

# FARM WORKER EQUITY SCHEMES (FWES)



# Land corruption

## 1. What is land corruption?

Land corruption is the abuse of entrusted power for personal gain in the management and administration of land affairs. It occurs when someone responsible for the use or ownership of land misuses that responsibility for personal benefit.

## 2. How does land corruption occur?

Land corruption can happen in several ways, such as during land transactions between governments, companies, traditional leaders, or communities, during land reforms (when laws are created or changed), and when there are plans to develop land.

## 3. What are the most common forms of land corruption?

- **Bribery:** When a person offers or is asked to pay money to fast-track service delivery or obtain favours that they would not otherwise be entitled to. Bribes are usually paid to register land, receive official documents, or get approval for building permits.
- **Sextortion:** When individuals, often women, are asked to provide sexual favours to officials in exchange for land rights or housing.
- **Procurement irregularities:** This occurs when a government department, agency, or other state institution awards a tender for land development without following proper procedures. Sometimes officials awarding the tender have connections with these companies and may benefit financially.
- **Misappropriation of resources:** Improper use or theft of resources (including land, vehicles, etc.) entrusted to someone.

## 4. What are the consequences of land corruption?

- Displacement and dispossession of people.
- Threats to people's inheritance and heritage.
- Increased risk of food insecurity.
- Potential conflict and loss of life.
- Decreased economic growth, leading to poverty.
- Greater disparities between men and women, the rich and the poor, and other social groups.
- Environmental damage, such as water and air pollution, which affects agriculture and wildlife, potentially causing health hazards for affected communities.

# Farm worker equity schemes (FWES)

## 5. Context and background:

Farm worker equity schemes (FWES) were introduced in the 1990s by the then Department of Land Affairs, now the Department of Rural Development and Land Reform, as a specific type of land reform project. These schemes were designed to create a unique arrangement regarding farm ownership and management between farmers and farm workers, with the goal of helping farm workers continue working on the farm and eventually become owners.

## 6. Aim of farm worker equity schemes:

The aim is to improve the socio-economic conditions of farm workers by creating opportunities for them to acquire shares in a farm's business or land value.

## 7. Five business options and forms:

There are five forms of joint venture options available in the land reform programme: contract farming, share equity schemes, municipal commonage schemes, sharecropping, and company- supported ventures.

## 8. Forms of farm worker equity schemes:

- **The land holding company** is owned by an individual, company, or group.
- **The land holding company** is owned by the farmer or a company. The farmer and farm workers form partnerships to introduce new enterprises on the existing farm, such as dairy or livestock enterprises. Both parties have shares in the operating company.



- **The land holding company** is owned by a group, such as a trust of farm workers. They form a partnership with a neighbouring farmer, enter a joint venture or equity scheme with the adjacent farmer, and establish an operating company in which both parties hold shares.

## Challenges with farm worker equity schemes:

- Poor setup, monitoring, and support for the schemes.
- Lack of clear documentation of share equity ownership.
- Over R700-million spent with no real advantage to the farm worker, and no government action to address wrongdoing and hold the corrupt accountable.
- Poor return on investment for workers on some farms.
- Lack of access to capital and knowledge, skills, and experience in farm business and related laws.
- Maladministration and wasteful expenditure.
- Lack of knowledge of how trusts work, leaving beneficiaries vulnerable to corrupt practices.
- Exclusion of women in the business administration of the schemes.
- Beneficiaries unaware of the business structure and their role in the scheme as outlined in the business plan.
- Equity schemes are often initiated by commercial farmers to further their financial interests.
- Other important factors like tenure security, literacy levels among worker shareholders, social cohesion, and wage differences between men and women are not adequately addressed in FWES.
- Some beneficiaries exhaust their lifetime grant such as pension or disability grants, and do not have future land or housing benefits.
- Lack of consultation and participatory democracy on farms, despite shared ownership between workers and commercial farmers.
- Beneficiaries feel conned and disempowered, with little to show in terms of land ownership and tenure.
- Minimal participation in decision-making by beneficiaries

# Important concepts explained

## 1. Common terms:

- **Trust:** A special legal arrangement where a trustee takes care of valuable assets (money, land, etc.) for the benefit of another person, known as the beneficiary.
- **Founder:** The person who creates a trust by entering into contracts or writing a will to share their property in a special way.
- **Trust instrument:** A written legal document that explains how the trust was created, including the rules and purposes of the trust.
- **Trustee:** The person responsible for managing the trust, ensuring everything is done properly and in the best interest of the trust and its beneficiaries.
- **Cooperative:** A legal entity registered under the Cooperative Act 14 of 2005, where members voluntarily come together to meet their common economic, social, and cultural needs.

## 2. Duties/obligations of trustees:

Trustees must:

- Act in the best interests of the trust and beneficiaries.
- Be careful, skilled, and diligent in managing the trust.
- Manage the trust's assets responsibly, considering the beneficiaries' needs.
- Act honestly and with integrity, avoiding personal gain from the trust's assets.



### 3. What are dividends?

Dividends are a portion of a company's profits shared with shareholders or investors as a reward for their investment.

### 4. Beneficiaries:

Beneficiaries are individuals chosen by the founder to receive benefits from the trust. They do not automatically have the right to receive anything from the trust, as it is up to the trustee to decide if and when to distribute assets.

### 5. Are beneficiaries entitled to dividends?

The trustee has the final decision on whether beneficiaries receive dividends.

### 6. What is the role of the Master of the High Court?

- Custodian of the trust deed and registration documentation.
- Ensures compliance with the Trust Property Control Act (TPCA) and oversees trustees' performance according to the trust instrument and TPCA.

### 7. What is the role of the Department of Rural Development and Land Reform in relation to trusts?

- Provides funds to purchase farmland or shares in a company.
- Acts as protector of the trust, monitoring the trustee's performance and giving or withholding consent for transactions as required by the trust deed.



# Scenarios illustrating corrupt practices

## 1. Bribery:

Farm workers at XYZ farm had been facing numerous challenges, including poor working conditions, wages below the minimum standard, inadequate housing, discrimination against women and disabled workers, and violence and harassment from the farm owner. In response, the farm workers decided to mobilise and report these issues to the Department of Land Reform. The department received the complaints and agreed to investigate. Upon visiting the farm, the investigators confirmed the validity of the workers' grievances. They then met with the farm owner, notifying him that he would be fined for violating the workers' rights. To avoid losing his farming license, the owner agreed to pay a fine of R50 000. Subsequently, the records of the investigation were destroyed.

## 2. Sextortion:

Anna is a farm worker who has been working for Mr. Smith for over 20 years. Her late husband was also a farm worker on the same farm. Currently, Anna lives on the farm with her two children. Mr. Smith, the farm owner, decided to allocate small pieces of land to his workers for building housing or starting small-scale farming projects. However, Mr. Smith stated that only male workers would be allocated land, and that women would not receive any unless they had a male representative. He then approached Anna and told her that the only way she could receive land was if she slept with him.



### 3. Procurement irregularities:

The government issued a tender for a company to assist with the allocation of funds for the FWES programme. Five companies submitted bids, but one of them did not meet the criteria. This company is owned by a relation of a well-known local farmer with strong connections in government. The farmer used his influence to secure the tender for the relative by bribing officials at the relevant department. He promised one official a 10% kickback if she helped his relative's company win the tender. The official tampered with documents submitted by other companies, making it appear as though the bidders were non-compliant and did not meet the criteria. The department had initially announced that each farm worker would receive R15 000 through the FWES. However, TYU Farm, owned by the well-connected farmer, received R20 000 per farm worker instead.

### 4. Misappropriation of resources:

A farmer is interested in purchasing a piece of communal land used for urban farming. The farmer meets with a community leader who agrees to sell the land, claiming that he has consulted with the community. The farmer pays the agreed amount for the land, but the community leader keeps all the money for himself, without involving or informing the community.





# Where to seek help

If you have questions or complaints about the administration of farm worker equity schemes, you can contact:

- The trustees, as administrators of the specific trust.
- The Master of the High Court, as the statutory administrator of all trusts.
- The Department of Agriculture or the Department of Land Reform and Rural Development.

## How to prevent and fight land corruption

### 1. How can you prevent land corruption?

- Vote for accountable leaders.
- Attend community meetings about land matters.
- Report suspected land corruption to a reputable organisation.

### 2. How can you fight land corruption?

You can approach the courts if your rights have been violated, referring to laws such as:

- The Constitution of South Africa (Sections 25 and 27).
- Prevention and Combating of Corruption Act (Precca).
- Public Finance Management Act (PFMA).
- Promotion of Investment Act.

### 3. How to report land corruption:

- Contact the Department of Mineral Resources for mining-related issues.
- Contact the Department of Agriculture or the Department of Rural Development and Land Reform's anti-corruption division at 0800 007 095.
- File a case at your local South African police station.
- Contact Corruption Watch, Legal Resource Centre, Surplus Peoples Project, Witzenberg Justice Coalition, and Support Centre for Land Change for further assistance.





LEGAL  
RESOURCES  
CENTRE



SURPLUS  
PEOPLE  
PROJECT

[www.corruptionwatch.org.za](http://www.corruptionwatch.org.za)