

THE PROVISION OF LAND AND ASSISTANCE AMENDMENT BILL, 2008



land affairs

Department:
Land Affairs
REPUBLIC OF SOUTH AFRICA

10/9/2008

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BACKGROUND

- 1 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.
- 2 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.



FORMULATION OF THE PROBLEM

- Currently, sections 10 and 11 of the Act are not sufficient to give effect to policy developments.
- 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 various land reform programmes.

FORMULATION OF THE PROBLEM

- Our audit of the principal Act clearly indicated that the Act needed to be amended to better facilitate sustainable land reform.
- Through the amendment we must ensure that we are not only buying land but also movable assets that make the enterprise viable.



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.



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.



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.



MTEF ALLOCATIONS PER PROGRAMME

PROGRAMME	BUDGET 2007/08 R'000	MTEF 2008/09 R'000	MTEF 2009/10 R'000	MTEF 2010/11 R'000
PROGRAMME 1 Administration	421 439	434 582	454 961	455 100
Programme 2 Survey and Mapping	105 621	88 189	95 053	100 756
Programme 3 Cadastral Surveys	141 352	105 334	110 868	117 520
Programme 4 Restitution	3 589 376	3 097 305	1 648 465	1 326 066
Programme 5 Land Reform	1 635 682	2 888 469	3 603 789	4 102 016
Programme 6 Spatial Planning & Info	22 206	32 286	34 194	36 246
Programme 7 Auxiliary & Ass. Serv	12 593	13 231	14 025	49 867
TOTAL	5 928 269	6 659 396	5 961 335	6 187 571

IMPLICATIONS FOR VULNERABLE GROUPS

- Agricultural land acquired through land reform programmes 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.



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.



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.

