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INDUSTRY

Questions hang over foreign ownership of SA's agricultural land

Ray Mahlaka



There is little movement on government's ambition to clamp down foreign land ownership through the controversial Regulation of Land Holdings Bill.

Many months after the Bill, which seeks to restrict foreign ownership of agricultural land, was mooted – it is yet to be presented to Cabinet for approval.

In fact, the last public announcement from the government on the Bill was during President Jacob Zuma's 2016 State of the Nation Address, saying a draft bill will be presented to Cabinet in the first semester of the year. Initially, the Bill was meant to be submitted by August to test its constitutionality.

Rural Development and Land Reform Minister Gugile Nkwinti recently told Moneyweb that the Bill would soon become law, however she added that another option was for it was to make a debut in Parliament during last year's financial year (April 1 2015 to March 31 2016). [Read more here](#).

The department's spokesperson Linda Page says the Bill is currently with the office of the Chief State Law Advisors for "a pre-certification opinion".

Industry players have labelled the Bill as an attack on property rights – for it being out of sync with the Bill of Rights' provision of the right to property, and suggest it will have further negative consequences on the domestic economy.

Following the outcry on the Bill, the government went back to the drawing board and sent the Bill to State law advisors to address concerns about some aspects of the Bill in terms of its constitutionality.

Stipulations of the Bill

The Bill makes provisions for reducing land ownership by foreign nationals to leaseholds for a minimum of 30 years to a maximum of 50 years. South African landowners are also mentioned in the Bill, as it places a 12 000-hectare land ownership ceiling for locals. If the ownership of land by locals exceeds 12 000 hectares then the portion of land above the ceiling will be redistributed.

Redistribution of land will be done on the basis of "a just and equitable principle" when it comes to remuneration for the landowner, the department says.

The apparent delays with the Bill are creating uncertainty in the industry and questions have emerged about whether the government is still forging ahead with land ownership limitations.

The head of policy research at the Institute of Race Relations Dr Anthea Jeffery says she is not aware of any public consultation processes in place for the Bill before it can be sent for assent to the president. "There has been no consultation. I think the Bill is still being assembled, but it needs to be debated in Parliament," says Jeffery.

The Bill will apply to agricultural land ownership, often referred to as productive land, and not residential property. Industries such as game farming, forestry, and renewable energy, which usually take up large tracts of land are already believed to be above the land ownership ceiling – and might be subject to a review once the Bill is enacted. It has been reported largely in the media that up until 2007, less than 5% of agricultural land was owned by foreigners.

Land reform

The department is yet to establish a land commission, which will act as a regulator in enforcing the declaration of agricultural land by locals and foreign nationals.

The government believes that limiting land ownership for foreign nationals is an international practice by countries like Australia, Thailand, Cambodia, the Philippines, and more. South Africa is considered lax when it comes to foreign land ownership.

Also, the government has been at pains to link the rationale of the Bill to securing limited land for food



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security and fast-tracking land reform. On the latter, government re-opened the land claims process until 2019 for individuals dispossessed of land due to the promulgation of the 1913 Natives Land Act. Over 120 000 claims have been lodged with the Commission on Restitution of Land Rights as of December 2015, latest figures from government show.



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