



PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

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23 September 2009

Speaker M Sisulu, MP
National Assembly
Room E139
Parliament
Cape Town

Dear Speaker

Memorandum in terms of Rule 234(1) – Private Member's Legislative Proposal

Attached please find a memorandum in terms of Rule 234 (1) for your attention.

With kind regards

A handwritten signature in dark ink, appearing to read 'Piet Pretorius'.

PJC Pretorius, MP
Democratic Alliance

**Memorandum submitted to the Speaker in terms of Rule 234 (1) –
Private Member's Legislative Proposal**

Object:

To propose an amendment to the Land and Agricultural Development Bank Act (Act no 15 of 2002) to allow the parliamentary portfolio committee under whose jurisdiction oversight over the Land Bank falls* to play a meaningful part in the process of identifying, selecting and proposing candidates for appointment to the Land Bank Board.

Current Statutory position:

Section 4 (1) of the Act confers on the Minister the power to appoint a board of directors of the land Bank.

Section 4(2) deals with the procedure to fill a vacancy on the board. The subsection enjoins the minister to call for nominations by publishing such vacancy in the Gazette and in other appropriate media and "*by written invitation to the relevant parliamentary committees*".

Practical effect of provision:

Section 4(2) is extremely vague and gives no indication of what the role of the committees in the process should be. At most the committees are required to engage, presumably jointly, in their own, separate, process of identifying possible candidates and to either ask them to apply directly to the Minister, or to act as a post-office to receive such applications and pass them on to the minister. The current provisions of the Act therefore limit the parliamentary committees in their oversight role.

It is also not clear which committees could be regarded as 'relevant'.

Proposed amendment:

It is proposed –

- that the power to appoint board members be taken away from the Minister and be conferred on the National Assembly (section 4(1)); and
- that in the event of a vacancy the minister shall inform the Speaker of the National Assembly of such vacancy; the Speaker shall then instruct the relevant portfolio committee to engage in an open process of calling for nominations, setting qualification criteria, selecting candidates for interviewing, interviewing them, and finally agreeing to a candidate(s), whose name(s) will then be submitted in a report for approval/rejection to the National Assembly. If rejected by the National Assembly the process shall start *de novo* in the relevant committee. (section 4(2)).

Consequential amendments:

The above amendments will necessitate amendments to other sections of the Act, particularly in relation to the Minister's current powers, inter alia -

- * section 8(4) - the minister's power to appoint an employee of the bank as an executive director
- * section 8(5) - the minister's power to designate a chairperson of the board
- * section 9(1) - the minister's power to determine the term of office of a director
- * section 9(2) - the minister's power to reappoint a director
- * section 9(3) - the minister's power to extend the term of office of a board member
- * section 11(4) - the minister's power to fill a casual vacancy
- * section 12 - the minister's power to remove a board member

* Relevant parliamentary committees:

Committees which, presumably, could be regarded as 'relevant' include the portfolio committees on finance, on agriculture, forestry and fisheries, on rural development and land reform, possibly also on environment and water affairs, as well as the corresponding NCOP select committees. Involving all these committees, either jointly or individually, would be impractical.

The proposal is therefore that only the portfolio committee of the national assembly under whose jurisdiction the land bank falls be tasked with the process of nomination of board members. Ordinarily this would be the

portfolio committee on agriculture. However, as an interim arrangement, since July 2008, the land bank has been moved from the control of the Department of Agriculture to the control of Treasury, and thus now falls under the jurisdiction of the portfolio committee on finance. While this interim arrangement is in force both the portfolio committees on agriculture and finance, meeting jointly, should be tasked with the process of nomination of board members. [The latter arrangement, however, should be a practical arrangement and need not be enacted.]

Financial Implications:

The proposed amendment will have no additional financial implications for the state.

A handwritten signature in dark ink, appearing to read 'PJC Pretorius', is written over the printed name.

PJC Pretorius, MP
Member of the Portfolio Committee on Agriculture, Forestry and Fisheries