



rural development & land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

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DRAFT TERMS OF REFERENCE FOR THE DISTRICT LANDS COMMITTEES.

1. INTRODUCTION:

The 2012 National Development Plan (NDP) emphasizes the need to reintegrate rural areas into mainstream economic development, which would allow rural residents to share in the dividends of South Africa's overall economic growth and prosperity. Land reform within the context of the NDP is geared towards ensuring that agricultural development and subsequent inclusive rural economic growth are central outcomes of the reform process. Addressing the inequitable distribution of land is a crucial step in accomplishing integration of rural areas into the mainstream economy.

The NDP asserts that various models of land acquisition and redistribution should be considered to resolve the slow pace of land reform and the lack of successful implementation of policy at the local level. With this in mind, the NDP contends that land reform should be based on the following principles:

- Make space for more rapid transfer of agricultural land to black land reform beneficiaries without diminishing private sector confidence in agribusiness or causing distortion of land markets;
- Provide essential opportunities for education and skills transfer to land reform beneficiaries to promote sustainable and productive land use;
- Ensure that cases of opportunism, speculation and corruption in land markets are prevented through effective monitoring institutions;
- Change land-transfer targets to better match economic realities so that land is transferred rapidly and efficiently; and
- Provide opportunities for white commercial farmers and the private sector to participate in land reform initiatives so that they can contribute to emergent black farmers' success.

DRDLR further emphasize that Economic growth of the agricultural sector has been constrained by insufficient progress in increasing production efficiency and accessing new markets and opportunities. Furthermore, globalization has negatively affected South Africa's competitiveness and policy uncertainty, resulting in job losses.

It is acknowledged that although notable progress has been made in land redistribution and restitution, more needs to be done. The National Development Plan (NDP) notes that land reform has not yet translated into the establishment of sufficient numbers of sustainable new black farmers and restitution, in particular, has been quite slow. In addition to this, there has been an under-utilization of productive and communal land and this might threaten food security, especially at household level. The shrinking agricultural sector, climate change and global economic outlook- implications for job creation also pose serious challenges to our interventions.

Weaknesses in coordinating planning and implementation of rural development across the spheres and within the various sectors of government have also been identified as impediments to successfully implementing rural development.

To resolve the slow pace of land redistribution in South Africa, and the lack of successful implementation of policy at the local level, the 2012 NDP proposes new institutions to handle land acquisition for the land reform programme. Referred to as District Land Committees (DLCs), these suggested bodies are to be established in each district municipality containing commercial farming land and consist of a diverse range of stakeholders including all agricultural landowners in the district, key representatives of the private sector, government agencies such as the Land Bank and Agricultural Research Council, and provincial government departments addressing rural development, land reform and agriculture.

According to the NDP, the DLCs will be charged with identification of a minimum of 20 per cent farming land in the area that is easily acquirable and which does not cause distortions in the land market.¹ Types of such land may include land that has already been placed on the market, land which is owned by persons suffering financial problems, land owned by absentees landlords willing to participate in the redistribution programme, and land in a deceased estate.

2. RATIONALE:

The NDP's proposed District Land Committees are a significant step forward for South Africa's land redistribution programme and hold the potential to radically change how land reform has been carried out thus far.

There are several solid justifications for the proposed policy. Attaining "equitable land access across race, gender and class" requires that those in need of secure rights to land work together with landowners in "finding social solutions" to the historic and contentious "social problem" of landlessness and tenure insecurity that remains an albatross on the shoulder of our young democracy. As local level and multi-sectoral land committees, the proposed DLCs will enable substantive and equal participation of all stakeholders in decisions surrounding land acquisition. This not only gives a voice to the landless and land-hungry in the redistribution process, but also facilitates landowner cooperation by enabling them to play an active role in land reform.

The district land acquisition structures suggested by the 2012 NDP advance a decentralized model of land reform. This approach lends promises to overcoming the multiplicity of challenges in implementing land reform initiatives at the local level.

The DLCs will consist of a diverse group of key stakeholders that can forge a common understanding on how land acquisition should be carried out, thus possibly sidestepping many conflicts that have surfaced in the past considering the highly emotive nature of land redistribution.

The inception of the District Lands Committees should take cognizance of the provincial, district and local municipality IDPs and Spatial Development Frameworks. The establishment of the DLCs will promote a bottom-up, participatory, multi-sectoral approach to land reform. This encompasses social mobilization, building capacity of local government officials and stakeholders, and genuine coordination between all relevant parties. Most importantly, the role of local government in land identification, acquisition, transfer to beneficiaries, initiation of land reform projects and post-transfer support should be clearly articulated and advanced. The DLCs are one such example of furthering sustainable and inclusive land, rural development and poverty reduction as they link the local with the provincial and national spheres.

3. PRINCIPLES GUIDING DLCs:

The District Land Committees shall be guided by the following principles:

- a) **Rapid transfer and equitable land access:** deliver 20% of agricultural land to black beneficiaries and expand land ownership and access to all South Africans, including women, youth and people with disabilities and ensure land delivery targets are met.
- b) **Protection of land value:** by ensuring sustainable production on transferred land by making sure that beneficiaries are able to work the land productively.
- c) **Responsibility:** by increasing access without unduly distorting land markets or business confidence in the agribusiness sector.
- d) **Good land governance:** by acting against undue opportunism, corruption and speculation.
- e) **Co-leadership of processes:** Offer white commercial farmers and organised industry bodies the opportunity to significantly contribute to the success of black farmers through mentorships, value chain entry and equity, preferential procurement and meaningful skills transfer.
- f) **Learning through doing:** with their initial framework established by the NDP, the structure and operations of each DLC will be improved upon and molded to fit their specific contexts through first-hand experience;
- g) **Inclusivity:** that is deliberately organized to incorporate all those interested and having a stake in land reform, and adherence to principles of equality, participation and transparency;
- h) **Precision, decision and results-driven:** DLCs shall operate with precision, basing all decisions on accurate and comprehensive data, with clearly defined goals, responsibilities, tools and action plans; and
- i) **Promoting social cohesion:** through promoting mutually beneficial cooperation between landowners to advance the long-term goal of social cohesion and inclusive develop and promote shared growth and prosperity, relative income equality and full employment.

4. OBJECTIVES OF DLCs:

Based on the above principles, the core objectives of the District Land Committees include to:

- a) Address the pervasive landlessness and land-shortage amongst historically disadvantaged groups so that all South Africans, regardless of race, class, gender or social status, enjoy secure land rights and thus increased opportunities sustain productive livelihoods;
- b) Target 20 per cent of agricultural land in South Africa to be redistributed to previously disadvantaged individuals;
- c) Acquire land at **fair prices** that reflect an equitable balance between interests of the public and those of individuals or corporates, and that are based on the constitutional provisions set out in Section 25 (3);
- d) Ensure the productive and sustainable use of land to attain both household and national food security goals;
- e) Advise land reform beneficiaries and other landowners, especially black emergent farmers and small-scale agricultural producers, on how to best utilize land to ensure its productive use;
- f) Facilitate partnerships between landowners, industry, landless and land tenure insecure people, farming communities and Government to promote sustainable inclusive rural development;
- g) Incentivize diverse investment in agro-enterprise from both within and outside the agricultural industry, particularly to catalyse development in peri-urban areas and small towns;
- h) Provide a sound and competent advisory service to the state and private institutions regarding all land acquisition and access matters; and
- i) Trigger informed and sustainable state action to hasten the pace of land redistribution and create a more equitable balance of land ownership and access.

5. PURPOSE:

- 5.1 The purpose of the District Lands Committee as defines in the NDP is the identification and allocation of a minimum of 20 per cent farming land(strategically located agricultural land) in the area that is easily acquirable and which does not cause distortions in the land market (Types of such land may include land that has already been placed on the market, land which is owned by persons suffering financial problems, land owned by absentees landlords willing to participate in the redistribution

programme, and land in a deceased estate) and processing of recapitalization and development applications within the framework of the following programmes and policies of the Department of Rural Development and Land Reform (DRDLR):

- Strategic Land Acquisition in terms of Proactive Land Acquisition Strategy;
- Land Acquisition to secure land tenure in terms of the Labour tenants Act and ESTA.
- Recapitalization and Development Policy.
- Share equity policy (FES)
- Beneficiary Selection Policy
- Lease and Disposal Policy
- Spatial Development framework or Rural Development plan or Area based plan and any other relevant development frameworks.

5.2 The Committee is a non-statutory body but has formal status because it is recognized by the National Development Plan.

6. ROLES AND RESPONSIBILITIES:

- 6.1 The cardinal mandate of the DLCs is to assist in targeted acquisitions of land at the district level; these proposed institutions are highly complementary to the structures proposed by the DRDLR's 2011 Green Paper on Land Reform. With LRMBs and LRMCs representing the interests of land rights holders and potential land reform beneficiaries (residents of the rural area in questions) respectively, the DLCs will play a critical role in fulfilling the gap between local land management institutions and provincial and national structures. The DLC will refer all supported land acquisition and Recapitalization applications to the Provincial Technical Committee, the CRDP Forum for consideration and recommendations to National Committees.
- 6.2 Guided by these overarching objectives, the responsibilities of DLCs are varied and include providing strategic land access management and information to the State. As such, specific roles of DLCs include (amongst others):

- Operate against² determinants of:
 - ✓ varying land interests and needs, the priorities of government and their spatial configuration (in this instance the District Municipality or “Region” wide – across districts and locals);
 - ✓ The canvassed views of interest groups at District/Regional Level on affirming these plans and their intricacies and shaping of what is prioritized.
- Identifying the best candidates to acquire land from and who best to redistribute land to;
- Collaborating with the Valuer General in sharpening and operationalizing the norms and standards for determining “**just and equitable compensation**” and negotiation of land price settlements;
- Knowledge support to feasibility studies for the purposes of acquiring, sub-dividing and development of identified land;
- Facilitating access to land in furtherance of the spatial development and rural development plans;
- Managed correlation and Support to:
 - ✓ Technical Committees to District Mayors Forum Mayoral and/or via the “intergovernmental Technical Support Structures” of Officials (municipal managers). This will require “implementation protocols” from the Minister for Rural Development and Land Reform to the Premier of the Province in terms of the Section 35 of the Intergovernmental Relations Act (Act 13), 2005. These may also need to be discussed in Ministers Forum (e.g. the MinMec and the Executive Forum of Outcome 7; MECs responsible for Rural Development portfolio, Agriculture as well as Local Government may also need to be formally notified of such protocol/s to the Premier and how they would affect them and what resources the DRDLR is bringing to support this DLC responsibility.
 - ✓ Land Rights Management Committee strategies to address land tenure reforms in commercial farming areas, on-and-off farm settlements, the strengthening of relative rights of persons residing on commercial farms as well as contributing to the development of service delivery standards and strategies;
- Support to the coordination of local support services to land reform beneficiaries by ensuring the effective planning, pooling and application of available resources;

- Supporting the formulation and implementation of limitations on land holdings and monitor ownership patterns in the District;
- Enhancing agricultural sector value through identification of the various factors that both hinder and promote competitiveness, sustainability and efficiency of farming enterprises;
- Assisting in the resolution of local land-related disputes and, where needed, advising the Land Commission (LC) on cases requiring arbitration or adjudication;
- Promoting partnerships to facilitate the crowding in of investments and overall rural development; and
- Addressing the historic political deficit amongst “white” landowners and promoting trust, recognition of good will gestures and enhance social cohesion.

4.2 **The functions of the Committee will be to:**

- Ensure that Land acquisition and recapitalization applications are consistent with government policy and has the support of all the necessary role-players and institutions, and will contribute favourably to the mandate of the department in terms of Land Reform;
- Develop standard operating procedures, formats, spreadsheets, checklists and business process flows.
- Ensure compliance with Departmental strategic plans, policies and Legislation,
- Ensure quality control for all land and Recapitalization applications before submission to subsequent approval structures,
- Ensure that all applications are aligned with budget allocation, projections and targets in the APP and operational plans;
- Ensure alignment with NDP, NGP, PGDS, SDFs and other development frameworks.
- Ensure that inter-branch, inter-sectoral and inter-departmental co-ordination, co-operation and alignment takes place;
- Support applications for consideration by subsequent Departmental approval Structures based on agreed set criteria,
- Identify evaluate and monitor risks related to projects;
- Motivate for additional budget allocation where necessary;
- Mitigate any disputes that might arise in the event that the District is unable to make a recommendation on a particular application or projects.
- Support all land valuations conducted by the Office of the valuer General and refer any land price disputes to the office.
- DLC shall create sub-committees such as the Beneficiary selection committee and receive recommendations from the said committee.
- DLC shall also establish task teams to conduct farm assessments and farm inspections for land identified for acquisition and allocation.

- Refer land administration and land rights matters to relevant land Reform support institutions as defined in the Green Paper on Land Reform and other relevant policy frameworks e.g. LMC, LRMB and LRMC.

7. COMPOSITION:

The composition as proposed is landowners from the private (banks and relevant financial institutions) and public sectors, relevant government departments and agencies from all spheres charged with rural development and Land issues. This should be extended to include civil society, NGOs, NAREG, and labour formations, particularly in farming areas where tenure security and conditions on farms are still a challenge. The Composition will vary from Province to Province and the composition below serves as a guide.

The Committee will comprise of following representatives serving as standing members:

- Department of Rural Development and Land Reform(LRD, LTA, REID, RID, RESTITUTION and SPLUM)
- Provincial Department of Agriculture
- Provincial Department of Water Affairs
- Provincial Department of Human Settlement
- District Municipality (LED and Planning Directorates)
- Organized Agriculture(Agri-SA, TAU,
- Local Commodity Organizations(Grain, Dairy, sugarcane, Poultry, citrus etc)
- NGOs (interest in land issues)
- NAREG Representative
- Financial institutions (currently financing agriculture in the District).

Adhoc Members:

- Deeds Office
- Surveyor Generals Office
- Local Municipality (where there is a specific land application/project or land issue that will be addressed).

In relation to external experts the Chairperson or Deputy Chairperson through the secretariat shall invite that person or institution to provide technical support or make a presentation to the Committee.

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Standing Members of the Committee will serve for a minimum period of one financial year unless re-deployed by their Branches or for other reasons.

8. STANDING RULES OF ORDER:

8.1 Chairperson:

The Director or Deputy Director regional Shared Services or delegated authority from the Department of Rural Development and Land Reform shall be the Chairperson, Deputized by Director or Deputy Director or any other standing member appointed by members of the committee: Provincial Department of Agriculture Service delivery coordination.

8.2 Meetings:

All meetings shall take place at the offices of the Department of Rural development and Land Reform or District Municipality offices unless otherwise stated.

8.2.1 Frequency:

The Committee shall meet monthly to execute its duties as set out in **point 4** above.

8.2.2 Ad hoc Meetings:

The Chairperson or deputy Chairperson shall have the discretion to ascertain the merits of urgent applications for consideration and support for Land acquisition, Recapitalization and development projects. In the event that the Chairperson or deputy Chairperson deems that an application/s cannot be held over to the next scheduled meeting of the committee, he/she may call an ad hoc meeting to consider the application/s. At such ad hoc meetings, a quorum shall be considered to be 50% plus 1 member.

8.3 Secretariat:

The Directorate Land Acquisition and Recapitalization through its Sub-directorate in the District shall establish and manage a competent secretariat. The secretariat shall provide the following services:

- Give written notice of meetings, 7 days before the meeting;
- Draw up an agenda in line with the order of business, 7 days before the meeting;
- Package all applications for presentation to the Committee.
- Circulate applications and presentations to Committee members 7 days before the meeting,
- Attend to all logistical arrangements for the meeting (Venue, and book relevant equipment for the meeting).

- Keep an attendance register;
- Write and send out minutes and relevant documentation, 7 days after the meeting;
- Complete and send out the decision spreadsheet to members and PTC Secretariat 5 days after the meeting,
- Follow up on matters arising and ensure the flow of information between members; and
- Deal with correspondence and communication,
- Provide a quarterly summary report to DLC Members.
- Make available copies of the relevant policies to members.
- Create and maintain an automated land/lessee and Recapitalization application system.
- Place advert on the media for a specific targeted group for land allocation based on the defined beneficiary categories in the policy.

8.4 Notice of Meetings:

The Secretariat shall set timelines for electronic notice (email and sms) of meetings to each member. The schedule committee meetings will be drawn up and aligned with the departmental calendar and National Approval Committees.

The notice shall set out the time, date and place of each meeting and shall include an agenda and such documentation necessary to enable participants to prepare for meetings.

8.5 The Agenda:

The agenda shall be drafted by the secretariat and approved by the Chairperson and sent to DLC members no later than 7 days before the committee meetings.

The agenda shall be drafted according to the order of business.

DLC members may place items on the agenda by submitting them to the secretariat not later than 7 days before the DLC meeting.

Urgent matters that arise after this time may be placed on the agenda at the meeting by the Chairperson with the consent of the meeting.

8.6 Quorum:

The quorum for a meeting shall be at least 50 + 1 of the total number of standing members of the DLC. The secretariat must be aware before the meeting that there will not be a quorum, the members of the DLC should be informed via email and/or telephonically (including sms).

If there appears to be no quorum during a normal meeting the chairperson shall suspend proceedings for 30 minutes and, if at the end of that period there is still no quorum, he or she may declare the meeting to be adjourned or choose to proceed if all members present agreed by way of vote or convene an ad hoc meeting.

8.7 Minutes:

The secretariat must keep accurate minutes and decision spreadsheet as well as other material presented to the DLC. Minutes and decision spreadsheet shall be sent to each member within at least 5 days after each meeting.

The minutes shall be considered at the following meeting of the DLC.

8.8 Order of Business

The order of business at a meeting shall be as follows:

- a) Opening.
- b) Present and apologies.
- c) Adoption of the Agenda.
- d) Adoption of the minutes of the previous meeting with corrections.
- e) Matters arising from the minutes.
- f) Business issues.
- g) Any other matters placed on the agenda by DLC members.
- h) Date of next meeting.
- i) Closure.

The Chairperson may give preference to any item on the agenda.

8.9 Proceedings at Meetings:

Meetings shall be conducted on the basis of participation and respect for each other.

Department of Rural Development and Land Reform shall present their applications to the Committee on the prescribed agreed upon formats and in accordance with the approved checklists.

During the initial meetings the Branch SPLUM must present the District SDF and the maps indicating, land delivered to date, land claims settled and gazetted, state owned land, priority areas linked to commodities and strategically located agricultural land in

the District. LRD and LTA must also present all policies and targeted beneficiary categories to empower members of the committee for decision making.

All apologies must be in writing or email via the secretariat.

All meetings must be recorded.

8.10 Decision-making:

Decisions will be taken by consensus wherever possible. Where this is not possible, after thorough debate and discussion, decisions will be taken by a simple majority.

Each member shall be entitled to one vote.

Where a vote has to be taken on a matter, such vote shall be by a show of hands unless any member requests a secret ballot.

All committee decisions will be recorded on the decision spreadsheet and minutes.

8.11 Confidentiality and Conflict of interest:

Any member will recuse him/ herself from taking part in a decision-making process in respect of any application before the Committee where they have a conflict of interest. These shall include but not restricted to the following:

- The applicants are related to or is a life partner of, a business partner to or an employee of any member of the Committee;
- Committee member is a member/director/shareholder of the company mentioned in the application;
- Committee member is related to or is a life partner of, a business partner to or an employee of any member of Close Corporation/ Company/ Trust or any other legal entity mentioned in the application; and
- If the Committee member is a debtor or creditor to any member of the Close Corporation/ Company/ Trust or any other legal entity mentioned in the application.

Committee Members found in contravention of this rule will have his/her membership revoked and the decision taken at the meeting concerning that particular application will be subject to review.

The Committee will determine, from time to time, any additional policy or stipulate code of conduct in respect of conflict of interests applicable to Committee Members.

Committee Members will be required to sign a declaration of interest as well as attendance register at the beginning of each meeting. Electronic/faxed signatures and

declarations will be accepted for those who are attending the meeting via video-link should it be necessary.

The Promotion to Access of Information Act, 2000 (Act No. 2 of 2000), places an obligation on public bodies to make available information **under certain conditions** and if all the requirements of the Act have been complied with in making the request, information requested in terms of the Act must be done via the duly delegated information officers of the DRDLR.

8.12 Conflicting Policies or Mandates:

Legislation and approved policies of the DRDLR shall override these Terms of Reference.

8.13 Termination of Membership of the Committee:

Members must provide written reasons to the Committee via the secretariat for non-attendance. The Director General OR Delegated Authority shall appoint the members of the committee in writing. The Deputy Director General will be informed if members continue to be absent from meetings and after 5 consecutive meetings of absence the membership will be terminated in writing by the Director General of the Department of Rural Development and Land Reform.

8.14 Approval of the Terms of Reference:

The Terms of Reference for the Committee shall be presented in the first meeting of the District Lands Committee and be adopted. It must be noted that after the adoption of the Terms of Reference by the full sitting of the District Lands Committee, the Director General will approved and sign-off on the Terms of Reference.

These Terms of Reference were recommended for approval by the Committee on the
July 2014.

DIRECTOR GENERAL:
DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM
DATE: