



rural development & land reform

Department:
Rural Development & Land Reform
REPUBLIC OF SOUTH AFRICA

**POLICY FRAMEWORK FOR THE RECAPITALISATION AND DEVELOPMENT
PROGRAMME OF THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND
REFORM.**

(Final Version)

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1 Problem statement

Before the global economic recession, South Africa enjoyed a decade of sustained period of economic growth. However, millions of people continue to live in poverty with social grants as their only source of livelihood. Like most developing countries, South Africa has seen the middle-income earners become key drivers in propelling economic growth, as they have access to disposable income.

According to the review of the Agriculture Sector Plan conducted in 2008, agriculture's contribution to the GDP has declined since the early 1970's. With the escalating prices of input costs worldwide, most established commercial farmers in our country, who do not have the benefit of subsidies like their counterparts in Europe and America, have found it hard to keep their operations profitable. There is now a view that South Africa has become a net importer of food, as local farmers find it hard to compete with imports from subsidised farmers elsewhere in the world. The primary focus of land reform up to now has been driven by the goal of achieving equitable land ownership amongst the country's citizens. Where efforts were made to develop post-settlement strategies such as the Comprehensive Agricultural Support Programme (CASP) and the Settlement and Implementation Support (SIS) Programme, there was insufficient capacity within government for full scale implementation of these programmes. In fact a 2007 review of the CASP revealed that not all the six pillars of CASP were implemented, and that there was a misalignment between the CASP and land reform programme.

Many observers generally associate land reform with failure, both from the point of view of its pace and sustainability without examining the root causes of the problem. The land reform programme's reliance on the market, as a mechanism to redistribute land, resulted not only in the process being slow and expensive, but has also meant that there were hardly any resources left for proper support services to land reform beneficiaries. While there is no known research conducted on the impact of failed land reform projects on food security and farm jobs, the fact that most of the six million hectares of agricultural land acquired through the land reform programme, is now out of production and has become a reason enough for the Government to consider introducing the Recapitalisation and Development Programme (RADP).

2 Overview and objectives

Global experience indicates that it is fruitless to embark on land redistribution without concurrently taking measures to improve access to farmer support services. The RADP will apply to past and future land transactions and includes all categories of property acquired and still to be acquired for land reform purposes (including state and public land such as commonages). In addition it will apply to farms in distress acquired by black farmers outside of the land reform programme. This is in fulfillment of the Department's new mandate, expressed in Outcome 7 as: "(a) graduating small-scale (black) farmers into fully-fledged commercial farmers, and, (b) food security.

The following are specific objectives of RADP:

- to increase production;

- to guarantee food security;
- to graduate small farmers into commercial farmers;
- to create employment opportunities within the agricultural sector; and
- to establish rural development rangers.

3 Qualifying criteria

The RADP will apply to all emerging farmers needing and deserving of support; and; future land beneficiaries. The RADP will also cover all categories of property acquired and to be acquired for land reform purposes (including state and public land such as commonages).

The Recapitalisation and Development Programme (RADP) will issue stringent conditions for those who qualify to benefit from it so as to avoid creating a culture of entitlement and dependency from unscrupulous individuals who are in it for personal gain. Land reform farms that have a mortgage component and that are on the verge of repossession, will be subjected to a curatorship model with the lending institution in question. This arrangement is currently only with the Land Bank but could be extended to other commercial banks as negotiations proceed.

There are many emerging farmers who purchased farms with loan finance from different financial institutions, without any state support, who are experiencing the same challenges as land reform beneficiaries. There is a need to support these farmers, by providing specialised agricultural financing in the form of financial guarantees to those financial institutions that they are indebted to for a period of five years or depending on the business plan. These financial guarantees will be for both mortgage and production loans. In such cases, a credible business plan must provide an outline of the total debt of the farm and what is needed to further develop the farm. Once the business has sufficiently stabilized the farmer will begin repayments to the financial institution.

The RADP will also apply to irrigation schemes and state farms in communal areas.

Farms will not automatically qualify for RADP. The Department will select farms on a case-by-case basis by working together with the Departments of Agriculture, Forestry and Fisheries (DAFF) and Water Affairs, the Land Bank and social partners in the private and non-governmental sectors. Selection will depend on the assessment of the farms and based on a credible business plan.

4 Functions of the RADP

The RADP consists of two functions namely, Recapitalisation and Development. The programme is sustained by the Recapitalisation and Development Fund (RDF), created from 25% of the baseline land reform budget per annum.

4.1 Recapitalisation

The Recapitalisation function is entirely resource-driven and will focus on land reform and other strategic farming enterprises that have received little to no agricultural support but will grow if further financial investments are provided, based on a credible business plan. A credible and bankable business plan will have to be developed to provide a desirable outlook towards profitability of the enterprise.

4.2 Development

The development function focuses on the growth and progress of the farming enterprise. This includes mentoring, appointment of strategic partners, other on-farm capacity building initiatives and infrastructure development. DAFF has a central role to play as a development partner because it is the custodian of the agriculture sector plan and policies; and controls extension services, including veterinary services, research and development facilities.

Different land reform projects are likely to require different development interventions and timeframes for how easily and quickly they may "turn around". The DRDLR has developed a grading system that will determine the type of interventions that each project requires. There will be some, especially those that involve large groups that will have complicated social issues and conflicts to resolve and this is likely to take longer to identify solutions and to obtain consensus on development solutions. These cases may be referred to a Council of Stakeholders that will be established as part of the Comprehensive Rural Development Programme. There are others that may have a single owner or user of land and the key intervention required may only be infrastructure development that will require substantially less time.

Given these differences, the projects will be disaggregated into those that are likely to require long term intervention and support (2 to 5 years), particularly regarding issues of tenure and benefit sharing and those that are expected to provide short term results (0-2 years).

5 Recapitalisation and Development Fund

The Recapitalisation and Development Fund (RDF) has been created from the Department's land reform budget (25%) over each MTEF period. The fund replaces the following land reform grants:

- a. The 25% PLAS Operational Budget;
- b. The 25% Household Development Grant;

- c. The 25% Restitution Development Grant;
- d. The Restitution Settlement Grant; and
- e. Commonage infrastructure grant.

The RDF will also assume the contingent liability incurred as a result of the approval of Development Grants for Restitution projects.

Funding may also be sourced from strategic partners (see **section 5**) for particular projects. These funds will be managed by project-based legal entities but could be accessed by both the strategic partner and beneficiary. The Department will play an active role in monitoring compliance and setting proper financial controls to ensure that funds are spent in accordance with this Framework, the Public Finance Management Act, 1999 (Act No.1 of 1999) and Treasury Regulations.

6 Mentorship

Mentorship will become a central element of the programme given the skills gap of land reform beneficiaries. While government and commodity organisations across the agricultural sector have implemented various mentorship programmes over time, there has not been any formal engagement to share experience and knowledge on the subject. There is therefore no common approach towards mentorship, resulting in negative perceptions among those who are supposed to benefit from it. Not all projects will require a mentor. There may be cases of farmers who want to assist their neighbours out of goodwill and these should be encouraged.

The Department through the funding element of RADP will only fund the expenses of a mentor for an agreed period of time but will expect that this cost to be covered by the enterprise once it has started generating a profit. Organised agriculture and other experts will be engaged to debate the existing models of mentorship so that each commodity group could have clear norms and standards for mentorship.

The mentorship programme aims to equip all land reform projects identified under the RADP with training, marketing, finance, networking and other farm related skills, to ensure that the identified projects can start producing, enter markets and create successful farms and enterprises.

Mentors will be accredited by the Department through the normal procurement processes and are expected to equip land reform beneficiaries whether on small or large-scale farms, with the necessary skills to run successful enterprises. Different mentors will be assigned to different projects in accordance with their skills and knowledge over an agreed period.

7 Strategic Partners

Strategic partners can be companies or individuals, irrespective of race or nationality. The most important element of a strategic partnership is risk sharing. Risk-sharing implies the following: capital investment in the project that does not encumber the land (therefore restricted to production loans where necessary), sharing or user agreements in relation to corporeal and incorporeal (includes goodwill) assets of both partners

(beneficiary and strategic partner) and general accountability in terms of the business operations. The strategic partner may bring in goodwill and corporeal assets other than cash as his/her contribution to the business.

The risk profile of the strategic partner should form part of the due diligence. It would be important to know that the SPs are not blacklisted¹, sequestered or have a poor credit rating.² It is also important to assess the SP's reputational risk. Some farming organizations or farming communities may have a list of unscrupulous strategic partners. In relation to foreign investment companies or individuals proper investigations must be made through the embassies, CIPRO, Department of Home Affairs and other agencies that deal with foreign nationals.

There must also be a good fit between the strategic partner and beneficiary and they should be selected simultaneously.

Box 1: Legal compliance issues for the formation of strategic partnerships (companies)

- **Must provide annual reports/audited statements (Number of years e.g. 3 years seem to be rule of thumb), with reference to the Public Finance Management Act, 1999 (Section 38). If it is a new entity, the number of years of experience of the personnel would be taken into account.**
- **Business plans or business proposals**
- **Company profile with Registration numbers**
- **Financial management with reference to the Public Finance Management Act, 1999 *inter alia*:**
- **The company/organisation must exhibit transparent and effective systems of financial management**
- **The organisation must have appropriate procurement systems which are fair, cost effective, open, competitive and equitable.**

The different types of strategic partnerships may include, but are not limited to:

- Co-management;
- Share-equity; and

¹ National Treasury has a list of service providers who have been blacklisted by Government departments.

² This can be referenced checked through Credit Bureaus

- Contract farming

7.1 Co-management

Co-management is an arrangement where two or more social actors negotiate, define and guarantee amongst themselves, a fair sharing of the management functions, entitlements and responsibilities for a given territory or set of natural resources. Co-management is a multidisciplinary practice with various corporate and commercial actors having direct or indirect interests in developing public-private-partnerships, with beneficiaries and the state. It takes into consideration social and historical factors to ensure the sustainability of projects.

Co-management requires negotiation, consensus-building and power sharing and recognises knowledge, values and experiences that both parties bring to the table. Co-management is a long-term commitment that requires adequate time and resources if the objectives are to be achieved. It is a process and not an end in itself, and in many instances each co-management construction has to be tailor-made to the specific situation.

There are different co-management arrangements that may be encouraged as part of RADP:

- **Co-management with neighbouring farmers**

There are many established farmers who have co-management or even share cropping arrangements with their neighboring new land owners. This has assisted some land reform beneficiaries to gain access to equipment and machinery which they would otherwise not have been able to afford. Some have been able to build up their herd with the support from their experienced neighbours. Most of these arrangements are not formal and therefore create suspicions of exploitation by some beneficiaries. Through this programme, this arrangement will be formalised, with government playing a facilitation and catalyst role. Part of this co-management arrangement can include empowerment and capacity building as an important aspect. Government needs to ensure that the necessary commitment and funding is in place, including adequate support structures and training facilities to strengthen the partnership.

- **Co management in municipal commonage areas**

The DRDLR will continue to partner with local government to ensure social and economic development in relation to sustainable commonage development and management. Municipal commonage refers to land that is legally designated for the use by the local population for land reform purposes, and is most often used for agricultural purposes in order to supplement incomes and enhance food security. When there is active involvement from the municipality and Department within a regulatory framework, there is a greater chance of success, and sustainable commonage development. Commonage rights allocations ensure sound commonage

management and security of livelihoods. Rights and regulations are drafted as part of the commonage management contract. Once these contracts are signed between the Department, the municipality and the individual, there is a better understanding of the roles and responsibilities. It should be noted that contracts and agreements would be between individuals and the municipality and the Department rather than a group/municipality/Department contract. In cases where the agreements have been signed with a group, it is open to corruption and the land is often degraded because of misuse. Power struggles often cripple the groups and cause inefficient and unsustainable usage of the commonage. Municipal commonage can be used as an opportunity for local economic development, if the processes are transparent and all institutional arrangements and agreements are adhered to.

7.2 Share equity schemes

The *White Paper on South African Land Policy* describes share equity schemes as follows: "A partnership with the private sector which represents a well balanced mix of farming systems, flourishing agricultural sector and secure tenure for all stakeholders." Share equity schemes in agriculture are arrangements in which potential/land reform beneficiaries or small scale farmers buy shares in a farming enterprise or an agricultural processing company. It is similar to shared ownership and seeks to contribute towards the achievement of land reform objectives, by roping in private sector participation in land reform, through equity sharing in the enterprises. In the past the Department focused on an enterprise ownership structure, they were to give labour tenants, farm-dwellers, farm-workers, etc. an opportunity to own land and agricultural enterprises, and by so doing assist to rectify the skewed ownership of land and related assets, particularly high-value commercial agriculture and eco-tourism enterprises. The key elements of these equity schemes are as follows:

- financing models based on the shareholding components;
- secure land tenure, especially ownership and leasing agreements;
- management development;
- mentorship;
- beneficiation; and
- off-take agreements and market development.

This model will be aligned to the Agri-BEE strategy of government, in relation to minimum shareholding required to fund beneficiary shareholding in these types of arrangements.

7.3 Contract farming

Contract farming is an agreement between farmers (generally small-scale) and processors or marketing firms the basis of which is "a commitment on the part of the farmer to provide a specific commodity in quantities and at quality standards determined

by the purchaser and a commitment on the part of the company to support the farmer's production and to purchase the commodity" (FAO, 2001:2)³

The contract is very specific and generally stipulates how the crop or livestock should be produced. The producer/farmer must supply the product to the company at specified times and the price is determined by the quality and quantity of the product. This amount is generally fixed as it is assumed that the company will take the risk of marketing. In certain industries, however, the prevailing market price at the time of sale is used as the contract price. In return, the farmer can expect various support measures from the company: the commitment to buy the product but also the provision of physical inputs, technical training, accounting services, access to credit (often subsidised) and advance payments.

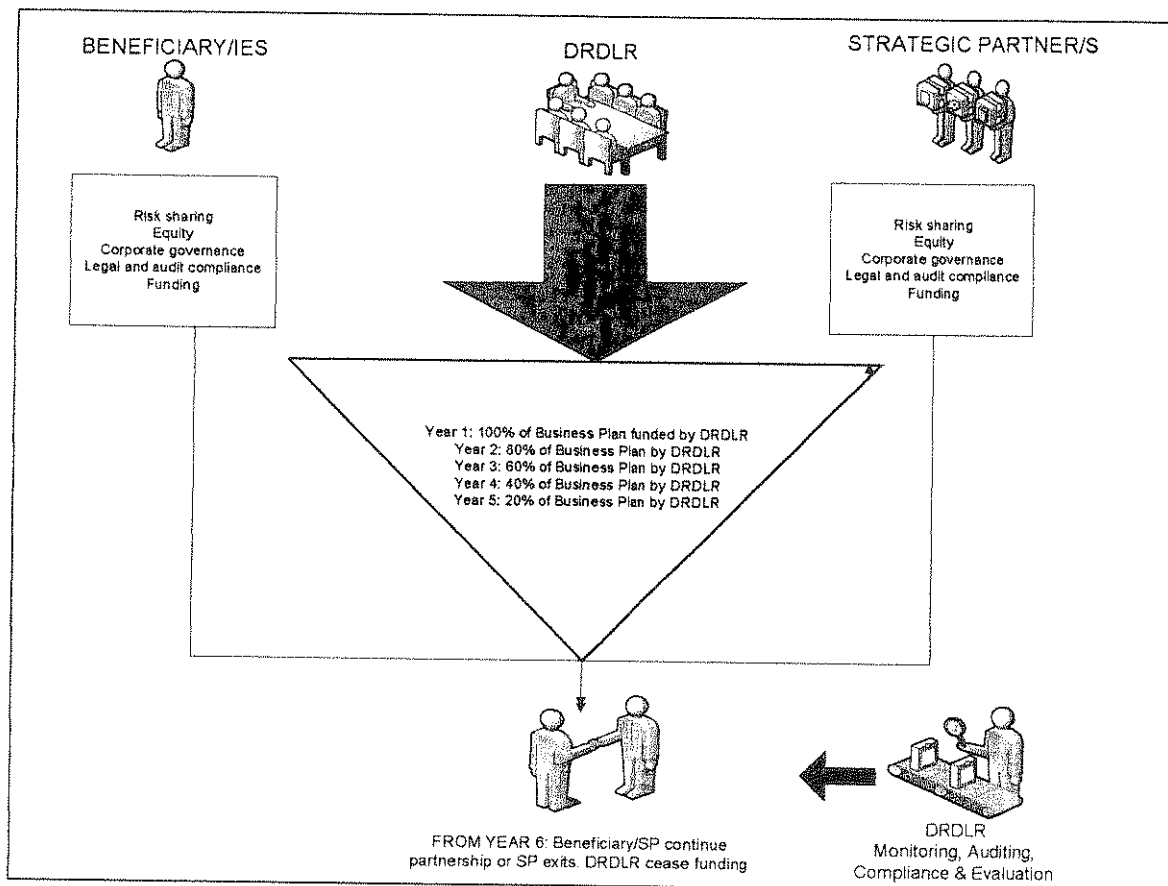
8 Approval and disbursements

Funding will be released incrementally as per the approved business plan.

The maximum amount of years for the flow of funds is five. It is envisaged that for the first five years the DRDLR will play an instrumental role in overseeing the management of the projects. In some instances the DRDLR may serve on the board of managing directors. For longer term investments such as sugar, the DRDLR's role may span more than 5 years. The diagram below illustrates the incremental funding over five years. This model will be adjusted for longer term projects.

³ Food and Agricultural Organisation, United Nations: Contract Farming – Partnerships for Growth. 2001
Food and Agricultural Organisation, Geneva.

Figure 1: Disbursement of Funds



In relation to the above model it means that by year 6, the business would not require any funding from the Department and has become self-sustaining. Additional funding requirements after the 5 year cycle, will depend on exceptional situations such as adverse weather conditions or pestilence.

A delegation of authority framework needs to couple the disbursements by the state. Due to the tight core business budget it is recommended that no yearly disbursement for a single farm project should exceed R20 million but a cluster of farm projects can exceed this limit. It is recommended that single farm projects in excess of 20% of the proposed R20 million ceiling be approved by the next delegated authority and so on until projects are referred for Ministerial approval. The above restrictions are short-term measures that will be reviewed if the funding situation and delegations framework changes.

9 Legislative framework

Key legislation

There are three key pieces of legislation directly applicable to the RADP:

- The Land Reform: Provision of Land and Assistance Act, Act No. 126 of 1993 as amended in 2008, is the key legislation that governs the Recapitalisation Programme

– providing, in Section 10, the government with the power to utilise money from Parliament not just to purchase land and other property for land reform beneficiaries but to also:

(b) on such conditions as he or she may determine-

- (i) make available state land administered or controlled by him or her or made available to him or her;*
- (ii) maintain, plan, develop or improve property or cause such maintenance, planning, development or improvement to be conducted by a person or body with whom or which he or she has concluded a written agreement for that purpose;*
- (iii) provide financial assistance by way of an advance, subsidy, grant or otherwise to any person for the acquisition, maintenance, planning, development or improvement of property and for capacity building, skills development, training and empowerment; or*
- (iv) in writing authorise the transfer of funds to-*
 - (aa) a provincial government;*
 - (bb) a municipality;*
 - (cc) any other organ of state; or*
 - (dd) any other person or body recognised by the Minister for such purposes, which he or she considers suitable for the achievement of the objects of this Act, whether in general, in cases of a particular nature or in specific cases.*

- The Restitution of Land Rights Act, 1994 (Act No. 22 of 1994 as amended) which says the following in Section 42C:

(1) The Minister may from money appropriated by Parliament for this purpose and on such conditions as he or she may determine, grant an advance or a subsidy for the development or management of, or to facilitate the settlement of persons on, land which is the subject of an order of the Court in terms of this Act or an agreement in terms of section 14 (3) or 42D, to-

- a. any claimant to whom restoration or the award of a right in land has been ordered;*
- b. any claimant who has entered into an agreement contemplated in section 14 (3) or 42D;*
- c. any person resettled as a result of an order of the Court.*

(2) For the purposes of subsection (1) 'development of land' includes the facilitation of the planning of any development of land.

- The Extension of Security of Tenure Act, 62 of 1997, similarly provides for the Minister to allocate funds for developments related to farmdwellers who live with insecure tenure. Section 4 of the Act says the following:

(1) The Minister shall, from moneys appropriated by Parliament for that purpose and subject to the conditions the Minister may prescribe in general or determine in a particular case, grant subsidies-

- a. to facilitate the planning and implementation of on-site and off-site developments;
- b. to enable occupiers, former occupiers and other persons who need long-term security of tenure to acquire land or rights in land; and
- c. for the development of land occupied or to be occupied in terms of on-site or off-site developments.

Importantly the Act also allows for the inclusion of other roleplayers in the implementation of the proposed developments. Section 4.4 of the Act provides the following:

(4) The Minister may, for the purposes of this section, grant subsidies through an agreement with a provincial government or a municipality, or a person or body which he or she has recognised for that purpose, where-

- (a) a provincial government or a municipality or such person or body will facilitate, implement or undertake or contract with a third party for the facilitation, implementation or undertaking of a development; or*
- (b) the subsidy is paid to the provincial government or a municipality or such person or body to enable it to facilitate, implement or undertake or contract with a third party for the facilitation, implementation or undertaking of a development.*

Additional relevant legislation

Legislation under the responsibility of other Departments and spheres of government is also relevant to the implementation of the RADP. Some of these are the following:

Box 2: Additional applicable legislation

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| <ol style="list-style-type: none"> 1. Constitution of South Africa 1996 (Section 13 clause 217) Act 108 of 1996 2. The Public Finance Management Act 1 of 1999 (as amended by Act 29 of 1999) 3. Treasury Regulations issued in terms of PFMA : March 2005 4. The Preferential Procurement Policy Framework Act 5 of 2000 5. The Preferential Procurement Policy Framework Act Regulations of August 2001 6. Supply Chain Management – A 2003 Guide for Accounting officers/ Authorities 7. Broad Based Black Economic Empowerment Act 53 of 2003 8. National Small Business Act 102 of 1996 |
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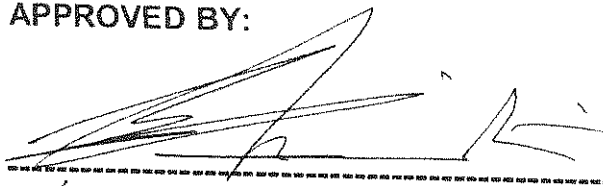
9. Access to Information Act 2 of 2000
10. Treasury Practice Notes
11. Labour Tenants Act no. 3 of 1996
12. Transformation of certain rural areas act no. 94 of 1998
13. Interim protection of informal land rights act no. 31 of 1996
14. Distribution and transfer of certain state land act no. 119 of 1993
15. Upgrading of land tenure rights act no. 112 of 1991
16. Land title adjustment act no. 111 of 1993
17. Companies Act 71 of 2008
18. Insolvency Act 24 of 1936 as amended

10 Development of a manual

A comprehensive manual will be developed to outline the implementation of the RADP. Elements of the manual will include *inter alia*:

- Targeting and methodology;
- Institutional arrangements;
- Governance;
- Business processes ;
- Exit strategies; and
- Delegation Framework.

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