

30 January, 2025

OPINION ON REPEAL OF THE EXPROPRIATION ACT (63 OF 1975) AND THE COMMENCEMENT OF THE EXPROPRIATION ACT (13 OF 2024)

I was requested to provide a legal opinion on the commencement of the Expropriation Act (13 of 2024) the “2024 Act” and its repeal of the Expropriation Act (63 of 1975) the “1975 Act”.

As widely reported, the 2024 Act was assented to by the President of the Republic of South Africa on 20 December 2024. The 2024 Act has thereafter been Gazetted in the Government Gazette No. 51964 on 24 January 2025.

Section 29 of the 2024 Act repeals the 1975 Act in its entirety.

Section 31 of the 2024 Act deals with the commencement of the 2024 Act, or otherwise stated, “when [the 2024 Act] comes into operation”.

Section 81 of the Constitution deals with the publication and commencement of Acts. It states: “A Bill assented to and signed by the President becomes an Act of Parliament, must be published promptly, and takes effect when published **or on a date determined in terms of the Act**” (my emphasis).

The 2024 Act on the point of commencement, states that it “**comes into operation on a date determined by the President by proclamation in the Gazette**” (section 31). This accords with the emphasised part of section 81 of the Constitution above. In other words, the date determined for commencement of the 2024 Act is a date to be communicated by the President in due course. This communication (the “proclamation”) will require another gazetted notice in order to affect the commencement. To be clear, while the 2024 Act has been published, it has not yet commenced.

Bearing this in mind, one needs to now consider section 29 of the 2024 Act which repeals the 1975 Act. In line with the commencement provisions and explanation above, the repeal of the 1975 Act will only take place once the 2024 Act commences. Until such time as the president has proclaimed and published the commencement date, none of the provisions of the 2024 Act (including the repeal provision) are operational in law.

A final aspect to consider is section 31(2) of the 2024 Act. This provides that “different dates may be determined in respect of different provisions of the Act”. This means that the President may proclaim that certain sections commence on a date while others do not. This will need to be seen and considered in due course.

Yours faithfully



Jacques de Villiers
HSG ATTORNEYS