



rural development
& land reform

Department:
Rural Development & Land Reform
REPUBLIC OF SOUTH AFRICA

DRAFT PROPOSAL

**STRENGTHENING THE RELATIVE RIGHTS OF
PEOPLE WORKING THE LAND**

Policy Proposals

Tuesday 30 July 2013

ABBREVIATIONS

ANC	African National Congress
BFAP	Bureau for Food and Agricultural Policy
CPA	Communal Property Associations created in terms of the Communal Property Associations Act 28 of 1996
ECC	Employment Conditions Commission
ESTA	Extension of Security of Tenure Act No 62 of 1997
FAO	Food and Agricultural Organization
FES	Farm Equity Schemes
DLA	Department of Land Affairs
DRDLR	Department of Rural Development Land Reform
IDT	Investment and Development Trust
LCC	Land Claims Court
LTA	Land Reform (Labour Tenants) Act 3 of 1996
LRMB	Land Rights Management Board
LRMC	Land Rights Management Committee
LMC	Land Management Commission
MTSF	Medium Term Strategic Framework
NDP	National Development Plan
PLAS	Proactive Land Acquisition Strategy
RDP	Reconstruction and Development Programme
SAPS	South African Police Service
SLAG	Settlement/Land Acquisition Grant
LTS	Land Tenure Security Policy for Commercial Farming Areas

- iv. **Occupier** refers to a person residing on land which belongs to another person, and who has or on 4 February 1997 or thereafter had consent or another right in law to do so³ (excluding a “labour tenant” as defined in the relevant legislation as well as a person using or intending to use the land in question mainly for industrial, mining, commercial or commercial farming purposes, but including a person who works the land himself or herself and does not employ any person who is not a member of his or her family);
- v. **Owner** means the owner of the land at the time of the relevant act, omission or conduct, and includes, in relation to the proposed termination of a right of residence by a holder of mineral rights, such holder in so far as such holder is by law entitled to grant or terminate a right of residence or any associated rights in respect of such land, or to evict a person occupying such land; and
- vi. **“Person in Charge”** means a person who at the time of the relevant act, omission or conduct had of has legal authority to give consent to a person to reside on the land in question.

³ Definition derived from: Extension of Security of Tenure Act 62 of 1997

black women was only a part of a broad legacy of centuries of land dispossession through racially discriminatory laws.

The formulation of the proposed land tenure security policy for Commercial Farming Areas forms part of Government's undertaking to review all land reform policies as enunciated in the 2011 Green Paper on Land Reform, with a view to address issues relating to historical exclusion, equitable access to land, and participation in the optimal utilisation of land; as well as to address challenges relating to access to food at both household and national level to bring about household food security, food sovereignty and national food self-sufficiency. Furthermore, these broad policy initiatives and principles are embedded within South Africa's Constitution.

1.1.2 The Constitution

The context of all rural development and land reform policies is the 1996 Constitution of post-apartheid South Africa. In this instance, the most pertinent sections of the Constitution are 25, 26, 27 and 36. The 1996 Constitution sets out the following framework for land reform:

The state must take reasonable legislative and other measures, within its available resources, to foster conditions, which enable citizens to gain access to land on equitable basis (Section 25(5)).

A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress (Section 25 (6)).

A person or community dispossessed of property after June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that property or to equitable redress (Section 25 (7)).

There are three key pillars in South Africa's post-1994 Land Reform Policy that reflect the constitutional pronouncement around land matters: land redistribution, land tenure reform and land restitution. As noted hereto, Section 25 (5) enjoins, "The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable

The envisaged policies towards limiting access to land by South Africans with excessive land holdings and foreign nationals and Juristic persons ought to be weighed against the stated importance and compulsion upon the state in Sections 25 (4), (5) and (8) addressed above. These define the nature and significance of land in engendering inclusive rural economic transformation.

Furthermore, Section 26 of the Constitution is on rights to housing which in essence affirms a guarantee of rights to a specific type of property. Section 26 (1) stipulates, "Everyone has the right to have access to adequate housing".

Section 27 of the Constitution guarantees food security and poverty reduction by stating that every citizen has the right to have access to sufficient food and water, social security and health care and that the state must by legislation and other measures, within its available resources, ensure the progressive realization of the right. The Constitutional pronouncements made hereto are further given effect in the proposed legislative, institutional and policy regimes that have emerged from the 2011 Green Paper on Land Reform.

1.1.3 The Principles and Strategic Thrust of the Green Paper on Land Reform

In 2011, the Green Paper on Land Reform provided for a single land tenure framework, integrating the current multiple forms of land ownership - communal, state, public and private - into "a single 4-tier tenure system" namely:

- (a) State and public land: Leasehold;
- (b) Privately owned land: Freehold, with limited extent;
- (c) Combination of freehold with limited extent and leasehold; and,
- (d) Communally owned land: Communal Tenure, with institutionalised use rights".

The principles and strategic thrust underlying land reform, as set out in the Green Paper on Land Reform are aimed to: deracialise the rural economy; to promote democratic and equitable land

1.1.5 Alignment with the National Development Plan (NDP) and the Medium Term Strategic Framework (MTSF)

The proposed policy for strengthening farm workers' relative rights to land will also contribute to realising national objectives as outlined in the 2012 National Development Plan (NDP) and the Medium Term Strategic Framework (MTSF) for 2014-2019. The NDP 2030 vision is spatially, socially and economically well integrated rural areas - across municipal, district and provincial and regional boundaries - where residents have economic growth, food security and jobs as a result of agrarian transformation, land reform and infrastructure development programmes, as well as enjoy improved access to basic services, health care and quality education. By 2030, agriculture is envisioned to create close to 1 million new jobs, contributing significantly to reducing overall unemployment.

The NDP states that since 1994, the main challenge for rural development has been marginalisation of the poor, with many rural areas and households trapped in a vicious cycle of poverty. Rural areas and communities require greater social, economic and political opportunities to overcome the legacy of marginalization and poverty. **One key aspect of the NDP's proposed rural development strategy is to "ensure access to basic services, food security and the empowerment of farm workers".**¹² The NDP further avers that the *"relationship between farmers and farm workers is difficult and needs to be far better to achieve agricultural expansion, higher employment and better living conditions"*.¹³ In order to overcome this challenge and to achieve its vision, the NDP identifies the following policy imperatives, which will be the focus of the coming MTSF period:

1. Improved land administration and spatial planning for integrated development with a bias towards rural areas;
2. Up-scaled rural development as a result of coordinated and integrated planning, resource allocation and implementation by all stakeholders;
3. Sustainable land reform (agrarian transformation);
4. Improved food security;

¹² National Planning Commission (NPC). 2011. National Development Plan. Vision for 2030, pp. 219

¹³ *Ibid.* Pp. 233.

1.2 Background to Strengthening Relative Rights of People Working the Land

1.2.1 Historical dispossession and marginalization of farm workers/dwellers

People living and working in Commercial Farming Areas¹⁴ are amongst the most marginalised and destitute people in South Africa. Within the formal economy, this group ranks the poorest in the nation in terms of numerous development indicators, including household income, literacy rates and nutritional status. Certain studies have indicated that as high as one-fifth of all farm workers/dwellers' children are malnourished, and show a higher prevalence of stunting than children living in other areas of the country.¹⁵ The commercial farming sector also houses the lowest paid workers in the formal economy, many of whom are forced to work long hours without compensation, refused annual leave and are often paid "in kind". Frequent deprivation of basic human rights enshrined in international and domestic law, including the right to land, housing, family life, safe work environments, freedom of discrimination, freedom of association and access to education, healthcare and other public services, make farm workers/dwellers and their families some of the least protected and most vulnerable groups in the country.

The approximately three million people¹⁶ living and/or working on commercial farms also live under extreme tenure insecurity and experience restricted access to land, with less than 15 per cent of farm workers/dwellers able to cultivate their own crops in certain provinces.¹⁷ This tenure insecurity is a direct effect of colonial and apartheid processes of dispossession, human degradation and exploitation that systematically destroyed the livelihoods of indigenous South Africans with the purpose of transforming the majority of the population into a pool of cheap

¹⁴ Commercial Farming Areas denotes a piece of land used primarily for agricultural purposes, either currently or in recent years. Farms are generally within an area not demarcated as urban, but do not necessarily include all land outside urban areas (*This definition is adopted from: Wegerif, M., Russel, B., and Grundling, I. 2005. Still searching for security: The reality of farm dweller eviction in South Africa, Nkuzi Development Association, South Africa*). An expanded definition of commercial farming areas would include farms producing agricultural products intended for the market, usually registered for value-added tax (VAT) and income tax. For the purpose of this policy, these farms are mostly located within the freehold tenure areas.

¹⁵ Wegerif, M., Russel, B., & Grundling, I., 2005. *Op.Cit.*; Atkinson, D. Pienaar, D. & Zingel, J. 2004. "From on Farm to Own Farm". Report on a study commissioned by the Food and Agricultural Organization (FAO); HRSC: South Africa.

¹⁶ Mayende, G. 2004. The Challenge of Land Tenure Reform in South Africa. Issues, Problems and Prospects in, Roth, M, Nxasana, V, Sibanda, S and Yates, T. 2004. Finding Solutions Securing Rights. Lexis Nexis, Butterworths.

¹⁷ NLC, "Tenure Reform Media Fact Sheet", not dated. In Weideman, M. 2004. A History of Dispossession. Available at: http://wiredspace.wits.ac.za/bitstream/handle/10539/275/21_chapter9.pdf;jsessionid=CEC95F42144308100EF803C7FB4ABBC8?sequence=21 (Accessed on 17 JULY 2013).

Constitution, these are all too often not extended to people living and working in Commercial Farming Areas.²⁵

For instance, the right to decent working conditions and a healthy working environment is largely unrealised for most people living and working on commercial farms in South Africa. Farm workers are the lowest paid employees in the formal sector, most work longer hours than the legal limit without compensation, and black agricultural workers, especially women, receive lower wages than white co-workers.²⁶ While the average income of white farm workers in 1996 was R 4 613 per month, that of black workers was R 598, less than 12 per cent of wages received by whites (with much lower wages paid in some parts of the country). Furthermore, while the average male farm worker salary amounts to approximately R 667 per month, the average female salary averages R 458 per month. This unbalanced trend has not changed significantly in the past decade.²⁷ In 2013, the minimum wage for farm workers was increased from R 69 per day to R 105 per day. The new wages took effect from 1 March 2013.²⁸

Despite the recent wage increment, farm workers endure one of the lowest minimum wages for any employment sector in South Africa, with new wages still much too low to meet their daily needs. One study by the Bureau for Food and Agricultural Policy (BFAP), conducted to inform the recent negotiations on minimum wage determinations, found that even if raised to R 150 per day, farm workers and their families would still be unable to afford a 'balanced daily food plate' (which consists of only 61 per cent of recommended calorie intake and lacks adequate nutritional diversity). The BFAP report further indicated that (in actual values) the cost of a basic food basket rose from R 394 in October 2010 to R 486 in October 2012, with the poorest South Africans (including farm workers) spending more than 40 per cent of their total income on food and non-alcoholic beverages.³⁰ Furthermore, submissions made by farm workers to the Employment Conditions Commission (ECC) reported that it

²⁵ See International Covenant on Civil and Political Rights (ICCPR), the African Woman's Charter, African Charter for Human and People's Rights (ACHPR) and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

²⁶ Atkinson, D. Pienaar, D. & Zingel, J. 2004. *Op.Cit.*

²⁷ DAFF, 2010. *Op.Cit.*

²⁸ Source: <http://www.labour.gov.za/media-desk/media-statements/2013/>

³⁰ Bureau for Food and Agricultural Policy (BFAP), 2012. Farm Sectoral Determination: An Analysis of Agricultural Wages in South Africa. Available at: www.bfap.co.za.

produce³⁶, with growth in exports increasing from R 8 billion in 1994 to R 25 billion in 2002.³⁷ While a significant proportion of profits made by commercial farming enterprises goes toward the numerous expenditures involved in farming operations as well as debt payment, it is apparent from the above figures that farm owners are accumulating notable profits.

The economic growth experienced by the commercial farming sector is however characterised by unequal income distribution in which more than half of all farms bring in less than R 300 000 annually, while only a handful enjoy a turnover of upwards of R 1 billion a year.³⁸ The inability of smaller farms to access economies of scale outside of primary production has resulted in consolidation of farms into larger units of ownership and production, with the number of commercial farming units decreasing from 45 818 units in 2002 to a reported 39 966 units in 2007.³⁹ Thus, with the majority of profits generated by commercial agriculture captured by a small group of producers, marketing agents and financial institutions, a major challenge facing Government is to create a more equitable pattern of income distribution in the sector, especially amongst farm workers who receive as low as 1 per cent of profits in some agricultural sectors.⁴⁰ **The highly unequal relationship between farm owners and farm workers/dwellers, in which the latter are completely dependent on the former for sustaining livelihoods, makes it almost impossible for these vulnerable groups to fight for their rights.**

1.2.3 Limitations of the LTA and ESTA to strengthen tenure rights on farms

Since 1994, one of the key principles of tenure reform has been to move away from subservient forms of land rights into legally enforceable rights to land, in a manner, which is consistent with the Constitution's commitment to basic human rights and equality. Significant laws promulgated in this regard and dealing with the subject matter of this policy, include the LTA and the ESTA. Despite the promulgation of these laws in the post-1994 era, farm dwellers have remained in a

³⁶ AgriSeta, 2010. Op.Cit.

³⁷ Hall, 2009. Op.Cit.

³⁸ Ibid.

³⁹ Statistics South Africa, 2007. Op.Cit.

⁴⁰ Ibid.

manifested in various land disputes among land reform beneficiaries themselves, between them and existing farm dwellers, and among other competing land claimants. **Fundamentally, the failure of the land restitution and land redistribution programmes to systematically and substantially supply land to farm dwellers and workers (on- or off-site) is a major source of land tenure insecurity among these populations.** Programmes of land reform such as restitution have served a very specific purpose, namely dealing with the social injustice experienced by victims of land dispossession. Restitution claimants as beneficiaries are however not often conceived as including farm dwellers, who instead have been conventionally addressed through a narrow land tenure reform policy. Historically dispossessed farm dwellers tend to be marginalized by new claimant communities within the restitution programme.⁵⁹

The land redistribution programme has tended to target aspiring black commercial farmers or a range of black South Africans in need of land for agricultural production. The DRDLR's Proactive Land Acquisition Strategy (PLAS), in which the government buys land available on the market directly from owners to redistribute to land reform beneficiaries, has not sufficiently reached farm workers or farm dwellers. Farm workers as a specific category of people in need of land for agricultural production are rarely prioritized in the land redistribution programme. Moreover, another major source of land tenure insecurity among farm dweller populations is the inadequate clarification and protection of farm dwellers and workers land rights on land that has been redistributed and/or restituted.

Furthermore, various empowerment programmes including farm equity schemes (FES) and Agri-BEE initiatives have generated limited benefits for people living and working on commercial farms. Unequal relations between equity partners (established landowners) and worker beneficiary shareholders (farm workers/dwellers) have meant that the latter are not able to effectively participate in decision making processes, with beneficiaries often "*given perfunctory status on the Board of Directors as a ruse to diffuse possible tensions*".⁶¹ **Furthermore, none of**

⁵⁹ Department of Rural Development and Land Reform (DRDLR), 2013. Land Tenure Policy for Commercial Farming Areas

⁶¹ See DRDLR, 2013. *Draft Farm Equity Scheme Policy of the Department of Rural Development and Land Reform* (Version 6 revised). Unpublished.

serve as a basis for economic transformation as land ownership can be used as leverage to encourage other modes of empowerment such as equity shares in agricultural enterprises, as well as to further advance the broad principles of the Comprehensive Rural Development Programme (CRDP). Hence, the focus of this policy is to develop a system of incentives and disincentives to ensure that equitable access to land ownership is realised amongst farm owners and people working the land.

1.3 Rationale for Change

The African National Congress (ANC) has consistently pledged to address the plight of farm workers/dwellers and labour tenants since its establishment in the early 1900s. Clause 3 of the ANC's 1955 Freedom Charter declares:

The Land Shall Be Shared Among Those Who Work It!

Restrictions of land ownership on a racial basis shall be ended, and all the land re-divided amongst those who work it to banish famine and land hunger; The state shall help the peasants with implements, seed, tractors and dams to save the soil and assist the tillers; Freedom of movement shall be guaranteed to all who work on the land; All shall have the right to occupy land wherever they choose; People shall not be robbed of their cattle, and forced labour and farm prisons shall be abolished.⁶⁹

Retaining this commitment to the liberation of farm workers and universal rights to land, the ANC's 1992 land policy document appealed for "the promotion of human and employment rights for farm workers".⁷⁰ This intention to address the needs of farm workers/dwellers and labour tenants was also reiterated in the ANC's Reconstruction and Development Programme (RDP) of 1994, which placed land redistribution at the centre of societal transformation rural development. Here Section 4.5.2.5 of RDP calls for "comprehensive measures" to improve the "living and working conditions" of farm workers and labour tenants.⁷¹ Furthermore, farm workers'/dwellers'

⁶⁹ The People's Congress. 1955. The Freedom Charter. Sharpeville: The People's Congress. Clause 3.

⁷⁰ ANC's 1992 land policy document.

⁷¹ African National Congress (ANC). (1994). Reconstruction and Development Programme: A Policy Framework. Johannesburg: Umanyano Publications. Section 4.5.2.5.

workers/dwellers and the national objectives for land reform, as well as the above constitutional mandates and 2011 Green Paper principles, this policy proposes to introduce a new approach to tenure reform in Commercial Farming Areas in which farm workers/dwellers and labour tenants are enabled to acquire shares in land ownership. This will require their compliance with certain conditions and fulfillment of prescribed roles and responsibilities.

In this way, more equitable patterns of land ownership can emerge without negative impacts on agricultural production. Also, the proposed policy will advance the 2011 Green Paper's overarching goal of promoting social cohesion as beneficiaries will purchase or gain access to land they are already occupying, thus avoiding the dispersal and resettlement of families and communities. In addition, relations between farm workers/dwellers and farm owners will become more equitable and the numerous land-related conflicts associated with redistribution initiatives that involve resettlement can be averted. Furthermore, this policy will empower people living and working on commercial farms to gain shares in agricultural enterprises, thus engendering an inclusive economic transformation of the sector. This is well deserved as farm workers/dwellers have provided poorly compensated labour upon which farm owners and owners of agribusinesses have greatly benefitted.

Considering the failure of other tenure reform legislation (i.e. the LTA and ESTA) to protect and secure the land rights of farm workers/dwellers and labour tenants, the inaccessibility of the redistribution and other land reform initiatives to these groups, and the neglect of FES and Agri-BEE schemes to target land ownership as a key driver of empowerment and transformation, it is crucial that a new policy addresses these gaps. It is also essential that approaches to bettering the plight of those who live and work on commercial farms include measures that go beyond tenure reform to address broader aspects of socio-economic development. This policy does so by increasing opportunities for farm workers to gain ownership of the land they live on, which is key to enjoying basic human rights of housing, health and family and cultural life, as well as critical in creating sustainable livelihoods.

they relate to exercises designed to advance equality and provide redress for past racial discrimination; and the current use of the land.

Another issue this policy addresses is the fact that the LTA fails to place any requirements on labour tenants to ensure that their tenure rights are earned and that the land is put to productive use. This is problematic in the fact that this renders such rights systematically undefendable as the 2011 Green Paper's third underlying principle and strategic thrust of land reform is sustained agricultural production to ensure food security and national food sovereignty. Thus the system introduced under this proposed policy must take this into cognisance, establishing a system of rights and responsibilities; duties and services; and opportunities and constraints, all of which are rooted in the authority of the Constitution.

Additionally this policy intends to fill the gap left by previous tenure reform legislation to ensure that people working the land are provided with alternative accommodation and means of sustenance if forced from the land. Although the LTA provides the capacity to translate tenancy rights into the right to claim land restitution, as well as securing protection against eviction (with no reference to whether or not such eviction was justified or arbitrary⁷⁹), after a certain length of time working and residing on a farm, the vast majority of applications for land restoration submitted by labour tenants remain unresolved. This places labour tenants in an extremely vulnerable position as restitution of their tenure rights is dependent not only on the owner retaining his/her land rights, but also on labourers being able to maintain proof of their long-term residence and work contribution. This is extremely difficult for most labour tenants as the details of length of stay on land, terms of employment, boundaries of land held under usage rights are often undocumented and only known between the landowner and worker.

⁷⁹ Section 26 of the 1996 Constitution of the Republic of South Africa guarantees the right to adequate housing, requires the state to take reasonable legislative and other measures towards realising this right, and prohibits arbitrary evictions. An arbitrary eviction is one that is considered procedurally arbitrary because the procedure was unfair, or substantively arbitrary because there were not sufficient reasons for the eviction. Justified evictions, on the other hand, refer to cases in which the farm owner is deemed (by edict of the Court) to have reasonable cause for taking such extreme measures (i.e. threats or acts of violence inflicted on the farm owners, theft etc).

ownership rights to farm workers/dwellers and labour tenants. Section 5 outlines the legislative framework and legal arrangements required for enacting proposed measures. Finally, the last section of this document sets out the strategy for implementing the proposed policy, including the plans for establishing relevant institutions, monitoring and evaluation measures to be put in place and the sources of funding proposed.

2 POLICY FRAMEWORK

2.1 The Vision of the Policy on Strengthening the Relative Rights of People Working the Land

The vision of this proposed policy is the actualisation of more equitable patterns of land ownership in Commercial Farming Areas in which people working the land enjoy secure tenure rights while progressively becoming capable owners, managers, professionals and well-compensated workers in the agricultural sector. In pursuance of this vision, there shall be minimal (or no) disruption in food production, with all of the South Africa's agricultural land used in its most productive capacity to ensure food security and sovereignty both for households and the nation. The proposed policy enables farm workers/dwellers and labour tenants to gain shares in land ownership shall advance the 2011 Green Paper's overarching objectives of social cohesion and inclusive development, as well as the realisation of the many rights and equity objectives provided by the Freedom Charter, the Constitution, the UN's Agenda 21 and other international covenants ratified by South Africa. This vision is guided by the wider vision of enhancing relative rights of people working the land for the broader development of South Africa as outlined in the CRDP, NDP and 2011 Green Paper.

2.2 The Purpose of the Policy on Strengthening Relative Rights of People Working the Land

The overall purpose of the proposed policy is realising a long lasting resolution of the tenure insecurities of people working the land, as well as their enjoyment of basic human rights and expansion of opportunities to sustain livelihoods. This entails a strategy of using redistributive

In order to achieve the policy's intended outcomes, the strategic objectives of the proposed policy are to:

- Increase opportunities for land ownership amongst farm workers/dwellers and labour tenants (especially women and youth within these categories), and thus enhance their relative rights to land that they occupy in order to fulfill their basic needs for housing and productive livelihoods (including subsistence and commercial farming);
- Develop a system of incentives and disincentives to encourage those with vested interest in the land to conduct their relationship around land according to the dictates of the Freedom Charter, the UN's Agenda 21 and FAO guidelines.
- Promote sustainable utilization of land to enhance shared growth, food security, employment development across the nation;
- Rekindle a class of small scale black commercial farmers that was destroyed by the 1913 Natives Land Act;
- Facilitate the creation of share equity, co-management and other empowerment schemes arrangements in which historically marginalised persons residing in Commercial Farming Areas are empowered to share in the ownership and management of farming operations in ways that will increase security of tenure;
- Curb unlawful evictions of farm workers/dwellers and labour tenants;
- Improve the working and living conditions of farm workers/dwellers and labour tenants so that their basic human rights are realised and exploitation of these groups is put to an end;
- **Advance the goals of the Agricultural Landholdings Framework which seek to:**
 - **Facilitate the entry and participation of small farmers into mainstream agriculture;**
 - **Redistribute land from large agricultural holdings to cooperatives and family owned landholdings; and to**
 - **Increase the efficiency, competitiveness and sustainability of all agricultural landholdings.**

requirements will enable people living and working on commercial farms to then acquire a percentage of ownership shares in the land relative to the length of the compliance period. Subsequently, through enhanced tenure status and increased land ownership, people working the land shall be empowered to acquire shares in farming enterprises as well, thus bringing about economic transformation of the agricultural sector. **Two possible options are proposed for implementing this proposed system and are discussed in the sub-sections below.**

3.1 Option 1: Establish a System of Incentives and Disincentives for Strengthening Relative Rights of People working the Land

Within this first option, the following proposals to protect and promote the relative tenure rights of people working the land are suggested:

1. Maintain the current regime of tenancy protection and derived rights, but balance this with introduction of a regime of duties and responsibilities that the farm worker/dweller must observe and comply with, in order to sustain the regime.
2. After ten years (but less than twenty-five years) of disciplined service, based on the regime of duties and responsibilities, the farm worker/dweller must be entitled to ten per cent share-equity on the land, based on its market value.
3. Should the farm worker/dweller wish to leave the farm, after ten years of disciplined service, having earned the ten per cent share-equity ownership of the land, he/she should be compensated to that extent, over and above whatever other rights were due to him or her.
4. After ten years of disciplined service, the farm manager should, by force of law, introduce the farm worker/dweller to basic elements of farm management, reflective of the new relational dynamics.

participate on more equitable grounds in the farming enterprise and the rural economy in general. Section 4 of ESTA would suffice to achieve similar outcomes provided it is not compulsory.

In addition this amendment will be used in complimenting other available options provided under the Land Tenure Security Policy for Commercial Farming Areas such as the Tenure Grant, Redistributive Grant, the RECAP policy, and the Agricultural Land Holdings Policy in ensuring comprehensive support is given to the farm dweller community. The incentive reward for farmers here will entail a number of options as articulated in the Land Tenure Security Policy options on Farm Equity Schemes such as Agri-BEE scores, including prioritization in gaining tax exemptions (e.g. income tax, sales tax), subsidies for service provision and preferential procurement. In this way, Option 2 accomplishes both enhanced tenure secure and livelihood opportunities for people working the land, while also ensuring that agricultural enterprises receive state support to sustain or improve productivity.

4 LEGISLATIVE FRAMEWORK

The DRDLR is reviewing the various options required to give effect to the above policy proposals and associated institutional reforms. One preliminary option proposed is the amendment of the LTA as discussed in Option 2 above. In addition, the DRDLR is also considering what amendments would be required to review other relevant laws such as ESTA to strengthen the relative land rights of farm workers/dwellers in Commercial Farming Areas as proposed in this policy.

5 IMPLEMENTATION STRATEGY OF THE POLICY

5.1 Planning Methodology

The DRDLR shall design an implementation plan to ensure compliance with the proposed measures to secure the tenure rights of farm workers in Commercial Farming Areas. As this policy is a subset of the proposed LTS that deals specifically with strengthening the relative

5.3 Resources Required

Officials of the DRDLR will stipulate the resource implications of this plan as the policy development nears its completion. There are two main sources of financing of this farm worker equity programme:

- a) through the Land Reform Programme; and
- b) through own historical contribution by the farm worker/dweller.

It is crucial that the historical contribution of the farm worker be taken into consideration in attaining shares in land ownership. Thus the relative equity stakes recognize this full contribution, which the exploitative wages have denied the workers for all of those years. The contribution made by Government through the land reform programme is a further attempt at restoring the dignity of the farm worker who has suffered immeasurable loss and hardship due to such exploitation. Contribution by the state must go to further development of the farm. With the acquisition of equity by farm workers/dwellers must also come a fundamental change in the control mechanism of the farm. The acquisition of equity is, and must be viewed as, a fundamental game-changer. It introduces co-management of the farm, based on relative equity-holdings.

Thus, this policy requires equity holders to establish an **Investment and Development Trust (IDT)** that must be representative of all land shareholders involved in the farm, to the extent of their holdings. The DRDLR shall deposit its contribution into the IDT, not to the farm owner, as that would mean double compensation was received for land shares. The farm owner will benefit, like all others, from dividends allocated by the IDT. With this contribution, the government earns the status of Ex-officio member of the Trust and thus shall be entitled to place one State representative on the IDT.

This approach will introduce a system of collective ownership, based on relative equity holdings. However, although the government has full speaking rights in the IDT, it will not have voting rights. Voting rights shall remain the preserve of the equity holders.