**8. Budgetary Review and Recommendations Report of the Portfolio Committee on Rural Development and Land Reform, dated 18 October 2017.**

The Portfolio Committee on Rural Development and Land Reform, having considered the 2016/17 annual performance reports of the Department of Rural Development and Land Reform, the Commission on Restitution of Land Rights and the Ingonyama Trust Board; further having conducted analysis of budgets, estimates of expenditure over the medium term, reports as follows:

# Introduction

In terms of the Money Bills Amendment Procedures and Related Matters Act, 2009 (Act No.9 of 2009), the National Assembly is required to conduct annual assessment of the performance of each national department with a focus on the medium term estimates of expenditure. Section 5 of the Act sets out a procedure for assessing the performance of each national department to be followed by the National Assembly. This procedure provides for portfolio committees to prepare budgetary review and recommendation reports (BRRR), which must provide an assessment of the departments’ service delivery performance given available resources; must provide an assessment of the effectiveness and efficiency of the departments’ use and forward allocation of available resources; and may include recommendations on the forward use of resources. This report, therefore, accounts for work carried out by the Portfolio Committee on Rural Development and Land Reform (the Committee) during assessment of the 2015/16 performance of the Department of Rural Development and Land Reform (the Department) and related entities, the Commission on Restitution of Land Rights (the Commission) and the Ingonyama Trust Board (ITB). It also makes recommendations for budget review and improvement of service delivery to the ministers of finance and rural development and land reform respectively.

## The mandate of the Portfolio Committee on Rural Development and Land Reform

The Committee, as an extension of the National Assembly, is governed by the rules of the National Assembly to oversee the portfolio of rural development and land reform. Explicably, it oversees the work of Executive and the Department whose mandate is transversal; that is, to create and maintain an equitable and sustainable land dispensation and act as a catalyst in rural development to ensure sustainable rural livelihoods, decent work, and continued social and economic advancement of all South Africans. Furthermore, the Committee oversees the work of the public entities and commissions reporting under the Department; namely, the Commission established in terms of the Restitution of Land Rights Act, 1994 (Act 22 of 1994) as amended. The ITB established in terms of the KwaZulu-Natal Ingonyama Trust Act, 1994 (Act 3 of 1994) amended by the National Act 9 of 1997.

The Committee exercises its powers within a legal framework of the Constitution, relevant statutes and the Rules of the National Assembly. It does so by considering and processing legislation from the Department and its entities; exercising oversight on implementation of the various relevant programmes of the Department and related entities; facilitating public participation; considering budget votes and expenditure outcomes; and enquiring and making recommendations about any aspect of the Department, including its structure, functioning and policy.

## 1.3 The Department of Rural Development and Land Reform

The Department obtains its mandate from priorities of government, which are articulated through the Medium-Term Strategic Framework (MTSF) and 12 Outcomes of government. The mandate and priorities are aligned to the National Development Plan (NDP) as illustrated in Table 3 of this report. The Department coordinates implementation of ‘Outcome 7: Comprehensive Rural Development and Food Security for All’, i.e. Chapter 6 of the NDP discussed in detail in Section 2 of this report. Concomitant to Outcome 7, the outputs for this Department are sustainable agrarian reform with a thriving farming sector, improved access to affordable and diverse food, improving rural services to support livelihoods, improved employment and skills development and enabling institutional environment for sustainable and inclusive growth. Table 1 outlines the strategic goals for the Department.

Table 1: Strategic outcome oriented goals

|  |  |
| --- | --- |
| **Strategic Goal** | **Strategic Goal Statement** |
| * Corporate governance and service excellence
* Improved land administration for integrated and sustainable growth and development
* Promote equitable access to and sustainable use of land for development
* Promote sustainable rural livelihoods
* Improved access to services
* Sustainable rural enterprise and industries
* Restoration of Land Rights
 | * Foster corporate governance and service excellence through compliance with the legal framework
* Improve land administration and spatial planning for integrated sustainable growth and development with a bias towards rural areas
* An inclusive and equitable land dispensation with transformed patterns of land tenure and use
* Improve rural livelihoods as a result of capabilities, income and job opportunities provided
* Improve access to services in rural areas through the coordinated of quality infrastructure
* Promote economically, socially, and environmentally viable rural enterprises and industries
* Restoration of Land Rights in terms of the Restitution of Land Rights Act, as amended.
 |

Source: DRDLR (2015) Strategic Plan of the Department of Rural Development and Land Reform 2015-2020

The Strategic Plan (2015 - 2020) and the Annual Performance Plan (the APP) for 2016/17 and 2017/18 demonstrated the extent to which the functions of the Department were aligned to Outcome 7 and the NDP. The Department adopted Outcome 7 as the vision of the Department; that is “vibrant, equitable, and sustainable rural communities” and the mission is to “initiate, facilitate, coordinate, catalyse and implement an integrated rural development programme”. The vision and mission of the Department is underpinned by the strategy of “agrarian transformation, interpreted to denote a rapid and fundamental change in the relations (systems and patterns of ownership and control) of land, livestock, cropping and community”. The strategy aims to facilitate integrated development and social cohesion through partnerships with all sectors of the society. Analysis of the APPs reveals that social cohesion and integrated development can be attained through shared growth and development, full employment, equity and cultural progress.

 Table 2: Programmes and strategic objectives of the DRDLR

|  |  |
| --- | --- |
| **Programme** | **Strategic Objective**  |
| Administration | * Compliance with all public sector legal prescripts
* Unqualified regularity audit opinion
* Skills development for improved service delivery
 |
| Geospatial and Cadastral Services  | * Improved spatial planning
* Integrated and comprehensive land administration system
 |
| Rural development | * Job creation and skills development in rural areas
* Quality infrastructure provided
* Functional and institutional arrangements
* Facilitate the establishment of rural enterprises and industries
 |
| Restitution | * Land Rights restored
* Redress land rights lost after 1913
 |
| Land Reform  | * Strategically located land acquired
* Support to rural communities to produce their own food in all rural districts
* Farm development support provided to smallholder farmers
 |

Source: DRDLR (2015) Strategic Plan of the Department of Rural Development and Land Reform (2015-2020)

## 1.3 Approach for compilation of this report

In line with the mandate of the Committee discussed in section 1.1 and section 5 of the Money Bills Amendment Procedures and Related Matters Act (2009), this report is a culmination of a range of oversight activities carried out by the Committee over the last 18 months. The following paragraphs highlights, starting from recent activities, some of the key oversight activities carried out by the Committee:

* *Analysis of the annual performance reports:* The Committee considered annual reports of the Department, the Commission and the ITB. On 05 October 2017, the Department and the Commission briefed the Committee about their 2016/17 annual reports. The briefings also included discussion about the annual financial statements. On 04 October 2017, the ITB briefed the Committee about its annual report of the ITB. Assessment of these reports was based on overarching policy priorities articulated in the NDP and the MTSF. These priorities were pronounced by from various Cabinet ‘makgotla’, the State of the National Address (SONA) by the President, the Budget Speech by the Minister of Finance, and the Budget Policy Statement by the Minister of Rural Development and Land Reform.
* *Briefing by institutions that support democracy:* On 04 October 2017, the Committee received a briefing by the Auditor-General of South Africa (AGSA) on the performance audit conducted for the 2016/17 financial year. The AGSA focussed on audit of predetermined objectives and audit of Annual Financial Statements. Further, the Financial and Fiscal Commission (FFC) also reported on progress made in the implementation of the relevant recommendations for the division of revenue. It located its analysis of the challenges and options in the priorities set out in the NDP. Some of the observations shed some insights in the budgetary constraints and opportunities. These issues will be discussed in detail in this report.
* *Analysis of quarterly performance reports:*  During 2017, the Committee continued to receive quarterly reports in order to monitor performance and track implementation of particular recommendations of the Committee, the AGSA and others. The report will mainly draw on quarterly reports (4th quarter 2016/17 and 1st Quarter 2016/17) considered by the Committee on 27 - 28 June 2017 and 06 September 2017.
* *Review of responses to the previous BRRR*: The Committee considered the responses of the Minister of Finance and Minister of Rural Development to the previous BRRR. Some of the major budgetary question had already been addressed by the Minister of Finance; especially the Medium-Term Budget Policy Statement. At the time of compiling this report, the Minister of Rural Development and Land Reform had not tabled the 2016 BRRR responses of the Department to the Speaker of the National Assembly. However, the Committee has to some respect engaged with the some of the responses by way of briefing sessions. The Committee noted comments on recommendations to the Minister of Finance as well as the responses to service delivery/ programme performance.
* *Other oversight activities*: Analysis of the programme performance draws on various engagements between the Department/entities and the Committee, especially briefing sessions on programme performance. It further draws on lived experiences of the beneficiaries of land reform and rural development programmes. These experienced were gathered through the oversight visits to some of the recapitalisation and development farms and public hearings reports; some of the public hearings conducted by the Committee were on the CPA Amendment Bill, Extension of Security of Tenure Amendment Bill. The Committee also visited a site on Strengthening of Relative Rights of People Working the Land (SRR) in KwaZulu-Natal and Strategic Partnership in the Western Cape.

## 1.4 The structure of the report

This report is organised into two six main sections and proceeds as follows:

* Section 2 outlines an overview of key policy areas to set the scene for analysis of the performance of the Department, the Commission and the ITB;
* Section 3 presents the financial and non-financial performance recommendations in terms of the 2015 BRRR and the 2016 Budget Vote Report.
* Section 4 presents an overview of expenditure trends over the last three years, discusses financial performance of the Department and entities during 2015/16.
* Section 5 reviews service delivery against the priorities and predetermined objectives.
* Section 6 summarises key observations, findings and conclusions.

* Section 7 presents the Committee’s recommendations to the Minister of Finance, and the Minister of Rural Development and Land Reform.

# 2. Key relevant policy priority areas

The Strategic Plan of the Department of Rural Development and Land Reform (2015-2020) sets the performance of the Department within the context of MTSF priorities linked to the National Development Plan (NDP). Table 3 below illustrates such an alignment.

Table3: Alignment of the DRDLR objective with NDP, MTSF, and SONA

|  |  |  |  |
| --- | --- | --- | --- |
| NDP Priorities | MTSF Activities | SONA (2016) | Strategic Objectives |
| Improved land administration and spatial planning for integrated development with a bias towards rural areas; up-scaled rural development as a result of coordinated and integrated planning, resource allocation and implementation by all stakeholders |  |  | Improved spatial planningImprove land administration for integrated and sustainable use of land for development |
| Sustainable land reform; | Increase the percentage of productive land owned by previously disadvantaged individuals from 11.5 per cent in 2013 to 20 per cent by 2019 (or 16.2 million hectares). | Re-opening of the lodgement process  | Promote equitable access to and sustainable use of land for development.Promote sustainable rural livelihoodsRestoration of land rights. |
| Improved food security | Reduce the percentage of households who are vulnerable to hunger from 11.4 per cent in 2013 to less than 9.5 per cent in 2020 | Agri-parks | Provide comprehensive farm development supportPromote sustainable rural livelihoods |
| Smallholder farmer development and support for agrarian transformation | Increase the percentage of productive land owned by previously disadvantaged individuals from 11.5 per cent in 2013 to 20 per cent by 2019 (or 16.2 million hectares). | Exploring the 50/50 policy framework The Regulation of Land Holding submitted to Parliament  | Provide comprehensive farm development support |
| Increased access to quality basic infrastructure and services, particularly in education, healthcare and public transport in rural areas |  |  | Improved access to services |
| Growth of sustainable rural enterprises and industries characterised by strong rural-urban linkages, increased investment in agro-processing, trade development and access to markets and financial services resulting in rural job creation | Reduce the percentage of the population living below the lower bound poverty line (R443 in 2011 prices) from 32.3 per cent to below 22 per cent.Reduce rural unemployment from the current 49 per cent to less than 40 per cent.  | Revitalisation of agriculture and agro-processing value-chain | Sustainable rural enterprises and industries |

Chapter 6 of the NDP (Integrated and Inclusive Rural Economy) envisions rural areas that are spatially, socially and economically integrated, where residents have economic growth, food security, access to basic services, health-care and quality education. It suggests that agriculture should be the driving force to achieve this vision. The NDP also suggests that agriculture has the potential to create 1 million jobs by 2030. Further, access to land has a potential to create 300 000 jobs in different farming levels. It also sets a target to transfer 20 per cent of agricultural land to black people by 2030. It proposes district-based land reform driven by district land committees, which would determine the land, needs in particular districts, identification of land available and collaboration of stakeholders to address those needs. As highlighted in Section 1.3, and demonstrated in Table 3 above, alignment of the policies and programmes of the Department is of utmost importance. The NDP outlined six policy imperatives and those are aligned to strategic objectives of the Department (see Table 3 above).

Drawing on the 2016 SONA, government sought to ignite growth and create jobs through the 9-point plan introduced in 2015 but carried through in 2016. Three of the nine points that are most relevant are revitalisation of agriculture and the agro-processing value chain, encouraging private sector investment, and unlocking the potential of SMMEs, cooperatives, township and rural enterprises. Redistribution of land occupies a pivotal role toward achieving these objectives. The following were some of the objectives outlined:

* Reopening of the second window of opportunity for the lodgement of land claims.
* Exploring the fifty/fifty policy framework, which proposes relative rights for people who live and work on farms (Fifty farming enterprises will be identified as a pilot project)
* Proposal for a ceiling of land ownership (set at a maximum of 12 000 ha).
* Prohibition of ownership of land by foreign nationals, but they be eligible for long-term lease.

The SONA focused attention on building a resilient and fast growing economy, as a central to the radical economic transformation and the NDP. The following interventions are vitally important: agri-parks that aim to increase the participation of smallholder farmers in the agricultural value chains and employment in the agricultural and agro-processing sectors as recommended. It thus calls for closer collaboration between the Department and DAFF mainly.

## 2.1 Priority policy and legislation to be developed over the medium-term

This section assesses progress made by the Department in relation to development of policies and processing legislation as per the approved legislative programme. Given the SONA pronouncements on policy and other policy commitment made since 2009, ongoing policy development emanating from public consultations that flowed from publication of the Green Paper on Land Reform in 2011 culminated into proposals for amendment of a number of pieces of legislation and development of new policies. For the 2016/17 financial year, the Department had planned to process the following pieces of legislation: the Regulation of Agricultural Land Bill, Communal Land Tenure Bill, Electronic Deeds Registration System Bill, Deeds Registries First Amendment Bill, Sectional Titles Amendment Bill, and the Land Survey Amendment Bill. During 2016/17, the Department failed to table all Bills as per the legislative programme. Because of oversight work of the Committee, the Department presented a revised legislative programme, which planned to table 8 pieces of legislation by September 2017; that is, 3 in June, 1 in July and 2 in September 2017. By the time the Committee compiled this report, only one legislation was tabled i.e. the CPA Amendment Act.

Firstly, the Committee expressed concerns regarding the slow pace of policy development. Secondly, it also highlighted a need for synergizing pilot of programmes and policy development processes. The report fails to outline what has been achieved in terms of the legislative programme and policy plans. The report, however, presents plans such as dates by when the policy could be tabled at Cabinet. Instead, the report highlights future plants with regard to legislative programme. It further does not indicate reasons for the failure by the Department to finalise the policies as planned. It also appears that some of the planned pieces of legislation have been dropped off from the list of priority legislation. For example, the Planning Profession Bill. The Committee further observed that the Department pilots programmes but before conducting a review of the pilot and development of policy, it rolls out the programme. For example, the Strengthening of Relative Rights, the One Household One Hectare and One Household Two Dairy Cows projects.

Given the medium-term policy plans in Table 4 below, the Committee noted that little progress was made in the policy development process. The following policies were still outstanding: The policy on Rural Development Investment and Finance Facility, Electronic Deeds Registration, Exceptions to the 1913 cut-off date on restitution, access to historical landmarks and heritage sites on private land, rural settlements operations, and rural development agency. To sum up, six of the ten policies to be developed over the medium-term since 2015 were not completed yet.

 Table 4: Planned Policies over the MTEF period

|  |  |  |
| --- | --- | --- |
| 2015/16 | 2016/17 | 2017/18 |
| * Policy on Rural Enterprises and Industry Development
* Policy on Strengthening of Relative Rights for People Working the land
* Policy on a Rural Development Investment and Finance Facility
* Electronic Deeds Registration Policy
* Policy reviews: RADP, PLAS, Farm Share Equity Schemes
 | * Exceptions on the June 1913 cut-off date of the Restitution of Land Rights
* National Land Tenure Policy: Responses to historically racial based social and economic disparate space
* Policy on access to historical land marks and heritage sites on private land
 | * Rural Settlements Operations Policy
* Policy on Rural Development Agency
 |

Source: DRDLR (2015)

# 3.Previous **financial and service delivery recommendations**

This section presents an overview of the Committee’s recommendations regarding the 2016/17 expenditure outcomes and service delivery performance as per the October 2016 BRRR. It does so by reflecting on the responses of the Minister of Finance as per provisions of Section 7(4) of the Money Bills Amendment Procedure and Related Matters Act (2009). The Act provides that the Minister of Finance must submit a report to Parliament at the time of the budget explaining how the Division of Revenue Bill and the national budget give effect to, or the reasons for not taking into account, the BRRR recommendations. The Committee further reflected on the responses of the Minister of Rural Development and Land Reform as discussed above. The Committee’s recommendations presented in this report has taken cognisance of the responses of both the ministers.

## 3.1 The 2016 budget review recommendations

During compilation of this report, the Committee considered the previous BRRR, especially the budget and service delivery recommendations, in order to assess progress made by the Department and the entities.

**3.1.1 Budget recommendations**

The Committee recommended that the Minister of Finance should assist the Commission to develop and implement strategies for funding all the commitments of R5.6 billion within the MTEF period. The strategy ought to prioritise beneficiaries whose land claims were settled in before 2009 prior to the introduction of the Recapitalisation and Development Fund in order to reduce risks of commitments. Given the overlap of mandates between the Department and the DAFF, the Committee recommended that the Minister of Finance must coordinate and facilitate finalisation of the development of an integrated funding model for supporting to land reform beneficiaries, smallholder farmers, and emerging black commercial farmers as recommended by the Department of Planning Monitoring and Evaluation and the FFC. Such an intervention was aimed at minimising duplication of farmer support programmes from both DAFF and the Department.

The Committee noted the response of the Minister of Finance in his 2017 Budget Review. However, the Minister has noted the Committee’s recommendation on a need for strategies to expedite settlement of land claims, which include increase in budget allocation. However, the Minister stated that the scope for additional funding is limited given the constrained fiscal outlook. The Minister encouraged departments to reprioritise funds within existing baselines to fund new priorities.

**3.1.2 Service delivery recommendations**

The recommendations pertaining to service delivery are presented in three sections, namely for the Department, the Commission and the ITB.

1. **Department of Rural Development and Land Reform**

Having observed lack of consensus about the definition of rural areas in South Africa and what rural development is, the Committee recommended that the Department must lead conversations with government and non-government stakeholders to build consensus around a comprehensive definition of rural areas, rural development and smallholders. This definition should be the one applied across all spheres of government in South Africa.

Increasingly, the Committee has been raising questions about the socio-economic impact of land reform. Land reform has been criticised for causing a drop in production and a number of land reform projects, approximately 90% of all farms, are reportedly dysfunctional. Such statements are based on anecdotal evidence. The Committee recommended that the Department must conduct a national survey of farms acquired through all land reform programme since 1994 to date. The survey must focus on assessment sustainability of farms and the socio-economic and livelihoods impact land reform on beneficiaries and sustainability of farms. Further draw lessons from the earlier Quality of Life surveys by the then Department of Land Affairs. This intervention could assist to measure the impact of programmes of the Department.

Given the intention for substantial increase in the number of sites where the SRR for People Working the Land is implemented, the Minister was requested to table the original policy and pilot implementation plans. Further, policy should be accompanied by the results of the pilot of this policy, detailing the content of the project, criteria used for selection of the sites, beneficiary/participant selection criteria and processes, monitoring mechanisms, the budget and expenditure outcomes, key lessons emerging from the pilot and policy implications.

Noting failure to table Bills in line with the legislative programme, the Committee recommended that the Minister must ensure that the Department must adhere to the revised legislative programme as agreed with the Office of the Leader of Government Business.

The Committee also recommended that the Department must enhance its capacity to coordinate Agri-Park interventions with the DAFF. Further, engage the Department of Small Business Development and the Department of Trade and Industry in order to maximise use of limited resources and avoid duplication of government services. It is anticipated that integrated approach, both in policy and implementation, could pull together resources lying elsewhere in government.

During the deliberations on spatial planning and land use management, it was unclear how the transfer the administration of SPLUMA to the Presidency (DPME) was going to unfold and conceptualisation did not take into consideration implications on the existing projects. The Committee recommended that the Minister must table a report, which details the rationale behind the decision and implications to the Department in relation to funding for the SPLUMA, personnel/capacity within the Presidency, and coordination functions of the Department.

The Committee also recommended that the Minister must ensure that the Department built internal capacity to carry out the mandate for tenure reform and land administration in order to address the needed urgent support of CPAs and processing of labour tenants’ applications. Further, a submission on the status labour tenants’ applications was required. Linked to the issues of tenure was the effectiveness of the Legal Services Project of the Department. The Committee recommended that the Panel of Attorneys set up to provide legal services to farm dwellers must be strictly monitored.

1. **Commission on Restitution of Land Rights**

The Committee recommended that a clearly outlined process for establishing an autonomous entity be submitted. The report should include details of its business process mapping, institutional structure, and business re-engineering approach as well as the cost implications.

Given the failure to meet research targets, the Committee recommended that the Commission must improve research capacity and capacity to monitor outsourced research work within the Commission. Further, and having reported overachievement on targets within the limited budget available, the Commission was urged to reconsider the manner in which they set their targets to avoid over or under-targeting as findings of this and previous BRRR shows. The Commission was also meant to table a comprehensive report on commitments in the form of grants approved in terms of Section 42C of the Restitution of Land Rights Act before 2009, and further outline a realistic plan, in line with budget allocation, regarding the payment of all such commitments.

1. **Ingonyama Trust Board**

Having engaged with the reports of the ITB, the Committee recommended the following:

* Review of the Ingonyama Trust Act to ensure alignment of the legislation and current operations.
* Acceleration of the facilitation of engagement between the ITB and the Auditor-General together with the Accountant General to address the perennial non-compliance of the ITB with the GRAP standards in relation to valuation of land and other outstanding matters.
* The livelihoods impact assessment of the programmes of the ITB with a focus on land tenure and administration, leasehold tenure system and protection of customary land rights.
* The Minister of Rural Development and Land Reform should develop action plan that outlines how the Department and Entities plan to resolve the queries from the Auditor-General.

## 3.2. The 2017/18 Budget Vote 39 Report

Having considered the strategic plans and the APP of the Department and entities, the Committee recommended that the Minister of Rural Development and Land Reform should -

**Administration**

* Continuously engage with National Treasury about increases in allocation of budgets for redistribution and restitution programme because they are central to the radical transformation of the agrarian structure.
* Finalise review of the organogram with a view to prioritise critical posts that should be advertised and filled without delay, especially the critical ones as recommended in the next three bullets.
* Ensure that Policy and Research Unit is adequately capacitated so that policy development and legislative processes initiated over the last few years over the last few years are synergised and completed.
* Enhance the capacity of the Monitoring and Evaluation component of the Corporate Services branch to ensure that the Department can conduct outcome-based socio-economic impact assessments of programmes and enterprise analyses of various land reform farms, especially the ‘recap’, the ‘50/50’, and the Agri-Parks to assess the viability of production and how these enterprises benefit the intended beneficiaries.
* Submit a revised legislative programme outlining realistic targets for tabling of planned pieces of legislation in the National Assembly.

**National Geomatics Management Services**

* Submit to the National Assembly a report on the transfer of administration of the SPLUMA to the Presidency, indicating implications for funding, personnel and parliamentary oversight. The report must also indicate how the transfer would empower municipalities in terms of development planning and improved service delivery.
* Engage stakeholders including traditional leaders and various government and non-government entities to resolve some of the challenges and objections to the implementation of the Spatial Planning and Land Use Management Act. The Minister must also report to the National Assembly the outcome of such engagements.
* Table a report on the investigations regarding establishment of an e-cadastre.
* Finalise and submit the final report of the second phase of the land audit without delay.

**Rural Development**

* Consult the National Treasury, Department of Agriculture Forestry and Forestry and other relevant government Departments to review all programmes under rural development, especially those linked to revitalisation of agriculture and agro-processing as well as small business development, with intensions to avoid duplication of work as well as ensure unnecessary overlap.
* Conduct a review of the NARYSEC programme to assess if the programme has achieved the intended outcomes over the last five years, highlight the challenges encountered, and highlight implications for future implementation of the programme.
* Submit all new policies relating to projects and initiatives introduced under this programme, namely the ‘One Household Two Dairy Cows’ and the ‘One Household One Hectare’.

**Restitution (Commission on Restitution of Land Rights)**

* Fast-track reconfiguration of an autonomous Commission as per the Restitution of Land Rights Act.
* Continuously engage National Treasury about increasing allocation of funding of restitution to clear the commitment register of settled land claims.
* Prioritise research of the 916 pre-1998 land claims and ensure monitoring of research conducted by service providers to ensure that research output is useful for settlement of land claims and can stand the test at the Land Claims Court, when necessary.
* Develop and implement mechanisms for feedback to claims in line with the Restitution of Land Rights Act (Act No 22 of 1994).
* Review and assess the statistics of all the land claims lodged prior to 31st December 1998 in order to produce the final number of land claims are outstanding for settlement and for finalisation. The Commission should also analyse claims according to ownership and land use, for example state land, private ownership, and communal land; engage National Treasury about the funds required to accelerate the finalisation of the land claims; and submit an implementation plan for settlement of 6989 outstanding land claims within 24 months and finalisation over the MTEF period.
* Develop mechanisms to track the use of Section 4C development grants by beneficiaries of land restitution. Further, submit a comprehensive report on funding released by the Commission to the ‘recap’, detailing the amounts and communities targeted and what the amounts were used for. Further report about communities who qualified for Section 42C support but their fund had not been released by 31 March 2017.
* Conduct an analysis of the Commitment register to ascertain number of communities or individuals that the Commission owes, age analysis of the commitments, and develop a time bound plan with which these commitments could be cleared.

**Land Reform**

* Ensure that the pace of the land redistribution is increased by finalising policy frameworks to guide an interface of the Office of the Valuer-General and the Commission as well as the entire chain for acquisition of strategically located land.
* Conduct enterprise analysis and socio-economic impact assessment of a sample of the ‘recap’, ‘50/50’ and other PLAS farms in order to assess whether government funds invested under this programmes were yielding viable and sustainable farming businesses.
* Ensure capacity of the Department to monitor land reform projects, especially an interface of strategic partnership and mentorship programmes and distribution of rewards or dividends to beneficiaries.
* Submit policy documents and progress reports on the following: Agri-Parks, 50/50 pilot projects, and ‘One Household One Hectare’ programmes. Amongst others, the report should indicate the extent to which these programmes targets marginal groups such as women, youth and people living with disabilities and the emerging patterns in terms of the socio-economic impact of the interventions.
* Fast-track the finalisation of the Integrated Funding Model, together with National Treasury and the Department of Agriculture, Forestry and Fisheries; and ensure that this completed by the end of the 2017/18 financial year.

**The Ingonyama Trust Board**

* Facilitate resolution of key questions and concerns raised by the Auditor-General in relation to the value of the ITB’s land/property so that the ITB could move toward achievement of an unqualified clean audit. Further, submit quarterly progress report on implementation of the remedial measures.
* Conduct a comprehensive socio-economic impact assessment of the performance of the ITB and how the beneficiaries have materially and socio-economically benefited from the ITB programmes.
* Review programmes to ensure implementation of ITB policy provision for allocation and use of 90 per cent of the revenue of the Trust the material benefit of traditional communities living on the Ingonyama Trust Land.

# 4. Overview of 2016/17 financial performance

## 4.1 The Department of Rural Development and Land Reform

**4.1.1 Financial performance**

For the 2016/17 financial year, the Department was allocated a total budget of R10.124 billion. The allocation meant to fund implementation of key programmes of government as discussed above. As illustrated in Table 5 below, the total expenditure for the period under review was R10.066 billion (99.4% of the allocation). This is an improvement when compared to the expenditure rate of 99.1% in 2015/16. The Committee noted that R57.3 million had to be returned to National Treasury. Most of that related to funds for COE that could not be spent due to cost containment measures.

The Committee noted the expenditure of over 99% in the programmes of rural development, restitution and land reform. The under-expenditure of 0.5% under land reform can be attributed to the expenditure of 70.2% in the Office of the Valuer-General. It is vitally important to also note that the Department spent 100% of its budget on transfers and households; this is an allocation land acquisition.

Table 5: Appropriation and Expenditure

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Programmes  | Final Appropriation R'000 | Actual Expenditure R'000 | Expenditure as % of Appropriation  | Final Appropriation R'000 | Actual Expenditure R'000 | Expenditure as % of Appropriation  |
| **2016/17** | **2015/16** |
| Administration | 1,621,877 | 1,607,482 | 99.1 | 1,340,960 | 1,336,907 | 99.7 |
| National Geomatic Services | 676,947 | 668,582 | 98.8 | 701,279 | 681,843 | 97.2 |
| Rural Development | 1,832,279 | 1,814,769 | 99.0 | 1,931,669 | 1,921,995 | 99.5 |
| Restitution | 3,335,794 | 3,331,114 | 99.9 | 2,675,984 | 2,630,239 | 98.3 |
| Land Reform  | 2,657,448 | 2,645,052 | 99.5 | 2,547,469 | 2,547,063 | 100.0 |
| Total | **10,124,345** | **10,066,999** | **99.4** | **9,197,361** | **9,118,047** | **99.1** |

**Irregular, Fruitless and Wasteful Expenditure**

Table 6 below illustrates trends of expenditure that can be regarded as irregular, fruitless and wasteful. The Committee noted that irregular expenditure increased from R7 million 2015/16 to R39.9 million in 2016/17. Apart from the fact that this was a significant increase, the Committee was concerned that this expenditure related to contravention of supply prescripts such as failure to obtain approval before committing expenditure in the Deeds registry. The increase in the irregular expenditure is an indication of the weaknesses in internal controls. In this regard, the Committee noted an assertion by the Auditor General that the Accounting Officer did not take effective steps to prevent Irregular, Fruitless and Wasteful expenditure. The Committee would continue to monitor progress and outcomes of the reported disciplinary actions against those that contributed to such an expenditure. There has been significant improvement in fruitless and wasteful expenditure. This expenditure decreased from R11.8 million in 2015/16 to R852 000.00 in 2016/17. Whilst the Department was commended for the efforts to decrease wasteful expenditure by 92.81%, the Committee was concerned that the wasteful expenditure has been attributed largely to court orders against the Department. These matters could have been avoided.

Table 6: Summary of irregular, fruitless and wasteful expenditure for the DRDLR

|  |  |  |
| --- | --- | --- |
| Year incurred | Irregular Expenditure | Fruitless and wasteful expenditure |
| 2013/14 | R 12 647 million | R 5 417 million |
| 2014/15 | R 25 286 million | R 6 703 million |
| 2015/16 | R 7 006 million | R 11 856 million |
| 2016/17 | R39.905 million  | R852 000 |

Although there was an improvement in the expenditure rate of 2016/17, that is a 99.4% spending of budget compared to 99.1% in 2015/16, the Committee decried the fact that R57.346 million of the allocated budget in 2016/17 was surrendered to the Revenue Fund.

**4.1.2 Trading accounts**

1. **Agriculture Land Holding Account (ALHA)**

ALHA is responsible for acquisition of strategically located land for agriculture productivity under the Proactive Land Acquisition Strategy. This entity leases farms to farmers for period of 30 years and the lease payment is based on 5% of the projected net income calculated using the approved farmers’ business plan. The Committee noted that farmers that were receiving support through the Recap programme were exempted from paying rental for a period of 5 years. Further, all old leases were not paying lease fee due to the implementation of the State Land and Lease Disposal Policy. According to the Committee, there has been neglect of management of leases by the Department and it welcomed improvements in the revenue generated from the leases.

Table 7: Agricultural Land Holdings Account Budget vs Spending from 2014/15 – 2016/17

|  |  |  |  |
| --- | --- | --- | --- |
| Item | 2016/17 | 2015/16 | 2014/15 |
| Transfers from DRDLR | R1.502 billion | R1.342 billion | R1.613 billion |
| Expenditure rate for transfers | 100% | 100% | 100% |
| Revenue: exchange transactions | R74.251 million | R64.318 million | R69.342 million |
| Total Revenue | **R1.607 billion** | **R1.424 billion** | **R1.684 billion** |
| Total Expenditure | R583.6 million | R515.7 million | R318.98 million |
| Surplus  | R1.013 billion | R897.15million | R1.354 billion |

For the last three years, ALHA has been spending 100% of transfers from the Department. These have increased from R1.342 billion in 2015/16 to R1.502 billion in 2016/17. However, the transfers are still lower that the R1.6 in 2014/15. The Committee commended the Department for 100% expenditure of ALHA. However, it was concerned that ALHA, as a trading entity, should improve so that it generates enough revenue to run its affairs and assist funding land reform. The Entity recorded a surplus of R1.013 billion from total revenue of R1.607 billion in 2016/17, which has increased compared to the surplus of R897.15 million in 2015/16. ALHA incurred fruitless and wasteful expenditure of R1.113 million. This included R1.031 million carryovers from 2015/16 due to an overpayment to a farmer interest paid with regard to investment costs reported in the previous financial year but was not condoned.

1. **The Deeds Registration Trading Account (DRTA)**

This DRTA is responsible for registration of deeds and maintains public registers of land. Its main source of funding is fees charged on the registration of deeds and the sale of deeds information.

Table 8: Revenue vs spending from 2014/15 – 2016/17

|  |  |  |  |
| --- | --- | --- | --- |
| Items | 2016/17 | 2015/16 | 2014/15 |
| Transfers from DRDLR | R14.3 million | R50.31 million  | R182.106 million  |
| Expenditure rate for transfers | 174% | 100% | 99.8% |
| Revenue: exchange transactions | R632.28 million | R684.81 million  | R536.73 million  |
| Total Revenue | **R652.66 million** | **R655.4 m** | **R722 million** |
| Total Expenditure | R709.51 million | R597.53 m | R613.86 million |
| Surplus/Deficit | -R57.98 million | R57.58 million | R107.59 million  |

The transfer to registration of Deeds Trading Account was adjusted downward from R67.639 million to R14.3 million. The amount of transfers from the Department has been decreasing since 2013/14, while revenue from exchange transaction has been on the increase. The DRTA had an expenditure of R709 million whilst its review was R642 million. It thus meant that by the end of the financial year, the entity had a deficit of R57.98 million. The Committee noted that for the first time in three years, the entity recorded a deficit whereas in the previous three financial years it had surplus. This means that there was not enough for operation and filling of vacant posts in 2016/17.

## 4.2 The Commission on Restitution of Land Rights

For the period under review, the Commission’s budget was appropriated as part of the Department in terms of Programme 4 (Restitution). The decision to de-link the Commission from the Department as envisaged in the Restitution of Land Rights Act (1994) and establish a Section 3A Public Entity by 1 April 2017 has not progressed at the pace anticipated. The Committee was further informed of a policy decision to transform the Commission to make it a Chapter 9 institution. The Committee welcomed the initiative but raised crucial Constitutional questions that must be satisfied prior to the implementation of such decision. The Committee would like to further discussion regarding the legislative and other implications.

*4.2.1 Financial performance*

The Restitution Programme received final appropriation of R3,335 billion 2016/17, of which R3.331 billion (99.9 per cent) was spent (see Table 5: appropriation vs expenditure). The Committee noted that the Commission has improved in expenditure trends when compared to expenditure rate of 98.3% in 2015/16. Restitution grants has spent 100% of their allocation and the Committee welcomed this performance because it is funds that go to beneficiaries of land restitution.

Table 9: Appropriation and Expenditure for Restitution 2016/17 vs 2015/16

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Sub-ProgrammeRestitution | Final Appropr. R'000 | Actual Expend R'000 | Variance | Expend as.% of final | Final Appropr. R'000 | Actual Expend R'000 | Variance | Expend as % of final |
| 2016/17 | 2015/16 |
| National Office | 94,108 | 90,730 | 3,378 | 96.4% | 88,308 | 88,037 | 271 | 99.7% |
| Regional Office | 564,072 | 562,992 | 1,080 | 99.8% | 523,356 | 522,977 | 379 | 99.9% |
| Grants | 2,677,614 | 2,677,392 | 222 | 100.0% | 2,064,320 | 2,019,224 | 45,096 | 97.8% |
| Total | **3,335,794** | **3,331,114** | **4,680** | **99.9%** | **2,675,984** | **2,630,238** | **45,746** | **98.3%** |

Source: Adapted from DRDLR (2017) Annual Report of the DRDLR 2016/17

Table 10 below illustrates Households expenditure per item disaggregated according to provinces. Land purchase and financial compensation accounted for 37.2% of the entire expenditure for Household allocation. The amount includes expenditure for settlement and finalisation of land claims. The Committee expressed concerns over the increasing expenditure on financial compensation, which amounts to 15% of the entire Households expenditure. Expenditure on grants (including the Recapitalisation and Development Programme) accounted for about 11.6%. It has been reported that the Recapitalisation and Development Programme was being transferred to the DAFF. The Committee expressed concerns because of lack of clarity regarding support to land reform beneficiaries including restitution. The major concern was that emerging farmers might find themselves without any support due to lack of clarity regarding programme support and financing of the programme. The Committee maintained that funds for land acquisition must be used for that purpose rather than diverting the funds to recapitalisation of farms. It was therefore suggested that the DAFF must design a comprehensive farmer support programme with land reform beneficiaries as an integral part of the programme. It must also work with National Treasury to obtain funding for this programme.

Table 10: Households Expenditure per province

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Province** | **Other****R ’000** | **Conveyancer****R ’000** | **Land Purchase/ Land & subsoil R ’000** | **Legal FeesR’000** | **Financial Compensation R ’000** | **Re-Cap/****Grants****R ’000** | **TOTAL****R ’000** |
| EC | 7 400 |   | 12 954 473 |   | 283 874 158 | 5 861 814 | 302 697 846 |
| FS | 66 393 | 91 706 | 23 175 900 |   | 9 183 842 | 745 920 | 33 263 761 |
| GP | 13 702 | 123 263 | 4 403 448 | 48690 | 33 411 321 | 42 000 | 38 042 427 |
| KZN |   | 144 446 | 301 461 951 |   | 334 960 220 | 29 424 804 | 665 991 422 |
| LP  | 53 450 | 21 875 | 136 990 279 |   | 418 992 132 | 141 385 849 | 697 443 586 |
| MP |   | 590 628 | 158 403 040 |   | 40 396 839 | 114 723 526 | 314 114 034 |
| NC | 50 000 | 150 178 | 148 702 472 |   | 136 062 150 | 90 816 | 285 055 617 |
| NW |   | 606 183 | 244 545 396 |   | 66 089 766 | 11 166 243 | 322 407 589 |
| WC |   |   | 4 236 814 |   | 99 332 914 | 19 399 604 | 122 969 332 |
| **Total** | **190 946** | **1 728 282** | **1 034 873 776** | **48690** | **1 422 303 345** | **322 840 577** | **2 781 985618** |
| %/Total | 0.01 | 0.06 | 37.20 | 0.00 | 51.13 | 11.60 | 100.00 |

Source; CRLR (2017) Presentation at the Portfolio Committee on 12 October 2016

The Committee also expressed concerns over the total amount of commitments have increased from R5.6 billion in 2015/16 to R5.8 billion in 2017/18. The continuous use of allocation of funds to settle backlog claims and commitments has a negative effect on number of land claims that could be settled in a financial year as illustrated in Table 11 below. The total amount spent of on settlement and finalisation of claims in 2016/17 was R2.656 billion, of which 33.5% was spent on backlog claims (claims approved prior 2016) and 67.5% was approved for settlement of claims in 2016/17.

Table 11: Expenditure of the backlog claims (prior to 2016) and the new claims (2016/17)

|  |  |  |  |
| --- | --- | --- | --- |
| Province | Backlog claims  | New Claims  | Total Expenditure |
| Eastern Cape | 186 799 415 | 109 721 233  | 296 520 649 |
| Free State | 2 277 542 | 30 165 214 | 32 442 756 |
| Gauteng |  5 980 372 | 31 131 701 | 37 112 073 |
| Kwazulu Natal | 177 829 779  | 457 202 450 | 635 032 229 |
| Limpopo | 269 618 734 | 422 260 169 | 691 878 903 |
| Mpumalanga | 37 897 026  | 278 218 206 | 316 115 232 |
| North West | 123 022 234 | 154 688 905 | 277 711 140 |
| Northern Cape | 27 713 181 | 224 119 283 | 251 832 464 |
| Western Cape | 58 076 205  | 60 246 234 | 118 322 439 |
| TOTAL | **889 214 491** | **1 767 753 399** | **2 656 967 891**  |
| 33.5% | 66.5% | 100.0% |

Source; CRLR (2017) Presentation at the Portfolio Committee on 17 October 2017

## 4.3. The Ingonyama Trust Board

The ITB derives its budget from income from trading and investment activities; and transfer of payments it receives from the Department. The income from trading activities is mainly from leases and compensation from servitudes is mainly for the Trust and is for the material benefit of communities. Transfer payment from the Department is mainly used to cover operating costs of the Board. The ITB has consolidated net assets of R643,592,772.00 which is an increase of 16.37% from R553,023, 716 in 2015/16. This comprises of Trust Fund of R284.7 million, straight lining lease income of R354.8 million, and retained earnings of R4 million.

**4.3.1 Programme expenditure**

The total revenue for 2016/17 was R144,361 million comprising of rental revenue of R106,829,817.00, contractual revenue of R922,242.00, transfer of R18,788,000.00 from the Department and others which push revenue to R20.8 million. The total expenditure of the ITB, excluding capital expenditure of R639,249.00, was R47.8 million, of which R26 million is funded from Trust fund and R21.8 million is from transfers for the ITB. The ITB spent 100% of Transfer Payment from the Department as stated above. However, due to transfers for straight lining and beneficiary funds of R120.1 million, the deficit for the year is R23.6 million.

Table 12: Programme budget vs expenditure rate (2016/17)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| PROGRAMME | Final Appropriation R | Actual Expenditure R | % of Expend. | Final Appropriation R | ActualExpenditure R | % of Expenditure.  |
| **2016/17** | **2015/16** |
| Administration | 81,984,285.00  | 38,525,291.00  | 53.1 | 59,139,186 | 37,017,340 | 62.6 |
| Land Management |  888,609.00  |  324,425.00  | 36.5 | 2,785,900 | 1,409,304 | 50.6 |
| Rural Development |  9,000,000.00  | 4,291,646.00  | 47.7 | 9,000,000 | 6,197,797 | 68.9 |
| TC Support |  500,000.00  |  330,000.00  | 66.0 | 16,766,610 | 6,167,237 | 36.8 |
| Total | **92,372,894.00**  | **48,471,362.00**  | **52.5** | **87,642,425** | **50,791,678** | **58.0** |

As illustrated in Table 12 above, Administration which accounted for 88.7% of the total programme budget. It has spent 53.1% of R81.9 million allocated. Underspending has been recorded in capital expenditure, workshops, rates as well as repairs and maintenance. Land Management that accounts for a tiny 0.96% of the total budget has spent about 36.5% of R888, 609.00 allocated for the financial year. The low expenditure has mainly been attributed to unfavourable climatic conditions. It was also reported that new projects commenced, however it is unclear how this development affected interventions that were planned and budgeted for. The Committee expressed concerns over the concentration of budget in administration when compared to the statutory mandate of the ITB. Most of the benefits to deserving traditional communities is through the programme of Rural Development that accounted for9.7% of the total budget. For the year under review, the ITB spent 47.7% of their approved budget of R9 million for rural development and it cited capacity constraints as a contributing factor. The Traditional Council Support programme received 0.54% of the total budget and it spent 66% of the R500, 000.00 allocated.

# 5. Overview of Service Delivery Performance

This section discusses an overall performance of the Department, the Commission and the ITB. They were assessed against the predetermined objectives set out in the 2015/16 APP and the relevant strategic plans.

## The Department of Rural Development and Land Reform

The Committee noted that the Department met 23 of its overall 30 targets. In other words, the Department achieved a performance success rate of 76.7% vis-à-vis a 99.4% expenditure of the final appropriation for 2016/17. Whilst programme performance was still lagging behind, the Committee commended the Department for this improvement when compared to the 2015/16 performance success rate of 71%.

Table 13: Non-financial versus Financial Performance per Programme

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **PROGRAMMES**  | **Annual Targets**  | **Targets Achieved**  | **Performance Rate** | **Final Appropriation R** | **Budget Expend** **R** | **Budget Expend %** |
| Administration | 2 | 1 | 50.0% | 1,621,877 | 1,607,482 | 99.11 |
| Geospatial & Cadastral Services | 5 | 4 | 80.0% | 676,947 | 668,582 | 98.76 |
| Rural Development | 7 | 6 | 85.7% | 1,832,279 | 1,814,769 | 99.04 |
| Restitution | 4 | 3 | 75.0% | 3,335,794 | 3,331,114 | 99.86 |
| Land Reform | 12 | 9 | 75.0% | 2,657,448 | 2,645,052 | 99.53 |
| **Total** | **30** | **23** | **76.7%** | **10,124,345** | **10,066,999** | **99.43** |

Source: Adapted from DRDLR (2017) Annual Report of the Department of Rural Development and Land Reform for 2016/17

Below are the Committees observations regarding programme performance?

*Administration:* Over the last three years, this programme has struggle to break a 50% performance rate. It met one of the two targets for performance indicators. Failure to achieve one target has been linked failure to pay valid invoices within 30 days. About 94% of the invoices were paid and 6% of the invoices was a result of a system downtime. The Committee expressed concerns over failure to finish all the policies and pieces of legislation as well as failure to conduct survey of land reform farms as recommended in the previous BRRR. It therefore means that M&E, focusing on projects and Research and Policy units must be adequately capacitated to carry out this important work of the Department

*National Geomatics Services:* This programme met three of the five targets for 2016/17. The Committee noted that this programme surpassed the 69% mark for 2015/16. Further, the Committee noted that the programme has been struggling to meet the target on the percentage of deeds made available within 7 days from lodgement to execution due to national system downtime. The Committee noted that some of the key information about institutional arrangements for the transfer of SPLUMA to the Presidency have not yet been finalised. The Committee expressed concerns with regard to mandates that were being transferred to other departments without a clear programme of action and how the receiving departments were going to interface with the Department.

*Rural Development:* This programme has met six of the seven annual targets in 2016/17. Further, the Committee noted that, except one of the six targets achieved, the programme exceeded the targets. The performance indictor whose target could not be met related to the number of skills development opportunities provided to support rural development initiatives. The programme did not meet the target by 2007 because the delay in issuing certificates to NARYSEC beneficiaries due to the majority of TVET Colleges not informing relevant SETA’s of the training implemented. Internal backlog and poor processes within SETA also caused delays. The Committee expressed concerns that this obstacle has been a recurring challenge for NARYSEC. It thus raises questions about the strategies devised and interventions made to address the delay in issuing of certificates. The Committee commended the Department regarding performance in relation to the number of jobs created in rural development initiatives. It is regarded as a step in the right direction toward meeting the NDP target to create million jobs in 2030. The Committee however stressed that the jobs created should be decent ones and that they must be sustainable.

*Land reform:* This programme met nine of the twelve targets for performance indicators. This programme has improved from a 62.5% success rate in 2015/16 to 75% in 2016/17. The Committee noted that improvement in non-financial performance has not been matched with expenditure because land reform still is not able to use 100% of its budget despite public demands for faster pace of land redistribution. The Committee commended the Department for exceeding the targets for allocation of land to smallholders in line with the NDP target to create 300 000-smallholder farmers by 2030. Despite this, the challenge of farmer support to smallholders has proven to still be a challenge for government because Recapitalisation and Development Programme has a bias in favour of large-scale commercial farms. Some of the highlights under land reform relates to the Office of the Valuer-General has made significant contribution by conducting valuations in line with the Constitution, thus enabling government to save about R138 million during land purchase; the District Land Committees as per the NDP. Based on the oversight visits to some of the SRR farms, the Committee expressed reservations about the empowerment aspect of the deals. It urged the Department to improve on monitoring of these partnerships under SRR, which might end up not meeting the expectations of policy makers and members of the public in general.

**5.2 Commission on Restitution of Land Rights**

With regard to performance on predetermined objectives, the Commission has met 3 of the four targets for the performance indicators. It therefore has a performance success rate of 75%. The Committee has observed that over the last two years, the Committee has failed to meet all the targets it set for itself. However, in the main, where the commission has met the targets it exceeded those targets by a wide margin as discussed below. The Committee commended the Commission for increased efforts to research, settle and finalise land claims, which is in line with the directives under the Agriculture, Land Reform and Rural Development Phakisa.

Table 14: Performance and Expenditure against targets from 2013/14 -2016/17

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Items | 2016/17 | 2015/16 | 2014/15 | 2013/14 |
| Total Annual targets | 4 | 5 | 5 | 3 |
| Targets achieved | 3 | 4/5 | 5/5 | 3/3 |
| Targets not met | 1 | 1/5 | 0 | 0 |
| Performance success rate | 75% | 80%  | 100% | 100% |
| Programme Expenditure | R3.333 billion | R2.630 billion | R2.997 billion | R2.836 |
| Expenditure Rate | 99.9% | 98.3% | 99.9% | 99.9% |

Source: Adapted from various annual reports of the CRLR (2014 -2017)

The Committee urged the Commission to ensure that phased projects, whose targets was missed by one, were given attention because they lead to huge commitments which negatively impacts on the Commission’s ability to increase pace in settlement of new cases.

Table 15: Performance per province against annual targets for 2016/17

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Province** | **No of claims settled** | **No of land claims finalised** | **No of phased projects approved** | **No of claims lodged by 1998 researched** |  **untraceable claimants** |
| Target  | Actual | Target  | Actual | Target  | Actual | Target  | Actual |
| EC | 94 | 89 | 55 | 63 | 7 | 8 | 125 | 189 | - |
| FS | 0 | 3 | 40 | 84 | 0 | 2 | 0 | 4 | - |
| GP | 24 | 24 | 31 | 78 | 0 | 2 | 63 | 76 | 115 |
| KZN | 118 | 110 | 59 | 81 | 12 | 14 | 346 | 413 | 500 |
| LP | 54 | 122 | 54 | 127 | 16 | 15 | 273 | 171 | 7 |
| MP | 74 | 74 | 13 | 20 | 17 | 11 | 395 | 296 | 361 |
| NC | 15 | 14 | 14 | 25 | 6 | 4 | 0 | 38 | 3 |
| NW | 9 | 12 | 13 | 25 | 18 | 12 | 0 | 13 | - |
| WC | 227 | 356 | 169 | 159 | 0 | 7 | 328 | 358 | 166 |
| **TOTAL** | **615** | **804** | **448** | **662** | **76** | **75** | **1530** | **1558** | **+1152** |

Source: Adapted from the 2016/17 Annual Report of the Commission on Restitution of Land Rights

Nonetheless, the ability of the Commission to exceed targets for some of the performance indicators as illustrated in Table 15 above below was commendable. Such targets are as follows:

* Number of claims to lodged by 1998 to be researched was exceeded by 28
* Number of land claims to be settled was exceeded by 190
* Number of claims lodged by 1998 to be finalised was exceeded by 218

**5.3 Ingonyama Trust Board**

Table 16: Non-financial performance rate *vis-à-vis* expenditure rate (2016/17)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| PROGRAMME | No. Annual Targets | No. of Targets Met | Perf. Success rate % | Final Appropriation R | Actual Expenditure R | % of Expenditure |
| Administration | 15 | 9 | 60.0% |  81 984 285.00  |  43 525 291.00  | 53.1% |
| Land Management | 5 | 3 | 60.0% |  888 609.00  |  324 425.00  | 36.5% |
| Rural Development | 5 | 3 | 60.0% |  9 000 000.00  |  4 291 646.00  | 47.7% |
| TC Support | 4 | 0 | 0.0% |  500 000.00  |  330 000.00  | 66.0% |
| Total | **29** | **15** | **51.7%** |  **92 372 894.00**  |  **48 471 362.00**  | **52.5%** |

Source: Adapted from the 2016/17 Annual Report of the ITB

*Administration:* This programme met 9 of the 15 annual targets, translating to 60% performance success rate. The 6 targets that could not be met were: filling of vacancies, approval of number of Memoranda of Agreements with traditional councils by the Board, communication reports to the Board, audit of infrastructure, number of policies approved by the Board and training. Having noted the performance and the expenditure, the committee raised concerns as follows:

* The fact that the Board due to questions of reliability approved none of the 12 reports. It was of great concern because the Committee had in the past-recommended increased communication between the ITB and traditional communities could improve take up of funds.
* Two of the four were not approved. As recommended previously, the Committee urged the Board to prioritise finalising all the policies immediately.
* Critical posts of the Real Estate Manager and Deputy Manager: Administration remained vacant.
* Of the planned approvals of 10 MOAs, the ITB achieved 7 and 3 could not be approved.

*Land Management:*Thisprogramme facilitates provision of a secure tenure right and establish a comprehensive land tenure information system. With 35.6% expenditure of the total fund appropriated for this programme, the programme met 3 of the 5 annual targets. The three targets are updating landholding register, valuing of land parcels for commercial use, and programmes to prevent illegal occupation of land. The Committee

*Rural Development:* The Committee noted that three of the five annual targets were met, translating to 60% performance success rate. The approval of an MOU with Agribusiness Development Agency could not be achieved because of a third party. Further, the programme failed to conduct land audit in order to identify prime land for development of projects. The Board cites lack of capacity as the main reason, and for that reason work started late in the year but could not be concluded before the end of the year.

*Traditional Council Support:* None of the four annual targets was met however; substantial amount of work related to training of traditional councils was done. The Committee was concerned the Board implemented some sessions in the training plan without approval. Similarly, skills audit was not conducted but training continued.

# 6. Summary of observations

This section summarises the Committee’s observations and conclusions. It draws on analysis presented in preceding sections, especially financial and service delivery performance for the 2016/17 financial years. The reports of the Fiscal Finance Commission (FFC) and the Auditor-General of South Africa (AGSA) were also useful resources against which some of the observations of the Committee were tested. The section is divided into three sections, namely technical issues, governance, service delivery and financial observations.

## 6.1 Technical observations

The Committee found that the Strategic Plan and the APP of the Department were largely aligned to the priorities of government as outlined in the NDP and the SONA articulated as MTSF priorities.

Realignment of the function has been a subject for discussion at the Committee, and between the Portfolio Committee on Agriculture, Forestry and Fisheries. Firstly, it is the issue of transfer of the Recapitalisation and Development Programme to the DAFF. The Committee found that there was no clear direction with regard to this matter despite recommendations by the DMPE, FFC and the Portfolio Committee on Rural Development and Land Reform. This is further hamstrung by the fact that there has not been any cabinet resolution to address this major constraint. The second aspect relates to the transfer of the transfer of SPLUMA to the presidency. The Committee noted that there has been little progress in this. In both cases, there is uncertainty about the effect of the transition on service delivery.

During the audit of predetermined objectives (AOPO), the AGSA did not make any material finding on the reliability and usefulness of the data. In fact, it noted that there has been improvement in the manner in which predetermined objectives have been compiled and implemented. The Committee, however, observed that there is a need to shift toward more qualitative indicators, which is outcome of interventions rather than the quantitative. There is a need for performance indicators, which begin to tell a story about the improvement in the quality of life of beneficiaries. As reported previously, one of the major findings of oversight work is high levels of beneficiary dissatisfaction regarding post-settlement support both on production and institutional support. For example, most of CPAs have become dysfunctional, eviction from farms continued to take place without legal representation, CPAs have not received title deeds and lack of understanding of criteria for selection of potential beneficiaries for PLAS farms.

The quality of the annual performance report of Department has improved over the past four years. The annual performance report included information on performance against predetermined objectives that were useful and reliable for the programmes and objectives. The Auditor-General confirmed this finding with an assertion that no material misstatements were identified during the audit with the exception of the ITB. The Committee commended the Department, the Commission and the ITB for continuous improvement in the quality of the annual reports presented.

## 6.2. Governance

The Committee observed that governance has received high priority within the Department. Among other interventions, the Department has established Governance Committees to assist the Accounting Officer in effective administration of the Department; for example, the Risk and Compliance Committee. It appears that the work done has begun to yield desired outcomes. The report of the AG also showed that there is an improvement in compliance with legislation and quality of financial statements. Action plans are being implemented and monitored by management; and key vacant positions have been filled with competent staff. In terms of audit, the Department was unqualified, the ALHA received clean audit whilst the ITB was qualified.

The quality of financial statements for Department, Deeds and ITB submitted for audit remained a concern due to inadequate review processes as the internal controls did not prevent, detect or correct material misstatements to the annual financial statements before the audit of 2016/17 therefore resulting in the non-compliance. Another common non-compliance throughout the portfolio is non-compliance to the PFMA regarding prevention and detection of irregular, fruitless, and wasteful expenditure.

The Committee also noted an improvement in the systems of internal control during the year under review. However, the Committee concurred with the Auditor-General that focussed interventions and commitments are still required in order to improve the status of the overall key controls for the department. For this to happen, attention should be focused on addressing internal controls deficiencies through implementation of effective actions plans that address the correct root causes.

The Committee noted that the autonomy of the Commission could result in improvement of service delivery, especially with regard to delegation of powers to provincial heads of the Commission. Further, it also complies with intent of the establishment of the Commission in terms of the Restitution of Land Rights Act. It was of great concern that this project had not progressed beyond tabling of a Strategic Plan and APP. Further, the suggestion that the Commission should become a Chapter 9 institution should be a subject of further discussion. The Committee noted some of the Constitutional issues that should be dealt with because the approach means a completely different organisation which a different mandate and reporting structures.

With regard to the ITB, the Committee noted that a new Board was constituted in July 2016. Additional four members were from Traditional Councils, i.e. they were Inkosi. Reporting of the ITB and The Ingoyama Trust as two separate entities required more attention.

## 6.3. Service delivery against the pre-determined objectives

With regard to service delivery, the Committee made the following findings:

* Although the Department had planned to achieve unqualified audit opinion without findings, it still achieved unqualified audit opinion with emphasis of matters. Whilst the continued unqualified audit opinion is commended, the Committee still emphasized a need to achieve unqualified without findings on predetermined objectives and compliance. Further, clean audit should correspond with client satisfaction on services rendered. Key concerns were the following issues: inadequacy of daily or monthly internal control that resulted in material misstatements where were however corrected and information systems weaknesses that brought into question the credibility of financial and performance information preparation.
* Of the planned five pieces of legislation to be tabled, the Department tabled only one – ESTA Amendment Bill. None of the policies was referred to the Committee for discussion. SRR was discussed. The Committee noted that the Department has progressed to implement pilots on the following policies: Strengthening Relative Rights for People working the land, One Household-One Hectare.
* Redistributive land reform takes place under two main programmes; namely restitution and land redistribution, and PLAS is the only vehicle for redistribution. PLAS, which transfers land to the State and leases it to black famers will not assist government to achieve transfer of land to rural people in line with a commitment of the Outcomes of government to “increase the percentage of productive land owned by previously disadvantaged individuals from 11.5 per cent to 20 per cent by 2019 (16.2 million hectares). Further, there is an exemption of PLAS farmers to pay lease fees for a period of five years, thus calling for plans to ensure that at the end of the term the Department has system in place to administer leases and that farmers are in a position to honour the leases.
* The Committee noted that SPLUMA will be administered by the Presidency. Progress in the implementation of this cabinet resolution was very slow. Engagements with the Department and DPME have not resulted in any tangible plans. Further information regarding the motivations, the pros and cons of this decision in relation to budget, capacity within the presidency to administer the legislation and implementation will be explored further.
* People occupied most of the key positions in the Department, especially in the senior management, in an acting capacity. For example, the Director-General, DDGs land redistribution and tenure and administration, and the DCLCC in the Commission. With regard to the ITB, the Committee expressed concern regarding lack of progress in appointment of key positions such as real estate manager and deputy manager administration.

* Land claims processes and a need to conclude on all the pre-1998 land claims has been a key priority, and the lodgement process in terms of the new amendment Act. Research of land claims has not progressed as anticipated. At the time of documenting this report in 2017, the Commission had missed its own deadline for researching all the pre-1998 land claims. This is despite procuring services of consultants to increase the speed and quality of research by the Commission.

## 6.4. Financial Performance including funding proposals

Apart from lack of capacity in the Land Tenure and Administration Unit, lack of CPAs’ compliance to the relevant legislation, and failure to regularise them was due to lack of dedicated budget for the CPAs. Similarly, failure to process the Labour Tenants applications, especially in KZN, was because of lack of budget for this programme.

The Commission continued to be exposed to commitments arising from settlements that occurred prior to 2016/17. The amount of commitments increased from R5.6 billion to R5.8 billion. Increase in commitments could undermine the capacity of the Commission to settle new claims at pace expected whilst they battle to finalise backlog claims. The expenditure on grants for restitution, especially for the Recapitalisation and Development of farms was less than 25per cent of the total cost for land acquisition under Restitution. In this reporting period, it was almost impossible to align the Recap Programme and grants for section 42C approvals.

The idea that the Department, together with National Treasury and the Department of Agriculture, Forestry and Fisheries were developing an integrated funding model for settlement support to land reform beneficiaries, smallholder farmers and emerging commercial was welcome and would be monitored. However, it appears that little progress had been made. This was further complicated by absence of plans by the DAFF to integrate land reform beneficiaries under the Recap Programme in their farmer support programme.

Programmes such as Recapitalisation and Development, Strengthening Relative Rights have diverted scarce funds away from land acquisition to agricultural support. These programmes have relied much on different forms of partnerships between private sector partners and land reform beneficiaries. Lack of capacity to monitor these enterprises have resulted in some projects not realising the objectives and some partnerships collapsing.

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# 7. Recommendations

In view of the above observations and conclusions, the Committee recommends to the National Assembly that –

7.1 **The Minister of Finance** should -

7.1.1 Given that funding for the Recapitalisation and Development Programme was diverted from land acquisition to assist with post-settlement support, make specific budget allocation for the Recapitalisation and Development Programme.

7.1.2 Working with both DAFF and the Department as well as any other relevant government entities, facilitate development of an integrated funding model for supporting land reform beneficiaries, smallholder farmers, and emerging black commercial farmers. Further, assist to minimise duplication of services between the Department and DAFF.

7.1.3 Work with the Minister of Rural Development and Land Reform and the Chief Land Claims Commissioner to develop a funding model for the existing commitments of R8.46 billion within the MTEF period. The model must be based on a strategy that prioritises land claims that were settled prior to 2009 prior to the Recapitalisation Programme, especially development grants and other settlement support funding.

7.1.4 Consider provisioning budget allocation for the implementation of the targets set under the Operation Phakisa for Agriculture, Rural Development and Land Reform.

7.1.5 Submit a report on these recommendations within three months of adoption of this report by the National Assembly.

7.2 With regard to the Department of Rural Development and Land Reform, **the Minister of Rural Development and Land Reform** should –

* + 1. With other relevant Ministers and stakeholders,develop clear definition of rural areas, rural development and smallholders to be applied across all spheres of government in South Africa in order to improve programme outcomes.
		2. Together with the DPME, conduct a national survey of farms acquired through all land reform programmes since 1994 to date. This survey must assess sustainability of land reform farms and the socio-economic impact of land reform on beneficiaries. It must also factor in the lessons from the earlier Quality of Life surveys by the then Department of Land Affairs.
		3. Ensure that the second phase of the land audit is finalised within 2017/18 financial year.
		4. Given the intention for substantial increase in the number of sites where the Strengthening of Relative Rights for People Working the Land is implemented, table a report on the SRR pilot review and the key lessons prior to the rollout of the programme.
		5. Ensure that the Department builds adequate capacity to develop evidence-based policy and legislation in order to address non-compliance with own legislative programme. Further, ensure that the Department adheres to the revised legislative programme, which entails pieces of legislation to be tabled and referred to the Committee.
		6. Strengthen the coordination of Agri-Parks interventions with relevant government departments to maximise use of limited resources, avoid duplication of government services, and enhance the capacity to coordinate expertise from elsewhere in government and non-government entities. Such coordination should be strengthened at both policy and implementation levels.
		7. Submit cabinet resolutions and proclamations in respect of the SPLUMA function to the Presidency (DPME) and the transfer of Recapitalisation and Development Programme to DAFF. Further, submit a report about funding mechanisms, coordination between both departments, capacity within the receiving departments to provide required services, and plans for smooth transition.
		8. Ensure that the Department must build internal capacity to carry out the mandate for tenure reform and land administration; this is urgent for the support of CPAs, and processing of labour tenant’s applications.

* + 1. Ensure strict monitoring of the Legal Services Project under the Land Rights Management Facility and the Panel of Attorneys set up to provide legal services to farm dwellers. Quarterly reports on the operations of the Land Rights Management Facility must be submitted to the Committee.
	1. With regard to the **Commission on Restitution of Land Rights**, the Minister of Rural Development and Land Reform and the Commission should –
		1. Prioritise the settlement and finalisation of all land claims on State Land. Further submit a report that analyses all outstanding claims on state land, detailing the claims by province and district, the extent of the land in question, ownership of the land, the current use, implications (financial and otherwise) of settlement of such claims. The Chief Land Claims Commissioner must report quarterly on the implementation of the plans submitted to the Committee.
		2. Table quarterly reports on the processes to fulfil the decision to transform the Commission into an autonomous entity. Further, table a report on the implications of proposals to ultimately transform the Commission into a Chapter 9 institution. The report should consider, amongst other variables, the following: the constitutional imperatives, the mandate of the Commission as provided for in the legislation, the envisaged mandate, and how the Commission will interface with other land commissions proposed in other legislations such as the Agricultural Landholdings Bill.
		3. Table a comprehensive report on commitments in the form of grants approved before 2009 in terms of Section 42C of the Restitution of Land Rights Act, and further outline a realistic plan, in line with budget allocation, regarding the payment of all such commitments. The report that should be disaggregated by province and district must entail, but not limited, to the following: types of commitments, age analysis of the commitments, and estimated timelines for finalisation of such commitments in line with budget allocations.
		4. Ensure that all pre-1998 land claims are researched by the end of 2017/18 financial year. This requires an improvement in the research capacity of the Commission and capacity to monitor consultants conducting research on behalf of the Commission. Further, monitor the service level agreements with service providers for effective delivery and submit quarterly progress report to the Committee.
	2. With regard to the **Ingonyama Trust Board** the Minister should –
		1. Review the ITB Act to ensure that the functions of the ITB are in line with this legislation and further take into consideration the Constitutional imperatives of provision of secure tenure and the Department’s Communal Land Tenure Bill and policy. The ITB must further present quarterly reports on progress regarding this recommendation.
		2. Speedup facilitation of engagement between the ITB and the Auditor-General together with the Accountant General by the end of 2017/18 in order to address the perennial non-compliance of the ITB with the GRAP standards in relation to valuation of land and other outstanding matters as reported by the Auditor-General.
		3. Conduct, together with the ITB, the impact on livelihoods of the programmes of the ITB and the Act with a focus on land tenure and administration, leasehold tenure system and protection of customary land rights of traditional communities.
		4. Ensure that the ITB works with municipalities by monitoring the extent to which municipal Integrated Development Plans and Local Economic Development Plans feature some of the developments initiated on the Ingonyama Trust Land. Similarly, ensure coordination between the rural development functions of the Department and those implemented by the ITB.

The Minister must report to Parliament, about the implementation of these recommendations, within three months of adoption of this report by the National Assembly.

Report to be considered.