



# Wes-Kaapse Provinsiale Parlement Western Cape Provincial Parliament IPalamente yePhondo leNtshona Koloni

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**(Negotiating mandate stage)** Report of the Standing Committee on Agriculture, Environmental Affairs and Development Planning on the Upgrading of Land Tenure Rights Amendment Bill [B 6B–2020] (NCOP), dated 24 March 2021, as follows:

The Standing Committee on Agriculture, Environmental Affairs and Development Planning, having considered the subject of the Upgrading of Land Tenure Rights Amendment Bill [B 6B–2020] (NCOP) referred to it in accordance with Standing Rule 217, confers on the Western Cape’s delegation in the NCOP the authority not to support the Amendment Bill for the following reasons:

1. The Amendment Bill may fall foul of Section 154(2) of the Constitution as it was not sufficiently advertised for public comment before being introduced to Parliament. The Memorandum on the objects of the Bill states clearly: “The Department has not consulted widely on the Bill”. There is therefore a serious risk, should the Amendment Bill be taken on review, that the process followed thus far, at least in respect of public involvement, may be found to be constitutionally unsound.
2. The Amendment Bill only addresses the Sections in the Upgrading of Land Tenure Rights Act, 1991, (Act 112 of 1991) found to be unconstitutional by the Constitutional Court, whereas the Committee believes that the Act, as a whole, should have been repealed and replaced by legislation that will truly secure rights and tenure, also on property that is currently under tribal authority or customary rights.
3. Only a small number of aggrieved persons would be in a position to apply “to Court ... for appropriate relief”. The Committee would have preferred the establishment of more accessible alternative measures to address the plight of aggrieved persons.

The Committee also notes with concern the haste by Parliament to comply with the date set by the Court, which, in turn, has placed the NCOP and Provinces under severe pressure to deal with this Amendment Bill. In this regard, we note, in particular, that the first 18 months, and thereafter an additional 12 months, as determined by the Court, were not managed effectively and efficiently by Parliament.

In accordance with Standing Rule 90, the African National Congress expressed its minority view that it supports the Amendment Bill in its current form.

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**MR AP VAN DER WESTHUIZEN, MPP**

**CHAIRPERSON: STANDING COMMITTEE ON AGRICULTURE, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

**Date: 24 March 2021**