

REPUBLIC OF SOUTH AFRICA

WHITE PAPER

ON

LAND REFORM

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Introduction

In his opening address to Parliament on 1 February 1991 the State President announced that legislation aimed at repealing all statutory measures regulating rights to land on a racial basis would be introduced during the current Parliamentary session. A White Paper on land reform as well as supporting legislation were also envisaged. The policy guidelines set out in this White Paper, together with the legislation proposed in support, give substance to the Government's land reform objectives and the steps that have to be taken to achieve these objectives. The Government is convinced that implementation of these proposals offers the best opportunities to bring about, in a responsible and orderly fashion, a land dispensation which is both economically sound and compatible with the basic values and ideals expressed in the Manifesto for the New South Africa.

The present system of land tenure is the product of the past. Historical settlement patterns, past policy trends, discriminatory statutory measures and broad socio-economic and demographic processes all to some extent played a role. All these factors and many others contributed to the current problems that exist in connection with land tenure and land utilisation. These problems cannot be solved merely by the repeal of the discriminatory laws concerned and by making it lawful for everybody to own land within his means. The right to own land must be respected, but land problems extend much further than individual claims to land tenure rights. They involve many other issues such as the economic use of land, rural and urban development, urbanisation, housing, squatting, community development, the established community life, the quality and security of the title in land, land registration systems, the advancement of agriculture and the protection of the environment.

The Government believes that in order to address these land and land-related problems, land reform should be dealt with fundamentally and comprehensively. Land is the most precious resource for the existence and survival of man. It provides him with living space and sustenance. Land is the base from which he operates and gains a livelihood and is, indeed, the basis on which his entire economic, social and constitutional order is founded. Because of his natural dependence on land, every person has certain basic needs with regard to land, access to it and the use of it. The need for land must, however, be met within the bounds of reality, the most important of which is that the population continuously increases while the area of land remains constant. It is therefore of the utmost importance that land be used as economically as possible to the greatest advantage of all.

The new land policy which is hereby introduced focuses on land as a basic resource common to all the people of this country. Provision is made for the continued use of land as a multi-purpose commodity and a productive asset, but without the present racial restrictions. Private ownership is being broadened and also extended to land in respect of which it was previously not available. In addition, provision is made for appropriate support measures to assist people, where necessary, to satisfy their reasonable needs in respect of the acquisition, exercise and enjoyment of rights in land. The Government considers it to be of the utmost importance that the productive use of land in the

wealth-creating processes of a market-orientated economy should be maintained. However, access to these processes and to the opportunities they offer should in future be open to all without qualification. Furthermore, these processes should be extended and adapted so that they also benefit those sections of the population which do not yet fully share in the progress of the country. In general, the land policy has been formulated in as balanced a manner as possible to accommodate the aspirations of the population as a whole, without losing sight of the basic functions of land and the responsibility to conserve it for future generations. The new policy has the definite objective of ensuring that existing security and existing patterns of community order will be maintained. The primary objective is to offer equal opportunities for the acquisition, use and enjoyment of land to all the people within the social and economic realities of the country. The Government firmly believes that this objective can best be achieved within the system of private enterprise and private ownership.

This White Paper is supported by five Bills, viz:

(a) The Abolition of Racially Based Land Measures Bill, in which provision is made for the repeal of all laws regulating the acquisition and exercise of rights in land according to race and for the rationalisation of other laws that directly or indirectly restrict access to such rights.

(b) The Upgrading of Land Tenure Rights Bill, in which provision is made for the rationalisation of land registration systems and the upgrading of lower-order land tenure rights to full ownership.

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(c) The Residential Environment Bill. in which provision is made for the prevention, combating and restoration of physical decline in cities and towns, for the maintenance of appropriate norms and standards in residential areas and for suitable mediation mechanisms for settling disputes that disturb neighbourhood and community relations.

(d) The Less Formal Township Establishment Bill. in which provision is made for the urgent provision of suitable land for the settlement of homeless people in a less formal but orderly and upgradable manner. for shortened procedures for the establishment of less formal towns. and for measures in connection with land which tribal communities intend to use for communal forms of residential settlement.

(e) The Rural Development Bill, in which provision is made for the development needs of rural areas and communities and in particular those areas and communities that lagged behind. for agricultural settlements: schemes. and for measures in connection with land which tribal communities intend to use for communal forms of agricultural settlement.

The new land policy and the proposed legislation are dealt with under the following headings:

- A. Accessibility of rights in land.
- B. Quality and integrity of the title in land.
- C. Effective utilisation of land.
- D. Proposed legislation.

PART A

ACCESSIBILITY OF RIGHTS IN LAND

A1. Policy positions

The first objective of the Government's policy is to make rights in land throughout the country accessible to all people regardless of race, colour or descent. To achieve this objective

the Government has assumed the following policy positions:

(a) That a person's legal capacity to acquire and exercise rights in land may not be limited by his race

or membership of a population group. and that statutory and other restrictions which, for reasons

of race, directly or indirectly obstruct access to the acquisition, exercise and enjoyment of rights in

land, be removed without qualification in an orderly manner: and

(b) that far more than the mere removal of racially based restrictions is necessary to satisfy the

reasonable aspirations of all sections of the population. and that support measures designed to

enable people to acquire land for occupation and beneficial use be made accessible to all and be

promoted and extended in both the public and the private sectors.

A2. Abolition of racially based restrictions on land tenure

All with reference to the first policy position, the Government has decided to propose the repeal.

finally and unconditionally, of the Black Land Acts of 1913 and 1936, the Group Areas Act, 1906, the

Black Communities Development Act, 1984, and all other provisions regulating the acquisition and

exercise of land rights according to membership of population groups. The repeal of these laws is the

main objective of the Abolition of Racially Based Land Measures Bill. If this Bill is passed, membership

of a population group will no longer be a qualification in law for the acquisition or exercise of land rights

in any part of the country.

A22 These Acts, as everyone knows, provided the statutory framework for the policy of separate

development Areas were demarcated for the various population groups under or by means of these

Acts to effect the geographical segregation of the population groups and the promotion of

self-government in and in respect of the various geographical units. The repeal of these Acts consequentl) also entails the deletion of the geographical definitions of the various areas in so far as such definitions are contained in these Acts. enacted thereunder or defined in other laws with the assistance of these Acts. The deletion Of the definitions of the areas concerned will require adjustments with a view to the future status of these areas and the structures of government established for these areas. Adjustments will also have to be made with regard to the future role of the separate statutory and regulatory measures amassed over the years in respect of these areas. In most instances these legal measures were enacted with the sole object of serving the interests of the population group of the area concerned or of promoting self-government in or in respect of such area.

A2.3 Before dealing with these matters, the present legal position with regard to the areas as

concerned is set out briefly:

Black areas: The Black areas consist of_

(a) land in scheduled and released areas reserved exclusively for Black occupation, settlement, use and

ownership in terms of the Black Land Acts of 1913 and 1936; and

(b) land reserved as development areas for Black persons in the urban centres of the country in terms

of the Black Communities Development Act, 1984, and its predecessor, the Black (Township Areas) Consolidation Act, 1945.

The areas referred to in (a) form the constitutional territories of the various Black ethnic groups,

namely independent Transkei, Bophuthatswana, Venda and Ciskei and self-governing Gazankulu,

KaNgwane, KwaNdcbele, KwaZulu, Lebowa and Qwaqwa. Apart from these constitutional territories

the land referred to in (a) also includes areas that are at present held by the South African Development

Trust (SADT) and certain Black communities. The latter areas are administered by the SADT. The

Black urban residential areas referred to in (b) fall under the jurisdiction of local authorities established

under the Black Local Authorities Act, 1982, and the Administrators of the provinces.

Coloured areas: The Coloured areas comprise land declared as group areas for the Coloured group

under the Group Areas Act, 1966, and also land reserved under the Rural Coloured Areas Act, 1963,

for members of the Coloured group. These areas are administered as own affairs of this population

group in terms of the Constitution.

Indian areas: The Indian areas comprise land declared as group areas for Indians under the Group Areas Act, 1966, and are administered as Indian own affairs in terms of the Constitution.

Remainder of South Africa: Although the remaining parts of the country are generally labelled as

"White" areas, they include areas in which land rights are accessible to all persons, for instance the

central business districts of the major cities and towns and areas that have been declared free settlement

areas. National parks, wilderness areas and most other land controlled by the State are also not

administered on a racial basis. Under the Group Areas Act, 1966, a large number of areas, and in

particular White residential areas, were declared group areas for Whites. Permits to acquire or occupy

land in White group areas have, however, been issued in significant numbers to persons who would

otherwise have been disqualified. Besides the provisions of the Group Areas Act, 1966, relating to

group areas, this Act also prohibits the alienation of land in the controlled area to a member of a

population group other than that to which the owner belongs. Whites benefit from this arrangement

since by far the greater part of land in the controlled area belongs to Whites. In the rural parts of the

controlled area in particular, large numbers of Blacks and persons of colour live on land that does not

belong to them. This is in fact also the position in White group areas.

A24 The repeal of the Acts concerned terminates the legal status of "scheduled and released Black

areas", "Black development areas", all group areas", the "controlled area" (of the Group Areas

Act), "free settlement areas" and "Coloured rural areas", as well as the geographical definitions of

these areas.

A25 The repeals concerned do not, however, affect the legal status of the self-governing territories, their geographical definitions and their structures of self-government. The reason for this is

that these matters are dealt with in the Self-governing Territories Act, 1981.

.4(I 1971 which is not included among the laws that are noxs to be repealed The future of the self-L'oxernine te rritories and their government structures. as pnwided for in the Se/f- governing Territories Constituti on 4(1. 1971. are matters for negotiation which the Government does not wish to anticipate. However. the se lf- governing territories cannot be excluded front the proposed land reform measures. This is dealt wit h in paragraph .421 Nd).

AZ.6 Regarding the constitutional concept of own affairs. the Government has decided that effective state administration mus: be continued in terms of the present Constitution unt il a new

Constitution is implemented after negotiation. This arrangement also applies to the admin istration of

own allairs in cases where the Acts now to be repealed were used to define the areas in w hich specific

matters could be administered as own affairs. The Abolition of Racially Based Land Measur es Bill

contains an interim provision to maintain these areas for the purpose ol continuing the a dministration

of own affairs in such areas. See paragraph A21 1(e).

A2. 7 The present system of lo al government. as based on separate local L'overnmen '. ar eas for the

different population groups. is also unaflected b) the repeal of these Acts. Local eoxern ment in the

local L'overnmen areas for Black p;rsons is reLul2ited in terms of the B/(Kk Local 4iulio mits 461.1982.

which will not be repealed at this SIUQC. while local government in the local gmerment a reas for

Whites. Coloureds and Indians is maintained b) the interim provxsion referred to in paraL raph A26

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The Government has, however, already announced that legislation will be introduced to open the door for communities at local level to enter into negotiations and to establish joint local government structures as required.

A2.8 The Government does not believe that the repeal of the said Acts will lead to drastic changes in the existing community character of areas. However, racial exclusivity as provided for by these Acts in the past will come to an end. The Government recognises the right of individuals to associate freely and to form communities on a voluntary and natural basis without any form of statutory interference. This also applies to existing established communities. Areas or neighbourhoods which prefer to do so will for instance be able to retain the particular community character of their area or neighbourhood by continued voluntary and natural association, but no longer in a racially exclusive manner backed up by statutory measures.

A2.9 The removal of the said Acts will have to be followed up by the extensive rationalisation of statutory and regulatory measures that have been built up on a racially exclusive basis in respect of the areas mentioned in paragraph A14. As stated in paragraph A22, most of these measures originated from the policy of statutory racial segregation. As such, some of these measures, including measures establishing structures of government for the area concerned, were specifically enacted to serve the interests of a particular population group, as settled in such area to the exclusion of other population groups or even the general public. Those zirea-buscd measures, the retention of which can only be justified within a framework of statutory racial segregation, will thus have to be fundamentally reviewed and, where necessary, either be phased out or adjusted to apply to all inhabitants of the area regardless of race. Consideration will at the same time have to be given to extending the ordinary laws of the land to these areas in cases where they were originally excluded on account of racial considerations.

A10 In view of the extent and technical nature of the proposed rationalisation, the Government believes that the only way this task can be performed in practice is to confer on the State President the power to amend or, where necessary, repeal the relevant laws, ordinances, proclamations and regulations by proclamation, with a view to readjusting the matters dealt with therein on a non-racial basis. The Abolition of Racially-Based Land Measures Bill provides for such a power and also for a special advisory committee to advise the Government and to physically perform the task in consultation with the Government departments concerned. (For further particulars see paragraphs D12 to D16.)

A211 The following matters related to the abolition of restrictive land measures merit further discussion:

(a) Land earmarked for incorporation into the TBVC states and the self-governing territories
The 1913 and 1936 Black Land Acts provide for the reservation of land for the exclusive tenure, use, occupation and ownership of Black persons. In terms of the 1913 Act 10 423 437 ha was made available for this purpose, while an additional 7 180 178 ha was added from 1936 to 31 March 1990. As the basis for Black self-government, the greater part of this land forms the territories of the TBVC states and the self-governing territories. The remaining portions of this land situated outside the TBVC states include the

self-governing territories. totalling approximately 1 250 000 ha. are held by the South African Development Trust (SADT) and certain Black tribes and communities.

In terms of existing undertakings, approvals and consolidation estimates, some 1 000 (Mha) of land is still to be incorporated into the TBVC states and the self-governing areas. The SADT already owns approximately 900 000 ha of this land, which forms part of the above-mentioned 1 250 000 ha. Additional land is at present being acquired. Although the authority to purchase land in terms of the 1936 Act will fall away with the repeal of the Act, this does not mean that the purchase of land will be summarily terminated. The Government is prepared to adopt a flexible approach to this matter and to proceed with land purchases, for example where development projects have to be completed. Land so acquired or already held by the SADT will, after consultation with the people of the regions concerned, be used for their development and settlement requirements. However, land will no longer be incorporated into the self-governing territories for the purpose of forming a state as in the past, but will be placed under the administrative control of the appropriate authority. Administrative control of such land by a self-governing territory is therefore not ruled out.

(b) Commission for Co-operation and Development

The function of the Commission for Co-operation and Development of advising the Government on the administration of Black affairs and the purchase of land for Black people per se will fall away with the implementation of the new policy and the repeal of the Acts with which the Commission was concerned. The Commission will consequently be terminated at the appropriate time. This will not, however, take place immediately as the Government will require advice within the Commission's field of expertise during the transition to a new land dispensation.

3) South African Development Trust (SADT)

The repeal of the Black Land Acts also raises the question of the continued existence of the South African Development Trust. The SADT is a statutory trust administered for the material and moral welfare of Blacks in terms of the 1936 Act. The SADT owns most of the 1 250 000 ha situated outside the self-governing territories referred to in paragraph (a) above. About 696 000 ha of this land is already occupied and held by Black tribes, communities and individuals. Through a number of full-time officials and thousands of contract workers, the SADT renders essential services in these areas. In the self-governing territories the SADT is also the nominal owner of about 3 000 000 1121 of additional land that is already in communal or other use. However, the governments and tribal authorities of those territories administer and exercise full physical control over the land concerned. The SADT is actively involved in the self-governing territories in rendering advisory and other support services. Although the need for a development and service rendering institution in the areas administered by the SADT will not diminish once the 1936 Act is repealed, the Government has decided that the SADT should nevertheless be abolished. The Government believes that the SADT, as a symbol of the previous policy and of White paternalism, should be replaced by measures more suited to the new dispensation. The SADT cannot, however, be abolished overnight. The most practical arrangement will be to phase out the SADT by the systematic integration of its services, assets and staff into other Government structures. Also in this instance, owing to the technical nature of the exercise, it appears to the Government that the most practical arrangement will be to empower the State President to effect the phasing out of the SADT by way of proclamation. This is provided for in the Abolition of Racially Based Land Measures Bill. In the phasing out process the SADTs land will also have to be dealt with. This matter is discussed in paragraphs 83.4 and C39.

d) Abolition of restrictive measures in the self-governing territories

Although the future of the self-governing territories is an issue for negotiation, there are certain matters related to the accessibility of land that will not anticipate the negotiation process and which can and should be rectified at this stage. The Government considers it a matter of principle that measures preventing other population groups from gaining access to land in these territories should be introduced in the rest of the country. Since most of the land in the self-governing territories is used exclusively for these adjustments will initially not lead to any significant changes in the present ethnic character of these territories. Doors will, however, have to be opened to allow for private ownership and for ownership by persons of other population groups, as in the rest of the country. Discussions with the governments of the self-governing territories on the possible implementation of the proposed Abolition of Racially Based Land Measures Act in their territories have already taken place. Consequently, it is proposed that the proposed Act should also apply in the self-governing territories and that all provisions regulating the acquisition and exercise of land rights in these territories on the grounds of race or population group, including the 1913 and 1936 Land Acts, should be abolished. In addition, statutory and regulatory measures restricting access to land rights in the self-governing territories will also have to be rationalised in accordance with the propos

al set out in
Paragraph A110. This means that the State President will also, in relation to the self-governing territories, be empowered to adjust by proclamation the relevant laws of, or applicable in, these territories. However, these powers will, in the spirit of negotiation, be exercised in close consultation with the governments of these territories. The legislative powers of the self-governing territories will generally not be affected b) this proposal and these territories will remain competent to legislate within their present jurisdiction.

Large parts of the self-governing territories are at present occupied and used in accordance with the traditional system of tribal ownership. Since this form of communal land tenure is culturally ingrained, the Government accepts the continuation of this system alongside the system of individual land tenure. It is, however, not the ideal form of land tenure and the Government will not promote the extension of the system. The Government will rather enable tribes to eventually convert to individual tenure, but in such a way that this will not lead to a breakdown in established social structures. Adjustments that may be affected in the laws of self-governing territories will consequently take the continuation of communal ownership into account, despite the fact that this system impedes access to land b) persons who are not members of the tribes. The tribal system of land tenure is further dealt with in part B3.

e) Own affairs

As stated in paragraph A10 the system of own affairs will be maintained until a new Constitution is implemented after negotiations. The repeal of the Group Areas Act, and certain other statutory provisions relating to Coloured rural areas, complicate the continued administration of community development and local government as own affairs of a population group. In order to overcome these

complications. a provision to maintain community development and local government as own affairs pending a new Constitution has been included in the Bill. This provision is also important to afford the various role-players at the local level the opportunity to negotiate joint local government structures.

(See also paragraph D1.8(e).)

The idea is not to maintain own affairs, in the strict sense. at the cost of essential reform. Although

the Government is looking at problems emanating from fragmentation of administration in respect of.

Inter alia. agriculture and housing. services rendered by own affairs administrations to other

communities and persons can effectively be continued without jeopardising reform.

(f) Restoration of previous land

The Government is of the opinion that a programme for the restoration of land to individuals and

communities who were forced to give up their land on account of past policies or other historical

reasons would not be feasible. Apart from the vast potential for conflict inherent in such a programme.

overlapping and contradictor) claims to such land. as well as other practical problems. would make its

implementation extremely difficult. if not impossible. The Government believes that it is in the interest

of peace and progress that the present position should be accepted and that the opportunities afforded

by the new land policy should be exploited to bring about a more equitable dispensation.

An attempt

to return to the previous order will only disrupt the country's pace of development to the detriment of

all.

A3. Government support to broaden access to land rights to whole population

A3.1 The Government's second policy position in paragraph A1. that far more than the mere removal of racially based restrictions is necessary to make land rights accessible to all . should be seen

against the background of existing disparities in the control of land. and the potential for conflict

entailed by these disparities. Support measures. also those aimed at making land more accessible. are

essential if the opportunities for participation in the wealth-creating processes are to be broadened to

the advantage of all who wish to share in them.

A32 In the normal course of events the State provides a variety of land-focused assistance programmes in a rural and urban context. of which financial and other assistance with respect to

settlement housing. agriculture. commerce and industry. and the provision of infrastructure are

examples. Semi-State and private institutions are also involved in these fields. Support measures must

be made accessible to all on an equitable basis. and must be promoted and extended in both the public

and private sectors. Assistance programmes will have to be adjusted accordingly so that support is

provided on the basis of merit alone.

A33 The Government believes that the financing of existing support measures will have to be

increased to provide for accumulated needs. but within the country's means. In the process urgent

attention will have to be given to the development needs of underdeveloped areas and the pressing

problems of socio-economic upliftment.

A3.4 In view of the economic realities in the country and the constraints placed on Government

spending. resources for development will also have to be mobilised outside the public sector in order

to meet the needs for development. The private sector and foreign organisations can make a significant

contribution to funding assistance programmes aimed at exploiting the opportunities created b) the new

policy. For its part the Government will welcome greater involvement from those quarters and will do

everything in its power to promote it.

A35 In its approach to development, the Government does not regard assistance as a means of

bringing about an artificial redistribution of land but as a necessary instrument to provide opportunities

for greater participation in the wealth-creating processes of the country. This also applies to agricultural

land. Private ownership of agricultural land and its use by private entrepreneurs form the basis of an

established and successful agricultural industry. It is in the interests of the population as a whole that

this system be continued and that the commercial productive capacity of land be maintained on the

basis that opportunities for participation in this system are afforded to all. The integration of

development assistance within the framework of broader development objectives is further dealt with

in part C.

PART B

QUALITY AND INTEGRITY OF THE TITLE IN LAND

B1. Policy positions

Changing patterns of land tenure will in future exert considerable pressure on private, community

and public interests in land, The title in land is the primary factor in securing these interests and free

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undisturbed possession. It is necessary to take steps not only to improve the quality of the title in land and to place it on a firm foundation of legal certainty, but also to secure the integrity of the title and the security that it affords. The second objective of the new policy is to promote the quality and integrity of the title in land on an equitable basis for all people. To this end, the Government commits

Itself to the following policy positions:

That the present systems of racially based land tenure rights and land registration be rationalised

With a view to uniformity and the upgrading of lower order rights:

That the capacity to acquire property be conferred upon tribes and tribal communities subject to the

Ordinary laws of the land, that the continuation of the traditional tribal system of land tenure be

Recognised alongside individual land tenure and that tribes and tribal communities that so choose

Be enabled to convert their systems of tribal or communal tenure to individual tenure: and

That the integrity of the title in land and the concomitant private and community interests be

Protected by means of appropriate non-discriminatory measures, the principle of free association

and the application of concepts of private law.

1. Rationalisation of racially based land tenure rights and land registration systems

82.1 Leaving the traditional tribal land systems aside for the moment, there are at present, in

addition to the common law rights of ownership and lease, also certain statutory land tenure rights in

forms of which individuals hold, occupy and use land in the rural and urban Black areas. These rights

range from reasonably sophisticated 99-year leasehold, quitrent and deeds of grant to various forms of

inferior occupation rights.

82.2 Although these statutory rights contain strong elements of permanence, none of them can

compare in scope and quality with ownership. These rights also differ in content and value.

Because

they were originally granted in terms of legislation that applied exclusively to Black persons, they are

often perceived as inferior forms of tenure, and this is in fact true in certain instances.

82.3 Originally, lower order rights were granted in the interests of simplification and economy. In

the registration process important requirements that ought to apply to the registration of land rights were

not always properly adhered to. As a result these rights were not registrable in accordance with the central deeds

registration system, and separate, less formal, registration offices were established for this purpose.

In fact, as well as the general lack of interest on the part of those concerned in following up legal acts

without official registration, has resulted in great legal uncertainty concerning the lower order land tenure

rights. This applies particularly to the self-governing territories, where the reform of the tribal land

system meets with strong natural resistance.

82.4 A start has been made in recent years in upgrading lower order rights of land tenure. Provision

has, for example, been made for full rights of ownership and the conversion of lower order rights into

a more sophisticated form of leasehold in Black urban areas. These measures are, however, inadequate, and the Government believes that the process of upgrading to full ownership should be

urgently stimulated and that the rationalisation of land rights and the various concomitant

registration systems should be urgently addressed, also in the self-governing territories.

82.5 The Government realises the financial implications of the proposed rationalisation of lower

order rights: some individuals and will adopt measures to assist them in this regard. The fact that less sophisticated

rights of tenure were instituted not merely for the sake of variety, but primarily to replace the expensive formal registration system with an affordable alternative for lower income persons. will be taken into account in the rationalisation and upgrading of these rights. While the allocation of land according to these sophisticated systems may still be required, such allocations will in future be accompanied by a titl-in mechanism to make upgrading to full ownership possible.

82.6 Provisions to regulate the proposed rationalisation of land rights and land registration systems are contained in the ("perading of Land Tenure Rights Bill. This Bill addresses various issues dealt with are fully in part D2. Briefly, the Government intends transferring all land registration systems and survey services controlled h) the Department Of Development Aid and the self-gm'erning territories. the registrar of deeds and the surveyor-general and conferring On the registrar of deeds wide discretionary powers of rationalisation. The objective is to convert lower order land tenure rights into full ownership as soon as is practically and legally possible and to integrate them with normal deeds registry practices.

82.7 It should be mentioned that registration offices and survey services in self-governi ng territories will not be summaril) transferred to the registrar of deeds and the surveyor-general. The Upgrading of and Tenure Rights Bill confers on. the Minister of Public Works and Land Affairs the power to make necessary arrangements by notice in the Gazette. after consultation with the government of the

self-governing territory concerned. These arrangements will come into effect on the date mentioned in such notice.

82.8 Serious problems complicate the upgrading of lower order land tenure rights to full ownership. The sites for which these rights were granted were often not properly surveyed or indicated

on an approved general plan. Ownership cannot be registered in respect of unsurveyed sites. In

addition, less formal towns and settlements do not always meet the requirements for township

establishment and the rights of third parties have not always been taken into account in terms of the

requirements for township establishment. There is not much an individual occupant acting on his own

can do about these complications. Avenues for joint action will have to be found at local level. The

State, too, will have to play a leading role in providing financial and administrative support. The

Government for its part undertakes to do everything possible, within reason, to simplify and accelerate

the process of conferring ownership.

82.9 The Government believes that the upgrading of inferior rights of tenure to full ownership will

benefit not only those concerned but also the economy as a whole. In effect, this will create a new

property market with a substantial growth potential. The Upgrading of Land Tenure Rights Bill reflects

the Government's commitment in this regard by providing for the automatic conversion of more than

300 000 registered leasehold rights and deeds of grant to full ownership as soon as possible after the

commencement of the proposed Act. In those towns in which these conversions are made possible, the

concept of lower order land tenure rights will lapse and all future registrations will establish full

ownership. This opens the door for granting ownership in some 1 000 000 additional residential sites.

The Bill further envisages active support by the State for the upgrading of inferior land tenure rights.

This assistance will, inter alia, make provision for the mass surveying of numerous unsurveyed

townships and the updating of obsolete registers in order to enable conversion to ownership. This

assistance will also be available to tribes that choose to convert to private ownership.

82.10 In addition to active support, the Government also intends to support upgrading by means

of economic incentives. It has therefore been decided that where land in respect of which land tenure

rights have been granted, is held by the State or the SADT, a scheme will be devised in terms of which

the holders of residential sites can convert their rights into ownership without compensatory payments

to the State or the SADT. Depending on the local circumstances or the individual case concerned,

conversion should, at most, be accompanied by a contribution towards costs incurred to make the

conversion practicable. It must, however, be clearly understood that such a scheme will apply only to

the sites and not to any housing or other improvements to the land made with the aid of public or

borrowed funds. The latter falls within the ambit of certain assistance schemes that are still receiving

attention.

82.11 In many cases, especially in towns and in the urban centres, only certain less serious technical

problems impede the conversion of rights into ownership. The Upgrading of Land Tenure Rights Bill

rectifies these problems and clears the way for the expeditious granting of ownership.

83. The tribal land system

83.1 Large tracts of the Black areas, in particular those within self-governing territories, are at

present held in trust for tribal communities. This land, as well as adjacent land held by the SADT or the governments of self-governing territories and allocated to the tribal communities, is occupied and used by members of, and additions to, the tribe in accordance with the traditional communal system of land tenure. The rights accorded to individuals and families on tribal land are unique and can not be typified

under common law and converted into rights recognised in South African law

83.2 In the traditional areas, ethnic and tribal communities are realities that have evolved naturally in Black community life. A tribe's identification with its land and the communal tenure are essential for the continued existence of tribal community life. These realities cannot be ignored when determining a general land policy. After due consideration the Government has decided not to interfere with this traditional land tenure systems. The traditional system of land tenure underpins a delicately balanced subsistence economy system which, if replaced injudiciously, could lead to the collapse of the communities to which it affords a livelihood. The Government is, however, not in favour of the expansion of this system.

83.3 The Government believes that tribal communities should seriously consider the advantages of individual tenure. Although tribal communities will not be pressurised into converting their traditional rights to their land into individual rights of tenure, the Upgrading of Land Tenure Rights Bill provides for such a contingency. It is stressed, however, that the tribes themselves must initiate the reform of the tribal land systems, in which case the assistance referred to in paragraph 82.9 will be made available.

83.4 Although tribal communities exercise full physical control over their land, ownership of such land is usually vested in a Minister in trust for the tribe or else in the SADT or the government of a

self-governing territory which has allocated the land to the tribe in terms of an administrative measure.

About 354 000 ha of land outside the self-governing territories is held by tribes, both on a trust basis

and in terms of allocations of SADT land. There is no reason for the perpetuation of paternalistic

measures of this nature. The Government has therefore decided that full ownership of land which is

held in trust for tribal communities, or which has been or may be allocated to these communities by the

SADT, should where practicable, be transferred direct to the tribes. The granting of ownership to tribes

will give them the full right to dispose of their land. However, to safeguard the interests of individual

members of the tribe, the proposed Upgrading of Land Tenure Act prohibits the tribe from selling its

land to persons other than members of the tribe during the first ten years after it has been transferred

to the tribe, unless the tribe obtains an order of court authorising such sale. The rationale behind this

is that the Court should ensure that the alienation of tribal land is in the best interests of the individual

members of the tribe and of the tribe itself. This measure will not apply where the tribe decides to

transfer land to individual tribesmen or persons who have joined the tribe.

83.5 The Government realises that the acceptance of the principle of transfer of ownership to tribes

may lead to boundary disputes between tribes. The boundaries between the lands of different tribes

cannot always be clearly determined. The Upgrading of Land Tenure Rights Bill provides for the

appointment of a person to settle such disputes.

83.6 Tribal communities will also be able to enter the property market in their own right when land

is made accessible to all. As in the case of all other persons, the ordinary laws of the land will, however,

also apply to the acquisition of land by tribal communities in relation to the use of that land for

agricultural or residential purposes. In particular, provisions relating to the establishment of townships

and the subdivision of land are involved here, and tribal communities will have to comply with the

relevant statutory requirements when they purchase land for communal occupation. In practice this means that

as far as township establishment is concerned, they will have to apply formally to the Administrator to

have the land declared an approved township after having complied with all the requirements with

regard to planning and surveying the approval of a general plan, the provision of services and the

opening of a township register in the deeds office. This will also mean that tribes will be able to use land

for communal residential settlement only if that land has been earmarked for township development

if the Government considers it to be of cardinal importance for the country and its future that

any potential agricultural land be retained for agricultural purposes.

83.7 On the other hand the Government does not deny that some tribal communities are in serious

need of land. Ways will therefore have to be found to satisfy this need. The Less Formal Township

Establishment Bill and the Rural Development Bill provide for the communal settlement requirements

for tribes on land suitable for that purpose. At the same time it ensures that communal settlement takes

place in such a way that it can subsequently be upgraded to individual ownership.

4. The integrity of the title in land

84.1 The state has a duty to look after private, community and public interests in land and to secure

the integrity of the title in land. It does this in the first instance by honouring the integrity of land rights

id in the second instance b3 maintaining 12133 21nd order to protect pr13ate and public o
vthership against
olcnce and other forms (11 unlawful infringement. The Government undertakes to honour the
se
rsponsibilnies and further to secure the tree and undisturbed enjoyment of rights in land
by looking
ter the interests of communities in 21 consistent. purposeful and firm manner. In particu
lar. the process
i urbanisatlon should be properly managed. It is evident that urbanisation should be assi
sted by
oviding adequate opportunities for settlement 21nd housing: that the established urban en
vironment
ould be protectt d against physical dee213 deterioration and social ills and that 2leee
ptable norms and
21ndards should be promoted p21rticul21rl3 in residential areas T he 3ltws of the C103 er
nment regarding
ese objectives and their potential stabilising effect on pri3ate neighbourhood and conlmu
nit3
terests are outlined below.

84.2 Adequate settlement and housing opportunities

B4... "' .1 Peace. progress 21nd stabilit3 cannot be achieved unless e3er3 effort is made
to ease the
iesent housing shortage. The need for hotising and the intentions of the Government in th
is respect
edealt with in pan aurapl C4. 8. but what is important here ls that the continuing backlo
g ln housing
is potentiall3 unfavourable implications for the maintenance ol the qualit3 of life in es
tablished
sidential areas as well. The housing shortage should be eased ln order also to lessen the
pressure on
ltablished residential areas. to counter unlawful squatting and prevent established commu
nities from
:ing displaced. and to protect community life against social disorder. disruption 21nd th
e disregard of
immunity values.

B4. 2.. 2 The urban housing shortage is only too evident from the squatter phenomenon of
recent
:ars. On the one hand squatting is perceived as a serious threat by established communitl
es. while On

the other it is seen as the cumulative result of discriminatory measures and an inadequate housing policy. The Government accepts that the urbanisation process and the squatter phenomenon cannot be separated. The Government also accepts its responsibilities in this regard, not only towards the homeless who seek a livelihood in the urban areas, but also towards established urban communities.

The Government believes that the emphasis in dealing with squatting should always be on guiding these people towards land which is suitable for less formal settlement and on which at least rudimentary but upgradable services are available. In the first instance, this implies that urgent attention will have to be given to the provision and development of sufficient urban land for this purpose. The Government accords this matter high priority.

Additional legislation will, however, be necessary. The Less Formal Township Establishment Bill provides for the establishment of legal mechanisms for the urgent provision of land

suitable for settlement. This matter is dealt with further in parts C4 and D4.

84.2.4 Squatting that takes the form of trespass on and taking over the property of another cannot

be tolerated in any orderly society and is most strongly condemned by the Government. The same

applies to disorderly settlement on land that is neither suitable nor intended for occupation. Although

the President's Council is also considering these aspects of squatting and the effectiveness of the

Prevention of Illegal Squatting Act, 1952, as part of its investigation into urbanisation (see paragraph

C45), there can be no further delay in dealing with this problem. Action must take the form of timely

prevention rather than cure at a later stage. All too often, landowners and local authorities faced with

the problem at grassroots level do nothing about it in the early stages and only try to take action after

the situation has got out of hand. Another factor that impedes prompt action against squatting is the

present fragmented and overlapping government control. In order to overcome this problem the

Government has decided to assign the application of all relevant laws to the Administrators.

84.3 Management of the established urban environment

84.3.1 While the provision of housing, and particularly opportunities for less formal settlement,

enjoy high priority, it remains the Government's earnest intention to protect the established urban

environment against decay and deterioration. The established urban environment represents an

immense investment in capital, entrepreneurship and human endeavour, and since the vast majority of

the population will in future have to earn a livelihood in the cities, the neglect of what has already been

invested in the urban environment must be prevented at all costs. The Government will continue to

endeavour to maintain, improve and protect the urban environment.

84.3.2 As it stands, the demands of excessive population growth and mass urbanisation are placing

the management of our cities under great strain. These demands will increase even as urbanisation becomes

more critical dimensions in the future. Greater expertise and improved techniques are therefore necessary to ensure

the continued effective management of the cities. The responsibility for this rests primarily with local

authorities, and they will increasingly have to gear themselves to meeting the demands of the future.

In addition, the changes that will result from the abolition of the statutory segregation of population

groups will necessitate fundamental adjustments to the system of local government. The Government

s called upon to play a supporting role and to assist local authorities in meeting the challenges of the new era.

84.3.3 The Residential Environment Bill is directed at achieving this aim in so far as it relates to the continuation of the orderly existence of the established urban environment. Provision has been made in this Bill

for measures to protect the urban environment through effective management, the clearing up and

prevention of urban decay, the abatement of nuisances, and the elimination of exploitation and other

unhealthy practices.

§4.4 Maintenance of acceptable norms and standards

84.4.1 The transition from a traditional subsistence economy to a market economy and the improvement of standards of living is a slow process. The pursuit of a higher quality of life can

not (however, only) be achieved within the limits of existing realistic standards and their attainment (to the

country, the community) concerned and the individual concerned. Like the country, each community

and individual has a responsibility to satisfy its or his needs and aspirations within the limits of what it

can afford and to meet the obligations and responsibilities that derive from the satisfaction of

these needs.

84.4.2 The Government therefore commits itself to the promotion of realistic and affordable norms

and standards and once again calls upon provincial administrations, local authorities and other bodies

to ensure that in the development of new townships even greater realism and thrift be displayed in

determining norms and standards for housing and services. The National Building Regulations (already)

provide a mechanism in terms of which safety and health standards for buildings can be laid down by local

authorities and can be systematically upgraded as communities become more prosperous Provincial Administrations local authorities and other responsible bodies should where appropriate set minimum requirements for the erection and maintenance of buildings and also for the provision of services and should then ensure that upgrading takes place in a responsible and orderly manner in communities to develop the ability to pay for services of a higher order. In those cases where the National Building Regulations do not apply the area should nevertheless be developed so that it can subsequently be upgraded.

84.4.3 The Government therefore believes that at this stage the accent should be on minimum standards and the systematic upgrading thereof. Those who have already reached a high standard are entitled to a higher order of service and to the maintenance of values appropriate to their lifestyle.

84.4.4 The impending repeal of the Group Areas Act, 1966, has given rise to the fear among certain communities that established community life will be endangered. Against the background of the prevailing housing shortage, increasing urbanisation and the heterogeneous population, it is understood that there should be strong reservations in this regard.

84.4.5 The Government believes that if these fears are to be allayed, steps must be taken to ensure that the norms and standards of local community life itself are maintained. The key to this lies in the following: relieving the housing shortage to a significant degree; providing quarters with suitable informal settlement opportunities on an order to protect the established urban environment against disruptive influences; giving local communities a greater role in matters that affect their community life; and providing mechanisms for dealing with grievances concerning the disregard of community values at local and neighbourhood level.

84.4.6 As regards increased control over matters affecting own community life, the proposed model for a new system of local government offers possibilities for community autonomy and greater power for decision-making. The need for community autonomy accords with the principle of devolution of power, and the Government is in favour of communities assuming maximum responsibility for the management of their domestic affairs.

84.4.7 It is true that local communities will in future have to look after their own interests to a greater extent than in the past. A culture of self-reliance in community life will therefore have to be developed. Community interests are best served by participation and involvement in community affairs. It is to be promoted a sense of belonging and of security. Local communities or neighbourhood organisations, whether they serve religious, cultural, educational, sporting, business, charitable or any other interests can play an important role in fostering a close-knit community. Communities need to find it easier than others to maintain the quality of life to which they are accustomed. In addition the possibilities that the private law offers for self-protection and self-assertion should be explored.

84.4.8 The Government foresees that a need will arise for a readily accessible government mechanism which will promote sound community relations by acting as a mediator in settling disputes that disturb neighbourhood and community relations. Although the ordinary courts are available to settle disputes of this nature, the Environment Bill provides for a settlement procedure

procedure that

will allow for the expeditious and informal settlement of community disputes by the judiciary of the peace.

also provides for the appointment of officers to deal with nuisances that are at variance with the

values of the community concerned. These and other matters that affect the residential environment are

discussed in greater detail in part D3.

PART C

DECLARATORY STATEMENT OF LAND

Policy Positions

C1.1 The utilisation of land in South Africa is characterised by large concentration of people in and

around the metropolitan areas and an uneven distribution of people in the rural areas.

The western

provinces of the country are densely populated owing to lack of natural resources, while there are large

concentrations of people in the Black townships where a subsistence economy prevails. 89 per cent of the country is used for commercial agricultural production, predominantly by white farmers.

The existing pattern of land use in South Africa is not purely the result of natural factors and

is largely a result of past policies on land tenure and

land use. It is therefore expected that opening up land to all will have

an impact on future patterns of land utilisation in this country. This being so and in view of the

unmet need for land by a section of the population the government's increased pressure on land

will

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use exerted by a growing population and the potential for conflict inherent in land claims . a clear policy

on land use is crucially important in ensuring prosperity, progress and peaceful co-existence.

C1.3 Land plays a key role in all the development processes of the country. particularly in the fields

of agriculture, housing, mining, tourism and trade and industry. Therefore the efficient use of this

resource and the broadening of opportunities for development are absolute requirements for ensuring

economic growth and progress. This requires an orderly and balanced pattern of spatial development

which will ensure the judicious use of existing infrastructure and resources, maintain a balance between

population numbers and employment opportunities and realise the development potential of the less

developed areas, which include large parts of the self-governing territories

C1.4 The regional development policy of the Government is aimed at achieving these objectives.

The Government believes that the new policy direction being followed in the country, also as regards

the opening up of land, affords the opportunity to place development within regions on an economically

sound foundation. Development needs, opportunities and conditions, rather than racially based

ideological considerations, will in future be the decisive factor in the spatial ordering of the economic

system of South Africa.

C1.5 Development needs, opportunities and conditions in both the core urban areas and the rural

areas must be attended to within the context of regional development. The Government believes that

balanced economic growth with the resultant opportunities for settlement must be realised within the

rural and urban context, and that the decentralisation of economic and settlement opportunities based

on the inherent growth and development potential of rural areas, should be actively promoted in order

to ensure the effective use of land in the short and long terms. In this regard agricultural development

plays an important role.

C1.6 The third objective of the new policy is, therefore, to use land efficiently as a national asset

to be enjoyed by the entire population. To this end the Government accepts the following policy

positions:

(a) That the commercial production capacity of agricultural land be maintained and developed within

the framework of a market-orientated economy and open access to private ownership, to the advantage of all:

(b) that the unlocking of the economic and human potential of rural areas, more particularly those that

have lagged behind, be promoted through intensified and more purposeful and co-ordinated action:

(c) that the provision and development of land to accommodate urbanisation should be a priority in

identifying land for urban needs: and

(d) that the conservation and preservation of land for posterity should be a constant goal, and should

be borne in mind in the pursuit of the foregoing policy positions.

C2. Commercial agricultural land

C2.1 Agricultural land is dominated by two systems of tenure. On the one hand there is private

ownership of agricultural land, which is utilised for agricultural production on a commercial basis and

according to modern farming practices and methods. On the other hand there is the traditional

communal occupation of land, which entails the utilisation of small-scale farming practices and methods

on a subsistence or semi-subsistence basis. There are a number of variations between these two

systems. Mainly because of its dominant position in terms of land ownership more effective utilisation and a well-developed infrastructure with extensive financing, marketing and other support structures the commercial sector produces about 95% of the total agricultural output as against the approximately 5% produced by the subsistence sector.

C12 The Government fully appreciates the role and importance of the commercial agricultural sector, as well as the difficult position in which that sector finds itself from time to time. The fact that substantial State funds have been voted over the years to assist agriculture, bears testimony to this. The Government will, within the limits of its resources, continue its efforts to assist agriculture where this is merited. However, in future it will also be necessary to give serious attention to unlocking the agricultural potential particularly of those areas where subsistence farming practices predominate. This matter is dealt with more fully in part C3, and discussion of the subsistence sector is concluded for the moment.

C23 Current agricultural policy is aimed at the optimum use of production factors - to promote economic and social development and the attendant stability:

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to supply sufficient affordable food, as well as fibre and raw material at reasonable prices, for the domestic market; and to exploit export opportunities for agricultural products to the maximum.

32.4 The Government does not wish to shift these policy goals but to broaden them and to afford everyone equal access to opportunities in agriculture. The Government will, however, continue to work towards the preservation of agricultural land for optimal production in accordance with sound business principles and a market-orientated economy. In view of the commercial sector's valuable contribution to the optimal use of resources and to the supply of food, and considering the importance of the agricultural industry to meet the food and clothing requirements of a growing population the Government believes that nothing should be done to impair the production capacity of the agricultural sector. Measures to counteract the injudicious use of agricultural land, including squatting, will be contained and, where necessary, tightened. The Less Formal Township Establishment and Rural Development Bills contain, inter alia, provisions to protect agricultural land against unplanned and disorderly settlement and to create suitable settlement opportunities at the same time.

2.5 Private ownership of land, including agricultural land, is a cornerstone of the Government's land policy. Private ownership gives people a stake in the land, offers social security, promotes the optimal use of land and also stimulates an awareness of the importance of the preservation of this valuable resource. This is in keeping with the Government's opposition to any form of redistribution of agricultural land whether by confiscation, nationalisation or expropriation.

32.6 The Government seeks to provide equal opportunities irrespective of race, regarding access not only to land but also access to the agricultural services structure as a whole. This includes, subject to the uniform application of the principle of merit, access to marketing, finance, training, extension, research and all other assistance programmes. In this regard the Government undertakes to make the services structures and assistance measures accessible to all, regardless of race, where this is not already the case. However, the Government cannot prescribe to voluntary associations in organised agriculture, co-operatives and other institutions in the private sector in this regard.

32.7 Subject to the granting of access to all, the Government also intends to continue the existing support measures in terms of the Agricultural Credit Act, 1966. In addition, the Land and Agricultural Survey of South Africa will be open to all on merit. Improved access to finance for part-time farmers and young farmers is another matter that will have to receive attention, and the Government undertakes to take the necessary steps in this regard.

32.8 Although the emphasis in existing settlement programmes is on their continuation according to merit, the dynamic nature of the agricultural industry must be taken into account. New opportunities are now being created which will present new challenges. This also applies to settlement. State assistance to settling farmers on land is nothing new: such assistance has been provided for many years. Settlement programmes were implemented on a racial basis in the past, but this will no longer be the case. The Government believes that existing programmes should be expanded to assist new entrepreneurs to develop into independent small and medium farmers. An integrated approach, which also provides for the establishment of supporting agro-industries and agriculture-related services and amenities, is necessary. The Rural Development Bill contains certain provisions in support of this.

§2.9 Although the relative share of the commercial agricultural sector in the total economy is increasing, this sector has unused capacities which can be used to meet the needs of a growing economy. The Government believes that structural changes in the commercial sector to explore unused capacity should be determined by market forces.

3 Rural Development

C3.1 The Government intends to unlock the economic and human potential of under-developed rural areas by means of intensified and co-ordinated action. This is necessitated on the one hand by the under-utilisation problems in some areas, and on the other hand by widespread socio-economic problems in rural areas. The over-utilisation and mismanagement of the resource base cause problems which result in conditions of ecological deterioration and decay, leading to the destruction of the resource base. This contributes to conditions of poverty, unemployment, landlessness and a steady decline in the ability of communities to satisfy their subsistence needs. In some areas population numbers are disproportionate to the opportunities to earn a livelihood and this seriously inhibits the development prospects of these communities.

C3.2 The Government is committed to the socio-economic upliftment of rural communities and the creation of opportunities to promote their entry into the mainstream of the country's development by providing appropriate development assistance within the framework of a rural development strategy. Adjustments must be made to increase food production and generate job opportunities.

C3.3 Subsistence economy systems are at present in a phase of transition and integration with the modern economy. Up to 80% of the income of subsistence areas is derived from the sale of labour through the migrant labour and commuting systems. These systems are at present under great strain and there are factors at play that could lead to the rapid collapse of circulatory migration. Factors such as the abolition of influx control, the concentration of the growth sectors of the economy in the urban areas, the effects of a growing political awareness and, in particular, the fact that security of land is now a reality in urban core areas as well, may result in migration becoming a one-way stream to the cities. This could lead to the collapse of income in the rural areas. This course of events presents two important challenges: making sufficient land available in the urban complexes to accommodate new-comers which is dealt with in part C4) and resolute efforts to develop the subsistence economy areas to their full potential.

C3.4 Opportunities exist for the further development of agriculture-related industries and services in towns and the surrounding rural environs. This will increase the capacity of rural areas to offer people employment and settlement opportunities. These opportunities, whether in the field of agriculture, tourism, mining or manufacturing, should be explored, with due consideration for the local resource base in the respective regions.

C3.5 Successful rural development depends on a multiplicity of factors, but chief among these factors are the effective utilisation of lands, the creation of an economically favourable and suitable physical and institutional environment, entrepreneurial skill and human development. The Government intends tackling rural development on an integrated basis and to this end wishes to devise a national rural development strategy in which these factors can be dealt with coherently. This strategy will be formulated in close consultation with the communities concerned.

C3.6 The measures adopted to make land accessible to all people and to protect their land rights will contribute greatly to opening up new opportunities for development in the less developed rural areas. Human capabilities are, however, the key factor in unlocking the development potential of an area. No development strategy can succeed unless people have the technical know-how, the ability and the will to make a productive contribution to the enhancement of the quality of life. In the proposed strategy a strong emphasis will therefore have to be placed on the development of the human potential in these areas and, in particular, the ability and will of the communities to use their resources creatively.

C3.7 The Government feels the need for a national operationally orientated development arm to assist in co-ordinating and implementing the Government's rural development programmes and in mobilising funds and expertise from the private sector and foreign sources. The Rural Development Bill provides for the establishment of just such a national corporation. The establishment of the rural development corporation will have to be accompanied by the rationalisation of existing corporate structures at the national and regional levels that are active in the field of rural development, also in the self-governing territories. The nucleus of the proposed corporation will be created by drawing skilled people from the ranks of, inter alia, the South African Development Trust Corporation which is to be

ncorporated into the new development corporation on the repeal of the 1030 Act and the ph
asing out
)f the SADT.

C38 The development of these areas will have to correspond with the existing development
tstructures. programmes and projects within the framework of the proposed national strateg
y and will
we undertaken in consultation with the governments of the self-governing territories in s
o far as they are
:oneerned. Where necessary however. existing development activities and the structures in
volved will.
is has been stated. have to be completely re-evaluated and rationalised In addition. assi
stance and
;upport measures will also have to be rationalised and extended.

C3.9 The possibilities for agricultural settlement and the establishment of appropriate s
ettlement
.ehemes will be thoroughly investigated. Recentl) there has been much talk and speculatio
n about the
ise of SADT land for the settlement of Black farmers in small larmer schemes Outside the
.elf-governing territories there is approximateh 1 250 000 ha of llBlaek" land that is he
ld b) the SADT.
ribal communities and individual Black persons. More than hall of this land is ahead) oc
cupied and
utilised b) tribal communities and individual Black persons. or is taken up b) towns for
Black persons.
n these areas. outside the towns and settlements. there is only a limited potential for s
mall farmer
;chemes. About 254 WU ha of the remaining SADT land has already been set aside for Black
farmers
ind farming projects. The balance of 220 (KM ha is being let. The Gmernment plans to use
those parts
if the 254 000 ha that have been set aside for settlement schemes. as well as those parts
of the 320 (M)
m that are suitabit for settlement. for the development of settlement schemes under the R
ural
Development Bill. The socio-economic development needs of the inhabitants of the region c
oncerned
A'll be taken into account as far as these schemes are concerned. Particulars of these s
chemes are dealt
A'ith in paragraph D54. Full ownership in the individual farming units are also contempla
ted in respect
)l these schemes. In this regard the proposals contained in this Bill tie in with the Up
grading ofLand

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Tenure Rights Bill in which provision is made for the conversion of existing lower order rights. This also ties in with the terms of which allocations in new provision to full ownership on a massive scale

. - _ 5 Formal Township Establishment Bill, in townships will in future automatically provide for full ownership.

:4. Urban development

101.1 The provision of land to accommodate the urbanisation process in a timely and orderly fashion

is one of the greatest development challenges ever faced by this country. The intensity of the

urbanisation process should be viewed against the background of, inter alia, the imbalance between

population numbers and employment opportunities in the rural areas and the accumulated need for

urbanisation that has built up over the years. The situation must also be viewed against the background

that, essentially, South Africa is agriculturally speaking a poor country and has limited employment

potential in the agricultural sector. As a result of the present pattern of economic development, the

greatest opportunities for job creation exist in the cities and towns. It is in the general interest that the

rapid pace of urbanisation be managed and accommodated in an orderly manner.

102 The metropolitan and major urban areas of the country provide the greatest incentive for

urbanisation. The magnitude of the squatter phenomenon in and around urban complexes such as the

urban-Pinetown area, the Cape Peninsula and the PWV area in recent years, proves that these areas

are regarded as the places most likely to offer opportunities for employment. The fact that informal and

squatter settlement takes place in urban areas, at times under appalling conditions and despite a

shortage of job opportunities, is in a sense a reflection on the inability of large parts of the rural areas

to offer their inhabitants a livelihood. This influx to the major urban areas must be accommodated in

the best way possible, and within the urban dynamic the interaction of economic forces released by the

processes of providing housing and services must be utilised for the benefit of newcomers to the urban

areas. The goals of peace, prosperity and stability in this country will not be achieved unless the urgent

need for opportunities to make a living, which is basic to the urbanisation process, can be properly

addressed.

103 Provision for opportunities for urbanisation should not be confined to the metropolitan areas

and big cities. Country towns can also play an important role in providing such opportunities. Certain

rural areas have an inherent potential for development which has not yet been properly utilised and

which should, in the interests of a more balanced development, be exploited within the framework of

regional development pattern. The Government therefore believes that serious consideration should

be given to the decentralisation of economic activities and the opening up of the development

of rural towns.

104 The effective accommodation of the urbanisation process does not only depend on the availability and provision of settlement opportunities. It also depends on the development

of urban land use patterns and urban structures that are conducive to greater effectiveness, for example

reducing the travelling distance between home and workplace. The new measures relating to land tenure and the

repeal of the Group Areas Act, 1966, create new opportunities not only for making land available for

urbanisation but also for developing more compact, and therefore more cost-effective, urban

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structures.

C45 The new challenges which the process of urbanisation is posing for the country. prompted the Government to instruct the Presidents Council to undertake a thorough investigation of current and future problems in connection with urbanisation with a view to the updating and revision of the White

paper (the White Paper on Urbanisation). The Physical

Planning Bill that the Government intends to introduce before Parliament this year is an instrument to

promote the orderly and co-ordinated physical development of the country in the national, regional and

urban contexts. This Bill will enable the authorities concerned to ensure that sufficient land for the settlement of the newly urbanised is identified. effective urban structures are established and the

problems made on agricultural land effectively dealt with. The proposed Physical Planning Act will

provide the physical development framework to give effect to the policy and strategy for rural

development dealt with in part C3 above.

C4h The timely and orderly provision of land for urbanisation requires an effective instrument for

regulating town planning, township establishment and the expansion of towns. Various arrangements

of different degrees of sophistication, are made in the various provinces, in the

self-governing territories, on SADT land and in the urban Black residential areas, in terms of various

types of legislation. The Government believes that this multiplicity of laws should be rationalised and

reduced to a single system that provides for the different needs of the different communities. This

system must continue to provide for varying degrees of sophistication, ranging from informal settlement

to formal township establishment, but must be capable of being applied on a uniform basis country-wide.

15

C4.7 This cannot be done immediately, owing to the complex and technical nature of the exercise.

The Government has decided, however, that as an interim measure provision must be made for less formal systems of settlement and township establishment so as not to create a vacuum after the abolition of ethnically based systems for the provision of land and for township development. The Less Formal Township Establishment Bill provides for such settlement possibilities in circumstances, and at places, approved by the Administrator.

01.8 The question of housing should also be mentioned at this point. It was pointed out in paragraph 84.2.4 that squatting that takes the form of trespassing and taking over another person's property cannot be tolerated and that action against such persons should be timely and preventive rather than remedial. The provision of sufficient and affordable residential sites is the cornerstone of a successful housing strategy. Housing assistance aimed at providing sites with rudimentary but upgradable services is already being rendered countrywide. In addition, the State assists in the provision of loans for the erection of dwellings. This program is being conducted as part of the Government's broad commitment to the creation of settlement and housing opportunities.

01.9 The Government is aware of the difficulties that hinder the provision of sufficient land and funds for housing for low income groups. To address this problem the South African Housing Advisory Board has been instructed to advise the Government on a new national housing policy and strategy. This policy and strategy will provide for the adaptation and rationalisation of existing assistance programmes and services structures to ensure that they are geared to deal with rapid urbanisation and accumulated urbanisation needs.

C4.10 Naturally the provision of housing must go hand in hand with the provision of community facilities such as schools, health services, protection services and shopping and recreational facilities. The provision and efficient use of funds for community facilities is regarded as a high priority, and the Government has commissioned an investigation into an effective system whereby such financing may be conducted as part of its housing and urbanisation programme.

C5. Conservation and protection of the environment and resources

C5.1 In pursuing the foregoing policy positions, the conservation and preservation of land for future generations must be borne in mind. The Government is committed to consistently ensuring effective land utilisation, resource protection and environmental conservation practices. Air, water and land pollution, as well as the problems of soil erosion and damage to the environment, have grave implications for the country as a whole. These problems are giving rise to the deterioration of the natural resource base, which in turn is impairing the country's capacity to sustain economic growth and create prosperity in the long term.

C5.2 The changing land use patterns with which South Africa is faced as the result of both shifts in policy and changing demographic and economic conditions can have a substantial impact on the conservation aspects of the natural resource base. On the one hand those patterns can exert greater pressure on resources, while an easing of the pressure on resources can be expected in other cases. It is therefore important that the negative effects of a changing pattern of land use in South Africa be effectively countered and that proper use be made, also from a conservation point of view

of the opportunities created by the new policy of opening up settlement opportunities and promoting private interests in land

C53 Local problems in connection with the conservation of the environment and natural resources are not unique, but are international problems that extend across national boundaries. The Government joins the ranks (with the international community in its intentions and in the steps it is taking, to protect the environment and to conserve natural resources in the interests of present and future generations. Dealing with this problem calls for co-ordinated action by all parties in a national, a regional and an international context.

C34 Over the past few years various measures have been adopted to encourage and ensure the efficient use of the natural resources of the country. These measures have included the introduction of control measures, the provision of appropriate assistance and extension services to encourage sound agricultural practices. 2.1-: implementation of the Population Development Programme to secure a balance between the country's existing resources and its people, and the launching of environmental education programmes to encourage environmental literacy and awareness in the country. It is realised that conservation of the environment calls for a multi-disciplinary approach which, besides the measures that have been referred to, is also dependent on the implementation of a balanced policy of urbanisation and settlement, as well as on the socio-economic upliftment of communities, without which effective practices for the use of the environment cannot be ensured.

F55 The Government has requested the President's Council to investigate and make recommendations regarding a policy (in a National Environment Management System in the management of natural resources).

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mitigating circumstances in South Africa and the need for better co-ordination of actions taken by the authorities. The Government will also request the Presidents Council to investigate the effect that this the Paper will have on the conservation and protection of the environment and resources and to incorporate recommendations thereon in its report.

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1.6 The Government also undertakes to ensure that in revising assistance programmes in the field agricultural and rural development the need to promote greater management skills and expertise in relation to resource utilisation receives sufficient attention. Man is the key factor in the efficient exploitation of the development opportunities that land offers.

PART D

PROPOSED LEGISLATION

The five Bills proposed with a view to the implementation of some of the policies enunciated in this

White Paper are discussed below.

Abolition of Racially Based Land Measures Bill

31.1 The principal aim of the Bill is the repeal of the Black Land Act, 1913, the Development Trust

Act, 1936, the Group Areas Act, 1966, and the Black Communities Development Act, 1984.

as well as the deletion of racial restrictions on land tenure in all other laws, including laws relating to

tribal areas for the Coloured group and laws of the self-governing territories.

1.2 The Bill also incorporates amendments of various other Acts of Parliament which contain

references to the Acts being repealed. For technical reasons, these amendments do not cover all the

Acts of Parliament affected by the repeals. As regards the amendment of these Acts, it is proposed that

the State President be empowered to effect the necessary adjustments by proclamation after thorough

technical research.

1.3 While all statutory race reservations on land tenure are removed by the Bill, the ramifications

of these Acts and their overall influence on the Statute Book as a whole are so comprehensive as to

make it impracticable to deal with this in a single Bill. As explained in paragraph A19, many Acts of

Parliament, ordinances, proclamations and regulations are still technically affected as a result of the

repeal of the said Acts before their repeal.

1.4 Typical of the provisions at issue here are the many proclamations made in terms of section

26 of the Black Administration Act, 1927, in many instances with the effect of excluding the ordinary

reserves of the land. Where the scheduled and released Black areas demarcated in terms of the 1913 and

1936 Acts can no longer, after the repeal of those Acts, be administered as statutory racially exclusive

reserves, the proclamations in question will have to be amended or phased out and the ordinary laws of

tribal land, where necessary, extended to these areas.

1.5 The only practical way to effect adjustments on this scale is to empower the State President

to do so by proclamation. The Bill makes provision for such empowerment. For obvious reasons, this

power is widely framed and may, in terms of the proposal, be exercised to the extent "that appears to

be necessary or expedient to provide for the re-adjustment of matters in

a non-racial manner". The relevant categories of Acts of Parliament, ordinances and subordinate

legislation that can be amended in this way, are defined in the enabling provisions. With a view to

expediting the finalisation of this task, it is suggested that the power proposed to be granted

nted to the State

esident must lapse on 31 December 1994.

D1.6 Due to the wide extent and technical nature of the amendments to be effected and the fact

it these adjustments cut across the boundaries of the operational spheres of State departments. it is

proposed that the task be physically undertaken by a special advisory committee of experts who will at

the same time be able to achieve the necessary co-ordination among departments. In this regard the Bill

makes provision for the establishment and activities of the Advisory Committee on Non-racial Areas

measures.

D1.7 Although the Advisory Committee will liaise with all State departments and other relevant

departments, the Bill provides that the Minister of Justice will be responsible for the functioning of the

Committee. The Committee will be accountable to him and report to him on the progress made with

its task.

D1.8 The following specific matters regulated in the Bill are further elucidated:

(a) The South African Development Trust (SADT)

Since the SADT comprises a complex network of rights, structures and measures it cannot be

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abolished overnight. The Bill accordingly provides for the phasing out of the SADT through the systematic integration of its services, assets and staff in Government structures concerned with the general administration of the country. This will be done by way of proclamation by the State President. Here too, in view of the technical nature of the phasing out process, the physical task will be undertaken by the Advisory Committee in consultation with relevant State departments. To accommodate the phasing out of the SADT the repeal of the provisions of the 1936 Act dealing with the continued existence, powers and functions of the SADT will be proclaimed by the State President at a separate date.

(b) The Self-governing Territories

It is proposed that the Bill also be applicable to the self-governing territories and that all provisions of those territories that limit the acquisition and exercise of rights to land on the basis of race or population group, be repealed. It is further proposed that the power of the self-governing territories to make laws be qualified in the Self-governing Territories Constitution Act 1971, to the effect that limitations on land tenure in terms of race cannot be imposed. Since in those regions, to a great extent there is a need for the rationalisation and phasing out, where necessary, of existing racially oriented measures, it is proposed that the State President's proposed power of proclamation to amend laws should apply in the self-governing territories as well. However, a commitment to consultation with the governments of the self-governing territories is imposed.

(c) Interpretation provisions

Since it is impossible to eliminate all references in the Statute Book to "group areas", "scheduled Black areas", "released areas", "development areas" etc. by way of the Bill, for technical reasons provision is made in the Bill for the interpretation of these concepts in Acts in which they still occur. Thus it is provided that a reference to, say, a group area be interpreted as a reference to an area which, immediately prior to the repeal of the Group Areas Act, 1966, was a group area. The aim of this provision is primarily to retain the status function of, for example, group areas in other Acts, pending their amendment, and not indirectly to perpetuate the provisions of the Group Areas Act, 1966. For example, this provision maintains community development and local government on an interim basis as own affairs of a population group in areas identified with the area of group areas.

D2. Upgrading of Land Tenure Rights Bill

D11 The primary objective of this Bill is to rationalise a variety of lower order land tenure rights created by statute over the years, to incorporate the registration of these rights in accordance with the formal deeds registration system provided for in terms of the Deeds Registries Act, 1937, and to upgrade these rights to full ownership. The Bill also envisages certain special provisions relating to tribal land.

D22 The provisions of the Bill are explained on the basis of "formal" townships, "informal" townships and settlements and the traditional forms of communal possession.

D23 "Formal" townships

D2.3.1 Bi "formal" townships is meant towns duly surveyed in terms of the requirements (1) of the L(UH/

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Survey Act, 1971, and in which the more sophisticated forms of lower order land tenure rights such as leasehold and deeds of grant were awarded.

D232 In 1982 the Government decided to sell dwelling units built with government funds to the occupiers. This applied to all population groups and at the time it was estimated that approximately 500 000 dwelling units could be involved. Because the greater percentage were situated in Black townships and up to that stage ownership rights for Black people had not been available outside the scheduled and released Black areas, those townships had never been properly surveyed in terms of the requirements of the Land Survey Act, 1927. In order to facilitate these sales, a massive surveying programme was launched. To date the surveying profession and the Surveyors-General have succeeded in having plans already approved for approximately 900 000 sites. This has made it possible to grant leasehold rights on a large scale.

D133 A leasehold right may be converted to ownership as soon as a register has been opened in terms of section 46(1) of the Deeds Registries Act, 1937. Township registers in terms of section 46(1) have already been opened in the case of some of these townships, while in the case of the majority of other formal townships the opening of township registers poses only technical difficulties of a less serious nature.

D134 In those cases where township registers have already been opened, ownership can at present be granted; moreover, existing leasehold rights may be converted into ownership. However, the conversion of leasehold rights into ownership is an expensive process and thus there has not been to great

tanci. The Bill envisages converting upon its commencement all leasehold rights in these proclaimed

nships to ownership free of any costs.

2.3.5 As regards the other formal townships in which township registers have not yet been

ned, only leasehold or similar rights are available and as yet ownership cannot be granted. The main

, due to the opening of township registers, which would enable the granting of ownership in these

nships, is posed by certain legal and administrative problems encountered in regard to the cancelling

what for the most part are obsolete restrictive conditions and disused servitudes still registered

in the title deeds of the land on which the towns are laid out. In many instances the land has for

long been used in conflict with these conditions and servitudes. The Bill envisages overcoming these

difficulties by granting the Administrator the power to annul these obsolete conditions and servitudes

on notice in the Official Gazette on condition that compensation shall be paid for any proven damages

provided a claim is submitted within a period of three years. Subsequently, as soon as a

township is opened for a town, all leasehold rights in that town are deemed to be full ownership rights

acquired at no expense. The proposed annulment of these conditions and servitudes will have to

be effected by certain administrative and technical legal arrangements. With a view to expediting this

matter the Department of Public Works and Land Affairs will assist with the finalisation of these

arrangements.

2.3.6 It is estimated that approximately 300 000 existing leasehold rights and deeds of grant will

be converted to full ownership in terms of the provisions mentioned in paragraphs D134 and D235.

2.3.7 As far as new registrations after the opening of a township register are concerned, ownership will be granted forthwith and the need for leasehold, deeds of grant etc., will fall away.

Accelerated the sales programme mentioned in paragraph D232 acquires new momentum or is stimulated, this will give further impetus to the granting of ownership.

4.4 Informal townships and settlements

2.4.1 Although some of these townships and settlements have been surveyed, the vast majority

settled spontaneously or in the tribal context. Where these towns are situated on tribal land, the

present situation as elucidated in part B3 is maintained, except where tribes themselves elect to convert

to individual ownership.

2.4.2 With a view to promoting ownership, communities and tribes will be assisted to comply with

relevant technical, administrative and legal requirements in order to enable the holders of lesser

rights to acquire ownership most advantageously. In towns and settlements which have already been

surveyed, the basis for upgrading has already been laid. However, a major task lies ahead in respect of

the townships and settlements that have not yet been surveyed and the ground layout of which has

to be disentangled. It will be possible to set the administrative process of such planning and

proceeding in motion as soon as a community decides to convert to the granting of ownership. Physical

financial assistance by the Government will be made available for this purpose. The Bill makes

provision for such assistance and for the formalisation of such towns and settlements.

5 Tribal lands

The Bill provides for the regulation of the transfer to Black tribes of land presently occupied by them.

It entails all land registered in the name of the Minister of Development Aid, the State President.

government of a self-governing territory or the SADT in trust for a Black tribe. It includes SADT land allocated to the tribe administratively by the SADT. Should the tribe so decide, ownership in land be transferred to individual tribe members. To prevent exploitation of tribes, it is provided that no land belonging to a Black tribe may be leased, sold or otherwise disposed of to any person other than a member of the tribe without the permission of a court. Because disputes may arise concerning the boundaries of such land, provision is also made that a person may be appointed to investigate these and related matters and to make recommendations to facilitate the transfer of land to the tribe.

6 General

2.6.1 The Bill also makes provision for the transfer of certain land registration offices that currently fall under the Department of Development Aid, as well as those in the self-governing territories, to the Department of Public Works and Land Affairs, to enable them to be formally incorporated into the deeds registration system in terms of the Deeds Registries Act, 1937. Such transfers entail the transfer of the registers in which the relevant land tenure rights are registered. Since some of these registers are obsolete, discretionary powers are granted in terms of the Bill with a view to their being updated. The Bill also provides for the transfer of those surveying services at present under the

control of the Department of Development Aid and the self-governing territories, to the Department

of Public Works and Land Affairs.

D3. Residential Environment Bill

D3.1 Provision is being made in the Bill for measures aimed at_

(a) the preservation and protection of cities and towns against physical deterioration;
(b) the maintenance of norms and standards in residential environments at least at a level suitable to

(c)

(a)

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the relevant environment; and

settlement of disputes that disturb neighbourhood and community relations.

D32 In order to achieve these three objectives, the Bill makes provision for the following:

D3.2.1 Conservation and protection of cities and towns against physical decay

The Bill provides for the establishment of an Urban Environment Board with the purpose of striving for an urban environment free of physical deterioration in which communities can develop

in a balanced and orderly way and achieve a higher quality of life. The proposal is that the Board

will consist of experts in the field of urban renewal and will function within the Department of

Planning, Provincial Affairs and National Housing, chiefly in an advisory capacity.

The Board is empowered to declare urban and township areas in which physical deterioration is in

evidence, as renewal areas and to assist local authorities with renewal projects by way of control,

guidance and advice.

The Bill makes provision for financial assistance to local authorities to undertake such projects out

of appropriated funds. Since the clearance of physical deterioration is in the first instance a

responsibility of local authorities, the Bill stipulates that State funds are not provided unless the

Director-General of Planning, Provincial Affairs and National Housing is satisfied that the relevant

local authority has no reasonable prospect of obtaining the necessary resources, either from its own

sources or elsewhere.

The Bill also makes provision for the clearance of undesirable physical conditions on premises.

Local authorities are vested with the necessary powers to take action against owners responsible

for such conditions. In line with this, it is proposed that the Slums Act and the provisions relating

to slums in the Development and Housing Act (House of Assembly), 1985' be repealed. Substitute

provisions are contained in the Bill.

D322 Maintenance of norms and standards in residential environments

The Bill confers additional powers on local authorities to make by-laws in respect of the maintenance of norms and standards in areas under their control. Such by-laws may be in respect

of, inter alia

- combating over-occupation of residential premises;

- the use for residential purposes of premises unsuitable for such use;

- the effective implementation of restrictions on the use of premises;

.. maintaining premises in a tidy and hygienic condition:

- promoting sound relations in the neighbourhood and combating behaviour on premises that could disturb such relations; and

- the orderly and civilised use of public facilities.

Contravention of such by-laws is punishable. In addition, a person who is aggrieved by non-compliance with or contravention of such a by-law, is afforded the power to apply to a court

for a peremptory or prohibitory interdict against the offender. The philosophy underlying the

extension of locus standi in these instances is that in future people will have to be more self-reliant

as regards the protection of their rights and that the courts will play an important role in this regard.

In line with the principle of devolution of power, provision is made that in cases where at least a large majority of the owners/occupiers of premises in a specific neighbourhood desire the above by-laws. the relevant local authority may be compelled to make such by-laws for the neighbourhood in question.

It should also be mentioned that by-laws that differentiate on the basis of race or colour will not be permitted by law.

3.2.3 Mediation to settle disputes that disturb neighbourhood and community relations
The of the foreseeable consequences of the repeal of the Group Areas Act, 1966, and other laws
regarding land rights, is that a need will arise for an easily accessible government mechanism capable of
acting in the interests of sound neighbourhood and community relations as mediator in the settlement
of disputes concerning factors which could disturb relations in a community. Although the ordinary
methods are available to settle these disputes, the need is rather for a mechanism that could mediate on
a ground level in such disputes.

For this purpose the Bill empowers the Administrators to designate officials under their control as
liaison officers to identify nuisances and receive and investigate complaints as to the denial of
community values. The underlying idea is that these officers negotiate with the parties concerned with
a view to eliminating the cause of the complaints and reporting nuisances and malpractices to the
government body concerned.

The Bill further provides for the designation of a panel of persons who are justices of the peace in
terms of the Justices of the Peace and Commissioners of Oaths Act, 1963, to settle disputes
that disturb neighbourhood and community relations in accordance with an informal procedure while complying
with the principles of natural justice. The Bill authorises Justices of the Peace on the panel
to issue enforceable orders, non-compliance therewith being punishable.

Less Formal Township Establishment Bill

1. In part C4 reference was made to the development challenge that urbanisation poses for the
country, and to the fact that urgent attention is currently being devoted to the updating of
the Urbanisation Act. The purpose of this Bill is to serve as an interim measure to deal
with the more immediate needs of urbanisation until such time as a comprehensive urbanisation strategy has been
devised.

The Bill makes provision for:
the creation, in accordance with special shortened procedures, of informal, upgradable
opportunities for residential settlement on suitable land at places where an urgent need exists
for such a settlement opportunities;
the establishment, in accordance with special shortened procedures, of less formal upgradable
townships on suitable land at places where a need exists for such townships; and
the orderly utilisation by tribal communities for communal residential purposes of land
suitable for such communal purposes and capable of being upgraded at the instance of the tribal community to
a system of individual possession.

2. Creation of informal, upgradable settlement opportunities

2.1 The Bill confers on the Administrator the power to designate State land at his disposal,
or other land, at the instance of the owner, as land on which informal settlement may take place. Land
designated in this way unless the Administrator is convinced that there is a pressing need in the
question for informal settlement opportunities and the land in question is suitable for this form
of settlement. Land thus designated must be surveyed and developed for settlement by the Administrator
if it is State land or, if it is not State land, under his supervision. The Bill specifies that the
provisions relating to formal township development are not applicable to the development of such an
area.

2.2 In order that land designated in this way may be made available expeditiously, the

Administrator is empowered to suspend certain restrictive statutory provisions and, subject to the
ent of compensation, to cancel certain servitudes and restrictive conditions on the land.
it
ll 7.3 The development of the area is undertaken at the discretion of and in accordance with the
with the
ions of the Administrator. The only formal requirements are that the land must be surveyed in
d in
Liance with the provisions of the Land Survey Act, 1927. and that the approved or provisionally
onally
(ved general plan be submitted to the registrar of deeds. The Land Survey Act is being amended
ended
vide for such provisional approval of general plans. In general. it is required of the Administrator
administrator
.. lure that the land be developed in such a way that it is suitable for upgrading at a later stage.
ater stage.
I: 2.4 The Bill provides for representations to be made by interested parties in regard to the
o the
jessitation and development of land for informal settlement. The long drawn-out procedure
currently
med for formal township development is, however, eliminated.
. 2.5 To enable settlement to take place at the earliest possible stage, the Bill provides that sites
s that sites
:an ,: allocated as soon as the erf beacons are put into place by the surveyor; in other
words, before
he .neral plan is drawn up and submitted to the surveyor-general for approval or even provisional
visional
ipp val. Provision is also made for special cases where settlement may even take place before the
fore the
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placement of the beacons. Allocations on State land may or may not entail the payment of compensation.

D4.2.6 On receipt of the approved or provisionally approved general plan. the registrar of deeds

must open a township register in terms of section 46(1) of the Deeds Registries Act, 1937, upon which

the township is deemed to be an approved township. The opening of a township register opens the way

for the direct granting of ownership of the sites allocated. If the State or, where the land has been

developed by another agency. such other agency. wishes to grant ownership of the allocated sites, a

certificate of ownership containing the name and particulars of each person to whom a site is allocated

must be submitted to the registrar. The registrar must endorse the certificate and note the registration

of ownership in his register, no moneys or transfer duties being payable. One copy of the certificate is

provided to the new owner.

D4.3 Establishment of less formal townships

D4.3.1 The Black Communities Development Act, 1984. currently provides for the establishment of

townships in Black urban areas for Black persons. The Development Trust and Land Act. 1936. contains

similar provisions in respect of scheduled and released areas. The need for these formal townships will

not fall away with the repeal of these Acts. and the Bill therefore makes provision for this. but not on

a racial basis.

. D432 In view of the substantial housing backlog. the time factor is also of the utmost importance

in the development of these townships and extensions. The time-consuming processes required by the

laws on formal township development are not suitable for the less formal townships and accordingly the

Bill provides for a shortened procedure, as in the case of informal settlement.

D4.3.3 Whereas in the past townships for Black and coloured persons were restricted to specific

areas. due to the repeal of the above Acts and the Group Areas Act. 1966. this will no longer be the

case. and it will be possible to establish less formal townships anywhere as the need arises. but subject

to the suitability of the land for this purpose.

D4.3.4 As in the case of formal township development. the Bill leaves the determination of the

need and the suitability of the land for such a township to the discretion of the Administrator. within

the framework of the laws on physical planning etc. The Bill provides that no person may submit an

application for the founding of a less formal township in terms of the envisaged Act unless the

Administrator has granted prior permission. If such permission has been granted. the provisions

relating to formal township development are not applicable. If he does not grant permission. the

developer must submit his application in accordance with the laws relating to formal township

development.

D435 As in the case above. the Bill provides for shortened procedures. However. the sale of sites

and construction work is not permitted before a township register is opened in the office of the registrar

of deeds.

D4.4 Use of land for communal residential purposes in accordance with indigenous systems of land

usage

D4.4.1 The provisions of the Bill dealing with communal possession are relevant to paragraphs

A2.11(d). 83.6 and 83.7. To enable tribes and tribal communities to acquire land for communal

possession without. however. compromising high-potential agricultural land or other land

unsuitable

or communal residential use. the Bill provides that land which a tribe wishes to use on a communal

basis for residential purposes must first be declared suitable for such use b) the Administrator. If, on

applying the criteria specified in the envisaged Act. the Administrator finds that the land is not suitable

or communal residential use. the land will not be so declared and the tribe will not be able to use it for

communal residential purposes. The Rural Development Bill regulates the communal use of land for

residential purposes. (See D5.)

D442 Where land is declared suitable for communal possession. the Bill requires that settlement

of the individual members of the tribe take place in accordance with an approved general plan. The

subject in this regard is to make it possible for the tribe to convert to individual ownership at a later

stage. This is made possible by a provision in the Bill to the effect that the registrar of deeds shall open

township register for the land if requested to do so by the tribe.

)5 Rural Development Bill

D5.1 Rural development is probably the one sphere in which co-ordinated planning and action on

national basis has been lacking. both within and outside the self-governing territories. Serious

problems relating to the utilisation of land and socio-economic backlogs are widespread in rural areas.

These problems and lack of development. besides giving rise to ecological deterioration. also contribute

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guards conditions'of poverty, tinemployment, landlessness and a diminishing capacity of c
ommunities

. ?dtlsfy theit basic needs. It is_ accordingly necessary to promote the socio-economie u
pliftment of

Ural communities and the creation Of opportunities to panicipate in the development proce
ss in the

iOUntry. This signifies that it is necessary to develop both the human potential and the
resource base

it these regions.

D52 It is necessary to ensure that rural development takes its rightful place alongside u
rbanisation.

tUral development must be undertaken on an integrated basis and for this purpose a nation
al rural

evvelopment strategy is necessary. It is also necessary for the existing rural development
promummes

lld Structures to be rationalised with a view to more purposeful and co-ordinated action.
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With the above objectives in view, the Bill makes provision for:

.1) The establishment of a National Rural Development Corporation;

) agricultural settlement schemes; and

l?) the communal use of land for agricultural settlement.

.1 D53 The establishment of a rural development corporation

45135.31. The Bill provides for the establishment of a rural development corporation with
the object

contributing towards and co-ordinating the development of rural areas at a national level
with

ference to the development needs of such areas. The Corporation will be a corporate body.

135.32 The SADT is one of the primary instruments for promoting the development of rural
tnlnities. The phasing out of the SADT and the integration of its functions with the Sta
te

lm'lnlstration underlines the need for instruments of government capable of focusing in a
n integrated

Shion on the unique problems of rural development. Thus the establishment of the new corp
oration

ll. In addition, fill the vacuum that will be caused by the phasing out of the SADT. It i
s proposed that

8 development arm of the SADT. the STC. will be integrated into the new corporation.

13.5.3.3 The main object of creating the Corporation is to provide an instrument to enabl
e the

lJtIernment to proceed with the rationalisation and co-ordination of the many existing co
rporate

;titutions active in the sphere of rural development. The Corporation will be capable of
implementing

jGovernmentls national rural development programmes on an integrated basis and will co-or
dinate

tional rural development programmes at the national level. The Corporation will also be r
esponsible

'the mobilisation of foreign and private-sector resources for the purposes of rural devel
opment. The

Cleus of the skills required for the operation of the Corporation is already to be found
in the STC.

35.3.4 In order to achieve the proposed rationalisation and co-ordination of corporations
active in

'sphere of rural development. including those of the self-governing territories. it is pr
oposed that the

:te President be empowered to adopt the necessary measures by way of proclamation. These
powers

i lude the abolition or amalgamation of activities of corporations, the transfer of activ
ities from one

'poration to another. the merging of corporations. the demarcation of operational spheres
and

ritories. the co-ordination of services etc. The proposed national corporation will play
an important

) in such rationalisation by taking over the services that should be conducted at a natio
nal level.

5.4 The implementation of agricultural settlement schemes

1)541 The Bill provides for the utilisation of State land or other land acquired b) the
State for the

poses of agricultural settlement. Acquisition of additional land for this purpose will be
by way of

chase. The responsible Minister is empowered to lay out suitable land in settlements. div

ide it into

ti ning units and develop it.

)5.4.2 In terms of the Bill the allocation of farming units will be done on the advice of a committee

0 :xperts in accordance with prescribed criteria and by public invitation. Race will not plat a role.

i543 It is proposed that allocations be made on the basis of a probationary lease for a p eriod not

I(i zer than three years and. if on the expiry of this period the lessee is found to be s uitable. for a period

Ease of not longer than 15 years. During the second period the lessee will have the optio n of buying

farming unit on or before the expiry of the period of the lease. at a price to be calcula ted as

:rmined b) regulation.

l 5.4.4 The operation of the scheme. including financial and other assistance to lessees. will be in

5.4.5 These provisions of the Bill will open the door to agricultural settlement and the :Dlishment of suitable types of settlement and will apply to all. irrespective of race or colour. They

23

D5.4.6 The Bill also makes provision for the development of settlement schemes by private agencies.

D55 The use of land for communal agricultural settlement

D5.5.1 In view of the repeal of the Group Areas Act, 1966, it will be possible for tribes and tribal Communities to enter the agricultural land market and purchase land for residential and agricultural Purposes.

D5 5... 7 The unproductive use of high-potential agricultural land must be discouraged. The purchase

of land by tribes and tribal communities poses this very risk namely that high-potential agricultural land may be lost as a result of communal use of such land in accordance with unproductive traditional

Systems of land tenure. It is envisaged that the Bill will counteract the loss of such land while it is the same

by time making provision for the tribal demand for agricultural land.

D5.) 3.3 Whereas tribes will be free to purchase land laws such as those in respect of the subdivision

of agricultural land and township development will stand in their way if they wish to turn such land to

communal use. The Bill therefore provides that tribes are entitled to use such land for the purchase for the purposes of communal agricultural settlement provided certain requirements are

complied with. It is proposed that the responsible Minister be empowered to determine whether

land which the tribe wishes to acquire has acquired is suitable for the purpose of agricultural settlement. The question of whether land is suitable for communal use must be

on the basis of criteria specified in the Bill for example the economic carrying capacity of the land. The

Minister approves the use of the land in question for that purpose. The subdivision of Agricultural Land

in 1970 and the laws on township development will not be applicable thus opening the land to

communal usage. However in order to ensure productive use of the land it is possible to

convert to individual ownership of land at a later stage the tribe will be obliged to lay out and

surveyed settlement on the land and to allocate farming units to members of the tribe in accordance with the layout plan. The size of the units must be determined with a view to their viability.

The layout and development of the scheme must be conducted under the supervision of the Minister

D5.5.4 While the allocation of individual ownership in the various units is not a

requirement, a tribe will at any time be in a position to decide on the issue of ownership because the

units will have been surveyed, and may at a later stage transfer such units to the individuals to whom

they have been allocated. The proposed system therefore incorporates a mechanism whereby to convert

to individual ownership at any time suitable to the tribe.

D555 The Bill does not affect existing tribal lands. The communal use of land by tribes for residential purposes is dealt with in the Less Formal Township Establishment Bill.

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LAND POLICY FRAMEWORK

POINTS OF DEPARTURE

0 Access to land a basic human need

0 Free enterprise and private ownership the appropriate system to fulfill this need

POLICY OBJECTIVES

BROADENING ACCESS UPGRADING OF UTILISATION OF TO LAND RIGHTS TO THE QUALITY AND SECURITY LAND AS WHOLE POPULATION OF THE TITLE IN LAND A NATIONAL ASSET

POLICY POSITIONS POLICY POSITIONS

1. Abolition of all racially based restrictions on 1. Upgrading of land rights and ration alisa-

land rights tion of land registration systems

2. Ateiqtmco to promote access to land rights . Accommodation of tribal land system and evolutionary conversion to system of individual ownership

. Protection of the integrity of the title in land

POLICY POSITIONS

1. Maintenance 01 the commercial production capacity of agricultural land accompanied by open access to agricultural assistance

2. Active promotion of rural development particularly in less developed areas

3. Acceleration of the provision of sufficient land for urbanisation

4. Conservation and preservation of land for future generations

PROPOSED LEGUSLATION

- Abolition of Racially Based Land Measures Bill

PROPOSED LEGISLATION

0 Upgrading of Land Tenure Rights Bill

0 Residential Environment Bill

PROPOSED LEGISLATION

0 Less Formal Township Establishment Bill

0 Rural Development Bill