ANNEX III

ADDITIONAL RULES OF THE HOUSING AND PROPERTY CLAIMS COMMISSION

The following rules are made by the Housing and Property Claims Commission in terms of section 26 of Regulation No. 2000/60 on Residential Property Claims and the Rules of Procedure and Evidence of the Housing and Property Directorate and the Housing and Property Claims Commission:

Rule 1
Definitions

In these rules, unless the context indicates otherwise—

“Commission” means the Housing and Property Claims Commission established in terms of section 2 of Regulation 1999/23, provided that “Commission” and “Chairperson” means “Commission” and “Chairperson of the Commission” in relation to plenary sessions, and “panel” and “Chairperson of the panel” in relation to panel sessions;

“Directorate” means the Housing and Property Directorate established in terms of section 1 of Regulation 1999/23 on the Establishment of the Housing and Property Directorate and the Housing and Property Claims Commission;

“panel” means a panel of the Commission established in terms of section 2.2 of Regulation 1999/23;

“Registrar” means the Registrar of the Commission;

“Regulation 1999/23” means Regulation 1999/23 on the Establishment of the Housing and Property Directorate and the Housing and Property Claims Commission;


Rule 2
Referral of Matters

2.1 A claim, a request for an advisory opinion, for provisional measures or for reconsideration, which is ready for consideration by the Commission, must be referred to the Registrar.

2.2 In cases where a both a category B and C claim is lodged on the same property, the claims must be referred to the Commission for a decision as an exception to the Directorate’s jurisdiction with regard to category B claims under section 11.1 of Regulation 2000/60.
Rule 3
Opinions

3.1 The Directorate may request the Commission to provide an advisory opinion on the interpretation of—

(a) Regulation 2000/60;
(b) Regulation 1999/23; or
(c) these rules.

3.2 A request for an advisory opinion must—

(a) be made no later than 14 days before the next session of the Commission or any panel of the Commission;
(b) identify the legal issue for determination;
(c) explain how the different potential interpretations of the provision in question will impact on the work of the Directorate;
(d) state whether the rights of any party to any current or anticipated claim before the Directorate or the Commission may be substantially affected by the opinion; and
(e) give the reasons why the provision in question should not await interpretation in the context of a claim.

3.3 The Chairperson determines whether the request will be considered by a panel or a plenary session of the Commission.

3.4 The Commission may—

(a) seek further information or submissions regarding the application, either before or at the Commission session which considers the application;
(b) decline to give the advisory opinion sought;
(c) give an advisory opinion;
(d) limit the advisory opinion to a preliminary view; and
(e) make such recommendations as it considers appropriate in the circumstances.

Rule 4
Provisional Measures

4.1 A claimant or other person who, or agency which, requests a provisional measure of protection in terms of section 24 of Regulation 2000/60 must complete and lodge with the Directorate a form, determined by the Directorate, incorporating a sworn statement which sets out the following:—

(a) the grounds on which the provisional measures are sought;
(b) what harm is anticipated which cannot subsequently be remedied;
(c) in a matter referred to in section 24.2, the nature of the threat to public security and the evidence of the claimant’s prior uncontested occupation.

4.2 The Directorate may reject a request for provisional measures, which is manifestly without merit, unless the request is made in terms of section 24.2.