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DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

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PROVINCE OF THE EASTERN CAPE

**DEPARTMENT OF RURAL DEVELOPMENT AND
AGRARIAN REFORM**

EASTERN CAPE REPEAL OF AGRICULTURAL LAWS, 2020

As introduced

**(BY THE MEMBER OF THE EXECUTIVE COUNCIL
RESPONSIBLE FOR THE DEPARTMENT OF RURAL
DEVELOPMENT AND AGRARIAN REFORM: PROVINCE OF THE
EASTERN CAPE)**

BILL

To repeal redundant legislation enacted by the Eastern Cape Province; and to provide for matters connected therewith.

BE IT ENACTED by the Legislature of the Province of the Eastern Cape, as follows:-

REPEAL OF LAWS

1. The laws mentioned in the second column of Schedule A are hereby repealed to the extent set out in the third column thereof.

SHORT TITLE AND DATE OF COMMENCEMENT

2. This Act is called the Eastern Cape Repeal of Agricultural Laws, 2020 and shall come into operation on a date determined by the Premier by proclamation in the Provincial Gazette.

SCHEDULE

Number and year of Act	Short title	Extent of repeal
(a) Act No. 007 of 2001	Eastern Cape Meat Safety Act, 2001	Repealed as a whole
(b) Act No. 008 of 2001	Eastern Cape: Animal Identification Act, 2001	Repealed as a whole
(c) Act No. 003 of 2002	Eastern Cape: Animal Health Act, 2002	Repealed as a whole

EXPLANATORY MEMORANDUM ON THE EASTERN CAPE REPEAL OF AGRICULTURAL LAWS, 2020

PART 1 (GENERAL PRINCIPLES)

1. BACKGROUND

The Department of Rural Development and Agrarian Reform undertook a process of reviewing the provincial legislation which is concurrent with national legislation, for possible retention, amendment or repeal.

The review process was intended to ensure that Provincial legislation is -

- (a) aligned to concurrent National Legislation
- (b) addresses the current needs of the Province;
- (c) accessible; and
- (d) promotes legal certainty, good administration and enhances service delivery.

The review process revealed that the Acts listed in the Schedule are a duplication of concurrent national laws, are disused, are redundant and, therefore, fall to be repealed. The statutes to be repealed were enacted by the Department, hence the Bill is introduced by the Member of the Executive Council responsible for Rural Development and Agrarian Reform. It is not expected that there will be any vacuum left as a result of the repeal of the said laws because the National legislation sufficiently regulate the matters addressed by the Provincial legislation.

2. EFFECT OF THE BILL AND REASONS

The Bill is to ensure that redundant legislation is repealed, thereby creating legal certainty.

2.1 Eastern Cape Meat Safety Act 7 of 2001

The purpose of the Eastern Cape Meat Safety Act 7 of 2001 is:

- to provide for measures to promote meat safety and the safety of animal products; including measures to maintain essential Provincial safety standards;
- to establish minimum standards in respect of abattoirs; and
- to provide for the matters connected therewith”.

This Act is a duplication of a National Act, namely, the Meat Safety Act 40 of 2000, regulating the same subject matter. The purpose of the Meat Safety Act 40 of 2000 is:

- [t]o provide for measures to promote meat safety and the safety of animal products;
- to establish and maintain essential national standards in respect of abattoirs;
- to regulate the importation and exportation of meat;
- to establish meat safety schemes, and
- to provide for the matters connected therewith.

The province is currently implementing this National Act as the commencement of the Provincial Act has not been determined by the Premier by proclamation in the Gazette. This, in a sense, rendered the provincial Act stillborn. The application of the national Meat Safety Act 40 of 2000 guarantees uniform standards on critical matters of meat safety and trade (national and international), thus bring an opportunity of economic participation of Eastern Cape farmers at national and international level.

The national Meat Safety Act 40 of 2000 clearly serves the purpose of harmonizing the standard of meat hygiene across the country, thus supporting interprovincial meat trade and equivalent standard of veterinary public health provision.

2.2 Eastern Cape Animal Identification Act 8 of 2001

The purpose of the Eastern Cape Animal Identification Act 8 of 2001 is, “[t]o consolidate the laws relating to the identification of animals and to provide for the matters connected thereto”. This purpose of Act 8 of 2001 is exactly the same as that of the Animal Identification Act 6 of 2002, save for the last part where Act 6 of 2002 refers to incidental matters. Act 6 of 2002 was assented to on 29 May 2002, whilst the Eastern Cape Animal Identification Act 8 of 2001 was assented to on 4 April 2002. There was a proviso that the date of commencement would be promulgated at a later stage. There is no documentary evidence that the commencement date was ever published.

As Act 8 of 2001 was never promulgated, therefore, its operation never materialized. The Animal Identification Act 6 of 2002 which covered all the aspects of the Act (Eastern Cape: Animal Identification Act 8 of 2001) was implemented with national advantages such as handling all the applications, issuing the individual unique identification kept on a National Database thus avoiding the risk of duplication of identification mark or additional provincial identifier that would have carried additional costs for livestock owners. Based on the facts narrated, Act 6 of 2002 superseded the provincial act and therefore the Eastern Cape Animal Identification Act 8 of 2001 has become redundant.

2.3 Eastern Cape: Animal Health Act, 2002

The purpose of the Animal Health Act, Act No 7 of 2002 is:

- to provide for measures to promote animal health and to control animal disease;
- to assign executive authority with regards to certain provisions of this Act to provinces;
- to regulate importation and exportation of animal and things;
- to establish animal health schemes; and
- to provide for matters connected therewith.

While the Constitution of Republic of South Africa 108 of 1996, vests concurrent competencies to both national and provincial spheres of government to legislate on functional area listed in Schedule 4 A, some provinces, for practical consideration, opt to allow national government to set norms and standards on a particular functional area. Those provinces are then guided by the norms and standards set at national level.

In the case of the functional area of “animal control and diseases” the erstwhile national department of Agriculture, Forestry and Fisheries, currently the Department of Agriculture, Land Reform and Rural Development, has set norms and standards for the delivery of veterinary services, national disease control programs and the control of the import of animals and animal products. Some provinces, for practical reasons, have opted to be responsible for the implementation and enforcement of the national veterinary service standards, through their provincial veterinary authorities, thereby enabling the sanitary guarantees for both the import and export of animals and animal products, in accordance with national and international norms and standards that are provided by the national veterinary authority to international trade partners.

The Eastern Cape province, having promulgated Eastern Cape Animal Health Act in 2002, now wishes to align itself with this practice of utilizing national legislation and implementing national norms and standards. Doing so, therefore, would render the Eastern Cape Animal Health Act of 2002 redundant. Thus the need to repeal it.

3. OBJECTS OF THE BILL

The objects of the Bill are to repeal redundant legislation enacted by the Eastern Cape Department of Rural Development and Agrarian Reform.

4. FINANCIAL IMPLICATIONS

There are no financial implications.

5. DEPARTMENTS/ BODIES/ PERSONS CONSULTED

All relevant stakeholders will be consulted on legislation repealed by this Bill.

6. COMPETENCY

The subject matter of the legislation to be repealed fall within Schedule 4 of the Constitution which provides for areas of concurrent National and Provincial Legislative competence.

PART 2 (CLAUSE BY CLAUSE ANALYSIS)

CLAUSE 1 - provides for the repeal of all legislation listed in the Schedule to the Bill

CLAUSE 2 - provides the short title of the Bill