

Report of the Portfolio Committee on Agriculture, Land Reform and Rural Development on the Preservation and Development of Agricultural Land Bill [B8 – 2021] (National Assembly– Section 76), Dated 28 November 2023

The Portfolio Committee on Agriculture, Land Reform and Rural Development (“the Portfolio Committee”), having considered the Preservation and Development of Agricultural Land Bill (National Assembly – section 76), referred to it and classified by the Joint Tagging Mechanism as a Section 76 Bill, reports the Bill with amendments [B8B – 2021] as follows:

1. INTRODUCTION

The Preservation and Development of Agricultural Land Bill [B8 – 2021], hereinafter referred to as PDAL Bill, was introduced in Parliament by the Department of Agriculture, Land Reform and Rural Development (hereinafter referred to as DALRRD or the Department) and referred to the Portfolio Committee on Agriculture, Land Reform and Rural Development (hereinafter referred to as the Committee) on 02 February 2021. It was classified by the Joint Tagging Mechanism as a Section 76 Bill.

The PDAL Bill is proposed to address the shortcomings of the Subdivision of Agricultural Land Act (hereinafter referred to as SALA), 1970 (Act No. 70 of 1970) by facilitating cooperative governance in the administration of the Act and other identified weaknesses such as SALA being only applicable to privately owned land and thus, preventing effective protection of high value agricultural land owned by the State, statutory bodies, communal land and land administered by traditional authorities. The PDAL Bill seeks to regulate all agricultural land in the Republic and entrench regulatory measures for the security of high potential agricultural land and to promote a balanced approach to the use of agricultural land in South Africa by introducing strategic and technical instruments to preserve agricultural land. It intends to harmonise the need for use of agricultural land for agricultural purposes and the needs for non-agricultural uses in line with spatial planning by various local authorities.

The specific objectives of the PDAL Bill are to:

- Provide that the Act applies to all agricultural land within the Republic;
- Provide principles for the management of agricultural land;
- Provide for agricultural land evaluation and classification;
- Provide for the preparation, purpose and content of provincial agricultural sector plans;
- Provide for the declaration of protected agricultural areas;
- Provide for the general objectives of agro-ecosystem management, agro-ecosystem authorisations, the listing and delisting of activities or areas within agro-ecosystems and the identification of competent authorities;
- Provide for the establishment of committees and the appointment of technical and other advisors to advise the Minister, MECs and competent authorities;
- Provide for a performance assessment framework;
- Provide for the establishment and management of the national agro-eco information system;
- Provide for appeal procedures;
- Provide for the appointment and functions of inspectors;
- Provide for contravention directives and the investigation and gathering of data on property;
- Provide for the delegation of powers;
- Enable the Minister to make regulations and determine norms and standards;
- Provide for offences and penalties;
- Provide for the amendment of the Subdivision of Agricultural Land Repeal Act, 1998 (Act No. 64 of 1998); and to
- Provide for matters connected therewith.

2. PROCESSING OF THE PDAL BILL BY THE COMMITTEE

After a briefing on the PDAL Bill by the Department of Agriculture, Land Reform and Rural Development (hereinafter referred to as the Department) on 14 February 2023, the Committee advertised the PDAL Bill in print and digital media inviting the public and interested stakeholders to submit written inputs on the Bill to the Committee. The Committee further hosted physical Public Hearings on the Bill in all 9 Provinces

from 30 June to 20 September 2023, which were then followed by physical Public Hearings in Parliament on 10 October 2023.

During the processing of the Bill, the Committee considered all the public submissions (written and oral) that have been received from the Provincial and Parliamentary Public Participation processes as well as the responses from the Department on the oral and written public inputs. The Committee then adopted the Motion of Desirability (MOD) to initiate deliberations and formal processing of the PDAL Bill.

2.1 Referral to the National House of Traditional and Khoi-San Leaders (NHTKL)

The Committee received a legal opinion from the Parliamentary Legal Service on the constitutionality and tagging process of the PDAL Bill. Parliamentary Legal Services did not raise any constitutionality matters on the Bill.; and was of the opinion that it was not necessary for the Bill to be referred to the NHTKL in terms of Section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003) as it does not contain any provisions which may have an impact upon customary law or customs of traditional communities.

However, based on the public inputs and the role that Traditional Leaders play in the allocation of land in communal areas under their administration, the Committee decided to extend an invitation in the form of a written correspondence to the NHTKL inviting the House to make inputs on the PDAL Bill. The Committee considered the written inputs received from the NHTKL including responses from the Department on the NHTKL's submission.

3. COMMITTEE AMENDMENTS TO THE PDAL BILL

During the deliberations on the PDAL Bill and after considering all the public submissions including that of the NHTKL, the Committee identified the need for some of the clauses to be amended. Consequently, the following amendments were agreed to:

CLAUSE 1

1. On page 6, from line 16, to omit the definition of “**land owner**” and to substitute the following definition:
“**land owner**’ means a natural or juristic person, or a community, who holds a right in land, registered or unregistered, over which such person or community enjoys protection under any law;”.

CLAUSE 5

1. On page 9, in line 16, after "*Gazette*" to insert "and other media".

CLAUSE 6

1. On page 9, in line 29, after "*Gazette*" to insert "and other media".
2. On page 9, in line 34, after "*Gazette*" to insert "and other media".
3. On page 9, from line 44, after "*Gazette*" to insert "and other media".

CLAUSE 9

1. On page 10, in line 19, after "*Gazette*" to insert "and other media".

CLAUSE 10

1. On page 10, in line 38, after "*Gazette*" to insert "and other media".

CLAUSE 11

1. On page 10, in line 45, after "Gazette" to insert "and other media".
2. On page 11, in line 5, after "food" to insert "and other agricultural".
3. On page 11, from line 6 - 7, after "Gazette" to insert "and other media".

CLAUSE 12

1. On page 11, in line 20, after "Gazette" to insert ", other media".
2. On page 11, in line 35, after "Gazette" to insert "and other media".

CLAUSE 13

1. On page 11, in line 6, after "Gazette" to insert "and other media".

CLAUSE 15

1. On page 12, in line 48, after "report" to insert "where required".
2. On page 12, in line 49, to omit "by the Minister" and to substitute "in terms of this Act".

CLAUSE 16

1. On page 13, in line 2, after "Gazette" to insert "and other media".

CLAUSE 17

1. On page 13, in line 25, after "Gazette" to insert "and other media".

CLAUSE 20

1. On page 14, in line 7, to omit "more than one organ" and to substitute "or impacts one or more organs".
2. On page 14, in line 20, after "any" to insert "information and".
3. On page 14, from line 39, to omit subsection (2) and to substitute the following subsection:
 - (2) (a) The competent authority must consider an application for an agro-ecosystem authorisation and provide the applicant with a decision in respect of such application within 30 days of receipt of the application, or within a reasonable time as may be prescribed for certain specified agro-ecosystem authorisations and must, in the case of a refusal, provide written reasons for such refusal.
 - (b) The competent authority must keep and maintain a written record of all applications submitted for agro-ecosystem authorisations and the reasons for his or her decisions in respect of such applications."
4. On page 14, in line 47, after "(2)" to insert "(b)".

CLAUSE 21

1. On page 14, in line 53, after "Gazette" to insert "and other media".
2. On page 15, in line 13, after "Gazette" to insert ", other media".
3. On page 15, in line 17, after "Gazette" to insert "and other media".
4. On page 15, in line 36, to omit "or".

5. On page 15, in line 38, to omit "." and to substitute "; or".
6. On page 15, after line 38, to add the following paragraph:
 "(g) is disqualified from serving as a director of a company in terms of section 69 of the Companies Act, 2008 (Act No. 71 of 2008).".

CLAUSE 23

1. On page 15, in line 57, after "Gazette" to insert "and other media".

CLAUSE 24

1. On page 16, in line 25, after "Gazette" to insert "and other media".

CLAUSE 26

1. On page 17, from line 21, to omit sub-paragraph (ii) and to substitute the following sub-paragraph:
 "(ii) subject to the provisions of the Protection of Personal Information Act, 2013 (Act No. 4 of 2013), information on the land owner and land user and where such land owner or land user is a natural person, the nationality and gender of such land owner or land user; and".

CLAUSE 31

1. On page 19, in line 10, to omit "previous" and substitute "prior".

CLAUSE 34

1. On page 20, in line 47, after "Gazette" to insert "and other media".
2. On page 20, in line 55, after "Gazette" to insert "and other media".

CLAUSE 35

1. On page 21, in line 17, after "authorisations" to insert ", including the reasonable time within which a competent authority may consider and respond to applications for certain specified agro-ecosystem authorisations".
2. On page 22, in line 32, after "Gazette" to insert "and other media".
3. On Page 22, in line 34, after "Gazette" to insert "and other media".
4. On page 22, in line 36, after "Gazette" to insert "and other media".
5. On page 22, from line 41, after "Gazette" to insert "and other media".

Report to be considered.