



agriculture, forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA

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PRESERVATION AND DEVELOPMENT OF AGRICULTURAL LAND BILL

(As introduced in the National Assembly (proposed section 76))

(The English text is the official text of the Bill.)

(MINISTER OF AGRICULTURE, FORESTRY AND FISHERIES)

[B XX - 2016]

BILL

To provide for the preservation of agricultural land; to provide for definitions of terms used in the Act; to provide for the objects of the Act;; to provide for the application of the Act and the guiding principles of interpretation and implementation of the Act; to provide for agricultural regulations pertaining to the subdivision and change of land use applications on agricultural land; to provide for Protected Agricultural Areas; to provide for the use of agricultural land; to provide for other applications on agricultural land; to provide for the duties of the Surveyor-General and the Registrar of Deeds in the application of the Act; to provide for the National Agricultural Land Register; to provide for the compilation of Agro-ecosystem Reports; to provide for the institutional framework; to provide for the settlement of disputes regarding agricultural land; to provide for minimum norms and standards, coordinated planning and development; to provide for general and miscellaneous matters; as well as for matters connected therewith.

PREAMBLE

WHEREAS it is in the national interest to preserve, and promote sustainable use and development of agricultural land for the production of food, fuel and fibre for the primary purpose to sustain life;

RECOGNISING the pressures exerted on agricultural land making it increasingly difficult to effectively and sustainably produce food;

FURTHER RECOGNISING that high value agricultural land is a scarce and non-renewable resource;

AND RECOGNISING that it is in the interest of everyone to have agricultural land protected, for the benefit of present and future generations;

AND WHEREAS the preservation and sustainable development of agricultural land requires the establishment of effective legal and institutional frameworks that clearly defines the roles of the State, the public and other users of agricultural land;

FURTHER RECOGNISING that effective planning, preservation and sustainable use of agricultural land will result in social, economic, and environmental benefits to the citizens;

ACKNOWLEDGING the State's overall responsibility for and authority over agricultural land;

RECOGNISING that the ultimate aim of agricultural land regulation is to achieve the sustainable use of agricultural land for the benefit of all South Africans;

AND WHEREAS it is the State's obligation to realise the constitutional imperatives;

AND WHEREAS sustainable development of agricultural land requires the integration of social, economic and environmental considerations in both forward planning and ongoing agricultural land management to ensure that development of agricultural land serves present and future generations;

AND TO PROVIDE compliance and enforcement measures in case of contraventions of the provisions of the Act;

BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows:-

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CHAPTER 1

INTERPRETATION AND OBJECTS

Definitions

1. In this Act, unless the context indicates otherwise –

“agriculture” means the science, art, practice or occupation concerned with the active production of useful plants, fungi or animals for –

- (a) food;
- (b) fibre;
- (c) fuel; or
- (d) other,

production with the primary purpose to sustain life, and in varying degrees the preparation and marketing of the resulting products;

“agricultural enterprise” means an institutional unit in its capacity as a producer of agricultural goods and services with –

- (a) autonomy in respect of financial and investment decision-making; and
 - (b) authority and responsibility for allocating resources for the production of agricultural goods and services,
- with the following divisions:
- (i) crop and rangeland production;
 - (ii) animal production;
 - (iii) forestry and logging; and
 - (iv) fishing and aquaculture;

“agricultural land” means all land in the jurisdiction of the Republic, excluding land –

- (a) in a proclaimed township;
- (b) with regard to which an application for declaration as a township had been submitted in accordance with applicable township establishment legislation prior to the date of commencement of this Act: Provided that such application is approved;

(c) which, immediately prior to the date of commencement of this Act, was formally zoned for non-agricultural purposes by any sphere of government or any public entity but subjected to specified conditions at the time of the rezoning; or
(d) which the Minister, after consultation with other relevant Ministers and MECs concerned, within the provisions established in this Act, excludes by means of a notice in the Gazette;

“agricultural land use zones” means zones, based on the –

- (a) agricultural potential;
- (b) agricultural capability;
- (c) agricultural suitability;
- (d) conservation status;
- (e) use; and
- (f) geographic location;

“agricultural potential” –

- (a) is a measure of potential productivity per unit area and unit time achieved with specified management inputs; and
- (b) for a given crop or veld type and level of management, is largely determined by the interaction of climate, soil and terrain;

“agricultural purposes” means purposes normally or otherwise reasonably associated with the use of land for agricultural activities, including the use of land for structures, buildings and dwelling units reasonably necessary for, or related to, the use of the land for agriculture;

“agro-ecosystem” means a dynamic association of crops, pastures, veld types, livestock, other fauna and flora, atmosphere, soils, and water that is contained within larger landscapes that include terrain features, drainage networks and rural communities;

“agro-ecosystem report” means an assessment contemplated in section 21;

“best available agricultural land” means agricultural land with the highest agricultural potential within a specific municipality;

“building” means any structure erected or used for any purpose whatsoever, whether of a temporary or permanent nature and irrespective of the materials used in the erection thereof, so erected or used in terms of the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977);

“Chief Surveyor-General” means the Chief Surveyor-General appointed in terms of section 2 of the Land Survey Act, 1997 (Act No. 8 of 1997) or an employee appointed for the same purpose;

“classification” with regard to land means the evaluation and classification of land on the grounds of agricultural potential, agricultural capability, agricultural suitability, conservation status, use and geographic location;

“commercial” with regard to farming means the large-scale or intensive production of crops and livestock primarily for national food security and the market, the main objective of which is to achieve higher profits through –

- (a) economies of scale;
- (b) specialisation;
- (c) introduction of capital-intensive farming techniques;
- (d) labour-saving technologies;
- (e) maximisation of crop and livestock yields in a sustainable manner; and
- (f) a high level of technical knowledge and management inputs;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Deeds Registries Act” means the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“Department” means the national Department responsible for agriculture and
“departmental” has a corresponding meaning;

“Director-General” means the Director-General of the Department;

“farmer” means a person or entity who uses agricultural land for agricultural purposes, but does not include a farm worker;

“farming system” means a collection of components which –

- (a) are united by some form of interaction and interdependence; and
 - (b) operate within a prescribed boundary,
- to achieve a specified agricultural objective on behalf of the beneficiaries of the system;

“food” means any substance –

- (a) consumed to provide nutritional support to the body; and
- (b) usually of plant or animal origin, containing essential nutrients, such as carbohydrates, fats, proteins, vitamins, or minerals in order to produce energy, maintain life, or stimulate growth;

“food security” means physical, social and economic access by all people, at all times, to sufficient, safe and nutritious food which meets their dietary needs and food preferences for an active and healthy life, and has the following four dimensions:

- (a) adequate availability of;
 - (b) access to;
 - (c) utilisation of; and
 - (d) stability of,
- an affordable food supply;

“fragmentation of agricultural land” means the subdivision or change in the scheduled use of agricultural land that reduces the economic, environmental, social and logistical efficiency and viability of a farming system and agro-ecosystem;

“Gazette” means the Government Gazette;

“grazing land” means all agricultural land having plant material harvestable by livestock and game without reference to land tenure, other land uses, management, or treatment practices;

“high value agricultural land” means land best suited to, and capable of, consistently producing acceptable levels of goods and services for a wide range of agricultural enterprises in a sustainable manner, taking into consideration expenditure of energy and economic resources;

“Integrated Development Plan” means the plan contemplated in section 25 of the Municipal Systems Act (Act No. 32 of 2000);

“Intergovernmental Relations Framework Act” means the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005);

“irrigated land” means areas artificially provided with water, other than rain, for improving pasture or crop production;

“irrigable” with regard to soil means soil with suitable chemical and physical characteristics so as to be able to accept the supplementation of rain water by means of a suitable irrigation system, with water of an acceptable quality, without resulting in soil and environmental degradation;

“land” means immovable, corporeal or incorporeal, land, and includes shares, rights, title or an interest in land;

“land capability” means the most intensive long-term use of land for purposes of rainfed farming, determined by the interaction of climate, soil and terrain;

“land capability classes” means the classes into which land may be grouped in accordance with their capabilities;

“land cover” means the observed physical cover, as seen from the ground or through remote sensing, including the –

(a) vegetation, whether natural or planted;

(b) human constructions, including buildings and roads; and
(c) water bodies,
which occurs on the earth's surface;

“landowner” means the person in whose name land or a right in, or to, land is registered in accordance with the Deeds Registries Act, 1937 (Act No. 47 of 1937);

“land potential” means the range of possible beneficial uses of agricultural land;

“land use” means a series of human activities which are directly related to the land, making use of its resources, or having an impact on it and “land user” has a corresponding meaning;

“livestock” means any population or breed of domesticated, semi-domesticated or captive wild animals raised in an agricultural setting to produce commodities;

“MEC” means a Member of the Executive Council of a Province responsible for agriculture;

“medium value agricultural land” means all land available for agricultural production purposes but which excludes high value agricultural land;

“Minister” means the Minister responsible for agriculture, unless stated otherwise;

“municipal manager” means a person appointed in terms of section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Municipal Systems Act” means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“municipality” when referred to as –

(a) an entity, means a municipality as described in section 2 of the Municipal Systems Act; and

(b) a geographical area, means a municipal area determined in the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998), and includes the Municipal Council;

“natural agricultural resources” means the natural resource base upon which the agricultural economy depends –

(a) including the soil, water resources, agro-climate, and natural vegetation occurring on agricultural land;

“optimal agricultural use” means the maximum productivity per unit area and unit time achievable by the best suited or adapted farming enterprise in a sustainable manner with minimum negative impacts on the natural agricultural resources;

“prescribed” means prescribed by or under this Act;

“prescribed form” means a form prescribed by –

- (a) regulation; or
- (b) the Registrar;

“Protected Agricultural Area” –

- (a) means an agricultural land use zone, protected for purposes of –
 - (i) food production; and
 - (ii) ensuring that high value agricultural land are protected against non-agricultural land uses in order to promote long-term agricultural production and food security;
- (b) includes all areas demarcated as such in accordance with section 15; and
- (c) may include high value agricultural land and medium value agricultural land;

“provincial Department” means the provincial department responsible for agriculture;

“Provincial Gazette” means the official Gazette of the province concerned;

“rainfed farming” means agricultural practices relying exclusively on rainfall as its source of water;

“Registrar” means the Registrar of the Agricultural Land Registry, appointed as contemplated in section 46;

“Republic” means the Republic of South Africa;

“rezoning” means a change in land use from the scheduled land use purpose to another scheduled land use purpose;

“right” in relation to agricultural land, does not include any right to minerals or a prospecting or mining right as contemplated in the Minerals and Petroleum Resources Development Act, 2002 (Act No. 28 of 2002);

“right to farm” means the –

- (a) entitlement of farmers to farm with an agricultural enterprise of their choice; and
- (b) protection of farmers against adjacent land use decisions and local government laws that would unreasonably interfere with their regular farming practices;

“SACNASP” means the South African Council for Natural Scientific Professions, established in accordance with section 2 of the Natural Scientific Professions Act, 2003 (Act No. 27 of 2003);

“Scientific Report” means a scientific or technical report that shall include, but not limited to the –

- (a) potential;
- (b) capability;
- (c) suitability;
- (d) state; and
- (e) use,

of the natural agricultural resources, as compiled by an agricultural scientist registered with SACNASP;

“smallholder” with regard to farming means an independent small farming unit managed by a farmer or farmers, as the case may be –

- (a) with a higher level of technical knowledge and better receptivity to improved technology than subsistence farmers; and
- (b) who tend to –
 - (i) specialise in a specific agricultural enterprise; and
 - (ii) market their production surplus;

“spatial development frameworks” – means the spatial development frameworks contemplated in chapter 4 of the Spatial Planning and Land Use Management Act (Act No. 16 of 2013);

“state land” means –

- (a) unalienated land in respect of which no title deed has been issued; or
- (b) land which is –
 - (i) registered in the name of; or
 - (ii) held in trust by,
an entity within the national, provincial or local spheres of government or a state-owned enterprise;

“subdivision” means the process, instance, or state of agricultural land being divided into smaller pieces, by creating a boundary, for purposes of a change in –

- (a) ownership; or
- (b) land use rights;

“subsistence” with regard to farming means a farming system where the food and goods produced are predominantly consumed by the farm family and there is little or no surplus for sale;

“sustainable agriculture” means –

- (a) farming practices that –
 - (i) conserve land, water, plant and animal genetic resources; and

(ii) are environmentally non-degrading, technically appropriate, economically viable, and socially acceptable; and

(b) an integrated system of plant and animal production practices having an agro-ecosystem site-specific application that complements ecological and biodiversity conservation and meets present needs without compromising the ability to meet future needs to –

(i) satisfy human food and fibre needs;

(ii) enhance environmental quality and the natural resource base upon which the agricultural economy depends;

(iii) make the most efficient use of non-renewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;

(iv) sustain the viability of a farming unit; and

(v) enhance the quality of life for farmers and society as a whole;

“unique agricultural land” means land –

(a) that is important to agriculture and used for the production of specific high value agricultural enterprises; and

(b) with the special combination of location, terrain features, climate and soil properties to economically produce sustained high quality or high yields of a specific crop when treated and managed according to acceptable farming methods; and

(c) as may be designated in terms of this Act as “unique agricultural land”;

“veld type” means a unit of vegetation of which the range of variation is small enough to permit the whole of it to have the same farming potentialities;

“viable farming unit” means an area where sustainable agriculture is practiced, that is economically viable and generates sufficient revenue from its agricultural production operations to cover –

(a) all variable and fixed costs of production;

(b) all appropriate family living expenses; and

(c) capital replacement costs;

“water licence” means a general authorisation or licence issued under the National Water Act, 1998 (Act No. 36 of 1998).

Preserver of Agricultural Land

2 In fulfilling the rights contained in the Constitution, the State, through the organs of state implementing this Act must—

- (a) act as the preserver of all agricultural land in the Republic; and
- (b) implement this Act in partnership with the people to achieve the progressive realisation of those rights.

Objectives of the Act

3. (1) The purposes of this Act are to—

- (a) promote the preservation and sustainable development of agricultural land;
- (b) demarcate protected agricultural areas and provide for the sustainable use and development thereof;
- (c) provide measures to promote long-term viable and resilient farming units from a production, ecological and socio-cultural perspective;
- (d) to provide measures to prevent fragmentation of farming systems and farming areas;
- (e) ensure the sustainable and productive use of agricultural land and maintain the agricultural landscape through the prohibition or discouragement of land use changes from agriculture to other forms of development;
- (f) provide for mitigating measures to counter act the loss of agricultural land and the impacts from non-agricultural developments;
- (g) implement a, coordinated, national framework, including norms and standards as well as authorisations on the use of agricultural land;
- (h) establish an appropriate framework that facilitates concurrent land uses on agricultural land, without jeopardising long-term food security and
- (i) to provide for a national agricultural land registry to record, administer and manage all activities on agricultural land;

Application of the Act

4. (1) In the event of any conflict between a section of this Act and—
- (a) other national legislation, the section of this Act prevails if the conflict specifically concerns the management or development of agricultural land;
 - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
 - (c) a municipal by-law, the section of this Act prevails.
- (2) In the event of any conflict between subordinate legislation issued in terms of this Act and—
- (a) an Act of Parliament, the Act of Parliament prevails;
 - (b) provincial legislation, the conflict must be resolved in terms of section 146 of the Constitution; and
 - (c) a municipal by-law, the subordinate legislation issued in terms of this Act prevails.
- (3) For the proper application of subsection (2) (b) the Minister must, in terms of section 146 (6) of the Constitution, submit all subordinate legislation issued in terms of this Act and which affects provinces to the National Council of Provinces for approval.

CHAPTER 2

AGRICULTURAL LAND MANAGEMENT

Part 1: Principles, Norms and Standards

Principles

5. (1) High value agricultural land must be preserved for long-term use for agriculture.

- (2) The principle of permitted uses on agricultural land is to allow uses that ensure—
- (a) agriculture remains the dominant land use and is safeguarded for future generations;
 - (b) land lost for agricultural production, is minimized;
 - (c) regard is given to the long-term impact on agricultural land;
 - (d) normal farm practices are able to continue;
 - (e) local agricultural character is maintained ;
 - (f) secondary uses are compatible to the primary agricultural uses ;
 - (g) the uses make a positive contribution to the agricultural industry, either directly or indirectly.
- (3) Planning authorities including municipalities must:
- (a) designate agricultural land as defined in this Act;
 - (b) ensure that agricultural land is protected against negative impacts from adjacent non-agricultural land uses;
 - (c) adhere to and ensure that farming systems are viable and resilient; in accordance with the demarcations and guidelines developed by the Minister and or MEC, as amended from time to time.
- (4) The principle of mitigation where permanent impacts do arise from non-agricultural developments to address the loss of productive capacity of agricultural land.

Application of Guiding Principles

- 6.** (1) The principles set out in this Chapter apply to all organs of state and other authorities responsible for the implementation of this Act and any other legislation on land development, and guide-
- (a) the preparation, adoption and implementation of any framework, policy or plan relating to the development or use of agricultural land;
 - (b) the sustainable use and development of agricultural land;

- (c) the consideration by a competent authority of any application that impacts or may impact upon the use and development of agricultural land; and
 - (d) the performance of any function in terms of this Act or any other law regulating agricultural land use management.
- (2) Notwithstanding the categorisation of principles in this section, all principles contained in this Act apply to all aspects of agricultural land management.

Norms and Standards

7. (1) The Minister must, after consultation with relevant organs of state in the provincial and local spheres of government prescribe—
- (a) norms and standards for the achievement of any of the objectives of this Act, including for the management and development of Protected Agricultural Areas referred to in Section 15;
 - (b) indicators to measure compliance with those norms and standards; and
 - (c) the requirement and criteria for those empowered in this Act to make agricultural land authorisations.
- (2) Norms and standards may apply—
- (a) nationwide; or
 - (b) in a specific geographical area only.
- (3) Different norms and standards may be issued for different geographical areas.

Part 2: Land Classification Systems

Agricultural Land Classification Systems

8. (1) The Minister may establish a system of land capability classification within an appropriate framework, for determining the physical capability of land at national, regional and local scales for the effective management of agricultural land.

- (2) Agricultural Land Capability Evaluation Classification in-terms of subsection (1) provides a framework for classifying land according to the most intensive long term use thereof for purposes of rainfed farming determined by the interaction of climate, soil and terrain.
- (3) The Minister may determine agricultural land use zones according to its suitability for a range of agricultural activities.

Part 3: Agricultural Sector Plans

Agricultural Sector Plans

- 9. (1) The Minister may prescribe criteria and guidelines to be used for the compilation of agricultural sector plans
- (2) Every province and municipality must prepare an agricultural sector plan within five years of the coming into operation of this Act, and at intervals of not more than five years thereafter.
- (3) The municipal agricultural sector plan must be prepared as part of a municipality's integrated development plan in accordance with the provisions of the Municipal Systems Act in consultation with the Minister.
- (4) The provincial agricultural sector plan must be included and integrated into a province's growth and development strategy where applicable or a provincial development plan or framework.
- (5) Every province or municipality must, in its preparation of an agricultural sector plan, and before submitting such plan, take into consideration every other agricultural sector plan already adopted with a view to achieve consistency among such plans.
- (6) The Minister may extend the date for the submission of any agricultural sector plans for periods not exceeding 12 months and direct the relevant authority to gazette the approval.

- (7) The Director-General may, at the request of a municipality or province assist with the preparation of an agricultural sector plan.
- (8) The preparation of agricultural sector plan may consist of the assembly of information or plans compiled for other purposes and may form part of any other process or procedure.

Objective of Agricultural Sector Plans

- 10.** The object of an agricultural sector plan is to ensure the preservation, and development of agricultural land within the province or municipal area concerned in a manner which is consistent with the objectives of this Act and for the purpose it was declared.

Purpose of Agricultural Sector Plans

- 11.** The purpose of agricultural sector plan is to—
 - (a) co-ordinate and harmonise the agricultural land use policies, plans, programmes and decisions aimed at the achievement, promotion, and preservation of a sustainable agricultural environment, in order to—
 - (i) minimise the duplication of procedures and functions; and
 - (ii) promote consistency in the exercise of functions that may affect the environment;
 - (b) give effect to the principle of co-operative government in Chapter 3 of the Constitution;
 - (c) secure the preservation of the agricultural land across the country as a whole;
 - (d) prevent unilateral actions by different organs of state in respect of the sustainable use and preservation of agricultural land that are prejudicial to national interest; and
 - (e) enable the Minister to monitor the achievement, promotion, protection and preservation of agricultural land.

Content of Agricultural Sector Plans

- 12.** (1) Every agricultural sector plan must contain—

- (a) a description of the land use functions exercised by the different organs of state that affects agricultural land;
- (b) spatial demarcation of agricultural land use zones, based on the land capability evaluation classification and agricultural suitability of the province or municipal area indicating what activities may take place in the different agricultural land use zones within the area;
- (c) development of agricultural economic opportunities in terms of the integrated development plan or a provincial plan;
- (d) a description of policies, plans and programmes that may significantly affect the area covered by such plan;
- (e) a description of the manner in which the province or municipality will ensure that the functions referred to in paragraph (a) will comply with the principles set out in section 5 as well as any national norms and standards as envisaged under section 146 (2) (b) (i) of the Constitution and set out by the Minister, which have as their objective the achievement, promotion, preservation, development and protection of the agricultural land;
- (f) a description of the policies, plans and programmes of the province or municipality that are designed to ensure compliance with its policies by other organs of state and persons;
- (g) a description of arrangements for co-operation with other spheres of government, including any existing or proposed memoranda of understanding entered into, or delegation or assignment of powers to other organs of state, with a bearing on agricultural land use management;
- (h) such planning measures, controls and performance criteria as may be prescribed;
- (i) procedures for public participation;
- (j) where appropriate, the implementation of community-based agricultural management;
- (k) a programme for the implementation of the plan and its costing; and
- (l) any other relevant matter.

(2) Agricultural sector plans may include subsidiary plans.

- (3) The Minister may make regulations for the purpose of giving effect to subsection (1).

Status and Legal Effect of Agricultural Sector Plans

- 13.** (1) Until such time that it has been approved by the Minister the plan does not have any binding effect.
- (2) The sector plan must be gazetted by the relevant municipality or province for public comments.
- (3) Upon the approval of the plan all organs of state are bound by it.
- (4) The approved plan is to serve as a guideline for allocation of agricultural resources.

Compliance with Agricultural Sector Plans

- 14.** (1) The Minister must monitor compliance on a regular basis.
- (2) If there is non-compliance a mechanism should be put in place to strengthen the capacity for compliance;.
- (3) If after intervention, non-compliance prevails, the allocation of funding may be withheld
- (4) The Land Use Management Scheme must be guided by the Agricultural Sector Plan.

Part 4: Protected Agricultural Areas

Protected Agricultural Areas

- 15.** (1) The Minister may by notice in the Gazette—
- (a) declare an area specified in the notice—
- (i) as a Protected Agricultural Area for the purposes of crop production or livestock production; and
- (b) assign a name to such Protected Agricultural Area.

- (2) A declaration under subsection (1) (a) may only be issued to protect high value cropland or high value rangeland of strategic importance.
- (3) A notice under subsection (1) (a) may be issued in respect of private and public land after consultation with the owner / s.

Procedures for Declaring Protected Agricultural Areas

16. (1) Before declaring an area under section **(1) (a)**, the Minister must—

- (a) give notice of the proposal to declare a Protected Agricultural Area area and invite comments within a specified period;
- (b) consider the comments received in response to the notice.

(2) The Minister must—

- (a) (i) publish the notice referred to in subsection (1) in the Gazette;
- (b) notify —
 - (i) the Municipal Council;
 - (ii) the owner / s of the land;
 - (iii) the MEC in the province in which the area falls;
 - (iv) the chairperson(s) of organised agriculture within the affected area;
 - (v) the municipal manager of the municipality for the area; and
 - (vi) any person or Organ of State to whom control of the area in question has been transferred, whether by way of assignment, delegation, contract or otherwise.

(3) The Minister declares a Protected Agricultural Area by publishing a notice referred to in subsection (2) (a)—

- (a) recording his or her decision;
- (b) naming the Protected Agricultural Area; and
- (c) describing the geographical area set aside.

(4) The Minister must compile and maintain a register, listing all properties and areas:

- (a) included in protected agricultural area.

- (5) The Deeds office must amend the title deeds of the affected properties, as declared under section (3), restricting the use thereof as Protected Agricultural Areas; and
- (6) Municipalities must include Protected Agricultural Areas in their Integrated Development Plans, Spatial Development Frameworks and Land Use Management Schemes.

Procedures for Reviewing Protected Agricultural Areas

- 17.** (1) The Minister must review Protected Agricultural Areas every 10 years.
- (2) A landowner or person or organ of State can lodge an application to the Minister, in the prescribed format, for de-listing of the property or area;
- (3) Applicant must provide reasons for the de-listing of the property or area ;
- (4) The Minister must approve or decline the de-listing of the property or area within the prescribed time period.

Part 5: Agricultural Uses - Farm Uses, Permitted Uses and Non Permitted Uses

Activities Designated as Farm Use

- 18.** (1) The Minister may with the concurrence of the MEC, and every MEC must with the concurrence of the Minister, in the prescribed manner-
 - (a) Identify activities related to the use of agricultural land which may not commence without prior authorisation from the Minister or MEC;
 - (b) Identify geographical areas in which activities may not commence without prior authorisation from the Minister and/or MEC and specify such activities;
 - (c) demarcate geographical areas that will be regarded as strategic cropping areas, consisting dominantly of high value agricultural land; and
 - (d) demarcate geographical areas that will be regarded as strategic rangeland areas, consisting dominantly of a good quality rangeland land;
 - (e) make regulations in respect of such authorisations and demarcations.

Part 6: Agricultural Uses – Change of Agricultural Land Uses

Subdivision of Agricultural Land

- 19.** (1) The subdivision of agricultural land is prohibited unless authorised by the Minister in accordance with Section 24.
- (2) An owner of agricultural land must apply to the Minister to subdivide agricultural land.
- (3) Except with the prior authorisation of the Minister in terms of this Act, an approving officer under the Deeds Registries Act, the Spatial Planning and Land Use Management Act, the Land Survey Act, the Sectional Titles Act, or any other planning legislation or a person who exercises the powers of an approving officer under any other Act may not approve a subdivision of agricultural land.

Applications for Non-agricultural Uses

- 20.** (1) An owner of agricultural land who wishes to use the land for non-agricultural purposes must apply to the Minister in a prescribed manner for authorisation.
- (2) A municipality, or a municipal planning tribunal or an authorised official in terms of the Spatial Planning and Land Use Management Act, or an entity, board or other agency established by a municipality or any organ of state having a land development authorisation power, may not permit a development on agricultural land inconsistent with development controls imposed by the Minister.

Rules for Use and Subdivision of Agricultural Land

- 21.** (1) The Minister must prescribe criteria and establish guidelines to govern the use and subdivision of agricultural land.
- (2) The criteria and guidelines in terms of subsection (1) will include:

- (a) designated norms and standards applicable per geographic locality
 - (b) the compilation and minimum requirements of an agro-ecosystem report;
 - (c) evaluation of the impact on surrounding agricultural land;
 - (d) any other related impact assessment reports;
 - (e) evaluation of the capability and suitability of the natural agricultural resources concerned to be used for agricultural production;
 - (f) desirability and site-specific circumstances related to the proposed future land use;
 - g) desirability of retaining the character of the agricultural landscape; and
 - (h) any other relevant consideration.
- (3) An owner of agricultural land who wishes to consolidate two or more properties must request authorisation from the Minister.
- (4) The consolidation mentioned in subsection 3 may be proposed as a condition for subdivision.

CHAPTER 3

AGRICULTURAL LAND APPLICATIONS AND AUTHORISATIONS

Part 1: Guidelines and Frameworks for Authorisations and Competent Authority

General Objectives

- 22.** (1) To provide guidance regarding applications and authorisations on agricultural land
- (2) To prevent the loss of-
- (a) agricultural land
 - (b) productive capacity of agricultural land
 - (c) creation of non-viable farming units
 - (d) fragmentation of agricultural land
 - (e) degradation natural agricultural resources

- (3) The Minister, or the Minister together with the MEC, must issue guidelines and frameworks to guide the application and authorization procedures applicable to this Act.

Implementation Guidelines and Frameworks

- 23.** (1) Before issuing guidelines and frameworks, the Minister must confer with such persons or public bodies that the Minister considers have an interest in the proposed process.
- (2) If guidelines and frameworks are issued under subsection (1), the Minister must publish it in a Gazette and must give further notice thereof, in such manner as the Minister considers appropriate, to any other persons or public bodies that the Minister considers have an interest in the guidelines and frameworks.
- (3) A decision of a competent authority in all spheres of government affecting agricultural land:
- (a) must be consistent with the guidelines and frameworks issued under subsection (1) that are in effect on the date of the decision; and
 - (b) must conform with the agricultural sector plans that are in effect on that date, or
 - (c) must not be in conflict with any applicable or relevant agricultural plan in any given format, as the case may be.

Authorisations on Agricultural Land

- 24.** (1) No person may subdivide or change the use of agricultural land without authorisation by the Minister.
- (2) Every person shall submit an application in the prescribed manner for authorisation.

- (3) Any consent granted is valid for the specific period specified or for a period of 3 years, whichever is applicable for:
- (a) change of land use;
 - (b) subdivision;
 - (c) consolidation of agricultural land.

Procedure for Identifying Competent Authority

- 25.** (1) The Minister may, in writing, appoint a person who has experience in the field of agricultural natural resources management as a competent authority to perform functions contemplated in this Act;
- (2) A competent authority person must be provided with a letter of appointment signed by or on behalf of the Minister in which the nature of the competent authority's functions are described.

Powers and Duties of Competent Authority

- 26.** (1) A competent authority may, at any reasonable time and without prior notice, enter or cross a property in order to carry out inspections;
- (2) A competent authority has to abide to the specifications and requirements of any applicable agricultural sector plans; regulations; norms and standards or any other relevant guideline or framework.

Part 2: Forums, Committees and Advisors

Establishment of Forums or Advisory Committees

- 27.** (1) The Minister may by notice in the Gazette—
- (a) establish any forum or advisory committee;
 - (b) determine its composition and functions; and

- (c) determine, in consultation with the Minister of Finance, the basis and extent of the remuneration and payment of expenses of any member of such forum or committee.

Technical and Other Advisors

- 28.** (1) The Minister, or a competent authority acting in terms of this Act, may, in the performance of functions or carrying out a duty under this Act, co-opt, appoint or employ the services of technical or other advisors.
- (2) An advisor contemplated in subsection (1) is not a decision making authority in terms of this Act.
- (3) An advisor who is not a public service official or in the employ of a municipality, may be remunerated in accordance with applicable Treasury regulations by the relevant authority that makes the appointment.

Part 3: Relationships, Monitoring and Performance Assessment

Relationship and Alignment with Related Land Development Approvals

- 29.** (1) Where a change of land use and subdivision authorisation is required in terms of this Act and where it is also regulated in terms of another law, the relevant organ of state empowered to authorise under that law must consult the Minister;
- (2) An application for any development on agricultural land lodged in terms of any other legislation must also be lodged simultaneously under this Act;
- (3) The Minister, may enter into co-operation agreements with any person or community for the purpose of this Act.

Restriction on a Municipal Authority Regarding Uses on Agricultural Land

30. (1) A municipality may not

- (a) adopt a bylaw, Spatial Development Framework or Land Use Scheme under any law, or
- (b) issue an authorisation in terms of any other legislation; on agricultural land without the consent of the Minister.

(2) The Minister may prescribe development controls imposing development parameters applicable on agricultural land.

(3) Development parameters and controls for the purposes of subsection (2) may be listed in the regulations;

(4) A municipality are not allowed to permit land development on agricultural land where the municipal development parameters or controls are not consistent with or less restrictive than the development controls or parameters on such land as may be imposed by the Minister in terms of this Act.

Consideration of Legislative Compliance by Other Organs of State

31. (1) When any other organ of state makes a decision under any other legislation on agricultural land, it must have regard to any decision and condition that is made under this Act by an approval authority.

Monitoring and Performance Assessment

32. (1) The Minister must, by notice in the Gazette, publish a monitoring, evaluation and assessment framework to enable the Director General of the Department to ensure that all authorising authorities -

- (a) execute their powers;
 - (b) perform their functions; and
 - (c) carry out their duties
- as contemplated in this Act, effectively and efficiently.

- (2) The Minister must by notice in the Gazette, publish a monitoring, evaluation and assessment framework to enable the Director General of the Department to ensure the preservation and sustainable development of agricultural land as contemplated in this Act
- (3) The Director General of the Department and the Head of the respective provincial Departments must within a period not exceeding 3 months after the end of the financial year concerned report in writing to the Minister or MECs concerned, as the case may be, on compliance with the monitoring, evaluation and assessment frameworks contemplated in subsection (1) and (2) during the year in question.
- (4) The Minister must publish a national report based on the reports referred to in subsection (3) within a period not exceeding 6 months after the end of the financial year concerned.

Part 4: Institutional Arrangement, Appeals and Dispute Resolution

The Right to Appeal

- 33.** (1) A person who feels aggrieved by any decision or action by an officer or employee in respect of which a power has been delegated to in terms of this Act may appeal in the prescribed manner to the Minister against such decision or action.

Appeal to Minister or Competent Authority

- 34.** (1) Any affected person may appeal to the Minister against a decision taken by any person acting under a power delegated by the Minister under this Act.
- (2) An appeal under subsection (1) must be noted and must be dealt with in the manner prescribed.

Appeal and Review Unit

35. (1) The Minister shall establish an Appeal and Review unit to:

- (a) receive appeal applications;
- (b) collate all relevant information;
- (c) facilitate the processing of the appeal application

Consideration of Appeal by Minister

36. (1) Where the Minister has referred an appeal to the Board in terms of section 37

(1), he or she may—

- (a) confirm or set aside the recommendations of the Board; and
- (b) order the officer or employee in respect of which a power has been delegated to execute the decision in connection therewith.

(2) Where the Minister considers an appeal, he or she may—

- (a) confirm, set aside or vary the decision of the officer or employee in respect of which a power has been delegated to; and
- (b) order the officer or employee in respect of which a power has been delegated to execute the decision in connection therewith.

(3) The decision of the Minister must be in writing and a copy thereof must be furnished to the officer or employee in respect of which a power has been delegated to, to the appellant and any other party that has registered an interest in the appeal.

(4) If the Minister—

- (a) sets aside any decision or action by the officer or employee in respect of which a power has been delegated to, the prescribed fee paid by the appellant in respect of the appeal must be refunded to him or her; or
- (b) varies any decision or action by the officer or employee in respect of which a power has been delegated to, the Minister may direct that the whole or any part of such fee, be refunded to the appellant."

Appeal board Composition and Membership

- 37.** (1) The Minister may constitute a board known as the Appeal Board to investigate and consider any appeal referred to it in terms of section 34.
- (2) The Board must consist of at least three members appointed by the Minister, of whom—
- (a) one person must be appointed on account of his or her knowledge in the relevant fields of the law; and
- (b) two or more persons must have expert knowledge on the subject of the appeal.
- (3) The person referred to in subsection 2(a) must be designated as the chairperson.
- (4) The remuneration of a member of the Board must be prescribed.
- (5) Any person appointed in terms of subsection (2) must recuse himself or herself as a member of the Board if he or she has any direct or indirect personal interest in the outcome of the appeal.

Investigation and Consideration by Board

- 38.** (1) The Minister may refer an appeal to the Board.
- (2) An appeal must be heard on the date, time and place determined by the chairperson.
- (3) The chairperson must inform the appellant and any other party that has an interest in the appeal in writing of the date, time and place of the hearing.
- (4) The chairperson may, for the purposes of the hearing of an appeal—
- (a) summon any person who may have material information concerning the subject of the hearing or who has in his or her possession or custody or under his or her control any document which has any bearing upon the subject of the hearing, to appear before the Board at a date, time and place

specified in the summons, to be questioned or to produce that document, and the chairperson may retain for examination any document so produced; and

(b) administer an oath to or accept an affirmation from any person called as a witness at the hearing.

(5) A person who appeals in terms of Section (33) and the officer or employee in respect of which a power has been delegated to may be represented.

(6) If a member of the Board—

(a) is unable or incapacitated during the investigation of the appeal or soon before the commencement of the investigation where the vacancy cannot be filled in time;

(b) is unable to act and another person cannot be appointed in time; or

(c) is, after the investigation has commenced, unable to continue therewith, then all applicable parties must agree that the investigation be continued by the remaining members of the Board.

(7) Where the member of the Board was unable or has become incapacitated as stated in subsection (6) and is the chairperson of the Board, the Minister must designate one of the remaining members of the Board to act as chairperson.

Part 5: Settlement of Disputes

Disputes

39. (1) All organs of state must make every reasonable effort to –

(a) avoid intergovernmental disputes when exercising their statutory powers; and

(b) settle intergovernmental disputes without resorting to judicial proceedings.

(2) Any formal agreement between 2 or more organs of state in different government departments or municipalities regulating the exercise of statutory powers or performance of statutory functions, including any

implementation protocol or agency agreement, must include dispute settlement mechanisms or procedures that are appropriate to the nature of the agreement and the matters that are likely to become the subject of a dispute.

Consequences of Declaring Disputes

- 40.** (1) An organ of state that is a party to an intergovernmental dispute with another government department, municipality or organ of state may declare the dispute as a formal intergovernmental dispute by notifying the other party of such declaration in writing.
- (2) Before declaring a formal intergovernmental dispute the organ of state in question must, in good faith, make every reasonable effort to settle the dispute, including the initiation of direct negotiations with the other party or negotiations through an intermediary.

Dispute Resolution

- 41.** (1) Once a formal intergovernmental dispute has been declared as contemplated in section 40, the parties to the dispute must promptly convene a meeting between themselves, or their representatives, to –
- (a) determine the nature of the dispute, including –
 - (i) the precise issues that are in dispute; and
 - (ii) any material issues which are not in dispute;
 - (b) identify any mechanisms or procedures, other than judicial proceedings, that are available to the parties to assist them in settling the dispute, including any mechanism or procedure provided for in legislation or any agreement between the parties;
 - (c) agree on an appropriate mechanism or procedure to settle the dispute, subject to subsection (2); and
 - (d) designate a person to act as facilitator.

- (2) Where a mechanism or procedure is specifically provided for in other legislation or in an agreement between the parties, the parties must make every reasonable effort to settle the dispute in terms of such mechanism or procedure.
- (3) In the event that the parties to a dispute fail to convene the meeting contemplated in section 41(1), the Minister, relevant national Minister or MEC concerned
 - (a) may convene the meeting on behalf of the affected organs of state or
 - (b) where the dispute is between different provinces or provincial organs of state from different provinces; or
 - (c) where the dispute is between organs of state from different government departments or municipalities
- (4) In the event that the parties fail to attend a meeting convened by the Minister or MEC, he or she may designate a facilitator on behalf of the parties.

Role of Facilitator

42. (1) A person designated as facilitator must –

- (a) assist the parties to settle the dispute in any manner necessary; and
 - (b) submit to the Minister, applicable national Minister or the MEC concerned as well as to the applicable local government / s in the province / s concerned, as the case may be –
 - (i) an initial report concerning –
 - (aa) the nature of the dispute and the precise issues that are in dispute;
 - (bb) the mechanism or procedure to be used to settle the dispute; and
 - (cc) any other matters that may be prescribed; and
 - (ii) progress reports containing such information as may be prescribed by regulation in terms of this Act.
- (2) A report referred to in subsection (1)(b) must be submitted to the –
- (a) Minister, if the report concerns a dispute referred to in Section 40(1); or

- (b) applicable national Minister, if the report concerns a dispute referred to in Section 40 (1); or
- (c) MEC, if the report concerns a dispute referred to in section 40 (1).

(3) If a dispute referred to in subsection (2)(b) affects the national interest, the Minister may request the facilitator to also submit a report to the applicable Minister.

CHAPTER 4

COMPLIANCE AND CONTRAVENTIONS

Consequences of Unlawful Commencement of Activity

- 43.** (1) Any person who fails to comply with the provisions of Section 24 shall be guilty of an offence.
- (2) The Minister may, by notice in writing to a person who contravenes the provisions of Section 24, direct that person, or the owner of the property in relation to which the contravention occurs, to take any action specified in the notice to rectify the contravention, within the time (being not less than seven working days) as specified in the notice.
- (3) The Minister can extend the period of rectified action after such an request has been received by the applicant and reviewed favourably.
- (4) If the action is not taken within the time specified in the notice, or in the extended period stated in (3) , the Minister may -
- (a) carry out any works and take any other action necessary to rectify the contravention and recover its reasonable costs from the person on whom the notice was served; or
 - (b) apply to a competent court for appropriate relief.

Compliance with Agricultural Land Use Authorisation and Commencement of Registration of Ownership

- 44.** (1) Unless authorised under this Act, a surveyor-general or a registrar of deeds may not, in terms of the Land Survey Act No. 8 of 1997, Deeds Registries Act No. 47 of 1937 or Sectional Titles Act No. 95 of 1986, in respect of agricultural land -
- (a) accept an application in respect of a sub divisional diagram, servitude diagram or other plan showing subdivision of land, or a registration of rights in immovable property which in effect may amount to a subdivision of land, or
 - (b) permit a new land parcel to be created as a result of a sub divisional diagram, servitude diagram or other plan showing subdivision of land, or a registration of rights in immovable property which in effect may amount to a subdivision of land.

Contravention Directive

- 45.** (1) If an official considers that a person is contravening or is about to contravene a provision of this Act or the regulations or authorisation issued under the Act, the official, in accordance with the regulations, may direct that-
- (a) the contravention cease,
 - (b) the contravention cease to the extent specified by the directive;
 - (c) the person not take any action that would result in a contravention; or
 - (d) the person rehabilitate or restore the land, whichever is the most applicable to the state as before commencement of the contravention.

CHAPTER 5

AGRICULTURAL LAND REGISTER

Objective of National Agricultural Land Register

- 46.** (1) The objectives of the National Agricultural Land Register are to –

- (a) store and provide data and information for the preservation, sustainable use and management of the natural agricultural resources;
- (b) provide information for the implementation, management and administration of this Act; and
- (c) provide information to government, land users and the public –
 - (i) for research and development purposes;
 - (ii) for agricultural sector planning, Agro-ecosystems reports or other related reports; and
 - (iii) on the capability, suitability, potential, status and use of the natural agricultural resources.

Establishment of the Agricultural Land Register

47. (1) The Minister must, in accordance with the regulations,

- (a) establish and maintain a register of agricultural land,
- (b) register agricultural land and remove agricultural land from the registry, and
- (c) register in the Registry in which the registered agricultural land is situated, notice that the land is registered as agricultural land under this Act.

(2)(a) The Minister, in consultation with the MECs concerned, must, within a period not exceeding 12 months after the date of commencement of this Act, by notice in the Gazette, publish a binding framework for the design, establishment, operation and maintenance of the National Agricultural Land Register.

(b) The binding framework contemplated in paragraph (2) (a) must incorporate the information required as contemplated in this chapter.

(3) The Minister must–

- (a) in consultation with the Provincial Departments; and
- (b) within a period not exceeding 24 months after the date of commencement of this Act,
- (c) establish and maintain a registry of agricultural land,
- (d) register agricultural land and remove agricultural land from the registry, and

- (e) register in the registry in which the registered agricultural land is situated, notice that the land is registered as agricultural land under this Act, of which the Department is the preserver.
- (3) The Minister must ensure that the National Agricultural Land Register is fully operational as soon as is reasonably possible, but no later than 12 months, after the date of commencement of this Act
- (4)(a) All data custodians appointed under the Spatial Data Infrastructure Act (Act 54 of 2003) as well as all other organs of state or any entities in possession of applicable, verified and relevant spatial datasets and other information but not as yet appointed as data custodians and as identified within the binding framework stated in section 47 (2) (a) relating to agricultural land, , must make such information available to the Department for incorporation into the National Agricultural Land Register.
- (b) The Minister may incorporate the information contemplated in paragraph (a) in the National Agricultural Land Register as per section 47 (2) (a), as soon as it is established.

Appointment of Registrar

- 48.** (1) The Minister must appoint a Registrar of the National Agricultural Land Register who –
- (a) must be responsible for the National Agricultural Land Register; and
 - (b) may issue practice, procedural, formalities and fees directives by notice in the Gazette.

Application of Register

- 49.** (1) The National Agricultural Land Register is an electronic-based geo-referenced register of all agricultural land, whether –
- (a) public;
 - (b) private;
 - (c). held in any form of trust or custodianship, including tribal land or

(d) has an unknown deeds status

(2) The purpose of the National Agricultural Land Register is to manage, administer and monitor the use, preservation and loss of agricultural land in the Republic.

Content of Register

50. (1) The National Agricultural Land Register may, but not limited to, contain the following information:

(a) spatial information on all agricultural land, including –

(i) capability, suitability, potential and status of the natural agricultural resources ; and

(ii) socio-economic information;

(b) per agricultural land parcel–

(i) the use of agricultural land,

(ii) information on the landowner, company or trust; including the nationality and gender and where applicable the land user, and

(iii) any other information as may be prescribed by the Minister from time to time;

Updating of Register

51. (1) The Registrar must update the National Agricultural Land Register on a continuous basis,

(2) The Registrar must review the functionalities and requirements of the Agricultural Land Register on a yearly basis and ensure the updating of required functionalities; development platforms and incorporation of newly updated applicable spatial data sets.

Data collection process

- 52.** (1) The Registrar must ensure that all data collection processes contemplated in this Act comply with the national Spatial data Infrastructure Act (Act 54 of 2003) and any regulations determined in respect of this Act.

Information sharing

- 53.** (1) The Registrar of Deeds must note –
- (a) the detailed categorisation of agricultural land use zones ,–
 - (2) The information in the Deeds Registry contemplated in subsection (1) must be linked to the National Agricultural Land Register.

Access to Information in Register

- 54.** (1) The Registrar may, on conditions and upon payment of the fees prescribed by him or her, permit a person to –
- (a) access sections of the National Agricultural Land Register, and
 - (b) make copies of those records or extracts from those registers and to obtain such other information concerning agricultural land or other documents registered or filed in the registry.
- (2) Notwithstanding anything to the contrary in any other law contained, no person, including the State, is exempted from the payment of the prescribed fees referred to in subsection (1).

Responsibilities of National, Provincial and Local Government

- 55.** (1) Every entity within the national, provincial and local spheres of government and every state-owned enterprise must provide all relevant information relating to agricultural land when requested in writing by the Registrar.

Registries

56. (1) Every person required to lodge a notification of ownership or trustee notification of ownership with the registrar under any provisions of this Act must be deemed to have complied with the requirements of this Act if that person –
- (a) within the period specified in that section; and
 - (b) lodges with the relevant registering authority a duly completed notification of ownership or trustee notification of ownership, as the case may require; contemporaneously with such other documents as are required to be lodged with that registering authority to enable the registration or recording of the relevant acquisition.
- (2) Any document that is lodged with a deeds registry for purposes of the registration or recording of the acquisition of an interest in agricultural land to which this Act applies, must, even though the acquisition was made before the commencement of this Act, be accompanied by—
- (a) a notification of ownership or trustee notification of ownership, as the case may be; or
 - (b) a certificate of exemption referred to in subsection (3); or
 - (c) evidence, in the prescribed form, that a notification of ownership or trustee notification of ownership has been lodged with the Registrar, in respect of that acquisition, contemporaneously with such other documents as are required to be lodged with the deeds registry to enable the registration or recording of such acquisition.
- (3) Where the acquisition of an interest in agricultural land occurred prior to the commencement of this Act, the Registrar may, in his or her discretion, issue a certificate of exemption in the prescribed form in respect of such acquisition, exempting such acquisition from the requirements of subsection (2)(a) and (c).
- (4) Notwithstanding the provisions of any other law, a registrar of deeds may not register or record in the register or records of the deeds registry any

documents lodged with that deeds registry after the commencement of this Act, in respect of an acquisition of an interest in agricultural land, if the deeds registry is not satisfied that the requirements of subsection (2) have been complied with.

- (5) A copy of every notification of ownership or trustee notification of ownership, as the case may be, lodged with a deeds registry in accordance with the provisions of this section, must be provided to the Registrar by such deeds registry within 30 calendar days from the date of the registration or recording of the acquisition in respect of which it was lodged with that deeds registry.

CHAPTER 6

GENERAL AND MISCELLANEOUS PROVISIONS

Delegation

- 57.** (1) The Minister may delegate any power or assign any duty, other than a power or duty referred to in subsection (4), and the performance of any of his or her duties, to-
- (a) the holder of an office in the Department;
 - (b) a named official in the Department;
 - (c) an organ of state;
 - (d) a person who or which is not an organ of state.
- (2) The Minister may permit a person or organ of state to whom a power or duty has been assigned or delegated to delegate that power or duty further.
- (3) A delegation or assignment referred to in subsection (1) and the permission referred to in subsection (2)-
- (a) must be in writing;
 - (b) may be subjected to conditions;
 - (c) must specify the period of delegation
 - (d) do not prevent the exercise of the power or the performance of the duty by the Minister himself or herself.

- (4) The Minister may not delegate the power or duty-
 - (a) to assign;
 - (b) to make regulations; or
 - (c) to develop policy;
- (5) The delegation of any power or the assignment of any duty does not –
 - (a) divest the Minister of the accountability concerning the exercising or carrying out of the delegated or assigned power or duty; or
 - (b) prevent a competent authority from exercising that power or duty.
- (6) The Minister may at any time withdraw or amend, in writing, any delegation or assignment.

Regulations

- 58.** (1) The Minister must, after public consultation, make regulations consistent with this Act prescribing-
- (a) Norms and standards,
 - (b) Policies,
 - (c) Directives,
 - (d) Procedures
 - (e) Application requirements
- any other matter that may facilitate the administration of this Act.

Taxation on the Change of Agricultural Land Use to Non-Agricultural Uses

- 59.** (1) The Minister, in consultation with the Minister responsible for finance, must develop taxation strategies with the objective to –
- (a) discourage the conversion of agricultural land to other non-agricultural uses;
 - (b) encourage the optimal utilisation of agricultural land for agricultural purposes; and
 - (c) establish a trust fund to be utilised for promoting agricultural production

- (2) The taxation strategies contemplated in subsection (1) must be prescribed in regulations.

Offences

- 60.** (1) A person is guilty of an offence if he or she wilfully and unlawfully –
- (a) commits an act or an omission which results in the –
 - (i) contravention of; or
 - (ii) failure to comply with,
any provision of this Act;
 - (b) aids and abets the commission of an act or an omission which results in the –
 - (i) contravention of; or
 - (ii) failure to comply with,
any provision of this Act;
 - (c) makes a false disclosure on any matter required in terms of this Act, or
 - (d) commits an act or an omission to avoid the application of this Act.
- (2) A person is guilty of an offence if he or she wilfully and unlawfully obstructs, hinders or opposes, or attempts to obstruct, hinder or oppose, an authorised person from performing his or her functions contemplated in this Act.

Penalties

- 61.** (1) Any person convicted of any offence contemplated in section 60, may be sentenced to –
- (a) a fine or in the case of an offence referred to in section –
 - (i) 60(1)(a), to imprisonment for a period not exceeding 5 years;
 - (ii) 60(1)(b), to imprisonment for a period not exceeding 2 years;
 - (iii) 60(1)(c), to imprisonment for a period not exceeding 5 years; and
 - (iv) 60(2), to imprisonment for a period not exceeding 5 years; and
 - (b) in the event of a serious or repeated transgression, both a fine and imprisonment.

(2) Any person convicted of the offence of avoidance contemplated in section 60(1)(d), may be sentenced –

- (a) on the first conviction, to a fine or imprisonment of 1 year, or both; or
- (b) in the event of repeated transgressions, to a fine or imprisonment amounting to double the amount or period, or both, as applicable, of the sentence on the previous conviction.

(3) A court may, in an appropriate case –

- (a) order that the land be rehabilitated or restored to its previous agricultural state or potential, whichever is the most achievable; or
- (b) in the absence of full disclosure of the information required in terms of this Act, order the person concerned to comply with the prescripts of this Act.

Repeal of Laws

62.(1) The Subdivision of Agricultural Land Act, Act 70 of 1970, is hereby repealed.

Transitional Arrangements

63. (1) Anything done or deemed to have been done under a provision repealed by this Act—

- (a) remains valid to the extent that it is consistent with this Act until anything done under this Act overrides it: and
- (b) subject to paragraph (a) is considered to be an action under the corresponding provision of this Act.

(2) Any consent granted is valid for the period specified or for a period of 3 years, whichever is applicable.

Short Title and Commencement

64. (1) This Act is called the Preservation and Development of Agricultural Land Act, 2016, and comes into operation on a date fixed by proclamation in the Gazette.