## CHAPTER 3   LAND ACQUISITION

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3.1 OVERVIEW

3.1.1 In terms of the Act, SANRAL must formally acquire ownership (title) of all land affected by the road reserves of existing national roads. SANRAL must also acquire all land required for new construction purposes, prior to the commencement of the construction phase of any project. Transfer of all land of which actual ownership has been acquired, must be effected into the name of SANRAL.

3.1.2 The acquisition of land required by SANRAL, can therefore be divided into two broad categories, namely:

(a) the formalisation of ownership (title) in the name of SANRAL of privately or State owned land of which ownership has been vested in SANRAL by virtue of the provisions of Section 7 of the Act, being land that was acquired by or on behalf of SANRAL’s predecessors in title or another Organ of State prior to the date of incorporation of SANRAL, but which land is already part of the road reserve of an existing national road; and

(b) the acquisition of privately or State owned land required by SANRAL for a national road or for works or other purposes connected with a national road. SANRAL’s right to acquire such privately or State owned land, as well as its right to request the Minister of Transport to expropriate such land on its behalf, is provided for in Sections 41 and 42 of the Act. However, in terms of the provisions of the Act, the Minister of Transport can only expropriate land on behalf of SANRAL if all other attempts to acquire such land, have failed.

3.1.3 Cognisance of the provisions of several other related legislation, such as The Constitution of the Republic of South Africa, Act 108 of 1996 (specifically Section 25 thereof), The Deeds Registries Act, 47 of 1937, The Land Alienation Act, 68 of 1981, The Expropriation Act, 63 of 1975 and other relevant Ordinances and Acts, must also be taken into account, depending on what category of land acquisition is being dealt with.

3.2 POLICIES AND PROCEDURES

3.2.1 POLICIES.

Under normal circumstances, land transactions are dealt with under the principles governing the sale of land between a willing seller and a willing buyer. However, when land is to be acquired by SANRAL and compensation will be payable in respect thereof, cognisance must constantly be taken of the fact that such an acquisition may have to be concluded through the process of the expropriation thereof by the Minister of Transport.

It is therefore the policy of SANRAL to (where possible) always utilise and apply the principles and provisions stipulated in Section 12 of the Expropriation Act, 63 of 1975 during the determination of and negotiations regarding all such compensation amounts. All such compensation amounts are therefore based on the actual market value of the required land.
land and/or the actual financial losses suffered by a landowner as a result of the utilisation of a portion of his land.

In spite of the aforementioned, land may (under certain circumstances) also be acquired by way of -

- exchanging SANRAL owned land for required land provided that such an exchange of land is again based on the market value of the relevant portions. This may result in one party having to also pay in money in order to make up the value of its contribution to the transaction. Such transaction should however only be entered into as a last resort as it unnecessarily complicates the various steps required to finalise the transaction (such as conveyancing).

- the entering into a Donation Agreement with a landowner. Such transactions are however only justifiable where no compensation is payable for the required land as it is already affected by an existing road reserve for which compensation was previously paid out.

3.2.2 PROCEDURES.

The land acquisition procedures are dealt with in detail in the relevant Chapters of the 14/5/6 Manual\(^7\).