



KWAZULU-NATAL LEGISLATURE

AN ACTIVIST PEOPLE-CENTRED LEGISLATURE

NEGOTIATING MANDATE

TO: HON TC MODISE, MP
CHAIRPERSON OF SELECT COMMITTEE ON LAND
REFORM, ENVIRONMENT, MINERAL RESOURCES
AND ENERGY

NAME OF BILL: PRESERVATION AND DEVELOPMENT OF
AGRICULTURAL LAND BILL

NUMBER OF BILL: B8B – 2021

DATE OF DELIBERATION: 19 APRIL 2024

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Agriculture and Rural Development met on Friday, the 19th of April 2024 and agreed to mandate the KwaZulu-Natal delegation to **support the Preservation and Development of Agricultural Land Bill [B8B-2021]** with the following comments in the attached committee report.

HON N SIBHIDLA-SAPHETHA, MPL
CHAIRPERSON: AGRICULTURE
PORTFOLIO COMMITTEE

19 APRIL 2024
DATE

239 Langalibalele Street, Pietermaritzburg 3201, www.kznlegislature.gov.za

ISISHAYAMTHETHO SAKWAZULU-NATALI
KWAZULU-NATAL LEGISLATURE
KWAZULU-NATAL PROVINSIALE WETGEWER
AN ACTIVIST PEOPLE-CENTRED LEGISLATURE



AGRICULTURE AND RURAL DEVELOPMENT PORTFOLIO COMMITTEE REPORT ON PRESEVARVATION AND DEVELOPMENT OF AGRICULTURAL LAND BILL[B8B-2021] IN TERMS OF RULE 260 OF THE STANDING RULES

INTRODUCTION

In terms of section 42(4) of the Constitution, the National Council of Provinces represents provinces to ensure that provincial interests are considered in the national sphere of government by participating in the national legislative process. The Preservation and Development of Agricultural Land Bill [B8B-2021], which is a section 76 Bill in terms of the Constitution, was referred to the Agriculture and Rural Development Portfolio Committee in terms of Rule 259(1). In turn, the Legislature is, in terms of section 118 of the Constitution, compelled to facilitate the public involvement in the committees' processes of the legislature and its Committees.

The Preservation and Development of Agricultural Land Bill [B8B-2021] before the Portfolio Committee seeks to provide that the Act applies to all agricultural land within the Republic, to provide principles for the management of agricultural land; to provide agricultural land evaluation and classification; to provide for the preparation, purpose and content of provincial agricultural sector plans; to provide for the declaration of protected agricultural areas; to for the general objectives of agro-ecosystem management, agro-ecosystem authorization, the listing and delisting of activities or areas within agro-ecosystems and the identification of

competent authorities; to provide for the establishment of committees and the appointment of technical and other advisers to advise the Minister, MECs and competent authorities; to provide for a performance assessment framework; to provide for the establishment and management of the national agro-ecosystem; to provide for appeal procedures; to provide for the appointment and functions of inspectors; to provide for contravention directives and the investigation and gathering data on property; to provide for the delegation of powers; to enable the Minister to make regulations and determine norms and standards; provide for offences and penalties; to provide for the Subdivision of Agricultural Land Repeal Act, 1998 (Act No. 64 of 1998); and to provide for matters connected therewith.

METHOD OF WORK

The Committee held a special meeting on 02 April 2024 to receive a briefing from the Department of Agriculture, Land Reform and Rural Development in terms of Rule 260(1). The Committee then resolved to hold 04 public hearings and cluster the districts. The Committee thus conducted 04 public hearings at the following districts and on these dates:

- 10 April 2024 clustering eThekweni and iLembe, at Pinetown Civic Centre;
- 11 April 2024, at uMzinyathi District, McKenzie Hall, Endumeni;
- 12 April 2024, at Zululand District, Kanyekanye Community Hall, Bilanyoni, eDumbe;
- 16 April 2024 clustering Ugu and Harry Gwala districts at Clydesdale Hall, uMzimkhulu.

The closing date for written submissions was advertised as 17 April 2024. The public hearings on the Bill were widely advertised in the KwaZulu-Natal Legislature website, the print media on the Witness, Daily News, Isolezwe, Sunday Times and Ilanga newspapers. Copies of the English version of the Bill was also distributed to all Municipal Districts and were also made available during the hearings.

The Bill was presented in isiZulu in order to accommodate the attendees who were predominantly isiZulu speakers in the venues where isiZulu summary presentations were not available and this was later distributed via emails to all attendees that had provided their e-mails. During the hearings, the Committee received oral submissions which were consolidated and attached as **Annexure "A"** and two written submissions which were not necessarily substantially related to the Bill with the following comments and proposed amendments/recommendations below:

COMMENTS AND RECOMMENDATIONS

The members of the public overwhelmingly supported the Bill in its current form, however, most comments were raising service delivery issues as per the attached Annexure A of the report.

1. ASSOCIATION FOR RURAL ADVANCEMENT (AFRA)

The PDAL Bill should carefully consider other relevant pieces of legislation and make explicit mention of the provisions that need to read in conjunction with each other. It is not just the Subdivision of Agricultural Land Act 70 of 1970 (SALA) that is impacted by this proposed law but also the Labour Tenants Act 3 of 1996 (LTA), the Extension of Security of Tenure Act 62 of 1997, and the Restitution Act 22 of 1994 amongst others.

The PDAL Bill is a piece of legislation that is intended to have jurisdiction over all agricultural land across the entire country. A copy of the Bill should be made available in all official languages of South Africa to empower all affected and interested citizens to effectively engage with the contents of the Bill in order to make informed contributions to the development of the Act.

RECOMMENDATIONS

1. Section 40 of the Labour Tenants Act deals with the non-application of certain laws and reads; *'If the court or an arbitrator orders that any land or right in land or servitude be transferred to or awarded to or registered in the name of the applicant, the land in question shall not be subject to the provisions of the Subdivision of Agricultural Land Act or any other law regulating the subdivision of land.'*

This clearly illustrates that the drafters of the LTA legislation foresaw that as land acquisition claims lodged by labour tenant applicants (as per the provision of Chapter 3 of the LTA) are processed there would be an inevitable situation where agricultural land would have to be subdivided to transfer the land that is due to the labour tenant applicant which more often than not will be part of a bigger portion of land that is registered and zoned as agricultural land.

The PDAL Bill should similarly foresee and explicitly make provision for the protection and promotion of the rights of labour tenant applicants to receive and be transferred ownership of subdivided portions of land in line with the LTA.

2. Section 6 (3) of the Restitution Act stipulates that; *'Where the regional land claims commissioner having jurisdiction or and interested party has reason to believe that the sale, exchange, donation, lease, subdivision, rezoning or development of land which may be the subject of any order of the Court, or in respect of which a person or community is entitled to claim restitution of a right in land, will defeat the achievement of the objects of this Act, he or she may - (a) after a claim has been lodged in respect of such land; and (b) after the owner of the land has been notified of such claim and referred to the provisions of this subsection; on reasonable notice to interested parties, apply to the Court for an interdict prohibiting the sale, exchange, donation, lease, subdivision, rezoning or development of the land, and the Court may, subject to such terms and conditions and for such period as it may determine, grant such an interdict or make any other order it deems fit.'*

Again, this illustrates the foresight of the legislature when drafting the Restitution Act, clearly taking cognisance of the inevitable situation where land that is claimed can be altered by the registered owner in a way that adversely impacts the

claimants of the same land by empowering the relevant court as well as an affected individual or community claimant to be able to stop such an action.

The PDAL Bill should equally make explicit provisions that protect the rights of not just the current registered owners of land but also the rights of aspirant owners of the same land such as those that have lodged land claims that are not yet finalised.

- 3 Section 4 of the Extension of Security of Tenure Act provides that; *'The Minister shall, from moneys appropriated by Parliament for that purpose and subject to the conditions the Minister may prescribe in general or determine in a particular case, grant subsidies - to (a) facilitate the planning and implementation of on-site and off-site developments; (b) to enable occupiers, former occupiers and other persons who need long-term security of tenure to acquire land or rights in land; and (c) for the development of land occupied or to be occupied in terms of on-site or off-site developments.'*

The drafters of this legislation undoubtedly intended that farm dwellers would be assisted through this section to upgrade their tenure from occupiers with unregistered rights to registers owners of land or rights in land. The reference above to on-site developments refers to a situation where farm dwellers on a farm are transferred a portion within that farm for their ownership or registered use. This will inevitably require subdivision which necessitates our recommendation that the PDAL Bill makes explicit mention of the rights and aspirations of the current off-register rights holders on the land that is targeted for protection and sustainable development by this bill.

Concluding remarks

AFRA welcomes and supports the transparent and inclusive enactment of the proposed Preservation and Development of Agricultural Land Act and trusts that the legislators will consider the comments and recommendations that we have outlined above.

2. FARM DWELLERS AND LABOUR TENANTS ALLIANCE OF SOUTH AFRICA (FLASA)

FLASA also raised concerns about the short timeframes for the hearings as a result they were also unable to take a collective decision to support the Bill, however the organisation does see the need to preserve agricultural land to provide for food security in the country.

There is a concern that the Bill is silent when it comes to the rights of farm dwellers, labour tenants and farm workers and they submit that the Bill should protect their rights, including traditional healers who use indigenous herbs, and the general public who exercise cultural rights in the land.

The rest of other issues raised by FLASA are similar to those raised during the public hearings in Annexure A and are in the main service delivery related.

RECOMMENDATION

FLASA supports legislation that protects food security in the country however, the said legislation must not infringe on the rights of citizens to use their agricultural land as they so wish.

CONCLUSION

The Committee, having considered the above comments and recommendations, agreed that they need to be part of the report and as such, must be referred to the Select Committee on Land Reform and Environment for noting and be commented on by the Department of Agriculture, Land Reform and Rural Development. The Committee met on 19 April 2024 to consider the negotiating mandate report on the Bill.

The **majority** of the Portfolio Committee supported the Bill in its current form with reservations in relation to the concerns raised regarding the absence of translated version of the Bill in isiZulu in some of the venues as a potentially flawed public participation process.

The negotiating mandate is attached herein as **Annexure “B”** of the report.



HON. N SIBILDA

**CHAIRPERSON: AGRICULTURE AND RURAL DEVELOPMENT PORTFOLIO
COMMITTEE**