

New Bill proposes establishment of a Land Commission

Rural Development and Land Reform Minister Gugile Nkwinti says the department will soon table a Bill that will enable the establishment of a Land Commission that will help the state to conduct a comprehensive land audit.



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The Minister said this when he briefed the media at the Imbizo Centre in Parliament on Tuesday, 28 March 2017.

He said the Regulation of Agricultural Land Holdings Bill has been put out for public comment and will soon – in the course of the current financial year – be introduced in Parliament.

“The Bill introduces a Land Commission because people who own land in South Africa must register with that Land Commission ... so that we know who owns South Africa so that we can use that as a measure to determine the extent to which land is being redistributed in the country,” he said.

The Minister said the Land Commission would be able to assist the state to determine the true extent of land ownership in the country.

He said land audits by the department have not been able to reveal the actual ownership and uses of land in South Africa

as several parcels of land are administered by different departments.

For example, some parcels of land are owned by Trusts, which he said were administered by the Department of Justice, while land that is under the ownership of commercial companies is overseen by the Department of Trade and Industry under the Companies Act.

“So we don’t know a lot of the shareholders. In terms of this law, all of them will have to register with the Commission so that we will know who owns South Africa ... so that we have a regime that even those people who are foreign nationals in South Africa will lease land.

The Minister said the Land Commission will “serve as the primary structure to oversee the collection, maintenance and dissemination of all information regarding public agricultural land and private agricultural land (land owned by South Africans, and that is held by foreign persons)”.

He said once the Bill is passed into law, key instruments of the Land Commission will include:

- A register of agricultural land holdings;
- Disclosures in respect of the present ownership of private agricultural landholdings, including the race, gender and nationality of the owner, the use and size of the agricultural land holding and any real right registered against and licence allocated to the agricultural land holding;
- Prohibition on the acquisition of agricultural land holding by a foreign person;
- Lease of agricultural land holding by a foreign person;
- Disposal of agricultural land holding by a foreign person;
- Determination of categories of ceilings of agricultural land holdings for each district, by the Minister by notice in the Gazette, after consultation with the Commission and having regard to such criteria and factors as may be prescribed;
- Redistribution of agricultural land which is all agricultural land holdings that fall between or exceeds any category of agricultural land holding, and
- First right of refusal by the state in respect of redistribution agricultural land.

“[What the Bill] seeks to do in terms of pursuing that objective of the ANC resolution is that irrespective of the colour of the skin of the owner of the land, what it seeks to achieve is setting ceilings in terms of small scale, medium scale commercial viable farm and large scale, so that our people must then participate in this debate.. so that they have a voice to determining the extent to which a large scale commercial viable farm should be given the various pragmatic conditions across the country,” he said.

The Minister said, meanwhile, that Bills that will undergo Parliamentary processes during the course of the current financial year will include Extension of Security of Tenure Amendment Bill; the Communal Land Tenure Bill; the Communal Property Association Amendment Bill; the Land Valuation Regulations under the Property Valuation Act of 2014 and the Common Property Associations Amendment Bill.

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