

NATIONAL TREASURY

NO. 1348

07 DECEMBER 2018

**LAND AND AGRICULTURAL DEVELOPMENT BANK ACT, 2002:
PROPOSED REPEAL OF STAFF REGULATIONS MADE IN TERMS OF LAND BANK
ACT, 1944**

1. Section 52(1) of the Land Bank and Agricultural Development Act, 2002 (Act No. 15 of 2002 - the "2002 Act"), provides for transitional matters. In terms of section 52(1) of the 2002 Act anything validly done in terms of the Land Bank Act, 1944 (Act No. 13 of 1944 - the "1944 Act"), continues to be valid and of full force and effect despite the repeal of the 1944 Act by section 53 of the 2002 Act and any regulations made in terms of the 1944 Act remain in force until repealed in terms of section 49 of the 2002 Act. This means that the Land Bank Staff Regulations, which were published under Government Notice No. R. 585 on 17 April 1964 and all amendments thereto, remain valid until repealed.
2. It should be noted that, in terms of-
 - (a) section 52(2) of the 2002 Act, every person who was an employee of the Land and Agricultural Bank of South Africa operating in terms of the 1944 Act, immediately before the repeal of the 1944 Act is regarded as having been appointed in terms of section 17 or 19, as the case may be, of the 2002 Act, and the employment agreement existing between that person and the Bank immediately before the commencement of the 2002 Act continues to have full force and effect without any change as if it had been concluded by virtue of the 2002 Act; and
 - (b) section 52(3) of the 2002 Act, unless every applicable provision of labour legislation had been complied with and unless a person contemplated in section 52(2) of the 2002 Act agrees thereto in writing, the remuneration and other terms and conditions of employment applicable to that person immediately before the commencement of this Act remain applicable to that person after the commencement of the 2002 Act, and he or she remains entitled to all rights, benefits and privileges to which he or she was entitled immediately before the commencement of the 2002 Act. This includes but is not limited to membership of a pension fund, membership of a medical aid scheme, employer contributions in connection with such membership, accrued pensionable service, accrued leave benefits, remuneration, leave benefits and retirement at a specific age.
3. In terms of section 69(1)(b) of the 1944 Act the Minister had the power to make, upon the recommendation of the Board, regulations regarding the rights, privileges and duties of the staff, and the duties of other persons employed by the Land Bank, and the manner in which such duties shall be performed. However, the power to determine conditions of employment for employees of the Land Bank now vests with the Board following the repeal of the 1944 Act (section 19 of the 2002 Act).
4. The Land Bank Staff Regulations are outdated and conflict with employment legislation. The continued existence of the Land Bank Staff Regulations makes it difficult for the Land Bank to implement its policies adopted as contemplated in section 19 of the 2002 Act.
5. Therefore, the Minister of Finance intends to repeal, acting in terms of section 49(1) of the 2002 Act, the Land Bank Staff Regulations, and all amendments thereto, made in terms of section 69(1)(b) of the 1944 Act, which were published under Government Notice No. R. 585 on 17 April 1964.
6. Public comment on the intended repeal of the Land Bank Regulations is invited and comment emailed to CommentDraftLegislation@treasury.gov.za by 25 January 2019 will be considered.