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LAND RESTITUTION

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SECTOR: LAND AFFAIRS

PUBLIC EXPENDITURE AND POLICY ANALYSIS (PEPA)

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LIST OF ACRONYMNS

BAS	Basic Accounting System
CPI	Communal Property Institution
CRLR	Commission of Restitution of Land Rights
DLA	Department of Land Affairs
DPME	Department of Performance Monitoring and Evaluation
DRDLR	Department of Rural Development and Land Reform
EPR	Expenditure and Performance Review
LCC	Land Claims Court
MTEF	Medium-Term Expenditure Framework
NCOP	National Council of Provinces
RDG	Restitution Discretionary Grant
REID	Rural Enterprise Infrastructure Development
SPG	Settlement Planning Grant
RSG	Restitution Support Grant

GLOSSARY

Assessed claim	A claim which was worked on in a given financial year. This includes claims settled, claims finalised, claims researched but not settled, and claims settled but not finalised.
Betterment schemes	Betterment planning was implemented in the former homelands and other so-called "black areas" from the 1930s onwards, in an attempt to regulate these areas and control land usage. Under betterment, designated areas were divided into distinct land use zones - for residential, arable and grazing usage - and all people were forced to move into the demarcated residential zones. Furthermore, people were also dispossessed of arable and grazing land through the process of betterment.
Bundling	Bundling of claims for research purposes occurs when a number of individual claims are researched together and processed together, though each individual claim remains separate and once approved are finalised individually i.e. processing of payments.
Claimant verification	Claimant verification is the process of identifying a person entitled to restitution of a right in land as described in Section 2 of the Restitution Act including a person or direct descendant of such person or deceased estate or a community or part of a community dispossessed of right in land after 19 June 1913 as a result of past racially discriminatory laws or practices.
Commitment Register	When a claim is considered to be settled any financial obligation assigned to the CRLR is recorded on the Commitment Register. Once on the Commitment Register, the CRLR is committed to finalise the claim by transferring / paying the relevant form of redress.
Consolidation	Consolidating claims for settlement purposes occurs when a number of claims are processed together and consolidated in one settlement. In this instance, claimants are artificially consolidated to form one legal entity to take transfer of the land.
Financial compensation	Financial compensation is a form of equitable redress as provided for in the Restitution Act where the claimant is paid financially for the right in land lost as defined in Section 1 of the Restitution Act.
Gazetting	Gazetting refers to the publication of a notice of the land claim lodged in the Government Gazette as outlined in Section 11 of the Restitution Act.
Land compensation	Land compensation is a form of equitable redress where the claimant receives the restoration of a right in land – including restoration of a right in land on original land disposed and or a right in alternative land as defined in Section 1 of the Restitution Act.
Legal entity	For a community claim to take ownership of land, a legal entity needs to be established, i.e. Section 21 company; Close Cooperation etc. In restitution settlements this is generally in the form of a Communal Property Association (CPA) or a Trust.
Lodged claim	A claim on land that has been lodged in terms of the Restitution of Land Rights Act, 1994 (Act No 22 of 1994) via the submission of a claim form designed for this purpose with the Commission on Restitution of Land Rights or the Land Claims Court.
Options workshop	The options workshop refers to a workshop hosted and or on-going process of engagement hosted and facilitated by the CRLR for the claimants to outline the various restitution settlement options available to them as provided for in the Restitution Act.

Rule 3 Report	The report compiled by the CRLR to investigate the validity of the claim with respect to Sections 11(2) and Section 2 of the Restitution Act as described in more detail in Rule 3 of the Rules regarding the procedures of the CRLR in terms of the Restitution Act is referred to as the so-called Rule 3 Report.
Rule 5 Report	The comprehensive research report drafted by the CRLR to further investigate the claim lodged with reference to the key items listed in Rule 5 of the Rules regarding the procedures of the Commission in terms of the Restitution Act is referred to as the so-called Rule 5 Report. This can be referred to as the "research report".
Section 42D Report	The Section 42D report is the final document or report prepared for submission to the Minister (or as delegated) in terms of Section 42D of the Restitution Act for consideration and approval containing all the details of the claim and proposed settlement agreement in settling the claim.
Settlement ratio	The settlement ratio is the proportion of claims assessed that are concluded with a settlement.
Standard Settlement Offer	The Standard Settlement offer is the standardised amount of cash compensation paid for urban claims. This is based on the housing subsidy, adjusted for inflation...
Suspense Account	Financial payments which are not collected in the allotted time by claimants are registered on the Suspense Account.

Settled claim	The settlement of a claim occurs when: a) The Section 42D report is approved and signed by the Minister in terms of Section 42D of the Restitution Act; or b) A settlement agreement is made an order of the Land Claims Court in terms of Section 14(3) of the Restitution Act; or c) The LCC has made an order in terms of Section 35 of the Restitution Act; or d) A High Court has made an order on the matter referred to it for adjudication A claim is regarded as settled once the outcome of any of the above results in a financial commitment as recorded on the Commitment Register.
Finalised claim	The finalisation of a claim occurs after settlement once the transfer of the equitable redress has taken place e.g. the payment of compensation and or the transfer land.

CLARIFICATION ON THE NUMBER OF CLAIMS LODGED AND SETTLED

Lodged claims:

- In December 1998, the Commission counted approximately 60 000 physical *claim forms* which were lodged.
- Importantly, these *claim forms* could comprise any number of distinct properties [i.e. one claim form could be claiming ten properties - translating to ten different claims on *rights in land*]
- In 2006 the Commission reported that 79 696 claims had been lodged. This change was primarily because of the change in the way the Commission had begun to count a claim, whereby it started counting according to individual *rights in land.* Thus claim forms were disaggregated into their constituent land rights, which resulted in the growth of the 60 000 figure (claim forms) to 79 696 (rights in land)

Settled claims

- From 1994 to 2006, the Commission defined a settled claim according to the number of *rights in land restored*, [i.e. the number of properties restored, regardless of the number of claim forms that they originated from].

- After 2006 the Commission moved away from this land rights-based approach to counting the number of *claim forms* [i.e. a settled claim was defined by the number of physical forms settled - regardless of the number of rights in land that constituted the claim form]. Thus, from 1994-2006 the settlement of a claim form claiming five properties was counted as **five settled claims**, whereas from 2006 onwards this was counted as **one settled claim.**

- When the number of settled claims is quoted as **78 000,** this figure is therefore an amalgamated figure which combines both definitions of a claim – individual rights restored *and* claim forms – depending on when the claim was settled. Thus, the 78 000 figure effectively combines "apples" with "pears". In our opinion this figure is not accurate, useful or relevant for the purposes of planning or reporting on land restitution.

- To add further confusion to this, as of 31 December 2006, the Commission was given a directive from the Minister to stop reporting on settled urban claims, as all urban claims should have been settled by then. However, not all urban claims had been settled.

- Thus the approximate 78 000 claims that are reported as settled excludes the urban settlements since 1st January 2007. This further diminishes the validity and relevance of this statistic.

- In 2013, the Commission undertook a counting process to determine the number of physical *claim forms* awaiting settlement as it could not accurately measure its performance against this changing and contradictory definition of a claim:

  - This process found that as of March 2013 there were **8 733** *claim forms* awaiting settlement.

  - This figure can be directly measured against the 60 000 figure as both are measured in terms of *claim forms*.

Conclusion

The following conclusions can be made with regards to the above:

- Using the **78 000** and **79 696** figures is fraught with definitional inconsistency arising from changes over time in the way in which a claim was counted, and because it excludes urban claims which were settled post-January 2007.

- The **8 733** figure from March 2013 relates to *claim forms* awaiting settlement which can be directly measured against the 60 000 *claim forms* which were lodged. This in our view represents the only consistent measure available to inform an analysis of the Restitution Programme.

1. INTRODUCTION

This Expenditure and Performance Review (EPR) is one component of a broader analysis of approximately 30 reviews of government policy initiatives that aim to enable greater effectiveness and value for money in government expenditure and improved implementation of policy initiatives. Specifically, this EPR examines the performance of the national Land Restitution Programme which has been in operation since 1995.

The historical, political and policy context to land restitution, and the complex legal and institutional arrangements that have evolved over time to meet the scale and diversity of national circumstances, make for an extremely demanding and difficult operating framework for the Restitution Programme's implementation. Despite having settled 85% of the claims lodged since its inception, the Restitution Programme faces significant implementation challenges. These are rooted in the inherent complexity of the outstanding claims and are exacerbated by weaknesses in the established claim settlement practice and by the challenges associated with ensuring the on-going viability of productive land assets.

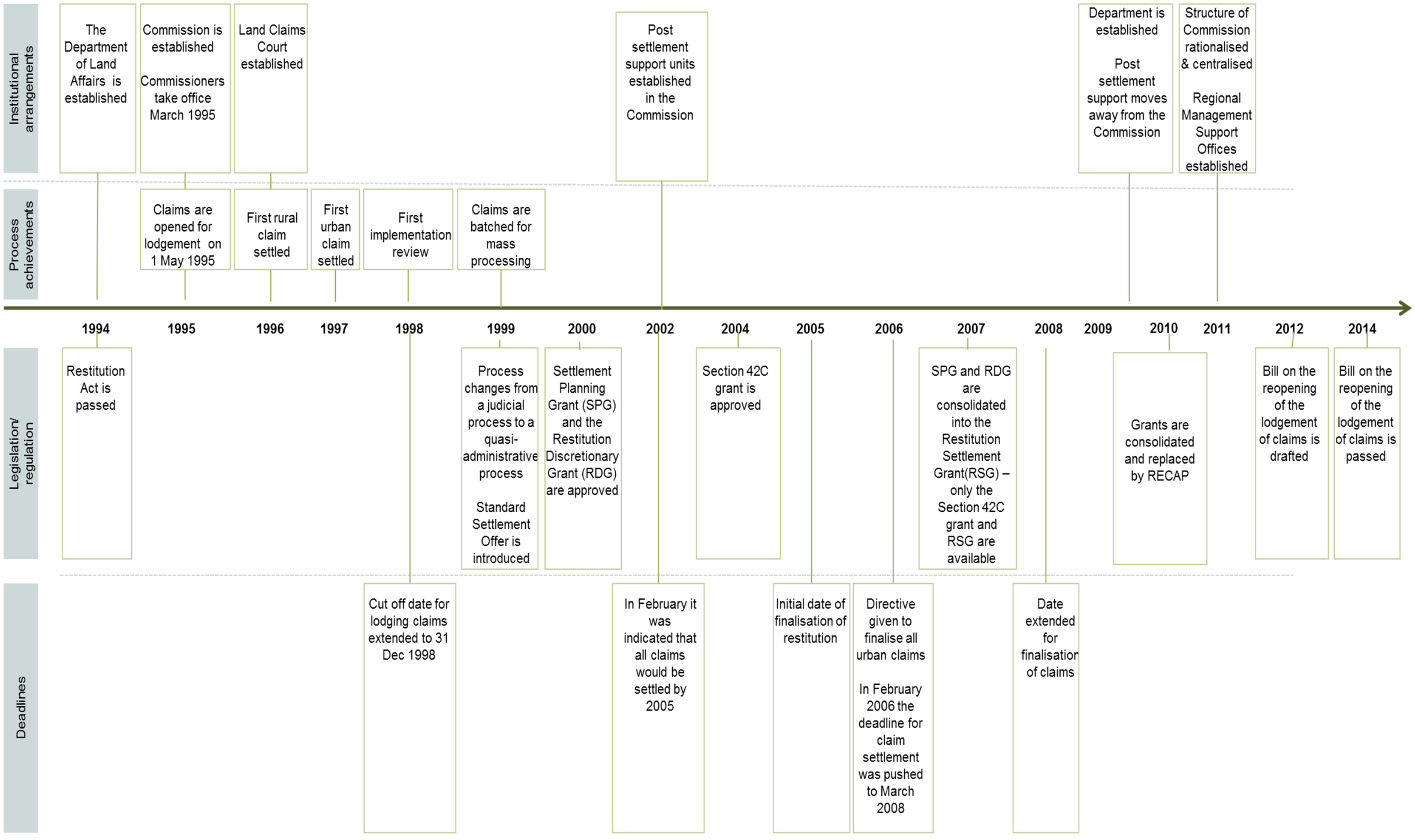
The re-opening of the claim lodgement window scheduled for July 2014 emphasises the importance of addressing the systemic and procedural factors that undermine the performance of the Restitution Programme, and the need to develop a planning and budgeting framework against which realistic policies and programmes can be agreed. The analysis contained in this report supports this process and culminates in the elaboration of several operating and budgeting scenarios against which informed decisions can be made regarding the scale and feasibility of different restitution models.

1.1. INTRODUCTION TO THE RESTITUTION PROGRAMME AND ITS EVOLUTION

The key dates framing the Restitution Programme are illustrated in Figure 1 and the chronology of the Restitution Programme is detailed in the narrative that follows. These descriptions illuminate the complex evolution of the Restitution Programme as it grappled to meet the numerous policy, procedural and institutional challenges that are inherent in a programme of this nature.

On 2 December 1994, the Restitution of Land Rights Act, 1994 (Act No 22 of 1994 - the Restitution Act) was implemented, giving individuals who were forcibly removed from their land after 19 June 1913 the opportunity to claim back their land. In 1995, the Commission of Restitution of Land Rights (the Commission) was established to undertake the Restitution process. From 1 May 1995 eligible claimants were given three years to lodge claims. This period was later extended to the cut-off date of 31 December 1998, whereupon it was reported that a total of 63 455 claims were lodged. As some claims were split in the process of investigation, the number of claims lodged rose to 79 693 by 2004.

Figure 1: Timeline of the Restitution Programme



The Land Claims Court was established in 1996 as the vehicle for pursuing a court-based restitution process. The combination of establishing the Commission as a new institution and the court-based claim settlement process that was prescribed for all claims meant that progress was slow in settling claims in the first five years of the Restitution Programme - only 47 claims were settled in these years[1]. This slow progress prompted a Ministerial review in 1998, which identified a range of problems impacting on the Restitution Programme. As per the recommendations stemming from the review, the Commission was integrated into the then Department of Land Affairs (DLA) – now the Department of Rural Development and Land Reform (the Department) – and the role of the Court was reduced such that it would only process complex claims that could not be resolved through an administrative process.

In 1999 the Standard Settlement Offer was introduced, standardising the value of financial compensation for urban claims. The Standard Settlement Offer was initially set at R40 000 for a residential property, with variations for major metropolitan centres (up to R50 000) and smaller amounts (R17 500) for claimants who had been long-term tenants at the time of dispossession. The latest policy of the Standard Settlement Offer, approved in 2013, sets the value at the greater amount of the housing subsidy as determined by the Department of Human Settlements (R92 500 for 2014/2015) and the value as determined by a historical valuation.

In February 2002 then President Mbeki stated that all claims would be settled by 2005.
However, by February 2005 only 70% of all land claims were reported to have been settled. The deadline for claim settlement was then pushed forward by three years to March 2008. The time pressures associated with these deadlines, together with a constantly evolving process and weak institutional and staff capacity, resulted in crucial research and verification functions being undertaken in a hurried, often cursory and incomplete manner; the artificial and unauthorised consolidation of claims to expedite the settlement process; and, ultimately, to the finalisation of incomplete and legally flawed 'settlements'.

The consequence is that large numbers of settled claims are of a poor quality and are open to external challenge and refutation (a major concern in advance of the re-opening of the restitution claims window), as well as internal dispute among claimants, particularly in large communal claims which have been summarily consolidated. In many cases this has led to the crucial Section 42D notice (the ministerial commitment to the validity of the claim and claimant) being withdrawn and the claim re-processed. This has resulted in the widespread duplication of effort at significant additional cost.

Owing to a growing uncertainty of the role of the Commission in implementing post-settlement support, post-settlement support units were established in 2002 to take responsibility for postsettlement support planning and facilitation. These units became responsible for developing business plans, providing institutional support and capacity building to claimant communities, promoting sustainable land use patterns, sustaining going concerns on restored land and providing interim management of restored land. Despite these units, there was no consensus in the Commission about its role in post-settlement support. Consequently, in 2006/2007 the Sustainable Development Consortium was appointed by the Commission with the support of Belgian Technical Co-operation to develop a comprehensive strategy for the provision of postsettlement support.

The strategy was launched by Minister Xingwana in 2007 but was never implemented. Ostensibly the strategy was to be incorporated into the Land and Agrarian Reform Project aimed at accelerating and aligning land and agrarian reform in South Africa. This was conceptualised as a joint project of the then Department of Land Affairs; the Department of Agriculture, Forestry and Fisheries; provincial

[1] Hall (2011). "Reconciling the past, present and future: The parameters and practices of Land Restitution in South Africa".

departments of agriculture; agricultural stateowned enterprises; and sector partners. Reviews of the project indicate that restitution claims, however, were seldom effectively integrated into the role out of the project, as there were ongoing problems of co-ordination between the Commission and the Department of Land
Affairs.

In 2009, the Department of Rural Development and Land Reform was created, opting for a “three legged strategy” to land reform and rural development, involving:

- Sustainable land and agrarian transformation
- Rural development
- Land reform based on restitution, redistribution and land tenure reform

In April 2011, the Commission was rationalised to create better synergy with, and clearer accountability to, the Department. The main reason for this was an over-commitment by the provincial Land Claims Commissioners in settling claims without the necessary budget to finalise them. The core of the Commission, the Chief Land Claims Commissioner, Deputy Land Claims Commissioner and a Regional Land Claims Commissioner remained autonomously employed under the Restitution Act. However, the restitution support personnel were all placed under the Public Service Act, 1994 as amended (Act No 103 of 1994). While this rationalised spending at the provincial level, it proliferated the number of review and approval “check points” a claim needs to go through before it can be considered settled, thus lengthening the time taken to settle a claim. Furthermore, as a result of this restructuring, all the Human Resources, Supply Chain Management, Information Management and Financial Management posts were removed from the provincial Commission structures and transferred to the provincial offices of the Department. This resulted in duplication, confusion and overlaps of responsibility for corporate support services as the Commission continued to perform many of these functions.

On 25 February 2014, the Restitution of Land Rights Amendment Bill (the Bill) was approved by the National Assembly. The Bill extends the deadline for lodging claims to 30 June 2019. The stated intention of the extension is to give individuals and communities who missed the 1998 deadline a chance to lodge their claims. Given the institutional, procedural and staffing weaknesses that the past restitution experience has illuminated, the re-opening of the window for claims gives rise to a number of organisational and budgetary processes, which the Department and Commission will be hard pressed to address. The extent of this will be illuminated in the remainder of this report.

1.2. THE CONTEXT: LEGISLATION AND BUSINESS PROCESS

The legislation that determines the eligibility of claimants is detailed in Appendix B. The following section presents the business process followed in settling a claim and the subsequent challenges associated with this process.

1.2.1. Business process of settling restitution claims

As there is no standarised, formal business process, the process of the Restitution Programme outlined in Figure 2 is derived from the seven broad phases of restitution as provided by the Commission (the "Step" headings on the left-hand side of Figure 2), the Restitution Act, and the findings from comprehensive evaluation conducted recently by Genesis Analytics for the Department of Performance Monitoring and Evaluation in the Presidency on the business process of the Restitution Programme. A narrative description of the restitution business process is as follows:

- **Step 1**: All claims were lodged by 31 December 1998. After lodgment, a claim was registered on the system, captured on the database and a letter of acknowledgement was sent to the claimant. This step is historical.

- **Step 2**: The Commission sorts the lodged claims based on the preliminary compensation type selected by the claimant and the perceived ease with which the claim can be settled. The Commission then batches similar individual claims that can be processed together. Based on this categorisation, the Commission prioritises claims such that ones that can be researched and settled relatively easily and quickly are processed first.

  There are currently over 7 000 claims at the screening and categorisation step- these are the backlog of claims waiting to be researched.

- **Step 3** entails the research of the claim. Firstly, the *prima facia* validity of the claim is established (a so called "Rule 3 Report"). If the claim is valid, in-depth research is conducted to investigate the claim's validity (a so called "Rule 5 Report"). Following this, a claim is gazetted and both the land owners and claimants are notified of the status of the claim.

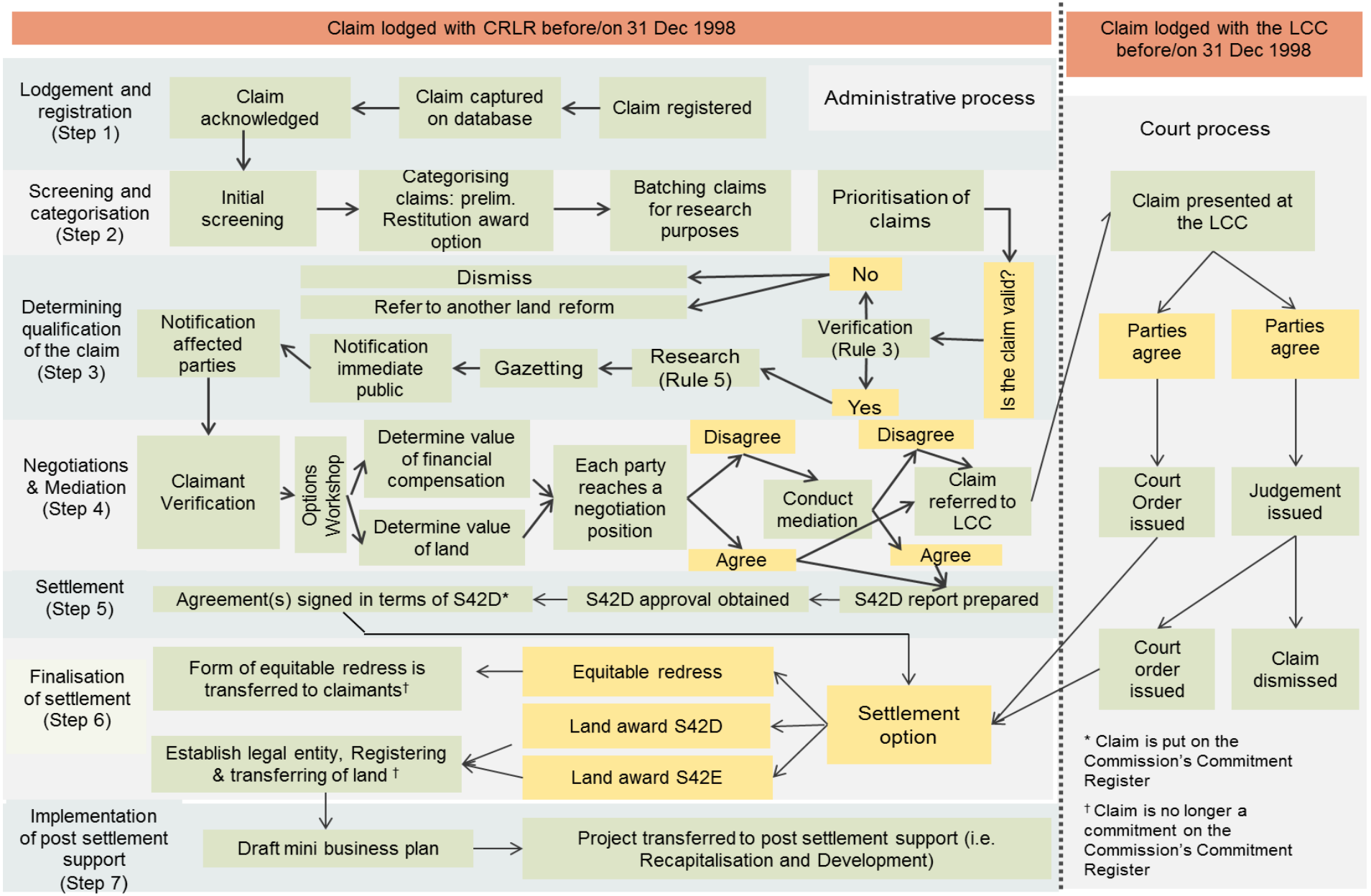
- **Step 4**: All claimants linked to the claim are verified and a copy of their ID is filed. Claimant verification can continue throughout the process, however, it typically begins at this point.
  The Commission then hosts a workshop (the so called "Options Workshop") to explain the restitution settlement process and the various settlement options that are available. Where necessary, the value of the claim is determined at this point and negotiations begin between the Commission and the community as well as the landowner.

- **Step 5**: An administrative step whereby the Commission compiles a report for submission to the Minister for consideration and approval as per Section 42D of the Restitution Act.

- **Step 6**: The settlement option that was selected by the claimants is transferred. While the other steps occur primarily at a provincial level, step 6 and step 7 are conducted at a national level.

- **Step 7**: Post-settlement support is given to claimants who have selected land compensation. As stated in the timeline of the Restitution Programme (Figure 1), in 2013 the function of post-settlement support was moved from the Commission to the Department. Although this is no longer the responsibility of the Commission, the budget for it remains in the Restitution Programme's budget allocation, whereby staff from other branches of the Department can request this funding on a draw-down basis. Currently up to 25% of the Restitution Programme's budget is ring-fenced for post-settlement support (Figure 3).

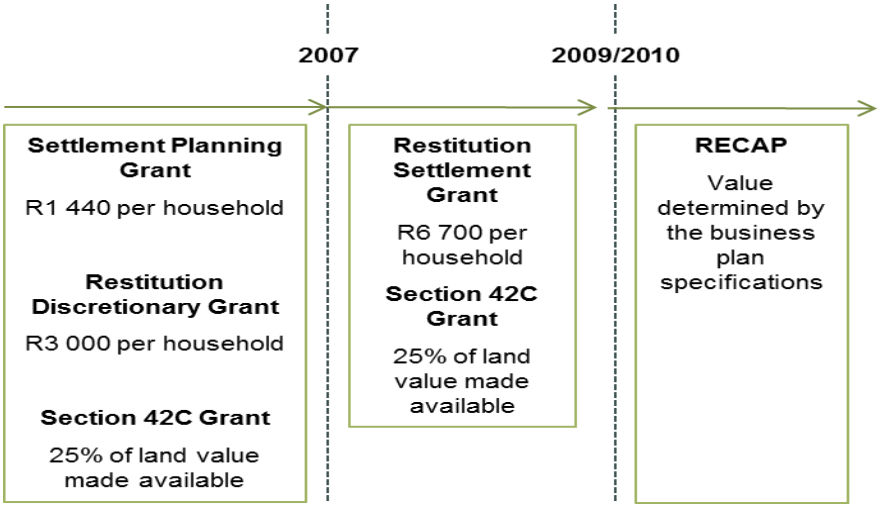
Figure 2: Detailed process flow for the Restitution Programme



1.2.2. Post-settlement grant system

The chronology of the post-settlement grant system is detailed in Figure 3 below. Prior to 2007, claimants could apply for the Settlement Planning Grant (SPG) for purposes of drafting a business plan for the restored land, which was calculated at R1 440 per household or a Restitution Discretionary Grant (RDG) was available to assist claimants with the implementation of the business plan, calculated at R3 000 per household. In addition to this, claimants could access 25% of the land cost for the development of the claimed land.

Figure 3: Post-settlement grant system



In 2007, the SPG and RDG grants were amalgamated into the Restitution Settlement Grant (RSG) at approximately R6 700 per household. A decision was taken in 2009/2010 to consolidate these instruments into one developmental funding regime – Recapitalisation and Development (RECAP). RECAP is currently funded by the Commission but is implemented by the a number of other branches of the Department. In spite of the consolidation of the grants into RECAP, the Restitution Programme's Commitment Register still contains grant commitments made prior to 2009/10 that have not yet been made available to claimants, elaborated on in *Section 3: Expenditure Overview*.

1.2.3. Roles and responsibilities

As there is no definitive or standardised business process the allocation of institutional roles and responsibilities between the Commission and the Department, at various levels, is characterised by confusion, duplication and overlap. This is described in Table 4 below, which allocates activities and their corresponding responsibility across the Commission and the Department at national and provincial levels. This allocation is based on the *de facto* operational reality of the Restitution Programme, gleaned from comprehensive provincial and national interviews conducted during the recent implementation evaluation of the Restitution Programme, rather than any documented or formal procedure.

Table 4: Activities and corresponding responsibilities

Key ● Primary responsibility
○ Secondary responsibility

Key steps	Activity	Responsibility			
		Commission National	Commission Provincial	Department National	Department Provincial
Step 1: Lodgment and registration	Registering claims	●	●		
	Capturing claims on database		●		
	Acknowledging claims		●		
Step 2: Screening and categorising	Screening claims		●		
	Categorising claims		●		
	Batching claims for research purposes		●		
	Prioritising claims	○	●		
Step 3: Determine qualification ito Section 2 of Act	Confirming validity of claim: Rule 3 Research	○	●		
	Conducting research on claim: Rule 5 Research	○	●		
	Gazetting validated claim	●	●		
	Notification of interested parties		●		
Step 4: Mediations and negotiations	Claimant verification		●		
	Conducting options workshop(s)		●		○
	Determining the value of the claim	○	●		
	Negotiations	○	●		○
	Appointing a mediator	●			
	Referring claim to Land Claims Court	○	●	●	
Step 5: Settlement	Drafting S42D report		●		
	Approving the S42D report	●	○	●	
	Entering into settlement agreement(s)	●	○	●	
Step 6: Finalisation of settlement	Preparing relevant documentation	●	●		
	Registering and handover of land or other redress	●	○		
Step 7: Implementation of postsettlement support	Establishing a legal entity		○	●	○
	Drafting and approving the mini-business plan	●	●	●	○
	Implementing post-settlement support		○	●	●
	Transferring grant payments (Section 42C grant)	●			
General	Corporate Services including HR, IT, Registry, Communications	○		●	
	Finance	○		●	
	Legal Services	○		●	
	Monitoring and Evaluation (M&E)			●	
	Policy development	●		○	
	Shared services support centres				●
	Appointing legal counsel	●	○		

Adjudication by court process	Providing legal support to claimants and landowners	●	○		

As can be seen from the above, the respective roles and responsibilities of the Commission and the Department are not clearly defined and allocated, particularly around administrative functions and post-settlement support. This has resulted in extensive duplication of function and effort, with negative implications for the duration, efficiency and costs of the process. Equally important, the lack of clarity and duplication of function and effort creates confusion among claimants and frequently results in their cases being passed from one point of contact to another with no certainty or recourse regarding the timing or veracity of outcomes.

1.2.4. Key issues arising from the business process

Figure 2 and the supporting narrative together reveal the inherently complicated, highly structured process that underpins the restitution process. While it is painstaking in design and onerous in application, it is unavoidable: each step represents a necessary, logical component of an unavoidably detailed process in which the validity of each stage, and the sustainability of the process as a whole, depends crucially on the veracity and legal soundness of the previous one. This does, however, have important implications for the efficiency of the Restitution Programme and its cost of implementation.

These implications are compounded by the inconsistent application of the restitution business process in practice. This is characterised by widespread deviations – both 'horizontally', across provinces, and 'vertically', within the prescribed decision-making process itself – in the procedures that are followed. These inconsistencies are reflected in multiple inefficiencies across the system – identified through this review as well the evaluation conducted recently by Genesis Analytics on the business process of the Restitution Programme - the key elements of which can be summarised as follows:

- At the heart of the Restitution Programme's inefficiencies is the absence of a clearly defined, standardised business process. This has resulted in the evolution over time, and across different geographies, of differing approaches to managing and settling claims. These divergences have become entrenched and have resulted in the proliferation of practices and approaches which together have slowed the decision-making and approval process, resulted in weak quality claim settlements (giving rise to frequent 'refer-backs' for work to be redone) and compromised the legal basis of the restitution process itself.

- Provincial differences in the business process are primarily a function of differences in the dominant claim type between provinces (rural or urban); the typical compensation selected (financial or land compensation) and the way in which provinces undertake the research stage. Some provinces combine the Rule 3 report (*prima facie* research into the validity of a claim) and Rule 5 report (comprehensive research report) and some do these separately – despite the Restitution Act clearly outlining that both should be conducted separately. This places a burden on the efficiency and cost of the final review and approval phases as prior research is necessarily unpicked, reviewed and confirmed for its legal validity.

- Reflecting variations in the business process, there is not a single, integrated or electronic management information system according to which the restitution process is managed and reported on. The process is currently supported by a paper-based system which does not allow for effective management, consistent decision-making and quality control at critical points throughout the business process. The inefficiencies that result from this are that:

    - There is no means of tracking projects through the restitution process, resulting in the more difficult projects being arbitrarily delayed and left until the end

- Timeous monitoring of the quality of restitution outputs is difficult ○ Monitoring and evaluation of key restitution indicators is compromised ○ The system provides no basis for performance monitoring and management of staff

- The human resources in the Commission are generally weak, turnover is high and training is inadequate. In particular, this affects the research phase of the business process which is conducted at a provincial level, resulting in a weak foundation for claim settlement, which in turn frequently leads to contestation and refutation later in the process.

- The Commission is no longer mandated to implement post-settlement support; nor is it resourced to do so. In practice this function is still performed by the Commission. While the Rural Enterprise and Infrastructure Development (REID) branch should be performing postsettlement support, it is a general perception that REID takes inadequate responsibility for restitution projects as they have other Departmental commitments to fulfill.

These points illustrate the design and operating weaknesses that inhibit the effective operation of the Restitution Programme that underpin its costs of operation and that compromise the legal basis of much of the Restitution Programme's settlement outcomes.

2. THE RESTITUTION PROGRAMME'S CHAIN OF DELIVERY AND PROPOSED PERFORMANCE INDICATORS

As is clear from Table 4, the Commission performs the majority of the implementation functions, with assistance from the other stakeholders. Table 5 has been developed for the purpose of this review to document the outputs, outcomes and subsequent intended impact of the Restitution Programme from the perspective of the Commission at the provincial level. The complete logical sequencing of the chain of delivery and proposed indicators for the Commission and other stakeholders are included in Appendix C.

Table5: Simplified programme operational and impact design developed for the Commission

Commission at provincial level			
Impact	Decreased poverty and inequality		
Indicator	Gini coefficient and per capita income		
Outcomes	Vibrant, equitable and sustainable rural communities with food security for all		
Indicator	Total number of households benefiting from the Restitution Programme in the province Total number of claimants benefiting from the Restitution Programme in the province Total number of hectares transferred via the Restitution Programme in the province Productive status of the transferred land in the province		
Outputs	The restitution of rights in land, or awards of alternative forms of equitable redress, to claimants		
Indicator	Number of restitution settlements finalised as a percentage of claims lodged in the province		
Intermediate Outputs	**Intermediate Output**	**Indicator**	**Key step in the process**
	Claims lodged with the Commission at provincial level	• No. of lodgement certificates issued to claimants with a unique claim number • No. of claims lodged pending issuing of lodgement certificate	Claim registration
	Lodged claims batched for research purposes	• List of various batching categories • No. claims per research batching category	Research batching
	List of categories of claims to be prioritised	Approved list of categories of claims to be prioritised	Prioritisation
	Approved validation Rule 3 decision by RLCC	• No. Rule 3 reports approved • Percentage of Rule 3 reports approved by RLCC against number of claims lodged • Percentage of Rule 3 reports not referred back to province by RLCC	Conducting Rule 3 report
	Published gazette notice(s) per province	• Indication of the total hectares of land being claimed • No. published gazette notices gazetting individual claims • Percentage of published gazette notices not referred back by RLCC to province	Gazetting
	Approved Rule 5 report(s)	• Percentage of Rule 5 reports completed of total number of valid claims • No. Rule 5 reports approved • Percentage Rule 5 reports not referred back to research team	Conducing Rule 5 report
	Approved claimant verification list for each claim	• Percentage of claimant verification completed of all relevant claims • Existence of an approved claimant verification list with required supporting documentation	Claimant verification
	Resolution by claimant on restitution award option	Existence of an approved settlement option for each claim	Options workshop
	Valuation report(s) in place	Existence of a finalised and an approved land valuation report	Valuation
	Negotiation position(s) in place	• No. signed offers to purchase • No. agreed settlement options (elected by the claimants)	Negotiations
	Mediation report completed	• Percentage of projects referred for mediation from total projects settled / finalised in province • Percentage of settlements agreed against total projects referred to mediation in province	Mediations
	Settled claim	• No. Section 42Ds signed by the Minister (or as delegated) • No. settlement rulings by the Land Claims Court	Settlement
	Payment of financial compensation	• Total value of financial compensation paid to claimants • Percentage of total compensation value committed versus finalised • Total value of pending payments on Commitment Register • Total value of financial compensation pending on Suspense Account	Finalise settlement

	Legal entity in place to take transfer of land	Proof of registration details of Communal Property Institution (CPI) made available to transfer attorney(s) to effect transfer	
	Land transferred to legal entity	• Total value of land to be transferred • No. hectares of land to be transferred to claimants • Percentage of hectares committed versus transferred • Percentage of land value transferred versus committed	
	Settlement Agreements	Settlement agreement/ court orders implemented	Facilitate post-settlement support

The following should be noted with regards to Table 5:

- The outcome statement comes directly from Outcome 7 of the Presidency's Delivery Agreement: *Vibrant, equitable and sustainable rural communities with food security for all*. The proposed indicators are based on information that has been gleaned from the above described business process with an emphasis on indicators that focus on the efficiency of the process.

- In order to collect the level of information required to report adequately on the proposed indicators, the Commission will need to implement a new, clearly defined and structured management information system, as the current paper-based system is unable to deliver the required monitoring data. A process is currently underway to develop such a system, although the design and detail has not been seen. This system is called Enterprise Portfolio Management Office (EPMO) Live, which is conceived to improve the Commission's project management, monitoring and reporting capabilities.

- Before 2011, the performance of the Restitution Programme was measured against the number of claims *settled* (i.e. a claim that has ministerial approval and is put on the Commission's Commitment Register), rather than the number of claims *finalised* (i.e. a claim that has moved off the Commitment Register because the designated land has been transferred or the agreed financial payment or other redress has taken place). This differentiation is important for two reasons; firstly, the objective of the Restitution Programme has not been met until a claim is finalised; and secondly, as of 31 March 2012 the Commitment Register's balance was approximately R4.79 billion in deficit[2]. This accounts for approximately 18% of the total restitution commitment since 1995. It indicates that a significant component of the objective of the Restitution Programme is not being met, and that the Commission is not honouring its legal commitments to approved claimants. The difficulties faced in clearing the Commitment register include a lack of budget in terms of both capital budget and operational budget and a lack of capacity in terms of people and appropriate systems. This has a ripple effect as new settlements cannot be finalised because part of the capital budget allocated for restitution is consistently spent on finalising the backlog of settled but unfinalised claims. This impedes the Restitution Programme's efficient implementation and is a significant liability that is carried by the Commission.

- The in-depth analysis of the Commitment Register undertaken by Ernst & Young in March 2012 indicated that approximately 72% of the value of the Commitment Register is attributed to outstanding grant payments (related to drafting and implementing business plans), 16% to outstanding land payments, and 13% to outstanding financial compensation payments[3]. As the grants system has evolved over time, and now forms part of post-settlement's mandate, these outstanding commitments have been placed on hold. This urgently needs to be resolved. One approach to resolving this is to remove these commitments from the Commitment Register and list them as a Recapitalisation and Development (RECAP) commitment, the resolution of which should be prioritised from the budget allocation set aside for RECAP purposes. Given that approximately 61% of the value of the Commitment Register is linked to commitments that are older than 3 years, and because the tracing of claimants becomes exponentially more difficult as time progresses, prioritising the clearing of these grant payments is crucial if the efficiency of the Restitution Programme is to be improved.

- As discussed, the Restitution Programme currently only reports on the outcome indicators of claims settled and claims finalised. There is no monitoring of the *process* of settling a claim (e.g. the time-scale or integrity of the process). No intermediate outputs are monitored

[2] Ernst & Young (2012). Restitution Technical Support
[3] There is also a negative balance of -1% detailed in the expenditure analysis in Section 3.

and the qualitative aspects (i.e. the capacity, coherence and effective operation of the claimant entity) of settled claims are not measured. This presents an inappropriately narrow perspective on the effectiveness of the restitution process. Moreover, it does not allow for the identification of blockages in the system, nor for appropriate post-settlement planning and resource allocation. In particular, monitoring the intermediate outputs linked to the research phase is a necessity in light of the weak research capacity in the Commission and given that research forms the foundation for the settlement of a claim. Inaccurate research reports enable fallacious claims to pass through the system, thus jeopardising both the system and the basis of land restitution.

In response to these inadequacies, it is proposed that the Commission considers tracking and reporting the indicators listed in Table 5 on a systematic basis.

2.1. ASSESSING THE PERFORMANCE OF THE RESTITUTION PROGRAMME IN SETTLING CLAIMS

Traditionally, the performance of the Restitution Programme has been measured in terms of the number of claims settled against the number of claims lodged. Assessing the Restitution Programme's performance against this measure is met with a number of challenges; firstly, the definition of a *settled claim* has changed over time; and secondly, a more accurate measure of performance would be number of claims *finalised* against the number of claims lodged.

As a result of the changing definition of a *settled claim*, the exact number of claims lodged and settled was uncertain until 2013 when the Commission undertook a study to determine the exact number of claims outstanding. This study indicated that there are 8 733 claims outstanding out of approximately 60 000 which were lodged. This is considered to be a more accurate reflection of the status quo than that which is quoted in the Commission's annual reports as these are based on an amalgamation of definitions used for a settled claim. Based on the figures from the 2013 internal study, the Commission has settled approximately 85% of the claims lodged since inception. However, as discussed above, performance as measured against the number of claims finalised is substantially lower as illustrated by the Commitment Register's surplus.

In order to conduct an accurate analysis of the Restitution Programme's performance going forward, the Commission needs to make use of a consistent, clearly defined indicator that does not change over time, focusing on claims finalised rather than claims settled. In enabling this, the Commission needs to implement a credible information management system that is based on a defined business process to govern all aspects of the claims process.

3. EXPENDITURE OVERVIEW

The expenditure review spans three financial years – 2010/2011, 2011/2012 and 2012/2013. The analysis, which identified the expenditure patterns and main cost drivers of the Restitution Programme, established the total expenditure of the Restitution Programme over the period at just under R9 billion. This is illustrated in Table 6 and Table 7 below. There are four costs categories that make up the expenditure of the Restitution Programme:

- ***Project payments***. These are direct payments to the beneficiaries of the Restitution Programme. Project payments can either be in the form of a land transfer at an agreed price, or a financial compensation payment. There are two other expenditures captured under project payments – recapitalisation and development support for beneficiaries who receive land and conveyancing and legal support to assist beneficiaries in the finalisation of their claims. Project payments are the largest component of the expenditure, making up 86% of the Restitution Programme's expenditure over the last three years.

- ***Operational costs***. Operational costs are defined as all costs associated with running the Restitution Programme, excluding personnel expenditure. They make up 5% of the expenditure over the last three years.

- ***Personnel expenditure***. This relates to the staff costs of running the Restitution Programme. This includes the Head Office and provincial staff. Personnel expenditure also makes up 5% of the expenditure.

- ***Department administration***. There is also an administrative allocation from the Department for support functions - including finance, human resources, information systems, and file registry - which forms a small component of the total expenditure (3%). As many of these support functions are performed by the Commission anyway, it is likely that this expenditure is aligned to a duplication of effort.

Table 6: Restitution expenditure categories

Restitution office	2010/2011	2011/2012	2012/2013	Total	% of Total expenditure
Project payments	3 347 988 423	1 888 882 377	2 470 531 542	7 707 402 342	86%
Land purchase	2 175 920 625	1 056 345 773	1 413 268 260	4 645 534 658	52%
Financial compensation	1 090 317 757	765 552 010	948 350 769	2 804 220 537	31%
Recap and Development	78 980 951	63 600 529	105 704 266	248 285 747	3%
Legal fees	2 769 090	3 384 065	3 208 247	9 361 401	0.1%
Operational costs	146 664 280	169 020 083	164 070 353	479 754 717	5%
Personnel expenditure	178 720 842	162 735 756	134 583 243	476 039 841	5%
Dept. corporate support	61 231 835	96 601 960	92 699 720	250 533 516	3%
Total	**3 734 605 380**	**2 317 240 177**	**2 861 884 859**	**8 913 730 416**	

An assessment of expenditure geographically indicates that most expenditure resides at the provincial level (96%), which is to be expected given that project payments to claimants are expensed at the relevant provincial offices.

Table 7: Restitution expenditure breakdown by region

Restitution office	2010/2011	2011/2012	2012/2013	Total	% of Total
National	**98 251 286**	**128 103 489**	**122 749 045**	**349 103 820**	**4%**
Department admin	61 231 835	96 601 960	92 699 720	250 533 516	3%
Restitution National	37 019 451	31 501 528	30 049 325	98 570 304	1%
Provincial	**3 636 354 094**	**2 189 136 688**	**2 739 135 814**	**8 564 626 596**	**96%**
Eastern Cape	286 741 441	172 434 265	290 588 758	749 764 465	8%
Free State	54 445 904	82 492 175	94 506 561	231 444 640	3%
Gauteng	40 665 993	42 437 182	60 687 139	143 790 314	2%
Kwazulu-Natal	805 833 195	837 357 773	865 597 222	2 508 788 190	28%
Limpopo	656 803 860	422 897 731	496 918 559	1 576 620 151	18%
Mpumalanga	1 052 481 130	273 318 567	87 889 764	1 713 689 460	19%
North West	283 407 122	171 310 373	336 478 157	791 195 652	9%
Northern Cape	246 345 173	64 194 557	133 030 840	443 570 570	5%
Western Cape	209 630 276	122 694 064	73 438 814	405 763 154	5%
Total	**3 734 605 380**	**2 317 240 177**	**2 861 884 859**	**8 913 730 416**	

The next three sections provide a further breakdown and analysis of the cost categories. Departmental corporate support, which forms a very small (3%) component of the total expenditure, has been excluded from further analysis as it determined by the Department and assigned to the Commission on a pro-rata basis.

3.1. PROJECT PAYMENTS

Project payments to claimants make up the largest component of the Restitution Programme's budget. R7.7 billion of project specific expenditure has been incurred over the last three years, either in the form of land purchase or the payment of financial compensation. The breakdown of the three key project-related expenditure categories is shown in Table 8.

Land purchase payments make up 60% of project expenditure while financial compensation makes up 36%. This is interesting as there are many more financial compensation claims than land claims, but land claims are much higher in value. The variation in value between financial compensation and land claims is a consequence of land acquisition values being calculated in terms of current market value, whereas financial compensation is based on the Standard Settlement Offer.

Table 8: Breakdown of Project payment types (Rand)

	2010/2011	2011/2012	2012/2013	Total	% of Total
Land purchase	2 175 920 625	1 056 345 773	1 413 268 260	4 645 534 658	60%
Financial compensation	1 090 317 757	765 552 010	948 350 769	2 804 220 537	36%
Recap and Development	78 980 951	63 600 529	105 704 266	248 285 747	3%
Conveyancing	2 769 090	3 384 065	3 208 247	9 361 401	0%
Total	**3 347 988 423**	**1 888 882 377**	**2 470 531 542**	**7 707 402 342**	

Table 9 shows a split of the project payment categories across the provinces. Kwazulu-Natal, Limpopo and Mpumalanga account for the largest portion of project expenditure, a result of the nature of the claims that dominate these provinces - large, rural claims settled through land compensation.

Table 9: Provincial view of project expenditure categories (Rand) from 2010/2011 to 2013/2013

	Land Purchase	Financial Compensation	Recap and Dev	Conveyancing[4]	Total	% of Total
Eastern Cape	70 500	638 101 773	7 126 087	42 821	645 341 181	8%
Free State	10 111 288	146 703 347	3 272 706	129 534	160 216 875	2%
Gauteng	8 120 798	34 278 802	333 279	362 002	43 094 881	1%
Kwazulu-Natal	1 556 058 200	757 341 821	40 699 923	4 185 350	2 358 285 294	31%
Limpopo	997 797 825	371 752 972	66 467 728	193 003	1 436 211 528	19%
Mpumalanga	1 383 592 622	118 010 545	54 799 264	1 621 585	1 558 024 017	20%
North West	607 444 973	111 029 156	51 961 639	2 328 846	772 764 614	10%
Northern Cape	30 797 529	381 082 556	5 067 126	432 300	417 379 511	5%
Western Cape	51 540 922	245 919 564	18 557 994	65 959	316 084 440	4%
Total	**4 645 534 658**	**2 804 220 537**	**248 285 747**	**9 361 401**	**7 707 402 342**	

Table 10 illustrates the total number of hectares transferred, the average number of hectares per claim and the cost per hectare across the provinces.

Table 10: Hectares transferred, 2010/2011 - 2012/2013

	No. of hectares transferred	Average hectares per claim	Price per hectare (Private Land)
Eastern Cape [5]	35 016	9643	
Free State	8 407	4 204	6 483
Gauteng	7 345	7 345	11 606

[4] Conveyancing does not include all the legal costs associated with finalising a claim – this only includes the Conveyancing costs which are covered by the Commission in certain regions in South Africa (detailed further on page 33).
[5] The land compensation claims settled in the Eastern Cape over the period under review were all on State land, which is not assigned a value.

Kwazulu-Natal	118 329	3 114	13 575
Limpopo	70 145	17 536	12 188
Mpumalanga	68 849	4 590	9 843
North West	103 832	20 766	7 095
Northern Cape	9 945	9 945	2 685
Western Cape	121	2	22 209

These tables reveal a number of patterns in terms of project expenditure types across the provinces:

- *Land purchase*. These payments are driven by four provinces – Kwazulu-Natal, Mpumalanga, Limpopo and North West. These provinces make up 98% of all land purchase payments over the last three years. These provinces are dominated by large, rural, community claims. Typically, these communities elect land compensation as they want physical occupation of the land. One important point to note is that the land purchase payments reflect payments for private land only. State land is not assigned a monetary value[6]. It does not follow therefore, that provinces with a low value of land purchased (e.g. Eastern Cape) are associated with little land transfer as there may be significant portions of State land transferred.

- *Financial compensation.* These payments are more generally spread across the provinces. KwaZulu-Natal has the highest financial compensation expenditure as well as the highest values for project payouts in the form of land compensation. This is because this province is dominated by large claims, including large rural and semiurban claims seeking physical restoration of the land as well as urban claims seeking financial compensation. The Eastern Cape has the second highest financial compensation expenditure. This is a large province in terms of the number of restitution claims and is thus expected to have a high project payout value for both land and financial compensation. The high value of financial compensation in the Eastern Cape is often attributed to the fact that the Eastern Cape pushed financial compensation in urban and peri-urban areas due to political pressures to meet claim settlement targets. The Free State, Western Cape, Gauteng and the Northern Cape have proportionately larger values of financial compensation than land compensation. During the period of review, the claims settled in the Free State and the Northern Cape were primarily located in the provinces' cities and towns and as such were settled through financial compensation. Similarly, the Western Cape and Gauteng are dominated by urban claims which are typically settled through financial compensation.

- *Recapitalisation and Development.* These payments are correlated with land purchase and transfer as they are only made available to claimants who receive land. As such, the larger Recapitalisation and Development expenditures are in the provinces associated with a larger commitment to land purchase – Limpopo, Mpumalanga, North West and Kwazulu-Natal.

- *Conveyancing.* This has been a very small component of the budget and is driven by Kwazulu-Natal, North West, and Mpumalanga. These are the regions where the Restitution Programme covers the legal costs associated with finalising a claim including the transfer of the land to the legal entity of the successful claimants. In the other provinces, there may also be significant conveyancing costs, but these costs are not borne by the Restitution Programme but by the former landowner(s). Former landowner(s) elect to pay for conveyancing costs as they believe this gives them control over the efficiency of the process of transferring the land. This discrepancy in approach across provinces is a further

[6] This is an obvious limitation of the current process and results in the value of land transferred being understated. Recent policy discussions have been held to value State land for land reform purposes as required for land disposal requirements. Former SADT (South Africa Development Trust) land held in Trust by the Minister of DRDLR is being valued at R1.00 just for the purpose of recording the transaction.

illustration of the inconsistent procedures and rules that are followed in the implementation of the Restitution Programme.

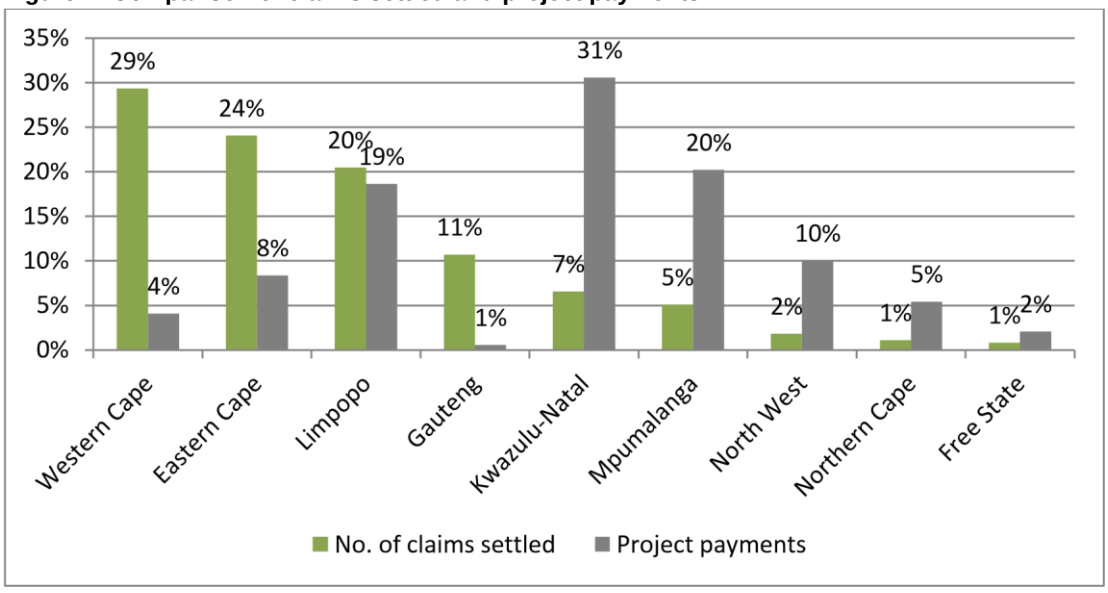
- Kwazulu-Natal transferred the most hectares over the last three years, whereas the average number of hectares transferred per claim was much smaller than many of the other provinces (ranks 7th). This is a result of KwaZulu-Natal restoring claims on semiurban plots through physical restoration rather than financial compensation. Examples of this include Cato Manor and Dube.

- North West, which had the second highest number of hectares transferred, had few land claims. This is because for this is a rural province dominated by fewer claimants which owned large tracts of land. The Western Cape has a very small average number of hectares transferred per claim as the majority of land compensation claims in the Western Cape are small urban properties, examples of which include the properties transferred in District Six. The Northern Cape and Gauteng each had only one land claim settled through land compensation over the last three years. This is illustrative of the restitution landscape in Gauteng, as the province is dominated by urban claims settled through financial compensation. The Northern Cape is typically a land restoration province; thus for the period under review it is likely that the low number of land compensation claims is as a result of the claims being on properties in towns and villages in the province.

- From a budgetary perspective, only private land is tracked as State land is not accorded a monetary value. The price per hectare information thus applies only to private land. There is no price per hectare for private land for the Eastern Cape as in the last three years there have been no private land transfers in that province. The data for the Western Cape is based on the average over the last six years, rather than three years as the three year data (R1.2m per hectare) reflects mainly small claims on high value land (including the residential areas of the City of Cape Town and the Cape Peninsula).

  The Western Cape has the most expensive private land. This can be expected as a large number of the land compensation claims are on valuable urban properties (such as District Six) as well as on valuable vineyards in the Cape Winelands area. KwazuluNatal has the second most expensive private land (R13 575 per hectare) and the Northern Cape has the cheapest private land at just R2 685 per hectare – which can be expected given the commercial land values of the provinces.

Figure 4: Comparison of claims settled and project payments

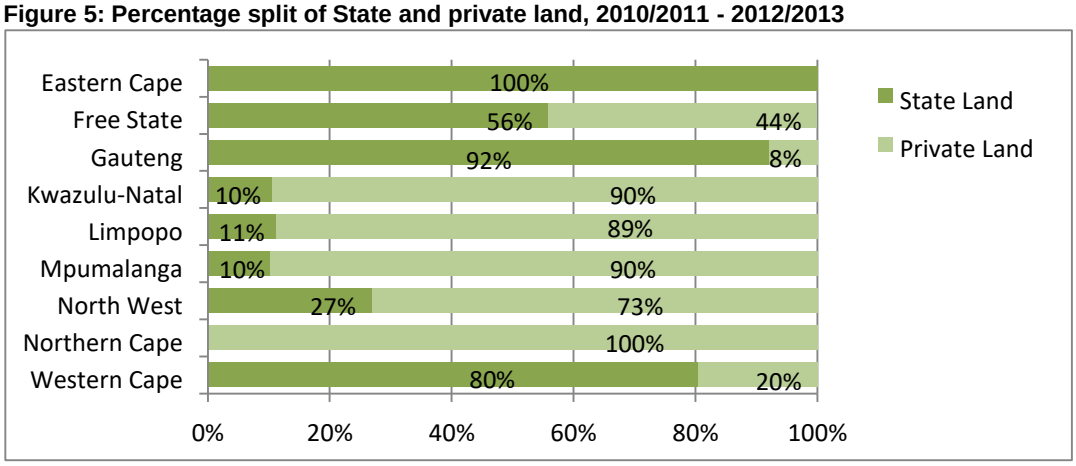


As shown in Figure above, the number of claims settled is not a reflection of total project related expenditure. Kwazulu-Natal has a relatively low number of claims associated with large payment values, reflecting the fact that KwaZulu-Natal has a number of rural and semiurban claims settled through land compensation. The projects in the Western Cape and Eastern Cape, the two provinces with the highest number of settled claims, are on average much smaller in value, by virtue of the preponderance to settle their claims financially, and given the low valuation accorded to State land in the case of the Eastern Cape.

A breakdown of the proportion of private land versus State land in each province is shown in Figure 5 below. 100% of the land transferred in the Eastern Cape over the period has been State land; hence there is no price per hectare figure[7]. The Eastern Cape in general has a large amount of State land. This is not related to the Restitution Programme but is as a result of the game reserves, conservation areas, former homeland areas and 'betterment schemes' that predominate in the province.

At the opposite end, land transfers in the Northern Cape have been entirely of private land, and in Kwazulu-Natal and Mpumalanga private land makes up 90% of land transferred. However, the Northern Cape data must be seen in context as it has had only one land claim over the last three years, which was a private land claim.

Figure 5: Percentage split of State and private land, 2010/2011 - 2012/2013



3.2. OPERATIONAL COSTS

Four main functions constitute most of the operational costs incurred across the provinces. These are Travel and Subsistence, Outsourced Legal Support (related to activities such as establishing legal entities and cases referred to the Land Claims Court), Outsourced Business Advisory services (related to activities such as research, claimant verification, mediation and conflict resolution), and Communications.

Table 11: Operational cost per province, 2010/2011 - 2012/2013

	2010/2011	2011/2012	2012/2013	Total	% of Total
National office	15 498 081	13 795 441	13 112 123	42 405 645	9%
Eastern Cape	16 033 698	21 728 248	22 671 727	60 433 672	13%
Free State	13 884 359	14 877 988	6 456 869	35 219 216	7%
Gauteng	17 836 045	20 526 974	16 944 866	55 307 884	12%
Kwazulu-Natal	22 772 262	27 989 605	23 204 174	73 966 041	15%
Limpopo	17 233 140	24 005 400	21 700 260	62 938 800	13%
Mpumalanga	26 556 122	27 213 865	26 227 780	79 997 766	17%
North West	2 661 063	2 175 821	5 868 967	10 705 851	2%

[7] Extending the period to six years, we obtained a price per hectare of R11 541 for the Eastern Cape.

Northern Cape	632 011	644 983	12 088 456	13 365 450	3%
Western Cape	13 557 501	16 061 758	15 795 133	45 414 392	9%
Total	**146 664 280**	**169 020 083**	**164 070 353**	**479 754 717**	

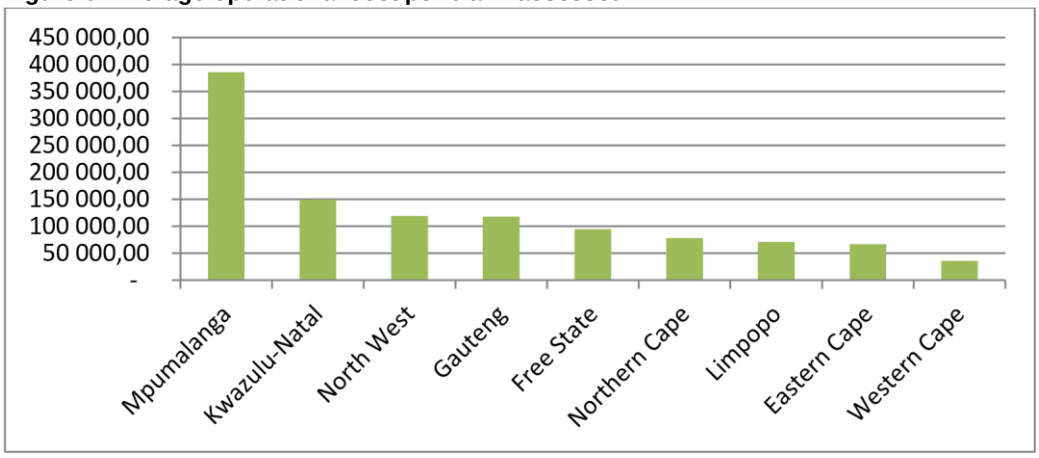
As can be seen in Table 11, the provinces with the largest operational costs (Mpumalanga, KwaZulu-Natal and Limpopo) are those that deal with large, rural claims that are settled through land restoration. These types of claims require staff to repeatedly travel extensive distances, often necessitating overnight stays. Further adding to this aspect of operational costs is that these claims take longer to settle, requiring staff to make numerous return visits as there are protracted rounds of negotiations (on the side of the claimants, the land owners and other stakeholders involved). These claims also typically require detailed claimant verification exercises to identify which claimants form part of the claim; the establishment of legal entities which are often outsourced operational functions; and conducting of land valuations. All these features add significantly to the cost of settling large, rural land claims.

When analysing operational costs per claim, it is necessary to include not only the claims that have been settled, but also those that have been worked on. As such, the number of *claims assessed* was estimated and used for the analysis rather than the number of *claims settled*[8]. Figure 6 shows the breakdown of operational costs per claim[9]. KwaZulu-Natal, with its large, rural, land compensation claims, is expected to be a costly province. However, the extent to which Mpumalanga is higher than KwaZulu-Natal cannot be explained solely through the type of claims in the province.

Mpumalanga's total operational cost and the distribution of these costs across the primary cost drivers (Table 12) are aligned to comparable provinces. The extreme cost per claim is thus attributed to the low number of claims assessed in the province (over the three years Mpumalanga assessed only 207 claims compared to 495 in KwaZulu-Natal). As a result of the weak data systems this cannot be confirmed. However, the current investigation by the internal Special Investigation Unit as well as the Public Protector on Mpumalanga may shed some light on the reasons for these high levels of expenditure.

The major change in the operational cost per claim relationship occurs with the North West, previously the least costly province. This is because this province works on the fewest number of claims and because 43% of its average budget over the last three years was spent on 'payments for thefts and losses'[10].

Figure 6: Average operational cost per claim assessed



[8] Appendix D provides the approach to calculating the number of claims assessed per year.
[9] The National office is excluded from this analysis since there are no claims assigned purely to this office.
[10] The data does not provide any further detail on the nature of the thefts and losses, for which further investigations which are beyond the scope of this exercise, are required to identify the source of these losses.

The four main operational cost drivers identified above make up on average 69% of the operational budget per province. The two highest expenses are travel and subsistence and outsourced legal support.

Table 12: Primary operational cost drivers

Province	Travel & Subsistence	Outsourced legal support	Outsourced business advisory	Communications	Total
Eastern Cape	26%	16%	15%	5%	62%
Free State	28%	29%	11%	5%	74%
Gauteng	17%	40%	8%	11%	75%
Kwazulu-Natal	31%	20%	9%	7%	67%
Limpopo	30%	26%	8%	10%	74%
Mpumalanga	27%	29%	9%	10%	75%
North West	22%	21%	18%	13%	75%
Northern Cape	31%	8%	4%	8%	51%
Western Cape	21%	27%	15%	5%	68%
Average	**26%**	**24%**	**11%**	**8%**	**69%**

3.3. PERSONNEL EXPENDITURE

The expenditure analysis has been based on the last three financial years. However, for personnel expenditure the analysis is based on the last two financial years only. The organisational structure of the Department changed notably in 2010/2011; as such it is not feasible to compare all three years to derive average staff numbers.

Over the last two years, the Restitution Programme has had an average of 693 staff at an average cost of R148.7 million (an average cost per employee of R214 671). In line with the operational cost analysis, Kwazulu-Natal, Mpumalanga and Limpopo have the largest staff complements and the highest staff costs compared with any other provinces. This is because these provinces are characterised by the large, more difficult claims to settle. There is a high correlation between the provinces with the highest number of staff and the provinces with the highest number of claims outstanding settlement; and similarly between the provinces with the lowest number of staff and the lowest number of claims outstanding settlement. This illustrates an anticipated basic efficiency within the Restitution Programme as the provinces with the simple, urban claims, and the lowest number of outstanding claims are accordingly staffed with fewer staff.

Figure 7: Number of staff and personnel expenditure, 2012/2012 and 2012/2013 average

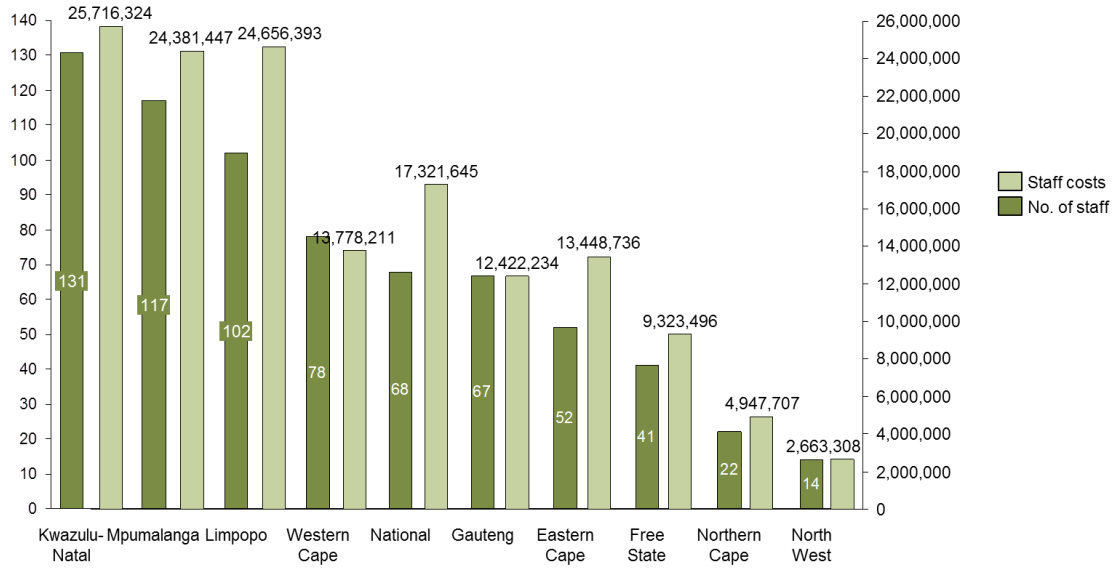


Table 13 splits the staff per office into three categories – Management (staff from Assistant Director upwards), Administration/support staff, and technical staff (staff whose job designation has a clear link to research, assessing and verifying claims). The overall percentage of technical staff is 53%, 33% are administrative/support staff, with management making up the remaining 14%.

Kwazulu-Natal, Limpopo, the Eastern Cape and Mpumalanga have the highest percentage of technical staff. These are all provinces with the highest number of claims outstanding settlement and as such need a high percentage of project-related staff. Similarly, the Free State and the Northern Cape have the least number of outstanding claims and as such need fewer technical and project-related staff. As expected the national office has the highest percentage of management staff (25%) and the lowest number of technical and project-related staff.

Table 13: Staff numbers by designation

Restitution office	Management	Administration/ support	Technical	Total	% of Technical staff
National office	17	45	6	68	9%
Eastern Cape	8	13	31	52	60%
Free State	7	19	15	41	36%
Gauteng	10	25	33	67	49%
Kwazulu-Natal	15	17	99	131	76%
Limpopo	15	22	65	102	64%
Mpumalanga	13	36	68	117	58%
North West	2	4	7	14	51%
Northern Cape	4	11	8	22	36%
Western Cape	8	37	33	78	42%
Total	**99**	**229**	**365**	**693**	**53%**

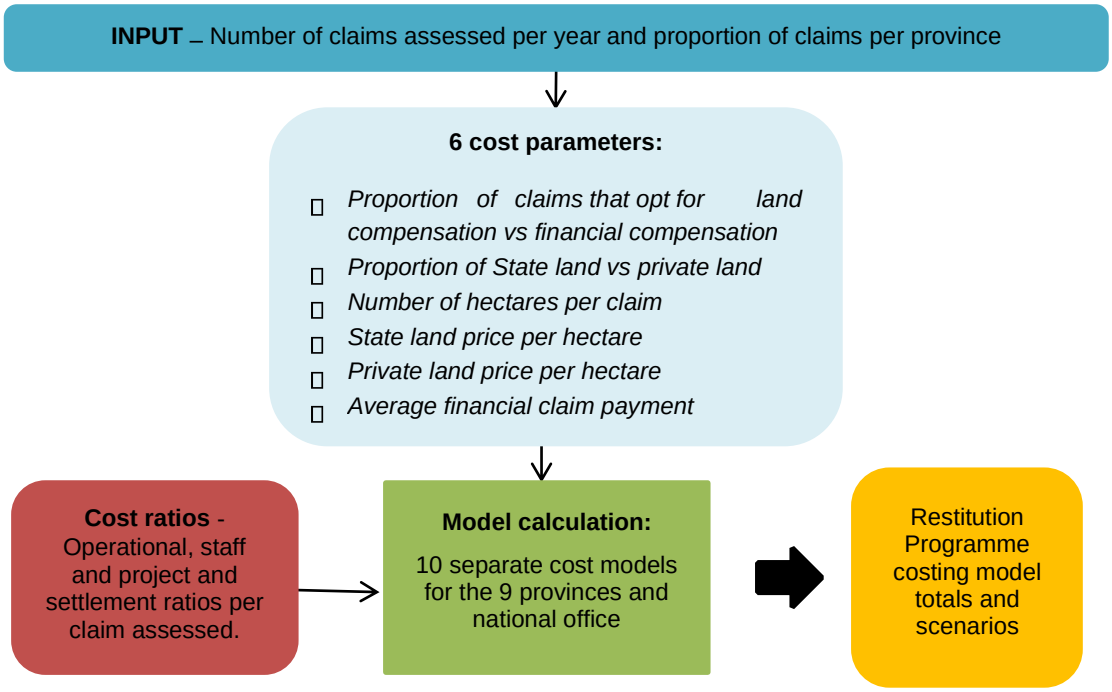
4. COST MODEL

The expenditure analysis provided a retrospective view of the costs of the Restitution Programme over the last three years. Of equal and, from a budgeting perspective, even more value is to gain an insight into what the cost structure of the Restitution Programme is likely to be going forward. Drawing from the outputs of the expenditure analysis, a cost model of the operational and personnel expenditure as well as the project payments was developed.

4.1. STRUCTURE OF COSTING MODEL

The costing model has been designed to enable flexibility in the main cost parameters. The model is built per province and then aggregated to provide a national view of the costs of the Restitution Programme. The model is built to reflect the base scenario and four possible policy directives, but is able to model an infinite number of scenarios affecting the Restitution Programme. Figure 8 presents a schematic illustration of the structure and main components of the costing model.

Figure 8: Schematic of costing model structure



The main input variable for the model is the number of claims assessed per province per year. The number of claims assessed per province is based on a proportional distribution of the claims into the nine provinces based on historical patterns. The proportion of claims per province is the second set of input variables for the model. The user is able to alter the proportion of claims allocated to any province (ensuring that the total adds up to 100%), with resultant cost implications per province and the total cost of the Restitution Programme.

Table 14: Proportion of claims per province - input variable for model

	Base Scenario
Total	100%
National	
Eastern Cape	*21%*
Free State	*7%*
Gauteng	*9%*
Kwazulu-Natal	*10%*
Limpopo	*18%*

Mpumalanga	*4%*
North West	*2%*
Northern Cape	*3%*
Western Cape	*25%*

There are six cost parameters that have an influence on the modeled costs of the Restitution Programme, as follows:

- ***Proportion of claims that opt for land compensation vs financial compensation***. The ratio of land transfer to financial compensation claims has important cost implications as all the other cost parameters differ between land transfer and financial compensation claims.

- ***Proportion of State land vs private land***. Within land transfer claims, the proportion of State land to private land also has cost implications as the cost to the fiscus of land transfers involving State land is zero. Provinces with a higher percentage of State land will therefore have lower land transfer payments.

- In addition to the percentage of State land vs private land, ***the price of State land*** has been included as a cost parameter. This cost parameter is included mainly for the Department's use, to allow for a future possibility of costing the value of state land transferred.

- ***Number of hectares per claim***. The average number of hectares per claim is an important cost driver as the model calculates the payment of land claim on a price per hectare basis. The number of hectares per claim also differs substantially across the province.

- ***Private land price per hectare***. The price of private land per hectare is calculated based on the past prices per hectare. The price per hectare differs per province and, combined with the number of hectares per claim, calculates the cost of private land transfers

- ***Average financial claim payment***. The alternative to land transfers is a payment for a financial claim. The same approach taken for calculating the price per hectare of land is taken. An average financial compensation per claim is calculated based on historical data.

Each of the cost parameters can be changed per province and for each scenario, with resulting cost implications. The base figure is based on the current ratios worked out in the model. The alternative box allows the user to change the value of any cost parameter and observe the cost impact of that change. A reset button has been included to allow the user to return any change made back to the default base amount.

The calculations in the base scenario are based on the actual cost data over the last three years, while all other scenarios are based on data for the previous 10 years. This is due to the fact that the cost data for the last three years is skewed by the disproportionate number of complex claims assessed in this period. The forward-looking model obviously needs to take into account the longer term portfolio of claims. Appendix C sets outs the detail on the model's assumptions and the calculation of the cost ratios.

4.2. MODEL SCENARIOS

For the purpose of this report, four scenarios have been developed, reflecting the possible alternative policy directives, each of which would have a different impact on the implementation and costs of the Restitution Programme. Beyond the scenarios described below, the model has been designed such that an infinite number of scenarios can be developed.

- ***Base scenario: Settling and finalising all existing claims over the next five years.*** The first scenario estimates the cost of settling and finalising the outstanding 8 733 claims as well as paying out the commitments as per the Commitment Register. The base scenario does not take into account the possibility of re-opening of the Restitution Programme for new claims to be lodged. This scenario is seen as the base case.

- ***Scenario 2: Phased approached to finalising outstanding claims & then finalising newly lodged claims***. The costs of re-opening the Restitution Programme is modeled, based on an estimation of 397 000 claims to be lodged[11]. Scenario 2 models a phased approach in which the outstanding 8 733 claims are finalised over the next five years, beyond which point the new batch of claims is assessed over a 20 year period.

- ***Scenario 3: Finalising outstanding claims & newly lodged claims simultaneously***. This scenario is similar to scenario 2 except that both the outstanding 8 773 claims and new claims to be lodged are assessed simultaneously. In effect, Scenario 3 works on the basis of 405 773 claims assessed over 25 years.

- ***Scenario 4: Increasing the portion of claims that opt for land compensation from 8% to 16%.*** One of the objectives of the re-opening of the claim lodgment window is to increase the number of claims associated with a land transfer, rather than a financial compensation. Scenario 4 models the cost implications of increasing the proportion of claims settled via land transfer as opposed to financial compensation from the current share of 8% (as per the base scenario) to 16%.

4.2.1. Base scenario

The base scenario sets a time limit for finalising the 8 733 claims and paying out the commitments as per the Commitment Register by 2019/2020 - five financial years. An average of 1 747 claims per year will be assessed. This is a 5% increase over the last three years. The total cost of the base scenario is R22.2bn. 76% (R16.8bn) of this budget relates to the cost of finalising the outstanding claims while the remaining R5.4bn represents the costs associated with honouring the commitments as per the Commitment Register(both operational as well as the capital). Project payments are naturally the largest part of the budget at 48%. Recap and development costs make up the second largest costs of finalising outstanding claims at R3.6bn, 16% of the total Restitution Programme cost. Operational costs and personnel expenditure make up 11% of the budget, similar to their average of 13% over the last three years.

Table 15: Breakdown of the Base Scenario budget

Cost category	Budgeted cost	% of total
Project payments	10 720 730 058	48%
Recap and Development	3 573 576 686	16%
Operational costs	1 378 762 561	6%
Personnel expenditure	1 124 817 122	5%
Commitment Register	5 407 697 835	24%
Capital value	4 785 573 306	22%
Operational cost	622 124 530	3%
Total Restitution Programme cost	**22 205 584 263**	

The provincial breakdown shows that the largest budget is projected for KZN with R5.5bn over the five year period, 25% of the total estimated expenditure. This is followed by Limpopo, Mpumalanga

[11] As per the Regulatory Impact Assessment of the Restitution Amendment Bill

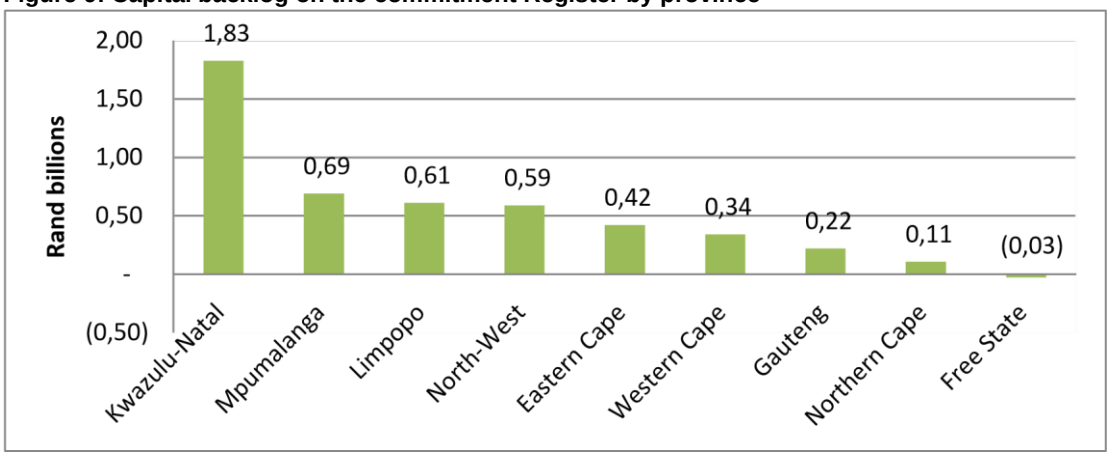
and North West, all provinces which have traditionally had quite large land claims. The smallest budgets are projected for the Western Cape, Northern Cape, Free State and Gauteng - the provinces which have had small land claims and primarily financial compensation payments.

Table 16: Total cost of finalising all outstanding claims

Province	Projected costs over 5 years	% of Total
National	**596 976 539**	**3%**
Departmental corporate support	365 329 309	2%
Restitution National	231 647 230	1%
Provincial	**16 200 909 889**	**73%**
Eastern Cape	1 413 066 524	6%
Free State	561 192 303	3%
Gauteng	339 136 306	2%
Kwazulu-Natal	5 535 272 183	25%
Limpopo	3 064 413 034	14%
Mpumalanga	2 191 575 347	10%
North West	1 769 889 989	8%
Northern Cape	662 926 123	3%
Western Cape	663 438 080	3%
Commitment Register	**5 407 697 835**	**24%**
Total	**22 205 584 263**	

A breakdown of the Commitment Register's capital commitment by province is shown in Figure 9. In addition to this, an operational cost of honouring these commitments has been included in the scenarios at 13% of the total commitment. The Commitment Register is a fixed cost that doesn't change across the scenarios, thus the breakdown of this cost is not repeated in the subsequent scenario analysis.

Figure 9: Capital backlog on the commitment Register by province[12]



[12] Negative balances require further investigation and have been attributed to a number of factors including attorney's fees paid that were not budgeted for, genuine overspending on projects, S42D award cost not captured on the Commitment Register, and Incorrect allocation of expenditure between projects on BAS (Ernst & Young Report, 2012)

4.2.2. Analysis of scenarios 2: the phased approach and scenario 3: the simultaneous approach

Scenario 2: the phased approach and *scenario 3: the simultaneous approach* reflect two approaches to the re-opening of the Restitution Programme. As outlined above, the difference between the two scenarios is in the sequencing of the Restitution Programme over the next 25 years.

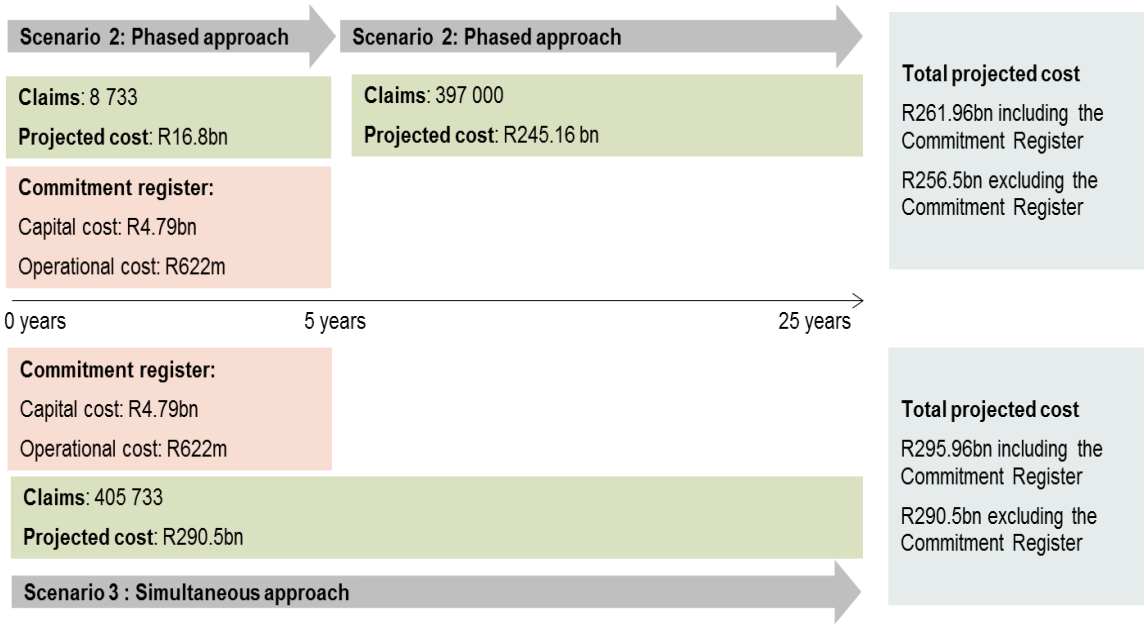
Scenario 2: the phased approach has two parts:

- Part A - finalising the outstanding claims and paying out the commitments as per the Commitment Register over the first five years (identical to the base scenario),
- Part B - the assessment of the projected 397 000 new claims over the remaining 20 years.

For Part A, the budgetary requirements set out above for the base scenario are repeated. For Part B, an average of 19 850 claims must be assessed per year to finalise the projected number of newly lodged claims in 20 years. The time taken for this scenario is thus the 5 years in Part A plus the 20 years in Part B, a total of 25 years. This is projected to cost the Commission R261.96bn inclusive of paying out the Commitment Register; or R256.5bn if the costs associated with clearing the Commitment Register – both capital and operational - are not incurred by the Commission.

In scenario 3: the simultaneous approach, both outstanding and new claims are assessed together over 25 years. 405 733 claims are assessed, at an average of 16 229 per year. *Scenario 3: the simultaneous approach* is projected to cost R295.96bn inclusive of paying out the Commitment Register; or R290.5bn if the costs associated with clearing the Commitment Register – both capital and operational - are not incurred by the Commission. This is illustrated in Figure 10 below.

Figure10: Summary of scenario 2 and scenario 3



A further breakdown of the projected costs of *scenario 2: the phased approach* and *scenario 3: the simultaneous approach* is illustrated in Table 17 below. The analysis of proportional distribution of the recap and development, operational costs and personnel expenditure is detailed in Appendix D).

Table 17: Comparison of costs - *Scenario 2: the phased approach* and *scenario 3: the simultaneous approach*

	Scenario 2: the phased approach		Scenario 3: the simultaneous approach	
	Scenario 2	% of Total	Scenario 3	% of Total

Scenario cost	**256 547 336 803**	**98%**	**290 552 082 411**	**98%**
Project payments	172 929 891 942	66%	197 801 223 287	67%
Recap and Development	57 643 297 314	22%	65 933 741 096	22%
Operational costs	14 336 982 940	5%	16 026 526 346	5%
Employee costs	11 637 164 607	4%	10 790 591 683	4%
Commitment Register	**5 407 697 835**	**2%**	**5 407 697 835**	**2%**
Capital value	4 785 573 306	2%	4 785 573 306	2%
Operational cost	622 124 530	0%	622 124 530	0%
Total Restitution Programme cost	**261 955 034 639**		**295 959 780 247**	

Comparison between scenarios 2: the phased approach and scenario 3: the simultaneous approach

- *Scenario 3: the simultaneous approach* costs R34bn more than *scenario 2: the phased approach*. The difference in budgets is accounted for mainly by the variance in project payment values across the two scenarios. The outstanding 8 733 claims have a settlement ratio of 30%; this is lower than the average settlement ratio of the Restitution Programme over the last 10 years, of 44%. The settlement ratio calculates the proportion of claims assessed that are concluded with a settlement – land transfer or financial compensation. The lower settlement ratio for the outstanding claims is a result of the nature of these claims – larger, contentious claims that are more difficult to settle. The average over the ten years reflects a mix of settling straightforward easier claims and the more complex claims. *Scenario 3: the simultaneous approach* applies the ten year settlement average over the next 25 years. For *scenario 2: the phased approach*, Part A in which the outstanding claims are settled first applies the corresponding 30% settlement rate, and then Part B applies the 44% settlement rate over the next 20 years.

- Therefore on average, *scenario 2: the phased approach* settles 7006[13] claims per year, while *scenario 3: the simultaneous approach* settles 7 509 claims per year. Applying this over 25 years, *scenario 2: the phased approach* settles 175 150 claims whilst *scenario 3: the simultaneous approach* settles 187 725, a difference of 12 575 claims.

- The advantage of s*cenario 2: the phased approach* is that it requires the outstanding (more complex) claims to be completed before any new claims are assessed. This avoids the risk that the re-opening of the Restitution Programme will result in the current outstanding claims being pushed out again as newer, more straightforward claims are assessed. Leaving the difficult claims to the end is problematic and costly as claims become more difficult and expensive to settle the longer they are left – especially given possibilities of overlapping claims (with current finalised and or pending settled claims) as well as counter claims. The longer it takes to settle a claim, it exponentially becomes more difficult to settle as claimants become difficult to track down, claimants pass away, and additional claimants try to get included in the claim.

4.2.3. Analysis of scenario 3: the simultaneous approach and scenario 4: increasing the portion of land compensation claims

Scenario 4: increasing the portion of land compensation claims introduces a policy objective to increase the ratio of land transfer claims to financial compensation claims. Despite the increasing impetus given to the transfer of land rather than financial compensation, over the last ten years only 8% of settled claims have involved the transfer of land whilst 92% have paid out financial

[13] This is based on a weighted average of Part A – 518 claims over five years and Part B – 8628 claims over 20 years.

compensation. For the purposes of this report, the proportion of land transfers has been modeled at double its current rate. As such, the scenario models that 16% of claims will be settled through land compensation.

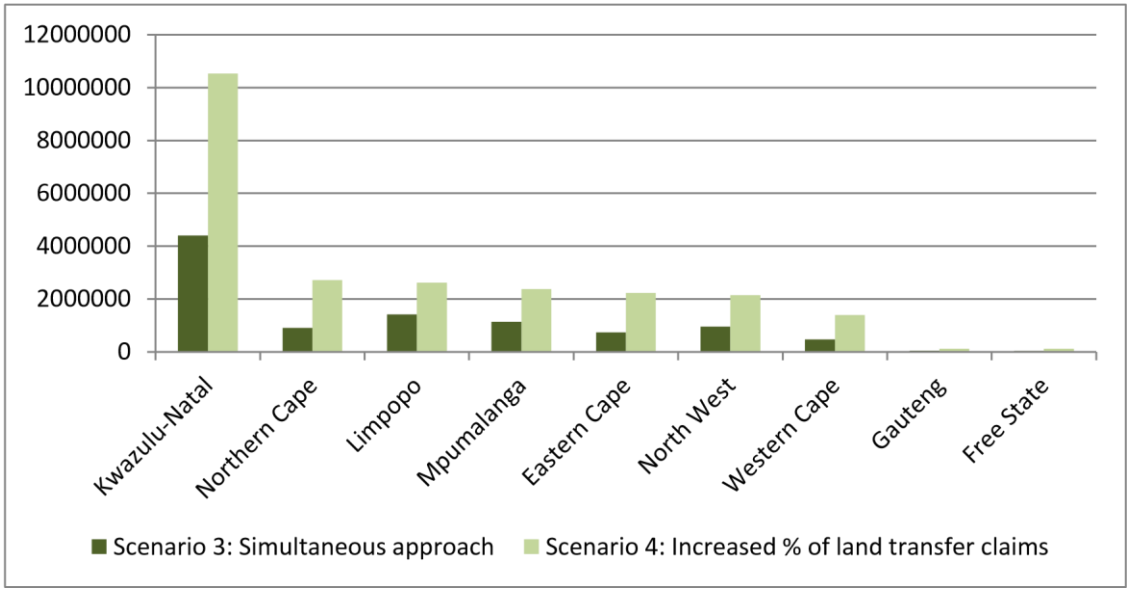
The budget increases greatly in *scenario 4: increasing the portion of land compensation claims* to R509.4bn from R295.96bn in *scenario 3: the simultaneous approach*. The difference is driven by strong growth in the project payments and recap and development costs. The operational and personnel costs grow marginally as a result of additional researching, legal and advisory and travel costs associated with researching and settling land claims versus financial compensation claims.

Table 18: Comparison of costs – *scenario 3: the simultaneous approach* and *scenario 4: increasing the portion of land transfer claims*

	Scenario 3: the simultaneous approach		Scenario 4: increasing the portion of land compensation claims		% change from scenario 3 to scenario 4
	Cost	% of Total	Cost	% of Total	
Scenario cost	**290 552 082 411**	**98%**	**503 982 914 094**	**99%**	**73%**
Project payments	197 801 223 287	67%	385 298 605 435	76%	95%
Land transfer	131 893 085 972	45%	299 166 432 237	59%	127%
Fin. comp	65 908 137 315	22%	58 178 269 881	11%	-12%
Recap and Dev.	65 933 741 096	22%	119 114 900 706	23%	81%
Operational costs	16 026 526 346	5%	16 341 328 439	3%	2%
Employee costs	10 790 591 683	4%	11 181 982 832	2%	4%
Commitment Register	5 407 697 835	**2%**	5 407 697 835	**1%**	**0%**
Capital value	**4 785 573 306**	2%	**4 785 573 306**	**1%**	0%
Operational cost	**622 124 530**	0%	**622 124 530**	**0%**	0%
Total cost	**295 959 780 247**		**509 390 611 929**		**72%**

The change in the current proportions of land versus financial compensation will have a dramatic effect of transferring large amounts of land to claimants. Under *scenario 3: the simultaneous approach*, 10.1 million hectares of land is transferred. *Scenario 4: increasing the portion of land compensation claims* raises this by 140% to 24.2 million hectares. The value of financial compensation payments drops from 22% to 11% of total project payments (see Appendix D).

Figure 10: Number of hectares transferred *in scenario 3: the simultaneous approach* and *scenario 4: increasing the portion of land compensation claims*



Summary of comparison of scenario 3: the simultaneous approach and scenario 4: increasing the portion of land compensation claims

- *Scenario 4: increasing the portion of land transfer claims* – increasing the proportion of land transfer claims to 16% will increase the budget of the Restitution Programme over the next 25 years to R509.4bn. This is almost double the budget of *scenario 3: the simultaneous approach*. Such a budget increase will put severe pressure on the national budget and consideration should be given as to whether it is feasible or sustainable.

- Beyond the adverse budgetary implications, there are a number of drawbacks to increasing the portion of land transfers. There are a variety of reasons as to why claimants are selecting financial compensation over land compensation. These include the fact that not everyone wants land and not everyone wants to move to a new location when they are settled where they are –this is typical where the descendants of the originally dispossessed comprise the claimants. Also, land compensation claims typically take longer to settle. Some claimants select, or are advised to select financial compensation as they know the process will otherwise take years, or even decades, to settle and is subject to uncertain outcomes.

- A third important point to note relates to the complexity of assessing land claims vs. financial compensation claims. Land claims are more difficult to assess and take longer, thus they result in higher staff and operational costs. These factors increase the overall budget by R706 million.

5. CONCLUSION

The following section presents the key conclusions that emerge from the review. Overcoming these challenges is deemed to be critical to the success of the re-opening of the claims lodgment window.

- **The projected cost of each scenario (including merely finalisng the outstanding claims) raises concerns as to the demands it would place on the fiscus.** Just finalising the outstanding 8 733 claims is projected to cost R22.2bn over five years – amounting to R4.4bn per year, 47% more per year than the Commission's current average annual budget of R3bn. When the costs associated with re-opening the claims window are included, the Commission's annual expenditure is projected to increase in real terms by approximately 250% to R10.5bn per annum (if the claims are processed in a phased manner) or by 580% to R20.4bn per annum if the old and projected new claims are settled simultaneously and the percentage of land transfer claims increases from 8% to 16%. The re-opening of the restitution claim window will thus have a dramatic effect on the Commission's budget requirements.

- **Consideration should be given to finalising the 8 733 claims outstanding (as at March 2013) *before* any work begins on the verification of new claims arising from the reopening of the lodgment window**. Despite achieving a greater number of claim settlements, simultaneously settling outstanding and project new claims (*Scenario 3*) is associated with the risk that existing unsettled claims are deferred indefinitely – adding to the complexity and cost of future settlement.

- **The Commission's Commitment Register, at R4.79bn in March 2012 , is a major liability that needs to be addressed.** Not only does it constrain the ability of the Commission to settle new claims, the majority of this amount (72%) remains a liability for the Commission in relation to functions (i.e. post settlement support) for which it is no longer responsible. As the responsibility for post-settlement functions has been transferred away from the Commission, so too should the liability.

- **Currently, 25% of the Commission's annual project payments budget is allocated to the Department for post-settlement support.** Not only does this constrain the number of claims that can be finalised per year, but it extends beyond the mandate of the Commission. The Commission should be absolved of both funding and responsibility for post-settlement support so that it can focus on its core mandate: finalising outstanding claims and reviewing and settling the claims to be lodged in the re-opening of the claims window.

- **The Restitution Programme lacks a clearly defined and standardised business process, and an aligned electronic project and information management system**. This has resulted in the evolution across time and geographies of differing approaches to managing and settling claims, and confusion between the mandate of the Commission and that of the Department particularly as it relates to post-settlement support. In addition to this, there is no means of collating and analysing information with which to monitor and improve the Restitution Programme's efficiency, effectiveness or impact. The specific problems associated with this are:

    - There is no means of tracking projects through the restitution process. According to interviews with officials, this results in projects being arbitrarily accelerated, stalled or delayed, and the more difficult projects being delayed indefinitely and left till the end to resolve

    - The definition and timeous monitoring of key restitution indicators, whether quantitative or qualitative, is compromised. Currently, the Commission tracks only two indicators: the number of claims settled and the number of claims finalised. There is no monitoring of the process of settling a claim or its efficiency and no intermediate outputs are monitored. This presents an inappropriately narrow perspective on the effectiveness of the restitution process

    - Given the absence of any systematic monitoring and evaluation of appropriate restitution indicators over time and across the Restitution Programme, there is no basis for the systematic performance monitoring and management of restitution staff

- **According to the Minister of Rural Development and Land Reform 90% of land reform projects (not specifically Restitution projects) have failed as a result of the transferred land becoming unproductive**[14]. While the data on which this statement is based is unclear and needs further investigation, this is a concerning statistic given the importance of a productive agricultural sector.

The necessary project management and monitoring systems should be put in place and tested in advance of any new claims being researched or processed.

6. APPENDIX

6.1. APPENDIX A – METHODOLOGY

6.1.1. Overview

The EPR was conducted as per the four steps as per the proposed EPR methodology:

[14] Statement by the Minister in June 2013

- Step one was an inception phase, whereby expectations around the process were aligned, timelines agreed to and data collected.
- During step two, the process flow for the Restitution Programme was mapped and the programme elements identified.
- During step three, a comprehensive logical framework was developed as a means to explain the Restitution Programme's chain of delivery for each key stakeholder.
- During step four, the costing model was developed. This involved the consolidation of the Basic Accounting System (BAS) data with the data from the Commission around the claims settled per year (the Commitment Register).
- Finally, step five entailed the drafting of the final report.

Each of these steps was overseen by a Steering Committee consisting of representatives from National Treasury, the Project Shop and the Commission. The Steering Committee approved each of the following deliverables used in the compilation of this report:

Step	Deliverable	Description of the deliverable
Step 2 and Step 3	Programme design and process flow	Excel worksheet detailing the Restitution Programme's processes, programme design and chain of delivery for both the Commission and Department at both national and provincial with associated indicators.
Step 4	Expenditure analysis	Excel worksheet outlining the expenditure patterns of the Restitution Programme for the last three years
	Costing model	Costing model of the Restitution Programme linked to the three key phases in the restitution process, which allows for different demand scenarios to be modeled.
Step 5	Final report	Current document

6.1.2. Methodology as it relates to personnel expenditure

There was no staff data for Northern Cape and North West. This is because the Northern Cape office was included in the Free State office. To separate the figures, the ratio of operational costs between the two combined provinces was used to allocate the staff costs. The same approach was taken for North West, which had also been combined under the Gauteng category.

6.2. APPENDIX B – LEGISLATION FOR DETERMINING A VALID CLAIM

The Restitution Act entitles any individual who was dispossessed of a land right after 19 June 1913, in terms of racially discriminatory laws and practices, to restitution of that right or equitable redress. In order to qualify for restitution, the Restitution Act outlines the following specifications for claimants:

a) Must be a person dispossessed of a right in land after 19 June 1913 as a result of past racially discriminatory laws or practices.

b) Is a deceased estate disposed of a right in land after 19 June 1913 as a result of past racially discriminatory laws and practices.

c) Must be a direct descendant of a person referred to in paragraph (a) who died before lodging a claim, and has no ascendant.

d) The community or part of community dispossessed of a right in land after 19 June 1913, as a result of past discriminatory laws and practices.

e) The claim for such restitution was lodged not later than 31 December 1998.

6.3. APPENDIX C- CHAIN OF DELIVERY

Commission at provincial level																				
Impact	**Decreased poverty and inequality**																			
Outcomes	**Vibrant, equitable and sustainable rural communities with food security for all**																			
Outputs	**The restitution of rights in land, or awards of alternative forms of equitable redress, to claimants**																			
Intermediate Outputs	Claims lodged with the CRLR at provincial level	Lodged claims batched for research purposes	Provincial list of categories of claims to be prioritised	Approved validation Rule 3 decision by RLCC	Published gazette notice(s) per province	Approved Rule 5 report(s) (provincially)	Approved claimant verification list for each claim / project seeking financial compensation	Confirmation of bona fide status of representative(s) of community seeking restoration of right in land and/or approved claimant verification list for each claim / project	Resolution by claimant on selected restitution award option	Land valuation report(s) conducted	MVOC valuation report(s) in place		Negotiation position(s) in place	Mediation report completed	Approved Section 42D memorandum referred to Minister or as delegated	Approved Section 14(3A)(x) memorandum referred to LCC	Approved Section 14(1) memorandum referred to LCC	Payment of financial compensation	Legal entity in place to take transfer of land	Land transferred to legal entity	Settlement Agreements / Court Orders Implemented
Process / Activities				Referral of Rule 3 report to RLCC for determining qualification of claim(s))	Publish notification of claim in Government Gazette & send out notifications to various affected parties	Draft Rule 5 research report and refer for quality assurance	Compile verification list with accompanying documentation	Compile a list of community members if required	Engage with claimant(s) to obtain resolution on restitution award selected	Process payment for services rendered by valuer once approved	Process payment for services rendered by valuer once approved		Facilitate negotiations / negotiate settlement with various stakeholders		Submit S42D submission to national for approval	Submit S14(3A)(x) submission to national for approval	Submit S14(1) submission to national for approval	Trace missing claimants		Process payment for services rendered	On-going monitoring of implementation of settlement agreements / court orders
Process / Activities	Electronic registration of claims lodged	Batching of claims for research purposes	Obtain approval from RLCC for proposed provincial list of priority claims	Gather supporting documents to inform drafting of Rule 3 Report,	Obtain approval from RLCC for publishing of government gazette notice	Obtain all research information from available sources as required i.t.o Rule 5	Gather required legal documents	Gather required legal documents	Host and facilitate options workshop with claimant(s) and other stakeholders as invited	Assess and obtain joint understanding of valuation conducted	Assess and understand valuation conducted		Confirm negotiation representative(s) of various stakeholders	Engage in mediation process	Obtain approval of S42D submission at provincial level	Obtain approval of S14(3A)(x) submission at provincial level	Obtain approval of S14(1) submission at provincial level	Request payments to national		Handover of the land to legal entity In loco inspections Handover arrangements with landowner / legal entity	Providing on-going post settlement support to communities of settled / finalised claims
Process / Activities	Provide assistance to claimant(s) in completing lodgement form	Screening of claims i.t.o preliminary restitution award indicated, geography, legislation used for disposal, sector, type of rights lost	Identification of factors typical to the province and/or per directive	Assess claim form(s) i.t.o Rule 3 to determine qualification i.t.o Act	Confirming status of land under claim: existence of counter and/or settled and/or finalised claims.	Allocation of research	Identification of ODI(s) and/or descendants of ODI(s)	Identification of bona fide representative(s) of the community	Conduct research / obtain input on feasibility of land restoration and/or the other equitable redress available	Request and appoint valuer(s) to conduct land valuation(s)	Request and appoint valuer to conduct historical valuation to determine the MVOC	Confirm SSO	Obtain mandate to negotiate with stakeholders:	Submit request for mediation to CLCC	Compile S42D submission i.t.o approved template	Compile S14(3A(x)) referral submission complying with S14(4) requirements	Compile S14(1) referral submission complying with S14(2) requirements	Update claimant list and supporting documentation if necessary	Assistance with / coordination of the registration of the legal entity to take transfer of the land	Request and appoint Transfer Attorney & payment of deposit	Draft and submit mini business plan

Inputs	Staff, electronic database	Staff, electronic database	Staff, electronic database	Staff	Staff, government printers	Staff , Vehicles for travel	Staff ,m Vehicles for travel	Staff, Archival information	Staff, Documentation on the land	Valuer	Valuer	Staff	Staff	Staff	Staff	Staff	Staff	Staff	EBT vouchers, Staff	Staff	Staff, CPA, Land	Staff

Commission at national level

Impact	**Decreased poverty and inequality**																				
Outcomes	**Vibrant, equitable and sustainable rural communities with food security for all**																				
Outputs	**The restitution of rights in land, or awards of alternative forms of equitable redress, to claimants**																				
Intermediate Outputs	Claim lodged with the CRLR	Lodged claims batched for research purposes	List of categories of claims to be prioritised	Approved validation Rule 3 decision given by RLCC	Published gazette notice	Approved Rule 5 report(s)	Approved claimant verification list for each claim / project seeking financial compensation	Confirmation of bona fide status of representative(s) of community seeking restoration of right in land and/or approved claimant verification list for each claim / project	Resolution by claimant on selected restitution award option	Land valuation report(s)	MVOC valuation report(s)	Negotiation position(s) in place	Mediation report completed	Approved Section 42D memorandum referred to Minister or as delegated	Approved Section 14(3A)(x) memorandum referred to LCC	Approved Section 14(1) memorandum referred to LCC	Payment of financial compensation	Legal entity in place to take transfer of land	Land transferred to legal entity	Settlement Agreements / Court Orders Implemented
Process / Activities													Process payment for services rendered by mediator(s) once approved				Referral of submission to RMSO on payment process (bank details and dates) to inform claimants accordingly			
Process / Activities				Referral of Rule 3 report to RMSO: decision on qualification of claim(s) i.e. validation of claim(s)	Referral of submission to RMSO: decision on approval of government gazette notice(s)					Referral of submission to RMSO: decision / recommendation on on valuation report			Referral of submission to RMSO: decision / recommendation on on negotiations position proposed	Request and appoint mediator(s)	Referral of S42D report to RMSO: decision on approval requested	Referral of S14(3A)(x) submission to RMSO: decision on approval requested and/or Acknowledgment of receipt from Registrar of LCC	Referral of S14(1) submission to RMSO: decision on approval requested and/or Acknowledgment of receipt from Registrar of LCC	Request issuing of vouchers by ABSA bank and/or register beneficiaries on BAS to enable transfer of funding			On-going monitoring of implementation of settlement agreements / court orders
Process / Activities			Consider & grant approval for proposed priority provincial lists	Obtain input on compliance of Rule 3 reports to inform decision	Obtain input on compliance with Act / SOPS to inform decision	Obtain input on compliance with Act / SOPS to inform decision on research report referred to HQ				Obtain input on compliance with Act / SOPS to inform decision			Obtain input on compliance with Act / SOPS to inform decision	Consider request & grant approval for appointment of mediator(s) if approved	Obtain input on compliance of S42D reports to inform decision	Obtain input on compliance of S14(3A(x)) referral with S14(4) requirements to inform decision	Obtain input on compliance of S14(1) referral with S14(2) requirements to inform decision	Assess compliance of financial payment request			Draft and submit mini business plan
Inputs			Staff	Staff	Staff, government printers	Staff				Staff			Staff	Staff, mediator	Staff			Staff			Staff

Department at national and provincial Levels

Impact	**Decreased poverty and inequality**																				
Outcomes	**Vibrant, equitable and sustainable rural communities with food security for all**																				
Outputs	**The restitution of rights in land, or awards of alternative forms of equitable redress, to claimants**																				
Intermediate Outputs	Claims lodged with the CRLR at provincial level	Lodged claims batched for research purposes	Provincial list of categories of claims to be prioritised	Approved validation Rule 3 decision by RLCC	Published gazette notice(s) per province	Approved Rule 5 report(s) (provincially)	Approved claimant verification list for each claim / project seeking financial compensation	Confirmation of bona fide status of representative(s) of community seeking restoration of right in land and/or approved claimant verification list for each claim / project	Resolution by claimant on selected restitution award option	Land valuation report(s) conducted	MVOC valuation report(s) in place		Negotiation position(s) in place	Mediation report completed	Approved Section 42D memorandum referred to Minister or as delegated	Approved Section 14(3A)(x) memorandum referred to LCC	Approved Section 14(1) memorandum referred to LCC	Payment of financial compensation	Legal entity in place to take transfer of land	Land transferred to legal entity	Approved business plan
Process / Activities									Engage with parties to reach resolution on restitution award selected	Process payment for services rendered by valuer once approved	Process payment for services rendered by valuer once approved							Trace missing claimants		Process payment for services rendered	
Process / Activities									Participate in options workshop with claimant(s) and other stakeholders as invited	Assess and obtain joint understanding of valuation conducted (QAU - provincial and/or national) and/or direct engagement with valuer	Assess and understand valuation conducted i.e. engagement with valuer		Participate in negotiations with various stakeholders as facilitated by CRLR	Engage in mediation process	Submit S42D submission to national for approval (Minister or as delegated)	Submit S14(3A)(x) submission to national for approval	Submit response to S14(1) court referral to national for approval	Request payments to national *(repeat if missing claimant(s) has been traced and details have been verified)*	Register CPA if identified as most appropriate legal entity to take transfer of the land	Handover of the land to legal entity In loco inspections Handover arrangements with landowner / legal entity	
Process / Activities					Respond as required on published notices	Conducting own and/or assist with CRLR research			Conduct research / obtain input on feasibility of land restoration and/or the other equitable redress available	Request and appoint valuer(s) to conduct land valuation(s)	Request and appoint valuer to conduct historical valuation to determine the MVOC	Confirm SSO	Obtain mandate to negotiate with stakeholders:	Submit request for mediation to CLCC i.t.o S13 of the Act if required	Compile S42D submission i.t.o approved template	Compile S14(3A(x)) referral submission complying with S14(4) requirements	Compile S14(1) referral submission complying with S14(2) requirements	Update claimant list and supporting documentation if necessary	Assist the community with the registration of most appropriate legal entity to take transfer of the land	Request and appoint Transfer Attorney & payment of deposit	
Inputs					Staff	Staff			Staff, vehicles	Valuer	Staff		Staff	Staff	Staff	Staff	Staff	Staff	Staff	Staff	

6.4. APPENDIX D – MODEL ASSUMPTIONS AND RATIOS

The ratios for the *base scenario: finalising the outstanding claims* were calculated based on the average figures over the last three years. The ratios for *scenario 3: the simultaneous approach* and *scenario 4: increasing the portion of land compensation claims* were based on the average figures over the last 10 years. The different periods were applied to take account of the different claim numbers and sizes in the last three years vs over the longer period. The profile of claims settled over the last three years, although fewer on average, are larger, more complicated claims with higher settlement values, hectares and lower settlement ratios. Such claims are applicable to the base scenario and Part A of *scenario 2: the phased approach* which models the cost of finalising the current window. Applying these ratios for the scenarios over the longer term will inflate the claim and hectare values and present a skewed view of the Restitution Programme. Therefore the ratios for the other scenarios are based on a longer time frame of 10 years to provide values that are more representative of the Restitution Programme over its life, rather than the last three years.

6.4.1. Claims

Claims form the basis on which all other ratios are based. The operational and staff costs ratios are expressed over the number of claims assessed, while project payments are based on the number of claims settled. Available data provides the number of claims settled and number of claims finalised. Adding these two figures understates the level of effort involved in assessing claims that are not settled or finalised. Two other claim figures were estimated – the number of claims researched but not settled, and the number of claims settled but not finalised.[15] Based on estimations provided by the DRDLR, it was estimated that the number of claims researched but not settled is an additional 50% of the number of settled claims, while the number of claims settled but not finalised makes up an additional 20% of the finalised claims. The addition of these four claim categories provided a figure of number of claims assessed, which was the figure used in the ratio analysis.

Table 19: Number of claims assessed per province

Province	2010/2011 - 2012/2013	Average	2003/2004 - 2012/2013	Average
EASTERN CAPE	**903**	**344**	**38 240**	**3 824**
Claims researched but not settled	178	59	8 311	831
Claims settled	355	118	16 622	1 662
Claims settled but not finalised	62	21	2 218	222
Claims finalised	309	146	11 089	1 109
FREE STATE	**371**	**124**	**6 669**	**667**
Claims researched but not settled	6	2	1 450	145
Claims settled	12	4	2 899	290
Claims settled but not finalised		20		39

Province	2010/2011 - 2012/2013	Average	2003/2004 - 2012/2013	Average
	59		387	

[15] A settled claim has been processed and a payment outcome confirmed. The claim then proceeds to finalisation where the transfer occurs. There is a level of effort between settled and finalised claims related to finding all beneficiaries and confirming the transfer due to each beneficiary.

Claims finalised	294	98	1 934	193
GAUTENG	**469**	**156**	**31 253**	**3 125**
Claims researched but not settled	79	26	6 793	679
Claims settled	158	53	13 585	1 359
Claims settled but not finalised	39	13	1 813	181
Claims finalised	193	64	9 063	906
KWAZULU-NATAL	**495**	**165**	**36 190**	**3 619**
Claims researched but not settled	49	16	7 866	787
Claims settled	97	32	15 731	1 573
Claims settled but not finalised	58	19	2 099	210
Claims finalised	291	97	10 494	1 049
LIMPOPO	**887**	**296**	**8 323**	**832**
Claims researched but not settled	151	50	1 809	181
Claims settled	302	101	3 618	362
Claims settled but not finalised	72	24	483	48
Claims finalised	362	121	2 414	241
MPUMALANGA	**207**	**69**	**6 547**	**655**
Claims researched but not settled	38	13	1 423	142
Claims settled	75	25	2 846	285
Claims settled but not finalised	16	5	380	38
Claims finalised	79	26	1 899	190
NORTH WEST	**90**	**30**	**8 160**	**816**
Claims researched but not settled	14	5	1 774	177
Claims settled	27	9	3 547	355
Claims settled but not finalised	8	3	473	47
Claims finalised	41	14	2 366	237
NORTHERN CAPE	**172**	**57**	**8 549**	**855**
Claims researched but not settled	8	3	1 858	186
Claims settled	16	5	3 716	372
Claims settled but not finalised	25	8	496	50
Claims finalised				248

	123	41	2 479	
Province	**2010/2011 - 2012/2013**	**Average**	**2003/2004 - 2012/2013**	**Average**
WESTERN CAPE	**1 272**	**424**	**38 865**	**3 887**
Claims researched but not settled	217	72	8 447	845
Claims settled	433	144	16 894	1 689
Claims settled but not finalised	104	35	2 254	225
Claims finalised	519	173	11 270	1 127
TOTAL	**4 866**	**1 664**	**182 797**	**18 280**

6.4.2. Personnel expenditure

The staff variables used are a staff/claim ratio and the average staff payout.

Staff/claim ratio. This calculated a ratio of the number of staff employed to the number of claims assessed per province, as a proxy for the level of effort required to assess a claim. Staff data was obtained from PERSAL information provided by the DRDLR. The PERSAL data per province was segmented by the occupational group description provided and an average of the staff numbers for 2011/2012 and 2012/2013 was used for the numerator of the ratio. The organizational structure of the DRDLR changed significantly after the 2010/2011 period, thus it was not possible to include that financial year in the calculation of the average staff numbers. The claims assessed figures detailed above were used as the denominator.

Average staff payout. A similar approach was taken where the average salary allocation per occupational group description for 2011/2012 and 2012/2013 was used. For scenario 2b which starts in 2017, a yearly inflation rate of 6% was applied to the current average salary figure.

Growth rates

The model projected the additional staff and staff costs to assess claims above the average number of claims currently being assessed. However not all staff numbers will have some correlation to the number of claims being assessed. As such, three staff categories were designated:

- Staff numbers not dependent on the number of claims being assessed (e.g. Land Restitution Support, Administrative and HR staff, Management) – a growth rate of 0% was applied.
- Staff whose jobs specifications may be influenced by the number of claims being assessed but there is no direct correlation (e.g. Principal Restitution Advisor, Deputy Director, Settlement Support, some legal officers) – a growth rate of 50% was applied.
- Staff whose specific job requirement is linked to assessing claims, thus the number of such staff is directly linked to the number of claims to be assessed. (e.g. Legal administration officer, project coordinator, settlement officer)

The table below sets out the example of Kwazulu-Natal, the province with the highest staff complement, showing the various growth rates applied to the different staff levels

Table 20: Growth rates applied to staff (Kwazulu-Natal example)

GROWTH RATE TO NUMBER OF CLAIMS	STAFF DESIGNATION
	LAND RESTITUTION SUPPORT
0%	REGIONAL LAND CLAIMS COMMISSIONER

0%	SENIOR PERSONAL ASSISTANT
0%	DEPUTY DIRECTOR: LAND REFORM
0%	OFFICE ASSISTANT
	OPERATIONAL MANAGEMENT
	ADMINISTRATIVE LINE FUNCTION & SUPPORT
0%	SENIOR ADMINISTRATIVE OFFICER
0%	ADMINISTRATIVE OFFICER
0%	SENIOR ADMINISTRATION CLERK
0%	ADMINISTRATION CLERK
	COMMUNICATION & INFORMATION RELATED PERSONNEL
0%	ASSISTANT DIRECTOR: COMMUNICATION
0%	COMMUNICATION OFFICER
	ECONOMIC ADVISORY AND SUPPORT PERSONNEL
0%	DEPUTY DIRECTOR: FINANCIAL MANAGEMENT
0%	ASSISTANT DIRECTOR: FINANCIAL MANAGEMENT
0%	STATE ACCOUNTANT
0%	SENIOR ACCOUNTING CLERK
	HUMAN RESOURCE AND SUPPORT PERSONNEL
0%	SENIOR HR PRACTITIONER
	INFORMATION TECHNOLOGY AND RELATED PERSONNEL
0%	CHIEF NETWORK CONTROLLER
0%	SENIOR DATA CAPTURER
	LEGAL AND SUPPORT PERSONNEL
0%	LEGAL ADMINISTRATION OFFICER SENIOR
0%	CHIEF RESTITUTION ADVISOR
100%	LEGAL ADMINISTRATION OFFICER GRADE 5
50%	PRINCIPAL RESTITUTION ADVISOR
100%	MR4 LEGAL ADMINISTRATION OFFICER GRADE 4
	MANAGEMENT AND GENERAL SUPPORT PERSONNEL
0%	DIRECTOR: OPERATIONAL MANAGEMENT
0%	ASSISTANT DIRECTOR: ADMINISTRATION
0%	SENIOR STATE ACCOUNTANT
0%	PRINCIPAL REGISTRY CLERK
0%	SECRETARY
0%	SENIOR ACCOUNTING CLERK
0%	SENIOR DATA CAPTURER
0%	SENIOR REGISTRY CLERK
0%	SENIOR TELECOM-OPERATOR
0%	DRIVER/MESSENGER
	SOCIAL SERVICES AND SUPPORT PERSONNEL
50%	DEPUTY DIRECTOR: SETTLEMENT SUPPORT
100%	PROJECT COORDINATOR: SETTLEMENT SUPPORT
100%	SENIOR PROJECT LAND REFORM OFFICER
100%	SENIOR PROJECT SETTLEMENT OFFICER
100%	PROJECT SETTLEMENT OFFICER
100%	ASSISTANT PLANNER

6.4.3. Land transfer complexity

A complexity factor was introduced to account for the difference in researching and settling land transfer claims versus financial compensation claims. It was estimated that a 40% premium should be applied to certain operational and personnel cost categories where the level of effort and associated costs differ if the claim is for a land transfer rather than for a financial compensation payment. The list of cost categories to which this was applied is shown below in Table 21

Table 21: Cost categories to which land claim complexity was applied

Operational costs
CONS/PROF:BUSINESS&ADVISORY SERV
CONS/PROF:INFRASTRUCTRE&PLANNING
CONS/PROF:LEGAL COST
TRAVEL AND SUBSISTENCE
VENUES AND FACILITIES
Personnel
DEPUTY DIRECTOR: SETTLEMENT SUPPORT
PROJECT COORDINATOR: SETTLEMENT SUPPORT
SENIOR PROJECT LAND REFORM OFFICER
SENIOR PROJECT SETTLEMENT OFFICER
PROJECT SETTLEMENT OFFICER
ASSISTANT PLANNER

6.5. APPENDIX E – ANALYSIS OF THE COSTING MODELS

6.5.1. Scenario 2: the phased approach and scenario 3: the simultaneous approach

Table 22: Comparison of costs - *Scenario 2: the phased approach* and *scenario 3: the simultaneous approach*

	Scenario 2: the phased approach		**Scenario 3: the simultaneous approach**	
	Cost	**% of Total**	**Cost**	**% of Total**
Project payments	172 929 891 942	87%	197 801 223 287	88%
Operational costs	14 336 982 940	7%	16 026 526 346	7%
Employee costs	11 637 164 607	6%	10 790 591 683	5%
Total	**198 904 039 489**		**230 841 140 621**	

It is projected that 987 staff are needed to complete the 8 733 claims -Part A of *Scenario 2: the phased approach* - at a cost of R200m per year for five years. Part B projects an increase in staff to 1071 with a staff cost of R287m per year for the 20 year timeframe. Comparatively, *scenario 3: the simultaneous approach* projects a staff contingent of 950 for 25 years. The effect of the two scenarios on the staff complement is thus not significant. Similarly, the differences in operational costs are minimal between the two scenarios. Thus from a cost efficiency perspective, one cannot conclusively differentiate the two scenarios. The decision must therefore be made by assessing the project related expenditure.

In terms of the value of the project payments, *scenario 3: the simultaneous approach* has a higher project payment of R24.9bn over the 25 year period than *scenario 2: the phased approach*. All provinces have higher project payments in *scenario 3: the simultaneous approach* than *scenario 2: the phased approach*. The outstanding claims in the Free State have a much higher value than the same average over the last ten years. Isolating these claims in Part A of *scenario 2: the phased approach* results in a much higher payment than when included with new claims in *scenario 3: the simultaneous approach*. This is a unique result primarily because the Free State has very few claims, thus few large claims distort the overall pattern.

Table 23: Project payments per province, *Scenario 2: the phased approach* and *scenario 3: the simultaneous approach*

	Scenario 2: the phased approach	Scenario 3: the simultaneous approach	% change from scenario 2 to scenario 3
Eastern Cape	17 995 227 003	20 845 313 929	16%
Free State	1 618 473 924	1 600 471 320	-1%
Gauteng	4 541 086 861	5 423 451 965	19%
Kwazulu-Natal	81 683 210 797	94 879 978 761962	16%
Limpopo	19 647 711 555	21 430 868 334	9%
Mpumalanga	23 934 897 707	27 501 165 548	15%
North West	11 382 146 050	12 300 182 630	8%
Northern Cape	6 398 166 239	7 252 077 037	13%
Western Cape	5 728 971 805	6 567 713 763	15%
Total	**172 929 891 942**	**197 801 223 286**	

6.5.2. Project payments for scenario 3: the simultaneous approach and scenario 4: increasing the portion of land compensation claims

Table 24: Project payments breakdown - *scenario 3: the simultaneous approach* and *scenario 4: increasing the portion of land compensation claims*

	Scenario 3: the simultaneous approach	Scenario 4: increasing the portion of land compensation claims
	Cost	Cost
Land transfer payments	131 893 085 972	299 166 432 237
Eastern Cape	438 389 080	1 326 742 941
Free State	190 782 044	571 176 431
Gauteng	602 670 575	1 837 078 225
Kwazulu-Natal	73 114 334 383	174 701 748 050
Limpopo	18 770 651 533	34 715 982 462
Mpumalanga	24 949 371 915	52 147 837 915
North West	10 173 841 687	23 007 972 483
Northern Cape	2 408 396 256	7 169 755 684
Western Cape	1 244 648 499	3 688 138 046
Financial compensation	65 908 137 315	58 178 269 881
Recap and Development	65 933 741 096	119 114 900 706
Total	**263 734 964 382**	**476 459 602 823**

6.6. APPENDIX F – COSTING MODEL OUTPUT

Choose "Total" or the specific province	Total

	Base Scenario	Scenario 2: Phased approach - component 2	Scenario 2: Phased approach	Scenario 3: Instantaneous approach	Scenario 4: Increasing portion of land transfer claims
Restitution Programme					
Operational costs	1 378 762 561	12 968 944 625	14 347 707 186	16 026 526 346	16 341 328 439
Employee costs	1 124 817 122	10 512 347 485	11 637 164 607	10 790 591 683	11 181 982 832
Project payouts	10 720 730 058	162 209 161 884	172 929 891 942	197 801 223 287	357 344 702 117
Recap and Development	3 573 576 686	54 069 720 628	57 643 297 314	65 933 741 096	119 114 900 706
Commitment register	4 785 573 306	4 785 573 306	4 785 573 306	4 785 573 306	4 785 573 306
Commitment register operational cost	622 124 530	622 124 530	622 124 530	622 124 530	622 124 530
Total Restitution Programme cost	**22 205 584 263**	**245 167 872 458**	**261 965 758 885**	**295 959 780 247**	**509 390 611 929**

SCENARIO INPUTS

	Base Scenario	Scenario 2: Phased approach - component 2	Scenario 2: Phased approach	Scenario 3: Instantaneous approach	Scenario 4: Land transfer increase
Total number of claims	8 733	397 000	405 733	405 733	405 733
Years to settle claims	5	20	25	25	25
Proportion of claims					
Number of claims per year	1747	19850		16229	16229
Proportion of land claims					16%

	Base Scenario	Scenario 2: Phased approach - component 2	Scenario 2: Phased approach	Scenario 3: Instantaneous approach	Scenario 4: Land transfer increase
Total	100%	26%	100%	26%	26%
National					
Eastern Cape	*21%*	*5%*	*21%*	*5%*	*5%*
Free State	*7%*	*21%*	*4%*	*21%*	*21%*
Gauteng	*9%*	*0%*	*17%*	*0%*	*0%*
Kwazulu-Natal	*10%*	*0%*	*20%*	*0%*	*0%*
Limpopo	*18%*	*0%*	*5%*	*0%*	*0%*
Mpumalanga	*4%*	*0%*	*4%*	*0%*	*0%*
North West	*2%*	*0%*	*4%*	*0%*	*0%*
Northern Cape	*3%*	*0%*	*5%*	*0%*	*0%*
Western Cape	*25%*	*0%*	*21%*	*0%*	*0%*

Choose "Total" or the specific province	Kwazulu-Natal

	Base Scenario	Scenario 2: Phased approach - component 2	Scenario 2: Phased approach	Scenario 3: Instantaneous approach	Scenario 4: Land transfer increase
% of land transfer claims					
Base	39.2%	13.6%		13.6%	32.5%
Alternate	39.2%	13.6%		13.6%	32.5%
	Reset	Reset		Reset	Reset
	39%	14%			
% of State Land *Base*					
Alternate	10.5%	24.1%		24.1%	24.1%
	10.5%	24.1%		24.1%	24.1%
No. of hectares per claim	Reset	Reset		Reset	Reset

Base	3 114	927			927	927		
Alternate	3 114	927			927	927		
	Reset	Reset			Reset	Reset		
State land price per hectare								
Base	0	0			0	0		
Alternate	0	0			0	0		
	Reset	Reset						
Private land price per hectare					Reset	Reset		
Base								
Alternate	R 13 575	R 9 965			R 9 965	R 9 965		
	R 13 575	R 9 965			R 9 965	R 9 965		
	Reset	Reset						
Average Financial claim payment					Reset	Reset		
Base								
Alternate	R 8 946 262	R 328 769			R 328 769	R 328 769		
	R 8 946 262	R 328 769			R 328 769	R 328 769		
	Reset	Reset			Reset	Reset		

6.7. APPENDIX G – BIBLIOGRAPHY

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