

Agriculture, Aquaculture & Fishing and Real Estate Law



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SOUTH AFRICA

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The Preservation and Development of Agricultural Land Bill: Where to next?

For decades, the primary piece of legislation influencing agricultural land development has been the Subdivision of Agricultural Land Act 70 of 1970 (Act). The Act was repealed by the Subdivision of Agricultural Land Act Repeal Act 64 of 1998 (Repeal Act), however, more than 25 years later, the Repeal Act is yet to have come into full effect, and we remain primarily bound to the provisions of the Act. The aim of the Act is to prevent the fragmentation of agricultural land for the preservation of sustainable and economically viable farming activities by imposing regulations and procedures for the subdivision, control and development of such land.

The landscape of the agricultural sector has changed vastly in recent years, influenced by shifting environmental and other factors, including sustainability and food security for future generations. The Act and Repeal Act, in many ways, fall short of being able to address the everchanging environmental, economic and social effects that are inseparable from the context of agricultural activity and the land on which it is conducted.

The Preservation and Development of Agricultural Land Bill (Bill) has a greater focus on strategies and measures to preserve agricultural land while promoting sustainable agriculture and supporting agricultural development within a more fluid and adaptable framework. The Bill further seeks to create a more co-ordinated national framework for managing agricultural land by, amongst other things, aligning with other applicable legislation around land use management, including the Spatial Planning and Land Use Management Act 16 of 2013.

Features of the Bill

The Bill features several innovative and forward-looking objectives, including:

- Establishing an evaluation and classification system for agricultural land to assess the capability, sustainability and potential use of such land at both national, provincial and local level.
- The preparation of provincial agricultural sector plans, intended to be published within five years of the commencement of the Bill.
- The declaration of protected agricultural areas, with the aim of protecting high-value agricultural land.
- Establishing procedures to declare, review, withdraw and amend protected agricultural areas, which areas should be reviewed at least every five years.
- Listing of activities that may not commence on agricultural land, including the establishing of procedures to delist or amend such activities prohibited on agricultural land and identifying competent authorities to be responsible for granting agro-ecosystem authorisations in respect of such activities on agricultural land.
- The establishment of committees to achieve the objectives of the Bill as well as the appointment of technical and other advisors to advise the Minister of Agriculture (Minister) or a competent authority (as identified in the Bill), on the performance of their functions.

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Over and above decentralising certain functions and procedures related to agricultural land and empowering provincial and local spheres of Government to promote sustainable agricultural practices through the provincial agricultural sector plans, the Bill further aims to establish a more transparent environment around information related to agricultural land across South Africa. The Bill mandates that the Minister must publish a monitoring, evaluation and assessment framework on the effective and efficient administration of the Bill, to ensure the proper exercise of powers, performance of functions and duties under the Bill are carried out.

The Bill further provides for the establishment of a national agro-eco information system to facilitate the capture, management, maintenance, integration, distribution and use of information on agricultural land. Such information captured may include a record of all agricultural land, protected agricultural areas, spatial information on agricultural land including agricultural potential, capability, sustainability, conservation status and socio-economic information.

For the interim, the Bill will amend the Repeal Act, which will continue to provide for certain transitional arrangements in respect of applications and appeals in terms of the Act, notwithstanding its repeal. Specifically, any application or other process in terms of the Act, that, at the commencement of the Repeal Act, has not been decided or otherwise disposed of, must be continued and disposed of, as if the Act had not been repealed. Further, any consent granted under the Act shall remain valid for the specified period or if not specified, for a period of five years from the date of commencement of the Repeal Act.

Capability to address gaps

The Bill, through its many objectives, certainly has the capability to address gaps in the existing legislative framework, and to create a more effective and suitable tool for the preservation, management and maintenance of agricultural land in South Africa. The creation of mechanisms for monitoring compliance and enforcing regulations, a platform for the capturing of information on agricultural land and related databases, as well as the inclusion of technical experts as advisors to the Minister, bodes well for the alignment of constitutional principles of access to sufficient food on a sustainable basis with environmental, social and economic development within the agricultural sector.

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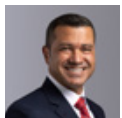
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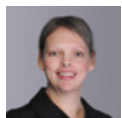
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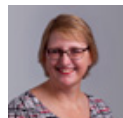
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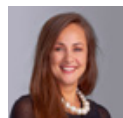
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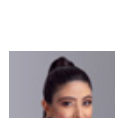
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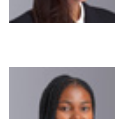
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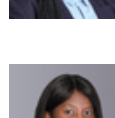
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Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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