

Module 2.3 LAND TENURE		STATEMENT OF INTENT The right to land use is upheld
Measures		Notes
Legal requirement	<p><i>The right to use land is demonstrated</i></p> <ul style="list-style-type: none"> Farmers who use land for sugarcane farming must be able to demonstrate their right to use the land 	<p>The right to use land is demonstrated</p> <p>Farmers must be able to provide evidence of ownership and/or use rights to their land either through land title, legal evidence of ownership or lease of land (i.e. lease contract). If written evidence is not available, then customary rights can be sought through a verbal agreement between the land user and the appropriate tribal structure.</p>
	<p><i>Compliance with the Restitution of Land Rights Act, 22 of 1994, as amended</i></p> <ul style="list-style-type: none"> Land owners respect the rights of communities with legitimate and demonstrable rights to that land to lodge claims through the Land Claims Court as entitled in terms of the Act. 	<p>Restitution of Land Rights</p> <p>The Restitution of Land Rights Act, 22 of 1994, as amended, provides for the restitution of rights in land or communities disposed of such rights after 19 June 1913 as a result of past racial discriminatory laws or practices. The Act has its origin in the Constitution of the Republic of South Africa Act 108 of 1996 which provides for restitution of a property or equitable redress to a person or community dispossessed of property as a result of past discriminatory laws. The Act is the legislative means to protect persons, or categories of persons disadvantaged by unfair discrimination.</p> <p>The Act is managed through the Commission of Restitution of Land Rights consisting of a Chief Land Claim Commissioner; a Deputy Land Claims Commissioner and Regional Land Claims Commissioners. Any person who or the representative of any community which is entitled to claim restitution of a right in land may lodge such a claim with supporting evidence for such a claim. If the claim has been lodged in the prescribed manner, is not precluded by the provisions of section 2 of that Act (Entitlement to restitution) and is not frivolous or vexatious then the claim shall be published in the Government Gazette. The Regional Land Claims Commissioner is then obliged to advise the owner of the land in question and any other party which might have an interest in the claim. The Regional Land Claims Commissioner is also obliged to inform the owner that he/she may not sell, exchange, donate, lease, subdivide, rezone, or develop the land in question without having given the Regional Land Claims Commissioner one month's written notice of his/her intention to do so.</p> <p>Further, no claimant who occupied the land in question at the date of the commencement of the Act (2 December 1994) may be evicted from the land without the written authority of the Chief Land Claims Commissioner. No person shall remove, destroy or damage any improvements upon the land without the written permission of the Chief Land Claims Commissioner and no claimant or other person may enter upon and occupy the land without the permission of the owner or lawful occupier.</p> <p>A Land Claims Court administers the powers contained in the Act, specifically Chapter 3.</p>

Legal requirement	<p><i>Compliance with the Land Reform (Labour Tenants) Act 3 of 1996</i></p> <ul style="list-style-type: none"> Farmers uphold the rights of labour tenants to occupy and use that part of the farm to which they are legally entitled to in terms of the Act. 	<p>Farmers must uphold the right of a person who was a labour tenant on 2 June 1995 to occupy and use that part of the farm to which they are legally entitled in terms of the Act, or to acquire land subject to the provisions of the Act. It is important for farmers to understand what is meant by the term "labour tenant" for the purposes of the Act. Please read section 2 of the Act to see when a person is considered a "labour tenant" and as such entitled to certain rights.</p> <p>Labour tenants have a legal right with his/her family members to occupy and use that part of the land that they were occupying or using on 2 June 1995. The right of a labour tenant in this regard may only be terminated in accordance with the provisions of the Act (section 3). In addition, labour tenants may only be evicted in terms of an order of the Court issued under this Act (section 5).</p> <p>The right of use or occupation of a labour tenant may therefore only be terminated, in one of the following ways:</p> <ul style="list-style-type: none"> the labour tenant waiving his/her rights; upon the death of the labour tenant; upon his/her eviction, after application is made to the Land Claims Court and an order for eviction is granted. <p>Labour tenants also have the right to acquire land, subject to the provisions of the Act (section 16).</p> <p>Finally, the owner of affected land or any other person whose rights are affected are entitled to compensation as prescribed by the Constitution for the acquisition by the applicant of land or a right in land (section 23).</p>
Legal requirement	<p><i>Compliance with the Extension of Security of Tenure Act 62 of 1997</i></p> <ul style="list-style-type: none"> Farmers uphold the rights of occupiers to reside on and use land to which they are legally entitled to in terms of the Act. 	<p>Farmers must uphold the rights of occupiers to reside on and use land on which he/she resided and which he/she used on or after 4 February 1997.</p> <p>In brief, the Act applies to occupiers defined as a person residing on land which belongs to another person, and who has or on 4 February 1997 or thereafter had consent or another right in law to do so. It excludes a labour tenant in terms of the Land Reform (Labour Tenants) Act 3 of 1996.</p> <p>The Act makes it possible, through State assistance, to facilitate the planning of both on-site and off-site developments for occupiers. It provides for rights and duties of both the occupier and the owner and lays down the legal responsibilities in terms of termination of rights of residence (section 8), limitations on eviction (section 9) and restoration of residence and use of land by persons who have been evicted contrary to the provisions of the Act (section 14).</p>