

Land Commission (Gazetted Land)(Disposal in Lieu of
Compensation) Regulations, 2020

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IT is hereby notified that the Minister of Lands, Agriculture, Water and Rural Resettlement has, in terms of section 21 as read with section 17 of the Land Commission Act [*Chapter 20:29*], made the following regulations:—

Title

1. These regulations may be cited as the Land Commission (Gazetted Land) (Disposal in Lieu of Compensation) Regulations, 2020.

Interpretation

2. In these regulations—

“acquired agricultural land” means land (or any piece thereof) compulsorily acquired under the Land Reform and Resettlement Programme;

“alienate” in relation to a farm compulsorily acquired under the Land Reform and Resettlement Programme means to transfer ownership of it to a person referred to in section 3;

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“application” means any application made in terms of section 4, and “applicant” shall be construed accordingly.

“BIPPA or BIT country” means a country with which the Republic of Zimbabwe has concluded a Bilateral Investment Protection and Promotion Agreement or a Bilateral Investment Treaty;

“committee” means the committee appointed in terms of section 4;

“identity document” means a valid passport, or a notice or identity document issued in terms of section 7 of the National Registration Act [*Chapter 10:17*], or a valid driver’s licence containing an identity number assigned to the holder thereof under the National Registration Act [*Chapter 10:17*]

“Land Reform and Resettlement Programme” means the programme referred to in the definition of “A2 farm” of the Act;

Object of regulations

3. The object of these regulations is to provide for the disposal of land to persons referred to in section 4, who are, in terms of section 295 of the Constitution, entitled to compensation for acquisition of previously compulsorily acquired agricultural land.

Identification of persons to whom these regulations apply

4. (1) These regulations apply to the following persons who, before agricultural land owned by them was compulsorily acquired under the Land Reform and Resettlement Programme (hereinafter in these regulations referred to as “acquired agricultural land”), were the owners thereof under a deed of grant or title deed or had completed the purchase of their farms from the State in terms of a lease with an option to purchase—

- (a) indigenous individual persons (or where such persons are deceased, their legally recognised heirs);
- (b) individuals who were citizens of a BIPPA or BIT country at the time their investments in agricultural land were

compulsorily acquired under the Land Reform and Resettlement Programme (or where such persons are deceased, their legally recognised heirs);

- (c) partnerships, if the partners who held any farm jointly were—
 - (i) indigenous individuals; or
 - (ii) citizens of a BIPPA or BIT country;
- (d) private companies whose shareholding is wholly or predominantly owned by—
 - (i) indigenous individuals; or
 - (ii) individuals who were citizens of a BIPPA or BIT country.

(2) Where—

- (a) an individual (whether indigenous or not) had completed the purchase of a farm from the State in terms of a lease with an option to purchase; and
- (b) before obtaining title thereto from the State, the individual sold the farm to an indigenous individual in the expectation that a title deed or deed of grant will be granted; and
- (c) before the title was issued in relation to such farm, the farm was acquired under the Land Reform and Resettlement Programme;

the indigenous purchaser may lodge an application in terms of these regulations.

Submission and processing of applications

5. (1) Any person listed in section 4 who wishes to obtain title to a piece of acquired agricultural land that was formerly his or her farm may apply in writing to the Minister, who shall refer all such applications to the committee.

(2) The Minister shall constitute a committee which shall receive and process applications from persons referred to in section 4, with a view to recommending to the Minister, whether or not to alienate the land in question to the applicant.

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(3) The committee shall be headed by the Director of the Department of Lands Management, who shall be deputised by the Legal Adviser of the Ministry of Lands, Agriculture, Water and Rural Resettlement.

(4) The committee shall further consist of three other members employed in the Ministry, appointed by the Minister on an *ad hoc* basis or for terms not exceeding twelve months.

(5) The Minister shall ensure that the membership of the committee is gender balanced.

Documents to be submitted with application

6. (1) An applicant must submit—

- (a) a copy of the deed of grant or title deed or lease with an option to purchase in respect of the farm for which title is sought to be obtained (and in the latter case, proof satisfactory to the committee that all the instalments due under the lease agreement were paid); and
- (b) his or her identity document of the applicant, and if the application is made by the applicant in his or her capacity as an heir, and the death certificate of the deceased; and
- (c) in the case of an applicant who is a citizen of a BIPPA or BIT country, the following in addition to the documents referred to in paragraph (a) and (b)—
 - (i) a copy of the relevant BIPPA; and
 - (ii) a passport or passports showing that the applicant was a citizen of the BIPPA or BIT country when the farm was acquired and continues to be such a citizen at the time of the application; and
 - (iii) if the farm in question was held by a partnership, proof satisfactory to the committee that the applicants constituting the partnership were citizens of a BIPPA or BIT country;
- (d) individuals referred to in section 4(2) proof satisfactory to the committee that—
 - (i) they purchased the land in question from persons who had completed the purchase of their farms

from the State in terms of a lease with an option to purchase; and

- (ii) they purchased the land in question prior to the gazetting of such farm; and
- (iii) with the expectation that a title deed or deed of grant will be granted to them.

- (e) in the case of an applicant who is an indigenous person claiming title to the farm held by a private company, proof satisfactory to the committee that the applicant wholly or predominantly owned the company at the time the farm was acquired.

(2) If any document submitted with an application is queried by the Director of Land Management or the Legal Adviser, further proof may be required in the form of (but not limited to) the following documents as may be appropriate—

- (a) an agreement of sale relating to the farm before it was acquired;
- (b) a certificate of no interest made in terms of the Land Acquisition (Right of First Refusal for Rural Land) Regulations, 1992, or an affidavit executed in terms of section 6 of the same regulations or in terms of the Land Acquisition (Disposal of Rural Land) Regulations 1999;
- (c) any record showing proof of payment for the farm before it was acquired by the State;
- (d) an affidavit from the applicant deposing to such facts as the Director of the Department of Land Management or Legal Adviser may require.

Consideration of applications by committee

7. (1) For the avoidance of doubt, it is declared that these regulations do not confer a right or legitimate expectation to obtain title to any piece of acquired agricultural land upon persons who may otherwise qualify to obtain such title.

(2) In considering whether to recommend any application for approval by the Minister the committee shall take into account any of the following considerations as seem to it to be relevant to the application—

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- (a) whether the farm in question is wholly or partially occupied by A1 permit holders or holders of 99 year leases;
- (b) whether the applicant in question is in occupation of the farm or a part of it;
- (c) whether (on the basis of previous policy directives issued by the Minister that are known to the committee) granting the application would be contrary to the interests of defence, public safety, public order, public morality, public health, regional or town planning or the general public interest.
- (d) whether the State on its own discretion, prefers to pay compensation in respect of the acquired agricultural land in question.

Procedure after consideration of application

8. (1) If in the opinion of the committee—

- (a) an applicant qualifies to obtain title to a farm in part or in full, the committee shall make the appropriate recommendation to the Minister;
- (b) an applicant does not qualify to obtain title to a farm in part or in full, the committee shall inform the applicant in writing accordingly and give him or her reasons why he or she does not qualify.

(2) In considering a recommendation of the committee, the Minister shall invite the Land Commission to make representations, if any, on the recommendation within a period (not being less than seven days) specified by the Minister.

(3) The Minister may reject any application on the basis that granting it would be contrary to the interests of defence, public safety, public order, public morality, public health, regional or town planning or the general public interest.

(4) The Minister shall notify every applicant in writing of the outcome of his or her application and, where the application is rejected, the reasons for the rejection.

(5) The Minister's decision upon an application shall be final.

(6) If the Minister accepts a recommendation to alienate any piece of acquired agricultural land, the Minister shall direct the Director of the Department of Land or the Legal Advisor to inform the applicant in writing accordingly.

(7) The Minister shall ensure that a person whose application has been successful receives transfer of the land in question under individual registered title.

Effect of alienation

9. (1) Alienation of a piece of acquired agricultural land comprising a farm to a qualifying applicant in terms of these regulations shall be a final settlement of any claims that the applicant may have from the State in respect of compensation.

(2) Alienation of a piece of acquired agricultural land comprising only part of a farm to a qualifying applicant in terms of these regulations shall be a final settlement of any claim for compensation to the extent that the application is successful.

