

THE PROVISION OF LAND AND ASSISTANCE AMENDMENT BILL, 2008



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Department:
Land Affairs
REPUBLIC OF SOUTH AFRICA

BACKGROUND

- ❑ The Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993) was promulgated prior to the commencement of the Interim Constitution primarily to settle people on agricultural, peri-urban and urban land.
- ❑ In view of policy developments, the Act no longer contains a sufficient scope for land redistribution.



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BACKGROUND

- The implementation of the Proactive Land Acquisition Strategy (PLAS) of the Department of Land Affairs (DLA) in 2006 revealed several interpretation problems, inconsistencies and omissions in the Provision of Land and Assistance Act, 1993.



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BACKGROUND

- The premise of PLAS is that there is a need or demand for land that must be quantified through state driven planning processes. This means that the state will proactively identify and acquire land and match this with the demand or need for land.
- The Amendment Bill gives effect to the policy and implementation imperatives of the PLAS.



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FORMULATION OF THE PROBLEM

- Currently, sections 10 and 11 of the Act are not sufficient to give effect to policy developments such as the PLAS.
- No provision is made for the Minister to acquire all types of movable and immovable property or economic enterprises essential for sustainable land reform.
- The acquisition, maintenance, planning, development, improvement and disposal of property are also not adequately provided for.



FORMULATION OF THE PROBLEM

- There is also no provision for the acquisition of the shares in or the right, title or interest in or to any entity owning, controlling or administering property.
- Doubt exists whether the Minister can grant full subsidies to qualifying indigent land reform beneficiaries (farm workers and labour tenants); and whether the Minister may administer an economic enterprise acquired through PLAS prior to transferring it to land reform beneficiaries.

FORMULATION OF THE PROBLEM

- The Department conducted an internal audit which clearly indicated that the Act needed to be amended to facilitate sustainable land reform.



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OBJECTS OF THE BILL

- To give effect to the land and related reform obligations of the state in terms of section 25 of the Constitution of the Republic of South Africa, 1996;
- To effect or promote, facilitate or support the maintenance, planning, sustainable use, development and improvement of property contemplated in this Act;
- To contribute to poverty alleviation; and
- To promote economic growth.



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IMPLEMENTATION PLAN

- The Department will implement the suggested amended provisions of the Act within its Strategic and Operational Plans subject to a more detailed implementation plan as may be approved by the Minister.



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ORGANISATIONAL, PERSONNEL & FINANCIAL IMPLICATIONS

- The Branch: Land and Tenure Reform within the Department of Land Affairs will continue to manage the national functions mandated in terms of this Bill.
- Implementation of the Bill will be accommodated within the current funds of the Department in terms of the medium term Strategic and Operational Plan.



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IMPLICATIONS FOR VULNERABLE GROUPS

- Agricultural land acquired through the PLAS will be made available to Black South Africans in line with the Government's land redistribution target. This includes a specific emphasis on benefiting vulnerable groups.
- The proposed amendments provide for the acquisition and development of sustainable, fully equipped agricultural enterprises.



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CONSULTATIONS

- Five consultative workshops were held nationwide. Civil society, members from organised agriculture and the general public provided comments.
- Directors-General from the National Treasury, the Departments of Justice and Constitutional Development, Provincial and Local Government and Agriculture were individually consulted on the amendments.



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CONSTITUTIONAL IMPLICATIONS

- None, except that the Bill will promote a more effective implementation of the land and related reform obligations of the state in terms of section 25 of the Constitution of the Republic of South Africa, 1996.



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The End!