



# **REPUBLIC OF ZAMBIA**

## **MINISTRY OF LANDS**

### **DRAFT LAND ADMINISTRATION AND MANAGEMENT POLICY**

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October, 2006

## **1.0. INTRODUCTION**

- 1.1. Land is the most fundamental resource in any society because it is the basis of human survival. Land is the space upon which all human activities take place and provides continued existence of all life forms and minerals. Land performs basic and fundamental functions that support human and other terrestrial systems such as to produce food, fibre, fuel, water or other biotic materials for human use; provide biological habitats for plants, animals and micro-organisms; regulate the storage and flow of surface and ground water; provide physical space for settlements, industry and recreation; store and protect evidence for historic or pre-historic record (fossils etc.) and enable movement of animals, plants and people from one area to another.
- 1.2 In Zambia, land has since time immemorial been held under customary tenure, while the coming of European settlers saw the introduction of freehold and leasehold tenure systems. Under the current system of tenure, customary land is estimated to be 94 percent and state land is estimated at 6 percent of the total land area of the country whose area is 752,614 square kilometres. Under these two (2) categories there is reserve land which is allocated to nature, forest, and wildlife sanctuaries. Land under forest account for 9% of the total landmass of the country or approximately 67,680 square kilometres. Land for National parks accounts for about 8% or approximately 60,160 square kilometres and Game Management Areas about 22% or approximately 165,440 square kilometres. However, population increases and migration has created localised pressure for land and problems of access and equity. Lack of a land policy framework makes it difficult to address these problems.
- 1.3 This policy has taken a holistic approach to land because land is the basis of other public natural resources use interventions due to its multiple use as a resource. Land is not only required for agriculture, for forest and wildlife conservation, but also contains water and minerals. Therefore, the policy on land has to bridge with other sector policies through clearer land tenure arrangements. This policy spells out actions for enhancing administration and use of land, initiatives for revenue generation, decentralisation and empowerment of rural and urban communities while addressing the challenges posed by social inequalities; poverty, gender and disability.

- 1.4 The policy is organised as follows. Following the discussion of historical precedents, the present situation is presented as a backdrop to the statement of policy guidelines and recommended actions. The situational analysis presents the current issues and problems of land administration, land delivery and the existing institutional and legal context. The policy covers land administration, land management and information, the legal and institutional reform proposals and actions required to achieve desired ends. The Policy also contains the implementation measures for monitoring and evaluation mechanisms.

## **2.0. BACKGROUND**

### **2.1. Indigenous Origins of land administration**

- 2.1.1 From time immemorial land was administered according to customary practices traditions and was used subject to local conditions and customs. The fact that land was held by the community rather than the individual facilitated periodic redistribution of at least part of the land among community members depending on population growth to provide a social safety net to prevent the emergence of a class of permanently landless individuals. Interest in land was primarily for subsistence and depended on the size of the population and the tools for working on land. At low levels of population density, land ownership overlapped with territorial control over locations of food primarily through communal hunting and gathering. Eventually, the emergence of crop and animal husbandry increased the bundle of interests in land, territorial rights became centralised and control of right to land for cultivation was for a time vested with clans and lineages and gradually became individualised in families.
- 2.1.2 Through out this period, individual rights to land were subordinate to those of the community. This situation persisted as long as land was used for subsistence. However, as population density increased communal property right systems emerged. Under these arrangements, the general right to cultivation of a piece of land was also an inseparable and inalienable element of tribal membership.
- 2.1.2 Initially, cultivation rights were assigned to individuals on a temporary basis, normally as long as the cleared plot was cultivated. After harvest, the plot could be used for communal use such as grazing.
- 2.1.3 As the relative scarcity of land increased, the pledging or intra-community rental of land emerged and rights to land became synonymous with land clearance. Land that was not used could temporarily be pledged to another family, with the stipulation that it could be returned upon request. This

practice facilitated the productive use of land in case the original owner was unable to cultivate it. This was distinctly different from permanent land transactions and the practice was generally confined to members of the same community. It did not uniformly apply to all land as unimproved land lying fallow at any given time was at the free disposal of the community for grazing of domestic animals owned by any family with cultivation rights. Variations of such communal tenure systems where parcels are re-allocated from time to time in order to accommodate population growth and grazing land is left for communal use are quite common in African society.

The distinguishing characteristic of communal tenure systems therefore is not a lack of general tenure security but the fact that property rights were not permanently linked to a specific plot.

### **2.1.2 Colonial Origins of Land Administration**

2.1.3 Colonisation involved taking away of land from the indigenous people by Europeans for their settlement and use. This altered the humankind land relationships furthering the evolution of individual property rights to land within customary tenure as a means to participate in the product, capital and labour markets.

2.1.4 Colonial administration selected superior land for European settlement (*Northern Rhodesia (Crown and Native Lands) Order in Council 1928 - 1963*). Later the colonial administration created Trust Lands under the then Northern Rhodesia Trust Lands Orders in Council 1947 to 1963 in an effort to decongest the reserve land. Many Africans were forcibly dispossessed of their land and moved to areas designated as native reserves. Production and marketing infrastructure were established on crown land where Europeans were settled and native reserves were neglected. Exclusion from markets effectively devalued African produce in preference for production of labour (subsistence) as before rather than as producers of surplus products for the emerging colonial market. The persistence of subsistence production is for that reason tied to the policy of land reservation, which concentrated development on land under statutory tenure, ignoring customary areas. Native Reserves and Trust lands were located far from markets, in places badly served by communications and transport and often infertile or infested with tsetse flies and lacking in water. This is the way in which Zambia's colonial legacy created the conditions for persistence of subsistence production and poverty in rural areas of Zambia today.

## **2.2 Land issue at Independence**

2.2.1 At independence Zambia inherited a customary, freehold and leasehold tenure in which administration of customary tenure was subordinate to written law, which applied to Crown land. The system of land administration was not integrated with the land tenure structure of the

country. Rights and interests exercisable under the Reserves, Trust Land and State Land remained unchanged. The method of land alienation under Reserves and Trust Lands continued to be managed by traditional customs.

- 2.2.2 In 1965, the Government appointed a Commission of Inquiry to review the land administration system and make recommendations suitable to the needs of the new Republic. The Commission recommended unification and integration of the land administration; simplification of the statutory tenure law; introduction of individual land title registration of customary tenure either at the instigation of the occupiers or at the instance of the Government; acquisition and control of vacant land and all land in Barotse Province by the Government as well as to make all laws relating to conservation of natural resources to be of general application and the law relating to compulsory acquisition to apply irrespective of whether land was held under customary or statutory tenure.
- 2.2.3. The attainment of independence did not radically change the administration of land. Before then, land was vested in the Secretary of State for colonies and administered by the Governor of the colony. After independence, land was vested in the President and administered by the Commissioner of Lands. The areas that were designated as reserves and trust land remained so designated and controlled by the same rules (Orders-in-Council). These Orders were only repealed in 1995. However, in effect the designation still exists, though the land is collectively now referred to as customary areas. This means the colonial legacy of land tenure and administration persists.

### **2.3 Post Independence Land Reforms**

- 2.3.1 In 1969 the Government amended the Constitution to provide for Compulsory Acquisition of land in public interest. Further, in 1970, Government enacted the *Western Province (Land and Miscellaneous Provisions) Act, 1970* to declare all land previously administered by the Litunga as a Reserve pursuant to the *Zambia (State Land and Reserves) Orders in Council of 1928 to 1963*. These changes did not alter the dual nature and reservation essence of land administration established by Colonial authorities for the purpose of foreign occupation and (implied) exclusion of Africans from statutory land tenure protection.
- 2.3.2 The period between 1970 and 1975 saw the enactment of laws aimed at increasing state control of land transactions to cater for urban settlement needs, such as for control and improvement of housing for low income groups and a number of Acts to provide for the regulation of tenants and rentals. As of 1<sup>st</sup> July 1975 all freehold was converted to 100-year lease and subsequent leases would have a maximum of 99 years.

- 2.3.3 In an effort to curb speculation in land the Act pronounced a ban on sale of vacant land, declaring it as having no value and introduced the requirement for Presidential consent for subdivision, sale, transfer, assignment, sublease, mortgage or charge.
- 2.3.4 In 1985 the Government amended the Land (Conversion of Titles) Act of 1975 to restrict non-Zambians from acquiring land without Presidential consent. In the same year, the Government issued general policy guidelines regarding the procedure of conversion of land from customary to leasehold tenure and system for land alienation in which District Councils would participate in processing of applications, selection of suitable candidates and making recommendations for alienation to the Commissioner of Lands.
- 2.3.5 The reintroduction of political pluralism in 1991 was followed by dismantling of the state controlled economy through market liberalisation and privatisation policies. These measures considerably changed the demands for land administration. The Lands Act of 1995 repealed the Land (Conversion of Titles) Act of 1975 and the *Orders in Council of 1928 to 1963* that had provided for the vestment of land in the Secretary of State for Colonies but retained the custodial role of the Head of State ostensibly to ensure that land was held and used equitably by citizens. The Act introduced qualifications to own land. All Zambians could own land and non-Zambians of 'certain categories' such as investors, resident permit holders, were also allowed to hold land in Zambia.
- 2.3.6 Land administration in pre- and post independence era primarily served to preserve law and order, provide basic land services and to collect fiscal revenue through provision of public services. The Government ably fulfilled this obligation and sustained an effective land administration system during the earlier years of macro-economic stability. However with time, societal demands for land services gradually accelerated to levels that were not matched by administrative efficiency among institutions responsible for administering land. The net result is that the administrative machinery has remained static and is not adapting sufficiently to the changing circumstances, rendering public land administrative functions less effective.

### **3.0 VISION, RATIONALE, GUIDING PRINCIPLES AND OBJECTIVES**

#### **3.1 Vision**

- 3.1.1 The vision of the Government is to have an efficient and effective land administration system that promotes security of tenure equitable access and control of land for the sustainable socio-economic development of the people of Zambia.

## **3.2 Rationale**

3.2.1 The rationale for this policy is based on the following:

- (a) The need for a land policy to govern land tenure administration, land use management and remove historical imbalances, address contentious issues and attend to new challenges of nationhood;
- (b) Some indigenous forms of customary tenure are no longer suitable for the increasing needs posed by population growth, urbanisation, rural urban migration and other demographic changes and the need to extend suitable land utilisation for various settlement uses such as adequate provision of space for shelter, food production, commerce and industry. Administration of land based on different customs is not consistent with equality of rights of all people to land. In its current form, customary tenure does not offer sufficient protection for disability care, gender equality and resource conservation as provided for in the Constitution of Zambia.
- (c) More people are now aware of their rights to land and are willing to register their rights and make improvements on it except that the present system of land delivery was designed for the needs of a small colonial settler population and is not responsive to the needs of the majority of citizens and therefore unsuitable for meeting present land use demands;
- (d) Land administration and management systems and procedures have not changed to accept the significance of markets in society leading to development of a parallel land market characterised by land racketeering activities and growth of uncontrolled informal settlements.
- (e) Response to growth of population, urbanisation and poverty requires streamlining of measures for anticipating change through forward planning using land use planning and control particularly in rural and peri-urban areas.
- (f) There is need to realign and decentralise land delivery systems and procedures currently dispersed across several Government ministries.
- (g) A meaningful form of public private sector partnership in land development preferably in a way that the central Government facilitates and sub-national Government executes, while the private sector implements.

In order to cope with the current demand for land and provide secure tenure in both customary and state land there is need to put in place an efficient, effective, transparent, and equitable land administration system which will streamline the delivery of land.

### **3.3 Guiding Principles**

The following guiding principles are derived from Zambia's historical experience, the Constitution of Zambia, goals of social movements, national sector policies and international agreements and conventions.

- (a) The inviolability of Zambia's sovereignty through protection and security of her international boundary in accordance with Constitution of the Republic of Zambia, the Charter of the African Union and the United Nations Organisation.
- (b) The mutual benefit principle for management of shared resources with Zambia's neighbours.
- (c) The principle of land as a common heritage, a national and communal resource and asset for meeting long term needs of the people of Zambia;
- (d) The principle of citizenship as a right to land individually, severally and or collectively anywhere in Zambia;
- (e) The principle of optimal land use among uses and users such as human settlement uses, industry and commerce, infrastructure, agriculture, forestry and mining, the protection of right to access and wise use of water bodies in the long-term interest of the people of Zambia.
- (f) The principle of encouraging fair and equitable access to land and secure tenure among all the people of Zambia irrespective of their abilities, race, beliefs, gender and ethnicity.
- (g) The principle of user liability for restoration of environmental changes of land values;
- (h) The principle of centrality of land markets in the development of Zambia subject to land use guidelines.
- (i) The principle of private sector driven development of Zambia subject to environmental and land use guidelines
- (j) The principle of Government facilitation of land development and delivery and organisational capacity of land related service institutions.
- (k) The principle of participation, accountability and democratic decision making within communities and Government, the public and other development partners.



- (l) The principle of due process in land disputes handling and management

### **3.4 Objectives**

In order to achieve Government's Vision, the policy objectives will be to:

- (a) Secure Zambia's territorial integrity by maintaining international boundaries at all times to control movements, encroachments and enhancing security of citizens;
- (b) Facilitate the equalisation of rights of all the people of Zambia to land through accountable and transparent land registration, adjudication and achievement of guaranteed justice;
- (c) Provide a policy framework for addressing poverty reduction, gender equality and mitigation of HIV/AIDS in land administration;
- (d) Facilitate and regulate orderly land market transactions, land development and use;
- (e) Establish and support effective institutional capacity and capability at national, provincial, district, local and community levels for sustained improvements of land delivery services;
- (f) Promote research and discourse in all aspects of national geography, land economy, law and information studies.
- (g) Provide a comprehensive institutional and legal management framework for effective land administration and management.

## **4.0 SITUATION ANALYSIS, CHALLENGES AND POLICY MEASURES**

### **4.1 International and Internal Boundaries**

- 4.1.1 Zambia has a total land surface coverage of 752,614 square Kilometres and is divided into nine (9) provinces and seventy-two (72) districts as at 2005. Zambia has an international boundary with eight countries namely Angola, Botswana, Democratic Republic of Congo, Malawi, Mozambique, Namibia, Tanzania and Zimbabwe. Maintenance of international boundaries is required to safeguard territorial integrity and sovereignty. There are isolated boundary encroachments especially where there are no physical marks hence the need to continuously maintain and re-define Zambia's international boundaries from time to time to avoid any land related conflicts with her neighbours. Currently, the issues of International Boundaries are being addressed by Joint Permanent Commissions.

4.1.2 Apart from the international boundaries clear borders are required between chiefdoms, districts, constituencies and provinces to minimise conflicts between them. Administrative boundaries are not clearly defined leading to conflicts between chiefdoms particularly over pastures and other common resources. District boundaries, as well as provincial ones also need clear delineation to clarify jurisdictions and avoid conflicts. Similarly the limits of nature reserves; land reserved for forestry and national parks also need clarification for better controls and limitation of encroachments.

### ***Challenges***

The challenges with respect to both international and internal boundaries are:

#### **(a) International Boundaries:**

- (i) unclearly marked and unmaintained international boundaries are prone to encroachments and cross border settlements in places which may result into conflicts;
- (ii) non-adherence to the agreement of the Joint Permanent Commission on International Boundaries; and
- (iii) lack of awareness and respect on the position of International Boundaries by persons living along the borders.

#### **(b) Internal Boundaries:**

- (i) lack of up-dated internal boundary maps of various administrative jurisdictions;
- (ii) conflicts arise due to a lack of clear physical boundary marks to indicate chiefdoms, districts, provincial boundaries ; and
- (iii) unclear boundaries of nature reserves resulting in lack of controls and encroachments.

### ***Policy Measures***

In order to retain and maintain its international and internal boundaries there is need for Government to continuously maintain and monitor the extent of its boundaries to avoid any land related conflicts with her neighbours. Government will therefore:

**(a) International Boundaries**

- (i) Encourage participation of local land administration institutions in resolution of cross border disputes through established Joint Technical Cooperation negotiations under Joint Permanent Commissions of Cooperation activities;
- (ii) Ensure that resolutions of Joint Permanent Commission are implemented;
- (iv) Establish and maintain boundaries on land and shared water bodies;
- (iv) Regularly maintain international boundary infrastructures; and
- (e) Sensitise the public on the need to respect the positioning of the international boundaries.

**(b) Internal Boundaries**

- (i) To keep and continuously up-date and make available maps, narrative descriptions and ancillary data for clear physical interpretation of defined administrative boundaries;
- (ii) Clearly delineate and clarify jurisdiction of the natural reserves and national parks

**4.2 Vestment and Land Tenure**

**4.2.1 Vestment**

4.2.2 All Land is vested in the President who holds it absolutely in perpetuity in trust for and on behalf of the people of Zambia. Vesting land and land resources such as natural resources, and defence and security in the Head of state is the status quo. The rationale is that land is a strategic resource and hence should be held by the highest office in the land for and on behalf of the people of Zambia. As sovereign and unitary state, land and national security relate closely and therefore powers over the two should continue to be vested in the President. However, there are other views that suggest that the issue of concern is one of personality versus office. There is primary concern and fear for abuse in office or potential for political interference if land is vested in one person, the President.

### 4.2.3 **Tenure**

4.2.4 There are two tenure systems in Zambia, customary and leasehold tenure. Customary tenure is an indigenous form of land holding which is generally communal in character. Leasehold tenure is a system of land holding usually held on land that is known as state land and also regulated by statutes. The current classification of the land tenure has to certain extent created a vacuum of how to deal with land reserved or to be reserved in the public interest.

#### **Challenges:**

The challenges related to land tenure administration and management are as follows:

- (a) Contentions about the vestment of land in the Head of State;
- (b) Inadequacy of the tenure system in addressing the creation and protection of public interest.

#### **Policy Measures**

##### **(a) Vestment and Land tenure**

To address issues related to security of tenure:

- (i) All land shall be graded as a constitutional issue;
- (ii) Government shall uphold the principle that land is vested in the President who holds it in perpetuity for and on behalf of the people of Zambia;
- iii) Establish three types of land tenure classifications namely; customary, leasehold and reserve land; and
- (iv) The President shall reserve the right to make and execute grants and dispositions in state, customary and reserve land.

##### **(b) Reserve Land**

The Government shall introduce a new land classification to be known as reserve land for all public land uses. In this regard:

- (i) All reserve land shall be registered and certificates of reservation shall be issued;

- (ii) All reserve land shall not be leased for private use unless it is for the purposes that it is set aside and authorised by the Minister responsible for land;
- (iii) Government shall create a register for all private concessions on reserve land;
- (iv) Government shall declare reserve land adjacent To natural river/lake or public reservoir; with prescribed distance of the extent of the reserve land from the shoreline or bank of such water bodies.

### **4.3. Customary Tenure**

- 4.3.1 The system of land holding under customary tenure includes land that was designated as Reserves and Trust Land and is derived from continued occupation and is administered according to local custom and therefore varies from place to place. Chiefs and headmen have a significant regulatory role of customary tenure.
- 4.3.2 It is important to state that the conversion of customary land to stateland involves seeking the consent of the chief. This situation has however presented an encumbrance on the vestment as the President has to consult the chief before alienation of land. In addition, very few people have used this possibility of converting customary land to stateland due to inadequate guidelines exacerbated by the opposition of the chiefs who think their powers will be eroded. Further, it is argued that chiefs give land to foreign investors and the urban elite without participation of the local people.
- 4.3.3 Free access to resources provided by customary tenure has the disadvantage that the individual has no incentive to invest in common resources such as pasture improvement. This has the effect of encouraging overuse and can result in severe degradation of the environment. Rights derived from customary tenure are not registered and difficult to define. Private credit institutions do not recognise such rights as collateral. Furthermore, rights to land derived from customary tenure are subject to local practices and beliefs. Some of these customs may exclude some people from owning land by virtue of their status and gender.

### **Challenges:**

The challenges with respect to customary tenure are:

- (a) Inability of customary land to qualify as collateral and therefore adequately participate in the capital market;
- (b) Inadequate sensitisation on conversion of customary tenure to lease hold tenure;
- (c) Differences in the nature and form of customary land tenure across the country.
- (d) Lack of guidelines on the role and functions of traditional authorities and local authorities in land administration;
- (e) Undefined rights to land on the basis of gender and social status;
- (f) Unclear assignment of land rights and responsibilities;
- (g) Lack of popular participation by the local people in land alienation decision;
- (h) Under- development and under- utilisation of land.; and
- (i) There is conflict of authority between chiefs and the President in whom land is vested in the grant of consents in the process of converting land from customary land to state land

### **Policy Measures**

In order to advance the advantages of customary tenure practice, the Government will:

- (a) Introduce group land rights to allow for registration of village, family and clan land as well as co-operatives;
- (b) Encourage landholders in peri-urban and rural areas to establish land loans and savings associations to facilitate land and housing improvements;
- (c) Collaborate with traditional authorities and other land stakeholders to review, harmonise and streamline customary land practices, usages and legislations governing land holding, land acquisition, usage and delivery with a view to unifying land administration and management;
- (d) Set maximum holding size to land on the basis of capability and use suitability or technology.
- (e) Recognise the rights of land users by defining these rights through formal survey and registration so that everyone, irrespective of social status, gender or origin can have similar rights to land;

- (f) Ensure that non-citizens and foreign companies are not allowed to acquire land through transfer or purchase of customary land;
- (g) Encourage successor in title to the throne to recognise title deeds issued upon grant of consent by their predecessor in order to protect and perpetuate the rights of the title holder;
- (h) Continue to sensitise the public on the advantages of individual ownership of land through leasehold or customary tenure to improve the security of investments by improving land transferability and access to credit;
- (i) Ensure that no chief shall recommend land for alienation without consulting his/her subjects; and
- (j) Ensure and uphold that the final grant of land lies with the President in whom land is vested.

#### **4.4 Leasehold Tenure**

- 4.4.1 The land under leasehold is also generally referred to as state land from what was called Crown land in the colonial era. Interest in land held under leasehold tenure is acquired by direct grant from the President through the Commissioner of Lands and is limited to a specified period, but is capable of being determined at the expiration of the lease. The Title Deed offers the leased security of tenure and consequently also enables the landholder to raise development funds from financial lending institutions on the basis of the security conferred by the title. The landholder is bound by conditions attached to the lease such as payment of ground rent and developing land within a specified time frame beyond which undeveloped land could be forfeited to the Government.
- 4.4.2. Due to limited Stateland, there is considerable interest in conversion of customary land to leasehold tenure for development purposes. It is believed that individualisation of land through leasehold tenure improves the security of investments by excluding concurrent ownership and improving land transferability and access to credit. Most of the registrations are for residential property as the majority of farmers work on untitled land. The current 99 year lease of land is too long and is as good as leasing land for life. Currently there is no distinction between Zambian and non-Zambian in giving out land. Non-Zambian investors should lease land for a shorter period than Zambians.

### **Challenges:**

The challenges with respect to leasehold tenure are as follows:

- (a) Ignorance of land alienation procedures;
- (b) Lack of willingness by chiefs and practical difficulties in conversion of customary land to leasehold;
- (c) Lack of information on land availability;
- (d) Under-development and non-utilisation of land.

### **Policy Measures**

In order to address the issue of leasehold the Government will:

- (a) Maintain the period of granting leasehold title for a period ranging from 1 year to 99 years based on advise from Land Use Experts;
- (b) Introduce measures to encourage leasing of land by foreign investors and residents in line with the Citizenship Economic Empowerment Act;
- ((d) Set maximum holding size to land on the basis of capability and use suitability or technology;
- (e) Provide guidelines that will enable allocation of land according to market value and ensure that land in urban areas attract higher prices than in rural areas;
- (g) Ensure that land that remains under-developed and unutilised within the specified period is repossessed.

## **4.5 Land administration**

All land is vested in the President for and on behalf of the people of Zambia. The Commissioner of Lands administers the stateland as farms and agricultural holdings as stands for buildings and other uses, all under leasehold. On the other hand chiefs administer land in customary areas but the Commissioner may allocate land under customary tenure provided that it is vacant and the chief does not object.

Land Administration is executed by the Ministry of Lands through its constituent departments dealing with land delivery, land administration, land survey and land registration. However, departments falling under a number of ministries such as Physical Planning and Housing, Valuation, Agriculture and Natural Resources and other statutory institutions also contribute to land



management. This unfortunately leads to duplicity of roles leading to corrupt practices with no proper system to effect the efficient and equitable distribution of land.

## **Land Allocation**

### **(a) Customary Land**

An applicant for title on land falling under customary tenure begins with a local headman and a chief, who must consent to conversion of tenure by issuing an approval (consent) letter to the District Council. However for the Council to approve the application, a physical demarcation in the presence of the headman is required in addition to a sketch map. A recommendation is granted by a full District Council meeting, which meets every three months, before the application is submitted to the Commissioner of Lands. All these services carry unspecified charges. Charges can range from a token of appreciation to huge sums of money suggesting land sales.

In the case of allocation of land falling under a settlement scheme, there is no requirement for chief and District Council approvals. Settlement scheme manager transmits the application for title directly to the Commissioner of Lands through the provincial officer. But in the case of unoccupied non-agricultural state land, it is the Regional Planning Authority, such as physical planning and housing office, who issue a sketch map where stands are pre-demarcated. Once the application is received at the Commissioner's office, the application is scrutinised by the Map room where it is plotted into a Master Map to avoid duplicate registration and overlaps. The application is sent to Survey where it is checked against the Master for presentation to the Commissioner of Lands for offers. An offer letter is then prepared and transmitted to the applicant stipulating the charges to be paid before lodging for title.

### **(b) Leaseholds**

An applicant for land falling under Stateland does so under leasehold. Leasehold is a type of holding where the President grants a parcel of land to a lessee for a term not exceeding 99 years upon certain conditions which include that the tenant will pay rent, have exclusive possession and abide by all the other terms provided for in the lease agreement.

Under the law, all land in Zambia is vested in the President on behalf of the people of the Republic of Zambia. The President has delegated his power to the Commissioner of Lands to make and execute grants and dispositions of land subject to special or general directions of the Minister responsible for land.

Once the planning authorities have 'created' the land, the layout plan is endorsed and stamped by the appropriate planning authority that later relays the 'plan' to the Lands Department for scrutiny and for purposes of ascertaining the availability of the land. Where the land is available the 'plan' is approved and relayed to the Survey Department for numbering. Copies of the numbered plans are thereafter distributed to the planning authority that created the defined parcels and the District Council in whose area the defined parcels are located.

On receipt of the numbered copy, the Council considers applicants who they interview and thereafter select and recommend suitable applicants to the Commissioner of Lands for issuance of certificate of title.

### **Challenges:**

- (a) Centralised issuance of certificate of title making it very costly;
- (b) Lack of coordination between land use functions spread among different institutions;
- (c) Lack of systematic planning in the land delivery process; and
- (d) Lack of a systematic mechanism to deal with abuse of office by the agent of the Commissioner of Lands.

### ***Policy Measures***

In order to address the issues of land administration, Government will:

- (a) Ensure systematic planning in the land delivery process;
- (b) Streamline and simplify the system for allocation of leasehold rights in order to reduce the number of authorities involved

in land alienation and make the system more accessible and affordable to a wide range of eligible applicants;

- (c) Regulate the system of land allocation and decentralise the functions of the Commissioner of lands up to district level.

**(c) Land Registration**

Land registration is provided for under the Lands and Deeds Registry Act Cap. 185. All interests in land must be registered in accordance with the Lands and Deeds Registry Act otherwise the interests become null and void. According to Sections 4 and 5 of the Lands and Deeds Registry Act, every document purporting to grant, convey, or transfer land or any interest in land, or to be a lease or an agreement for a lease or permit of occupation for a longer term than one year must be registered. Similarly, a document purporting to create any charge upon land, whether by mortgage or otherwise, must be registered. Any document that evidences the satisfaction of any mortgage or charge, and bills of sale of personal property where the grantor remains in apparent possession must also be registered. All bills of sale must be registered within three months of their execution, whilst all other documents must be registered within thirty (30) days, ninety (90) days or one year, if within same district as the registry, within Zambia or outside Zambia, respectively. If such documents are not registered within the prescribed time, they become null and void.

Registration of a document comprises the filing of the document, or a certified copy, and entry in a register of the names of parties, date of the document, date of registration, and a brief description of the document. Due to traditionally centralised administrative structure which has led to location of the registry at Lusaka, expanding needs of the country have not been taken into consideration.

The Lands and Deeds Registry issues certificates of title based on approved cadastral diagram for the period not exceeding 99 years.

Three types of registers are kept; the lands register, the common leasehold register and the miscellaneous register. The lands register contains documents relating to land and other than land that is on common leasehold. The common leasehold register registers documents relating to strata titles. Any other document is registered in the miscellaneous register. Any document relating to land that is lodged for registration must describe the land by reference to a diagram,

plan, or description of the land approved by the Surveyor General.

### ***Challenges***

The Challenges involving land registration are as follows:

- (a) Centralised land registry is very expensive to users;
- (b) Slow and tedious system of registration;
- (c) Manual registration system prone to errors and abuse and not easily useful for monitoring of land market dynamics; and
- (d) Lack of adherence to given time frames of registering properties.

### ***Policy Measures***

In addressing challenges of land registration Government will:

- (a) Decentralise and modernise land registry offices and unify all land registries, under the central land information and management registry and work towards paper free offices;
- (b) Employ a system of land registration that avoids duplicate issuance of one parcel and forgery;
- (c) Provide for registration of all properties under public institutions and other estates such as forestry and wildlife sanctuaries and concessions;
- (d) Adhere to the given time frames by ensuring that all resources are provided; and
- (e) Implement a programme for systematic adjudication and registration of land interests in customary areas to equalise the rights of all citizens to land;

#### **4.9.0 Surveys and Geo-information**

Surveys and geoinformation services are provided for under CAP.188 of the Laws of Zambia.

#### 4.9.1 Surveys

4.9.2 Land surveys constitute the conducting of cadastral, geodetic, topographic, hydrographic and engineering surveys for the acquisition of primary data in the field in order to process and derive spatial information critical for a wide range of land administration and land management functions.

**Cadastral Surveys** - The primary purpose of a cadastral survey is to determine for each land parcel its location, the extent of its boundaries and surface area and to indicate its separate identity both graphically on a map and physically on the ground. The Government maintains a cadastral property register which serves the public with survey data that defines or re-establishes boundaries of state land or land held under leasehold tenure. The register contains approved cadastral survey records, constituting textual and graphic map data.

Surveys are carried out by public institutions and private practitioners. However, the inadequacy in human and institutional capacity of the surveys and geoinformation resource base has over the years impacted negatively on service delivery.

4.9.4 As a result, there are a number of illegal surveys being undertaken by unauthorised surveyors thereby contributing to unreliable data in the cadastral property register. This has also been worsened by lack of human capacity to conduct survey inspections.

4.9.5 **Geodetic Surveys** includes the establishment and maintenance of the spatial reference frame (geodetic network) that consists of a national coordinate system of records and a physical of infrastructure trigonometric stations and township reference marks.

4.9.6 The spatial reference network is primarily used for locating points upon the earth surface in order to control and integrate data during cadastral, topographic and engineering surveys. The spatial reference network is equally applied in controlling and integrating land related features and data in mapping and charting operations and varied scientific applications. Limited use however still exists in several applications with potential such as transportation, navigation and communication; and geophysics applications due to low investment and advancement in modern geodetic surveys on a national level.

4.9.7 Currently there is no unified consistent spatial reference frame. This makes surveying and geoinformation activities more costly. Further

more, because of lack of resources Government is unable to facilitate the surveying and geoinformation activities.

4.9.8 **Other Surveys** – In addition, Government is unable to facilitate provision of topographic, hydrographic and engineering Surveys executed by public and private domain due to resource constraints.

4.9.9. There is a public concern that survey services are not affordable and readily accessible to the general public particularly to those people in rural areas.

### **Challenges**

Challenges relating to survey are:

- (a) Lack of up to date, accurate and reliable survey data;
- (b) Costly, inaccessible and limited survey services particularly for people in rural areas;
- (c) Outdated survey laws and standards that have adversely affected service delivery;
- (d) Lack of qualified surveyors to undertake the verification of survey work;
- (e) Restrictive Establishment of the Ministry of Lands;
- (f) Resource constraints by the Government;
- (g) Inadequate availability of modern survey equipment; and
- (h) Lack of enforcement of stringent measures to curb current fraudulent and sub-standard surveys conducted by unauthorised surveyors.

### **Policy Measures**

In order to address challenges related to survey Government will:

- (a) Build human resource capacity through modular competence based training and support short-term courses;
- (b) Decentralise survey services and prorata the charging of survey fees;
- (c) Support procurement of modern survey equipment;

- (d) Improve the funding levels to the Ministry responsible for land;
- (e)
- (f) Strengthen institutions offering training in surveying.

#### **4.10 Geoinformation**

4.10.1 Geoinformation involves the development of technical standards and the production and public delivery of topographic and thematic maps and map databases. Government is expected to provide Geoinformation services and facilitate other actors to augment its effort to provide spatial information to aid development planning and infrastructural development activities in various economic sectors at both local and national levels. For some time various maps have not been up-dated except for those maps that Donors have funded. As a result there is a back log of unrevised maps.

4.10.2 At the moment there is generally lack of geoinformation equipment for production and printing of maps.

There is a public concern that geoinformation services are not affordable and readily accessible to the general public particularly to those people in rural areas.

#### **Challenges**

The challenges with respect to geoinformation are:

- (a) Lack of revised maps;
- (b) Lack of equipment for production and printing of maps; and
- (c) Inadequate human resource capacity.

#### **Policy Measures**

In order to address issues related to geoinformation Government will:

- (a) Procure modern production and printing equipment;
- (b) Encourage investment in production and printing equipment; and
- (c) Build human resource capacity through modular competence based training and support short-term courses; and

#### **4.11 Land Information**

- 4.11.1 Administration and management. At present information and data on the following aspects is scanty and scattered (i) location of various parcels of land (ii) size or acreage of these parcels (iii) size and shape of those parcels (iv) names, identities, gender and addresses of occupiers (v) use of those parcels, (vi) annual rent of those parcels of land, and (vii) dates when such rents are to be paid and or reviewed, (viii) geoinformation (ix) information on all other categories of land.
- 4.11.2 The Government has been operating an analogue/digital Land Information Management System (LIMS) to administer and manage land. An effort to migrate to a modern fully digital system that is able to meet the demands of users has proved difficult due to capacity constraints which include low funding, low investment, skills and low technology.
- 4.11.3 At present land information is not adequate and reliable because land use planning and zoning are not guiding land allocation and registration. Survey and mapping information sometimes comes after allocation instead of providing the basis for allocation and subsequent registration. The main problem is the lack of land information that is causing out-datedness of land use plans and lack of compliance to land use guidelines by authorising units.

### ***Challenges***

The main challenges facing land information services are as follows:

- (a) General lack of information on land;
- (b) Limited public access to Land Information;
- (c) Ineffective Land Information and Management System (LIMS);  
and
- (d) Low investment in infrastructure for effective land information management;

### ***Policy Measures***

To improve land information and management, the Government will:

- (a) Ensure that development and management of land information system is adequately funded;
- (b) Improve public access to reliable land information;



- (c) Develop and publish a comprehensive land information communication strategy;
- (d) Ensure that land information is adequately translated into major languages and disseminated;
- (e) Develop an efficient and effective infrastructure for land information management at National, Provincial and District levels.
- (f) Create an accurate data base and improve dissemination of information to the public;

## **4.12 Land Value and Property Markets**

4.12.1 Even though land has value, especially land located in areas with high levels of economic activity, Land is allocated freely, at no charge to the beneficiary. Despite recognition that land has value, the Government has continued to place only administrative minimal charges for all allocations. There is a requirement that the State should consent to any transfer of title for tax purposes, recording keeping and compliance to law. However, restriction of land transactions to state land limits land availability and causes artificial shortages. The result is that land quickly changes hands once it is allocated at increasing value to the beneficiary. In spite of restrictions on the land market, land sales are common in most parts of urban Zambia.

Land Markets refers to transfers of bundles of rights to land through sale. Where a person holds title there free to transact based on market value. The current land market system in Zambia is un regulated and limited to land held on leasehold. Since it is un regulated this results in racketeering and speculation.

### ***Challenges***

- (a) Lack of valuation capacity in land administration;
- (b) Lack of determined land value resulting in speculation; and
- (c) Lack of segregated land values for different categories of land.
- (d) Un regulated land market transactions leading to fraudulent behaviours;
- (e) Lack of regulatory framework for real estate agents;
- (f) Lack of active participation of land in capital market;

- (g) Informal property ownership by the majority, most of whom are poor, means that land is not an asset base for the poor;
- (h) Lack of adequate and reliable land market information;
- (i) Lack of a nationwide register of land rights;
- (j) Lack of accessible mortgage finance, leading to inability for the poor to use land and their real estate as collateral;
- (k) Lack of organised public information of market trends and major developments;

### ***Policy Measures***

In order to address the increasing demand for land in areas with relatively higher population densities land will be managed according to its value. In this regard the Government will:

- (a) Strengthen valuation capacity in the Ministry responsible for land ;
- (b) Ensure that land valuation records showing land value for different categories of land are maintained for effective transparent land administration;
- (c) Provide segregated land values for different categories of land except for customary land; and
- (d) Ensure that land is sold to applicants at the time of offer as determined by Government Valuers.
- (e) Facilitate the provision of land market information;
- (f) Initiate the use of appropriate financial instruments, such as negotiable land bonds, land development funds for financing Government land acquisitions and property developments.
- (g) Regulate the real estate market by providing a regulatory regime to allow the development of mortgage finance and assist the poor in using land and real estate as collateral and enable institutional investors (e.g., pension funds) to invest in asset backed securities;

## **4.13 Tax and Non Tax Revenue**

4.13.1 Land related taxes in Zambia are based on land and the improvement on it. Property tax regime is based on two (2) key values – the capital value and rental value of the property. Property Transfer Tax, Withholding Tax, Rates and Ground Rent are the major tax and non-tax revenue that the State earns through central government agencies. There are however, other land related non-tax revenue measures that the State employs through provision of public service e.g. land administration fees and developmental charges – consideration fees, survey and mapping fees, land registration fees, development service charges etc.

4.13..2 The revenue collection system for ground rent and other fees is currently not as efficient and effective as expected because of lack of accurate data and a reliable land information management system, lack of clear revenue collection system and lack of periodical reviews.

**Challenges:**

The major challenges related to tax and non-tax revenues include:

- (a) Limited Tax base due to unregistered settlements;
- (b) Inadequate redistribution of tax and non-tax revenue to land related administration and management; and
- (c) Lack of an efficient and effective revenue collection system for ground rent and other fees resulting in under collections;
- (d) Lack of accurate data and a reliable information system; and
- (e) Unperiodical review of fees and charges.

**Policy Measures**

In order to address taxes that are land related Government will:

- (a) Establish an efficient and effective revenue collection system for ground rent and other land related fees and charges.
- (b) Broaden the revenue base by regularising the unplanned settlements;
- (c) Extending provision of services and secure rights to land to improve tax compliance and benefits;
- (d) Improve land information management system;
- (e) Ensure accurate date is maintained; and

- (f) Review of fees and charges periodically.

#### **4.14 Spatial Planning**

- 4.14.1 Land Use Planning constitutes an activity where land is planned for various purposes such as agriculture, industry, commercial and residential. Land Use Planning is intended to regulate and direct individual, communal or public rights and administer land use restrictions and assignment of responsibilities.
  
- 4.14.2 There has been a considerable decline in Land Use Planning over the years due to constrained resources allocated to this function resulting in sporadic and unplanned development and use. This further has been worsened by increasing demands of a growing population, growth of urban areas, cascading poverty and its attendant pressures on environment. Where planning functions exist, it is limited to urban areas and settlements. Even in urban areas where regulations are being applied they are weak and lack enforcement. Approved land use plans are often not followed up with land development services.

#### **Challenges**

- (a) Lack of up-to-date national land use plan;
- (b) Restriction of planning control and use guidelines to urban and industrial settlements to the exclusion of rural settlements and other land use practices;
  
- (c) Inadequate planning and enforcement of land use planning, controls and restrictions by local authorities;
  
- (c) Lack of coordinated approaches to land use planning; and
  
- (d) Lack of compliance by land users.

#### **Policy Measures**

In order to address problems related to Land Use Planning the Government will:

- (a) Prepare and maintain comprehensive district, regional and national land use plans and an atlas that zones broad sections of the country to broad land uses according to planning criteria publicly agreed among all stakeholders;
  
- (b) Develop and implement spatial planning system that meets needs of urban and rural environments;

- (c) Enforce planning controls and restriction by planning authorities;
- (d) Ensure compliance by land developers and users;
- (e) Ensure that all land for human settlements, agriculture, industry and commerce and other uses is planned, surveyed and serviced before it is allocated; and
- (f) Transform the planning process and make it more responsive to the development needs and proposals from the society.

#### **4.15 Dispute Resolution**

- 4.15.1 The Lands Tribunal is set up under the Lands Act Cap. 184. The main form of land disputes handled by the Tribunal involves conflicts arising from land allocation by the Ministry. The Tribunal has jurisdiction in any dispute arising under the Lands Act.
- 4.15.2 The intention behind the establishment of the Lands Tribunal was to provide a fast-track and low cost dispute resolution mechanism targeting the under-privileged persons in society. Unfortunately, most under-privileged persons are unable to access the Lands Tribunal mainly due to its limited jurisdiction and capacity. Most under-privileged persons are found in customary land in rural areas and in unplanned settlements in urban areas where the Lands Tribunal has no jurisdiction.
- 4.15.3 Sometimes, even where the Lands Tribunal has jurisdiction the under-privileged persons have very limited opportunities to access it. Further the Tribunal has experienced the financial constraints which confined their operations to Lusaka.

#### ***Challenges***

The challenges in the resolution of disputes in land management and administration include:

- (a) Lack of mandate to arbitrate over land disputes in customary areas and Statutory Improvements Areas where most under-privileged persons are situated;
- (b) Lack of capacity for efficient and effective operations; and
- (c) Limited awareness of the existence of the Lands Tribunal.

#### ***Policy Measures***

With regard to land dispute resolution, the Government will:

- (a) Review the status and jurisdiction of the Lands Tribunal in order to enable it address all land dispute; and
- (b) Widen the mandate of the Lands Tribunal to cater for under-privileged persons especially those in customary land and Statutory Improvement Housing Areas.

#### **4.17 Transparency and Accountability**

- 4.17.1. It has been observed that limited flow of information and the structural deficiencies has led to lack of transparency and accountability in the process of land administration. This is compounded by lack of effective mechanism to monitor corruption in land delivery process.
- 4.17.2 As a result all institutions dealing in the land administration systems such as the Ministry of Lands, Local Authorities and Physical Planning under the Ministry of Local Government and Housing, Ministry of Agriculture and Cooperatives, Resettlement Department in the Office of the Vice President and other Planning Authorities have affected the achievement of transparency and accountability.
- 4.17.3. Furthermore, poor conditions of service and generalised poverty levels in the country have contributed to deteriorating of integrity among institutions dealing with land administration and management.
- 4.17.4. The involvement of traditional rulers by law in land alienation since 1985 without necessary capacity to do so has led to lack of accountability and transparency in land alienation to outside investors as a result communities want to be involved in decisions making when land is being alienated.

#### **Challenges:**

Challenges relating to transparency and accountability in land administration are:

- (a) Lack of publicised procedures followed in allocation of land;
- (b) Lack of a well functioning land delivery system;
- (c) Lack of transparency and accountability in the allocation of land; and
- (d) Lack of information flow and timely response to clients.

### ***Policy Measures***

In addressing issues relating to transparency and accountability, Government will:

- (a) Increase public awareness on land delivery procedures in order to increase transparency in land allocation;
- (b) Establish a well functioning land delivery system;
- (c) Establish land administration set up at local level; and
- (d) Encourage transparency and accountability in customary tenure such as involving communities in decision making processes,
- (e) Improve incentives for land administrators at all levels.

## **4.18 Cross Cutting Issues**

### **4.18.1 Decentralisation**

12.1.2 The National Decentralisation Policy (2002) recognises the need for establishment of a national forum at ward and village levels and the need to involve local people in the planning process. To achieve these reform measures, the need to develop management capacity among sub-national and sub-district institutions is recognised. This implies need to extend Provincial and District Boundaries Act Cap 286 of the Laws of Zambia to provide for delineation of village boundaries and wards.

12.1.3 Following the restructuring process the Ministry has only decentralized up to Provincial Level with limited capacity where such services as land allocation, surveying of land and provision of general land information as performed. At District Level due to lack of organisational structure the Ministry uses Councils as agents in land administration. Councils cannot take up all the responsibilities due to lack of technical skills, finances and infrastructure. The bid to bring services as close as possible to the users' demands for representation of the Ministry at all levels. This is one reason for innovative reform measures to have accountability, transparency and efficiency built into the system of land administration and management.

12.1.4 In customary areas, the land administration structures have not been decentralised. However, traditional authorities play an advisory role to government in the conversion of customary land,

where land is to be used in a customary manner the traditional authorities do allocate land to applicants.

### ***Challenges***

The challenges are as follows:

- (a) Inadequate land administration framework at district level;
- (b) Inadequate sensitization of the district and traditional authorities in land administration procedures;
- (c) Inadequate linkages with Planning and Land Use Authorities at district and customary land; and

### ***Policy Measures***

In order to ensure decentralisation in land administration Government will:

- (a) Decentralize the operational structure of the Ministry of Lands up to district level;
- (b) Ensure that the sensitization programme on land administration procedures are put in place;
- (c) Strengthen linkages within the Ministry responsible for Land and other institutions which have land related functions; and
- (d) The Ministry responsible for Decentralization Policy should ensure that capacity is built in District Councils.

## **14.0 Gender**

14.1.1 The Government through the National Gender Policy (2000) recognises the fact that acquisition and ownership of land in Zambia continues to be a major hindrance to women's participation in national development.

14.1.2 To liberalise and enhance land acquisition and its usage, the Government passed the 1995 Lands Act to provide for ownership of land, including land under customary tenure through title deeds. This Act also guarantees women, the majority of whom are in rural areas, the possibility of being land owners with security of tenure for 99 years.

14.1.3 The major drawback, however, is that the Land Act allows customary laws which mainly confers land ownership on men to



apply to the administration of traditional land. This is in line with the provisions of Article 23 (4) (c, d) of the Republican Constitution which recognises the application of customary laws in matters dealing with land.

- 14.1.6 The current statutory laws do not discriminate against anyone on the basis of gender. The Government has however, recognised that women still lack control over land especially in customary areas as opposed to lacking access that they gain through their male relatives. The reason for this lies in customary practices.

### ***Challenges***

The Challenges related to gender are:

- (a) Lack of an enabling environment for gender inclusiveness in both customary and leasehold land areas;
- (b) Discriminatory inheritance rules and rights;
- (c) Lack of disaggregated data based on gender which makes it difficult to plan;
- (d) Lack of recognition of women's labour in agriculture leads to marginalisation of women in land ownership;
- (e) There is inadequate participation of women in land administration at all levels; and
- (f) Lack of advocacy and sensitization to encourage women to own land.

### ***Policy Measures***

In order to address matters relating to land and gender Government shall:

- (a) Review statutory and customary laws and practices that perpetuate gender discrimination;
- (b) Mainstream gender in all institutions administering and managing land; and
- (c) Implement atleast 30 percent land ownership for women; and
- (d) Devise an advocacy and sensitization programme on gender.

## **15.0 HIV/AIDS and Other Terminal Diseases**

- 15.1.1 The emergence of HIV/AIDS and other terminal diseases such as cancer, high blood pressure have far reaching ramifications on land tenure. It is important to address stigma because it presupposes that those with the HIV/AIDS virus or who are terminally ill would be unable to properly use land and therefore do not really need it. This impression is reinforced by the consequences of long-term illness and death. In many places close relatives grab the land and

orphans and widows lose access to the land on which they on which they derived their livelihood following the death of a bread winner. The logarithm of events following long term illness and death further marginalises survivors

### ***Challenges***

The Challenges related to HIV/AIDS and land administration are as follows:

- (a) Abandonment of land as the infected and siblings are likely to move out to go and live with relatives;
- (b) Under utilisation of land following illness or death of family breadwinner;
- (c) Distress sales of land at distress prices due to illness and death of landowner; and
- (d) Inadequate recognition of the impact of HIV/AIDS pandemic in land administration and management services.

### ***Policy Measure***

The Government will ensure recognition of the impact of HIV/AIDS pandemic in land administration and management services and work in partnership with other stakeholders to redress the impact of the pandemic.

## **16.0 Private Sector Participation**

- 16.1.1 Private sector participation provides greater incentives to invest in land and boost economic development in the country. Government has come to appreciate the role played by the private sector in the promotion of investment. The major concern when it comes to land has been that of easy access in identifying land for potential economic development ventures, the quick surveying of this land as well as the registration of the identified parcels. Another aspect that has been identified to be an obstacle when it comes to developing land is the lack of infrastructure in areas that have potential for investment promotion. There is still definitely a lot that can be achieved through the involvement of the private sector to improve the land delivery system in the country. At the same time the private sector could provide the much needed resources for provision of infrastructure in some of the areas that are identified for investment promotion. Currently most of the land which is potentially available for investment is found in customary areas where it is not easy to obtain title and most of this land is in the hands of traditional rulers who perceive the land as belonging to communities and not for potential investors.

The challenges linked to private sector participation are as follows:

- (a) Lack of understanding of role played by the private sector in enhancing land delivery system;
- (b) Inadequate infrastructure where land has been identified for private sector investment; and
- (c) Most of land is held under customary tenure and is not easily accessible for investment purposes.

### ***Policy Measures***

In order to address issues relating to private sector participation Government shall:

- (a) Conduct sensitization and advocacy on the role of private sector in enhancing the land delivery system;
- (b) Provide infrastructure in all areas that are identified for investment promotion; and
- (c) Carryout sensitization campaigns in order to ensure that some of the idle customary land can be converted to leasehold to promote investment in various communities,.

## **17.6.6 Persons with Disabilities**

4.6.6.1 Available statistics show that people with disabilities constitute about 10% of the Zambian population. Disability is a relative term and applies to a wide range of disabilities. The current land laws however, do not discriminate against anyone on the basis of disability.

4.6.6.2 The major problem of disability and land lies in customs, norms and beliefs that disabled people cannot use the land productively. This matter is therefore one of stigma because in reality disabled persons are known to work on land productively thereby contributing to economic development.

### ***Challenges***

The present challenges with regard to availing land to people with disabilities are as follows:

- (a) Lack of knowledge and appreciation among land administrators on the need to allocate land to people with disabilities;
- (b) Limited access to land administration services by people with disabilities;

- (c) Stigma and prejudice against persons with disabilities restricts their equal involvement in land allocation and use; and
- (d) Lack of disaggregated data based on disabilities which restricts proper planning.

***Policy Measures***

The Government will incorporate the interests of all the disabled persons in the provision of land delivery services by ensuring that:

- (a) Disabled persons access land like any other person;
- (b) Public buildings where land administration services are provided are friendly to the needs of persons with disabilities;
- (c) Wherever practical and necessary involve persons with disabilities in land management decision-making; and
- (d) Compile and make available a comprehensive disaggregated data regarding the disabled.

**4.6.7 Youth**

- 4.6.7.1 Existing land laws do not hinder a youth of contractual age 21 years to hold land, there is a bias in land allocation towards older persons such as pensioners who are more entitled to land than the younger persons. This is probably due to the perception that land is a refuge for the aged.
- 4.6.7.2 There is public concern that the contractual age of 21 years is high taking into account the increase in the child headed households.

***Challenges***

The challenges regarding youths and land are:

- (a) Lack of recognition of the land related empowerment needs of the youth; and
- (b) Lack of promotion of land ownership among the youth.

***Policy Measures***

In order to address issues relating to the youth, Government shall:

- (a) Lowering the contractual age for acquiring land from 21 to 18 years to enable more youths to enjoy rights to land and succession;
- (b) Encourage implementation of youth and land awareness programmes; and

#### **4.6.7. Empowerment of Citizens**

The current situation with regard to land alienation is that land can be accessed by both Zambians and non Zambians as prescribed under the Lands Act of 1995. Government has recognized the fact that in order to address the issue of poverty there is need to empower Zambians by increasing their access to land. There has been also a concern for the marginalized groups such as women, people with disability and other vulnerable groups. To this effect Government has passed the Citizenship Economic Empowerment Act which in essence is meant to address matters of empowerment.

##### ***Challenges:***

Challenges related to citizenship empowerment are as follows

- (a) Lack of a deliberate policy which distinguishes Zambians and non Zambians when it comes to accessing land;
- (b) Lack of stringent laws to restrict non-Zambians of certain categories to access land;
- (c) Lack of a deliberate policy to empower Citizens to access land.

##### ***Policy Measures***

In order to empower Zambians Government shall:

- (a) Introduce measures to empower Zambian citizens to access land in accordance with Citizen Economic Empowerment Act;
- (b) Review legislation with regard to accessing of land by non Zambians; and
- (c) Encourage access, distribution and utilisation of land by citizens in support of the provisions of the Citizen Economic Empowerment Act.

#### **4.6.8 Environment and Natural Resources (to be re-looked at)**

- 4.6.8.1 The concept of public environment management responsibility has been part of natural resources management function. The Government has embraced joint management of protected areas involving collaboration of communities. These actions involve shared monetary benefits and certain use rights such as collection of non-timber forest products, grazing rights in exchange for community acceptance of certain obligations. These arrangements

have an enormous impact on community land interests, helping to drive new legal recognition of co-management and to realise this on the ground. They are now part of the Zambia wildlife and forestry management strategies. It is desirable to extend these initiatives to the management of land, link natural resource management and land governance. This land conservation strategy can help to overcome the difficulties of enforcing certain land use controls and restrictions such as woodland conservation, wetland conservation and frameworks for improving pasture management by involving local institutions in land control and management activities. There is environmental concern over increasing land degradation due to uncontrolled human activities.

#### **4.6.8.1 Tenure Insecurity**

Tenure in security emanates from unclear institutional roles at local level. For instance, there are seemingly unending conflicts between state agencies and communities over forest reserve land. Communities' claims on land reserved for protected forests are denied even when this land legally falls under customary tenure because there is no private tree tenure in Zambia. Separation of land and tree tenure clearly leaves the estates in the hands of the state even if the forests are on customary land. A similar separation of land tenure is between land and game.

##### ***Challenges***

The challenges facing land and natural resources management primarily involve:

- (a) Inadequate linkages between natural resource management and land administration;
- (b) The difficulties of enforcing land use controls and restrictions; and
- (c) Absence of co-management strategies between state and customary institutions in land administration leading to poaching; encroachments and illegal settlements in nature reserves, particularly local forest areas.

##### ***Policy Measures***

In order to enable Government to enforce good land use practices the Government will:

- (a) Develop a strategy for linking environment natural resources management with land administration and management;
- (b) Enhance coordination and communication among public and private sectors; create incentives for sustainable land development and use;
- (c) All socio-economic activities involving land use will have to conform to prescribed environmental and natural resource conservation principles and guidelines; and
- (d) Ensure that lease conditions include conservation measures.

#### **4.6. The Land Development Fund**

4.6.17.1 The Land Development Fund (LDF) was established by the Lands Act of 1995 to assist councils in opening up new areas for development through the provision of infrastructure such as roads, electricity, water, sanitation etc. The source of Fund is the treasury, ground rent and also revolving. Although this fund is available the funding are very low resulting in relatively low performance.

4.6.18.2 The public does not see the fund as functional or visible with respect to its uses and status. Stakeholders want the Fund to be open to individuals as well for provision of farming, fencing and housing infrastructures; to assist the poor to participate in land market.

#### ***Challenges***

The challenges of Land Development Fund relate to:

- (a) Lack of increased funding levels to ensure a wide range of beneficiaries;
- (b) Delays that are experienced due to poor Project Proposals coming from the would be beneficiary Councils despite the existence of guidelines;

#### ***Policy Measures***

In order to improve the role and function of the Land Development Fund, the Government will:

- (a) Increase the funding levels of the Land Development Fund;
- (b) Continue to sensitise Councils on procedures on how to access the Land Development Fund;

- (c) maintain a monitoring mechanism that will ensure that moneys disbursed is used for the intended purpose.

#### **4.7 Institutional Framework**

- 4.7.1. Under the law, all land in Zambia is vested in the President on behalf of the people of the Republic of Zambia. The President has delegated his power to the Commissioner of Lands to make and execute grants and dispositions of land subject to special or general directions of the Minister responsible for land.
- 4.7.2 The current position is one where the President gives policy guidelines to the Minister responsible for land and at the same time delegated powers to alienate land to the Commissioner of Lands. The delegated powers have the potential to create conflicts between the Minister and the Commissioner in the event that their respective roles are not observed.
- 4.7.3 The institutional set up for land administration and management is discussed at four levels, namely: National, Provincial, District and Local Level.
- 4.7.4. At National level, land administration and management is anchored in the Ministry of Lands which is the principal; and performs the functions of policy guidance to all institutions involved in land alienation and the general public, land identification land allocation, land survey and geoinformation , land registration, dispute resolutions and collections of land related fees and other charges.
- 4.7.4. At the same level, there are also other Government Institutions which perform land administration and management functions. These include: Ministry of Local Government and Housing, Ministry of Agriculture and Department of Resettlement under Office of the Vice President. These Ministries perform functions of spatial planning, land use management, valuation, revenue management and land allocation.
- 4.7.5 This structural set up means that the key functions of land administration and management are not hosted under one Ministry but spread across many ministries. As a result, it renders the administration and management of land ineffective.
- 4.7.6. At Provincial level, the Ministry performs the functions of land identification, land allocation, land surveys and geoinformation and revenue collection of land related fees and charges. However, there is no land registration at Provincial level. Other institutions are also represented.



- 4.7.7 At District level, the Ministry of Lands is not represented. Land identification is done by the Local Authorities while spatial planning is done by Municipal and city councils and the Provincial Planning Authorities. In terms of identification and planning of agricultural land the function is carried out by the Ministry of Agriculture and Cooperatives and Department of Resettlement in Office of the Vice President. There is no revenue collection by the Ministry of Lands at District level.
- 4.7.8. At Local level, the Ministry of Lands is not represented. Chief identify and make recommendations to the Commissioner of Lands.

**Challenges:**

The broad challenges falling under the institutional frameworks are as follows:

- (a) Lack of a well functioning and systematic institutional framework;
- (b) Lack of establishment at district level;
- (c) Inadequate establishment at provincial level;
- (d) Non-compliance to land use guidelines;
- (e) Lack of administrative and technical capacity among traditional authorities;
- (f) Lack of supervisory mechanism in the Ministry dealing in land matters where the Ministry is not represented;
- (g) Lack of mandate by the Ministry responsible for land to deal with spatial planning, land use and valuation; and
- (h) Lack of effective coordination among institutions dealing in land administration.

**Policy Measures:**

The successful implementation of this policy will require a number of institutional measures. In order to effectively strengthen the administration and management of land services in Zambia, Government will:

- (a) Streamline and reorganise the administration and management of land by ensuring that settlements (and resettlements), spatial panning, land use, and valuation fall under the jurisdiction of the Ministry of Land;

- (b) Create inclusiveness and accountability in the land delivery process;
- (c) Restructure network of institutions dealing with land administration and management and develop flexible systems allowing for public-private partnerships and private sector participation;
- (d) Establish public documentation centres of land information in provinces and districts as appropriate; and
- (e) Ensure that the functions of the Ministry responsible for land are decentralised to district level.

## **4.8 Legal Framework**

4.8.1 There are various pieces of legislation in Zambia, which provide for administration of land. However, there is need to review some of these Acts in order to improve administration and management of land.

### **4.8.1 The Principal Land Administration Acts**

4.8.1.1 There are a number of key Acts used to regulate land administration. These are the Lands Act CAP 184, The Survey Act, CAP 188 and the Land and Deeds Registry Act CAP 185.

#### **4.8.1.1 The Lands Act**

4.8.1.1.1 The Lands Act CAP 184 provides for the continuation of leaseholds and leasehold tenure; for the continued vesting of land in the President and alienation of land by the President; for the statutory recognition and continuation of customary tenure; and for the conversion of customary tenure into leasehold tenure and also provides for the establishment of the Lands Tribunal and Lands Development Fund.

4.8.1.1.2 CAP 184 Section III provides for vesting and alienation of land in the Head of State. The President can alienate land to any Zambian or non-Zambian. A non-Zambian can be granted land if the person is a permanent resident, an investor, has prior written Presidential consent, or is a registered company with 75 percent of shareholders being Zambian, a charitable organisation, or a registered commercial bank. However, the President cannot alienate any land held under customary tenure without consulting the responsible chief, affected person, or if the applicant has not obtained prior approval of the chief and the local authority. All state land in Zambia is subject to this Act, but no land can be alienated under this Act for a term longer than 99 years.

- 4.8.1.1.3 Among the contentious clauses regarding the Lands Act is the vestment of land in the President. Another clause is that to do with granting of land to a person with a permanent resident. Furthermore, the Lands Act has a number of inadequacies. The Act does not provide for an establishment of the Office of the Commissioner of Lands and its functions. In spite of putting in place the 1995 Lands Act which spells out the mode of land alienation, the Ministry has continued with Administrative circular of 1985. The Act specifies the conditions at the moment of first registration by companies, but is silent on the need for notification should the proportions of shareholders between Zambians and non-Zambians change.
- 4.8.1.1.4 The Lands Act Section 7 provides for continuation of customary tenure to be recognised. Every piece of land in a customary area held under customary tenure immediately before the commencement of the Act has continued to be so held and recognised. The recognition of customary tenure, however, does not bring about the registration of ownership rights. It is just meant for the protection of use and occupancy rights.
- 4.8.1.1.5 Section 13 of the Lands Act provides for the right of re-entry. Every condition or right of re-entry contained in the lease remains attached to the land regardless of how the lease was severed. Further, where a lessee breaches a term or condition of covenant, the President may notify the lessee within three months of his intention to cause a certificate of re-entry to be entered in the register for the land in question. The certificate of re-entry may be registered if the lessee fails to justify his cause for the breach.
- 4.8.1.1.6 Section 9 of the Lands Act prohibits illegal occupation of vacant land, whether state or customary, without lawful authority and any person so occupying is liable to eviction. However, the law does not provide for appropriate machinery for enforcing this regulation. For customary land, this authority may be a chief's permission since the chief is a recognised institution by constitution. CAP 184, Section 4 provides for the President to set ground rent, which each lessee should pay. If the rent is not paid on the date it is due, the lessee is liable to pay a penalty of twenty-five percent of the rent due. The rent is paid annually and the initial amount per year is indicated in the lease document.
- 4.8.1.1.7 The Act created a Lands Tribunal, a land disputes handling mechanism whose jurisdiction is limited to the decisions of the Minister, The Commissioner of Lands and the Chief Registrar of Lands and Deeds. This mechanism does not apply to disputes under the customary tenure or unplanned settlements. Furthermore, the Tribunal falls under the same institution that is party to the dispute.

- 4.8.1.1.8 Section 16 provides for the establishment of Land Development Fund to assist councils in opening up new areas for development through the provision of infrastructure such as roads, electricity, water, sanitation etc.

### **Challenges**

The problems arising from the Lands Act are as follows:

- (a) Contentions relating to vestments of land in the President;
- (b) Lack of clarity in role of chiefs as custodians of customary land;
- (c) Lack of provision for formal registration of customary tenure;
- (d) Lack of jurisdiction for dispute resolution involving land rights originating from customary tenure;
- (e) Lack of restrictions or limitations to foreigner ownership of land;
- (f) Lack of provisions on the functions of commissioner of land by the lands Act; and
- (g) Lack of guidelines on procedures for sale of land.

### **4.8.1.2 The Land survey Act**

4.8.1.2.1 The Land Survey Act (CAP 188) provides for the manner in which surveys are carried out and the subsequent method in which diagrams and plans are prepared. The Act provides for the protection of survey beacons and other survey marks. The Act further establishes and empowers the Survey Control Board to register, licence and regulate professional practice.

4.8.1.2.2 The Act also provides for responsibility of Government in the supervision and control of all surveys and charting of land and the preserve of records pertaining to survey. The Act, which was passed in 1960, is not consistent with survey and mapping technologies, methods and professional practices in use.

4.8.1.2.3 The Act prescribes survey standards and accuracies that are too stringent thereby depriving the public and people in rural areas of simpler, quicker and affordable survey services. The public perceives that prescribed survey fees and charges are unaffordable. There is concern by the profession over the extent of state versus self-regulation of professional survey practice. The Act has extensive provision for cadastral surveys and to a less extent for non cadastral and geoinformation services.

### **Challenges**

- (a) Lack of up-to-date legislation to provide for current Survey practises;

- (b) Lack of simpler, quicker, and more affordable survey services;
- (c) Inadequate capacity in the provision of survey and geoinformation services by registered practitioners; and
- (d) Inadequate legal provision for non cadastral surveys and geoinformation services.

#### **4.8.1.3 The Lands and Deeds Registry Act**

4.8.1.3.1 The Lands and Deeds Registry Act, CAP 185 provides for registration of all land and all incidental matters relating to Title and other miscellaneous deeds.

##### **4.8.1.3.1 Registration of documents**

4.8.1.3.1.1 According to Sections 4 and 5 of the Lands and Deeds Registry Act, every document purporting to grant, convey, or transfer land or any interest in land, or to be a lease or an agreement for a lease or permit of occupation for a longer term than one year must be registered. Similarly, a document purporting to create any charge upon land, whether by mortgage or otherwise, must be registered. Any document that evidences the satisfaction of any mortgage or charge, and bills of sale of personal property where the grantor remains in apparent possession must also be registered. All bills of sale must be registered within three months of their execution, whilst all other documents must be registered within thirty (30) days, ninety (90) days or one year, if within same district as the registry, within Zambia or outside Zambia, respectively. If such documents are not registered within the prescribed time, they become invalid.

4.8.1.3.1.2 Three types of registers are kept; the lands register, the common leasehold register and the miscellaneous register. The lands register contains documents relating to land and other than land that is on common leasehold. The common leasehold register registers documents relating to strata titles. Any other document is registered in the miscellaneous register. Any document relating to land that is lodged for registration must describe the land by reference to a diagram, plan, or description of the land approved by the Surveyor General.

4.8.1.3.1.3 The Act also provides for appointment of District Registrars in major towns such as Kabwe, Livingstone, who however, have never been appointed resulting in centralisation of functions. This has also made it costly for people living outside Lusaka register their documents.

##### **4.8.1.3.2 Certificate of title**

4.8.1.3.2.1 The Registrar issues a certificate of title when registering an interest in land for a term longer than fourteen (14) years. The certificate of title is conclusive evidence of ownership from the date of registration, and the registered proprietor is protected against eviction or adverse possession, except in the case of fraud, or mistakes in the certificate such as wrong description of boundary or grant to more than one person.

**Challenges:**

- (a) Lack of provisions for registration of rights of landholders under African customary tenure;
- (b) Lack of fulfilment of the Lands and Deeds Registry Act in not appointing the District Registrar of Lands and Deeds;
- (c) Restriction of conveyance to legal practitioners and lack of certification and registration of conveyors and related agents;
- (d) Non creation of District Registries; and
- (e) Lack of integration of the existing District Registries into the central one in Lusaka.

**4.8.2 Other legislation**

4.8.2.1 There are other pieces of legislation that provide for the administration and management of land related resources and uses such as environment, town and country planning, the use of agricultural land and others that in one way or the other affect land administration. Legislation, such as the Land (Perpetual Succession) Act, CAP 186, Common Leasehold Schemes CAP 208 and Lands Acquisition CAP 189 are administered by the Ministry of Lands. The following are the relevant laws.

**4.8.2.1 Agricultural Lands Act Chapter 187:**

4.8.2.1.1 This Act was enacted for designation of farming blocks or tenant farms for agricultural development. The Act provides for the establishment of the Agricultural Lands Board and prescribes the composition and membership, its powers and functions. It also provides for tenant farming schemes and for matters incidental to or connected with the foregoing. The Ministry of Agriculture plans, while the Commissioner of Lands actually allocates the land.

4.8.2.1.2 However, the Board has been inactive due to change of portfolios from time to time such as moving from Ministry of Lands and Natural Resources, Ministry of Agriculture, Fisheries and Natural Resources rendering it difficult to maintain.

4.8.2.1.3 The enactment of the 1995 Lands Act without taking into account Agricultural Lands Act has resulted into lack of harmonisation. The

Agricultural Act still recognises freehold, when it was abolished in 1975.

**Challenges:**

The main challenge arising from this piece of legislation is the need for close liaison between ministries of agriculture and lands:

- (a) Lack of harmonisation of the Agricultural Lands Act and Lands Act of 1995 and other related legislation; and
- (b) Ineffective change of portfolios without taking into consideration the functions and mandates to be performed such as planning and charting of Agricultural land.

**4.8.2.2 Common Leasehold Schemes Act Chapter 208:**

4.8.2.2.1 The Common Leasehold Act was enacted to allow for the registration of “horizontal” rights (strata title) for high-rise buildings and semi-detached buildings. The Act thus provides for the division of land and buildings into units with separate titles by means of common leasehold schemes. Upon registration of the scheme, the unit-holders become a corporate body with perpetual succession and a common seal. Incorporation of the scheme members has the same effect as a contract under seal. Amongst other things, the body corporate can make by-laws, enforce by-laws, and control and manage the common property (that which is not part of any one unit).

**Challenges:**

The challenges are:

- (a) The Act wrongly assigns responsibility for qualification of diagrams for registration purposes in Quantity Surveyor instead of Lands Surveyor;
- (b) Lack of clarity in the interpretation of the Commonleasehold Act.

**4.8.2.3 Co-operative Societies Act Chapter 397:**

4.8.2.3.1 The Act makes provision for cooperative societies to become body cooperates upon registration. This in turn allows them to own land.

**4.8.2.4 Environmental Protection and Pollution Control Act Chapter 204**

4.8.2.4.1 The Act provides for the protection of the environment and the control of pollution. It also establishes the Environmental Council

and prescribes the functions and powers of the Council and provides for matters connected with or incidental to the foregoing. There are explicit provisions under the Act for Land Management. The Act provides for the establishment and review of land use guidelines, monitoring and inspection of land uses and natural resources.

**Challenges:**

The challenge related to environmental protection and management are as follows:

- (a) Lack of blue print outlining Land Use guidelines; and
- (b) Lack of harmonisation of Environmental Protection and Pollution Control Act with other Land related Acts.

**4.8.2.5 Fencing Act Chapter 190**

- 4.8.2.5.1 The Act provides for regulating the erection and maintenance of dividing fences and provides for matters incidental thereto or connected therewith.
- 4.8.2.5.2 The enforcement of this Act is inadequate, yet it is a useful piece of legislation with respect to boundaries. In public interest the Minister can prescribe areas which will be fenced off to protect both people and livestock from diseases.

**Challenges:**

The challenges are:

- (a) Inadequate enforcement of the fencing Act; and
- (b) Lack of applicability of the Act to non-Agricultural land uses.

**4.8.2.6 Forests Act Chapter 199**

- 4.8.2.6.1 The Forest Act provides for the establishment and management of National Forests and Local Forests. It also provides for the conservation and protection of forests and trees, for the licensing and sale of forest produce and for matters connected with or incidental to the foregoing.
- 4.8.2.6.2 Land has been clearly defined as including the surface of the earth and the materials below the surface and all substances below the surface, things naturally growing on the land, buildings and other structures permanently affixed to land. Definition of land therefore, includes forest and trees as being part of land.
- 4.8.2.6.3 The Act provides for state reservation and acquisition of land for conservation and protection forest and trees and their exploitation. Where the State has not reserved land, the Act provides for the control and restriction in the use of forest and trees in order to afford the protection of land and water supplies in such areas.



### **Challenges**

Some of the legal challenges of administration of land under forest areas are as follows:

- (a) Ineffective licensing procedures of the rights to control and exploit forest produce;
- (b) Lack of compliance by the forest produce users thereby causing wanton destruction of the environment and land;
- (c) Lack of spatial inventorying of forest resources and associated uses.

#### **4.8.2.7 Housing (Statutory and Improvement Areas) Act Chapter 194**

4.8.2.7.1 The Act provides for the control and improvement of housing in certain areas and for matters connected with or incidental thereto. Under this Act, any area may be declared a statutory housing or improvement area provided that the land in question is in the jurisdiction of a local authority.

4.8.2.7.2 The Act provides for non-application of the following enactments:

- (i) The Town and Country Planning Act;
- (ii) The Lands and Deeds Registry Act; and
- (iii) The Lands Survey Act.

4.8.2.7.3 This implies these Acts do not apply to Housing (Statutory and Improvement Areas) Act.

#### **Challenge**

The Challenge is non-recognition of the other land related administration Act by the Housing (Statutory and Improvement Areas) Act

#### **4.8.2.8 Investment Act Chapter 385**

4.8.2.8.1 The Act revises the law relating to Investment in Zambia so as to provide a comprehensive legal framework for investment in Zambia; and to provide for matters connected with or incidental to the foregoing.

4.8.2.8.2 The Act explicitly states that the Investment Centre shall as part of its service provision assist an investor in identifying suitable land for investment and shall assist in applying to the responsible authorities for land in accordance with the established procedures.

#### **Challenges**

The main challenges relates to:

- (a) Temptation to create a parallel land delivery system for meeting land needs for registered investors:

- (b) Lack of land delivery system that meets expectations of new investors; and
- (c) Lack of sufficient access to suitable land for varied needs of investor.

#### **4.8.2.9 *Land (Perpetual Succession) Act Chapter 186***

4.8.2.9.1 The Act gives corporate status and provides for perpetual succession to land to a community or association of persons established for religious, educational, literary scientific, socio or charitable purpose or any other which in the opinion of the Minister is for the benefit or welfare of the inhabitants of Zambia or any part thereof; and for matters incidental thereto or connected therewith. This Act is administered by the Minister of Lands. Applicants petition the Minister for incorporation and once incorporated the Certificate is registered.

##### **Challenges**

The major challenges with respect to *Land (Perpetual Succession) Act* are as follows:

- (a) Lack of public knowledge of the provisions of the Act; and
- (b) Lack of administrative mechanism to address the abuse arising from persons purporting to have a purpose that is of benefit to the public.

#### **4.8.2.10 *Lands Acquisition Act Chapter 189:***

4.8.2.10.1 The Act provides for the compulsory acquisition of land and other property and for matters incidental to or connected with the foregoing. This Act empowers the President to compulsorily acquire land whenever he is of the opinion that it is desirable or expedient in the interest of the public. The Act provides for compensation where such land is acquired. Both parties may use market values to determine compensation.

#### **4.8.2.11 *Mines and Minerals Act Chapter 213:***

4.8.2.11.1 The Act makes provision with respect to prospecting for and mining minerals; to repeal the Mines and Minerals Act; and to provide for matters connected with or incidental to the foregoing. Although the definition of land includes minerals, when it comes to acquisition of mineral rights, the definition excludes this and this becomes a source of conflict in the administration of land.

##### **Challenge**

The challenge with respect to the Mines and Minerals Act is the lack of an effective administrative mechanism to coordinate the implementation of this Act.

**4.8.2.12 Zambia Wildlife Authority Act Chapter 201:**

- 4.8.2.12.1 The Act provides for the establishment, control and management of National Parks and for the conservation and protection of wildlife and objects of aesthetic, prehistoric, historical and scientific interest in National Parks; to provide for the establishment of game management areas; to provide for the licensing of hunting and the control of the possession, transfer, sale, import and export of wild animals and trophies; to provide for matters connected with or incidental to the foregoing.

**4.8.2.13 Property Transfer Tax Act Chapter 340:**

- 4.8.2.13.1 The Act provides for the charging and collection of a tax based on the value realised from the transfer of certain property in the Republic; and to provide for matters connected with or incidental to the foregoing.

**4.8.2.14 Water Act Chapter 198:**

- 4.8.2.14.1 The Act provides for consolidation and amendment of the law in respect of the ownership, control and use of water; and to provide for matters incidental thereto or connected therewith. It is the function of the Lands and Deeds Registry to register water rights on behalf of the public because water rights are parcel based.

**4.8.2.15 Town and Country Planning Act Chapter 283:**

- 4.8.2.15.1 An Act to make provision for the appointment of planning authorities, for the establishment of a Town and Country Planning Tribunal, for the preparation, approval and revocation of development plans, for the control of development and subdivision of land, for the assessment and payment of compensation in respect of planning decisions, for the preparation, approval and revocation or modification of regional plans; and for matters connected with and incidental to the foregoing.

***Policy Measures***

In order to address issues related to legal framework Government will review the existing legislation and establish a comprehensive legal framework on land administration and management.

**5.0 IMPLEMENTATION**

- 5.1 In order to implement the Policy, the Government will adopt a strategy that involves all stakeholders in a participatory and inclusive

manner. The thrust of implementation measures will call for the Ministry responsible for land to take a leading role and for close inter-institutional collaboration with land related public institutions; strengthening enforcement of public land use laws and regulations.

## **6.0 RESOURCE MOBILISATION AND FINANCING**

For the implementation of the policy to be successful in a sustainable manner, the following will be the sources of funds:

- (a) National Treasury
- (b) Revenue from various fees charged by the Ministry responsible for land
- (c) Cooperating partners
- (d) The private Sector
- (e) Non-Governmental Organisations

## **7.0 MONITORING AND EVALUATION**

In order to monitor and evaluate the implementation of the policy, Government will:

- (a) establish an integrated system of monitoring and evaluation;  
and
- (b) develop monitoring and evaluating instruments for the implementation of the land policy.