**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION 1199**

**INTERNAL QUESTION PAPER [No 20-2020 SIXTH PARLIAMENT]
DATE OF PUBLICATION: 12 JUNE 2020**

**1199. Mrs A Steyn (DA) to ask the Minister of Agriculture, Land Reform and Rural Development:**

(a) What number of (i) judgments and (ii) court orders were made against her department in the (aa) 2017-18 and (bb) 2018-19 financial years and (b) in each case, (i) what number of the specified judgments and court orders (aa) were implemented and (bb) await implementation by her department and (ii) what was the nature of the (aa) judgment and/or (bb) court order in each case? **NW1504E**

**THE MINISTER OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT:**

(a) (i),(ii) (aa) 2017-2018

 - Agriculture: 3 judgments and 3 court orders

 - Rural Development and Land Reform: 5 Judgments and 9 Court orders

 (bb) 2018-2019

- Agriculture: 5 judgments and 6 court orders.

- Rural Development and Land Reform: 3 Judgments and 12 Court orders

 (b) (i) (aa) Implemented

- Agriculture: All 8 judgments and 9 court orders implemented.

- Rural Development and Land Reform: 0 Judgements and 4 court orders implemented

(bb) Await implementation

- Agriculture: 0

 - Rural Development and Land Reform: **Please refer to Annexure B**.

(ii) (aa),(bb) Please refer to **Annexure A** for Agriculture matters and **Annexure B** for Rural Development and Land Reform matters.

**ANNEXURE A TO NA-QUESTION 1199 OF 2020**

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| **AGRICULTURE MATTERS** |
| **No** | **Case details** | **(i)(aa),(bb) Status of implementation** | **(ii)(aa) Nature of judgment** |
| **2017-2018 Judgments**  |
| 1 | B & B Properties (Pty) Ltd & others vs Dr Mcdonald Gayakaya | Implemented | Application to review and set aside the decision of the Director: Animal Health to test buffalos. The decision of the Director was reviewed and set aside. |
| 2 | Oluf Hendrik Erichsen N.O vs The Minister | Implemented | Application to compel the Minister to take a decision on an application for export certification. The Minister finalised the matter by granting the certificate. |
| 3 | Eurosemillas S.A vs The Minister | Implemented | Application to compel the Minister to instruct the Department to appoint a service provider who had been successful in the quote process. The Applicant succeeded and the Minister was ordered to instruct the Department accordingly. |
| **2018-2019 Judgments** |
| 4 | Lofty Du Bruyn N.O vs The Minister | Implemented | Application to compel the Minister to register a right of way over the farm. The application was granted and the Minister approved the registration of the servitude. |
| 5 | Nanaga Property vs The Minister | Implemented | Application to review and set aside the decision of delegated authority to remove 10 Milkwood trees. The decision of the Minister was reviewed and set aside. |
| 6 | South African Veterinary Association vs the Speaker of the National Assembly and others  | Implemented | Application to declare the amendment of the Medicine and Related Substances Control Act, 1995 (Act No.101 of 1995) unconstitutional. The Amendment was declared unconstitutional. |
| 7. | HL Halls & Sons Properties and another vs The Minister and Others | Implemented | Application to review and set aside the decision of the Minister. The decision was referred back to the Minister for reconsideration. |
| 8. | HL Hall & Sons Properties vs The Minister. | Implemented | Application to review and set aside the decision of the Minister. The decision referred was back to the Minister for reconsideration. |
| **No** | **Case details** | **(i)(aa),(bb) Status of implementation** | **(ii)(aa) Nature of court order** |
| **2017-2018 court orders** |
| 1. | ALCARI 406 CC vs The Minister and others  | Implemented | Application to compel the Minister to finalise the appeal on a subdivision of land matter. The Court ordered the Minister to finalize the appeal. |
| 2. | Zonnebloem Coal vs The Minister  | Implemented | Application to compel the Minister to finalise the appeal on a subdivision of land matter. The Court ordered the Minister to finalize the appeal. |
| 3. | Meister Cold Store (Pty) Ltd vs The Minister  | Implemented | Application to compel the Minister to take a decision on an application for certification of a cold storage. The Court ordered the Minister to take a decision on the application for certification of its cold storage. |
| **2018-2019 court orders** |
| 4 | Xhalibile Kleinbooi Phindiso vs The Minister and others  | Implemented | Application to compel the Minister to sell specified land to the Applicant and others. The Court ordered the Minister to sell the land to the Applicant. |
| 5 | Federated Meats (Pty) Ltd vs The Minister | Implemented | Application of semi-urgency requesting an order to declare that the Applicant is entitled to use any approved laboratory to meet the statutory and the regulatory obligation for the testing of imported meat. The court ordered that the Applicant can use any approved Laboratory.  |
| 6 | Sofiline (Pty) Ltd vs The Minister. | Implemented | Application to review and set aside the decision of the Minister not to grant approval for the subdivision of agricultural land. The court ordered the Minister to grant the application for subdivision of land. |
| 7 | TD Mashinini vs The Minister and others.  | Implemented | Applicant made an application to Court for an order to compel the Minister to transfer specified property to him. The parties’ agreement for transfer of the farm to the Applicant was made the order of the court. |
| 8 | Maxrae Estates vs The Minister | Implemented | Application to compel the Minister to take a decision on the appeal lodged for the subdivision of agricultural land. The court ordered the Minister to take a decision within sixty days (60). |
| 9 | Petrus Laubscher Coetzee & Others vs the Minister & Others | Implemented | Application to compel the Minister to transfer three portions of agricultural land into the names of the Applicants. The court ordered the Minister to transfer the three portions of land to the Applicants. |

**ANNEXURE B TO NA-QUES 1199 OF 2020**

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| **RURAL DEVELOPMENT AND LAND REFORM MATTERS** |
| **No** | **Case details** | **(i)(aa),(bb) Status of implementation** | **(ii)(aa) Nature of judgment** |
| **2017-2018 Judgments**  |
| 1 | Felicity Audrey Stirling vs tdRespondent 2: The Registrar of Deeds: PretoriaRespondent 3: Jose Luis Crujela Alvares | Orders complied with.Full amount paid by the Branch Deeds Registration, of which an attempt will be made to recover 50% from the third respondent. State Attorney requested to initiate recovery proceedings against third Respondent. | The Registrar of Deeds was found to be negligent in its transfer of the property and was ordered, jointly and severally with the third Respondent to pay the First Respondent R3 830 397.58 together with interest in lieu of damages and legal costs. |
| 2 | Applicant: The Forum of Concerned Residents of the Naledi & Dr Ruth S Mompati Districts vs Minister and others | Subsequent to the settlement agreement reached by the parties, the Branch Deeds Registration embarked on a project to develop the Electronic Deeds Registration System, during which public consultation was undertaken.Once the EDRS is ready to be implemented, the status quo in the Vryburg deeds registry can change.Simultaneously, the Branch Deeds Registration intends opposing Part B of the application (to review and set aside the Minister’s decision to transfer the land parcels from Vryburg to Kimberley, to reduce the jurisdiction of the Vryburg deeds registry and to establish a deeds registry in Mahikeng).**Part B still pending.** | As part of the alignment of the jurisdiction of deeds registries in South Africa, the Minister intended to transfer land parcels from the Vryburg deeds registry to the Kimberley deeds registry, as they are situated in the Northern Cape Province. The Applicants brought an urgent application interdicting the Minister from transferring the property (Part A) and that Minister’s decision to transfer the afore-mentioned properties be reviewed and set aside. |
| 3 | Graham Robert Herbert No and 4 others v Senqu Municipality, Registrar of Deeds and Minister of Rural Development and Land Reform  | A wholistic amendment of the Upgrading of Land Tenure Rights 112 of 1991 will be undertaken in due course. | The Court ordered that section 25A is unconstitutional in so far as it does not extend the application of section 3 of the Act to the entire Republic. The court ordered that section 25A from 22 August 2019 must be read as if it makes no reference to section 3 of the Act.  |
| 4 | Patrick S Mpaka v KSD Municipality &Minister of Police & the Minister | Land remains vacant and a subject of a Land Claim. | The Municipality sought to use a court order which was obtained in 2011 to effect evictions to illegal occupations which happened in 2017. The 2017 illegal occupants applied for an interdict in that the 2011 order did not apply to them. Interdict was granted. |
| 5 |  Mopet 259 Trading CC vs The Minister of DRDLR case No 541/2015 | None | The Plaintiff issued summons against the Department claiming a sum of money allegedly for services rendered. The Court ordered absolution from the instance (Plaintiff failed to prove its case.) |
| **2018-2019 Judgments** |
| 1 | Nieuco properties 1005 (Pty) Ltd  | Nieuco Properties must still refer the case to the North Gauteng High Court for the determination of the quantum. | Veld fire claim instituted against the Department in terms of the National Veld and Forest Fire Act, Act 101 of 1998 where a private farm was damaged by veld fires that started on a state owned farm. The case was initially decided in favour of the Department by the North Gauteng High Court however, Nieuco Properties lodged an appeal which was heard by the SCA on 31 August 2018 and judgment delivered in favour of Nieuco Properties on 21 September 2018. |
| 2 | Applicants: Pretoria Attorneys Association & 12 others vs The Minister and others | The Branch duly complied with the settlement agreement.The Minister subsequently halted / terminated this process, following a legal opinion to the effect that the process followed may have been flawed.Minister instructed that the re-alignment process be re-initiated, in accordance with all applicable legal strictures (including the provisions of PAJA). | The parties agreed that the Minister will not proceed with the alignment initiative in the Gauteng province until the Minister takes the decision to align the deeds registries in Gauteng in accordance with the prescripts of PAJA. |
| 3 | Hlekani Dudu Mukansi & Others vs Minister of RDLR Case Number 67142/2017 | None | Matter received on 01 November 2017. Mr Mukansi brought an application in the High Court Pretoria for an order to compel the Dept, amongst others, to do whatever is necessary to process his application for a Township Development on, Pnt of Farm Greater Giyani 32.7395 Ha, 30,000 Ha, 150. 0000 Ha. Minister approved that matter be defended on 26 April 2018. The application was dismissed. |

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| **No** | **Case details** | **(i)(aa),(bb) Status of implementation** | **(ii)(aa) Nature of court order** |
| **2017-2018 court orders** |
| 1. | Zuiping-Dithabaneng Community Traditional Council // Title Adjustment Commissioner & Oth | The designation of land and appointment of a Commissioner in terms of Act 111 of 1993 has been done and he is conducting a land rights enquiry in accordance with the Act. | The applicant required the appointment of the Commissioner in terms of Act 111 of 1993. The designation of land and appointment of a Commissioner in terms of Act 111 of 1993 has been done and he is conducting a land rights enquiry in accordance with the Act. |
| 2. | M. M. Rahube // H. Rahube & Others | The Upgrading of Land Tenure Amendment Bill was introduced to Parliament on 6 May 2020. Parliament has until 30 April 2021 to enact the amendments. | On 30 October 2018 the Constitutional Court ordered Parliament to introduce a procedure for the determination of the rights of ownership and occupation of land to cure the constitutional invalidity of section 2 (1) of the Upgrading of Land Tenure Rights Act 112 of 1991. Parliament was given until 30 April 2020. Subsequent to the 2018 order, the Minister of Agriculture, Land Reform and Rural Development applied for and was granted an extension of the suspension of the Constitutional Court’s declaration of invalidity for a further twelve months until 30 April 2021.  |
| 3 | Boy Phillip Mokoena v JS Farm Trust and Director General of the Department of Rural Development and Land Reform (Case No LCC 191/17) | The Province is implementing the order. The matter is due to be presented to NLAACC for the acquisition of 60 Ha for the affected labour tenants.Sub division of the affected land will be carried out before conveyancing is to occur.The order is being observed in its entirety. | Boy Phillip Mokoena (plaintiff) is declared a labour tenant and awarded a portion of Farm Hamilberg;DG ordered to ratify the settlement agreement. |
| 4. | Hlalefo S Moshoeshoe v DPW and DRDLR | Conveyancers have been instructed and are currently busy with the transfer of the property. | The court ordered the transfer of the property to the Applicant. |
| 5. | DRDLR vs Unlawful Occupiers of R/E & PTN 1 of Farm Nooitgedacht 11 JQ case no. 7212/2017 | State Attorney to appoint sheriff to serve the court order. | The court ordered the eviction of the unlawful occupiers. |
| 6. | Dept of Rural Dev & Land Reform // Mamahule Traditional Authority, Dr Matsaung.Case Number CCT179/16 | The Department decided against evicting the community and is considering transferring the property to the Municipality for township development. | The Court “declared that the Mamahule Communal Property Association, the Mamahule Community, the Mamahule Traditional Authority and Occupiers of the Farm Kalkfontein 1001 LS are unlawful occupiers of the farm”. |
| 7. | Alfred Shongwe / The DG of DRDLR & Others | The Applicant has been relocated to portion 3 of the farm Vaalpoort, temporary houses were constructed for the family. The Department is in the process of transferring the subdivided portion of the farm to the Shongwe family. | Mr Shongwe approached the Court for a declaratory order as a Labour Tenant and for the Department to provide him with a suitable accommodation.Mr Shongwe was declared a Labour tenant and the Department was ordered to assist him in looking for, identifying and acquiring suitable land for him. |
| 8. | Mzayifane Hadebe & Others /Minister of RDLR & Others | The gravel road leading to the Hadebe settlement has been completed. Nine houses were about to be completed as the country went into lockdown. The fencing of the 250 hectares of land awarded to the Hadebes, preparation of arable and the transfer of land to them is ongoing. | Mr Hadebe approached the Court for an order to compel the Department to build his family a house, construct the road leading to his homestead and also for the Department to register a Communal Property Association for the benefit of his family.The Court granted the prayers as requested by Mr Hadebe.. |
| 9. | Asla Construction (PTY) Ltd vs The Minister Of Rural Development And Land Reform & Exeo Khokela Civil Engineering Construction(pty) ltd. | Implemented | The decision of the Department of Rural Development and Land Reform taken on or about 13/02/2018 to disqualify ASLA Pty. Ltd. and award the tender to EXEO KHOKELA (Pty) Ltd was reviewed and set aside. The Department was directed to award the tender to ASLA (Pty) Ltd within 30 days of the date of the order. The Department was ordered to pay the costs in the application, such costs to include the cost of two counsel. |
| **2018-2019 court orders** |
| 1 | Bakgatla Ba Kgafela CPA vs DRDLR | Implemented | The court ordered that the DG should take all necessary steps to assist the CPA to hold the Annual General Meeting and monitor the election of the new executive committee. The CPA appealed the judgment at the constitutional court. The constitutional court dismissed the appeal. |
| 2 | Bhekindela Mwelase vs DG and Minister | The Special Master was appointed on 10 December 2019. On 29 May 2020, the Special Master submitted an implementation plan to the Land Claims Court and the Plan is under consideration by the Land Claims Court. | On 8 December 2016, the Land Claims Court issued an order in favour of the Applicants which ordered for the appointment of a Special Master.The Department lodged an application for leave to appeal with the Land Claims Court and such was granted on 1 March 2017. The appeal was heard by the SCA on 13 March 2018 and the appeal was decided in favour of the Department on 17 August 2018. AFRA appealed to the Constitutional Court and on 20 August 2019, the court issued a judgment which re-instated the initial order of the Land Claims Court dated 8 December 2016. |
| 3 | JM Tshabalala vs DRDLR | Implemented | The applicants were seeking an order that the Minister and DG should acquire land on behalf of labour tenants and just and equitable compensation to be paid to the landowner. |
| 4 | Neels van Tonder Trust vs Mogabule (LCC04/2018) | The Order against the Minister could not be implemented because it was discovered that Mr. Magabole had alternative accommodation in Bronkholspruit and he moved there. | The applicant Mr. Van Tonder applied for eviction order against Mr. Magabole and his family.Eviction Order was granted on 28/05/2018. The Department was ordered to provide alternative accommodation to Mr. Mogabodi in terms of section 4 of the Extension of Security of Tenure Act (ESTA). |
| 5 | Roodepoort Grondeienaarsvereeniging vs Roodepoort 63 Community (642/17 and 643/17) | The Department is in the process of complying with the court order in consultation with the City of Tshwane. | Rooderpoort Grondeinaarsvereening applied for an order to compel the City of Tshwane to evict the occupiers who has established a squatter camp in the City property which is adjacent to the applicant’s properties. The High Court Granted the Order but the respondents took the matter on appeal and the decision of the High Court was overturned. On appeal, the Supreme Court ordered the Minister to prepare and file a report with the High Court on the Department`s ability to provide the alternative accommodation as provided for in terms of section 4 of the Extension of Security of Tenure Act (ESTA). |
| 6 | Hlaniki Trust vs Daniel Sibanyoni (LCC59/2018) | Implemented | Hlaniki Trust applied for an eviction order against Mr. Sibanyoni who is an occupier.During the proceeding, the Land Claims Court issued a directive order, ordering the Minister to submit a report on the Department’s ability to provide alternative accommodation in case of eviction. |
| 7 | Hupp Properties vs Moneni (308/2017) | The matter was heard and eviction granted. Mr Moneni moved into his RDP house. | The eviction order was granted against Mr Moneni and his family and the Minister was ordered to provide alternative accommodation for Mr. Moneni in terms of section 4 of the Extension of Security of Tenure Act (ESTA). |
| 8 | Land and Agricultural Bank V CPAD Holdings PTY LTD, Alfred Mde, DRDLR and 4 Others | The Department has appointed a valuer to determine the value of the property so that it can satisfy the debt to Land Bank whilst retaining the property for purposes of Land Reform. | The Land Bank approached the court to vary a Forfeiture Order, which sought to transfer the property to the Department. This order was to include the protection of their interests as bondholders. |
| 9 | Anjucel & Another v Shadrack Bhekanini Ntshingila NO & others (Case no LCC 25/2019) | The Province is implementing the order. Approval for the acquisition of land in favour of the affected labour tenants is underway. A deed of sale has been signed and registration and transfer is due to occur soon.The order is being observed in its entirety. | Shadrack Bhekanini (2nd resp) awarded a piece of farm Bloemhoek and registered in deeds office; |
| 10 | Makgari CPA vs DRDLR case number 5158/2018 | Implementation is in progress | Matter received on 31 August 2018. Applicant, Makgari approached court, for the court to give a mandatory order directing the Department and Minister to register the applicant's CPA within 45 court days of the granting of the order. The Minister was ordered to register the CPA within 45 days of granting the court order. |
| 11 | M D Rakgase vs Minister of DRDLR case number 33497/2018 | The land was sold to Mr Rakgase and transfer is under way. | Matter received on 13 June 2018. Mr Rakgase applied to the High Court to review the Minister's decision of refusing to sell to him Portions 0 (remaining extent and 1 of the Farm Nooitgedacht 11 JQThe Minister was ordered to sell and transfer the farm to Mr Rakgase. |
| 12 | JC Prinsloo / The Minister of RDLR & Others LCC 177/16 | The farm was acquired and is currently registered in the name of the State. | Default judgment was obtained against the MinisterState ordered to acquire portion 27 of the farm Welgekozen. |