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<u>ACT 70 OF 70 - HOW IT AFFECTS OWNERSHIP OF AGRICULTURAL LAND</u>

Many agricultural land owners may already know of the bureaucratic strife one may experience in an attempt to develop or subdivide agricultural land. Most of the limitations arise from the Subdivision of Agricultural Land Act of 1970 often referred to as “Act 70 of 70.” However, owners of agricultural holdings must also take heed of Section 5(2) of the Agricultural Holdings Registration Act and the limitations it may impose on the transfer of land (this will be discussed in the next edition).

Act 70 of 70 specifically Section 3 of the Act, provides that agricultural land shall not be subdivided; no undivided share in agricultural land not already held by any person, shall vest in any person and no part of any undivided share in agricultural land shall vest in any person, unless the Minister has consented in writing to the subdivision or vesting concerned. As seen in Maxrae Estates (Pty) Ltd v National Minister of Agriculture, Forestry and Fisheries and Another (13769/19) [2020], the Minister has wide discretionary powers provided by Section 4(2) of the Act to grant or refuse an application for subdivision.

The consequences of the above mentioned is that the agent should liaise with the conveyancer before an agreement is signed where more than 1 person wants to purchase agricultural land and:

1. The conveyancer must establish whether the specific farm portion is covered by a “blanket” Act 70 of 70 consent which covers the whole farm, in which case there will be no delay in registering the transfer into the names of more than one person; or
2. The parties must apply to the Minister of Agriculture for consent, which can delay the transfer by four to six months; or
3. The purchasers can consider purchasing in the name of an entity such as a company, close corporation or trust.