

DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**NO. 2****03 JANUARY 2020**

The Minister for Agriculture, Land Reform and Rural Development hereby publishes the Beneficiary Selection and Land Allocation Policy for public comment.

Members of the public are invited to submit written comments within 60 calendar days of the publication of this notice to the following address:

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Comments received after the closing date will not be considered.

NATIONAL POLICY FOR BENEFICIARY SELECTION AND LAND ALLOCATION

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DRAFT NATIONAL POLICY ON BENEFICIARY SELECTION AND LAND ALLOCATION

27 NOVEMBER 2019

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**THIS POLICY MUST BE READ IN CONJUNCTION WITH OTHER DEPARTMENTAL
POLICIES**

DRAFT NATIONAL POLICY ON BENEFICIARY SELECTION AND LAND ALLOCATION

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i.. LIST OF ACRONYMS AND ABBREVIATIONS

DALRRD	:	Department of Agriculture, Land Reform and Rural Development
SLLDP	:	State Land Lease and Disposal Policy
LDS	:	Land Development Support
M&E	:	Monitoring and Evaluation
NLAACC	:	National Land Acquisition and Allocation Control Committee
SPLUMA	:	Spatial Planning Land Use Management Act (Act 13 of 2013)

ii. DEFINITIONS AND INTERPRETATION

The meanings of words or terms that are defined in this document are operative only in the context of this document and shall supersede any other meaning provided elsewhere. Any citation of a law without the words, "*as amended*", refers to the latest version of that law, including any amendments thereto. In this Policy, unless inconsistent with or otherwise indicated by the context, the following words and expressions shall have the following meanings and cognate expressions shall have corresponding meanings:

"Act 126" means The Land Reform: Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993).

"Agriculture": Involves the sustainable and productive utilisation of natural resources and other inputs by people for plant and/or animal production purposes, either for own consumption or for marketing.

"Previously Disadvantaged South African Citizens" means a Black Person (Africans, Coloureds and Indians) who is 18 years or older and who holds a valid South African Identity document and is a bona fide citizen of South Africa. and **"Land Reform Farmers"** shall have a corresponding meaning.

"Communal Land" means "communal land" means land contemplated in section 2 of the Communal Land Rights Act 11 Of 2004 (*as amended*) which is, or is to be, occupied or used by members of a community subject to the rules or custom of that community

"Constitution" means the Constitution of the Republic of South Africa Act 108 of 1996.

"Department" means the department of Agriculture, Land Reform and Rural Development.

"Descendant/s" means an offspring of a public servant who is 18 years or older and meets other criteria for qualification of allocation of land under the SLLDP.

"Development" means providing support to Black Farmers in terms of human capacity development, infrastructural development and operational inputs on land acquired or leased by such Black Farmer.

"Development Partners" means a partnership where a mutually-beneficial relationship is built on trust, sharing of knowledge and integration, with its partners regarding development of Black Farmers.

"Development Support" means the capital renewal and restructuring of constrained Agricultural Enterprises conducted by Black Producers.

"Director-General" means the Director-General of the Department.

"Disability": A condition imposed by a society when a person with a physical, psycho-social, intellectual, neurological and or sensory impairment is denied access to full participation in all aspect of life, and when society fails to uphold the rights and specific needs of individuals with impairments.

"Double-dipping": Is defined as an act of getting multiple supports (financial and non-financial) from the same or different institutions for the same purpose.

“Effectiveness”: An aggregate measure of (or judgment about) the merit or worth of an activity, i.e., the extent to which an intervention has attained, or is expected to attain, its major relevant objectives efficiently in a sustainable fashion and with a positive institutional development impact.

“Encumbrance” means, in relation to any asset (including a share), to encumber such asset in any way including by way of a pledge, a cession in *securitatem debiti*, a general notarial bond, a special notarial bond, a deed of hypothecation, a mortgage bond, a charge (whether fixed or floating) or to grant any other similar or analogous security interest of any nature whatever over such asset.

“Farm dweller” any person, other than the farm owner or person in charge who is

“Farm Worker”: a person who works on a farm regularly whether full time, part time or time or seasonal including general worker on a farm, all domestic workers who work in a house on a farm and also a security guard (not employed in the private security industry) who is employed to guard the farm and areas where farming activities takes place. A farm worker is not necessarily a farm dweller as some do not live in the farm.

“Household Producer (Vulnerable)” Is defined as a producer that produces primarily for household consumption and has limited resources and skills to operate a market-oriented production system. This category includes child headed households & households producing in communal land and commonages that are registered as indigents or they meet the criteria for registration as indigents with their municipality.

“Household Producer (Subsistence)” Is defined as a producer that produces primarily for household consumption. These producers are not or would not be classified as indigents by their municipality. They may market limited surplus production with an annual turnover of R 500 000 or less.

“Juristic person”: Is defined as a social entity, a community or an association of people which has an independent right of existence under the law.

“Large Scale Commercial Producer”: Is defined as a venture undertaken by an individual or entity for the purpose of production and sale of agriculture products to make a profit. These are established enterprises producing for market to make a profit with an annual turnover ranging between R10 000 001 – R50 million.

Mega Producer: Is defined as a venture undertaken by an individual or entity for the purpose of production and sale of agricultural products to make a profit. These are established enterprises producing for market to make a profit with an annual turnover of more than R 50 million.

“Medium Scale Commercial farmer”: Is defined as a venture undertaken by an individual or entity for the purpose of production and sale of agricultural products to make a profit. These are established enterprises producing for market to make a profit with an annual turnover of more than R 500 000 and are eligible for VAT registration.

“Monitoring”: A systematic collection of data on specified indicators to provide management and the main stakeholders of an on-going development intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated land and/or funds.

“Naturalized South African”: A person born in another country who has acquired South African citizenship.

“Persons with disabilities”: Refers to persons who have perceived and / or actual physical, psychosocial, intellectual, neurological and/or sensory impairments which, as a result of various attitudinal, communication, physical and information barriers, are hindered in participating fully and effectively in society on an equal basis with others.

"Rights to land": Means any real or personal right in land, including a right to cropping and grazing land.

"Smallholder Producer": Is defined as a producer that produces (at primary, secondary, and tertiary level) for household consumption and markets, therefore farming is consciously undertaken in order to meet the needs of the household and derive a source of income. These are usually the new entrants aspiring to produce for market at a profit with a maximum annual turnover of R 500 000 or less.

"Social Assistance" Assistance refers to social grants in the form of a supplementary grant, a foster care grant, a child-support grant, a care-dependency grant or a financial award, granted under the Social Assistance Act, 1992 (Act No. 59 of 1992).

"Sustainability": The continuation of benefits from an intervention: The probability of continued long-term benefits including resilience to risk of the net benefit flows over time.

"Traditional Leader": Any person who, in terms of customary law of the traditional community concerned, holds a traditional leadership position, and is recognised in terms of the Traditional Leadership and Governance Framework Act 41 of 2003 and the Traditional and Khoi-San Leadership Bill of 2019.

"Vulnerability": The degree to which geophysical, biological and socioeconomic systems are susceptible to and unable to cope with, adverse impacts of environmental degradation, drought and climate change. Temporal and spatial exposure to different types of environmental degradation and climate risks is assumed in this definition, as are potential changes in resilience.

"Vulnerable Groups": In this policy will include: youth, women, persons with disabilities, and orphans and **"Vulnerable person"** shall be used interchangeably

"Vulnerable person": A person whose survival, care, protection or development may be compromised, due to a particular condition, situation or circumstance and which prevents the fulfilment of his or her rights.

"Women": A female human of any age and race.

"Youth": Young people as those falling within the age of 18 to 35 years.

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1. INTRODUCTION

- 1.1. The White Paper on South African Land Policy of 1997 states that: *The purpose of the Land Redistribution Programme is to provide the poor with land for residential and productive purposes in order to improve their livelihoods... Land redistribution is intended to assist the urban and rural poor, farmworkers, labour tenants, as well as emergent farmers.*
- 1.2. However despite various land reform policy efforts initiated in the post-1994 period, more than two decades later, the inequity of land ownership has been left relatively intact. This can largely be attributed to major challenges of land reform, foremost of which are the slow pace of land redistribution and tenure reform (in which the supply of land for farming and other purposes is still not met in areas where demand is greatest) and the overall failure of land reform farms to sustain production as well as backlogs of land for housing in specified localities which could improve livelihoods.
- 1.3. A notable number of Black South Africans continue to be landless, are excluded from participating in sustainable agriculture, and live in unsustainable human settlements without sufficient livelihood resources.

2. PROBLEM STATEMENT

- 2.1. Currently within the land redistribution programme the vulnerable groups and the marginalised have not been given sufficient opportunities to have access to land. It is therefore critical for the State to prioritise the most marginalised and the vulnerable groups, specifically small holder producers, women, youth (including agricultural graduates) and people living with disabilities, rural and peri-urban residents and military veterans.
- 2.2. The lack of a credible and transparent process for land allocation and beneficiary selection has resulted in manipulation of the process. There is gender inequity in

land allocation and access and a lack of mechanisms to enable poor communal residents and villagers to access land in case of natural disasters and other urgent situations. The lack of access to land by poor municipalities in rural and peri-urban areas for commonage and settlement purposes has resulted in a lack of access to land for production and settlement by vulnerable groups, poor rural and peri-urban residents, women, youth and people with disabilities.

- 2.3 The Final Report of the Presidential Advisory Panel on Land Reform and Agriculture (4 May 2019) has noted that “A more systematic approach is needed to redress and correct the ills within a democratic dispensation (and that) the vast majority of South Africans are eligible for land reform, but few are provided with actual access to land. Therefore, the question of who should be selected as beneficiaries, and what they are eligible to get, is of central importance. There is a need to specify policy on who is to be prioritised, who is not, how scarce resources are rationed and spread across competing needs, and how beneficiary selection from a pool of applicants is decided.”¹

3. LEGISLATIVE PROVISIONS

- 3.1 The legislation discussed below is only that which has a direct impact on the work that will be performed by the Land Allocation Panels and other institutional arrangements that are proposed towards the achievement of the Policy.
- 3.2 The Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996) enjoins the State to take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis. The provisions of this Policy are consequently about access and equity as opposed to revenue generation.

¹ *Final report of the Presidential Advisory Panel on Land Reform (04 May 2019) for His Excellency The President of South Africa* Pretoria, Government Printer pp 56

- 3.3 The State Land Disposal Act, 1961 (Act No 48 of 1961) empowers the President to, amongst other things, lease State land. These powers were assigned to the predecessor to the Minister of Agriculture, Land Reform and Rural Development in July 1995 in respect of land located in former homelands. The powers therefore vest in the Minister of Agriculture, Land Reform and Rural Development in succession.
- 3.4 The Land Reform: Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993), empowers the Minister to, amongst other things, lease any property contemplated in the said Act. The land acquired to further the objectives of the Proactive Land Acquisition Strategy is leased or disposed in accordance with the provisions of this Act.
- 3.5 Sections 38 and 45 of the Public Finance Management Act, 1999 deals with General Responsibilities of Accounting Officers. The said responsibilities include;
- 3.5.1 Effective, efficient, economic and transparent use of the resources of the Department;
- 3.5.2 Taking effective and appropriate steps to collect all money due to the Department; and
- 3.5.3 Responsibility for the management, including the safeguarding and the maintenance of the assets, and for the management of the liabilities of the Department.
- 3.6 The Government Immovable Asset Management Act (Act 19 of 2007) mainly provides a uniform framework for the management of immovable assets that are held or used by national or provincial departments. It also seeks to ensure coordination of the use of immovable assets with service delivery objectives of national and provincial departments. The provisions of this policy have consequently been designed in a manner that seeks to adhere to immovable asset management principles provided in the said Act.

- 3.7 The Land Reform (Labour Tenants) Act (Act 6 of 1996) provides for acquisition of land or rights in land by qualifying Labour Tenants and their associates.
- 3.8 The Extension of Security of Tenure Act (Act 62 of 1997) (as amended) provides in Section 4 for acquisition of land or rights in land in on-site and off-site settlements as defined in the Act.
- 3.9 The Spatial Planning Land Use Management Act (Act 16 of 2013) provides for a uniform and comprehensive system of spatial planning and land use management to ensure the promotion of social and economic inclusion to redress the imbalances of the past.

4. POLICY PROPOSALS AND PRINCIPLES

4.1 POLICY PROPOSALS:

- a) **Ensure equitable access** to land for all the previously disadvantaged citizens;
- b) **Address diverse or different land needs** (for agricultural production, human settlements, commonage, residential and industrial development purposes);
- c) **Promote industrialization and change of spatial development** with the focus towards township economy, special economic zones, and industries in rural areas;
- d) **Promote urban agriculture** through access to agricultural development plots or allotments;
- e) **Create a credible and transparent system** of land allocation and beneficiary selection;
- f) **Target the rural poor, landless, poor municipalities and peri-urban residents** to gain access to land;
- g) **Create a crop of new young black smallholder/commercial farmers** through targeting women and unemployed agricultural graduates, youth in the agricultural sector to access land and associated Agro processing value chain opportunities;
- h) **Establish an independent selection panel** for land allocation.

4.2 POLICY PRINCIPLES:

- a) **Equitable access to land**: Government will strive to promote conditions which enable all the previously disadvantaged citizens and targeted groups (women, youth, people with disabilities and military veterans) **to gain access to land**;
- b) **Online Application system and National Application register**: All applicants are expected to lodge applications online and walk in applicants support shall be provided and this will ensure a credible and transparent system of an application process land allocation and beneficiary selection;
- c) **Land allocation and Selection panel**: **An independent panel** shall be established to ensure a credible and transparent process land allocation and beneficiary selection;
- d) **Addressing diverse land needs**: Government shall ensure that all land needs are addressed i.e. Agricultural production, commonage, Human settlements, industrial development and other needs);
- e) **Graduation of beneficiaries**: Government shall promote conditions which will enable a selected beneficiary to graduate and produce at the level that matches the potential of an allocated farm;
- f) **Commercialization of black farmers**: Government shall ensure we rekindle the class of black commercial farmers which were systematically destroyed by the 1913 Natives land Act;
- g) **Biasness towards Poor Rural residents and Municipalities**: Government shall ensure rural poor, landless, poor municipalities and peri-urban residents gain access to land for production, commonage, human settlement, and industrial development.
- h) **Women and Youth advancement through access to land**: Government shall ensure in particular that land allocation reach out to women, unemployed agricultural graduates, and youth in the agricultural sector for participation in agricultural production, economic activities and associated Agro processing value chain opportunities.
- i) **Needs assessment and skills audit**: All applicants shall be subjected to a skills audit and assessment before being allocated the land to inform training

requirements and to ensure sustainability and utilization of the assets being allocated.

- 4.3 The allocation of land and properties to Municipalities, and Communities for industrialisation and job creation should achieve changes in spatial development with a focus on township economies, special economic zones, and industrial development in rural areas. Human settlement development and residential development for students, learners and apprentices should similarly contribute towards spatial integration of urban and rural areas.

5. POLICY OBJECTIVES

- 5.1 To provide a uniform, fair, credible and transparent process and criteria for selection of beneficiaries for land allocation or leasing of State properties;
- 5.2 To rekindle the class of Black commercial producers who were destroyed by the 1913 Land Act;
- 5.3 To address diverse or different land needs - agricultural production, human settlements, commonage, and residential and industrial development purposes:
- 5.4 To promote industrialization, changes in spatial development, support for township economies, and the creation of special economic zones and industries in rural areas through access to land;
- 5.5 To promote accountability and transparency within the Department in allocating State assets;
- 5.6 To ensure qualified, suitable and deserving candidates gain access to land on an equitable basis;

- 5.7 To ensure special and targeted groups of land reform beneficiaries (youth, women, people living with disabilities, producers on communal land and military veterans) gain access to land for production purposes;
- 5.8 To ensure that the selected beneficiaries have the skills and capacity to maintain immovable state assets;
- 5.9 To establish an independent Land Allocation Panel to preside over the selection of suitable candidates for land allocation;
- 5.10 To provide for a standardized national land application system to ensure a fair and transparent process of beneficiary selection and the rationing of resources; and
- 5.11 To provide for the creation of a Provincial and National land application register for potential beneficiaries of land allocation.

6. CATEGORIES OF BENEFICIARIES FOR LAND ALLOCATION

- 6.1 The 1997 White Paper² identified the following categories of beneficiaries:
 - a. **landless people, especially women**, who wish to gain access to land and settlement opportunities in rural or urban areas;
 - b. **farm workers and their families** who wish to improve their settlement and tenure conditions;
 - c. **labour tenants and their families** who wish to acquire and improve the land which they hold or alternative land;
 - d. **residents of urban and peril-urban areas** needing land on commonages and allotments;
 - e. **residents who wish to secure and upgrade the conditions of tenure under which they live;**
 - f. **beneficiaries of the Land Restitution Programme;**

² DLA (1997) *White Paper on South African Land Reform Policy*. Pretoria: Government Printer. p. 31

g. **dispossession cases** which fall outside the ambit of the *Restitution of Land Rights Act, 22 of 1994*³ (pp. 18).

6.2. The Report of the Presidential Advisory Panel on Land Reform and Agriculture identifies the following categories of farmers:

- a) **Category 1:** Households with no or very limited access to land, even for subsistence production.
- b) **Category 2:** Small-scale farmers who are farming or intend to farm for subsistence purposes. They may be or may not be selling some of their produce in local markets.
- c) **Category 3:** Medium-scale commercial farmers who have already been farming commercially at a small scale and with aptitude to expand, but are constrained by land and other resources;
- d) **Category 4:** Large-scale and Mega or well-established farmers who have been farming at a reasonable commercial scale, but are disadvantaged by location, size of land and other resources or circumstances, and with real potential to grow. **Large:** Is defined as a venture undertaken by an individual or entity for the purpose of production and sale of agriculture products to make a profit. These are established enterprises producing for market to make a profit with an annual turnover ranging between R10 000 001 – R50 million and **above R50 million for Mega.**

6.3 The State has the obligation to respond to the various land needs of the different categories of farmers with regards to access to land for agricultural production and value chain opportunities, however there are communities and individual farmers in rural areas or living on state owned farms who need land for production and various activities and who may not fit within these defined categories.

³ DLA (1997) *White Paper on South African Land Reform Policy*. Pretoria: Government Printer. Pp. 18

- 6.4 The National Comprehensive Producer Support policy has introduced 6 categories of farmers based on their turnover which have different land needs and support requirements and which will be aligned to this policy in terms of land allocation and selection.
- 6.5 Municipalities, local authorities and communities:** Where land is required for the establishment or extension of sustainable residential and human settlements, commonages, and where land is required for industrial development. The Department shall not acquire new farms for this purpose but release existing state land to support these applications.
- 6.6 The majority of beneficiaries of the land redistribution programme will be the rural and the peri-urban vulnerable groups. Special emphasis will be placed on targeting women, youth and those with disabilities. Many of these poor are resident on farms; some may be farm workers, others are unemployed. There are also considerable numbers of landless persons who are former farm workers, and on being made redundant, have clustered on the periphery of rural towns. People resident in former homeland areas will be looking forward to an opportunity to access additional land or to secure their tenure.⁴ The implementation of the land reform programme will ensure a wide geographic spread, diversity of programmes, covering varying beneficiary sectors, different land uses, and different tenure arrangements.”⁵
- 6.7 Special Targeted Groups and Interventions for Land Allocation:**
- a) **Women:** Who either have basic farming skills or demonstrate a willingness to acquire such skills, and female headed households with none or very limited access to land, even for subsistence production, shall be given access to land for their advancement.

- b) **Youth and Unemployed Agricultural Graduates:** Participants in the Department's enterprise development/incubation/apprenticeship programme and agricultural para-professionals;
 - c) **People Living with Disabilities:** Persons with no or very limited access to land, even for subsistence production. Individuals with a disability working in an agricultural setting will be prioritized.
 - d) **Military Veterans:** As defined in the Military Veterans Act, 2011 (Act No.18 of 2011) shall also be prioritized. This shall however exclude those who served in the Union Defence Force (prior to 1961) and the South African Defence Forces (prior to 27 April 1994), who want to venture into farming will be prioritized for access to land for production.
 - e) **Communal farmers and state land residents:** Individuals currently living on State owned properties and Communal land whose livelihoods depend on subsistence farming but have no form of tenure should be prioritized for land allocation by the State. Communal farmers must be prioritised for allocation especially on land adjacent to their communities/villages in order to achieve decongestion of the communal land.
 - f) **Industrial and Residential Development:** Industrialisation and changes in spatial development with the focus towards township economies, and the creation of special economic zones, and industries in rural areas.
- 6.8 This Policy proposes no less than 50% allocation of agricultural farming land for smallholders under the Redistribution Programme to women, 40% to youth, and 10% to people living with disabilities.

7. ELIGIBILITY CRITERIA - WHO QUALIFIES

7.1 Agricultural Production:

- 7.1.1 All previously disadvantaged South African citizens (Blacks, Indians and Coloureds including Khoi-San) over the age of 18 shall qualify;

- 7.1.2 Women and people with disabilities shall be prioritized for advancement through access to agricultural productive land;
- 7.1.3 Military veterans especially the unemployed;
- 7.1.4 Natural and naturalized persons or legal entities;
- 7.1.5 Spouses of public servants shall be considered for allocation of land subject to the amendment of the existing stateland lease and disposal policy and that the applicant shall declare that his or her spouse is a public servant. The state shall develop clear controls to manage any manipulation of the system and determine the income levels and support to these types of applicants to ensure there is no conflict of interest. Public servants shall also declare that his or her spouse has applied for allocation of land under this policy;
- 7.1.6 Communal farmers, township dwellers and state-land residents or individuals: currently living on State owned properties and Communal land whose livelihoods depend on subsistence farming but have no form of tenure should be prioritized for land allocation by the State.

7.2 Land allocation for Commonage, Human Settlements/residential and Industrial Development:

- 7.2.1 Rural poor Municipalities with low revenue base shall apply for commonage land and land for rural industrial development and Residential/human settlement purposes;
- 7.2.2 Metros and Cities are eligible to apply directly to the Department for access to strategically located state properties to address particular and urgent needs. Such applications must be dealt with inter-governmentally with coordination between all spheres, National, Provincial, District and Local Authorities. Such applications will be for land for commonage, sustainable settlements and other compelling and impactful projects.
- 7.2.3 Property Developers shall qualify for allocation of state properties for industrial development for high impact projects provided they are registered with relevant authorities and the Interim Protection of Informal Land Rights Act (Act 31 of 1996) procedures shall be applied, and the State Land Lease and Disposal

Policy and the Spatial Planning Land Use Management Act (Act 16 of 2013) shall be considered.

7.3 Qualifying municipalities and communities in Communal areas may apply directly to the Department for acquisition of strategically located properties to address particular and urgent needs. Such applications must be dealt with inter-governmentally with coordination between all spheres, namely; National, Provincial, District and Local Authorities. Such applications for land for commonage and sustainable settlements will be implemented through the Land Acquisition for Sustainable Settlement (LASS) Programme as contained in the Grants and Services Document Version 9 approved in September 2009 as amended.

7.4 Who does not qualify?

7.4.1 Non South African citizens including the previously advantaged South African citizens;

7.4.2 Foreign Nationals and Illegal immigrants;

7.4.3 Employees of the Department of Agriculture, Land Reform and Rural Development;

7.4.4 Politicians: holding public office; however, there shall be a cooling period of 12 months after leaving the public office;

7.4.5 Current beneficiaries of the Land Redistribution programme, where the person has been allocated a property or farm and has abandoned the property, vandalised the property, mismanaged state assets or misused funds provided by the State.

7.4.6 Farmers/individuals/legal entities currently leasing a State property unless he or she intends to hand the current property/farm back to the State.

7.4.7 State Employees shall qualify provided he/she undertakes to resign from state employment upon being allocated a farm and must prior to their application

being considered, submit an affidavit which discloses their status as public servants and undertake to terminate any relationship that creates the public duty. There shall be a cooling period of 24 months for State Employees should they wish to apply for allocation of land after resignation.

7.4.8 Employees of any company, Public entities or entity where Government (all three spheres) of the Republic of South Africa is a majority shareholder and employees of any company or entity that has been created by an Act of Parliament shall qualify, provided they undertake to resign from public duty upon being allocated a farm and signing of a lease agreement, if not, the State shall reverse the approval of the lease. A cooling period of two years shall apply.

7.4.9 Traditional leaders who are recognized under any legislation in the Country shall qualify provided they disclose their status and remuneration by the State and have proven that they are involved in farming at various scales; the Minister shall make the final determination.

8. BENEFICIARY SELECTION CRITERIA

8.1 The Presidential Advisory Panel recommends that the selection of beneficiaries should be undertaken as proposed in “The Global Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forestsadopted by member states in the Committee on World Food Security at the Food and Agricultural Organization (FAO) of the United Nations in 2012. It states, on the issue of beneficiary selection, that: *Beneficiaries should be selected through open processes, and they should receive secure tenure rights that are publicly recorded... States should endeavour to prevent corruption in redistributive reform programmes, particularly through greater transparency and participation. (FAO 2012: 24)*

8.2 Mega and Large Commercial Black Farmers, the following shall be considered:

- a) Must be able to submit off-take agreements,
- b) Proof of own investment, or financial guarantees,
- c) A bankable business plan to qualify for access to land or allocation of land,
- d) Must be willing to undertake training and be able to pay lease rental.
- e) The State shall allocate land only and the applicants or farmer shall use own investment to finance production and other related costs ,
- f) The required capacity and capability of an applicant must be assessed to manage the intended farming enterprise based on the farm potential critical to the development of the farm at this level.
- g) Annual turn- over of more than R10 000 000.

8.3 Medium Scale Farmers, the following shall be considered:

- a) Relevant agricultural skills or qualifications in agriculture,
- b) Must be able to produce a business proposal,
- c) Must be willing to undertake training or demonstrate previous training.
- d) Agricultural graduates or youth in agriculture shall have completed the incubation or enterprise development programme run by the department or placed under the apprenticeship programme define in this policy.
- e) Youth or agricultural graduates who are women shall be prioritized for training and specific farms and adverts shall be directed to women for their advancement through access to land for production and economic activities.
- f) Annual turn-over of more than R500 000.

8.4 Smallholder Farmers, Households subsistence and Households Vulnerable, the following shall be considered:

- a) Preference shall be given to those with experience in agriculture and a willingness to undertake training and incubation on properties established by the Department;

- b) Agricultural or other relevant qualifications including participation in Government and Commodity Organization training programmes.
- c) However these Category 1 and Category 2 farmers are largely subsistence or household producers, therefore, qualifications shall not be a defining criteria but current experience in farming or involvement in farming and need for access to land shall be considered. Farms shall be specifically identified per Province for allocation to women only.
- d) Annual turn-over less than R500 000.

8.5 Communities, state land and township residents:

- a) In circumstances where a community/ state land residents, villagers, Urban or township residents, have identified the needs for land for collective agricultural farming or small-scale production activities i.e. grazing, cropping, mitigate natural disaster or soil degradation or overcrowding in the area shall approach the Department.
- b) The Department shall conduct a detailed needs assessment.
- c) The Department shall conduct an audit of available state-owned land or available land for acquisition under these circumstances.
- d) The Department shall develop rules on how the land shall be used and shared by these communities collectively based on the needs identified.
- e) The community shall not be subjected to a long application process but the land needs assessment report shall form the basis for land allocation as the criteria.

8.6 The Department will solicit applications from Municipalities requiring access to land for residential, human settlement, commonage and industrial development through engagements with SALGA, Departments of Human Settlement, Private developers, Water and Sanitation, Cooperative Governance and Traditional Affairs, and Provincial Departments.

9. CONTROL MEASURES:

9.1 Agricultural Production:

- a) All applicants shall be subjected to a skills audit which will determine the training needs and a training programme prior to allocation of land or must provide proof of previous training.
- b) Preference shall however be given to those with experience in agriculture, previous training or a willingness to undertake training and incubation on properties established by the Department; and Agricultural or other relevant qualifications including participation in Government and Commodity Organization training programmes.
- c) The capacity and capability of an applicant to manage the intended farming enterprise based on the farm potential is critical to the development of the farm. Applicants who possess basic farming skills, and demonstrate a willingness to acquire these, or have qualifications in the field of agriculture, and agricultural graduates of the Department's incubation programme will therefore enjoy a preferential advantage.
- d) All Agricultural Graduates and Youth in Agriculture applicants shall be subjected to an *Apprenticeship Program* before allocation which will be designed to introduce and train young aspiring farmers into farmers, and also enable young persons to enter into the agricultural workforce. The program should be a three year program which combines both hands-on farm experience and formal vocational training. The formal vocational training should be done through recognised institutions – TVET colleges, mainly colleges of agriculture in the country.
- e) The apprentice shall be placed on a farm under a *Master Farmer* who has gone through a master training program and qualified. Only master farmers can participate in apprenticeship program as they have requisite skills and experience. The program entails general farming that includes animal, crops,

mechanization and general farm management. The program will prepare land reform application for placement on farms and the apprentice will receive stipend in terms of the current incubation program from the Department.

- f) Communal farmers, state land residents and township residents. A detailed Land Needs Assessment shall be conducted by the Department as a requirement for land allocation. Such applications must be dealt with inter-governmentally with coordination between National, Provincial, District and Local spheres. A record of land needs shall be maintained by the Department with a list of natural persons and households intended to benefit from the land allocation. In case of grazing and cropping an audit of the number of livestock owned by each intended beneficiaries as well as brand mark is a requirement. A plan or veld management plan for future use of the land and planned maintenance of the land must be fully described and submitted with the application.

9.2 COMMONAGE LAND:

- a) The Municipality must provide an undertaking to make the relevant land acquired available to its residents on a secure and equitable basis with the emphasis on poor and less privileged residents for grazing and cropping.
- b) The Municipality must agree to undertake a comprehensive audit of its agricultural land to ensure that its land administration is sound from a legal and administrative perspective.
- c) A personal servitude in terms of Section 67 of the Deeds Registry Act (Act 37 of 1937) with the right of first refusal will be registered on the title in favour of the Department. The servitude shall stipulate the purpose for which the land is to be utilised and for the land to revert back to the Department if the Municipality is not able to utilise it as initially envisaged.
- d) The Municipality will enter into a user / lease agreement with the User Association or individuals as per the identified land need. The Commonage

implementation Policy Framework shall be amended by the Department to provide clear guidelines for the management of the land by Municipalities.

9.3 LAND FOR HUMAN SETTLEMENTS AND RESIDENTIAL PURPOSES:

- a) The land shall be used to assist the historically disadvantaged and the poor who in the first instance have settlement needs;
- b) Priority shall be given to poor Municipalities that seek to decongest existing formal and informal settlements, provide housing to back-yard dwellers and bring about integrated human settlements;
- c) The Department shall not acquire new farms for this purpose but release existing state land to support Municipalities;
- d) An application shall be accompanied by a Council Resolution and Housing Development Plan approved by the Municipality. Furthermore only Municipalities that do not have other landholdings that they can make available for settlement are entitled to apply;
- e) The land shall be used to support any municipal housing programme that requires land subject to certain conditions as determined by the Department of Human Settlement. The Department will work with the Department of Human Settlements, Housing Development Agency to release and allocate state land for this purpose;
- f) Section 67 of the Deeds Registry Act (Act 37 of 1937) with the right of first refusal will be registered on the title in favour of the Department. The servitude shall stipulate the purpose for which the land is to be utilised and for the land to revert back to the Department if the Municipality is not able to utilise it as initially envisaged.

9.4 LAND FOR INDUSTRIAL DEVELOPMENT PURPOSES

- a) Applications shall be informed by the Land Needs Analysis and a detailed development study. The Department will solicit applications from Municipalities

and independent developers to apply for access to State land for industrial development through engagements with Department of Trade, Industry & Competition,

- b) Applications for access to State land for industrial development shall be processed in collaboration with the Department of Trade, Industry & Competition in line with its Industrial Policy Action Plan, and Department of Cooperative Governance and Traditional Affairs in line with the District Based development model.
- c) An application must be accompanied by a Council Resolution, Development Plan, SPLUMA development approval and Community Resolutions. Interim Protection of Informal Land Rights Act (Act 31 of 1996) procedures shall be applied.
- d) Land shall be used to support projects only for industrial development in support of township and rural economic development;
- e) The land shall be leased from the State and a personal servitude in terms of section 67 of the Deeds registry Act deed with first right of refusal will be registered on the title in favour of the Department. The servitude shall stipulate the purpose for which the land is to be utilised and for the land to revert back to the Department if it is no longer used for the purposes it was initially envisaged.

9.5 SOURCES OF LAND FOR LAND ALLOCATION:

9.5.1 State - owned land – Land under the custody of the Department including land acquired through the Proactive Land Acquisition Policy, South African Development Trust Land, Financial Assistance Land (FALA), as well as properties of the Department of Public Works, Local Authorities and State Owned Entities.

9.5.2 Land Donations – A policy, procedures and conditions for donations has been developed and approved

9.5.3 Auction Sales - Guidelines for participation in auction sales by the State have been developed and approved, the State shall participate in public auctions.

9.5.4 Bank Repossessed - Memoranda of Understanding with banks and financial institutions shall be finalized with approval of National Treasury.

9.5.5 Open Market - acquisition of suitable land for land redistribution purposes.

10. APPLICATION PROCESS FOR LEASING LAND:

10.1 Provincial and National Adverts shall be used for the selection of specific natural persons and legal entities applying to lease land for agricultural production or for allocation to particular portions of land, this will only take place once suitable land has been identified. The advert shall be specific to a targeted group of farmers or beneficiaries.

10.2 A land application system shall be used for applicants to apply for access to land from the State and to ensure a transparent and equitable public process. This system marks an end to an era of an unmonitored long database that caused a lot of dismay among targeted farmers and to ensure a synced and properly seamless system that endeavours to eradicate any form of fraud and nepotism. Communal residents, state land residents, Municipalities and developers defined above shall not be subjected to an advert but the allocation will be based on land needs assessment audit and shall apply directly to the State for access to land.

10.3 A National Application register will be created to monitor and assess progress on applications received.

10.4 Through the online land offer application system, the Department will be able to reach far and to a wide range of farmers willing to make land available or donate land for land reform purposes. The application and registration system will be available online or at the National, Provincial and District offices of the Department.

10.5 The Department will create a Provincial and National Land Register of all land offered by farmers, estate agents or their proxy, state entities or other government

departments and subjects them to assessment to determine their suitability for acquisition by the state.

- 10.6 Special dedicated Provincial and District officials will still be available for applicants that are not able to personally submit online applications. The walk-in assistance will entail the uploading or submission of an online application by an official of the Department on behalf of the applicant.

11. ADMINISTRATIVE CONTROLS

- 11.1 The natural persons or Legal entity representative shall sign a declaration to the effect that neither they nor their spouse is a public servant as defined in the Departmental State Land Lease and Disposal Policy and acknowledge that any misrepresentation in this regard constitutes a ground for immediate termination of the lease agreement.
- 11.2 Beneficiaries applying as a legal entity shall disclose individual directors and members according to the legal documents and they shall be subjected to the same screening process. Where a legal entity is in existence, latest financial statements should be submitted together with the application.
- 11.3 Individual farmers, cooperatives, Legal entities engaged in agricultural business shall be considered. A new legal entity should be registered for beneficiaries wishing to trade as an agricultural enterprise.
- 11.4 All applications in this regard must be accompanied by supporting documents of all the directors that will form the legal entity.
- 11.5 In situations, where a community or villagers collectively expressed the need for access to land due to circumstances outlined in the policy above, the department shall assist the community with governance structures to manage the allocated land and use for the purposes it was allocated and a personal servitude shall be registered in favour of the Department.

12. INSTITUTIONAL ARRANGEMENTS FOR LAND ALLOCATION

12.1 A National and Provincial Land Allocation and Selection Panel shall be established and shall be a non-statutory body which shall be multi-disciplinary and diverse with representatives from all relevant stakeholders in the Land and Agrarian Reform sector and the Terms of Reference and the composition shall be determined by the Department.

12.2 The National Panel shall deal with allocation of land above a value of R 50 million for agricultural production, land donated by other Government Departments, private farmers and land made available for Mega Projects of national interest, Commonage land to Municipalities as well as land for settlement, residential or industrial development. Key Government Departments shall be identified such as the Department of Human Settlement, Water and Sanitation, Department of Public Works, and Department of Cooperative Governance and Traditional Affairs.

12.3 The Provincial Panel shall deal with allocation of land up to a value of R 50 million for agricultural production, release of state-owned land for various needs and categories of farmers as outlined in the policy and make recommendations for approval by the delegated authority for land allocation.

12.4 Upon receipt of the preliminary shortlist from the National Office, the Panel shall further shortlist in line with the developed and agreed beneficiary selection criteria. A compulsory farm inspection and interviewing of prospective applicants will be arranged and concluded by the Panel with recommendations to the relevant Departmental approval structure.

12.5 All unsuccessful applicants for agricultural land will be encouraged to reapply upon the publication of the next adverts as the database will be kept for reference and monitoring purposes. In the case of Municipalities and communities or state land residents, the advert system shall not apply and the

applicants will therefore approach the Department based on the needs assessment as and when the need arises depending on available resources in the Department.

12.6 Individual households in rural and urban areas who are predominantly women may apply directly to the Department and may be allocated land for farming or other uses to support their production and shall not be subjected to the screening process. These applicants will mainly be the beneficiaries of the Department's One Hectare One Household redistributive programme.

12.7 The State shall take deliberate measures to ensure these persons have access to land for production to ensure that an inclusive rural economy becomes a reality.

13. DISPUTE RESOLUTION

13.1 Where a dispute arises in relation to the selection, allocation and categorization of applicants an applicant may appeal in writing to the Selection and Allocation Panel. Further appeals may be directed to the Director General and finally the Minister for final adjudication.

14. TERMINATION AND REALLOCATION

14.1 A provisional allocation or selection shall cease under the following circumstances:

14.1.1 Death of the potential beneficiary

14.1.2 Criminal records or conviction of a serious crime

14.1.3 Written withdrawal of application by the beneficiary

14.1.4 Withdrawal of the farm by the land owners or seller

14.1.5 Sub-Leasing

14.1.6 Any further circumstances outlined in the lease agreement

14.1.7 Any other circumstances that the Department may feel justify the urgent termination or withdrawal of the allocation.

- 14.2 The surviving spouse or dependent of the beneficiary shall enjoy the first preference in the event they elect to apply for an allocation to lease land.
- 14.3 The spouse or dependent referred to above should be eligible in terms of the requirements of this Policy and also in terms of the criteria prescribed by the Department's State Land Lease and Disposal Policy.
- 14.4 In the event of the surviving spouse or dependent not satisfying the criteria, the District Panel shall report with recommendations for the Approval Authority to make a decision.
- 14.5 Such report shall include recommendations on steps that would need to be taken to place the applicants in a position that will make them eligible.
- 14.6 Except in circumstances described above, a potential lessee shall not cede its rights and obligations to any other person, except with the approval of the Department.

15. MONITORING AND EVALUATION

- 15.1 The Department, through its Chief Directorate: Monitoring and Evaluation, will develop indicators for land reform initiatives at different scales. The Business Plan that is prepared for each property will provide the baseline information for monitoring progress in the initiative. Monitoring audits will thereafter be performed in terms of a checklist for the various types of land reform initiatives.
- 15.2 Evaluation will take place at regular intervals during the implementation of the initiatives and for a period of three years after the lessees have entered into a long term lease arrangement for the land and property. Such information will be included in the Department's overarching monitoring and evaluation.