



## **human settlements**

Department:  
Human Settlements  
**PROVINCE OF KWAZULU-NATAL**

# ***HUMAN SETTLEMENTS POLICY COMMUNIQUÉ***

*Circular No.2/2011  
Dated: 21<sup>st</sup> JUNE 2011*

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## **NOTICE 01/11: TO MUNICIPALITIES AND SERVICE PROVIDERS WITHIN KZN**

The Department of Human Settlements KZN has decided to be involved in all aspects of housing delivery in fulfilling its constitutional mandate. All new service providers must be appointed by the Department in terms of proper procurement processes and existing service providers must have been appointed in terms of the procurement regime of the Municipality, approved by and/or ratified by the Department.

In order to facilitate effective management of the historic projects the Department is compiling a database of existing service providers. All municipalities must therefore supply comprehensive lists of their service providers engaged in housing projects including all housing professionals to the respective project management offices of the Department within 30 days of the date of this notice. The list must include the project description, date of approval and commencement, confirmation of procurement process and current status of the project and/or service providers.

The Department thus requires your co-operation in this process.

The measures outlined above are intended to foster improved service delivery and ensure value for money.

Should you have any comments or queries in this regard, kindly forward them to: [martie.milne@kzndhs.gov.za](mailto:martie.milne@kzndhs.gov.za) or fax to 033-3926482 attention to [Acting General Manager: Project Management, Mr.B.E.Cele](#).

Dated at Pietermaritzburg on 21 June 2011.

=====END=====

# **JOINT OWNERSHIP POLICY**

## **1. INTRODUCTION**

**1.1.** The Joint Ownership policy was approved on 26 April 1999. At the time this policy was implemented there were no norms and standards (units of 14 m<sup>2</sup> were being delivered) in existence thus the policy was developed to assist developers to combine subsidies, in order to provide a larger top structure.

**1.2.** This policy was developed due to the increasing difficulties experienced by developers in providing substantial top-structures after having taken into account the limited subsidy available after the installation of services.

**1.3.** The Joint Ownership policy is a provincial policy (applicable to KwaZulu-Natal) and is not used by any other province.

**1.4.** During the adoption of the policy, the following reservations were noted:

- Joint owners need to deal with the property on a contractual basis as common law provides that a joint owner can have access to the entire property which would then result in disputes.
- Owners are jointly liable for the payment of rates which accumulate on the property. Should a joint owner default in making such payments this negatively impacts on the remaining joint owners.
- Should one of the joint owners intend on extending his/her top-structure, this can only be commence once consent has been obtained from the fellow joint owners.
- In circumstances were any of joint owner dies, problems could be experienced should more than one person inherits the undivided share of his/her property.

## **2. OUTCOME OF THE POLICY REVIEW**

**2.1.** A policy review has been undertaken in relation to this policy, the findings of the review established that there are in fact numerous problems experienced in the implementation of this policy. The policy poses more disadvantages than advantages in that there are various disputes which arise in respect of rights and obligations with regard to housing units, the sharing of services and high legal costs and issues involved in the succession procedure where a beneficiary is deceased. Furthermore this policy is rarely used in housing projects for the above mentioned reasons.

**2.2.** As a result of the review, the policy has been repealed thus no longer applicable to housing projects. In cases where the policy has been applied in approved projects, these will be dealt with as and when they arise.

**=====END=====**

# POLICY DIRECTIVE ON FARM RESIDENTS POLICY

## 1. Introduction

In 2009 the National Department of Human Settlements approved the Rural Intervention: Farm Residents Subsidies. The aim of the programme is:

- provide access to adequate housing, including basic services (to be funded by the subsidy as an option of last resort) and secure tenure to farm workers.
- promote the development of sustainable human settlements by encouraging healthy and safe living environments and where possible access to social and economic amenities.

This programme is aligned with the labour tenant strategy of the Department of Rural Development and Land Reform.

## 2. Policy Directive

This directive must be read in conjunction with the Farm Residents Programme, Housing Code 2009.

### 2.1 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. *The Project Linked Application Packs can be used to obtain approval.*

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.

**2.2 Project Implementation**

The project can be undertaken by the farmer, a provincial department in instances where a municipality lacks capacity, a private developer or a Community Resource Organisation (CRO) through the Enhanced Peoples Housing Process.

**2.3 NHBC Enrolment**

The farmer or respective entity that will be implementing the project must register with the NHBC as a home builder.

**3. Tenure Arrangements**

The intervention provides for both rental and individual ownership.

**3.1 Rental options / Non-permanent accommodation**

These options include those where residents will be provided with non-permanent accommodation. *The institutional application packs will be used for application purposes.*

**3.1.1** The institutional subsidy mechanism allows qualifying institutions as per the housing Code to create affordable housing stock to qualifying beneficiaries. The subsidy is paid to approved institutions to provide subsidized housing on deed of sale, rental or rent to buy options, on condition that the beneficiaries are not required to pay the full purchase price and take transfer within the first four years of receipt of the subsidy. The requirements of the institutional subsidy mechanism must be adhered to. These include and are not limited to the following.

- The institution must be a legal entity
- The institution must have the necessary capacity to manage the project
- The institution must have the financial capacity to sustain the project
- The institution must either own the property or hold a long term lease for the respective property.

The normal requirement that institutions must make a capital contribution to the project will not be applicable under this programme

### **3.1.2 Maintenance of Rental stock**

The institution will be responsible for the maintenance of the rental stock. Maintenance costs must be financed from the rentals.

### **3.1.3 Calculation of Rental**

Rentals must be calculated excluding the subsidy amount received from the department. It is noted however that the system allows flexibility in the application of the rental requirement, as it relates to non-permanent accommodation options.

## **3.2 Individual Subsidy Mechanism**

The individual subsidy provides beneficiaries with access to housing subsidies to acquire ownership of a serviced stand and it allows the beneficiary to enter into house building contracts, or to purchase existing improved residential properties which are not part of approved housing projects. The provisions of the individual subsidy mechanism must be adhered to. The subsidy may be applied in instances where a beneficiary has obtained registerable rights land and housing.

## **3.3 Project Linked Subsidies**

Project linked subsidies enable a qualifying household to access a complete residential unit, which is developed within an approved project linked subsidy project for ownership by the beneficiary. The prescripts of the project linked subsidy mechanism must be adhered to in instances where groups of beneficiaries obtain ownership of property, which they hold and manage communally.

## **3.4 Enhanced People's Housing Process (EHP)**

EHP allows beneficiaries to participate in the decision-making process in terms of choice of product. Beneficiaries can build their own homes in this way enhancing the final product. The programme encourages and supports non-governmental organizations as partners in the housing delivery process.

In instances where the farmer owner has subdivided the farm and has transferred the farm portions to the farm workers but the farm owner does not undertake the project. In such instances the beneficiaries may elect to undertake the project in terms of the Enhanced People's Housing Process. A community resource organization must be used to assist the beneficiaries with the implementation of the project.

## **4. Alignment with the Labour Tenant Strategy**

The grants under this programme provide labour tenant beneficiaries with access to productive agricultural land as well as infrastructure for agricultural purposes. The programmes (LRAD and SLAG) will not provide residential engineering services and housing opportunities to the beneficiaries of that programme. In instances where it is possible to provide water for domestic use to the residence on the property through the agricultural infrastructure project the housing subsidy scheme (which is used as a last resort) should not also finance such services.

## **5. Norms and Standards**

### **5.1 Basic Services**

All households must have access to a minimum basic level of services. In circumstances where no alternative funding is available for basic services, the MEC may approve the use of funds from the conditional grant for the provision of such services.

### **5.2 Top Structure**

The norms and standards of the housing subsidy scheme must be adhered to.

## **6. Approval Process**

The policy guideline for project approval and NHBRC enrolment procedure must be adhered to when seeking approval for and implementing the project.

The policy directive can be accessed on the Department's website at [www.kznhousing.gov.za](http://www.kznhousing.gov.za)

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## **POLICY ENHANCEMENTS ON THE BREAKDOWN OF THE COHABITATION RELATIONSHIP**

### **1. The Policy Procedure on the Breakdown of Cohabitation Relationship is enhanced to include the following:**

- The registration of the property must be done in the names of both parties to the co-habiting relationship.
- In cases where the relationship has dissolved or one partner has died or gone missing, the registration of the title cannot be proceeded with.
- The existing sale agreement ceases to exist and a new agreement must be entered into. It must be noted that proof must be submitted prior to a new sales agreement being entered into.
- In the event of a cohabitation breakdown before the subsidy is approved and after the sale agreement has been signed, the agreement of sale must be cancelled. The developer must then find an alternative buyer.
- In the event of a cohabitation breakdown before the subsidy is approved and after the sale agreement has been signed and where there were dependents involved, the party that retains custody must enter into a new sale agreement for the property in question.
- If the partnership dissolves after subsidy approval, but before registration takes place, the existing sale agreement ceases to exist.
- In the event of a sale being successfully concluded, registration of the property has taken place and all monies paid out, then the Department or the developer has no further role to play. The matter is treated as private and can only be resolved by the court of law.
- During the application process, all co-habiting couples must provide additional documentary proof over and above the affidavit. This will serve to strengthen proof that the couple is in fact cohabiting. The following documents must be submitted as proof:
  - a) *a joint lease agreement or bank account*
  - b) *supporting affidavit from a family member or neighbour*

### **2. Policy Procedure on the breakdown of the Cohabitation Relationship:**

- The subsidy application is completed and submitted with all the supporting documents
- The subsidy is approved based on the qualification criteria
- If the sale agreement is signed and the relationship breaks down before the subsidy is approved. Documentary proof thereof must be submitted. The sale agreement will be cancelled and a new sale agreement will be entered into provided that the applicant meets all the qualification criteria
- If the subsidy is approved and the relationship breaks down before the property is registered. Documentary proof thereof must be submitted. The subsidy application will be cancelled and a new sale agreement will be entered into provided that the applicant meets all the qualification criteria.

- If the subsidy is approved, and the registration of the property is finalized and all monies paid out the developer/department has no further role to play. The matter is treated as private and can only be resolved by a court of law.
- The policy on the delinking of the beneficiary from the subsidy must be applied. This means that the registration of the property must take place after the house has been constructed. The implementation of the policy will alleviate problems that may arise if a breakdown in the relationship occurs.
- Application for special provision to be made to the MEC

The enhanced policy can be accessed on the Department's website at [www.kznhousing.gov.za](http://www.kznhousing.gov.za)

=====END=====

# **RAIN HARVESTING SYSTEMS**

## **1. BACKGROUND**

- a. The Province is largely rural in nature. In spite of government efforts, the delivery of basic services in rural areas remains a challenge. These services are required to ensure sustainable rural development and the needs of such basic infrastructure services come in many forms. Current policies of the Department accommodate these basic services through the implementation of the rural subsidy instrument. Challenges are, however experienced in ensuring access to basic services in many parts of the Province, including water, sanitation, roads and electricity.
- b. The National Department has already commenced with a programme on the sanitation services in these areas, whilst the Department of Transport is responsible for the provision of roads. Access to water, in particular, is deemed critical. To this extent, the Department of Human Settlements can contribute towards basic service delivery, as a last resort, through the rural development programme, as defined in the Housing Code, 2009, Part 3, Chapter 5.

## **2. PROBLEM STATEMENT**

The sustainability of human settlements in rural areas is challenged by the lack of basic infrastructure services.

## **3. KEY CONSIDERATIONS**

### **a. Mandate**

- i. The Mandate of the Department is to ensure sustainable human settlements are delivered. Other Departments, however, have specific mandates within the mandate of sustainable human settlement development. In the context of this document, the mandate and initiatives of the following Departments need to be observed:
  - National Human Settlements in terms of the Rural Sanitation Programme and the National Urban Service Delivery
  - Rural Development
  - Water Affairs
  - Minerals and Energy and Science and Technology, together with ESCOM in relation to the provision of solar energy;
  - Cooperative Governance and Traditional Affairs in relation to Municipal Infrastructure Grant initiatives.
- ii. It is not intended to duplicate mandates, but rather to contribute towards service delivery in the interest of ensuring sustainable human settlements, in partnership with stakeholders.

- iii. It is also not envisaged that the provision of services such as water tanks and rain harvesting systems be the ultimate solution, rather it will be the Department's interim contribution whilst partners realign budgets and/or contribute towards larger systems such as catchment dams, canals and storm water catchment systems.

**b. Other Policy Imperatives**

- i. In terms of the National Code, 2009, the rural instrument is one of last resort. The instrument allows for the provision of basic services and/or top structures but the national norms and standards do not apply as the entire subsidy amount is used to provide rudimentary services and/or a top-structure within the top structure subsidy amount, determined by the National Department.
- ii. The concession to finance internal basic services from the annual allocation as a last resort measure applies in terms of this programme. The Beneficiaries may thus request to exercise their rights to choose how to apply their subsidies.
- iii. In addition to this, the Department has also been mandated to deliver on the sanitation programme in these areas. These two programmes must be applied in a manner where the benefits can be aligned. No double dipping is allowed.
- iv. From a Provincial perspective, the Department had taken the position that quality top structures need to be developed irrespective of the subsidy instrument applicable, hence it has applied the norms and standards and extended NHBRC enrolment to these areas. This means that funding is required to deliver services as the subsidy is maximised to ensure norms and standards are maintained in terms of the top structure.
- v. Conventional instruments in urban areas provide for infrastructure funding to be provided as a last resort.
- vi. In order to bridge the gap between urban and rural, it is suggested that a portion of the allocation for the provision of services be considered for the provision of individual water tanks and rain catchment systems, and be later extended for the provision of solar panels to facilitate boiling of water to make it safe for drinking, and/or solar geysers. It is noted that the provision of solar energy is currently being investigated as an alternative form of energy provision in rural areas and the provincial policy will be informed by this.
- vii. Whereas water is deemed a most basic priority, other rural services, as a last resort, could be motivated for, **provided the subsidy quantum in respect of services is not exceeded**. This should be based on the subsidy quantum, as is adjusted annually, in relation to the cost of a serviced stand. This should be informed by the needs of the community and balanced against priorities and technical feasibility (e.g. areas with exceptionally low rainfall might not benefit from the provision of a water tank, nor would it be sustainable, but solar power might be an alternative).

- viii. In addition to this, all such services, and/or products to be delivered need to meet the minimum standards in terms of the South African National Standards in all instances and must be properly workshopped with communities and proper training needs to be provided on usage and maintenance of all systems.
- ix. Also, any infrastructure should not be assumed as being funded automatically by the Department of Human Settlements. A detailed motivation should be submitted in which the alternative funding source details have been provided, together with community consultation processes followed.

#### **4. POLICY DIRECTIVE**

##### **a. Context**

The Province has identified a need to assist rural communities to have access to water through the provision of rain harvesting and water tank systems in rural areas.

##### **b. Scope of Application**

- i. In the context of this policy, “rural” describes the nature of the settlement irrespective of the land tenure arrangements, provided the municipality is supportive of the level of infrastructure services proposed.
- ii. The policy, for the time being, will be limited to the provision of rain harvesting systems and individual potable water storage facilities to rural communities. However, alternative systems would need to be motivated and endorsed by the relevant services authorities and have the required South African National Standards endorsement.
- iii. The provision will only be applicable to those households where such facilities or alternative water facilities do not exist and/or have not been provided by the state previously. This is in keeping with the principle of double subsidisation.

##### **c. Implementation**

- i. The provision will be applicable to all newly packaged projects. Retrospective application will be considered upon motivation to the MEC. It should be noted however, that such applications need to consider possible technical implications such as roof design and adjustment requirements, in conjunction with the National Home Builders Registration Council (NHBC), and in consultation with the Departments of Water Affairs and Rural Development.
- ii. Bulk negotiations are encouraged to reduce costs (assuming roof structures are suitable). Pricing will be determined based on agreed specifications that comply with South African Standards, and within standard procurement principles. The price range, thus, will be applied with a measure of flexibility to account for these circumstances; however, such costs must be verified, taking into account issues such as delivery costs and discounts for bulks, and/or negotiations directly with suppliers.

- iii. No variation amount will be applicable.
- iv. Under no circumstances may the subsidy quantum be exceeded. In this regard the quantum allocation relating to water provision will be used as a guide.
- v. All systems used must be made certified fit for purpose and for the storage of water for human consumption (or clearly indicate if not). Systems and precautions for the use of stored water for human consumption must be clearly explained to consumers through workshops and pamphlets, including measures such as chlorination, boiling, etc.
- vi. Systems must be approved by the servicing authority and be work-shopped with the community. This should include use, maintenance and protection of systems against all elements.
- vii. Materials must be endorsed by the South African National Standards.
- viii. Applications will be vetted by the Regional Offices of the Department. This will include:
  - Confirmation that the application is submitted as a last resort in the interest of creating sustainable human settlements.
  - That the costs have been verified through comparison and that the roof structure will be sufficient to cater for the system/s proposed. This will apply to guttering and or geysers (as may be applicable). The specification should include a minimum 2500 litre tank, SABS approved, with all fittings and plinth, subject to NHBRC and municipal approved plans/drawings and specifications, and final costs, post NHBRC approval, to be confirmed by the Departmental Quantity Surveyors, prior to any agreement of instruction of works for all new housing units
  - That such designs must ensure that the structures are not undermined in any manner, and take into account the need for a filter system, if applicable, and also take into consideration the average rainfall within the area to assess whether rain harvesting is required from both sides of the roof; and
  - That the above principles be applied to cases for retrofitting also, noting that designs and costs for these units may have to be different to accommodate existing roof structures. In these cases materials and designs must be approved by the NHBRC and costs verified by the Departmental quantity surveyor.
  - That the community had been workshopped in terms of approaching the Department for funding after due consideration of the needs of the community, feasibility and all technical and environmental constraints to ensure that the end user is properly advised of the maintenance of the

tank, and requirements for safe and healthy use of water collected in such tanks.

- That the servicing authority is committed to the provision of alternative water systems such as tankers to augment water delivery.
- ix.** The end user must be properly advised of the maintenance of the tank, and requirements for safe and healthy use of water collected in such tanks.
- x.** The above principles will be applied to cases for retrofitting also, noting that designs and costs for these units may have to be different to accommodate existing roof structures. In these cases materials and designs must be approved by the NHBRC and costs verified by the Departmental quantity surveyor.

**The policy can be accessed on the Department's website at [www.kznhousing.gov.za](http://www.kznhousing.gov.za)**

**=====END=====**