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Submission by AgriSA on the

Water Services Amendment Bill (B24–2025)

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1 INTRODUCTION

AgriSA appreciates the opportunity to submit written representations to the Portfolio Committee on Water and Sanitation regarding the Water Services Amendment Bill, 2025 ("the Bill").

The Bill proposes substantive amendments to the Water Services Act, 108 of 1997, with the stated objective of strengthening governance, accountability, and regulatory oversight within South Africa's water services framework. While AgriSA supports improved institutional performance and water quality safeguards, the proposed amendments have significant implications for agricultural enterprises, rural communities, and privately owned farms.

These submissions identify areas of legal uncertainty and practical concern, particularly regarding the potential classification and regulation of agricultural landowners who supply domestic water on privately owned farms.

AgriSA proposes targeted **safeguards to ensure that the Bill achieves its governance objectives** without imposing **disproportionate compliance burdens** on the agricultural sector.

2 LEGAL AND POLICY CONTEXT

The Water Services Act establishes the state's responsibility to ensure access to adequate water services, primarily through municipalities acting as Water Services Authorities and contracted Water Services Providers.

The Department of Water and Sanitation's policy on supplying water to persons living on privately owned land recognises that rural residents, including farm workers and their households, frequently rely on non-municipal systems. On many farms, domestic water is supplied from boreholes, surface water, or storage systems operated as an incidental function of agricultural activities.

The Bill introduces enhanced registration, licensing, and governance mechanisms intended to tighten regulatory oversight.

However, the **drafting does not clearly differentiate** between **municipal-scale water utilities** and **agricultural landowners** providing **incidental domestic supply.** This lack of differentiation creates legal and operational uncertainty.

3 CLARIFICATION OF THE STATUS OF AGRICULTURAL LANDOWNERS

Under the current Water Services Act, a distinction exists between Water Services Institutions (including Water Services Providers) and Water Services Intermediaries.

Preliminary legal interpretation indicates that, in certain circumstances, farmers who supply domestic water to lawful occupiers on farms could technically fall within the definition of a Water Services Intermediary. Historically, this has not resulted in regulatory treatment equivalent to that applicable to municipal or commercial utilities.

There is no clear legal basis under current law for classifying farmers as Water Services Providers. Agricultural landowners do not operate pursuant to municipal service delivery mandates, nor do they function within designated service areas as licensed utilities.

The Amendment Bill's expanded regulatory framework introduces interpretative risk. Absent explicit statutory clarification, farms supplying water to multiple dwellings could inadvertently be drawn into provider-level licensing or compliance obligations.

AgriSA submits that the **legislation should expressly confirm** that bona fide agricultural landowners **supplying domestic water incidentally and on a non-commercial basis** to lawful occupiers are **not to be classified** as Water Services Providers.

4 REGISTRATION OF INSTALLERS AND OPERATORS

The Bill introduces **mandatory registration requirements** for persons who **install and operate** water services works.

On farms, this may affect boreholes, pumps, reservoirs, storage systems, and small-scale treatment facilities. While AgriSA supports ensuring technical competence and safety standards, registration requirements must be proportionate to risk and operational scale.

Small and medium-scale farms may face difficulty securing certified operators, particularly in remote rural areas. Compliance mechanisms must therefore be accessible, affordable, and phased where necessary.

5 LICENSING AND REGULATORY PERIMETER EXPANSION

The Bill proposes a licensing regime for municipal service delivery mechanisms. The scope of the drafting raises concerns that licensing provisions could extend to non-municipal arrangements where farms supply domestic water to resident households.

To date, no written assurance has been provided confirming that agricultural landowners are not the intended regulatory target of these provisions. While engagements indicate a focus on municipal reform, legislative drafting must prevent unintended inclusion.

If **agricultural landowners** are subjected to **full licensing obligations**, compliance may entail:

- Technical standards aligned to municipal systems;
- Reporting and monitoring requirements;
- Professional certification costs;
- Infrastructure upgrades;
- Exposure to administrative penalties.

Such obligations would be disproportionate to the scale and purpose of on-farm domestic supply systems.

6 ECONOMIC IMPACT ON AGRICULTURE

Full compliance with **provider-level regulatory requirements** would have **significant economic implications** for the agricultural sector.

The impact would be particularly severe for:

- Small-scale and emerging farmers;
- Labour-intensive agricultural enterprises;
- Farms with multiple residential dwellings forming part of employment arrangements.

Agricultural enterprises already operate within an extensive regulatory framework, including compliance under the National Water Act, 36 of 1998, environmental legislation, occupational health standards, labour legislation, and housing-related obligations.

Layering a municipal-style licensing regime onto incidental domestic supply would create cumulative regulatory burdens that may disincentivise the continued provision of on-farm housing. This would undermine rural employment stability and contradict broader rural development objectives.

AgriSA recommends that the Committee consider a targeted economic impact assessment addressing agricultural landowners supplying domestic water on privately owned land.

7 OVERSIGHT, ENFORCEMENT AND COMPLIANCE RISKS

The Bill strengthens inspection powers, compliance orders, and enforcement mechanisms. While enhanced oversight may improve accountability in failing municipal systems, the compliance risk profile for farmers would increase substantially if they are brought within the regulatory ambit.

Increased inspections, reporting requirements, and potential penalties may require investment in **monitoring systems and professional services** that are not proportionate to the scale of agricultural operations.

A differentiated regulatory approach is therefore essential.

8 GOVERNANCE OF WATER BOARDS

AgriSA supports improved governance standards for water boards, including enhanced accountability, ethical standards, and professional qualification requirements.

However, transitional implementation must **ensure continuity of bulk water supply,** particularly for **irrigation schemes dependent** on water board deliveries.

Governance reforms **should not inadvertently disrupt service reliability** during implementation.

9 PROPOSED SAFEGUARDS AND REGULATORY ALTERNATIVES

AgriSA proposes that the Bill incorporate clear safeguards to **prevent unintended regulatory overreach** into agricultural operations:

1. **Explicit Statutory Exclusion**
   A provision confirming that agricultural landowners supplying domestic water incidentally and not as a commercial utility service are excluded from Water Services Provider licensing requirements.

2. **Limited Compliance Carve-Out**
   Alternatively, a simplified registration regime for agricultural intermediaries operating below defined thresholds.

3. **Threshold-Based Regulation**
   Quantitative triggers based on number of households supplied or volume distributed, ensuring proportional application.

4. **Phased and Proportional Compliance**
   Transitional timeframes and simplified compliance frameworks tailored to rural contexts.

5. **Model Bylaws and Interpretive Guidance**
   Development of national guidance clarifying the interaction between the Water Services Act and the National Water Act, and explicitly recognising the distinct nature of agricultural properties.

Regulation must be **risk-based and proportionate.** The **agricultural sector supports water quality and human health safeguards** but cannot absorb **utility-scale regulatory burdens** designed for municipal institutions.

10 CONCLUSION

The Water Services Amendment Bill is a necessary reform initiative aimed at strengthening governance and accountability in South Africa's water services sector. AgriSA supports the objective of improving institutional performance and safeguarding water quality.

However, the Bill must be refined to **provide legal certainty** and **regulatory proportionality** for **agricultural landowners who supply domestic water on privately owned farms** as an incidental function of agricultural operations.

Clear statutory drafting, express exclusions or carve-outs, and proportional compliance mechanisms are essential to prevent unintended harm to agricultural productivity, rural employment, and food security.

AgriSA remains available to make oral submissions and to engage constructively with the Portfolio Committee and the Department of Water and Sanitation to ensure a balanced and workable legislative outcome.

Prepared by:
AgriSA (Legal and Policy)

Submitted to:
Ms Nosipho Bavuma
Portfolio Committee on Water and Sanitation
PCWS@parliament.gov.za

info@agrisa.org.za | +27 (0) 87 711 0626

Block D, Inkwazi Office Park
1249 Embankment Road, Centurion, Gauteng, South Africa, 0157

www.agrisa.org.za

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