

REPUBLIC OF SOUTH AFRICA

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# **RURAL DEVELOPMENT AND LAND REFORM GENERAL AMENDMENT BILL**

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*(As introduced in the National Assembly (proposed section 75); explanatory summary of  
Bill published in Government Gazette No. 33500 of 3 September 2010)  
(The English text is the official text of the Bill)*

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(MINISTER OF RURAL DEVELOPMENT AND LAND REFORM)

**[B 33—2010]**

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[ ] Words in bold type in square brackets indicate omissions from existing enactments.

Words underlined with a solid line indicate insertions in existing enactments.

**To amend various laws under the administration of the Minister of Rural Development and Land Reform, so as to substitute certain obsolete definitions to ensure legal certainty; to effect certain consequential amendments in this regard; and to provide for matters connected therewith.**

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 2 of Act 47 of 1937, as amended by section 1 of Act 43 of 1957, section 1 of Act 43 of 1962, section 1 of Act 87 of 1965, section 2 of Act 61 of 1969, section 2 of Act 3 of 1972, section 7 of Act 62 of 1973, section 2 of Act 27 of 1982, section 2 of Act 62 of 1984, section 1 of Act 14 of 1993, section 10 of Act 11 of 1996, Proclamation R9 of 31 January 1997, section 35 of Act 47 of 1997 and section 1 of Act 93 of 1998**

**1. Section 2 of the Deeds Registries Act, 1937, is hereby amended by the substitution for subsection (1C) of the following subsection:**

“(1C) The Minister may delegate any power conferred on him or her by this section, to the Director-General: **[Land Affairs]** Rural Development and Land Reform or a Deputy Director-General in the Department of **[Land Affairs]** Rural Development and Land Reform.”.

**Amendment of section 1 of Act 40 of 1961, as amended by section 6 of Act 89 of 1993 and section 1 of Act 11 of 1995** 15

2. Section 1 of the Kimberley Leasehold Conversion to Freehold Act, 1961, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:  
“**‘Minister’** means the Minister of **[Land Affairs]** Rural Development and Land Reform;”.

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**Amendment of section 1 of Act 48 of 1961, as amended by section 1 of Act 28 of 1968, section 1 of Act 66 of 1982, section 1 of Act 47 of 1987, section 1 of Act 19 of 1988, section 36 of Act 9 of 1989, section 7 of Act 108 of 1993, Proclamation R41 of 25 March 1994 and Proclamation 67 of 7 July 1995**

3. Section 1 of the State Land Disposal Act, 1961, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister of [**Land Affairs**] Rural Development and Land Reform in the National Government;”.

**Amendment of section 1 of Act 84 of 1967, as amended by section 11 of Act 108 of 1993 and Proclamation R160 of 31 October 1994**

4. Section 1 of the Removal of Restrictions Act, 1967, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister of [**Regional and Land Affairs**] Rural Development and Land Reform;”.

**Amendment of section 1 of Act 40 of 1984, as amended by section 1 of Act 37 of 1986, section 1 of Act 66 of 1987, section 1 of Act 34 of 1993, Proclamation 66 of 7 July 1995 and section 49 of Act 8 of 1997**

5. Section 1 of the Professional and Technical Surveyors’ Act, 1984, is hereby amended by the substitution for the definitions of “**department**” and “**Minister**” of the following definitions:

“ ‘**department**’ means the Department of [**Regional and Land Affairs**] Rural Development and Land Reform;

‘**Minister**’ means the Minister of [**Regional and Land Affairs**] Rural Development and Land Reform;”.

**Amendment of section 12 of Act 40 of 1984, as amended by section 8 of Act 34 of 1993 and section 11 of Act 170 of 1993**

6. Section 12 of the Professional and Technical Surveyors’ Act, 1984, is hereby amended by the substitution in subsection (1) for paragraphs (b) and (c) of the following paragraphs, respectively:

“(b) two persons nominated by the Minister of [**National Education**] Higher Education and Training from persons in the full-time service of every technikon or college providing instruction in surveying;

(c) one person nominated by the Minister of [**National Education**] Higher Education and Training from persons in the service of the State;”.

**Amendment of section 8 of Act 95 of 1986, as amended by section 11 of Act 7 of 1992 and section 4 of Act 44 of 1997**

7. Section 8 of the Sectional Titles Act, 1986, is hereby amended by the substitution for the words following paragraph (g) of the following words:

“and in the case of land surveyors, the Director-General[**: Land Affairs**] of Rural Development and Land Reform or in the case of architects, the Director-General: Public Works, or any other official authorized thereto by the Director-General concerned, may refer a complaint in this regard to the relevant Council for investigation and the taking of such steps as the Council may deem fit.”.

**Amendment of section 54 of Act 95 of 1986, as amended by section 22 of Act 63 of 1991, section 11 of Act 7 of 1992 and section 26 of Act 44 of 1997**

8. Section 54 of the Sectional Titles Act, 1986, is hereby amended—

(a) by the substitution in subsection (2)(c) for subparagraph (vi) of the following subparagraph:

“(vi) an official of the Department of [**Land Affairs**] Rural Development and Land Reform.”; and

(b) by the substitution for subsection (5) of the following subsection:

“(5) When any nomination in terms of subsection (2)(c)(i), (ii), (iii) or (iv) becomes necessary, the body concerned shall at the request of the Director-General[**: Land Affairs**] of Rural Development and Land Reform furnish the nomination required for appointment to the regulation board, within a period of 60 days from the date of such request, failing which the Minister may appoint, subject to the provisions of that subsection, any suitable person as a member in place of the person he or she would have appointed if the said body had not so failed to nominate a person.”.

**Amendment of section 1 of Act 112 of 1991, as amended by section 30 of Act 108 of 1993, section 8 of Act 11 of 1995 and section 1 of Act 34 of 1996**

9. Section 1 of the Upgrading of Land Tenure Rights Act, 1991, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister of [**Land Affairs**] Rural Development and Land Reform;”.

**Amendment of section 22 of Act 112 of 1991, as amended by section 12 of Act 11 of 1995 and section 9 of Act 34 of 1996**

10. Section 22 of the Upgrading of Land Tenure Rights Act, 1991, is hereby amended—

(a) by the substitution for the heading of the following heading:

“**Transfer of certain offices to the Department of [Public Works and Land Affairs] Rural Development and Land Reform**”;

(b) by the substitution in subsection (1) for the words following paragraph (b) of the following words:

“and which has been established in the Department of Development Aid or in any department under the control of the government of a territory, which after the commencement of that Constitution, forms part of the national territory, is hereby transferred to the Department of [**Land Affairs**] Rural Development and Land Reform.”; and

(c) by the substitution in subsection (2) for paragraphs (a) and (b) of the following paragraphs, respectively:

“(a) the control of such an office and all registers, books, plans, diagrams, records and other documents relating to the affairs of such office, shall vest in the Director-General[: **Land Affairs**] of Rural Development and Land Reform; and

(b) the officers and employees attached to such office shall, subject to subsection (3), perform their functions as if they were seconded to the Department of [**Land Affairs**] Rural Development and Land Reform.”.

**Amendment of section 1 of Act 125 of 1991, as amended by section 20 of Act 89 of 1993**

11. Section 1 of the Physical Planning Act, 1991, is hereby amended by the substitution for the definitions of “**Department**”, “**Director-General**” and “**Minister**” of the following definitions, respectively:

“ ‘**Department**’ means the Department of [**Regional and Land Affairs**] Rural Development and Land Reform;

‘**Director-General**’ means the Director-General[: **Regional and Land Affairs**] of Rural Development and Land Reform;

‘**Minister**’ means the Minister of [**Regional and Land Affairs**] Rural Development and Land Reform;”.

**Amendment of section 27 of Act 125 of 1991**

12. Section 27 of the Physical Planning Act, 1991, is hereby amended by the substitution in subsection (1) for the proviso to paragraph (d) of the following proviso:

“Provided that without the prior written approval of the Minister of Agriculture, Forestry and Fisheries, or an officer designated by him or her, no permission shall be granted in terms of any law for the subdivision of land which in terms of the relevant plan may be used for agricultural purposes as well as any other purpose.”.

**Amendment of section 1 of Act 111 of 1993, as amended by section 13 of Act 11 of 1995**

13. Section 1 of the Land Titles Adjustment Act, 1993, is hereby amended by the substitution for the definitions of “**Director-General**” and “**Minister**” of the following definitions, respectively:

“**‘Director-General’** means the Director-General of [Land Affairs] Rural Development and Land Reform;  
**‘Minister’** means the Minister of [Land Affairs] Rural Development and Land Reform.”.

**Amendment of section 14 of Act 111 of 1993, as amended by section 16 of Act 11 of 1995**

14. Section 14 of the Land Titles Adjustment Act, 1993, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Director-General may, subject to such conditions as he or she may deem necessary—  
 (a) delegate to an officer employed by the Department of [Land Affairs] Rural Development and Land Reform any power conferred upon him or her in terms of this Act; or  
 (b) authorise an officer employed by the Department of [Land Affairs] Rural Development and Land Reform to perform any duty assigned to him or her in terms of this Act.”.

**Amendment of section 1 of Act 119 of 1993, as amended by section 18 of Act 11 of 1995**

15. Section 1 of the Distribution and Transfer of Certain State Land Act, 1993, is hereby amended by the substitution for the definitions of “**Director-General**” and “**Minister**” of the following definitions, respectively:

“**‘Director-General’** means the Director-General of [Land Affairs] Rural Development and Land Reform;  
**‘Minister’** means the Minister of [Land Affairs] Rural Development and Land Reform.”.

**Amendment of section 16 of Act 119 of 1993, as amended by section 21 of Act 11 of 1995**

16. Section 16 of the Distribution and Transfer of Certain State Land Act, 1993, is hereby amended by the substitution in subsection (1) for paragraphs (a) and (b) of the following paragraphs, respectively:

“(a) delegate to an officer employed by the Department of [Land Affairs] Rural Development and Land Reform any power conferred upon him or her in terms of this Act; or  
 (b) authorize an officer employed by the Department of [Land Affairs] Rural Development and Land Reform to perform any duty assigned to him or her in terms of this Act.”.

**Amendment of section 1 of Act 126 of 1993, as amended by section 68 of Act 67 of 1995, section 1 of Act 26 of 1998 and section 1 of Act 58 of 2008**

17. Section 1 of the Land Reform: Provision of Land and Assistance Act, 1993, is hereby amended by the substitution for the definitions of “**Department**” and “**Minister**” of the following definitions, respectively:

“**‘Department’** means the [National Department responsible for Land Affairs] Department of Rural Development and Land Reform;  
**‘Minister’** means the Minister of [Land Affairs] Rural Development and Land Reform.”.

**Amendment of section 15 of Act 126 of 1993, as amended by section 9 of Act 26 of 1998**

18. Section 15 of the Land Reform: Provision of Land and Assistance Act, 1993, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) delegate to any officer in the Department of **[Land Affairs] Rural Development and Land Reform** any power conferred upon the Minister by this Act, except the power under section 14 to make regulations;”.

**Amendment of section 1 of Act 3 of 1994, as amended by section 1 of Act 9 of 1997**

19. Section 1 of the KwaZulu-Natal Ingonyama Trust Act, 1994, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister **[for Agriculture and Land Affairs]** of **Rural Development and Land Reform** of the National Government, or another Minister designated by the President;”.

**Amendment of section 1 of Act 22 of 1994, as amended by section 1 of Act 78 of 1996, section 2 of Act 63 of 1997 and section 1 of Act 18 of 1999**

20. Section 1 of the Restitution of Land Rights Act, 1994, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister of **[Land Affairs] Rural Development and Land Reform** or an officer in his or her Department designated by him or her;”.

**Amendment of section 7 of Act 22 of 1994, as amended by section 3 of Act 18 of 1999**

21. Section 7 of the Restitution of Land Rights Act, 1994, is hereby amended by the substitution for subsections (2A) and (2B) of the following subsections, respectively:

“(2A) The Director-General of **[Land Affairs] Rural Development and Land Reform** may delegate any power conferred upon him or her by or under this Act, except the power of delegation, to any member of the Commission, any officer of the State or any person contemplated in section 9.

(2B) A regional land claims commissioner may in consultation with the Chief Land Claims Commissioner and the Director-General of **[Land Affairs] Rural Development and Land Reform** delegate any power conferred upon him or her by or under this Act, except the power of delegation, to any other member of the Commission, any officer of the State or any person contemplated in section 9.”.

**Substitution of section 20 of Act 22 of 1994**

22. The following section is hereby substituted for section 20 of the Restitution of Land Rights Act, 1994:

**“Annual estimates of expenditure**

20. The estimates of expenditure in respect of each financial year shall, after being prepared by the Chief Land Claims Commissioner or an official contemplated in section 8(1) and designated by the Chief Land Claims Commissioner, be submitted, not later than the first day of August of the preceding financial year to the Director-General of **[Land Affairs] Rural Development and Land Reform**, who shall be the accounting officer.”.

**Amendment of section 38A of Act 22 of 1994**

23. Section 38A of the Restitution of Land Rights Act, 1994, is hereby amended by the substitution for the definition of “**Director-General**” of the following definition:

“ ‘**Director-General**’ means the Director-General of **[Land Affairs] Rural Development and Land Reform**;”.

**Amendment of section 42C of Act 22 of 1994, as amended by section 4 of Act 61 of 1998, section 11 of Act 18 of 1999 and section 3 of Act 48 of 2003**

24. Section 42C of the Restitution of Land Rights Act, 1994, is hereby amended by the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) to any officer in the Department of **[Land Affairs]** Rural Development and Land Reform;”.

**Amendment of section 42D of Act 22 of 1994, as amended by section 30 of Act 63 of 1997, section 12 of Act 18 of 1999 and section 4 of Act 48 of 2003**

25. Section 42D of the Restitution of Land Rights Act, 1994, is hereby amended by the substitution for subsections (3), (4) and (5) of the following subsections, respectively:

“(3) The Minister may delegate any power conferred upon him or her by subsection (1) or section 42C to the Director-General of **[Land Affairs]** Rural Development and Land Reform or any other officer of the State or to a regional land claims commissioner.

(4) The Director-General of **[Land Affairs]** Rural Development and Land Reform may with the consent of the Minister delegate to any officer of the State or a regional land claims commissioner any power delegated to the Director-General under subsection (3).

(5) Any delegation under subsection (3) or (4) may be made either in general or in a particular case or in cases of a particular nature and on such conditions as may be determined by the Minister or the Director-General of **[Land Affairs]** Rural Development and Land Reform, as the case may be, and the Minister or the Director-General is not thereby divested of any power so delegated.”.

**Amendment of section 1 of Act 2 of 1995, as amended by section 1 of Act 52 of 1996**

26. Section 1 of the Land Administration Act, 1995, is hereby amended by the substitution for the definitions of “**Director-General**” and “**Minister**” of the following definitions, respectively:

“ ‘**Director-General**’ means the Director-General[: **Land Affairs]** of Rural Development and Land Reform;

‘**Minister**’ means the Minister of **[Land Affairs]** Rural Development and Land Reform;”.

**Amendment of section 1 of Act 3 of 1996, as amended by section 32 of Act 63 of 1997 and section 1 of Act 51 of 2001**

27. Section 1 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended—

(a) by the substitution for the words preceding paragraph (a) of the definition of “**Director-General**” of the following words:

“ ‘**Director-General**’ means the Director-General of the Department of **[Land Affairs]** Rural Development and Land Reform or an officer—”;  
and

(b) by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister of **[Land Affairs]** Rural Development and Land Reform;”.

**Amendment of section 25 of Act 3 of 1996, as substituted by section 39 of Act 63 of 1997**

28. Section 25 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended by the substitution in subsection (3) for paragraph (e) of the following paragraph:

“(e) the Department of **[Land Affairs]** Rural Development and Land Reform.”.



### Amendment of section 42 of Act 3 of 1996

29. Section 42 of the Land Reform (Labour Tenants) Act, 1996, is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may, either in general or in a particular case or in cases of a particular nature, delegate any power conferred upon him or her by or under this Act, except the powers conferred upon him or her by section 41, to any officer of the Department of [Land Affairs] Rural Development and Land Reform.”.

### Amendment of section 1 of Act 28 of 1996

30. Section 1 of the Communal Property Associations Act, 1996, is hereby amended by the substitution for the definitions of “**Director-General**”, “**Minister**” and “**Registration Officer**” of the following definitions, respectively:

“ ‘**Director-General**’ means the Director-General[: Land Affairs] of Rural Development and Land Reform;

‘**Minister**’ means the Minister of [Land Affairs] Rural Development and Land Reform;

‘**Registration Officer**’ means an officer of the Department of [Land Affairs] Rural Development and Land Reform appointed by the Director-General as Registration Officer;”.

### Amendment of section 6 of Act 28 of 1996

31. Section 6 of the Communal Property Associations Act, 1996, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The Director-General shall, after receiving an application in terms of subsection (1), designate any officer in the Department of [Land Affairs] Rural Development and Land Reform or any other suitable person to provide the community with such assistance as may be required and available for the preparation of a draft constitution.”.

### Amendment of section 15 of Act 28 of 1996, as amended by section 6 of Act 61 of 1998

32. Section 15 of the Communal Property Associations Act, 1996, is hereby amended by the substitution in subsection (1) for paragraph (a) of the following paragraph:

“(a) delegate to any officer of the Department of [Land Affairs] Rural Development and Land Reform or, with the prior approval of the Premier of the province concerned, to any officer in the service of that provincial government, any power conferred upon him or her by or under this Act, either generally or in a particular case;”.

### Amendment of section 1 of Act 31 of 1996

33. Section 1 of the Interim Protection of Informal Land Rights Act, 1996, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister of [Land Affairs] Rural Development and Land Reform;”.

### Amendment of section 1 of Act 8 of 1997, as amended by section 8 of Act 61 of 1998, section 110 of Act 28 of 2002 and section 46 of Act 11 of 2004

34. Section 1 of the Land Survey Act, 1997, is hereby amended by the substitution for the definitions of “**Department**” and “**Minister**” of the following definitions, respectively:

“ ‘**Department**’ means the Department of [Land Affairs] Rural Development and Land Reform;

‘**Minister**’ means the Minister [for Agriculture and Land Affairs] of Rural Development and Land Reform;”.



**Amendment of section 1 of Act 62 of 1997, as amended by section 20 of Act 61 of 1998 and section 6 of Act 51 of 2001**

35. Section 1 of the Extension of Security of Tenure Act, 1997, is hereby amended by the substitution for the definitions of “**Director-General**” and “**Minister**” of the following definitions, respectively:

“ ‘**Director-General**’ means the Director-General of the Department of [**Land Affairs**] Rural Development and Land Reform or an officer of that Department who has been designated by the said Director-General either generally or in respect of a particular case, or in respect of cases of a particular nature;

‘**Minister**’ means the Minister [**responsible for Land Affairs**] of Rural Development and Land Reform or an officer of the Department of [**Land Affairs**] Rural Development and Land Reform who has been designated by the Minister either generally or in respect of a particular case, or in respect of cases of a particular nature: Provided that the powers referred to in section 28 shall be excluded from any such designation;”.

**Amendment of section 9 of Act 62 of 1997, as amended by section 10 of Act 11 of 2000**

36. Section 9 of the Extension of Security of Tenure Act, 1997, is hereby amended—

(a) by the substitution in subsection (2)(d) for subparagraph (iii) of the following subparagraph:

“(iii) the head of the relevant provincial office of the Department of [**Land Affairs**] Rural Development and Land Reform, for information purposes;”;

(b) by the substitution for the proviso to subsection (2) of the following proviso:

“Provided that if a notice of application to a court has, after the termination of the right of residence, been given to the occupier, the municipality and the head of the relevant provincial office of the Department of [**Land Affairs**] Rural Development and Land Reform not less than two months before the date of the commencement of the hearing of the application, this paragraph shall be deemed to have been complied with.”.

**Amendment of section 15 of Act 62 of 1997, as amended by section 26 of Act 61 of 1998**

37. Section 15 of the Extension of Security of Tenure Act, 1997, is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) The owner or person in charge shall beforehand give reasonable notice of any application in terms of this section to the municipality in whose area of jurisdiction the land in question is situated, and to the head of the relevant provincial office of the Department of [**Land Affairs**] Rural Development and Land Reform for his or her information.”.

**Amendment of section 1 of Act 94 of 1998**

38. Section 1 of the Transformation of Certain Rural Areas Act, 1998, is hereby amended by the substitution for the definition of “**Minister**” of the following definition:

“ ‘**Minister**’ means the Minister [**for Agriculture and Land Affairs**] of Rural Development and Land Reform;”.

**Amendment of section 10 of Act 94 of 1998**

39. Section 10 of the Transformation of Certain Rural Areas Act, 1998, is hereby amended by the substitution in subsection (2) for paragraph (d) of the following paragraph:

“(d) The Minister must inform the Minister for [**Provincial Affairs and Constitutional Development**] Cooperative Governance and Traditional Affairs timeously of his or her intention to make a recommendation referred to in paragraph (c) to the President.”.

#### Amendment of section 1 of Act 36 of 2002

40. Section 1 of the Planning Profession Act, 2002, is hereby amended by the substitution for the definitions of “**Department**” and “**Minister**” of the following definitions, respectively:

“ ‘**Department**’ means the [national department responsible for the planning profession] Department of Rural Development and Land Reform; 5  
 ‘**Minister**’ means the Minister [responsible for the planning profession] of Rural Development and Land Reform;”.

#### Amendment of section 1 of Act 54 of 2003

41. Section 1 of the Spatial Data Infrastructure Act, 2003, is hereby amended by the substitution for the definitions of “**Department**” and “**Minister**” of the following definitions, respectively: 10

“ ‘**Department**’ means the [national department responsible for Land Affairs] Department of Rural Development and Land Reform; 10  
 ‘**Minister**’ means the [national Minister responsible for Land Affairs] Minister 15  
 of Rural Development and Land Reform;”.

#### Amendment of section 5 of Act 54 of 2003

42. Section 5 of the Spatial Data Infrastructure Act, 2003, is hereby amended by the substitution in subsection (2)(c) for subparagraph (ii) of the following subparagraph:

“(ii) the national department of [Provincial and Local Government] Cooperative Governance and Traditional Affairs;” 20

#### Short title

43. This Act is called the Rural Development and Land Reform General Amendment Act, 2010.

**MEMORANDUM ON THE OBJECTS OF THE RURAL  
DEVELOPMENT AND LAND REFORM GENERAL  
AMENDMENT BILL, 2010**

**1. OBJECTS OF BILL**

The main objective of the Rural Development and Land Reform General Amendment Bill, 2010 (hereinafter referred to as the Bill), is to amend certain laws of which the administration, powers and functions have been transferred to the Minister of Rural Development and Land Reform in terms of Proclamation No. 44 of 1 July 2009, so as to substitute certain obsolete definitions and expressions and to effect consequential adjustments in order to create legal certainty with regard to the administration of these laws.

**2. CLAUSE BY CLAUSE ANALYSIS**

2.1 Section 2(1C) of the Deeds Registries Act, 1937, provides for the delegation of powers by the Minister to the Director-General: Land Affairs or a Deputy Director-General in the Department of Land Affairs. Clause 1 of the Bill amends this section in order to reflect the correct reference to the Director-General and the Minister.

2.2 The definition of “Minister” in section 1 of the Kimberley Leasehold Conversion to Freehold Act, 1961, refers to the Minister of Land Affairs. Clause 2 of the Bill therefore amends section 1 of this Act in order to reflect the correct reference to the Minister.

2.3 The definition of “Minister” in section 1 of the State Land Disposal Act, 1961, was amended by Proclamation 67 of 7 July 1995 to declare the Act applicable to the territories of the former Republics of Transkei, Bophuthatswana, Venda and Ciskei and the former self-governing territories of GaZankulu, KanGwane, KwaNdebele, Lebowa and QwaQwa. The then Minister of Land Affairs was made responsible for the administration of the Act in respect of state land within these areas. Section 1 is therefore amended in order to reflect the correct reference to the Minister as proposed in clause 3 of the Bill.

2.4 Section 1 of the Removal of Restrictions Act, 1967, still defines the “Minister” as the “Minister of Regional and Land Affairs”. Clause 4 of the Bill seeks to rectify this obsolete definition.

2.5 The definitions in section 1 of the Professional and Technical Surveyors’ Act, 1984, still define “Department” as the “Department of Regional and Land Affairs” and “Minister” as the “Minister of Regional and Land Affairs”. Clause 5 of the Bill proposes substitutions for these obsolete definitions.

2.6 Section 12 of the Professional and Technical Surveyors’ Act, 1984, requires of the “Minister of National Education” to nominate persons to serve as members of the education advisory committee established under the Act. The Minister of National Education is now referred to as the Minister of Higher Education and Training. Clause 6 of the Bill therefore seeks to rectify the situation.

2.7 Clause 7 of the Bill seeks to amend section 8 of the Sectional Titles Act, 1986, in order to reflect the correct reference to the Director-General.

2.8 Clause 8 of the Bill seeks to amend sections 54(2)(c)(vi) and 54(5) of the Sectional Titles Act, 1986, in order to effect certain consequential amendments.

2.9 Section 1 of the Upgrading of Land Tenure Rights Act, 1991, contains an obsolete expression by referring to the “Minister of Land Affairs”. The proposed amendment in clause 9 of the Bill seeks to rectify the situation.

2.10 Clause 10 of the Bill contains consequential changes to section 22(1) and (2) of the Upgrading of Land Tenure Rights Act, 1991.

2.11 The definitions in section 1 of the Physical Planning Act, 1991, still refer to the former Department of, Director-General of and Minister of, Regional and Land Affairs. Clause 11 of the Bill seeks to rectify the obsolete expressions by substituting these definitions.

2.12 In section 27 of the Physical Planning Act, 1991, reference is made to the Minister of Agriculture. This outdated reference is being corrected by clause 12 of the Bill, substituting the said reference with “Minister of Agriculture, Forestry and Fisheries”.

2.13 Clause 13 of the Bill proposes the substitution for the definitions of “Director-General” and “Minister” since the current definitions in section 1 of the Land Titles Adjustment Act, 1993, have also become obsolete.

2.14 In terms of section 14 of the Land Titles Adjustment Act, 1993, the Director-General has authority to delegate his or her power to or to authorise an officer employed by the Department of Land Affairs to execute the power or to perform duties in this regard. The proposed amendment to the “Department of Rural Development and Land Reform” in clause 14 of the Bill is a consequential amendment.

2.15 Clause 15 of the Bill amends section 1 of the Distribution and Transfer of Certain State Land Act, 1993, in order to substitute the definitions of “Director-General” and “Minister”, which have become outdated.

2.16 Section 16 of the Distribution and Transfer of Certain State Land Act, 1993, deals with the delegation of powers to officers employed by the Department of Land Affairs, as well as the authorisation of officers to perform duties assigned to them. The amendments proposed in clause 16 of the Bill are necessary to reflect the current Department of Rural Development and Land Reform.

2.17 The Land Reform: Provision of Land and Assistance Act, 1993, entrusts a variety of powers to the Minister. To ensure that the Minister’s powers are not contested, it is proposed that both the definitions of “Department” and “Minister” be amended to reflect the correct names of the Department and the Minister, as contained in clause 17.

2.18 The proposed amendment to section 15 of the Land Reform: Provision of Land and Assistance Act, 1993, which empowers the Minister to delegate powers to an officer in the Department of Land Affairs, is of a consequential nature and is contained in clause 18 of the Bill.

2.19 The definition of “Minister” in section 1 of the KwaZulu-Natal Ingonyama Trust Act, 1994, is outdated. Clause 19 of the Bill amends this section by substituting the definition in order to reflect the correct name of the Minister.

2.20 The definition of “Minister” in section 1 of the Restitution of Land Rights Act, 1994, refers to the “Minister of Land Affairs”. Clause 20 of the Bill seeks to correct the situation by substituting the definition of the Minister in order to reflect the correct name of the Minister.

2.21 Section 7(2A) and (2B) of the Restitution of Land Rights Act, 1994, makes provision for the delegation of certain powers by the Director-General of Land Affairs and a regional land claims commissioner. Clause 21 of the Bill seeks to substitute the expression “Land Affairs” for “Rural Development and Land Reform”.

2.22 Section 20 of the Restitution of Land Rights Act, 1994, requires of the Chief Land Claims Commissioner to submit an estimate of expenditure to the Director-General of Land Affairs. The amendment proposed in clause 22 of the Bill seeks to correct the situation by reflecting the correct name of the Department.

2.23 Clause 23 of the Bill proposes the amendment of the definition of “Director-General” in section 38A of the Restitution of Land Rights Act, 1994, to reflect the correct reference to the Director-General.

2.24 Section 42C(3)(a) of the Restitution of Land Rights Act, 1994, regulates the granting of an advance or subsidy for certain development purposes. These powers may be delegated by the Minister to an officer in the Department of Land Affairs. Clause 24 of the Bill amends section 42C(3)(a) in order to reflect the correct name of the Department.

2.25 The proposed amendments to section 42D(3), (4) and (5) of the Restitution of Land Rights Act, 1994, in clause 25 of the Bill, are all consequential amendments.

2.26 Clause 26 of the Bill amends section 1 of the Land Administration Act, 1995, in order to substitute the definitions of “Director-General” and “Minister” to reflect the correct references.

2.27 Clause 27 of the Bill amends section 1 of the Land Reform (Labour Tenants) Act, 1996, by substituting the definitions of “Director-General” and “Minister” in order to reflect the correct references.

2.28 Section 25 of the Land Reform (Labour Tenants) Act, 1996, is amended in order to reflect the correct name of the Department, as proposed in clause 28 of Bill.

2.29 Section 42(1) of the Land Reform (Labour Tenants) Act, 1996, deals with the authority of the Minister to delegate any power conferred upon him or her to an officer of the Department of Land Affairs. Clause 29 of the Bill amends section 42(1) in order to reflect the correct reference.

2.30 Clause 30 of the Bill amends the Communal Property Associations Act, 1996, in order to substitute certain outdated definitions in section 1 of this Act to ensure legal certainty.

2.31 The amendment of section 6(2) of the Communal Property Associations Act, 1996, as contained in clause 31 of the Bill, is consequential in nature.

2.32 Section 15(1)(a) of the Communal Property Associations Act, 1996, empowers the delegation of powers to, inter alia, an officer of the Department of Land Affairs. Clause 32 of the Bill amends this section in order to reflect the correct name of the Department.

2.33 Clause 33 of the Bill amends section 1 of the Interim Protection of Informal Land Rights Act, 1996, by substituting the definition of “Minister” in order to reflect the correct reference.

2.34 Clause 34 of the Bill amends section 1 of the Land Survey Act, 1997, in order to substitute the definitions of “Department” and “Minister” to reflect the correct references.

2.35 Clause 35 of the Bill amends section 1 of the Extension of Security of Tenure Act, 1997, by substituting the definitions of “Director-General” and “Minister”, which have become obsolete.

2.36 Clause 36 of the Bill amends section 9(2) of the Extension of Security of Tenure Act, 1997, in order to reflect the correct name of the Department.

2.37 Clause 37 of the Bill amends section 15(2) of the Extension of Security of Tenure Act, 1997, in order to reflect the correct name of the Department.

2.38 Clause 38 of the Bill proposes the amendment of the obsolete definition of “Minister” in section 1 of the Transformation of Certain Rural Areas Act, 1998.

2.39 Section 10(2)(b) of the Transformation of Certain Rural Areas Act, 1998, contains a reference to the former Minister for Provincial Affairs and Constitutional Development. Clause 39 of the Bill seeks to amend this section in order to reflect the correct reference.

2.40 Section 1 of the Planning Profession Act, 2002, defines “Department” as the “national department responsible for the planning profession” and the “Minister” as “the Minister responsible for the planning profession”. These expressions may give rise to interpretation problems and legal uncertainty. Section 1 is therefore amended by clause 40 of the Bill in order to reflect the correct references.

2.41 Clause 41 of the Bill amends section 1 of the Spatial Data Infrastructure Act, 2003, in order to reflect the correct references to the Department and the Minister.

2.42 The amendment proposed in clause 42 of the Bill is consequential in nature.

2.43 Clause 43 contains the short title of the Bill.

### **3. FINANCIAL IMPLICATIONS FOR STATE**

None.

### **4. DEPARTMENTS/BODIES/PERSONS CONSULTED**

All the proposed amendments are technical in nature and do not affect any policy or legal principles. The amendments are aimed at ensuring legal certainty by amending outdated and obsolete definitions. The Departments of Cooperative Governance and Traditional Affairs, Higher Education and Training, as well as Agriculture, Forestry and Fisheries, were consulted.

### **5. CONSTITUTIONAL IMPLICATIONS**

None.

### **6. COMMUNICATION IMPLICATIONS**

None.

### **7. PARLIAMENTARY PROCEDURE**

7.1 The State Law Advisers and the Department of Rural Development and Land Reform are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution, since it contains no provision to which the procedure set out in section 74 or section 76 of the Constitution applies.

7.2 The State Law Advisers are of the opinion that it is not necessary to refer this Bill to the National House of Traditional Leaders in terms of section 18(1)(a) of the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), since it does not contain provisions pertaining to customary law or customs of traditional communities.