

REPUBLIC OF SOUTH AFRICA

KWAZULU LAND AFFAIRS AMENDMENT BILL

(As introduced in the National Council of Provinces)

(SELECT COMMITTEE ON LAND, AGRICULTURE AND ENVIRONMENTAL AFFAIRS)

[B 66—98]

REPUBLIEK VAN SUID-AFRIKA

KWAZULU- WYSIGINGSWETSONTWERP OP GRONDSAKE

(Soos ingedien in die Nasionale Raad van Provinsies)

(GEKOSE KOMITEE OOR LANDBOU, GROND EN OMGEWINGSAKE)

[W 66—98]

ISBN 0 621 28397 5

GENERAL EXPLANATORY NOTE:

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

BILL

To amend the KwaZulu Land Affairs Act, 1992, so as to validate certain acts purporting to have been performed in terms of that Act; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 39 of KwaZulu Act 11 of 1992

1. Section 39 of the KwaZulu Land Affairs Act, 1992, is hereby amended by the addition of the following subsection:

“(3) Anything purporting to have been done in terms of this Act on or after 27 April 1994 and prior to the commencement of the KwaZulu Land Affairs Amendment Act, 1998, and which could have been done in terms of this Act by any Premier or any member of the Executive Council of the province of KwaZulu-Natal or any employee of the provincial administration of that province had this Act been assigned to the provincial executive or an authority within the provincial executive of that province as contemplated in the Constitution, is hereby deemed to have been done in terms of this Act.”.

Short title

2. This Act shall be called the KwaZulu Land Affairs Amendment Act, 1998.

MEMORANDUM ON THE OBJECTS OF THE KWAZULU LAND AFFAIRS AMENDMENT BILL, 1998

1. In awaiting the final assignment of the administration of the KwaZulu Land Affairs Act, 1992 (Act No. 11 of 1992), to the KwaZulu-Natal provincial government, the KwaZulu-Natal provincial administration engaged in certain actions which were needed for the maintenance of the land situated in the former KwaZulu. Since the Act has not yet been assigned to the KwaZulu-Natal provincial administration those actions are from a legal-technical point of view not duly authorised. The proposed amendment seeks to validate acts which would have been performed lawfully, had that Act so been assigned. It is thus aimed at obtaining legal certainty.

2. The amendment proposed is of a technical nature which only concerns the Department of Land Affairs and the KwaZulu-Natal provincial government. That government has been consulted in respect of the amendment.

3. The KwaZulu Land Affairs Act, 1992, contains matters to which the procedure set out in section 76 of the Constitution applies (e.g. agriculture, regional planning and development, and urban and rural development), as well as matters to which that section does not apply (e.g. land matters). Although the provisions of the Bill do not in itself amend any of those matters, the Bill seeks to validate anything purporting to have been done by the provincial government in terms of the Act and to that extent it is a Bill which affects a province as contemplated in section 76 of the Constitution. The Department and the State Law Advisers are therefore of the view that the Bill should be dealt with in accordance with the procedure set out in section 76 of the Constitution.

Implications for provinces

The only province affected by the Bill is KwaZulu-Natal. Apart from validating certain actions, it does not have other implications for that province.

Implications for local government

None