



IPP REVIEW



PRESERVATION OF DEVELOPMENT OF AGRICULTURAL LAND ACT, ACT 39 OF 2024

The Preservation of Development of Agricultural Land Act, Act 39 of 2024 (“PDALA”) was assented to by the President on 20 December 2024. A commencement date is still to be determined and published in the Government Gazette.

The Department of Agriculture (“DAF”) has already commenced preparing concept regulations for PDALA. IPP attended the provincial workshops of DAF for the concept regulations.

PDALA authorises the Minister for Agriculture to, amongst other things, determine listed activities and designate land as protected agricultural land.

The listed activities being proposed will significantly expand DAF’s consenting authority beyond the Subdivision of Agricultural Land Act, Act 70 of 1970 (“SALA”), which was limited to consenting to the subdivision of agricultural land, only.

PDALA and its regulations will empower DAF to be consenting authority for any change in land use (zoning) of agricultural land.





SYNOPSIS

PDALA is prepared under the rubric of Section 27 of the Constitution, that the state must take reasonable legislative and other measures to achieve the progressive realisation of everyone's right to sufficient food and further, the functional areas of concurrent national and provincial legislative competence in Part A of Schedule 4 of the Constitution including "agriculture".

The objectives of PDALA include:

- * Promoting the preservation and sustainable development of agricultural land;
- * To establish evaluation and classification systems for agricultural land;
- * Demarcating protected agricultural areas to ensure that agricultural land is preserved and protected against non-agricultural uses in order to promote long-term agricultural production;
- * Implementing a coordinated national framework, including norms, standards and authorisations for the use of agricultural land;
- * To provide for mitigating measures to counteract the loss of agricultural land and the impact of non-agricultural developments on agricultural production capacity; and
- * To establish a national agro-eco information system with geo-referenced information to support the objects of PDALA.

PADALA defines "agricultural land" to mean "...all land in the jurisdiction of the Republic, excluding land-

- (a) in a township as defined in the Deeds Registries Act, or land for which a township register, separate subdivision register or sectional title

- (b) which, immediately prior to the date of commencement of this Act, was lawfully zoned for non-agricultural purposes by an organ of state subject to the conditions of the zoning;
- (c) which has been excluded in terms of the Subdivision of Agricultural Land Act, 1970 (Act 70 of 1970), by means of a notice in the Gazette; or
- (d) which the Minister excludes in terms of section 5(2);"

PDALA empowers the Minister of Agriculture to determine listed activities for agricultural land and for which an agro-ecosystem authorisation will have to be applied for, before such listed activity may be undertaken.

The approach in PDALA is similar to that of the National Environmental Management Act, Act 107 of 1998, whereby the regulations are determinative of the trigger for any authorisation and the requirements for applying for authorisation.

DAF is in the process of preparing not less than thirty-four sets of regulations to be introduced incrementally and to give effect to PDALA. DAF has not published the draft regulations for public comment, to date.

The concept draft Preservation and Development of Agricultural Land (Norms and Standards Information Agro-ecosystem Authorisation Requirements for Listed Activities Involving Land Use Change)



CONCLUSION

Stakeholders must actively participate in the public participation of the draft regulations, when published by the Minister for public comment.

Anyone intending to develop agricultural land may be required to apply for an agro-ecosystem authorisations in terms of PDALA, in addition to such other authorisations as may be required in terms of national and local government legislation, before commencing with any development.

Developers and consultants will have to consider employing integrated authorisation procedures to limit delays and avoid unnecessary duplication of process when an agro-ecosystem authorisation is required.

The classification of agricultural land may need to be established when performing any due diligence of agricultural land and to establish whether an agro-ecosystem the authorisations that will be required to develop any agricultural land.