

SC LAND
8.03.14



FREE STATE LEGISLATURE

PORTFOLIO COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT
Negotiating Mandate

TO: Chairperson of the Select Committee on Land and Environmental Affairs

NAME OF BILL: Restitution of Land Rights Amendment Bill

NUMBER OF BILL: B35B-2013

DATE OF DELIBERATION: 17 March 2014

INPUTS FROM THE LEGISLATURE: Proposal for the insertion of a sub section in the amendment of section 22(4) to allow the President to appoint also the retired judges with knowledge, experience and expertise in land matters.

The Portfolio Committee on Agriculture and Rural Development as designated by the Free State Legislature, votes in favour of the Bill.

MS. S. MAGWANDANA
CHAIRPERSON OF PORTFOLIO COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT
FREE STATE LEGISLATURE

17 March 2014

NEGOTIATING MANDATE

TO: HON AND QIKANI, MP
CHAIRPERSON OF SELECT COMMITTEE ON LAND
AND ENVIRONMENTAL AFFAIRS

NAME OF BILL: RESTITUTION OF LAND RIGHTS
AMENDMENT BILL

NUMBER OF BILL: B35B - 2013


DATE OF DELIBERATION: FRIDAY, 14 MARCH 2014

VOTE OF THE LEGISLATURE:

The Portfolio Committee on Agriculture and Rural Development met today, Friday, the 14th of March 2014 to consider the **Restitution of Land Rights Amendment Bill [B35B-2013]**.

The following comments and amendments were proposed and considered on the Bill and are attached hereto as Annexure A.

The Committee agreed to mandate the KwaZulu-Natal delegation to National Council of Provinces to support the bill subject to all proposed amendments being considered.


.....
HON RT MTHEMBU, MPL
CHAIRPERSON: PORTFOLIO COMMITTEE
ON AGRICULTURE AND RURAL DEVELOPMENT

14/03/14
.....
DATE

**AGRICULTURE AND RURAL DEVELOPMENT PORTFOLIO COMMITTEE
REPORT ON THE RESTITUTION OF LAND RIGHTS AMENDMENT BILL
[B35B-2013] IN TERMS OF RULE 229 OF THE STANDING RULES**

INTRODUCTION

In terms of section 42(4) of the Constitution, the National Council of Provinces represents provinces to ensure that provincial interests are taken into account in the national sphere of government by participating in the national legislative process. The Restitution of Land Rights Amendment Bill [B35B-2013] which is a Section 76 Bill in terms of the Constitution was referred to the Agriculture and Rural Development Portfolio Committee in terms of Rule 228(1). In turn, the Legislature was, in terms of section 118 of the Constitution, compelled to facilitate the public involvement in the legislative process of the legislature and its Committees.

METHOD OF WORK

The Committee subsequently had a briefing from the Department of Environmental Affairs in terms of Rule 229(1). Notwithstanding the limited time for public consultation process, two hearings were held on 12 and 13 March in Newcastle and Pietermaritzburg on 12 March and 13 March 2014 in Pietermaritzburg 2014. Oral submissions were presented to the Committee during its public hearings and calls for written submissions were opened until 13 March 2014.

The following oral submissions from Newcastle and Pietermaritzburg were received:

1. The re-opening of the claims process was supported.
2. The Bill must provide for the transfer of ownership of land to Amakhosi and they must have a prerogative to redistribute it.
3. Current claims must be treated as a priority as provided for by the Bill; and
4. There must be a direct compensation to the claimants instead of the Trustees or CPA's.

The following written submissions were received:

A. KwaZulu-Natal Agricultural Union

1. Kwanalu(KwaZulu-Natal Agricultural Union) is opposed to the re-opening of the claims process and if it this is not accepted the re-opening of the process must only be for a limited period of time with the maximum of six months is suggested.

2. Restitution process has been plagued with problems as after 19 years the process has still not been finalized and two Presidential deadlines for the settlement of all outstanding claims have not been met.
3. There should be no option for restoration of land which has already been claimed and where a settlement has been reached or the landowner has successfully defended the claim.
4. Reopening of the process will—
 - (a) delay the restitution process,
 - (b) impact directly on economic investment in rural areas;
 - (c) have uncalculated budgetary implications for many years to come;
 - (d) continue to impact negatively on other programmes of land reform; particularly redistribution and
 - (e) mean that the uncertainty around property rights and tenure will continue for many years beyond the cut-off date.

B. Canegrowers submission

1. Canegrowers does not support the proposed amendment to the Restitution of Land Act, 1994 which amends the cut-off date for lodging a claim for restitution.
2. The re-opening of the process will stall all other land reform initiatives.

C. Forestry South Africa submission

1. It is recommended that the Department resolves all the outstanding land claims before considering re-opening of the land claims lodgment window.
2. The Department must come up with a strategy that will—
 - (a) Put in place an effective business process to handle outstanding claims;
 - (b) Address its own administrative and research capacity problems;
 - (c) Address present and potential future land reform funding requirements;
 - (d) Secure funding commitments from Treasury; and
 - (e) Identify and sign-up appropriate mentors and other strategic partners.
3. It is further submitted that the window period be substantially reduced from five years to six months.

D. Centre for Law and Society and Legal Resources Centre submissions

1. It is submitted that if the claims process is re-opened, the existing claims must be ring-fenced and prioritized.

2. It is suggested that clause 2(b) will not ensure that the outstanding claims will be protected from interference as such ring-fencing is strongly proposed.

**E. Amendments proposed from the floor by Mark Steele MPL
Democratic Alliance:**

Clause 1:

Amend clause 1 to omit "[31 December 1998] 30 June 2019" and to substitute "[31 December 1998] 30 June 2015".

Insert the following words after "30 June 2015": "No claims will be entertained after this date, and no further window for the restitution of land claims shall be opened."

Insert a new clause 2(5): "2(5) A claim submitted after 31 December 1998 but before the date specified in section 2(1)(e) will be considered invalid, unless the claimant can show good cause as to why the claim was not lodged during the window period ending 31 December 1998."

Insert new Clause 2A:

Amend clause 4(3) by inserting the words "on recommendation from a multi-party committee of Parliament and approved by the National Assembly and the NCOP" after both instances of the word "Minister".

Clause 2:

Amend clause 6(1)(CA) by inserting the words "appoint through a competitive bidding process an independent service provider, registered with the Independent Regulatory Board for Auditors to" before the word "investigate".

Insert new Clause 3A:

Insert new clause 10(7): "10(7) Prior to accepting any claim, the Commission shall ensure that the land claims process is properly communicated through national and regional media, and through provincial and regional workshops."

Clause 3:

Amend clause 3 to include the words ", within 6 months of the date of commencement of this Act." Immediately after the word "situated".

Insert new Clause 4A:

Insert new clause 14(7A): "14(7A) The costs associated with referring any matter to the Land Claims Court, whether by the Commission, the claimant or the landowner, shall be borne by the State at the scale of attorney-and-client costs."

Clause 11:

Amend clause 11 to omit "[31 December 1998] 30 June 2019" and to substitute "[31 December 1998] 30 June 2015".

Clause 12:

Amend clause 12 to omit "[31 December 1998] 30 June 2019" and to substitute "[31 December 1998] 30 June 2015".

Insert new Clause 14:

Amendment of section 42 of Act 22 of 1994

14. Section 42E of the principal Act is hereby amended by the insertion of subsections (5) and (6):

(5) No provision of this Act shall give rise to any power on the part of the State to take into custodianship any land upon which a claim has been made.

(6) Where productive agricultural land is the subject of a land claim:

- i. and, within 6 months of the claim being gazetted, the landowner is willing to sell the land, restitution of an appropriate right in such land shall be transferred to the claimant/s only if a business plan approved by the Department and adequate funds, equipment, and other resources for ensuring the continued productivity of the land are provided by the Department and/or the claimant/s; or
- ii. the landowner is unwilling to sell the land, restitution shall be made:
 - (a) by transferring to the claimant/s an appropriate right in State-owned land or such land as the State may acquire;
 - or
 - (b) through financial compensation to the claimant/s.

Insert new Clause 15:

Insertion of Section 42G in Act 22 of 1994:

15. The following section is hereby inserted after section 43E of the principal Act:

Financial Arrangements

42F. No provision of this Act shall be of any force or effect unless a budget has been allocated to the Department in terms of the Medium Term Expenditure Framework which is sufficient to settle all claims arising from this Act within 6 years of the date referred to in s2(1)(e).

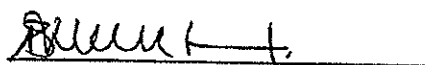
Renumber accordingly.

All written submissions support the provision that provides for the enhancement of the Land Claims Court and the Offences and Penalties amendment wherein the lodging of a land claim is a criminal offence.

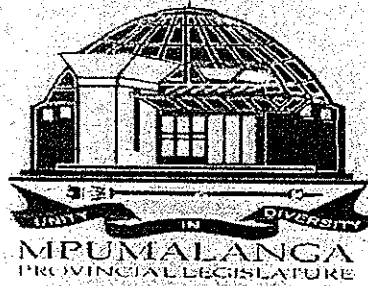
CONCLUSION

Having considered all the above proposals and the fact that some of the comments above propose amendments to the Restitution of Land Rights Amendment Bill, 2013, the Committee met on 14 March and agreed to support the Bill subject to all proposed amendments above being considered. The Democratic Alliance was opposed to supporting the Bill as the public consultation was limited and it viewed is as flawed and prejudicial to the members of the public who may have wanted to participate in the process.

The Committee confers authority on the provincial delegation to the NCOP to support the Bill. Negotiating mandate is attached as Annexure "A" of the report.



**HON RT MTHEMBU
CHAIRPERSON: AGRICULTURE AND RURAL DEVELOPMENT PORTFOLIO
COMMITTEE**



Office of the Chairperson

Portfolio Committee on Agriculture, Rural Development and Land Administration; Economic Development, Environment and Tourism

Enquiries: Hon RC Mahlobogoane

Email: RCMahlobogoane@mpuleg.gov.za

Tel. No: 013 766 1037/1402

NEGOTIATING MANDATE

To : The Chairperson: Select Committee on Land and Environmental Affairs

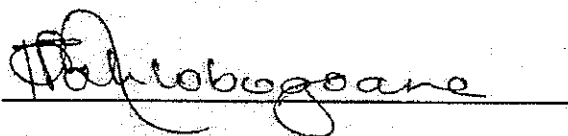
Name of the Bill : Restitution of Land Rights Amendment Bill

Number of the Bill : [B35B - 2013]

Date of Deliberation : 14 March 2014

Vote of the Legislature :

The Portfolio Committee on Agriculture, Rural Development and Land Administration; Economic Development, Environment and Tourism (the Committee) supports the objects of the Restitution of Land Rights Amendment Bill [B35B - 2013]. There are no proposed amendments. The Committee confers on the permanent delegate representing the Province of Mpumalanga in the National Council of Provinces, the mandate **to negotiate in favour of the Bill.**



HON RC MAHLOBOGOANE (MPL)

14. 03. 2014.

DATE

**CHAIRPERSON: PORTFOLIO COMMITTEE ON
AGRICULTURE, RURAL DEVELOPMENT AND LAND ADMINISTRATION;
ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM**



**PORTFOLIO COMMITTEE ON
AGRICULTURE, LAND REFORMED,
RURAL DEVELOPMENT,
ENVIRONMENT & CONSERVATION**

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Hon MP AND Qikani (Ms)
Chairperson: PC on Land and Environmental Affairs

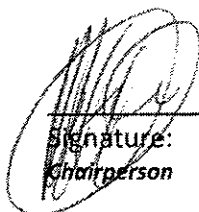
NEGOTIATING MANDATE

Name of the Bill: **Restitution of Land Rights Amendment Bill**

Number of the Bill: **B35B – 2013**

Date of deliberation: **Thursday, 13 March 2014**

Vote of the Legislature: **The legislature votes in favour of the Bill**


Signature:
Chairperson

13 MAR 2014

Date:



Private Bag X5066
Nobengula Extension
Galeshewe
Kimberley 8300

Fax: Admin (053) 839 8094
Tel: (053) 839 8121

Reference:

16.7.1.1

Enquiries: Thabo Jantjies

NEGOTIATING MANDATE FOR THE RESTITUTION OF LAND RIGHTS AMENDMENT BILL [B35B-2013]

(Section 76 Bill)

1. INTRODUCTION

The Chairperson of the Portfolio Committee on Agriculture, Land Reform and Rural Development, tables the Negotiating Mandate on the *Restitution of Land Rights Amendment Bill [B35B-2013]* as adopted by the Committee on *Thursday, 13 March 2014*.

2. PROCESS FOLLOWED

- 2.1** The Speaker of the Northern Cape Provincial Legislature, on receipt, referred the *Restitution of Land Rights Amendment Bill [B35B-2013]* to the Portfolio Committee on Agricultural, Land Reform and Rural Development on *Thursday, 27 February 2014*.
- 2.2** On *Thursday, 06 March 2014*, the Portfolio Committee on Agriculture, Land Reform and Rural Development received a briefing on the Bill from the Department of Rural Development, and the NCOP Permanent Delegate, Hon G Mokgoro.
- 2.3** The Portfolio Committee resolved at the meeting of *Thursday, 06 March 2014* to hold public hearings on the referred Bill, in Douglas, to solicit the views of communities and stakeholders with regard to the *Restitution of Land Rights Amendment Bill [B35B-2013]*

The Public Hearing was held on *11 March 2014* as per Committee resolution and both written and oral submissions were called for. The public engaged with the Members of the Provincial Legislature in respect of the Bill.

On *Thursday, 13 March 2014*, the Portfolio Committee on Agricultural, Land Reform and Rural Development deliberated and considered the *Restitution of Land Rights Amendment Bill [B35B-2013]*.

3. STAKEHOLDERS' INPUTS ON THE BILL

- There should be satellite offices of the Land Claims Commission in remote areas to assist persons, who are not financially and/or physically able, with the processes of lodging a claim.

- Written submissions were received from the following institutions that are based in Cape Town, namely;
 - The Centre for Law and Society
 - Rural Women's Action Research Programme
 - Legal Resources Centre

4. STAKEHOLDERS' POSITION ON THE BILL

The stakeholders voted in favour of the Bill.

5. COMMITTEE INPUTS ON THE BILL

None


6. PORTFOLIO COMMITTEE POSITION ON THE BILL

After due deliberation, the Portfolio Committee on Agriculture, Land Reform and Rural Development supports the Bill.

7. COMMITTEE ADOPTION OF THE BILL

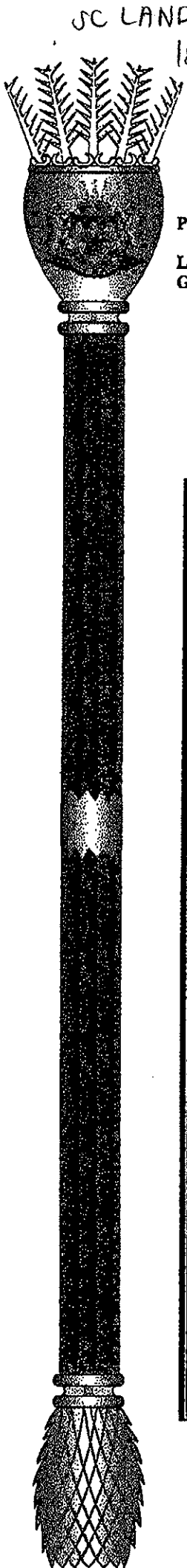
The Committee adopted this Negotiating Mandate, duly signed by the Chairperson of the Committee.

The Committee recommends to the House to mandate the Permanent Delegates to participate in deliberations at the negotiating stage and to support Bill taking note of the comments and recommendations raised by the Committee.



Hon NJ Galela
CHAIRPERSON

Date: 13 MAR 2014



SC LAND

18-02-14

Limpopo Legislature

OFFICE OF THE SECRETARY

Physical Address:

Lebowakgomo
Government Complex

Postal Address:

Private Bag X9309
Polokwane
0700

NEGOTIATING MANDATE

To : The Chairperson of the Select Committee on Land and Traditional Affairs

Name of Bill : Restitution of Land Rights Amendment Bill

Number of the Bill : (B35B - 201³~~4~~)

Date of Deliberation : 17 March 2014

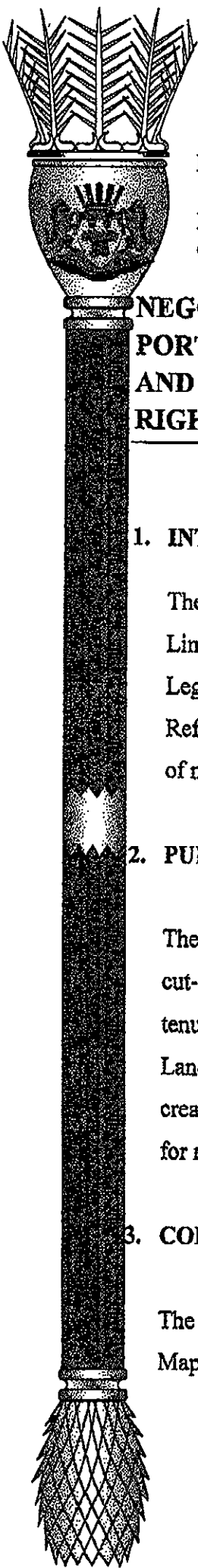
Vote of the Legislature : Provincial NCOP Permanent Delegates to Vote in favour of the Bill, taking into consideration the comments and suggestions made in the Report.

HON. P. MAHLO
CHAIRPERSON: PORTFOLIO COMMITTEE ON
AGRICULTURE

17/03/2014

DATE

Limpopo Legislature



Physical Address:

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**Postal Address:
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Polokwane
0700**

NEGOTIATING MANDATE OF THE LIMPOPO LEGISLATURE PORTFOLIO COMMITTEE ON AGRICULTURE, LAND REFORM AND WATER AFFAIRS ON THE RESTITUTION OF LAND RIGHTS AMENDMENT BILL [B35B – 2013]

1. INTRODUCTION

The Restitution of Land Rights Amendment Bill [B35B – 2013] was referred to the Limpopo Legislature by the National Council of Provinces (NCOP) and the Limpopo Legislature in turn referred the Bill to the Portfolio Committee on Agriculture, Land Reform and Water Affairs for consideration, report back to the House and conferral of mandate to the NCOP.

2. PURPOSE OF THE BILL

The Bill seeks to amend the Restitution of Land Rights Act, 1994, so as to amend the cut-off date for lodging a claim for restitution; to further regulate the appointment, tenure of office, remuneration and terms and conditions of service of judges of the Land Claims Court, to make further provision for the advertisement of claims; to create certain offences; to extend the Minister's powers of delegation; and to provide for matters connected therewith

3. CONSIDERATION OF THE BILL

The NCOP Member, Honourable Makunyane T, and the Chief Director, Tele Maphoto, accompanied by other officials from the National Department of Rural

Development and Land Reform briefed the Portfolio Committee on Agriculture on the principles, objectives and provisions of the Restitution of Land Rights Amendment Bill on Wednesday, 05 March 2014 at Parliamentary Village at 10:00.

Considering the sensitivity of matters relating to land claims, the Portfolio Committee requested a special meeting with the Department of Rural Development and Land Reform to iron out issues that might hamper the success of the public hearing. In this meeting, it was agreed that the public hearing must not be turned into complains session about the old claims and challenges facing the department or the commission regarding previous land claims. It was further agreed that the department must set a table outside the public hearing to address complains and queries regarding the old land claims to ensure that the public hearing concentrate only on the amendments proposed to the Restitution of Land Rights Act of 1994.

After the briefing session, the Portfolio Committee resolved to embark on one central public hearing in which all stakeholders throughout all the four districts and all local municipalities in the Province will converge and deliberate on the Amendment Bill. The public hearing was therefore held at Bolivia Lodge on Friday, 14 March 2014 and over 500 stakeholders attended.

4. STAKEHOLDERS INVITED

Stakeholders invited included amongst others the provincial departments dealing with land matters, traditional leaders, legal and academic institutions, districts and local municipalities, land claims beneficiaries, farmers, interested communities and individuals, organized structures interested in land matters, prospective land claimants; etc.

Invitations were delivered to various stakeholders. Adverts were made through Limpopo SABC Combo and through Mohodu Hub Station for community radio

stations. Adverts at the SABC were run seven times a day in all official radio stations in the province during the week leading to the public hearing.

The Chairperson of the Portfolio Committee, Honourable Patricia Mahlo was afforded slots for Sepedi and English languages whereas Honourable Norman Mabasa was afforded slots for Tshivenda and Xitsonga languages. The purpose of the slots was to offer the Portfolio Committee an opportunity to talk to the general public about the public hearing and to invite them. Honourable Sello Maake and Honourable Jan Tsiane were also reserved for Afrikaans and IsiNdebele respectively.

The Limpopo Legislature provided transport for all interested and affected parties that wanted to attend the public hearing. Transport arrangements were made from all the districts and local municipalities. Some stakeholders who were able and interested to use their own transport were allowed to do so and the Legislature offered to reimburse them for kilometers travelled.

5. SUBMISSIONS AND INPUTS BY THE STAKEHOLDERS DURING THE PUBLIC HEARING

5.1 SUBMISSIONS

The Portfolio Committee received submissions regarding the Restitution of Land Rights Amendment Bill [B35B] from various stakeholders including amongst others the following:-

- Legal Resources Centre;
- Platinum City Development Corporation (Pty) Ltd;
- Nkuzi Development Association;
- Various CPAs;
- Traditional leaders and royal family representatives;
- Current and prospective land claimants; etc

5.2 INPUTS DURING PUBLIC HEARING

During the public hearing, all stakeholders appreciated and commended the principles and objectives of the Restitution of Land Rights Amendment Bill particularly the fact that the Amendment Bill will offer a second chance to those who were left out during the 31 December 1998 cut-off date.

The public also appreciated the fact that old land claims will be prioritized and that efforts will be made to ensure that existing claims are finalized first although taking into consideration that most of the remaining claims are very complex to settle.

However, the public were of the view that the Restitution of Land Rights Amendment Bill might experience the following challenges which need to be avoided:-

- overlapping claims or claims on top of a claims which might further complicate the chances of the existing claims;
- protection of the existing claims particularly those with title deeds to avoid retrogression;
- traditional leaders objecting to establishment of CPAs which might compounded conflicts amongst communities, CPAs beneficiaries and the traditional leaders;
- delays in processing land claims due to the staff members who are not competent and those on contracts with the intention to prolong their contracts;
- corrupt officials who might be bribed to favour other land claimants than the other and to collude in cheating the elderly and deserving beneficiaries; and
- poor research methodology on land claims.

In general, the public appreciated the amendments in all clauses from clause 1 to 14 with the following inputs.

- **Clause 4**

The Minister must ensure that delegated powers are delegated to competent officials.

- **Clause 5**

Considering that a provision for offence is made for the land claimants, the Bill should also make provision for the offences regarding officials of the department.

However, criminalizing lodgment of fraudulent claims might create fear to lodge restitution claims because people might fear that they might be prosecuted and as a result refrain from lodging claims.

- **Clause 6 and 7**

The public were of the view that the two clauses contradict each other regarding appointment of new judges. The public thought that it will be important for current judges to be retained in order to maintain experience and exposure to avoid delays.

The need to involve legal aid at early stages of the land claims was also raised to ensure speedy settlement of claims.

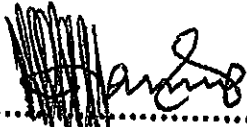
It was further indicated that the Bill does not address some of the weaknesses and flaws that are obtainable in the principal Act. For this reason, the department should come up with strategies to avoid delays in transfer of land after it has been finalized or settled.

In addition to that, the public also noted with concern the current challenges faced by the land claims commission and wonder if this Amendment Bill will come up with mechanisms to curb the previously experienced challenges to ensure that this time the land claims are finalized smoothly without unnecessary delays.

In conclusion, all the stakeholders appreciated the principles and objectives of the Restitution of Land Rights Amendment Bill and enormously, without dissenting voice, agreed that the Bill be signed and passed into laws. The public hearing further encouraged the beneficiaries to opt for land where possible and not avoid monetary compensations.

6. NEGOTIATING MANDATE

The Limpopo Legislature Portfolio Committee on Agriculture, Land and Water Affairs having gone through the Restitution of Land Rights Amendment Bill, [B35B] 2013 and received inputs from the public, recommends to the NCOP Permanent Delegates to vote in favour of the Bill taking into consideration the comments and suggestions made herein.



.....
HON. PATRICIA MAHLO
CHAIRPERSON: PORTFOLIO COMMITTEE ON AGRICULTURE, LAND
REFORM AND WATER AFFAIRS

17/03/2014
.....
DATE

SC LAND
18-03-14

Wes-Kaapse Provinsiale Parlement
Western Cape Provincial Parliament
IPalamente ye Phondo leNtshona Koloni



NEGOTIATING MANDATE

To: Hon AND Qikani
Chairperson: Select Committee on Land and
Environmental Affairs

Name of Bill: Restitution of Land Rights Amendment Bill

Number of Bill: [B 35B - 2013]

Date of deliberation: 17 March 2014

Vote of Legislature: The Standing Committee on Agriculture and
Environmental Planning begs to report that it confers on
the Western Cape Permanent Delegate in the NCOP the
authority to support the Bill with the attached
amendments.

Signature

Date

Hon. MC Walters

Chairperson: Standing Committee on Agriculture and Environmental Planning

COMMITTEE REPORT

(Negotiating Mandate stage) Report of the Standing Committee on Agriculture and Environmental Planning on the **Restitution of Land Rights Amendment Bill** [B35B-2013] (NCOP), dated 17 March 2014, as follows:

The Standing Committee on Agriculture and Environmental Planning, having considered the subject of the **Restitution of Land Rights Amendment Bill** [B35B-2013] (NCOP) referred to the Committee in terms of Standing Rule 220, confers on the Western Cape's delegation in the NCOP the authority to support the Bill with the following amendments:

A minority view was expressed by the ANC to support the Bill in its current form.

Acknowledging that the restitution of the land rights of those who, for various reasons missed the 1998 cut-off date for the filling of post 1913 claims, should be addressed, the following concerns raised were:

The tabling of the Bill is premature and as constituted has little prospect for success.

It is imperative that the claims lodged before 1998 be completely finalised without outstanding problems. Of the eighty thousand claims more than 20 000 are incomplete with 8 000 still awaiting attention. To date R22 billion has been spent with only R8.2 billion budgeted for in the next three years, while R12 billion is needed to complete the process. The completion of existing claims would take up to 15 years.

The Department of Rural Development and Land Reform estimates that it will cost between R129 billion and R179 billion to settle the expected 379 000 new claims within 15 years. Under these circumstances, the expectations of applicants and their dependants will be raised with little prospect of early resolution to a total number in excess of one million people. Judging by progress with pre-1998 applications, the envisaged process would take 121-177 years to complete. Litigation could increase costs and duration.

The track record of the Department of Rural Development and Land Reform in addressing pre-1998 applications is abysmally dismal and it clearly has neither the capacity nor the access to the funding that is required. The underlying strategy as presented is fraught with inconsistencies and should be re-examined with inputs from the competent academics and legal entities who oppose it in its present form. Public participation was inadequate as this version of the Bill [B35-2013] differs substantially from those versions exposed to in earlier rounds of consultation.

The Western Cape can only support this Bill if the following amendments are incorporated:

It appears that there was very little public awareness around the deadline of 31 December 1998, as determined by the Minister after the publication of the Restitution of Land Rights Act, 1994 (Act 22 of 1994) (the Act). The Western Cape does not believe that any individual or community with a rightful claim to land or equitable redress should be excluded simply because they were not informed of their rights. It

is hence of critical importance that communities and individuals are fully informed of their rights in respect of the lodging of claims, and the process of how to lodge a claim correctly. The Western Cape thus proposes that an intensive six month communication campaign be rolled out across the country through national and regional media and provincial and regional workshops, before the window to lodge claims is reopened. Unless a proper communications programme is implemented, the claims process will indubitably fail.

Once the communication campaign has been concluded, a limited window for the lodging of claims should be reopened. The Western Cape proposes that a cut-off date for claims to be lodged be set as 30 June 2015, and that this should be the final opportunity for the lodging of claims. This will provide owner, investor and producer certainty. In addition, claimants should be required to show why a claim was not submitted prior to 31 December 1998.

The nomination and selection of Land Claims Commissioners should be placed in the hands of a multi-party committee of Parliament and approved by the National Assembly and the National Council of Provinces. This will ensure a more impartial and better qualified Commission than one whose nomination and selection is left entirely to the Minister's discretion.

The investigation and verification of claims should be outsourced to an independent service provider registered with the Independent Regulatory Board for Auditors, contracted on the basis of a competitive bid system. The service provider must possess the appropriate skills and resources to provide an even-handed analysis of the merits of each claim, in the most efficient manner possible, within clear timeframes.

Currently when a claim is challenged, the Commission carries all the costs for the claimant, while the landowner bears the burden of his or her legal costs. The Commission should be responsible for the costs of all parties on an attorney-client scale when a matter is referred to the Land Claims Court, whether by the Commission, the claimant or the landowner. This will ease the burden on landowners and result in fewer claims being referred to Court.

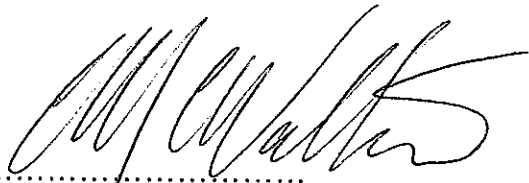
The necessary funding for both new and existing claims should be provided for in the medium Term Expenditure Framework before the window for the lodging of claims is reopened. In this regard the reopening of land claims will be unsustainable if the government fails to allocate adequate funding to settle all new and existing claims. Outstanding pre-1998 claims must be completely addressed before new claims are constituted.

The Western Cape recognises that the pace of redistribution should be significantly increased, and therefore proposes that a six year deadline be imposed from the date that the lodgement period closes for the adjudication process to be completed. This will provide certainty for landowners, commercial agriculture and investors, and will ensure that claimants have their claims dealt with expeditiously.

It is proposed that where productive agricultural land is claimed, and the landowner is unwilling to sell the land, restitution shall be made either by transferring to the

It is proposed that where productive agricultural land is claimed, and the landowner is unwilling to sell the land, restitution shall be made either by transferring to the claimant/s an appropriate right in alternative state-owned land, or through financial compensation to the claimant/s. Where the landowner is willing to sell his or her property, restitution of an appropriate right in such land shall be transferred to the claimant/s only if a business plan for ensuring the continued productivity of the land is approved by the Department, and adequate funds, equipment and other resources are provided by the Department and/or the claimants. These conditions should be met before transfer takes place. In addition, no provision in the Bill should give rise to any power on the part of the State to take into custodianship any land upon which a claim has been made. In this regard it is of critical importance that productive land does not become unutilised and barren.

Application should be done by individuals as indicated by the Department and they should receive full title on restitution if successful.



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MC WALTERS
CHAIRPERSON: STANDING COMMITTEE ON AGRICULTURE AND
ENVIRONMENTAL PLANNING

Date: 17-03-2013

SC LAND
18-03-14

NORTH WEST PROVINCIAL LEGISLATURE

Office of the Speaker

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NEGOTIATING MANDATE

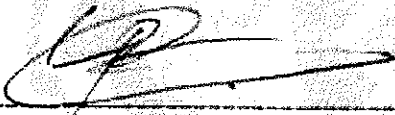
To: Hon A. Qikani
Chairperson to the Select Committee on
Environmental Affairs

Name of Bill/question: RESTITUTION OF LAND RIGHTS AMENDMENT
BILL

Number of Bill/question: [B35B - 2013]

Date of Deliberation: 13 March 2014

- 1. Vote of Legislature:** The Provincial Legislature concurs with the amendments of the Restitution of Land Rights Amendment Bill. The Bill should ensure fulfill its legal mandate to protect, support and build the capacity of traditional leaderships. The Bill should open claim for a period of 10 years until June 2024 . The Bill should allow restitution of land of communities that were disposed of their land through land transfer through Trusts



Hon P. Pelele
Chairperson : Chair of Chairs

18 - 03 2014

Date

JC LAND
18-03-14



EASTERN CAPE PROVINCIAL LEGISLATURE

OVERSIGHT SERVICES: PORTFOLIO COMMITTEE ON AGRICULTURE

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Date: 17 March 2014

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Reference: Land Restitution Bill Negotiating Mandate

NEGOTIATING MANDATE

The Chairperson:

Select Committee on Land and Environmental Affairs

National Council of Provinces

Name of Bill : Restitution of Land Rights Amendment Bill
Number of Bill : [B 35B-2013]
Date of deliberation : 17 March 2014

Vote of the Legislature

1. The province votes in favour of the Bill supports the Bill and mandates the Eastern Cape delegate to the NCOP to negotiate in favour of the Bill.
2. The accompanying submission which is not against the Bill was received from the Democratic Alliance for amendment of several Clauses of the Bill.
3. The Legal Resources Centre recommends that the Bill be amended in Clauses 1, 10, 11, 29 and 35 so that existing claims be prioritized against subsequent or later claims.
4. The Legal Resource Centre further recommends in Clause 5 of the Bill that the President be allowed to appoint judges which are recommended by both the JSC and NEDLAC.



HON. A.N. PONCO, (MPL)

17-03-2014

DATE

CHAIRPERSON: PORTFOLIO COMMITTEE ON AGRICULTURE AND RURAL DEVELOPMENT

