

30: LAND AFFAIRS

AIM

The aim of the Department of Land Affairs is to ensure equitable land dispensation within the context of reconstruction, growth and development.

EXPENDITURE ESTIMATES

Table 30.1 Expenditure by programme¹

| R million | Expenditure outcomes | | | Preliminary outcome | Medium term expenditure estimates | | |
|-----------------------------------|----------------------|--------------|--------------|---------------------|-----------------------------------|--------------|--------------|
| | 1995/96 | 1996/97 | 1997/98 | 1998/99 | 1999/00 | 2000/01 | 2001/02 |
| Administration ²³ | 56,6 | 63,0 | 73,6 | 104,1 | 98,2 | 104,2 | 107,7 |
| Surveys and mapping | 23,7 | 28,5 | 34,2 | 46,9 | 37,8 | 40,5 | 43,2 |
| Cadastral surveys | 35,1 | 42,3 | 48,1 | 54,9 | 57,0 | 62,1 | 66,7 |
| Land reform policy | 17,0 | 22,3 | 29,9 | 71,5 | 80,3 | 101,5 | 109,3 |
| Land reform implementation | 24,9 | 103,6 | 197,2 | 409,6 | 388,2 | 498,6 | 517,4 |
| Auxiliary and associated services | 3,5 | 17,0 | 34,2 | 65,5 | 31,7 | 39,6 | 44,9 |
| Sub-total | 160,8 | 276,7 | 417,2 | 752,5 | 693,2 | 846,5 | 889,2 |
| Capital works ⁴ | — | — | — | 2,7 | — | — | — |
| Total | 160,8 | 276,7 | 417,1 | 755,2 | 693,2 | 846,5 | 889,2 |

¹ Spending by programme has been reclassified where possible to correspond to the current programme structure.

² Authorised losses added: 1995/96 R0,9 million, 1996/97 R0,2 million and 1997/98 R3,6 million.

³ Included in this programme for 1995/96, an amount of R4,5 million which, due to function shifts, have been transferred and are no longer reflected in the 1998/99 structures.

⁴ Appropriated on the Vote: Public Works.

The current programme structure has been changed from eight programmes in 1995/96 to six programmes. Only two programmes, *Administration* and *Auxiliary and associated services*, did not change. The Land Affairs vote is organised into the following programmes:

- ♦ *Administration*, which comprises financial management, personnel and provisioning administration, legal and other office support services and the formulation of policy by the Minister and management of the Department.

- ◆ *Surveys and mapping*, which provides surveying, cartographic and spatial information services in support of sustainable development.
- ◆ *Cadastral surveys*, which ensures accurate cadastral surveys to support cadastral information services, and provides a national spatial information framework in support of land reform and orderly development.
- ◆ *Land reform policy*, which co-ordinates, facilitates and manages the formulation and development of policies, procedures and systems to ensure sustainable land reform and development.
- ◆ *Land reform implementation*, which co-ordinates, facilitates and manages the implementation of land reform programmes and projects.
- ◆ *Auxiliary and associated services*, which renders auxiliary services and services associated with the Department's aims.

Table 30.2 Economic classification of expenditure

| R million | Expenditure outcomes | | | Preliminary outcome 1998/99 | Medium term expenditure estimates | | |
|------------------------------------|----------------------|--------------|--------------|--------------------------------|-----------------------------------|--------------|--------------|
| | 1995/96 | 1996/97 | 1997/98 | | 1999/00 | 2000/01 | 2001/02 |
| Current | | | | | | | |
| Personnel expenditure ¹ | 89,7 | 113,7 | 126,7 | 177,7 | 180,8 | 197,1 | 212,5 |
| Other current expenditure | 40,1 | 55,9 | 93,4 | 139,7 | 155,8 | 175,9 | 175,2 |
| Transfer payments | 12,9 | 14,8 | 22,3 | 6,0 | 0,0 | 0,0 | 0,0 |
| Capital | | | | | | | |
| Transfer payments | 0 | 79,1 | 164,0 | 392,5 | 337,2 | 453,2 | 480,7 |
| Acquisition of capital assets | 18,1 | 13,2 | 10,7 | 39,3 | 19,4 | 20,3 | 20,8 |
| Total | 160,8 | 276,7 | 417,1 | 755,2 | 693,2 | 846,5 | 889,2 |

¹ Departmental personnel expenditure includes employer's contributions to pension funds at a rate of 17 per cent of basic salary in 1998/99 and 15 per cent of basic salary in subsequent years.

OUTPUTS AND SERVICE DELIVERY TRENDS

Table 30.3 Key activities and outputs

| Programme | Key activities | Outputs |
|---------------------|---|--|
| Administration | Management of the Department. The offices of the Minister, Deputy Minister and Director-General. | Ensuring the efficient administration of the Department. Pursuing issues such as representivity, diversity and gender equity. |
| Surveys and mapping | Administration | Providing administration and auxiliary services. |
| | Cartography | Producing maps and cartographic services. |

| | | |
|-----------------------------------|--|---|
| | Surveys | Undertaking field surveys and survey services to the State. |
| | Spatial information | Storing digital databases and marketing information. |
| Cadastral services | Cadastral services | Approving surveys for registration of land, maintaining records on maps of property boundaries. |
| | National spatial information framework | Exchanging spatially related information. |
| Land reform policy | Administration | |
| | Restitution of land rights | Developing policy on restitution and land rights and strategies for implementation. |
| | Tenure reform and public land management | Developing policy on tenure and public land management and facilitating systems for implementation. |
| | Land development | Developing policy on land development and supporting provincial and local government with implementation of the Acts. |
| Land reform implementation | National office administration | Supporting provincial offices to implement land reform programmes and projects. |
| | Monitoring and evaluation | Evaluating the implementation of land reform programmes and projects. |
| | Provincial offices administration | Supporting the implementation of land reform programmes in each province. |
| | Restitution | Providing grants for project planning and the costs of resettlement. |
| | Redistribution | Supplying grants for project planning, land acquisition and settlement and extension of municipal commonage. |
| | Tenure reform | Providing grants for planning, tenure and compensation payments. |
| | Land development objectives | Supplying grants to municipalities for determining land development. |
| | Land reform services | Providing services on the implementation of land reform. |
| Auxiliary and associated services | Support with restitution claims | Providing secretariat services to the Commission of Restitution of Land Rights. |
| | Government motor transport | Purchasing vehicles under the subsidised motor transport scheme. |
| | Registration of deeds trading account | Registering deeds and maintaining a register of land in terms of the Act. |

Surveys and mapping and cadastral surveys

Table 30.4 provides information on the maps, kilometres of aerial photography, beacons and data limits which were delivered between 1994/95 and 1998/99.

Table 30.4 Surveys and mapping

| | 1994/95 | 1995/96 | 1996/97 | 1997/98 | 1999/00 |
|---------------------------------|---------|---------|---------|---------|---------|
| National mapping programme | | | | | |
| Maps produced | 494 | 599 | 562 | 463 | 580 |
| Aerial photography | | | | | |
| Km acquired | 131 730 | 81 620 | 149 100 | 104 100 | 195 000 |
| National control survey network | | | | | |
| Beacons maintained | 2 703 | 2 042 | 1 868 | 1 225 | 1 800 |
| Beacons added | 355 | 240 | 266 | 586 | 330 |
| Spatial information provided | | | | | |
| Maps | 205 234 | 363 943 | 184 021 | 220 818 | 215 000 |
| Photos | 35 785 | 46 642 | 38 374 | 46 062 | 30 000 |
| Digital data units | 4 157 | 3 775 | 4 204 | 16 473 | 24 100 |

Outcome

The national control survey network is the basis on which all cadastral, topographical and engineering surveys are performed. Without this network, extensive additional work will have to be performed and a unique positioning system would not be possible.

Maps, aerial photography and other spatial information are vital to development planning and decision-making. They affect the optimal location of communication routes, the efficient provision of water, the security of the country's borders and communities and the optimal utilisation of land.

Trends

The national control survey network will be maintained, while the rapid development of spatially dispersed areas is demanding more, better and timeous spatial information. This requires more maps and aerial photography each year.

Land reform policy and implementation

The following table shows land restitution, redistribution and tenure reform efforts from 1995/96 to 1998/99.

Table 30.5 Land reform outputs

| Outputs | 1995/96 | 1996/97 | 1997/98 | 1999/00 |
|----------------------------|---------|---------|---------|---------|
| Restitution (R million) | 4,2 | 10,7 | 22,7 | 80,0 |
| Households | – | 308 | 720 | 2 595 |
| Claimants | – | – | – | 7 103 |
| Redistribution (R million) | 12,2 | 79,9 | 133,7 | 233,0 |
| Household | 2 225 | 7 025 | 9 866 | 14 250 |
| Hectares | 18 608 | 77 911 | 82 569 | 9 |
| Tenure reform (R million) | – | – | 14,2 | 47,0 |
| Households | – | – | 8 400 | 3 600 |

By 31 August 1998 over 100 000 households had formally registered their interest in land redistribution projects. Of these, 77 000 had their projects approved and over 35 000 had been designated. To achieve this, the beneficiaries of a land redistribution project had formed a legal entity, identified land, reached agreement with the owner on the price, completed an initial land-use plan and obtained approval from the Minister for the release of subsidy funds. Close on 20 000 households had received final transfers of land. Just under 10 per cent of households who had received final transfer were classified as woman-headed (WHH). These statistics understate the extent to which women were gaining access to land. In many of these households the male household head is absent for most of the year. Gauteng accounted for over a quarter of all households with transfers, followed by Mpumalanga (21 per cent) and Eastern Cape (19 per cent). Approximately 85 per cent of the transferred projects are held under trusts, 10 per cent consist of Communal Property Associations and the remainder are companies.

Table 30.6 Progress in land redistribution to households as at 31 August 1998

| Province | Number Registered | WHH % ¹ | Number approved | WHH % | Number designated | WHH % | Number of Transfers | WHH % |
|---------------|-------------------|--------------------|-----------------|----------|-------------------|-----------|---------------------|----------|
| Eastern Cape | 13 349 | 4 | 8 116 | 7 | 5 351 | 11 | 3 708 | 3 |
| Free State | 5 594 | 13 | 4 120 | 16 | 3 975 | 17 | 1 430 | 19 |
| Gauteng | 22 972 | 3 | 23 443 | 3 | 1 808 | 26 | 75 | 45 |
| KwaZulu-Natal | 14 063 | 4 | 12 824 | 4 | 7 654 | 8 | 5 525 | 4 |
| Mpumalanga | 9 855 | 5 | 6 378 | 8 | 5 679 | 9 | 4 088 | 5 |
| Northern Cape | 6 039 | 5 | 2 517 | 13 | 2 208 | 13 | 1 741 | 8 |
| Northern | 9 690 | 27 | 7 999 | 30 | 3 618 | 38 | 1 089 | 14 |
| North West | 17 124 | 4 | 8 645 | 9 | 3 519 | 15 | 1 750 | 27 |
| Western Cape | 4 166 | 11 | 3 695 | 9 | 1 559 | 13 | 356 | 24 |
| Total | 102 852 | 7 | 77 737 | 9 | 35 371 | 15 | 19 762 | 9 |

¹ WHH – women-headed households

The Department's Monitoring and Evaluation Directorate has established a system of ongoing surveys whereby it monitors, on a medium- to long-term basis, the fortunes of households who gain access to land. It examines factors that improve the economic conditions of community members, and their access to basic services provided by other departments or spheres of government.

POLICY DEVELOPMENTS

Constitutional right

Land reform is a new programme of Government, introduced in 1994, and is derived from section 25 of the Constitution which determines that:

- ◆ A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of the property or to equitable redress.

Rural women-headed households

Thousands of rural women-headed households have elders and children to care for while spouses are absent. These women have little income and often have to rely on pensions. Those who do have secure land rights for their homesteads, or have access to grazing on communal land, and who have the use of land for homestead agricultural production, are known to be better-off than those without this security. To relieve poverty, such rights need to be extended and secured.

- ◆ The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
- ◆ A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.

Objective of land reform

The objective of Government's land reform policy is to:

- ◆ Redress the injustices of apartheid.
- ◆ Foster national reconciliation and stability.
- ◆ Underpin economic growth.
- ◆ Improve household welfare and alleviate poverty.

Components

The land reform programme consists of:

- ◆ Land restitution – this usually involves returning land lost because of racially discriminatory laws. Land restitution could also be effected through victim compensation.
- ◆ Land redistribution enables poor and disadvantaged people to buy land with the help of a settlement or land acquisition grant.
- ◆ Land tenure reform aims to bring all people occupying land under one legal system of landholding. It will provide for diverse and secure forms of tenure, help resolve tenure disputes and provide alternatives for people who are displaced in the process.

Legislative changes

The following legislation has been introduced by the Minister of Land Affairs since 1994:

- ◆ Restitution of Land Rights Act of 1994 as amended in 1996 and 1997.
- ◆ Land Administration Act of 1995 as amended in 1996.
- ◆ Development Facilitation Act of 1995.
- ◆ Land Reform (Labour Tenants) Act of 1996 as amended in 1997.
- ◆ Deeds Registries Act of 1937 as amended in 1996.
- ◆ Communal Property Associations Act of 1996.
- ◆ Interim Protection of Informal Land Rights Act of 1996.
- ◆ Upgrading of Land Tenure Rights Act of 1991 as amended in 1996.

- ◆ Land Survey Act of 1997.
- ◆ KwaZulu-Natal Ingonyama Trust Amendment Act of 1997.
- ◆ Extension of Security of Tenure Act of 1997.
- ◆ Provision of Land and Assistance Act of 1993 as amended in 1998.

Institutional changes

Implementing these laws and the policy of the 1997 White Paper requires new programmes and procedures, and has significant institutional implications. From 1994 to 1998, the Department emphasised:

- ◆ Devising new policies and laws and steering legislation through Parliament.
- ◆ Establishing new functions with appropriately trained staff.
- ◆ Testing policies and procedures for implementation.
- ◆ Setting up institutional arrangements with counterpart departments and all spheres of government.
- ◆ Identifying and rectifying system weaknesses in management and delivery.
- ◆ Expanding the pace and scope of land reform delivery.

Development facilitation

The Development Facilitation Act of 1995 requires local governments to design land development objectives as a basis for decision-making. This implies substantive housing, business and infrastructural investment in their areas of jurisdiction. To assist under-resourced, poor or rural local authorities, the Department provides a Grant for Determining Land Development Objectives.

Draft tenure reform

The tenure reform work of the Department has been relatively slow, partly due to the complexity of the issue and the need for extensive consultative engagement over policy options. The policy and case-study testing work of the last four years is now being finalised and a draft Land Rights Bill is being prepared for distribution.

DISCUSSION OF PROGRAMMES

Programme 1: Administration

| | Budget estimate | Adjusted appropriation | Preliminary outcome | Medium term expenditure estimates | | |
|-------------|-----------------|------------------------|---------------------|-----------------------------------|---------|---------|
| R million | | 1998/99 | | 1999/00 | 2000/01 | 2001/02 |
| 1998 Budget | 95,3 | 106,6 | 104,1 | 99,8 | 101,3 | — |
| 1999 Budget | — | — | — | 98,2 | 104,2 | 107,7 |

Programme 2: Surveys and mapping

| | Budget estimate | Adjusted appropriation | Preliminary outcome | Medium term expenditure estimates | | |
|--------------------|-----------------|------------------------|---------------------|-----------------------------------|-------------|-------------|
| R million | | 1998/99 | | 1999/00 | 2000/01 | 2001/02 |
| 1998 Budget | 35,5 | 48,0 | 46,9 | 37,2 | 37,6 | – |
| 1999 Budget | – | – | – | 37,8 | 40,5 | 43,2 |

The *Surveys and mapping* programme is responsible for:

- ◆ Producing maps of the national map series and ancillary maps; providing cartographic services to the State; and ensuring quality products and services.
- ◆ Undertaking field surveys; acquiring aerial photographs; remotely sensed and other mapping data; processing survey and map data for the national control survey network and national mapping programmes; and rendering survey services to the State.
- ◆ Providing professional and technical support; safekeeping digital databases; and technical records and marketing and selling products and services.

To meet the tenure needs of urban people living in informal settlements, at least one million plots need to be surveyed in the next three to five years. To accelerate this exercise and reduce the average cost of surveying from approximately R250 to R100 per plot, it is necessary to establish a modern satellite-based framework using active Global Positioning System (GPS) stations around the main metropolitan areas and growth centres.

Programme 3: Cadastral surveys

| | Budget estimate | Adjusted appropriation | Preliminary outcome | Medium term expenditure estimates | | |
|--------------------|-----------------|------------------------|---------------------|-----------------------------------|-------------|-------------|
| R million | | 1998/99 | | 1999/00 | 2000/01 | 2001/02 |
| 1998 Budget | 49,6 | 56,7 | 54,9 | 51,9 | 52,4 | – |
| 1999 Budget | – | – | – | 57,0 | 62,1 | 66,7 |

The *Cadastral surveys* programme is responsible for:

- ◆ Examining and approving all surveys for the registration of land and real rights; safekeeping, maintaining and computerising records and providing copies; compiling, maintaining and revising maps of property boundaries; rendering cadastral advisory services for the State; and rendering cadastral spatial information services.
- ◆ Co-ordinating and supporting a national framework for the management and exchange of spatially related information.

Capital expenditure on the national spatial information framework and the cadastral spatial database will amount to R3 million a year from 1998/99 to 2000/01.

Programme 4: Land reform policy

| R million | Budget estimate | Adjusted appropriation 1998/99 | Preliminary outcome | Medium term expenditure estimates | | |
|-------------|-----------------|-----------------------------------|---------------------|-----------------------------------|---------|---------|
| | | | | 1999/00 | 2000/01 | 2001/02 |
| 1998 Budget | 80,5 | 72,7 | 71,5 | 82,7 | 83,4 | – |
| 1999 Budget | – | – | – | 80,3 | 101,5 | 109,3 |

The *Land reform policy* programme is responsible for:

- ◆ Developing and co-ordinating restitution policy and facilitating the development of systems, procedures and strategies for its implementation; providing research services in respect of land rights; and funding restitution settlements and costs of any order of the Land Claims Court.
- ◆ Developing and co-ordinating land rights policy; and facilitating the development of systems, procedures and strategies for its implementation.
- ◆ Developing and co-ordinating tenure policy and facilitating the development of systems, procedures and strategies for its implementation; developing and co-ordinating policy on administration, alienation and acquisition of state land under the control of the Minister of Agriculture and Land Affairs and facilitating the development of systems for implementation; and establishing and maintaining an inventory of state and other public land.
- ◆ Developing and co-ordinating land development policy; supporting provincial and local implementation of the Development Facilitation Act, administering and supporting the Development and Planning Commission and the Forum of Effective Planning and Development, promoting the optimal utilisation and disposal of state land; and facilitating the development of systems and mechanisms to promote sustainable land-use models for land reform.

Restitution

The pace of restitution is increasing steadily. However it has proven very difficult for the Department to project actual expenditure for the planning period under review, due to the unpredictable nature of a restitution project cycle, the protracted nature of the negotiation process on each project, and the uncertainty associated with possible decisions of the Land Claims Court.

In respect of restitution research, it is anticipated that while costs will increase in 1999/00 and 2000/01, they will decrease in 2001/02 and thereafter as the volume of claims still requiring primary research should decrease.

Redistribution

The Department's budget for the allocation of household grants is projected to increase. The planning grants which accompany these land

acquisition grants will also increase. Support to small local authorities for the acquisition of land for commonage purposes will also increase.

Tenure reform

Tenure reform work has largely taken on the characteristic of “test case implementation” to explore options for large-scale tenure reform throughout the country. Capital budget items dealing with tenure grants, tenure planning grants and tenure compensation payments have been calculated on this basis. The scaling up of the programme in 1999/00 should accommodate an initially higher but thereafter declining number of cases under existing tenure legislation.

Land development

Following the establishment of suitable systems for the administration of the grant, the take-up by local authorities has sharply increased.

Land reform policy development

It is anticipated that most line item expenditure will remain fairly constant. Land Development Facilitation is a notable exception. The costs of the Development and Planning Commission are budgeted for in the year 1998/99 but not in subsequent years, resulting in a sudden decrease in 1999/00.

Programme 5: Land reform implementation

| R million | Budget estimate | Adjusted appropriation | Preliminary outcome | Medium term expenditure estimates | | |
|-------------|-----------------|------------------------|---------------------|-----------------------------------|---------|---------|
| | | 1998/99 | | 1999/00 | 2000/01 | 2001/02 |
| 1998 Budget | 391,3 | 492,6 | 409,6 | 555,6 | 659,9 | – |
| 1999 Budget | – | – | – | 388,2 | 498,6 | 517,4 |

The *Land reform implementation* programme is responsible for:

- ◆ Rendering management and administrative services in supporting provincial offices with implementing land reform programmes and projects through the national office.
- ◆ Monitoring and evaluating the implementation of land reform programmes and projects.
- ◆ Rendering management, administrative and support services for the implementation of land reform programmes and projects, negotiating restitution agreements and administering state land under control of the Minister of Agriculture and Land Affairs in each province.
- ◆ Restitution – supplying grants for project planning and providing for the costs of resettlement.
- ◆ Redistribution – providing grants for project and programme planning, for land acquisition and settlement and to assist local authorities to acquire or extend municipal commonage.
- ◆ Tenure reform – allocating grants for project planning and programme research and planning; for securing and registering tenure rights, and for compensation payments in cases of conflicting tenure rights.
- ◆ Supplying planning grants to municipalities for determining land development objectives.

- ◆ Providing professional services to promote the implementation of all land reform, land administration and land development programmes and projects.

Programme 6: Auxiliary and associated services

| R million | Budget estimate | Adjusted appropriation 1998/99 | Preliminary outcome | Medium term expenditure estimates | | |
|-------------|-----------------|-----------------------------------|---------------------|-----------------------------------|---------|---------|
| | | | | 1999/00 | 2000/01 | 2001/02 |
| 1998 Budget | 33,2 | 65,8 | 65,5 | 32,4 | 32,7 | – |
| 1999 Budget | – | – | – | 31,7 | 39,6 | 44,9 |

The *Auxiliary and associated services* programme is responsible for:

- ◆ Providing administrative and professional support and secretariat services to the Commission on Restitution of Land Rights to process and investigate restitution claims.
- ◆ Purchasing vehicles for departmental use and for allocation under the subsidised motor transport scheme.
- ◆ Augmenting trading capital and procuring capital equipment for the Registration Deeds Trading Account.

DEPARTMENTAL ACCOUNTS AND FUNDS

Deeds Registration Trading Account

The Deeds Registries register deeds and other documents, keep records, furnish information and maintain a public register of land and an efficient system of registration calculated to afford security of title to land and rights in land.

Table 30.7 Income and expenditure of the Deeds Registration Trading Account (R million)

| Financial year | Income | Expenditure | Surplus/ (shortage) |
|----------------|--------|-------------|------------------------|
| 1995/96 | 79,0 | 60,0 | 19,0 |
| 1996/97 | 82,8 | 79,3 | 3,5 |
| 1997/98 | 100,7 | 104,5 | (3,8) |

The Deeds Registration Trading Account is mainly funded by fees charged on the registration of deeds and documents and the sale of deed registration information. Any shortfall in the Deeds Registration Trading Account is annually appropriated from the budget of the Department of Land Affairs. Any profits or surpluses are paid into the National Revenue Account.