

# The National Housing Code

## RURAL INTERVENTIONS

---

Communal Land Rights

---

**Farm Resident Subsidies**

---

Subsidy Quantum - Rural Interventions

---



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA

Volume 5

## TABLE OF CONTENTS

<b>ACRONYMS</b> .....	<b>5</b>
<b>DEFINITIONS</b> .....	<b>7</b>
<b>PART A: POLICY PROVISIONS</b> .....	<b>11</b>
<b>1 OVERVIEW</b> .....	<b>11</b>
<b>2 CHALLENGES FACING FARMING COMMUNITIES</b> .....	<b>17</b>
<b>3 POLICY PRESCRIPTS</b> .....	<b>21</b>
<b>3.1 POLICY INTENT</b> .....	<b>21</b>
<b>3.2 POLICY PRINCIPLES</b> .....	<b>22</b>
<b>3.3 APPLICATION OF THE PROGRAMME</b> .....	<b>23</b>
<b>3.4 OTHER HOUSING SUBSIDY OPTIONS NOT COVERED BY THIS PROGRAMME</b> .....	<b>25</b>
<b>3.5 WHO WILL BE ASSISTED?</b> .....	<b>26</b>
<b>3.6 FUNDING ARRANGEMENTS</b> .....	<b>30</b>
<b>3.7 TECHNICAL NORMS AND STANDARDS</b> .....	<b>30</b>
<b>3.7.1 BASIC SERVICES</b> .....	<b>30</b>
<b>3.7.2 TOP STRUCTURES</b> .....	<b>31</b>
<b>3.7.3 EXTRAORDINARY DEVELOPMENT CONDITIONS</b> .....	<b>32</b>
<b>3.7.4 BUILDING PLANS</b> .....	<b>32</b>
<b>3.7.5 ACCOMMODATION FOR SEASONAL WORKERS</b> .....	<b>32</b>
<b>3.8 DEVELOPMENT OPTIONS</b> .....	<b>33</b>
<b>3.8.1 HOUSING DEVELOPMENT BY THE FARM OWNER</b> .....	<b>33</b>
<b>3.8.2 HOUSING DEVELOPMENT BY A HOUSING INSTITUTION</b> .....	<b>38</b>
<b>3.8.3 INDIVIDUAL OWNERSHIP DEVELOPMENTS FOR FARM RESIDENTS BY THE FARM OWNER</b> .....	<b>41</b>

3.8.4	<b>INDIVIDUAL OWNERSHIP DEVELOPMENTS FOR FARM RESIDENTS BY A PROVINCIAL GOVERNMENT OR PRIVATE DEVELOPER .....</b>	<b>43</b>
3.8.5	<b>INDIVIDUAL OWNERSHIP DEVELOPMENTS THROUGH THE ENHANCED PEOPLE’S HOUSING PROCESS (EPHP).....</b>	<b>46</b>
3.8.6	<b>HOUSING DEVELOPMENT IN ALIGNMENT WITH THE LABOUR TENANT STRATEGY .....</b>	<b>46</b>
<b>4</b>	<b>INSTITUTIONAL ARRANGEMENTS.....</b>	<b>53</b>
4.1	<b>BENEFICIARIES.....</b>	<b>53</b>
4.2	<b>MUNICIPALITIES.....</b>	<b>53</b>
4.3	<b>PROVINCES .....</b>	<b>53</b>
4.4	<b>NATIONAL DEPARTMENTS.....</b>	<b>54</b>
<b>5</b>	<b>DEPARTMENTAL ALIGNMENT.....</b>	<b>57</b>
<b>6</b>	<b>MONITORING AND EVALUATION .....</b>	<b>57</b>
	<b>PART B: GUIDELINES FOR THE IMPLEMENTATION OF PROJECTS .....</b>	<b>61</b>
1.	<b>NATURE OF GUIDELINES.....</b>	<b>61</b>
2.	<b>IMPORTANT CONSIDERATIONS.....</b>	<b>65</b>
2.1	<b>IMPLEMENTING AGENTS .....</b>	<b>65</b>
2.2	<b>SECURITY OF TENURE.....</b>	<b>65</b>
2.3	<b>SUBSIDY AMOUNT AND BENEFICIARY CONTRIBUTIONS.....</b>	<b>66</b>
2.4	<b>ZERO RATING OF HOUSING SUBSIDIES FOR VALUE ADDED TAX (VAT) PURPOSES .....</b>	<b>66</b>
2.5	<b>PROCUREMENT COMPLIANCE .....</b>	<b>67</b>
<b>3</b>	<b>SUGGESTIONS ON HOW TO IMPLEMENT .....</b>	<b>71</b>
3.1	<b>PLANNING AND FUNDING RESERVATION.....</b>	<b>71</b>
3.2	<b>CALL FOR PROJECT APPLICATIONS.....</b>	<b>72</b>

<b>3.3 ASSISTANCE TO HOUSEHOLDS TO ESTABLISH LEGAL ENTITIES .....</b>	<b>72</b>
<b>3.4 APPLICATION OF THE PROGRAMME .....</b>	<b>73</b>
<b>3.4.1 DEVELOPMENT OPTIONS .....</b>	<b>73</b>
<b>3.4.2 USE OF THE FUNDING .....</b>	<b>73</b>
<b>3.4.3 NATIONAL NORMS AND STANDARDS IN RESPECT             OF SERVICES AND PERMANENT RESIDENTIAL             STRUCTURES .....</b>	<b>73</b>
<b>3.5 HOW TO MAKE AN APPLICATION AND CONCLUDE THE PROJECT AGREEMENT .....</b>	<b>74</b>
<b>3.5.1 THE FARM OWNER WILL DEVELOP RENTAL HOUSING ON HIS/             HER FARM .....</b>	<b>74</b>
<b>3.5.2 HOW THE PROVINCIAL DEPARTMENT EVALUATES THE             APPLICATION .....</b>	<b>75</b>
<b>3.5.3 PROJECT AGREEMENT .....</b>	<b>77</b>
<b>3.5.4 PROGRESS PAYMENTS TO THE FARM OWNER .....</b>	<b>78</b>
<b>3.5.5 DEVELOPMENT OF RENTAL HOUSING ON THE FARM BY             HOUSING INSTITUTIONS .....</b>	<b>79</b>
<b>3.5.6 DEVELOPMENT OF THE INDIVIDUAL FARM PORTIONS BY             THE FARM OWNER .....</b>	<b>82</b>
<b>3.5.7 DEVELOPMENT OF INDIVIDUAL SUBDIVISIONS BY THE             BENEFICIARIES .....</b>	<b>83</b>
<b>3.5.8 DEVELOPMENT BY THE MUNICIPALITY / PROVINCIAL             DEPARTMENT ON BEHALF OF THE BENEFICIARIES .....</b>	<b>83</b>
<b>3.5.9 DEVELOPMENT BY A PRIVATE SECTOR CONTRACTOR ON             BEHALF OF THE BENEFICIARIES .....</b>	<b>84</b>
<b>3.5.10 INDIVIDUAL OWNERSHIP DEVELOPMENT THROUGH AN             APPROVED ENHANCED PEOPLE’S HOUSING PROCESS             PROJECT .....</b>	<b>85</b>
<b>3.5.11 HOUSING DEVELOPMENT IN ALIGNMENT WITH THE LABOUR             TENANT STRATEGY OF THE DEPARTMENT OF RURAL             DEVELOPMENT AND LAND REFORM .....</b>	<b>86</b>

**4 MONITORING OF THE PROGRAMME ..... 89**

**ACRONYMS**

Extension of Security of Tenure Act, 1997	ESTA
Integrated Sustainable Rural Development Strategy, 2000	ISRDS
Department of Agriculture, Forestry and Fisheries	DAFF
Department of Rural Development and Land Reform	DRDLR
National Department of Human Settlements	ND
Department of Labour	DOL
Department Cooperative Governance and Traditional Affairs	DCGTA
National Home Builders Registration Council	NHBRC



## DEFINITIONS

For purposes of this National Housing Programme, the following definitions are applicable:

<b>Beneficiary:</b>	A person who satisfies the qualification criteria of any of the National Housing Programmes and who may apply and be granted a housing subsidy.
<b>District Municipality:</b>	A municipality that has municipal executive and legislative authority in an area that includes more than one local municipality, and which is described in section 155(1) of the Constitution as a category C municipality.
<b>ESTA:</b>	Extension of Security of Tenure Act, 1997 (Act 62 of 1997).
<b>Farm owner:</b>	The current registered owner of the farm on which farm workers and occupiers reside and/or who may have subdivided his/her land and transferred such subdivisions to farm workers/occupiers that previously resided on the farm owner's land.
<b>Farm occupier:</b>	A person residing on land which belongs to another person, and who has on 4 February 1997 or thereafter had consent or another right in law to do so, and includes long-term occupiers as defined in ESTA, and other workers in the agricultural sector such as domestic and farm security personnel.
<b>Farm resident:</b>	Any farm occupier, any farm worker residing on the farm and any labour tenant described in this section and who qualify as beneficiaries.
<b>Farm workers:</b>	Includes persons which are employed by the farm owner to work on the farm.
<b>Housing Institution:</b>	A legal entity with the only and primary object to acquire, develop and hold immovable property stock for occupation by qualifying subsidy beneficiaries.
<b>Labour Tenant:</b>	A person registered as a labour tenant in terms of the provisions of the Land Reform (Labour Tenants) Act, 1996 (Act No 3 of 1996).
<b>Integrated Development</b>	A development plan which deals with the integration of different strategies and sector plans relating to development, such as economic, spatial,

<b>Plan:</b>	social, infrastructural, housing, institutional, fiscal, land reform, transport, environmental and water plans, to attain the optimal allocation of scarce resources in a particular geographic area, and includes an integrated development plan as defined in section 10B of the Local Government Transition Act, 1993 (Act 209 of 1993).
<b>Municipality:</b>	A Local or a District or a Metropolitan Municipality as described in the Local Government: Municipal Structures Act, 1998 (Act 117 of 1998).
<b>Sector Plan:</b>	A written strategy or plan which deals mainly with one of the sectors or elements or particular subjects that form part of an integrated development plan and which may be a spatial, economic, land reform, environmental, housing, water or transport plan.
<b>Sustainable Rural Settlements:</b>	In accordance with the definition in the Integrated Sustainable Rural Development Strategy (ISRDS) (2000) sustainable rural settlements are “socially cohesive and stable rural communities with viable institutions, sustainable economies and universal access to social amenities, able to attract and retain skilled and knowledgeable people, who [are] equipped to contribute to growth and development”.
<b>Town:</b>	A public settlement under the jurisdiction of a municipality and providing for full land ownership. In the context of this programme the term town is used synonymously with agricultural service centre.

# The Housing Code

## Farm Resident Subsidy Programme

### **PART A Policy Provisions**

#### **1 Overview**

#### 2 Challenges Facing Farming Communities

#### 3 Policy Prescripts

#### 4 Institutional Arrangements

#### 5 Departmental Alignment

#### 6 Monitoring and Evaluation

### **PART B Guidelines for the Implementation of Projects**

#### 1 Nature of Guidelines

#### 2 Important Considerations

#### 3 Suggestions on How to Implement

#### 4 Monitoring of the Programme



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



## PART A: POLICY PROVISIONS

### 1 OVERVIEW

The Comprehensive Plan for the Creation of Sustainable Human Settlements, approved in September 2004, specifically called for a stronger rural housing development focus. This is to be achieved through:

- a) The economic, social and institutional sustainability of farm worker settlements; and
- b) The strengthening of the required institutional framework, the definition of the roles and responsibilities of implementing agents, the introduction of minimum technical norms and standards and secure tenure options, the introduction of suitable capital assistance mechanisms and legislative adjustments where required.

This Housing Assistance Programme has been developed with these principles in mind. The Programme provides capital subsidies for the development of engineering services- where no other funding is available, and adequate houses for farm workers and occupiers in a variety of development scenarios where feasible and practicable.

It is self-evident that in the light of the on-going restructuring of the rural socio-economic landscape, the focus of this Housing Programme should be on strengthening existing service centres, towns and villages rather than compounding the problem by the injudicious creation of new agriculturally based (unsustainable) settlements. Existing settlements can be strengthened by housing investment for farm residents.

In considering the settlement of farm residents, a number of key considerations have to be taken into account and these include:

That the nature of farming activities varies greatly across the country. This implies that different settlement models for farm workers/occupiers need to be considered to meet local requirements.

For example:

- a) **Intensive (high yield) farming** (e.g. Fruit/vegetable/wine or chicken farming), is typically practiced on relatively small farming units, is labour intensive (especially during cropping season) and settlement patterns are often relatively dense. In such cases it is preferable to house workers in sustainable settlements (such as the nearest town) within convenient travelling distance of work opportunities. This has the advantage that households have access to social and economic

amenities associated with such settlements. In particular those members of households that do not have full time employment in agriculture can find alternative work opportunities in the town. Children also have access to schools and households to clinics, recreational facilities etc. This is considered the most sustainable settlement scenario and should be pursued as a first priority. In this case any of the existing subsidy instruments which provide ownership or rental accommodation can be pursued;

- b) Extensive farming areas** are characterised by large farms (often a few thousand hectares in extent) separated from the nearest town by long distances. Owing to the nature of farming activities, often cattle or game ranching, the labour force is small and it is impractical to house them in the nearest settlement (outside convenient commuting distance). In this scenario it may be more appropriate to house the limited number of workers on the farms. Tenure arrangements can be by way of rental accommodation or if it is considered desirable and feasible by way of sub-division of a part of the farm and transfer of property rights (E.g. freehold, share block scheme, long term leasehold) to the workers concerned. In considering the ownership option cognisance must be taken of considerations such as the ability of the municipality to provide social services to the settlement, what will happen if employment comes to an end and workers no longer wish to reside in the area (bearing in mind that they have exercised their right to a once off subsidy). Hence the sub-division and ownership option should be exercised with circumspection; and

Areas somewhere in between the two previous scenarios which may be neither intensive nor extensive in nature and may take solutions from both the above two scenarios, depending on local circumstances.

Many subsistence farmers reside on land in communal tenure in which case housing assistance is rendered through the National Housing Programme: Rural Housing: Informal Land Rights

The Land Reform (Labour Tenants) Act, 1996 on the 22 March 1996 requires a person who believed that he/she complied with the criteria of being a labour tenant as contemplated by the Act, to lodge a claim to the land he/she occupied by not later than 31 March 2001. Assistance under the programme *inter alia* entailed vesting of ownership of properties in the name of the successful beneficiaries.

The Department of Rural Development and Land Reform through its various Provincial Land Reform offices has developed province specific strategies for the implementation of the programme including *inter alia* strategies that are area or community based, focussing on a project approach as opposed to the *ad hoc* single beneficiary approach. This approach allows the programme to be aligned with

benefits available under other developmental programmes such as the National Housing Programme.

The national Housing Programme for Farm Residents is aligned with the Land Reform: Labour Tenant Programme, providing a holistic solution to address the housing and developmental needs of labour tenants targeted by the Land Reform Programme.



# The Housing Code

## Farm Resident Subsidy Programme

### **PART A Policy Provisions**

- 1 Overview
- 2 Challenges Facing Farming Communities**
- 3 Policy Prescripts
- 4 Institutional Arrangements
- 5 Departmental Alignment
- 6 Monitoring and Evaluation

### **PART B Guidelines for the Implementation of Projects**

- 1 Nature of Guidelines
- 2 Important Considerations
- 3 Suggestions on How to Implement
- 4 Monitoring of the Programme



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



## 2 CHALLENGES FACING FARMING COMMUNITIES

Before articulating policy intent and principles, it is considered appropriate to highlight the current spatial settlement patterns which will influence decision making.

Owing to the restructuring of the agricultural sector, many small agriculturally based towns and villages are struggling to survive. Their functions as agricultural service centres have changed and they have experienced a flight of commercial, professional and other higher order services. Many have lost their revenue base and become “poverty traps” for the residual, largely poorly educated and most marginalised part of society. Workers who have been forced off farms, owing to a variety of reasons, often retain tenuous ties with agriculture and have nowhere to go but to the nearest small town/settlement where they live in dire conditions.

Some small / rural settlements have managed to transform themselves through re-engineering their basic (agricultural services) economic base and focussing on tourism etc. but the majority have not made this transition and may not have the potential.

Rural municipalities are severely challenged to provide basic services to existing rural towns/settlements.

Specific housing related challenges:

- a) The provision of basic services could prove a challenge if houses are to be built on farms (private property);
- b) From the interaction with the stakeholders it is clear that there is a tension between commercial farmers and land rights legislation benefiting farm residents. Farm owners are in most instances hesitant to take the initiative to improve living conditions on their farms as it could be construed as compromising their property rights. They also fear the consequences of any disruptive actions that farm residents may embark upon. On the other hand, the farm workers/occupiers often live in the most dire conditions and are amongst the most vulnerable groups. They are largely uninformed of their rights. These aspects compound the complexities of sustainable housing development;
- c) There are serious land tenure issues in many areas that could complicate service delivery on farms;
- d) The affordability to farm workers and occupiers to pay the cost of housing and associated municipal rates and service charges that will arise in most off-farm settlement options;

- e) The majority of the more rural municipalities confront enormous capacity challenges, and may not be in a position to adequately cope with planning, and the delivery of services; and
- f) The situational analysis has, moreover, confirmed the importance of an integrated approach to settlement planning, development and servicing, which locates primary responsibility at the municipal level.

Against this background this Programme attempts to address the wide variety of housing needs of people working and residing on farms and to provide a flexible package of housing models to suit the local context.

# The Housing Code

## Farm Resident Subsidy Programme

### **PART A Policy Provisions**

- 1 Overview
- 2 Challenges Facing Farming Communities
- 3 Policy Prescripts**
- 4 Institutional Arrangements
- 5 Departmental Alignment
- 6 Monitoring and Evaluation

### **PART B Guidelines for the Implementation of Projects**

- 1 Nature of Guidelines
- 2 Important Considerations
- 3 Suggestions on How to Implement
- 4 Monitoring of the Programme



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



### 3 POLICY PRESCRIPTS

This Programme has been approved by the Minister of Housing in terms of the provisions of Section 3 of the Housing Act, 1997 (Act No. 107 of 1997), and this Section provides the prescriptive framework for the Programme and covers:

- a) The application of the programme;
- b) The eligibility criteria for the programme
- c) The roles and responsibilities for the implementation of the Programme; and
- d) The funding arrangements and subsidy payment provisions;

#### 3.1 POLICY INTENT

The programme aims to provide a flexible mechanism which will promote access to adequate housing, including basic services (as an option of last resort) and secure tenure to farm workers and residents in a variety of farming situations across the country. In addition the programme aims to provide housing solutions on a project basis for registered labour tenants.

The programme aims to promote the development of sustainable human settlements through:

- a) A flexible approach to cater for the variety of farm residents housing needs across the country;
- b) The provision of secure tenure to farm workers;
- c) The promotion of healthy and safe living environments;
- d) The empowerment of farm residents' (and in particular women) to participate in the provision of their own housing needs, as appropriate in the particular farming situation;
- e) Where possible, promoting access to social and economic amenities;
- f) Promoting access to economic opportunities not related to farming (particular when seasonal farm work is not available) (particularly when seasonal farm work is not available) for households where appropriate;
- g) The encouragement of sustainable spatial settlement patterns and discouraging the development of farm residents housing that places an additional service delivery burden on municipalities;
- h) The use of local labour and the development of skills in both developing and maintaining farm resident settlements; and

- i) The upgrading of existing farm resident housing and improving tenure security where feasible and practicable.

### 3.2 POLICY PRINCIPLES

The following principles underpin the policy:

- a) Owing to the potential of the injudicious creation of unsustainable farm worker settlements to distort existing settlement patterns and increase municipal service delivery burdens (by creating a plethora of small settlements), the creation of new farm resident settlements, should be regarded as an option of last resort;
- b) Applications for farm worker housing subsidy assistance must be considered in the context of provincial and local planning frameworks (e.g. Provincial Development Plans and Municipal Integrated Development Plans (IDP's). Municipal capacity to provide development assistance and deliver services must also be of paramount concern;
- c) In areas where workers (owing to the nature of the farming activity) have to be housed near to their places of employment and where commuting from the nearest town is not viable, preference should be given to options that provide security of tenure (including rental). These include the sub-division and transfer of land ownership to workers, share block schemes, and long term (99 year) lease agreements (which may provide rental opportunities);
- d) Where the sub-division of land and the transfer of ownership to farm workers is not feasible or desirable, consideration should be given to rental housing arrangements through instruments such as the Institutional Subsidy Programme or a project based rental housing development as defined in this Programme;
- e) If settlement is to take place outside of an existing town, an appropriate service delivery and maintenance agreement with the municipality must be in place before the project is implemented;
- f) Beneficiaries must participate in all aspects of the project, including the planning, governance and construction and maintenance (where appropriate);
- g) Specific emphasis shall be given in the implementation of the Programme to promote the full participation of women farm residents; and
- h) Where rental agreements are entered into with beneficiaries the farm owner/institution must, to the satisfaction of the MEC, ensure that the beneficiaries are fully informed of their rights and obligations regarding the rental agreements.

### 3.3 APPLICATION OF THE PROGRAMME

The programme will apply nationally.

Bearing in mind the need to balance the housing needs of people living on farms with the need to avoid creating unsustainable settlements, which place an additional burden on municipalities, this programme must be applied with circumspection. Hence, the approval of farm resident housing projects must be considered against the desirability and practicality of strengthening the sustainability of existing towns and using other National Housing programmes, such as the Individual Housing Subsidy Programme and/or the Integrated Residential Development Programme (IRDP) which are applicable in such settlements.

The programme will apply in the following circumstances:

**a) Development by Farm owner:** In this scenario the farm owner is prepared to provide housing opportunities on his/her land for his/her employees. In this case the following options will be available:

The application of a project based development for the provision of local basic water, storm water management system and sanitation services (only as a last resort option) and the construction of new houses or the upgrading/renovation of existing houses with a rental tenure in compliance with the Ministerial National Norms and Standards contained in the Technical and General Guidelines of the National Housing Code; or

The awarding of long term secure tenure rights to a housing institution which rights must be registered against the title deed of the farm, for the provision of rental housing only, in terms of a variation of the Institutional Housing Subsidy Programme.

**b) Subdivision of the farm land and transfer thereof to the farm residents and development options by the farm owner, the provincial government or the municipality where this is feasible and the MEC is satisfied that the municipality has the required capacity or by the beneficiaries themselves:** In this scenario the farm owner is prepared to (in compliance with all the relevant legislation) sub-divide his/her land into portions and transfer individual title to workers/residents. In order to promote sustainability each such sub-division should include land for agricultural purposes. The establishment of “small residential townships” without following a township establishment process must be avoided.

In this case the following options will be available:

- i) The development of a housing project where the farmer acts as developer and provides access to basic water, a storm water management system (if considered appropriate) and sanitation as well as the construction of new houses. It could also include the upgrading/renovation of existing structures in compliance with the Ministerial National Norms and Standards contained in the Technical and General Guidelines of the National Housing Code for qualifying beneficiaries. The application for funding for the services component may only be considered as an option of last resort; or
- ii) Where the farm owner is not prepared to act as the “developer” the qualifying individual beneficiaries may approach the provincial department as a collective and request the provincial department to act as developer or they may appoint a private sector developer to undertake the housing development project. The MEC may decide to delegate the development authority to the municipality if he/she is satisfied that the municipality has the required capacity and infrastructure to undertake this task; or
- iii) Where the beneficiaries of the subdivided farm land wish to undertake their housing development themselves, they must establish a legal entity to represent them and they may decide to undertake the development of their farms through a People’s Housing Process Initiative as provided for in the relevant National Housing programme.

**c) Development for beneficiaries who received individual farm land in ownership through the Land Reform programme of the Department of Rural Development and Land Reform** as contemplated by the Land Reform (Labour Tenants) Act, 1996. The Labour Tenant Strategy provides beneficiaries with access to productive land on the basis of registered ownership and or alternative secure tenure rights such as long term lease, as well as access to services required for farming purposes. These land reform programmes do not provide access to housing and associated engineering services (e.g. water for household consumption and sanitation) to beneficiaries.

This housing programme may therefore be applied to provide funding for housing and associated engineering services to beneficiaries of the Labour Tenant Strategy, the latter will only apply in cases of last resort where no alternative funding is available.

**d) Institutional Housing Subsidies**

This applies where the farm owner is prepared to subdivide his/her land and transfer the subdivided portion so created to a housing institution for residential development purposes. The housing institution will provide rental accommodation and/or deferred registered ownership tenure options (for four years) on the farm portion so acquired through the provisions of the normal Institutional Housing Subsidy Programme.

**e) Accommodation for seasonal workers**

The programme will not apply to accommodate seasonal workers. The farm owner will be obliged to finance such accommodation from own resources. Seasonal workers may apply for housing assistance, available under the other National Housing Programmes such as Individual subsidies in the areas of their permanent residence.

**3.4 OTHER HOUSING SUBSIDY OPTIONS NOT COVERED BY THIS PROGRAMME**

In the event where the MEC is of the opinion that farm residents should not be accommodated on farms or on farm portions in ownership, the following alternative housing programmes can be considered to settle them in the nearest towns.

**a) Individual Housing Subsidy**

This applies where beneficiaries are able to acquire ownership of improved serviced farm property. This would be the case where a landowner has donated land or where a portion of a farm has been bought by the farm occupier/worker using a land grant. In these instances, the property is sub-divided and basic services have been installed. Title is transferred to the farm workers/occupiers. The rules and regulations of the Individual Housing Subsidy Programme as defined in the National Housing Code will apply. It also applies where beneficiaries are able to acquire ownership of improved serviced property in a proclaimed township. The rules and regulations of the Individual Housing Subsidy Programme as defined in the National Housing Code will apply.

**b) Integrated Residential Development Programme**

Where normal residential development is to take place through a normal township establishment process.

**c) Institutional Housing Subsidies**

A housing institution provides rental accommodation and/or deferred registered ownership tenure options (for four years) in a proclaimed township through the provisions of the normal Institutional Housing Subsidy Programme.

### 3.5 WHO WILL BE ASSISTED?

**The following entry requirements apply to beneficiaries who wish to access benefits under the Programme:**

- a) Resident:** All farm occupiers as defined in the *Extension of Security of Tenure Act* of 1997 (ESTA), and any farm workers employed by a farm owner and who satisfy the eligibility criteria in this section are eligible for benefit through this programme if he or she is lawfully resident in South Africa (i.e. citizen of the Republic of South Africa or in possession of a permanent residence permit). Certified copies of the relevant documents must be submitted with the application.
- b) Labour tenant:** persons registered as Labour Tenants as contemplated by the Land Reform (Labour Tenants) Act, 1996 and who received registered ownership of agriculture land or who will receive registered ownership of land allocated to such a person in due course, on condition that such persons satisfy the standard qualification criteria, with the exception that single beneficiaries of the Labour Tenant Strategy programme will also qualify for assistance under the Programme
- c) Competent to contract:** He or she is legally competent to contract (i.e. over 18 years of age or legally married or legally divorced and of sound mind).
- d) Not yet benefited from government assistance:** Neither that person nor his or her spouse has previously derived benefits from the housing subsidy scheme, or any other state funded or assisted housing subsidy scheme which conferred benefits of ownership, leasehold or deed of grant or the right to convert the title obtained to either ownership, leasehold or deed of grant. Such previous beneficiaries may, however, qualify for rental accommodation.
- e) Not yet owned a fixed residential property:** Persons that own/owned residential property may only qualify for rental accommodation except if the applicant has received ownership of farm land through the Labour Tenant Strategy and or through the subdivision of farm land owned by the farmer on whose land the applicant has resided.

In addition to the above requirements, any applicant must also satisfy the following general criteria, as linked to the benefits of the Programme:

- f) Married or Cohabiting:** He or she is married (in terms of the Civil Law or in terms of a Customary Marriage) or habitually cohabits with any other person. The word “spouse” includes any partner with whom a prospective beneficiary habitually cohabits.

Where an application is made for a subsidy on the basis of a legal marriage or cohabitation arrangement, it is required that the property must be registered in the names of both spouses in the Deeds Office. Documentary proof of the marriage and affidavits from both spouses in respect of cohabiting arrangements and customary marriages must be provided.

In the case of a divorced applicant who previously derived benefits from the housing subsidy scheme, or any other state funded or assisted housing subsidy scheme which conferred benefits of ownership, leasehold or deed of grant or the right to convert the title obtained to either ownership, leasehold or deed of grant, the terms of the divorce order will determine such an applicant's eligibility for any further benefits under this Programme. Divorced applicants who acquired ownership of a residential property or who derived a financial benefit from the sale of a residential property as part of the dissolution of the joint estate, will be disqualified from accessing any further housing subsidy, except that such an applicant may purchase a serviced stand developed as part of a project financed from any of the National Housing Programmes.

**g) Single with Financial Dependents:** or he or she has proven financial dependents. A financial dependent refers to any person who is financially dependent on the subsidy applicant and who resides permanently with the housing subsidy applicant. Financial dependents include any or a combination of the following proven financially dependent persons of, and residing permanently with, the subsidy applicant:

- i) Biological parents or parents-in-law;
- ii) Biological grandparents or grandparents-in-law;
- iii) Brothers/sisters under the age of eighteen [18] years or, if older, who are proven to be financially dependent on the applicant;
- iv) Children under the age of eighteen [18] years, i.e.:
  - a) Grand children;
  - b) Adopted children;
  - c) Foster children;
  - d) Biological children;
  - e) Any of the above persons over the age of eighteen [18] years who are still studying and who are financially dependent on the applicant; and

v) Extended family members who are permanently residing with the applicant due, for example, to health problems and who are therefore proven financially dependent on the housing subsidy applicant;

**Special Provision:** it is a requirement that in cases where housing subsidy applications are submitted by single persons with financial dependents, that the particulars from the identification document of such dependents must be recorded on the application form and the information must be captured in the Housing Subsidy System. The following documents must accompany an application for a housing subsidy:

Certified copies of:

- i) Birth certificates, bearing the thirteen digit identity number for children who do not have a bar coded identity document;
- ii) Bar coded identity documents of all persons who are claimed as part of the household;
- iii) Divorce settlement documentation (to prove custody of children) where relevant;
- iv) Affidavits for unions solemnised in terms of SA Civil Law and accompanied by sworn statements to prove the authenticity of the relationship to the applicants, where applicable; and
- v) Court orders or, orders issued by the Commissioner of Child Welfare to prove guardianship for foster children, where relevant.

**h) Single persons without financial dependents:** Applicants falling within this category may apply for rental accommodation only. Single persons classified as the aged (60 years of age in respect of a women and 65 years of age in respect of men) may apply for ownership subsidies.

**i) Monthly household income:** The monthly household income of the applicant does not exceed the income threshold announced by the Minister from time to time.

A prospective beneficiary will be required to submit adequate proof of income, and, in the case of income received through self-employment, must sign an affidavit stating the amount earned.

For the purposes of assessing whether any particular person is entitled to receive a housing subsidy, the income of his or her spouse (if any) shall be added to that person's income, and "income" shall include:

- i) Basic salary and/or wages;

- ii) Any allowances paid on a regular, monthly or seasonal basis as part of an employment contract;
  - iii) Any loan interest subsidy, or other remuneration payable regularly on a monthly basis to the individual (and/or to his or her spouse) by his or her employer;
  - iv) Any financial obligations met on behalf of the individual (or his or her spouse) by his or her employer on a regular monthly basis;
  - v) Any commission payable to the individual (and/or to his or her spouse) on a monthly basis (an average of the most recent 12 (twelve) months will be determined for eligibility assessment purposes);
  - vi) Income received through self employment; and
  - vii) Any retirement or disability benefits received on a regular (monthly) basis.
- j) Persons classified as military veterans:** South African Military Veterans who are single without financial dependants may also apply for subsidisation. Military veterans can be classified as South Africans who served under any previous military dispensation including those persons involved in military operations during the liberation movement. Veterans must submit with their application:
- i) Proof of service; and
  - ii) Details of social services received.
- k) Persons classified as aged:** Aged persons who are single without financial dependants may also apply for subsidisation. Aged persons can be classified as male and female persons who have attained the minimum age set to qualify for Government's old age social grant.
- l) Persons classified as disabled:** Persons who are classified as disabled, whether single, married or co-habiting or single with financial dependants, may apply for housing subsidies. In addition the MEC may in his/her discretion decide to award the beneficiary the variation of the subsidy.

Furthermore, if a person who has already received state funding for housing and/or who already owns or owned a residential property, is or becomes disabled, or if his or her dependent(s) is/are or become disabled and that person satisfies the other qualification criteria, the MEC may at his/her discretion decide to award the beneficiary the variation of the subsidy.

The variation of the subsidy amount for purposes of improvements to the dwellings for disable persons is contained in the Variation Manual, included in the Technical and General Guidelines of the National Housing Code.

### **3.6 FUNDING ARRANGEMENTS**

Funding for the programme must be reserved by Provincial Governments from their annual housing allocation received from the Minister through the provisions of the Division of Revenue Act as annually published.

- a) The funding available under this programme may be utilised for the following:
- b) The construction of new houses on the serviced stands;
- c) The renovation/upgrading of existing services and /or housing stock; and
- d) The provision of basic local water, sanitation and storm water management systems (only as a last resort), if no alternative funding is available for this purpose.

In cases where basic water and sanitation services are to be provided or upgraded, alternative funding resources must be obtained as the housing subsidy funding may only be applied for the provision of such services in cases of last resort. All other funding resources must be explored and before providing services from the housing funding confirmation must be obtained that funding is not available for the provision of services and/or upgrading of existing services. The quantum of the funding available under the programme will be equal to the prevailing individual housing subsidy amount as adjusted annually.

The funding limits for all the National Housing Programmes are annual adjusted and announced from time to time by the Director-General of the National Department.

The release of the approved funding must be administered in accordance with the prescripts indicated in the sections dealing with development options.

### **3.7 TECHNICAL NORMS AND STANDARDS**

**The following technical norms and standards will apply to the Programme:**

#### **3.7.1 BASIC SERVICES**

Although the Housing Subsidy Funding may not be utilised to fund the provision of the basic services, it is a prerequisite for all housing project approvals that all households must have access to a minimum basic level of services.

In certain circumstances where no alternative funding is available, the MEC may approve the use of the housing funding annually allocated to the Provincial Government, for the provision of basic services.

The minimum basic services that must be available to beneficiaries of the programme are the following:

Type of Service	Minimum Level
Water	Single standpipe per stand per household or a shared standpipe for every 25 households or any alternative arrangement that will provide potable water to each household within reasonable walking distance. Any such alternative standard must comply with the provisions of the Water Services legislation and policy.
Sanitation	VIP for each household or alternative system agreed to between the community, the municipality and the MEC. Each household must have access to its own facility.
Storm water	An acceptable storm water management system must apply to ensure that the houses are not affected by flooding and/or water penetration due to prolonged water logged situations.

Notwithstanding the above standards, it is acknowledged that the circumstances vary considerably in the farming and rural environment. Therefore, where it is not feasible and/or practicable to comply with the above norms and standards, the MEC may consider approving norms and standards designed to meet local condition requirements on condition that such standards are approved by the beneficiaries and the municipality in off-farm scenarios. Such local solutions for the provision of basic water and sanitation must be designed by professional expertise on the basis of the environmental acceptability thereof and must be supported by geotechnical investigations that confirm the suitability of the services options selected. Any alternative water supply solution must at least comply with the provisions of the Water Services legislation and policy.

It should be noted that in terms of the current Water Services legislation, a municipality may agree with a farm owner to act as intermediary for the provision of a water service to persons on his or her land.

### **3.7.2 TOP STRUCTURES**

The application of funding available under this programme must in all cases result in the achievement of compliance with the following minimum norms and standards. However the MEC will have discretion to allow deviations warranted by the specific development conditions that may prevail in certain areas.

- a) The minimum size of permanent residential structures to be provided by means of the housing subsidy, is 40 square metres of gross floor area.
- b) Each house must at least include:
  - i) Two bedrooms;
  - ii) A separate bathroom with a toilet, a shower and hand basin;
  - iii) A combined living area and kitchen with wash basin; and
  - iv) A ready board electrical installation where electricity supply is available and this service is provided by a service provider.
- c) In the case where of the On-Farm Institutional Subsidy Programme is applied, the above Norms and Standards must be used as a guide to achieve the minimum standards. The selected housing typologies and the specific needs to be addressed will determine the designs and floor areas of the houses. Variations could include row houses or semi-detached houses, family units or units for single persons.

### **3.7.3 EXTRAORDINARY DEVELOPMENT CONDITIONS**

Where extraordinary geotechnical conditions necessitate special precautionary measures to ensure durable and quality houses, the developer may apply for additional funding in accordance with the provisions of the Variation Manual contained in the Technical and General Guidelines of the National Housing Code.

### **3.7.4 BUILDING PLANS**

The farm owner and/or private sector developer must obtain approval of all building plans from the relevant municipality and comply with the technical norms and standards of the National Building Regulations.

### **3.7.5 ACCOMMODATION FOR SEASONAL WORKERS**

Where the farm owner is to provide housing opportunities on the farm for seasonable farm workers, such housing must at least comply with the technical norms and standards of the National Building Regulations.

## 3.8 DEVELOPMENT OPTIONS

### 3.8.1 HOUSING DEVELOPMENT BY THE FARM OWNER

In this scenario the farm owner is prepared to provide housing opportunities for all persons on the farm who meet the subsidy qualifying criteria.

The MEC must assess the merits of each application and confirm that the selected development option is the most feasible solution in each case.

Under this option the following rules will apply:

- a) **The implementing agent role:** The farm owner will assume the role of implementing agent and will be responsible for compiling the project application in collaboration with the beneficiaries that will benefit from the development, the submission thereof through the municipality to the MEC, to obtain project approval and to undertake the implementation of the project in accordance with the provisions of the project agreement, to be entered into between the MEC and the developer. The farm owner will have to proof his or her competency to undertake the implementing agent role and will have to register as a home builder with the NHBRC;
- b) **Land ownership:** The farm owner will hold the land in registered ownership. The farm land will not be subdivided and transferred to the individual farm workers.
- c) **Land use rights:** The development project must comply with all relevant legal requirements;
- d) **Municipal support:** The farm owner must submit the project funding application through the relevant municipality. The municipality must assess the application and make recommendations to the MEC in this regard;
- e) **Beneficiaries must complete subsidy applications forms:** The application forms must be included with the project application to be considered by the MEC;
- f) **Tenure options:** The farm workers that will benefit from the housing development project on the farm will occupy the housing units in terms of a formal rental arrangement or a right to occupy the unit. Both the rental and/or the occupation right arrangements must be reduced to written agreements as envisaged in the relevant rental housing legislation;
- g) **Rental charges:** Charges for rental or for the right to occupy may only be levied to recover the cost of operational expenses incurred, if any, to deliver services and in respect of any maintenance work. The farm owner may not require the

payment of any rental or for the right to occupy to recover any part of the housing subsidy funding received;

**h) Termination of rental agreements/occupation rights:** In the case where the employment relationship between the farm owner and farm worker is terminated and the farmer wishes to allocate the relevant housing unit to another employee, the farm owner must give the farm worker sixty (60) days written notice of the termination of the rental agreement /occupation right and confirm the date on which the unit must be vacated.

This termination of the rental agreement/occupation right of the units financed from this National Housing Programme will not and may not affect any occupation rights to the farm land vested in the farm worker by the prevailing land rights legislation (ESTA, etc.). Therefore the farm owner may not utilise the termination of the rental agreement/occupation right agreement to evict an employee from the farm whose occupation rights to the farm are secured in terms of any legislation.

Any eviction of a person from his or her house must be undertaken in terms of the provisions of the Constitution, 1996 and any other applicable legislation.

The farm owner will be required to enter into a written and legally binding agreement in this regard as part of the project agreement to be entered into with the MEC.

Where the farm owner is found to violate this provision, the MEC may decide to institute a claim against the farm owner to the value of the full subsidy allocation awarded to the farm owner for the relevant housing development project.

In the case where the farm worker wishes to terminate his/her employment contract and leave the farm, he or she may cancel the rental agreement/occupation right agreement on one (1) months written notice.

**i) Procurement prescripts:** In view of the special circumstances of the development option, the programme is not subject to the normal procurement prescripts. The farm owner is the implementing agent and he or she holds the land. A competitive tendering arrangement regarding the appointment of the implementing agent is thus not feasible under such circumstances.

In regard to the acquisition of materials and the services of special service providers required for the project implementation, the implementing agent must invite tenders or obtain quotations from material suppliers/service providers where this is feasible and practicable. This provision will not apply in cases where the building material is manufactured on site, such as masonry building bricks.

The implementing agent must give effect to the principle of negotiating the lowest prices and services cost without compromising quality.

The acquisition strategy to be followed by the implementing agent must be included in the project agreement to be concluded with the MEC.

- j) Project application motivation:** Applications for project funding under this scenario will only be considered where the farm owner is able to convince the MEC that the provision of the housing opportunities on his/her farm is the most feasible housing solution.
- k) Resident committee:** A resident committee must be established to represent the farm residents in all matters pertaining to the development options, rentals, maintenance matters, termination of rental arrangements, etc.
- l) Application of the approved funding:** Funds approved under this scenario may only be utilised for the provision of houses that comply with the Ministerial National Norms and Standards as prescribed in this programme. Funding for the provision of basic water, storm water management system and sanitation services must be obtained from other funding resources. However where no alternative funds are available, application may (as an option of last resort) be made for the funding of the basic services from the annual housing subsidy funding allocation to the Provincial Government.
- m) Project funding release:** Normally the approved project funding will be released on the basis of the achievement of value for money. The implementing role will be fulfilled by the private farm owner and the MEC will not be able to make any advance payments to the farm owner. The MEC and the farm owner must agree on how the funding will be released including the process of certification of claims for payment that actual value for money has been achieved.
- n) Exit arrangements:**
  - i) The sale of the farm:** In the event of the sale of the farm by the owner, the farm owner will be obliged to repay the state's investment on the land which investment return must be determined on the basis of the depreciated replacement value of the housing stock. To ensure compliance with this provision, it will be required to register a pre-emptive right against the title deed of the farm in the Deeds office. This pre-emptive right must apply until the contractual arrangements between the MEC and the farm owner is terminated by the MEC.

As an alternative arrangement, the farm owner could sell his/her farm subject to the condition that the purchaser must enter into an agreement with the MEC regarding the housing stock created through the funding obtained under the programme. In such a case, the existing contractual arrangement will be transferred to the purchaser and the pre-emptive right clause will be transferred to the new title deed.

The depreciated replacement value of the housing stock must be determined by an independent registered property value assessor. In the event where the parties are not able to agree on the depreciated replacement value an arbitration process must be initiated and the determination of the Arbitrator will be final. The MEC and the farm owner must agree on the appointment of the arbitrator.

**ii) The death of the farm owner or insolvency:** The pre-emptive right to be registered against the title deed of the property must also provide the Provincial Government with a preferential claim against the insolvent estate or deceased estate of the farm owner in the case of insolvency or death of the farm owner. The value of any such a claim will be equal to the depreciated replacement cost of the properties created through the National Housing Programme. In the case where the farm land is sold by the executor of the insolvent/late estate of the farm owner, the MEC may be approached for approval to transfer the project agreement and pre-emptive right to the new purchaser and title deed.

**iii) Retirement of the farm worker:** Farm workers who rent housing units on the farms will qualify for ownership housing subsidies once they vacate their rental units. Where the farm worker who occupied a housing unit on the farm that was financed through this programme retires for whatever reason, the farm owner may decide to allow the household to continue occupying the house. The farm owner may also decide to give the retired worker written notice to vacate the property and to re-allocate the unit to an alternative qualifying worker. Where the farm worker was in the employment of the farm owner for a period of five (5) years or more, the farm owner must give the farm worker at least six (6) months written notice to vacate the housing unit. Where the farm worker's employment term is less than five (5) years, the farm owner must give the retired worker at least sixty (60) days written notice to vacate the housing unit.

The retired worker may have secure occupation rights to the farm land and may wish to remain on the farm after he/she has vacated

the housing unit. Alternatively the retired worker may wish to resettle to a formal town. In such a case the MEC must prioritise the allocation of a housing subsidy to the retired worker in his or her town of choice, alternatively, where applicable and practicable, through the Rural Housing Subsidies: Informal Land Rights programme.

**iv) Retirement of the farm owner:** In the case where the farm owner decides to retire and/or decides to terminate the commercial farming activities, he may decide to sustain the housing options on his or her farm and not to terminate the rental agreements concluded with the farm workers. Should the farm owner decide to terminate the rental agreements in respect of the housing opportunities created through the this Programme, the exit mechanism provisions applicable to the sale of the farm will apply and the farm owner will be obliged to refund the provincial government for the investment on his or her land at the depreciated replacement cost of the housing stock created through the programme. This termination of the occupation of the residential units will in no way affect the land rights to the farm land the affected persons may enjoy. The Farmer may therefore not evict the persons from his or her farm as a result of the termination of the occupation of the residential units.

**o) Maintenance of the houses:** The farm owner must maintain the housing stock created under the programme on a regular and continuous basis from own resources to ensure that housing stock provides decent living conditions and that the value of the stock is upheld.

**p) Project agreement:** The MEC and the farm owner must conclude a project agreement to ensure that the parties comply with the provisions of the programme. This agreement must as a minimum deal with:

- i) The project details-(norms and standards, designs, services levels);
- ii) The process and rules for the allocation of the houses;
- iii) The project funding details including the release of funds;
- iv) The exit mechanism details;
- v) The obligation regarding the maintenance of the stock; and
- vi) The obligations regarding the termination of rental agreements and the restrictions in respect of evictions from the farm.

- q) Seasonal workers:** The Programme may not be used to provide accommodation for seasonal workers. This will be for the farm owner's own account. However any such accommodation must comply with the municipal by-laws and regulations pertaining to safe and healthy living conditions.

### 3.8.2 HOUSING DEVELOPMENT BY A HOUSING INSTITUTION

In this scenario the farm owner is prepared to make land available to a housing institution through a long term secure tenure arrangement for purposes of development, holding and management of rental housing options for farm residents on the farm.

The following rules will apply under this scenario:

- a) Rights to the farm property:** The housing institution must acquire long term secure tenure rights over the relevant land. This could take the form of a long term lease arrangement or the registration of a servitude in favour of the institution and must be registered against the title deed of the property. This agreement between the farm owner and the housing institution must contain arrangements in respect of the exit mechanism as described in this section;
- b) The nature of the housing institution:** The housing institution wishing to apply for project funding under the programme must comply with the provisions of the Institutional Housing Subsidy Programme regarding the nature of the legal entity, the main object and the financial viability of the institution;
- c) Financial management obligations:** The provisions of the Institutional Housing Subsidy Programme must be satisfied regarding financial accounting and auditing;
- d) Participation by beneficiaries:** The housing institution must ensure that the beneficiaries are adequately represented in the management structure of the housing stock that will be developed and administered by the institution. The MEC must approve the management structure;
- e) Participation by the farm owner:** The farm owner must also be represented in the management structure of the institution;
- f) Financial contribution:** The normal requirement for social housing institutions to make a capital contribution to the projects will not be applicable under this programme;
- g) Tenure rights:** As the institution will only have use rights to the land upon which the housing stock will be created, it will not be allowed to dispose of the units in any manner whatsoever. The housing stock must therefore be made available to

farm workers and/or occupiers on a rental basis. Rentals to be determined by the operating and maintenance cost of the institution and the housing stock.

However, in the future, where the farm owner decides to subdivide his/her land and sell the subdivided portion to the institution, the institution may approach the MEC for approval to sell the units and transfer the units to the individuals. The selling prices of the houses must be equal to the housing subsidy amount allocated for the development of the stock and the individuals may not be required to pay any additional compensation.

- h) Allocation of housing units:** The housing institution may only allocate housing units to qualifying housing subsidy beneficiaries as described in section 3.5. However all allocations must be undertaken in collaboration with the farm owner. The farm owner and the institution must agree on the allocation of each unit before any contractual arrangements are concluded. In the case where the parties fail to agree on a specific allocation, the matter must be referred to MEC for a ruling. This ruling will be regarded as final.

The housing institution must annually confirm to the MEC the details (names, income, particulars of dependents, etc.) of all the persons renting units in its housing stock

- i) Rental determination:** The housing institution will be allowed to determine the rentals based on the operating and maintenance cost of the institution and the housing stock in consultation with the MEC. It may not include the recovery of the housing subsidy capital funding accessed under the programme;
- j) Nature of the housing stock:** Funding provided under the programme may be used for:
- i) The upgrading of existing stock on the farm;
  - ii) The development of stand alone, semi detached; and
  - iii) Multi-level housing units.
- k) Termination of rental agreements:** Notice should be taken of the provisions of the Rental Housing Act that provides for the regulation of the relationships between land lords and tenants.

In the case where the institution is required to terminate the rental agreement for whatever reason and to allocate the relevant housing unit to another tenant, the institution must (without prejudice to any other rights which may exist) give the tenant two (2) months written notice of the termination of the rental agreement and confirm the date on which the unit must be vacated.

The termination of a rental agreement will not affect any occupational rights to the farm land that a person may hold in terms of any land rights or other relevant legislation (ESTA, etc.), Therefore, the termination of the rental agreement by the institution may not be used to evict a person from the farm who's occupation rights to the farm is secured in terms of any legislation.

The farm owner may not, without the written consent of all affected parties, require the institution to cancel a rental agreement for whatever reason.

In the case where a tenant wishes to terminate his/her rental agreement, he or she must be able to do so on one (1) month's written notice.

**l) Maintenance of the housing stock:** The housing institution must maintain the housing stock created under the programme on a regular and continuous basis from its own resources to ensure that housing stock provides decent living conditions and that the value of the stock is upheld.

**m) Project agreement:** The MEC, the housing institution and the farm owner must conclude a project agreement to ensure that all the parties comply with the provisions of the programme. This agreement must as a minimum deal with:

- i) The project details-(norms and standards, designs, services levels);
- ii) The geotechnical report of the soil conditions of the land to be developed;
- iii) The land rights of the housing institution;
- iv) The project funding details and the funding release details
- v) The process and rules for the allocation of the houses;
- vi) The beneficiary representation structure;
- vii) The rentals to be charged;
- viii) The exit mechanism details;
- ix) The obligation regarding the maintenance of the stock; and
- x) The rules applicable to the termination of any rental agreements and the reallocation of units.

**n) Exit mechanism:** Where the housing institutions for what ever reason fails to sustain the housing project on the land of the farmer and/or the institution is liquidated, the investment through this programme on the land of the farm owner will be regarded as an improvement in the value of the farm. In such a case the farm owner may decide to assume the role of the institutions and continue to sustain the rental housing options on the farm. In such a case the MEC will

conclude a new agreement with the farmer as contemplated under the option for on farm housing development by the farm owner with the changes required by the context.

However should the farm owner decide not to take the housing project over from the housing institution and terminate the contractual arrangements with the housing institution which will lead to the termination of the individual rental agreements with the beneficiaries, the farm owner will be liable to refund the provincial government an amount equal to the depreciated replacement cost of the housing stock created through the programme.

The failure of the housing institution as contemplated above will have legal implications and may result in claims against the value of the housing investment on the farm. To prevent any such claims against the housing stock, the agreement between the farm owner and the housing institution must provide that the institution may not use the value of the investment to secure credit or encumber the value of the investment in any way.

The MEC must ensure that the investment on the farm by the housing institution is not compromised by the institution in any way and should monitor the financial viability of the institution on a continuous basis to mitigate the risk of failure of the institution.

### **3.8.3 INDIVIDUAL OWNERSHIP DEVELOPMENTS FOR FARM RESIDENTS BY THE FARM OWNER**

In this scenario, the farm owner is prepared to sub-divide his or her land into smaller farm portions and transfer each portion to an individual farm worker/occupier. These individual farm workers and/or occupiers therefore qualify for individual subsidies. However, the Individual Housing Subsidy Programme does not provide a mechanism for the provision of basic services to individual stands. The only solution is to entertain a project based housing development scheme. One option is to allow the farm owner to act as developer and to undertake a housing development project to provide the subdivided farm portions with basic water and sanitation services and to construct houses for the relevant households.

Under this option the following rules will apply;

**a) The implementing agent role:** The farm owner is prepared to fulfil the role of developer and undertake a project on the land subdivided and transferred to the relevant households;

**Size and nature of the sub-divisions:** In subdividing the farm the owner must act in accordance with the provisions of all the relevant legislation. In order to

promote sustainability each beneficiary household should acquire a farm portion of sufficient size to at least carry on small scale (subsistence) farming activities;

- b) The provision of basic services:** The developer must ensure that each subdivided farm portion is provided with basic water and sanitation services and storm water management systems as described in this programme;

Furthermore, the basic services installed must be sustainable in the long term. Where the basic services are to be supplied by a third party, a written agreement to this effect must be concluded and proof thereof must be submitted to the MEC with the project application;

- c) Procurement prescripts:** In view of the special circumstances of the development option, the programme is not subject to the normal procurement prescripts. The farm owner will act as the implementing agent. A competitive tendering arrangement regarding the appointment of the implementing agent is thus not feasible under such circumstances.

In regard to the acquisition of materials and the services of special service providers required for the project implementation, the implementing agent must invite tenders or obtain quotations from material suppliers/service providers where this is feasible and practicable. This provision will not apply in cases where the building material is manufactured on site, such as masonry building bricks,

The implementing agent must give effect to the principle of negotiating the lowest prices and services cost without compromising quality.

The acquisition strategy to be followed by the implementing agent must be included in the project agreement to be concluded with the MEC;

- d) Municipal project application support:** The farm owner must submit the project funding application through the relevant municipality. The municipality must support the application and make recommendations to the MEC in this regard;

- e) Project application:** The normal project motivation as prescribed by the Project Linked Housing Subsidy Scheme will not apply to this programme. Applications for project funding under this scenario will only be entertained where the farm owner is prepared to subdivide his/or land on the basis that farm portions will be made available to the relevant households that are employed on the farm or occupy the farm and which portions will be transferred in ownership to these beneficiaries. Project applications will not be considered where the application represents a normal project linked orientation and normal township

establishment process will apply. The farm owner must submit a fully motivated application to the MEC through the municipality; and

- f) **Project enrolment:** The farm owner must register as developer with the NHBC and must enrol each house as prescribed by the NHBC.
- g) **Financial contribution requirements:** It must be noted that certain category of beneficiaries may be required to make a financial contribution to achieve access to their ownership housing subsidies. The prescripts regarding this aspect must be obtained from the MEC.

### 3.8.4 INDIVIDUAL OWNERSHIP DEVELOPMENTS FOR FARM RESIDENTS BY A PROVINCIAL GOVERNMENT OR PRIVATE DEVELOPER

This option will apply where the farmer is prepared, or already has subdivided his/her farm and is prepared to transfer the farm portions so created to the farm workers/occupants but is not prepared to act as developer.

Under this scenario the following rules will apply:

- a) **The legal entity for the beneficiaries:** To enable the beneficiaries to enter into legal contract arrangements, it will be required that they establish a collective legal entity to represent them in all transactions;
- b) **The role of developer:** The beneficiaries of the sub-divisions of the farm land may approach the provincial department to act as developer for the provision of the basic water and sanitation services and storm water management system and to construct their houses or may approach a private sector developer to undertake the project on their behalf. Where the provincial Government, acting through the provincial department, is prepared to assume the role of developer on behalf of the beneficiaries the following rules will apply:
  - i) **Procurement process:** The provincial government must follow an equitable and transparent procurement process as prescribed by the relevant national and provincial legislation at all interfaces between it and the suppliers of the housing goods and services;
  - ii) **Land availability agreement(s):** Where the transfer of the land to the individual households has not yet been effected and the project is to proceed, the provincial government must enter into a land availability agreement with the farm owner to obtain development rights to the land in question. Where the sub-divisions have been transferred to the individual households, the provincial government must conclude land availability agreements with each beneficiary to obtain development rights to the individual sub-division(s).

**iii) Project application:** The provincial government must compile a fully motivated project application and submit the application to the MEC for project and funding approval. The application must as a minimum contain the following information:

- a) The details of the individual beneficiaries;
- b) Confirmation of the transfer of the farm portions to each beneficiary or that such a process has been initiated;
- c) Confirmation of the land availability agreement;
- d) The details of the specification of the water and sanitation services that will be installed and the operational details of such services;
- e) Where a third party is to provide any of the services such as the provision of water, the written agreement between the legal entity and the service provider must be submitted;
- f) Where the municipality will provide the services, the written undertaking of the municipality to this effect must be submitted;
- g) The details of the houses to be constructed;
- h) The procurement processes that will be followed;
- i) The financial details of the project application, including the proposed project progress payment system;
- j) The geotechnical details of the land on which the development will take place;
- k) The project time frame; and
- l) Details of external professionals to be appointed to assist with the project implementation.

**The MEC may delegate the development role to a municipality:**

Where feasible and where the MEC is satisfied that a relevant municipality has the required capacity and infrastructure to act as the developer, the MEC may, through a written agreement, appoint such a municipality to undertake the development of the individual farm portions on behalf of the beneficiaries. In this scenario the rules described above will apply with the changes required by the context.

**c) Private sector company as developer:** The beneficiaries of the sub-divisions of the farm land may elect to appoint a private sector developer to install the basic water and sanitation services and storm water management system and to construct their houses. Under this scenario the following rules will apply:

- i) Procurement process:** The individual beneficiaries will collectively appoint the private sector developer to develop their properties in a project based scenario. They will use their individual housing subsidies to develop their properties, hence normal procurement prescripts will not be applicable. However the legal entity representing the farm residents will be required to follow an open and transparent process in the acquisition and appointment of the private sector developer.
- ii) Project application:** The developer must compile and submit a fully motivated project application via the Municipality to the MEC. As a minimum the project application must contain the following:
  - a) The details of the individual beneficiaries;
  - b) Confirmation of the transfer of the farm portions to each beneficiary or that such a process has been initiated;
  - c) Confirmation of the appointment to act as developer by the beneficiaries;
  - d) The geotechnical report of the soil conditions of the area to be developed;
  - e) The details of the water and sanitation services that will be installed and the operational details of such services as well the required environmental acceptability of the selected services;
  - f) Where a third party is to provide any of the services such as the provision of water, the written agreement between the legal entity and the service provider must be submitted;
  - g) The details of the houses to be constructed;
  - h) The financial details of the project application, including the proposed project progress payment system;
  - i) The geotechnical details of the land on which the development will take place;

- j) The project time frame; and
- k) Details of external professionals to be appointed to assist with project implementation
- d) **Project enrolment:** In both the scenarios the municipality or the private sector developer must register as developer with the NHBRC and must enrol each house/unit as prescribed by the NHBRC.
- e) **Own financial contribution:** It must be noted that certain categories of beneficiaries may be required to make a financial contribution to achieve access to housing subsidies. The prescripts regarding this aspect must be obtained from the MEC.

### **3.8.5 INDIVIDUAL OWNERSHIP DEVELOPMENTS THROUGH THE ENHANCED PEOPLE'S HOUSING PROCESS (EHP)**

Beneficiaries may wish to undertake the development of their agriculture holdings themselves. This could be realised through the National Housing Programme: EPHP. The Programme provides that a Community Resource Organisation must be used as a vehicle to assist the beneficiaries with the project.

Where beneficiaries wish to participate in the solution of their housing needs, the application for Government assistance must be launched in terms of the provisions of the EPHP Programme.

### **3.8.6 HOUSING DEVELOPMENT IN ALIGNMENT WITH THE LABOUR TENANT STRATEGY**

The purpose of this programme is to facilitate alignment of the Land Reform: Labour Tenant Programme instituted by the Department of Land Affairs in terms the Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996), with the Housing Subsidy Scheme.

The Programme targets the areas identified by the various Provincial Land Reform Offices (PLRO) where agriculture land is acquired, planned, subdivided where required and allocated to beneficiaries of the Labour Tenant Programme. Individual ownership of such subdivisions will be registered in the names of the beneficiaries, either immediately or in due course or the beneficiary will acquire secure long term tenure rights, such as long term lease arrangements over the allocated properties.

This housing programme is to facilitate the solution of the housing needs of beneficiaries of the labour tenant strategy through the provision of:

- a) Basic water supply, proper sanitation and storm water management as a last resort option; and

- b) Housing units that comply with the National Norms and Standards.

### **Principles of the development option**

**a) Land reform products/programmes in relation to Labour tenant strategies:**

The Labour Tenant Strategy is to be implemented as part of the broader land reform initiative through various funding mechanisms i.e. LRAD and SLAG (LTA grants). The grants under this programme provide labour tenant beneficiaries with access to productive agriculture land as well as infrastructure for agricultural purposes. These programmes (LRAD or SLAG) will not provide residential engineering services and housing opportunities to the beneficiaries of that programme.

However, where it is, for example, possible to provide water for domestic use to the residence on the property through the agriculture infrastructure project, the housing subsidy scheme should not also finance such services. Both programmes must be designed to deliver the maximum benefits to the approved beneficiaries that could be achieved by the alignment of the programmes;

**b) The Project Linked Subsidies in alignment with the relevant grant structures of the Land reform products:**

The programme will provide access to funding for residential engineering services as a last resort option and housing opportunities only;

**c) Grants to individual beneficiaries:**

The Housing Subsidy will be allocated to an individual qualifying beneficiary, the details of which will be recorded on the National Housing Subsidy Data Base. Beneficiaries must complete the standard Housing Subsidy Application forms that must be approved by the MEC or his/her delegated authority as the case may be;

**d) Project orientation:**

The funding under the programme will only be available within the context of an approved housing project and may not be accessed on an individual beneficiary basis;

**e) Developers:**

The role of developer will be fulfilled by provincial governments but an MEC may delegate the development authority to a municipality where he/she is satisfied that the municipality has the required capacity and infrastructure to undertake this task. Project funding will be made available for the execution of the approved project on behalf of the approved housing subsidy beneficiaries. Provincial governments acting through the provincial departments will be required to compile project applications, obtain project approval and execute projects. The initial launch of this development option will be undertaken on the basis of the procurement of service providers to install the engineering services

and build the houses or alternatively through the application of the Peoples Housing Process Programme.

All project applications must contain an undertaking for the delivery of municipal engineering services by the municipality, where applicable, after the project has been completed.

- f) Project development phases:** The Provincial Government may decide to undertake the project as a single project comprising the provision of services and the construction of houses or may elect to apply to undertake the approved project in a phased development manner in terms of which the provision of residential engineering services constitute an independent phase and the housing consolidation is undertaken as the final phase of the approved project.
- g) Qualification for assistance:** Housing assistance under this development option will be awarded to persons identified by the PLRO as beneficiaries of the Labour Tenant Strategy that comply with the standard qualification criteria stipulated in the National Housing Code with the exception to the rule that single persons without financial dependants will also qualify for the benefits under the programme.
- h) Security of tenure:** It will be a requirement for the allocation of benefits under the programme that the beneficiary must acquire registered ownership of the property allocated to him/her or acquire secure long term tenure rights such as long term lease arrangements. It will not be required to acquire registered ownership immediately and in cases where immediate ownership is not possible, the subsidy may be allocated based on confirmation by the PLRO that the tenure rights to be allocated constitute uncontested secure rights not to be infringed in any way and that it will be converted to individual ownership in due course. The MEC will be responsible to ensure that secure tenure rights that will protect the State's investment through the Housing Subsidy allocation and the individual's rights to the property are registered and/or allocated.
- i) Community participation:** It is a prerequisite for project approval that the beneficiaries must participate in a structured manner in all aspects of the housing solution that is planned and which will be executed.
- j) Project approval authority:** The project and funding approval authority for the programme vests in the MEC or the delegated authority determined by the said MEC.
- k) Application of the subsidy funding:** The Housing Subsidy funds will be available for the following:

- i) Project management fees including community participation facilitation where this aspect requires intervention as it should have been achieved by the Provincial Land Reform Office (PLRO);
- ii) Engineering services design and provision as a last resort option; and
- iii) House design construction.

The funding available from the State under the Labour Tenant Strategy will not be set off against the housing subsidy, allocated under this programme. The two funding streams will rather be aligned to achieve the maximum benefits for the beneficiaries.

- l) National norms and standards:** Based on the fact that the programme will constitute project based developments it will be required that all projects are enrolled with the NHBRC. This means that the home builder must be registered with the NHBRC, that the project must be enrolled and that the Ministerial National Norms and Standards, the National Building Regulations and the Norms and Standards imposed by the NHBRC will apply to all the approved projects. It is of the utmost importance that land earmarked for development is suitable for house construction and that, where required, precautionary measures as prescribed by the NHBRC, are applied. The details for the enrolment of projects must be negotiated with the NHBRC on a project basis. Enrolment fees will be paid by the PD from the annual housing funding allocation received from the National Department.
- m)The financial contribution requirement:** Beneficiaries of the Labour Tenants Strategy will not be subject to the requirement for the payment of a financial contribution where such a person's income exceeds R1 500,00 per month. The Labour Tenants Strategy already provides for the requirements to make contributions as well as incentives to invest in the property for agricultural purposes.
- n) Procurement procedures:** Procurement procedures for the acquisition of housing goods and services must be fair, equitable and transparent and the guidelines provided by the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) must be followed.



# The Housing Code

## Farm Resident Subsidy Programme

### **PART A Policy Provisions**

- 1 Overview
- 2 Challenges Facing Farming Communities
- 3 Policy Prescripts
- 4 Institutional Arrangements**
- 5 Departmental Alignment
- 6 Monitoring and Evaluation

### **PART B Guidelines for the Implementation of Projects**

- 1 Nature of Guidelines  
Important Considerations
- 2 Suggestions on How to Implement
- 3 Monitoring of the Programme



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



## **4 INSTITUTIONAL ARRANGEMENTS**

The key role players in this Programme are the beneficiaries, the beneficiaries' legal entity, municipalities, national and provincial governments, the Department of Rural Development and Land Reform and the farm owners. Their roles and responsibilities are the following:

### **4.1 BENEFICIARIES**

Beneficiaries should participate in the development of municipal-level rural settlement planning, a component of the IDP Housing Sub-Sector Plans; as well as at the project level in the development of project proposals and subsidy applications. They should also participate in the implementation / construction of approved housing projects.

### **4.2 MUNICIPALITIES**

A central role of municipalities relates to service delivery and this role will vary according to the development option pursued. In instances where municipalities establish housing institutions or beneficiaries elect to establish a township for residential housing, municipalities will play a central role in the provision and management of basic services. In regard to projects in which housing is situated on private property, municipalities might be drawn in through negotiated service delivery agreements.

The programme proposes that municipalities facilitate the development of rural settlement plans, as a component of the IDP Housing Sector Plans. Municipalities will play an important monitoring and enforcement role through the IDP review processes, and their municipal building inspection function.

Municipalities are also required to play a role in the verification of certain housing subsidy applications, specifically for the institutional subsidy where it is applied to on-farm development.

Lastly the municipality may fulfil the role of developer.

### **4.3 PROVINCES**

Funding for the Programme will be made available to the PD as part of the annual housing conditional grant allocation, regulated through the provisions of the Division of Revenue Act.

Bearing in mind the relatively limited capacity of especially rural municipalities, provincial departments are expected to play a significant role as developer as well as supporting local municipalities.

Furthermore the successful implementation of the programme hinges on inter-government coordination. Hence, provincial authorities will play a pivotal role in coordinating the efforts of the various departments to ensure sustainable farm worker housing delivery.

#### **4.4 NATIONAL DEPARTMENTS**

##### **National Department**

The ND will be responsible to maintain the policy and strategy for the programme and will also oversee, support and monitor the implementation of the Programme.

##### **Department of Rural Development and Land Reform and its provincial structures**

This Department is responsible for the administration of the labour Tenant Strategy through its provincial structures. The Department of Rural Development and Land Reform will undertake coordinate planning and funding prioritisation with PD's to ensure that funds are available for planned projects for labour tenants.

##### **Departmental alignment**

The success of the Programme hinges on effective cross-departmental cooperation. Most specifically cooperation between the ND, DRDLR and DAFF to address:

- a) The pressing issue of farm tenure;
- b) The potential obstacles in legislation and procedures governing sub-division and rezoning; and
- c) The establishment of budgetary priorities within the departments to promote independent, untied access to land and housing for farm workers and occupiers.

The DOL is a critical stakeholder in respect of monitoring and enforcement of provisions related to housing and services set out in the *Sectoral Determination 8: Farm Worker Sector, Basic Conditions of Employment Act, No 75, 1997*.

Since the Programme places emphasis on the role of municipalities in rural settlement planning and implementation, the Department of Cooperative Governance and Traditional Affairs has important contributions to make in adapting systems and procedures for the facilitation of integrated rural settlement plans within the IDP framework. A cross-departmental plan for local government capacity building to ensure that they can adequately fulfil their critical developmental role in the rural context is also pivotal to the success of this programme.

# The Housing Code

## Farm Resident Subsidy Programme

### **PART A Policy Provisions**

- 1 Overview
- 2 Challenges Facing Farming Communities
- 3 Policy Prescripts
- 4 Institutional Arrangements
- 5 Departmental Alignment**
- 6 Monitoring and Evaluation**

### **PART B Guidelines for the Implementation of Projects**

- 1 Nature of Guidelines  
Important Considerations
- 2 Suggestions on How to Implement
- 3 Monitoring of the Programme



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



## 5 DEPARTMENTAL ALIGNMENT

The success of the Programme hinges on effective cross-departmental cooperation. Most specifically cooperation between the ND, DRDLR and DAFF to address:

- a) The pressing issue of farm tenure;
- b) The potential obstacles in legislation and procedures governing sub-division and rezoning; and
- c) The establishment of budgetary priorities within the departments to promote independent, untied access to land and housing for farm workers and occupiers.

The DOL is a critical stakeholder in respect of monitoring and enforcement of provisions related to housing and services set out in the Sectoral Determination 8: Farm Worker Sector, Basic Conditions of Employment Act, No 75, 1997.

Since the Programme places emphasis on the role of municipalities in rural settlement planning and implementation, the Department of Cooperative Governance and Traditional Affairs has important contributions to make in adapting systems and procedures for the facilitation of integrated rural settlement plans within the IDP framework. A cross-departmental plan for local government capacity building to ensure that they can adequately fulfil their critical developmental role in the rural context is also pivotal to the success of this programme.

## 6 MONITORING AND EVALUATION

The Provincial Department will be responsible to monitor the implementation of the Programme.

The National Department will furthermore monitor and evaluate the application of the programme to ensure compliance and record the lessons learnt required for feed back into the policy development process where applicable.



# The Housing Code

## Farm Resident Subsidy Programme

### PART A Policy Provisions

- 1 Overview
- 2 Challenges Facing Farming Communities
- 3 Policy Prescripts
- 4 Institutional Arrangements
- 5 Departmental Alignment
- 6 Monitoring and Evaluation

### PART B Guidelines for the Implementation of Projects

- 1 Nature of Guidelines  
Important Considerations
- 2 Suggestions on How to Implement
- 3 Monitoring of the Programme



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



## **PART B: GUIDELINES FOR IMPLEMENTATION OF PROJECTS**

### **1 NATURE OF GUIDELINES**

This section provides suggestions on how to implement projects under the Programme, and therefore is non-prescriptive in nature. The MEC has discretion in the application of the Guidelines. It is, however, important to note the contents of the Guidelines are based on the statutory provisions applicable to all spheres of government. The key legislation includes:

- a) The Constitution of the Republic of South Africa, 1996;
- b) The Public Finance Management Act, 1999 (Act No. 1 of 1999);
- c) The Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- d) The Housing Act, 1997 (Act No. 107 of 1997);
- e) The Extension of Security of Tenure Act, 1997 (Act No. 62 of 1997);
- f) The Land Reform (Labour Tenants) Act, 1996 (Act No. 3 of 1996); and
- g) The Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).



# The Housing Code

## Farm Resident Subsidy Programme

### PART A Policy Provisions

- 1 Overview
- 2 Challenges Facing Farming Communities
- 3 Policy Prescripts
- 4 Institutional Arrangements
- 5 Departmental Alignment
- 6 Monitoring and Evaluation

### **PART B Guidelines for the Implementation of Projects**

- 1 Nature of Guidelines
- 2 Important Considerations**
- 3 Suggestions on How to Implement
- 4 Monitoring of the Programme



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



## **2 IMPORTANT CONSIDERATIONS**

This section deals with the implementing agents of the Programme, the tenure options, the subsidy amount, beneficiary contributions, Value Added Tax and procurement compliance requirements

### **2.1 IMPLEMENTING AGENTS**

The Programme provides for four different implementing agents. The first agent is the owner of the farm. The programme has been designed on the basis that the farm owner will fulfill the role of implementing agent for the residential developments on his farm as well as in cases where the farm land was subdivided and transferred to farm residents in ownership. The owner of the farm will play a very important role in the identification of housing needs, the planning of solutions and the provision and administration of housing opportunities for the farm residents on his/her farm.

The second implementing agent is a housing institution that is prepared to develop and administer housing opportunities on the farm in terms of a secure long term rental arrangement, concluded with the farm owner.

The third implementing agent is the organ of the State that could undertake projects where the farm owner has agreed to subdivide his or her land and transfer the individual subdivisions to the farm residents and where the farm owner is not prepared to assist in the development of housing solutions for the individual beneficiaries. This development role will be fulfilled by the relevant municipality or provincial government.

Alternatively, the owners of the individual farm portions may decide to appoint a private sector developer/ contractor to undertake the development on their behalf.

Where the beneficiaries of subdivided farm land wish to construct their own dwellings, they may apply for project approval in terms of the provisions of the Enhanced People's Housing Process Programme.

### **2.2 SECURITY OF TENURE**

Housing development for farm residents is influenced by the tenure rights that currently prevail. Firstly, many of the current farm residents enjoy rights to the land they occupy through the provisions of the security of land rights legislation. Secondly, it is acknowledged that most of the farm land belongs to the current farmers and the farmers regard their land ownership as a very sensitive matter. There are also cases where the current farm owner is leasing the farm land to a tenant for commercial farming purposes. Where the tenant wishes to provide housing to the farm residents in his/her employment, he/she will have to negotiate

with the farm owner to apply for the housing assistance available under this programme.

This National Housing Programme is not targeting land occupation or ownership rights. This National Housing Programme targets housing solutions in a consultative and mutually agreed and acceptable manner.

Beneficiaries of the Programme who will be accommodated in rental housing units on the farm must enter into formal rental agreements with the farm owner or the housing institution as the case may be. Where applicable, the housing institution may award other forms of secure tenure options with the approval of the MEC.

Where the beneficiaries will receive subdivided farm portions, such farm portions must be transferred in ownership to the beneficiaries and the transfer transactions must be registered in the Deeds Office.

### **2.3 SUBSIDY AMOUNT AND BENEFICIARY CONTRIBUTIONS**

As indicated in the Policy Section, the Director-General of the National Department will annually announce the various housing subsidy amounts and guideline amounts for the variation of the project costs to cater for special development requirements.

Beneficiaries of rental units delivered through this Programme will not be required to make a financial contribution as a prerequisite to access the housing opportunities.

In certain cases, where beneficiaries will acquire registered ownership of the subdivisions of the farm land and their income exceed the threshold set for the indigent category, the requirement for a contribution to obtain access to the housing subsidy will apply. This contribution can be realised by paying a cash amount or through participation in a self build project as provided by the Enhanced People's Housing Process Programme. The latter option will require that the beneficiaries of the subdivided farm land will have to collectively decide to construct their houses and will have to apply for project approval in terms of the provisions of the Enhanced People's Housing Process Programme.

### **2.4. ZERO RATING OF HOUSING SUBSIDIES FOR VALUE ADDED TAX (VAT) PURPOSES**

In terms of a ruling by the former Commissioner of Inland Revenue, individual ownership housing subsidies fall within the definition of "transfer payment" as contemplated in the Value Added Tax Act, 1991 (Act No. 22 of 1991) and is subject to VAT at a rate of zero percent (0%).

However this ruling is not applicable on housing subsidies that are utilised to create and manage rental stock on behalf of the beneficiaries. Rental related housing

subsidies are thus subject to the provisions of the Value Added Tax Act, 1999 and will not be zero rated.

## **2.5 PROCUREMENT COMPLIANCE**

In view of the special arrangements of the development options, the Programme is not subject to the normal procurement prescripts applicable to organs of the State. Where the farm owner is to provide rental housing on his/her farm, or where a housing institution is to develop rental stock on the farm the interface with the providers of housing goods and services occurs at that level and the organ of the State is not party to the procurement processes and arrangements.

However, in regard to the acquisition of materials and the services of special service providers required for the project implementation, the implementing agent must invite tenders or obtain quotations from material suppliers/service providers where this is feasible and practicable. This provision will not apply in cases where the building material is manufactured on site. The acquisition strategy to be followed by the implementing agent must be included in the project application agreement, to be concluded with the MEC.

In cases where the housing development project will be undertaken by the appropriate organ of the State, the normal procurement prescripts will apply.

Where the beneficiaries have elected to appoint a private sector develop/contractor, the legal entity representing the beneficiaries must follow open transparent and competitive procurement process in the appointment of all the service providers.



# The Housing Code

## Farm Resident Subsidy Programme

### PART A Policy Provisions

- 1 Overview
- 2 Challenges Facing Farming Communities
- 3 Policy Prescripts
- 4 Institutional Arrangements
- 5 Departmental Alignment
- 6 Monitoring and Evaluation

### PART B Guidelines for the Implementation of Projects

- 1 Nature of Guidelines
- 2 Important Considerations
- 3 **Suggestions on How to Implement**
- 4 **Monitoring of the Programme**



**human settlements**

Department:  
Human Settlements  
REPUBLIC OF SOUTH AFRICA



### 3 SUGGESTIONS ON HOW TO IMPLEMENT

#### 3.1 PLANNING AND FUNDING RESERVATION

The MEC should annually (for each following MTEF period) reserve funding for the implementation of the Programme based on the need for farm residents housing development, identified in the province.

To establish the initial need, it is suggested that the each provincial department undertakes the following:

- a) Request every municipality in the area of jurisdiction to establish the need for housing assistance for farm residents. This could be undertaken with the assistance of the farm owners as part of the monthly property rates and taxes accounts through the official Programme information document and a request to indicate willingness to participate and to indicate the number of households residing on the farm that may need housing assistance; or
- b) Where the municipality does not have the required capacity, establish the need through letters to all farm owners in the province explaining the programme options and implications in brief and request the farm owners to indicate whether they wish to participate and to confirm the number of households on the farm that need housing assistance. The National Department has developed a Programme information document that may be used for this purpose. The information document can be obtained from the Department.

The contact details of the farm owners may be obtained from municipalities' Property Tax databases and/or provincial agricultural forums where applicable.

The information gathered through this process will provide provincial departments with a basis for planning and funding reservation as required by the multi year housing development planning dispensation and the provisions issued by National Treasury.

The information gathered may also assist to identify and plan for development options in terms of the other National Housing Programmes, for instance where a normal township development and establishment process should be followed, etc.

Provincial departments are advised to preliminary reserve an amount from its provincial allocation for the 2009/10 financial year to facilitate some projects that may be viable for immediate implementation.

Planning and budgeting should always be undertaken on the basis of the project life cycle and that the project life cycle may extent beyond a specific single

financial year. To avoid requests for funding “roll overs” budgeting should be aligned with the project life cycle and planned milestone achievements.

### **3.2 CALL FOR PROJECT APPLICATIONS**

Once the MEC has approved the funding reservation for the Programme, it is advised to publish an invitation to call for applications for project funding allocations under the Programme. This advertisement should indicate the amount reserved and that project applications are invited which will be considered on a first come first served basis.

The advertisement could also be included in the monthly rates and taxes accounts to be distributed to the farm owners by the municipality.

Alternatively the MEC may decide to implement the Programme on a pilot basis in the relevant province, thus targeting specific areas or a development option. In such circumstances the reservation of funding and allocation of specific project funding will not require a public call process.

Once the total amount reserved for the programme has been allocated to approved projects, the MEC should publicly announce that the funding for the programme for the particular financial year has been fully committed and that no further project approvals will be considered for the remainder of that specific financial year.

### **3.3 ASSISTANCE TO HOUSEHOLDS TO ESTABLISH LEGAL ENTITIES**

It is expected that where a farm owner is prepared to subdivide his/her farm, but is not prepared to undertake the housing development for the beneficiaries, the beneficiaries may need assistance to establish the required legal entity to enable them to apply for project funding and conclude agreements with municipalities, the MEC and service providers.

Where such cases are detected, it is suggested that the provincial department assist the beneficiaries or appoint suitable expertise from its Operational Expenditure Budget in Support of the implementation of National and Provincial Housing Programmes (OPS/CAP) budget to provide the required assistance. The Municipality may also be approached to provide the assistance where such capacity exists.

### **3.4 APPLICATION OF THE PROGRAMME**

#### **3.4.1 DEVELOPMENT OPTIONS**

The development scenarios that may be considered under the programme are:

- a) Rental housing development by the farm owner on his/her farm for occupation by farm residents that satisfy the general housing subsidy qualification criteria;
- b) Housing development by a housing institution on the land of the farm owner for occupation by qualifying beneficiaries;
- c) Subdivision of the farm land and transfer thereof to the farm residents and development by the farm owner, the municipality/province or by a private sector developer employed by the legal entity representing the beneficiaries, or the beneficiaries may follow the Enhanced People's Housing Process Programme and apply for project approval as prescribed by the Programme; and
- d) Development for beneficiaries who received individual farm land in ownership through the Land Reform Programme of the Department of Rural Development and Land Reform.

#### **3.4.2 USE OF THE FUNDING**

The funding available under this programme may only be utilised for the following purposes:

- a) The construction of new houses on the serviced stands;
- b) The renovation/upgrading of existing housing stock; and
- c) The provision of basic local water, sanitation and storm water management system and/or the upgrading of existing services (only as a last resort), if no alternative funding is available for the provision or upgrading of the required services.

#### **3.4.3 NATIONAL NORMS AND STANDARDS IN RESPECT OF SERVICES AND PERMANENT RESIDENTIAL STRUCTURES.**

Due to the considerable variations in the development conditions that exist in the farming environment, the Ministerial National Norms and Standards in respect of Services and Permanent Residential Structures will not be applicable. However compliance with the said norms and standards should be pursued to ensure that the products delivered through the Programme are of the highest quality. The said norms and standards are contained in Volume 2: Technical and General Guidelines of the National Housing Code.

To accommodate local development conditions the MEC may consider alternative water, sanitation services and storm water management systems suitable to the development area. These local solutions must however comply with environmentally sustainable requirements. For instance, water supply may be arranged through boreholes where the water quality complies with minimum specifications for human consumption. The sanitation system may comprise a French Drain Systems or any alternative system such as the Urine Divert System or a VIP where such options comply with environmentally acceptable standards. Where the VIP option is selected, it must be noted that such systems has a limited life expectancy and that the replacement and/or major maintenance thereof will be required in due course. Certain alternative sanitation systems will also require comprehensive consumer education and compliance monitoring to ensure the effective functioning thereof.

### **3.5 HOW TO MAKE AN APPLICATION AND CONCLUDE THE PROJECT AGREEMENT**

#### **3.5.1 THE FARM OWNER WILL DEVELOP RENTAL HOUSING ON HIS/HER FARM**

Responding to the invitation of the MEC to tender project applications, the farm owner who is prepared to develop and maintain rental housing options on his/her farm will be required to compile a project application. A pro-forma application is attached to these guidelines.

Before the farm owner can submit an application to the MEC, he/she will have to enter into an agreement with the prospective beneficiaries in terms of which the beneficiaries agree to the development for them. A pro-forma agreement for this purpose is attached to these guidelines.

The farm owner is obliged to submit the application through the municipality who, if in support of the application, will submit the project application together with the confirmation of support to the MEC.

The farm owner should submit the following information in the project application as the minimum requirement:

- a) The description of the farm land depicted on the Title Deed of the property, registered in the Deeds Office. The submission of a certified copy of the property's Title Deed is recommended;
- b) A clear description of the households who will benefit from the project development - full names and surnames, identity numbers, household composition and identity numbers of financial dependants if applicable;
- c) Details of the current land rights the beneficiaries may enjoy if any;

- d) Confirmation of the monthly income of each beneficiary;
- e) Full details of any rentals that will be charged as contemplated in the policy prescript section;
- f) Description of the nature of the project - the construction of new houses or the upgrading of existing structures;
- g) The basic services that are currently available or where no services are available, the details of the services that will be provided;
- h) The total number of housing units that will be developed;
- i) The sketch plans of the planned units;
- j) Desktop geotechnical information of the development site;
- k) The detailed cost breakdown of the various project aspects;
- l) The variation requirements for extraordinary development conditions where applicable;
- m) Details of the construction options selected - whether a home builder will be employed, whether the farm owner will undertake the construction work with his own employees, whether the beneficiaries will participate in the construction of the housing units, etc;
- n) Where home builders will be employed, confirmation of the procurement process that will be followed;
- o) Where materials will be purchased, the details of the procurement processes that will be followed;
- p) The signed draft project agreement, confirming the farm owner's concurrence with the condition applicable to development option as contained in the Policy section. A pro-forma agreement for this purpose will be provided.

### **3.5.2 HOW THE PROVINCIAL DEPARTMENT EVALUATES THE APPLICATION**

Upon receipt of the project application from the Municipality, the provincial department will record the application and should acknowledge receipt thereof within seven days.

The provincial department should now check whether all the required information has been submitted and whether the application could be considered against the availability of reserved funding.

Where the application is procedural correct, the provincial department should confirm the funding reservation for the project application. Where no funds are available it should return the application to the municipality for re-submission by the farm owner during the next financial year.

Where funds are available, the provincial department should now evaluate the application from a technical and financial point of view.

This evaluation process may require a visit to the farm to inspect the current housing situation on the farm, the number of families to be assisted, the viability of the basic services proposal and the sustainability thereof. It should also be established what the geotechnical conditions of the area to be developed are. The geotechnical conditions could be guided by the information on problematic areas in the Country as contained in the Variation Manual in Volume 2: Technical and General Guidelines of the National Housing Code. The agreement between the farm owner and the farm residents should also be confirmed.

Before the applications is submitted to the MEC for consideration the provincial department will test whether the beneficiaries qualify for allocation of subsidies against the National Housing Subsidy Database and other data bases and, if found in order, the application can be submitted to the MEC for approval. The evaluation of the beneficiaries against the qualification criteria of the Programme should take cognisance of the fact that the beneficiaries will only acquire rental tenure and that single persons without financial dependants will also qualify as beneficiaries as well as previous or existing property owners.

The preliminary project cost should be determined on the basis of the cost estimates submitted by the applicant. Where the cost estimates exceed the maximum subsidy amount and, where applicable, the maximum cost for engineering services, the project cost should be adjusted to the maximum prevailing subsidy amounts. This may require that the application be returned to the farm owner for correction.

The findings of the evaluation process should be converted into a project approval submission to the MEC for consideration. This submission should include the full financial details of the project, including any variation funding requirements. At this stage the project funding should be secured for the project until such time as the MEC's decision is known.

The MEC should now adjudicate the application. Where the application is not approved, the provincial department should inform the municipality and the farm owner of the decision, including the reasons for not approving the application.

Where the application is approved, the provincial department will secure the funding allocation for the approved project and inform the farm owner and municipality accordingly.

In summary, the farm owner's project application will follow the following process:

- a) The farm owner submits the project application to the local municipality for support and submission to MEC;
- b) The municipality will assess the application and if it is in support of the application refer it to the PD;
- c) Upon receipt of the project application, the PD should acknowledge receipt of the applications in writing within seven days;
- d) The PD should then ascertain if sufficient funds are available to approve the application;
- e) If sufficient funds are available, the PD should examine the application to establish whether it complies with the requirements. If it is found incorrect, the PD should return the application to the applicant, indicating what is required or additionally needed;
- f) If the application is found to comply with the minimum requirements, the PD will test whether the farm residents qualify for subsidies against the NHSDB and the other data bases before the application is processed for submission to the MEC;
- g) Where all the beneficiaries qualify for housing subsidies, the project application is submitted to the MEC for consideration;
- h) Should the MEC approve the project proposal, the PD will record the project on the Housing Subsidy System (HSS) and inform the housing institution of the decision;
- i) The required project agreement should now be concluded.

### **2.5.3 PROJECT AGREEMENT**

Once the project is approved, the MEC should require the farm owner to enter into a project agreement that will regulate the project implementation and ongoing administration and maintenance of the units. A pro-forma project agreement will be provided.

The critical issues to be included in the project agreement are the following:

- a) The project cost;

- b) The services standards, if any and standards applicable to the dwellings to be provided;
- c) The progress payment system that will be applicable;
- d) The details of the restriction on the sale of the farm and the preferential claim rights of the provincial government against the property that will be registered against the Title Deed of the farm. The pro-forma power of attorney and pro-forma title deed restrictions will be provided;
- e) The clause regarding the protection /maintenance of the current land rights and non-eviction of beneficiaries who have land rights to the farm;
- f) The project implementation time frame;
- g) The proposed rentals to be charged, if any;
- h) The procurement processes that will apply to the project;
- i) The refunding clause in cases of over payment;
- j) The adherence to the rental contract provisions;
- k) The details of the long term maintenance of the houses/dwellings;
- l) The details of the project termination process;
- m) The penalty clauses in instances of non- compliance to contractual provisions;
- n) The pro forma rental agreements to be concluded with the beneficiaries must be attached as an Annexure to the agreement.

Once the project agreement has been signed, the farm owner will proceed with implementation of the approved project.

#### **3.5.4 PROGRESS PAYMENTS TO THE FARM OWNER**

The MEC will not be allowed to administer advance payments to the farm owner. This implies that the farm owner will have to make use of bridging finance to fund construction work. The standard proposed progress payment system is recommended for application in this scenario, which is based on the principle of the achievement of value for money before any payment is considered.

In regard to the certification of milestone achievements, it is suggested that the MEC enter into an agreement with the municipality to fulfill this important role. It is suggested that the farm owner submit his claims for payment directly to the municipality. The municipality should inspect the work and certify the claim for payment and refer the claim to the provincial department for payment.

The MEC may also elect to make use of an independent certifier to evaluate and certify the work done in response to claims for payments at each project in the province. The services of the certifier could be funded through the OPS/CAP Programme.

It is also suggested that provincial inspectorate visit each housing development on the farms at least every second week to ensure that quality standards are complied with and the work programme is adhered to.

### **3.5.5 DEVELOPMENT OF RENTAL HOUSING ON THE FARM BY HOUSING INSTITUTIONS**

In response to the call for project proposals, applications from housing institutions to develop rental housing on particular farms may also be received and considered. Such project applications will probably be initiated by the housing institution in collaboration with the farm owner.

It should be noted that Institutional Housing Subsidy Schemes may not be affordable to all the farm residents, as housing institutions are required to charge minimum rentals to administer and maintain the housing units. The affordability of the project proposals must therefore be demonstrated in the project application.

The project application will be subject to the requirements imposed by the prescripts of the Institutional Housing Subsidy Programme as well as the Social Housing Programme in regard to the accreditation of housing institutions and the facilitation assistance available to housing institutions

Before a housing institution can apply for project approval it will have to follow a process of accreditation by the Social Housing Accreditation Authority, contemplated by the Social Housing Act, 2008. In this regard the social housing institutions are advised to contact the Social Housing Foundation for the required details and requirements.

The Institutional Housing Subsidy Programme provides that the housing institution may decide to accommodate persons who do not qualify for housing subsidies in the units. However the housing subsidy available under this Programme will only be awarded to persons who satisfy the standard qualification criteria set out in the Policy section. The capital cost in respect of dwelling to be occupied by persons who do not qualify for housing subsidies must be funding by the housing institution from own resources.

In addition to the accreditation requirement, the housing institutions will be required to enter into written agreements with the relevant farm owners to obtain long term tenure rights over the farm sections earmarked for the housing development.

These long term tenure rights must be recorded against the title deed of the farm property in the Deeds Office.

Accredited housing institutions have access to facilitation and establishment funding through the Social Housing Programme and will therefore not need any additional funding for project design and preparation purposes.

The housing institution should ensure that the beneficiaries are adequately represented in the management structure of the housing stock that will be developed and administered by the institution. The MEC should approve this proposed management structure. The farm owner should also be represented in the management structure of the institution.

It is also suggested that the housing institution should be obliged to undertake the project design and planning in collaboration with the residents who will benefit from the housing development. A written agreement between the parties should be required.

The content of the project application must also comply with the provisions of the Institutional Housing Subsidy Scheme Programme. The project application evaluation and consideration process should be similar to the processes suggested in respect of housing developments by the farm owner on his/her land. The housing institution should also submit the project application to the MEC through the municipality, which must tender its support for the project application and confirm any services provision requirements/agreements.

Housing institutions will also be required to follow a fair, transparent and equitable procurement processes in the employment of services providers to construct the dwellings.

The subsidy quantum applicable to this option will be equal to the Institutional Housing Subsidy Programme subsidy amount.

In regard to progress payments and the certification of work achieved, the MEC should agree with the housing institution on the details on the progress payment system that will apply as well as the certification of milestone achievements.

If the MEC approves the project application, a project agreement will be concluded between the MEC and the housing institution. A pro-forma project agreement is attached to the guidelines.

**Project application and approval process flow:**

A housing institution's project application should follow the following process:

- a) The institution will enter into an agreement with the farm owner regarding long term tenure rights and the provision of housing on the farm;

- b) The housing institution will apply for accreditation with the Social Housing Accreditation Authority;
- c) The housing institution will then agree with the farm owner and beneficiaries on the details of the housing development and processes and compile a project application;
- d) The housing institution should now submit a fully motivated project application to the MEC through the local municipality;
- e) The municipality, if in support of the application, should forward the application with its recommendation to the PD;
- f) The PD should acknowledge receipt of the project application in writing within seven days;
- g) The PD should then ascertain if sufficient funds are available to approve the applications as soon as possible;
- h) If sufficient funds are available, the PD should examine the application to establish whether it is procedurally correct including verification of the accreditation status of the institution. If it is found incorrect, the PD should return the application to the applicant, indicating what is required or additionally needed;
- i) If the application is found to comply with the minimum requirements, the PD will test whether the farm residents in respect of which the subsidy applications are submitted qualify for subsidies against the NHSDB and the other data bases, keeping in mind that single persons will also qualify for subsidies under the programme, before the application is processed for submission to the MEC;
- j) Where all the beneficiaries in respect of which subsidy funding is applied, qualify for housing subsidies, the project application should be submitted to the MEC for consideration;
- k) Should the MEC approve the project proposal, the PD should record the project on the Housing Subsidy System (HSS) and inform the housing institution of the decision;
- l) The required project agreement should now be concluded; and
- m) The project implementation commences.

### 3.5.6 DEVELOPMENT OF THE INDIVIDUAL FARM PORTIONS BY THE FARM OWNER

Where the farm owner decides to subdivide the farm land into small agriculture holdings and transfer the subdivisions to the farm residents and agree with the beneficiaries to undertake the development of the houses for them, the same project application and implementation process applicable to the development of the rental housing on the farm should be followed with the changes required by the context.

It is suggested that the MEC requires that the subdivided farm portions be transferred to the individual beneficiaries, either before the project commences or before the final progress payment is administered.

The farm owner should register as developer with the NHBRC and will be obliged to enroll each house constructed under this scenario as prescribed by the NHBRC.

The following principles should apply regarding the subdivision and provision of services to the subdivided farm portions:

- a) In subdividing the farm land, the owner must act in accordance with the provisions of all the relevant legislation applicable on agricultural land;
- b) In order to promote sustainability, each beneficiary should acquire a farm portion of sufficient size to at least facilitate small scale (subsistence) farming activities;
- c) The farm owner should ensure that each subdivided farm portion is provided with the minimum basic water and sanitation services and storm water management systems (as to protect the dwellings) described in this programme. The basic services to be installed should be environmentally acceptable and sustainable in the long term; and
- d) Where the basic services are to be supplied by a third party, a written agreement to this effect should be concluded and proof thereof should be submitted to the MEC with the project application.

#### **Procurement requirements**

In regard to the acquisition of materials and the services of special service providers required for the project implementation, the Farm owner should invite tenders or obtain quotations from material suppliers/service providers where this is feasible and practicable. This provision will not apply in cases where the building material is manufactured on site.

The acquisition strategy to be followed by the farm owner should be included in the project agreement to be concluded with the MEC.

## **Progress payments**

Progress payments should be administered on the basis of the achievement of value for money. The suggested progress payment system could be applied with adjustments where required.

### **3.5.7 DEVELOPMENT OF INDIVIDUAL SUBDIVISIONS BY THE BENEFICIARIES**

The programme provides for scenarios where the farm owner is prepared to subdivide and transfer the subdivisions to the farm residents but is not prepared to undertake the housing development for the farm residents.

The beneficiaries of the subdivisions will therefore have to undertake the housing development themselves and for this purpose they will have to establish a legal entity that will represent their interests in the development project.

In most cases the beneficiaries will require assistance to make the required arrangements to establish the legal entity. Some provincial departments have established external capacity to assist with project implementation throughout the province. It is suggested that the MEC consider providing assistance with regard to legal and technical advice to the beneficiaries through the provincial OPS/CAP programme, where feasible.

The application for assistance by the beneficiaries may also serve to register the specific housing need and pending project application and should provide information required for funding reservation and planning of the project.

Beneficiaries could consider three options regarding the way in which they wish to resolve their housing needs. These are the following:

- a) Agreeing with the municipality or provincial government to undertake the development on their behalf:
- b) Employing a private sector contractor to undertake the housing development; and
- c) Agree to follow a People's Housing Process to construct their dwellings.

Each of the three scenarios is briefly discussed in the following sections.

### **3.5.8 DEVELOPMENT BY THE MUNICIPALITY/PROVINCIAL DEPARTMENT ON BEHALF OF THE BENEFICIARIES**

Where the beneficiaries agreed with the municipality/provincial government to undertake the development on their behalf, the municipality/province should conclude a written agreement with the legal entity, representing the beneficiaries, regarding the housing project on their land and the details of the proposed project.

Where the farm portions have been transferred to the individual households, the municipality/PD should ensure that the written agreement includes a provision that provides legal development rights to the individual farm portions.

Once the agreements with the beneficiaries have been concluded the municipality/ province should initiate the project application.

The project application should comply substantially with the suggested project application and implementation process requirements in respect of developments to be undertaken by the farm owner on his/her land, with the changes required by the context.

Where the municipality undertakes the development of the housing units, the MEC may agree with the municipality to administer advance payments to the municipality to avoid undue cash flow constraints. The municipality should adhere to the normal progress payment system when service providers are to be compensated, based on value for money achieved.

### **3.5.9 DEVELOPMENT BY A PRIVATE SECTOR CONTRACTOR ON BEHALF OF THE BENEFICIARIES**

In the case where the beneficiaries decided to employ a private sector contractor to construct their dwellings, the legal entity representing the beneficiaries, should design and plan the development with the beneficiaries and compile a project application for submission to the municipality. For this purpose the legal entity may require professional assistance. The MEC may decide to provide such assistance through the Provincial OPS/CAP programme funding or may make expertise available where it has access to such.

The project application process should substantially be in accordance with the proposed project application process applicable to the farm owner who will develop rental housing on his/her land with the changes required by the context.

The project application should at least contain the following:

Details of the individual beneficiaries;

- a) Details of the properties to be develop;
- b) Confirmation of the transfer of the farm portions to each beneficiaries or if not transferred yet, the details pertaining to the process of transfer;
- c) Confirmation of the land availability agreement;
- d) Details of the water and sanitation services that will be installed and the operational details of such services;

- e) Where a third party is to provide any of the services such as the provision of water, the written agreement between the legal entity and the service provider must be submitted;
- f) Where the municipality will provide the services, the written undertaking of the municipality to this effect must be submitted;
- g) Details of the houses to be constructed, plans design specifications etc;
- h) Procurement processes to be followed;
- i) Financial details of the project application, including the proposed project progress payment system;
- j) Geotechnical details of the land on which the development will take place;
- k) Project time frame; and
- l) Details of external professionals to be appointed to assist with the project implementation where applicable.

Once the project application has been approved, the legal entity representing the beneficiaries must compile the required procurement documentation to enable it to call for tenders for the construction work. A fair, transparent and equitable procurements process should be followed in the appointment of the required service providers.

Advance payments to the legal entity of the beneficiaries will not be possible and the private sector contractor will have to finance the construction work from own resources until the first progress payment milestone has been achieved. It is suggested that the standard proposed progress payment system is applied for this purpose.

Regarding the certification of milestone achievements, the MEC may agree with the legal entity to undertake this task, or where the legal entity does not have the required capacity to fulfill this task may require the legal entity to employ a suitably qualified person to undertake this task. The legal entity may agree with the municipality to undertake the certification of achievements.

### **3.5.10 INDIVIDUAL OWNERSHIP DEVELOPMENT THROUGH AN APPROVED ENHANCED PEOPLE'S HOUSING PROCESS PROJECT**

Where beneficiaries wish to participate in the construction of their own dwellings, the legal entity representing the beneficiaries may apply for approval of a Peoples Housing Process Project.

The project application should be submitted in terms of the prevailing prescripts of the National Housing Programme: Enhanced People's Housing Process.

### **3.5.11 HOUSING DEVELOPMENT IN ALIGNMENT WITH THE LABOUR TENANT STRATEGY OF THE DEPARTMENT OF RURAL DEVELOPMENT AND LAND REFORM**

This option of the programme targets the areas identified by the various Provincial Land Reform: Offices (PLRO) of the Department of Rural Development and Land Reform where agriculture land is acquired, planned, subdivided where required and allocated to beneficiaries of the Labour Tenant Programme. Individual ownership of such subdivisions will be registered in the names of the beneficiaries, either immediately or in due course or the beneficiary will acquire secure long term tenure rights, such as long term lease arrangements over the allocated properties. This housing programme is to facilitate the provision of houses and residential engineering services where required as an option of last resort to the beneficiaries of the Labour Tenant Programme.

Application for funding under this option of the programme will require coordinated planning and funding reservation. The provincial departments will have to coordinate their project planning with the various PLROs.

Although the Housing Subsidy will be allocated to an individual qualifying beneficiary, the development assistance is only available in the context of an approved project.

The role of developer will initially be fulfilled by municipalities. Where the municipality does not have the required capacity to fulfill the role of developer, the provincial department will be required to assist the municipality or as a last resort undertake the development on behalf of the municipality.

The initial launch of this development option will be undertaken on the basis of the procurement of services providers to install the engineering services and build the houses or alternatively through the application of the Enhanced People's Housing Programme. The application of the Individual Subsidy Programme could be considered once the project linked scenario has been tested and the required capacity has been established to administer and control the programme.

#### **Norms and standards**

The Ministerial Norms and Standards contained in the Technical provisions of the National Housing Code should serve as a guideline for the services and houses to be delivered. Where existing houses are to be upgraded, these norms and standards may not be feasible and should be applied with the required flexibility.

### **Procurement prescripts**

The developer must be guided by the relevant national legislation regulating all interfaces with the suppliers of the housing goods and services. In general a fair, transparent and equitable procurement process should be followed.

### **Application of the approved funding**

The MEC and the developer should agree on how the funding will be released including the process of certification of claims. In cases where the municipality acts as developer, the MEC may agree to release approved funding in advance payments to the municipality.

It is suggested that the service providers be paid on the basis of the standard proposed progress payment system.

### **Financial contribution requirement**

Due to the fact that the Labour Tenants Strategy already provides for the requirements to make contribution as well as incentives to invest in the property for agricultural purposes, the financial contribution requirements for those persons whose monthly income exceeds R1 500,00 will not be applicable.

### **Suggested project application and implementation process**

The municipality should compile and submit a fully motivated project application to the MEC for approval of the project and funding. The application should provide the following information:

- a) The project will most probably be initiated by the PLRO through its Labour Tenant Programme and it will contact the provincial department regarding planning and finance prioritisation;
- b) Once agreement has been reached regarding funding reservation, the Provincial department should contact the relevant municipality and establish the project implementation options and processes;
- c) Where the municipality assumes responsibility for the implementation of the project, it will initiate the project design with the PLRO and the beneficiaries. In this process the municipality may agree with the beneficiaries to establish a structure that will represent the beneficiaries;
  - i) The municipality will now commence with the design of the project and compilation of a project application and submit the project application to the MEC;

The application for project approval should at a minimum contain the following details:

- a) Full details of the individual beneficiaries of the Labour Tenant Strategy;
- b) Detailed description of the properties to be developed;
- c) Confirmation that the farm portions have been or will be transferred to each beneficiary;
- d) Details of the current agricultural infrastructure that was provided under the Labour Tenants Strategy and the details of residential water and sanitation services that will be required and the details pertaining to the sustainability and/or delivery of these services as well confirmation that the selected services are environmentally acceptable;
- e) Details of how the beneficiary participate in the planning of the project as well as in the project implementation;
- f) Where a third party is to deliver/provide any of the services such as the provision of water, the written agreement between the beneficiaries, municipality and the relevant service provider must be submitted;
- g) Details of the houses to be constructed;
- h) Financial details of the project, including the proposed project progress payment systems between the MEC and the municipality and between the municipality and the service providers;
- i) Geotechnical details of the land on which the development will take place and the details of any required precautionary measures;
- j) The project time frame; and
- k) Details of external professionals to be appointed to assist with the project implementation.

#### **Consideration of the application**

- a) Upon receipt of the project application the PD should acknowledges receipt thereof within seven days;
- b) The PD should then ascertain whether sufficient funds are available to approve the application;
- c) If sufficient funds are available, the PD should examine the application to establish whether it is procedurally correct. If it is found not to be correct, the PD should return the application to the municipality, indicating what is required;

- d) If the application is correct, the PD will evaluate the application and undertake beneficiary qualification verification against the National Housing Subsidy Database and the other data bases and, if found in order, the application should be submitted to the MEC for approval;
- e) Once the project application is approved by the MEC, the PD will record the project approval on the Housing Subsidy System (HSS) and inform the municipality of the decision;
- f) The required project agreement between the MEC and the municipality should now be concluded;
- g) The municipality must register as a developer with the NHBRC and must enroll each dwelling as prescribed by the NHBRC; and
- h) The project implementation phase should now commence.

#### **4 MONITORING OF THE PROGRAMME**

Monitoring of the programme will take place at both provincial and national level:

The provincial departments will be responsible for monitoring the implementation of the programme.

The National Department will monitor and evaluate the application of the programme to ensure compliance and to record the lessons learnt that could be used in the enhancement of the programme where applicable.

