**MEDIA STATEMENT**

**COMMITTEE ON AGRICULTURE REACHES CONSENSUS ON PROPOSED AMENDMENTS ON ULTRA BILL**

**Parliament, Tuesday, 13 October 2020** – The Portfolio Committee on Agriculture, Land Reform and Rural Development today continued with clause-by-clause deliberations on the Upgrading of the Land Tenure Rights Amendment (Ultra) Bill taking into consideration public comments made on the Bill.

Since the publication of the Bill, the committee has considered written and oral submissions, and has received responses from the Department of Agriculture, Land Reform and Rural Development. In its last meeting on the Bill, the committee adopted a motion of desirability, noting that the amendments before its attention had been determined through a Constitutional Court order.

In essence, the question of desirability of the Bill has been determined by the court order, which compels Parliament to remedy the defects in the principal Act. Therefore, the amendments necessitated by the court order in both the Rahube and Senqu matters were nonnegotiable. Hence the committee’s decision to focus on what the Constitutional Court order instructs Parliament to do.

As a result, clause 4 of the Bill insofar as it relates to Sections 3, 19 and 20 of the principal Act is excluded from the Bill. The reasons for exclusion can be summarised as follows:

* The Senqu judgement did not order Parliament to do anything; it simply lifted suspension of clause 3 to apply across the Republic of South Africa. What is left is to update the statutes. This committee should ascertain if clause 3 provides adequate protections of land rights required in Section 25(6), which the Rahube judgement ably pronounces. If not, the committee might wish to explore inclusion of protections such as those in the Interim Protection of Informal Land Rights Act.

* During public hearings, the committee heard members of the public lamenting the fact that Ultra (pre-1994 legislation is not compliant with the Constitution) on its own is an inadequate piece of legislation to address the complexity of communal land rights administration and offer security of tenure required in Section 25(6) of the Constitution. Sections 19 and 20 falls short taking into consideration layered/nested nature of rights and customary land rights in communal areas of South Africa. Therefore, making these sections applicable throughout South Africa does not even begin addressing land tenure insecurity.

* Lifting suspension of 19 and 20 would require an overhaul of the entire legislation, which may be a futile exercise because the Minister of Agriculture, Land Reform and Rural Development has made a commitment to introduce the Communal Land Tenure Bill in this current financial year.

It is important to note that the committee is extremely concerned about a piecemeal approach to developing comprehensive legislation that will ensure Parliament honours its obligation as required in terms of Section 25(6) and (9) of the Constitution of the Republic of South Africa.

Section 25(6) provides that: “A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or comparable redress”

Section 25(9) provides that: “Parliament must enact the legislation referred to in subsection (6)”

As discussed during the previous meetings, most of the substantive comments from stakeholders and members of the public brought to the attention of the committee that the Interim Protection of Informal Land Rights Act (IPILRA) was an interim measure with some limitations, although useful to ensure some measure of constitutional protections of the informal land rights of citizens. The committee unanimously agree that legislation required in Section 25(6) is long overdue, and must be a priority for the committee during the remaining term of the financial year.

* Firstly, the committee must invite the Minister to present the broad frame and key principles of the Communal Land Tenure Bill and how it seeks to address concerns of tenure insecurity and land administration in communal areas. Sections 3, 19 and 20 are inadequate provisions to provide security of tenure, as stakeholders told the committee.

* Secondly, the committee must develop a calendar/ programme which the Department must follow to ensure that the Communal Land Tenure Bill is introduced for processing, preferably before the end of this financial year. In this way, the committee will be able to address the concerns raised by members of the public, which the Upgrading of Land Tenure Amendment Bill currently before the committee is unable to deal with. Last Friday, the committee commenced deliberations of the amendments by reading the entire Bill, as introduced in Parliament, highlighting some of the issues that should be addressed in the amendment. The committee has reached a consensus on its position regarding the proposed amendments.

In its next meeting, the committee will consider the A-List Bill (committee amendments) before reading the B-version of the Bill clause by clause.

**ISSUED BY THE PARLIAMENTARY COMMUNICATION SERVICES ON BEHALF OF THE CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT, NKOSI ZWELIVELILE MANDELA.**