's courts

17.(1) A magistrate's court -

- a. shall have jurisdiction in respect of proceedings for eviction or reinstatement, and prosecutions in terms of this Act; and
- b. shall be competent to grant interdicts in terms of this Act.

(2) Civil appeals from the magistrate's courts in terms of this Act shall lie to the Land Claims Court.

Land Claims Court

18.(1) The Land Claims Court shall have jurisdiction in terms of this Act throughout the Republic and shall have all the ancillary powers necessary or reasonably incidental to the performance of its functions in terms of this Act, including the power to grant interlocutory orders and interdicts, and shall have the same powers in relation to matters falling within its jurisdiction as are possessed by a provincial division of the Supreme Court in civil proceedings, including powers in relation to any contempt of the court.

(2) The Land Claims Court shall have the same powers as the Supreme Court to review an act, omission or decision of any functionary acting under this Act, and shall exercise those powers to the exclusion of the provincial and local divisions of the Supreme Court.

Mediation

19.(1) The Director-General may, on such conditions as he or she may determine, appoint one or more persons with expertise in dispute resolution to facilitate meetings of interested parties and to attempt to mediate and settle disputes in terms of this Act: Provided that the parties may at any time, by agreement, appoint another person to facilitate meetings or mediate a dispute, on such conditions as may be determined by the Director-General.

(2) A person appointed in terms of subsection (1) who is not in the full-time service of the State may, from moneys appropriated by Parliament for that purpose, be paid such remuneration and allowances as may be determined by the Minister in consultation with the Minister of Finance for the services performed by him or her.

(3) All discussions, disclosures and submissions which take place or are made during the mediation process shall be privileged, unless the parties agree to the contrary.

Offences

20.(1) No person shall evict an occupier from land other than in accordance with the provisions of this Act.

(2) No person shall wilfully obstruct or interfere with an official in the employ of the State or a mediator in the performance of his or her duties under this Act.

(3) Any person who contravenes the provisions of subsection (1) or (2) shall be guilty of an offence and liable on conviction to a fine or to imprisonment not exceeding two years, or to both such fine and such imprisonment.

(4) A person whose rights or interests have been prejudiced by a contravention of subsection (1) shall have the right to institute a private prosecution of the alleged offender.

Amendment of section 1 of Act 6 of 1959

21. Section 1 of the Trespass Act, 1959 (Act No. 6 of 1959), is hereby amended by the insertion after subsection (1) of the following subsection:

"(1A) For the purposes of this Act an occupier of land referred to in the Extension of Security Act, 1997, and his or her *bona fide* guests or visitors shall be deemed to have lawful reason to enter and be upon such land."

Amendment of Act 52 of 1951

22. The Prevention of Illegal Squatting Act, 1951 (Act No. 52 of 1951), is hereby amended -

- a. by the deletion of sections 1, 2, 3, 3A, 3B, 3D, 4(3), 5, 6E, 6F and 11B; and
- b. by the substitution for subsection (1) of section 4 of the following subsection:

"(1) Any person who directly or indirectly receives or solicits payment of any moneys or other consideration as a fee or charge, or other payment connected whether directly or indirectly with the arrangement or organization of the occupation of any land or buildings [in contravention of the provisions of section 1 or of any order or instruction issued under section 5] without the permission of the owner or the lawful occupier of such land or building or controls or exercises any degree of authority in connection with such occupation as aforesaid, shall be guilty of an offence and liable on conviction to a fine not exceeding R10 000 or to imprisonment for a period not exceeding five years, or to both such fine and such imprisonment, and the Court convicting such person shall order any such moneys or other consideration that may have been seized and made available to be confiscated, and the said moneys and the proceeds of such other consideration shall thereupon be paid into the State Revenue Fund."

Amendment of section 2 of Act 3 of 1996

23. Section 2 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), is hereby amended by the insertion after subsection (4) of the following subsection:

"(5) If in any proceedings it is proved that a person falls within subparagraphs (a), (b) and (c) of the definition of "labour tenant", that person shall be presumed not to be a farmworker unless and until the contrary is proved."

Insertion of section 13A in Act 3 of 1996

24. The Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), is hereby amended by the insertion after section 13 of the following section:

"Proceedings instituted in other court

13A. In any proceedings in a court other than the Court for the eviction of a person from land, that court shall stop the proceedings and refer the matter to the Court unless the first-mentioned court is satisfied that the person concerned is not a labour tenant in terms of this Act."

Amendment of section 27 of Act 3 of 1996

25. Section 27 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), is hereby amended by the insertion after subsection (3) of the following subsection:

"(4) Any such subsidy may include the cost of any cadastral survey of the land acquired or to be acquired by the labour tenant, the compilation of any plan or diagram that may be required, valuation fees and the conveyancing fees necessary for the transfer of the land to the labour tenant."

Amendment of section 31 of Act 3 of 1996

26. Section 31 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), is hereby amended by the substitution for subsections (1) and (2) of the following subsections respectively:

"(1) The [Minister shall in consultation with the] Minister of Justice shall in consultation with the Minister [compile] establish a panel of persons from whom arbitrators shall be appointed in terms of section 19(2)(b) and in terms of other land laws which require the appointment of arbitrators.

(2) An arbitrator shall be a person who, by virtue of his or her training or experience, has skills and knowledge relevant to [issues which are to be determined in terms of Chapters III and IV] land matters and the resolution of disputes which require to be resolved in terms of the law in question."

Amendment of section 38 of Act 3 of 1996

27. Section 38 of the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), is hereby amended by the substitution for subsections (2) and (3) of the following subsections respectively:

"(2) The Minister may direct that any [**transfer duty,**] stamp duty or fees in respect of -

- a. the preparation and approval of survey diagrams; or
- b. the transfer of land; or
- c. the registration of servitudes, in terms of this Act, shall be defrayed in full or in part from money appropriated by Parliament for that purpose.

(3) The Minister may, in consultation with the Minister of Finance, direct that no [**transfer duty or**] stamp duty contemplated in subsection (2) shall be paid in respect of a particular transaction under this Act."

Insertion of sections 38A and 38B in Act 3 of 1996

28. The Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), is hereby amended by the insertion after section 38 of the following sections:

"Transfer duty not payable

38A. Transfer duty shall not be payable in respect of the acquisition of land or a right in land in terms of this Act.

Endorsement of title deed

38B. The rights of a labour tenant to land in terms of section 3 of this Act may be noted by endorsement against the title deed of the owner of such land by the Registrar of Deeds."

Subsequent owners and persons in charge of land

29.(1) The rights of an occupier shall, subject to the provisions of this Act, be binding on successive owners and persons in charge of the land concerned.

(2) Consent given by the owner or person in charge shall be binding on his or her successor as if he or she had given it.

Waiver of rights

30. The waiver by an occupier of his or her rights under this Act shall be of no legal force or effect, unless -

- a. it is contained in a document signed by the occupier, and the Director-General has certified that he or she is satisfied that the occupier had full knowledge of the nature and extent of his or her rights as well as the consequences of the waiver of such rights; or
- b. it is incorporated in an order of the court.

Regulations

31.(1) The Minister may make regulations regarding -

- a. any matter required or permitted to be prescribed in terms of this Act;
- b. institutional arrangements for the implementation of this Act for any province or magisterial district;
- c. all matters which are reasonably necessary or expedient to be prescribed in order to achieve the objects of this Act.

(2)(a) The Minister may make regulations to give effect to the rights and duties set out in section 4.

(b) No regulation may be made under this subsection unless the Minister has first published a notice in the *Gazette* stating that he or she is contemplating making such regulations, stating the general import of the regulations which are contemplated, and inviting comments and proposals on the contents of the contemplated regulations.

(3) The Minister may make different regulations for different areas or for different classes of occupiers.

Short Title

32. This Act shall be called the Extension of Security of Tenure Act, 1997.