

**GOVERNMENT REPUBLIC OF ZAMBIA****THE DRAFT LAND POLICY****Ministry of Lands****P O Box 50694****Lusaka****Fax: 253640****Oct, 2002****THE DRAFT LAND POLICY****FOREWORD**

The greatest resource that Zambia has is her land. The Government has recognised the importance of this resource in the development of a strong and prosperous nation. Zambia's vision could be achieved through the sustainable utilisation of her land resources not only in the short term but also in the long term. The task of the Government of the day, therefore, is to ensure that the people of Zambia are given an equal opportunity to access and utilise this resource.

This Land Policy is intended in part to address the question of equity and efficiency in the land delivery system.

This Policy could not have come at a better time than this when there is an increased concern by the majority of Zambians on how land has been in the past alienated to developers.

The formulation of this Policy is a culmination of various consultative meetings, studies, workshops, and seminars for stakeholders at the District and Provincial Levels and a National Conference held at Mulungushi International Conference Centre from 19<sup>th</sup> to 23<sup>rd</sup> July, 1993. From 1993 to date consultative meetings have been held in order to ensure that the Policy addresses all issues relating to land delivery.

Judith K. Kpijimpanga, M.P.

**MINISTER OF LANDS**

**EXECUTIVE SUMMARY**

The main emphasis of this Land Policy is to address the problems associated with the land delivery system in Zambia in order to ensure equitable access to land resources and promote national development. The Policy document is presented as follows:-

Chapter One is the introduction, which justifies the need for a revised Land Policy. The Government has taken measures towards ensuring that the people of Zambia are given equal access to land and provide an enabling environment for its utilisation.

Chapter Two shows the historical perspective to land tenure, both before and after independence. It would not be easy to appreciate what is happening today without an insight of the current system of land administration inherited and developed from the past. In the pre-independence era the focus was oriented towards the white settler population. The indigenous people were left to develop on their own. In this way fertile land was identified and granted to the white settlers, later designated as Crown Land. The indigenous people were confined to separate areas, which were designated as Reserve Lands and Trust Lands in which Customary Tenure systems applied.

At independence some white settlers objected to a new Government dominated by the indigenous people and consequently left the country but retained ownership of their land. The challenge of the Government was to release such land for development. This necessitated the enactment of laws such as the Land Conversion of Titles Act – Chapter 289 of the 1972 edition of the Laws of Zambia.

Chapter Three deals with the Situation Analysis and asserts the need for this Policy. Chapter Four outlines the objectives of this Policy.

Chapter Five focuses on the Institutional Framework and posits the fact that land is a multi-disciplinary asset hence the need for all the stakeholders to participate in its planning, administration and in monitoring its use, to ensure sustainable development for the benefit of all parties concerned.

The Government recognised the fact that for the objectives to be achieved funds should be made available to support the implementation of the programme. This will entail financial support particularly to ensure that the implementation of programmes arising out of this Policy are successful. In this regard, this Policy is intended to make it easier for the present and future generations of Zambia to continue enjoying the benefits of holding land either under statutory or customary tenure.

## **1.0 INTRODUCTION**

In Zambia, land has since time immemorial been held under customary tenure, while the coming of the white settlers saw the introduction of freehold and leasehold tenure systems. Under the current system of tenure, Customary Land constitutes ninety-four percent (94%) of the total land area of Zambia, which is seven hundred and fifty two thousand (752,000) square kilometres while State Land constitutes only six percent (6%) of the total land area. Past land policies by the colonial administration were oriented towards benefiting the white settler population at the expense of the indigenous people. Fertile land known as Crown Land was identified and granted to the white settlers while

the indigenous people were confined to less fertile areas known as Reserve Lands and Trust Lands. The level of investment in the Reserve Lands and Trust Lands, by the settlers, was low because these areas did not provide adequate security of tenure as compared to Crown Land for which it was possible to hold title.

The white settler community held land largely on leasehold title or freehold title.

On the attainment of independence in 1964, most settlers objected to a new Government dominated by indigenous people and thus decided to leave the country but retained title to land.

The Zambian Government repossessed and released that land for development through the enactment of the Land Conversion of Titles Act – Chapter 289 of the Laws of Zambia. This Act sought to empower people through enabling the acquisition of undeveloped land at no cost.

The Government has taken measures to revise the procedures to ensure that all persons have equal access to land and the Government has also sought to provide an enabling environment for its utilisation. Such measures were derived from studies, workshops and seminars for stakeholders at the Provincial and District Levels and a National Conference on Land Policy and Legal Reform held at Mulungushi International Conference Centre from 19<sup>th</sup> to 23<sup>rd</sup> July 1993. Proposals and suggestions from this process have culminated in the formulation of this Policy.

## **CHAPTER TWO**

### **2.0 HISTORICAL PERSPECTIVE OF LAND TENURE**

#### **2.1 SYSTEMS OF LAND TENURE**

##### **2.1.1 Land Tenure Before Independence**

Before the coming of the white settler community, the holding of land by the indigenous people was largely through families, jointly or by a chief or chieftainess on behalf of the community in accordance with the community's respective customary laws. Individuals in the tribe had the right to use the land but not to sell it. However, they were allowed to transfer rights in land, for consideration, or as gifts subject to the local conditions and customs, while interest in land could also be inherited in accordance with the respective customary laws.

The tribal tenure systems that existed prior to 1890 were affected by the arrival of the first white settlers. The white settlers introduced the system of holding land under certificate of title in respect of Crown Land and later in respect of Trust Lands. To this effect, the Lands and Deeds Registry Act – Chapter 185 of Laws of Zambia was enacted in 1944 to provide for the registration of documents and to provide for the issue of

Provisional Certificates of Title, and Certificates of Title, to provide for the transfer and transmission of registered land and for incidental matters so as to ensure that all interests in the land and other immovable properties were systematically registered. In this way the interests of the white settlers in Crown Land were registered. Crown Land was later renamed State Land through the Zambia (State Lands and Reserve) Orders of 1964. The registration of land under the Lands and Deeds Registry Act – Chapter 185 of the 1996 edition was to establish accurate records for the transfer of ownership of land.

The land held by the white settlers was generally held under leasehold or freehold title and as such enabled the title holders to use title deeds as collateral in borrowing money from lending institutions so as to develop their land. This made their land more economically developed than land under customary law.

The Northern Rhodesia (Crown Lands and Reserves) Orders of 1928 created Reserve Lands for Africans. Reserve Lands constituted 27,297,500 hectares, thirty-six percent (36%) of the total landmass of 75,264,083 hectares of land in Zambia. The white settlers retained what was called Crown Land. This land eventually became State Land.

Crown Land (State Land) was only for white settlers. Indigenous people were not allowed to own land in these areas except with permission to stay either as licensees in compounds or as house servants for the white settlers. The indigenous people were always expected to return to their homelands (Reserves or Trust Lands).

The restriction of entry to State Land and the discrimination practised by the white settlers subsequently led to the struggle for political independence by the indigenous people.

State Land was about 4,518,953 hectares, six percent (6%) of the total landmass. The Northern Rhodesia (Native Trust Land) Orders-in-Council of 1947 created Trust Lands as a result of pressure, from the white settlers, for more land. Trust Lands constituted 43,654,168 hectares, fifty-eight percent (58%) of the total landmass.

The above Orders put the Native Lands under the supervision of the Secretary of State. The Government was empowered under the Trust Lands Orders to make grants or dispositions of Native Trust Lands to non-indigenous people, provided it was proved that these grants were for the benefit of the indigenous people.

Non-indigenous people were granted land on lease agreement by the Commissioner of Lands on the basis of a numbered sketch plan or survey diagram approved by the Surveyor General and title issued by the Registrar of Lands and Deeds, while indigenous people continued to 'hold' their land under African customary tenure. Grants or dispositions of land, to non-indigenous people, which were set aside for public purposes or mining were not to exceed the period of ninety-nine (99) years or thirty-three (33) years in the case of grants for missionary or charitable organisations, or for five (5) years in any other cases.

Several problems and opportunities were created by the coming of the white settlers, and a brief description of what each land tenure system brought about is given below.

The traditional land tenure system allowed persons within a given area to easily access land through their traditional rulers. That land could be freely passed on to family members through inheritance in accordance with the existing traditional customs and norms.

However, this system did not allow for exclusive rights in land as it was most held in common by the community. Individual ownership of land on a title deed was not provided for under this system.

The indigenous people however believed that the whole country belonged to them more than it belonged to the white settler community. Therefore, the indigenous people struggled for, among other things, an equal right to live on the State Land.

The creation of Native Trust Lands, by Northern Rhodesia (Native Trust Lands) Orders-in-Council 1947, was meant to benefit the indigenous people although in reality those lands were an extension of the Crown Lands which primarily benefited the white settlers. The creation of the native Trust Lands however obliged the Governor to consult the Native Authority before land in the Trust Lands was accessed for any purpose. Native Authorities were established in 1936 and their functions were later taken over by Rural Councils, later renamed District Councils.

### **2.1.2 Land Tenure After Independence**

The attainment of independence introduced social, economic and political changes, which resulted in the influx of people from rural to urban areas creating an artificial shortage of land. The inherited system of land administration could not meet the demand from the increasing population, particularly in urban areas.

The Government, in order to solve the emergent social and economic problems, held a referendum to address, among other things, issues related to land. Government further enacted the Lands Acquisition Act – Chapter 189 of the Laws of Zambia enacted in 1970, to enable the compulsory acquisition of land by the President, in the public interest. Vast tracts of idle land that had been left by white absentee landlords, held on freehold title or any other land left idle and perceived to be for speculative purposes, was repossessed. In addition, the Government enacted the Housing (Statutory and Improvement Areas) Act – Chapter 194 of the Laws of Zambia. This Act provides for the control and improvement of housing in Statutory Housing Areas or Improvement Areas. It also provides for the issuance of certificates of title and occupancy licences, and thereby security of tenure.

The Land Survey Act – Chapter 188 of the Laws of Zambia enacted in 1960 was aimed at providing guidelines to be followed when activities relating to land surveying were

carried out. The Act among other things provides for the production of survey diagrams, plans, survey beacons and other survey marks.

The Land (Conversion of Title) Act – Chapter 289 of the Laws of Zambia of the 1972 edition provided that:-

- (a) land continued to be vested in the Republican President to hold it in perpetuity for and on behalf of the people of Zambia;
- (b) all land previously held under freehold title be converted to statutory leasehold, held for 100 years, and subsequent offers to land were to be for a period of 99 years; and
- (c) all transactions in land had to have the prior consent of the President and that in exercise of this power, the President could fix the maximum amount that could be received in any land transaction.

The Lands Act – Chapter 184 of the Laws of Zambia was enacted to give Zambians an opportunity to participate in the country's economy.

This Act provides that no land is to be transferred to a non-Zambian unless:

- (a) The non-Zambian is a permanent resident in the Republic of Zambia;
- (b) The non-Zambian is an investor within the meaning of the Investment Act – Chapter 385 of the Laws of Zambia or any other law relating to the promotion of investment in Zambia;
- (c) The non-Zambian has obtained the President's consent in writing under his hands;
- (d) The non-Zambian is company registered under the Companies Act – Chapter 388 of the Laws of Zambia and less than twenty-five per centum of the issued shares are owned by non-Zambians;
- (e) the non-Zambian is a statutory corporation created by an Act of Parliament;
- (f) the non-Zambian is a co-operative society registered under the Co-operative Societies Act – Chapter 393 of the Laws of Zambia and less than twenty-five per centum of the members are non-Zambians;
- (g) the non-Zambian is a body registered under the Land (Perpetual Succession) Act – Chapter 186 of the Laws of Zambia and is non-profit making, charitable, religious, educational or philanthropic organisation or institution which is registered and is approved by the Minister for the purposes of the relevant section;
- (h) the interest or right in question arises out of a lease, sub-lease, or under-lease, for a period not exceeding five years, or a tenancy agreement;
- (i) the interest or right in land is being inherited upon death or is being transferred under a right of survivorship or by operation of law;

- (j) the non-Zambian is a Commercial Bank registered under the Companies Act – Chapter 388 of the Laws of Zambia and the Banking and Financial Services Act – Chapter 387 of the Laws of Zambia; or
- (k) the non-Zambian is granted a concession or right under the Zambia Wildlife Act – no. 12 of 1998.

The Minister responsible for lands has also issued Land Circular no. 1 of 1985 the provisions of which are still applicable and have been reinforced by the Lands Act – Chapter 184 of the Laws of Zambia enacted in 1995. This Circular laid down detailed procedures to be followed on land alienation. The main features of the Circular were that:

- (a) Chiefs and District Councils were restricted to recommend up to 250 hectares of land on title, per applicant, in Reserves or Trust Lands; and
- (b) Chiefs and the District Councils were to certify that they had physically inspected the land in question and that no person's rights or interests were affected.

The Lands Act, which provides for the continuation of leaseholds and leasehold tenure, the continued vesting of land in the President and alienation of land by the President, the statutory recognition and continuation of customary tenure and conversion of customary tenure into leasehold tenure also provides for the establishment of a Land Development Fund and the creation of a Lands Tribunal.

## **CHAPTER 3**

### **3.0 SITUATION ANALYSIS**

#### **3.1 LAND TENURE**

For land located in a customary area the land delivery process starts with a prospective developer approaching the Chief or Chieftainess of the area for consent to hold the land on leasehold tenure and to obtain a certificate of title. Where the Chief or Chieftainess is satisfied that the land is available, the Chief or the Chieftainess writes a consent letter addressed to the Council Secretary. In addition, a site plan is drawn by a planning authority depicting the land that is being applied for. The consent letter and site plan are taken to the Council Secretary who endorses and stamps the documents, has the land inspected by the Committee that deals with land matters and has the applicant interviewed. Where the applicant is successful, the Council Secretary recommends the allocation of the unnumbered plot, to the Commissioner of Lands. The application forms, site plan and council minutes are attached to the recommendation letter which certifies that the recommended plot is free of settlement by other subjects of the Chief or the Chieftainess. If satisfied the Commissioner approves the application. For land in excess of 250 hectares the Commissioner of Lands seeks clearance from the Minister responsible for land before the Commissioner of Lands approves the application.

The demand for land has increased considerably and there are more applicants seeking land in both State Land and Customary Land. However, in its current state, the land delivery system is unable to meet the increase in the demand for land by the public for land on title. The high demand for land calls for the conversion of customary land into State Land to meet future land requirements.

### **Land Allocation to Foreigners**

The restriction to the granting of land to non-Zambians (foreigners) was introduced in 1985 when the Land (Conversion of Titles) (Amendment) Act – no. 15 of 1985 was passed.

The land allocation procedure to foreigners does not differ with the procedure followed by Zambians. However when alienating lands to non-Zambians (foreigners) there are some conditions, which the non-Zambians are required to fulfil.

Prior to the enactment of the Land (Conversion of Titles) (Amendment) Act – No. 15 of 1985 land in Zambia was allocated freely to both Zambians and non-Zambians.

Applicants for land are required to meet any of the following conditions before they may be allocated:

### **Individuals**

In the case of individuals:-

- (a) they should be Permanent Residents in Zambia or hold an Entry Permit in accordance with the Immigration and Deportation Act – Chapter 123 of the Laws of Zambia;
- (b) they must be investors within the meaning of the Investment Act – Chapter 385 of the Laws of Zambia and hold an investor's licence;
- (c) they must obtain State's consent in writing;
- (d) the interest or right in land should be inherited upon death of the title holder or transferred under the right of survivorship; and
- (e) the interest or right in land should arise out of a lease for a period not exceeding five (5) years.

### **Organisations**

In the case of a company or organisation:-

- (a) the foreign organisation or company must be an investor under the Investment Act or any other law relating to the promotion of investment in Zambia and must hold an investment licence; and
- (b) the foreign company or organisation must be registered under the Companies Act.



**Co-operative Societies**

In case of a Co-operative society registered under the Co-operative Societies Act, No. 20 of 1998 seventy-five percent (75%) of its members must be Zambians.

**Foreign Commercial Bank**

In the case of a foreign Commercial Bank it must be registered under the Companies Act and the Banking Financial Services Act – Chapter 387 of the Laws of Zambia.

**Charitable, Religious, Educational, Philanthropic and non-profit Making Organisations**

The organisation must be a body registered under the Land Perpetual Succession Act, whether charitable, religious, educational, philanthropic and non-profit making and the organisation has been granted a concession or right under the Zambia Wildlife Act, No. 12 of 1998.

The land allocation procedure applicable to foreigners, under customary law, who fulfil the above requirements does not differ with the procedure followed by Zambians. They also seek the authority of Chiefs or Chieftainesses and the Council in the case of an application for customary land.

**3.3 ENVIRONMENTAL ISSUES**

There is a general concern that people holding land often do not use it in a sustainable manner. There is, therefore, a need to come up with mechanisms for measuring, monitoring and preventing environmental degradation.

**3.4 LAND DISPUTES WITHIN ZAMBIA**

The rights or interest over land are often a subject of a dispute. It has been observed that land, which is the subject of a dispute, can neither be productively used or developed within the stipulated period. To avoid lengthy court processes and to assist people with less income, an alternative land dispute resolution mechanism was established. The Lands Tribunal has therefore been instituted with the objective of speedily settling or preventing land disputes.

**3.5 INTERNATIONAL BOUNDARY DISPUTES**

Zambia needs to constantly re-affirm her international boundaries so as to safeguard her territorial sovereignty. Hence there is need to maintain and re-define, where necessary, Zambia's international boundaries. This needs to be done in order to avoid any land-related conflicts with her neighbours.

**3.6 GENDER ISSUES, PEOPLE WITH SPECIAL NEEDS AND DISADVANTAGED GROUPS**

The current laws do not discriminate against anyone on the basis of gender. The Government has, however, recognised that women still lack access to land in comparison to their male counterparts. The reason for this lies in customary practices. The Lands Act – Chapter 184 of the Laws of Zambia recognises customary laws and it is recognised that this may further perpetuate the discriminatory practices. In this regard, thirty percent (30%) of the land, which is to be demarcated and allocated, is to be set aside for women and other vulnerable groups.

This Policy seeks to redress the gender imbalances and other forms of discrimination in land tenure by providing an enabling environment for women, people with special needs and all disadvantaged groups to own land.

## **CHAPTER FOUR**

### **4.0 LAND POLICY**

Land is a very important resource and forms the basis of all human survival in terms of social and economic advancement. In recognition of the importance of land, the Zambian Government is committed to improving procedures that make land available for development. The Government will encourage people to participate in the exploration of land and its resources and facilitate the development of infrastructure as a way of safeguarding the people's rights to land whilst promoting the sustainable use and development of the country's resources.

#### **4.1 OVERALL POLICY OBJECTIVES**

The overall objectives of the land policy are to:-

- (a) recognise and promote the people's right of access to land and provide land information for the country's social economic development; and
- (b) improve land delivery

#### **4.2 SPECIFIC OBJECTIVES**

The specific objectives of this Land Policy are to:-

- (a) improve the land information system to facilitate the timely and accurate delivery of land information.
- (b) improve the capacity of physical planning in order to strengthen the land delivery system and promote co-ordination among institutions directly involved in physical planning;
- (c) ensure that the covenants and conditions under which land is held are adhered to;

- (d) promote equal opportunity for access to land while recognising customary and leasehold tenures;
- (e) promote increased revenue generation from land;
- (f) support initiatives by local investors and, where appropriate, assist foreign investors through the provision of land;
- (g) maintain a clear physical description of Zambia's international boundary with her neighbours;
- (h) redress the gender imbalance and other forms of discrimination in land holdings by providing security to all land holdings and creating opportunities for development;
- (i) encourage people with special needs and other disadvantaged groups to own land;
- (j) develop and enhance the capacity of the Lands Tribunal to quickly deal with land dispute matters; and
- (k) address the pressures and need for land by urban populations.

#### **4.3 STRATEGIES**

In order to achieve the above objectives the following strategies will be undertaken:-

- (a) link the lands information systems at Headquarters to the various Regional, Provincial and District Offices;
- (b) establish an inter-ministerial Co-ordinating Committee for the purpose of bringing together various physical planning authorities in the country;
- (c) review the various pieces of legislation that relate to land matters;
- (d) sensitise the public on procedures and advantages of holding land on title;
- (e) ensure that lessees pay ground rent commensurate with the zoning of the area;
- (f) encourage investment especially in the rural areas;
- (g) conduct surveys, and construct beacons through the usage of maps and other technical records including between the borders of Zambia and her neighbours;
- (h) enforce the Ministry's policy of ensuring that thirty percent (30%) of land which is demarcated is allocated to women and groups with special needs; and
- (i) create a conducive environment for the operation of the Lands Tribunal to facilitate the amicable settlement of land disputes.

## CHAPTER FIVE

### 5.0 INSTITUTIONAL FRAMEWORK

Land is the basis of all human activity from which we derive all the basic necessities of life. An effective institutional framework for land delivery and management should therefore stress the need for an integrated approach that includes a wide range of stakeholders.

The current institutional arrangement places responsibility on the Ministry of Lands to formulate and co-ordinate the implementation of statutes related to land management in Zambia.

In order to attain and implement the Policy objectives outlined in Chapter Four, it is necessary that the statutes governing the Ministry of Lands' functions are fully appreciated. Some of these statutes require amendments as recommended at various public fora, in particular, the National Conference on Land Policy and Legal Reforms referred to in Chapter One.

The Ministry of Lands recognises the fact that various provisions in some of the statutes are no longer relevant. If the land delivery system is to conform to the demand for land and be universally accepted there is an urgent need to review and revise all land-related statutes with a view to updating and harmonising them.

### 5.1 MINISTRY OF LANDS

The Ministry of Lands is divided into four (4) Departments namely: Human Resources and Administration, Lands, Survey and Lands and Deeds Registry.

These Departments complement each other in terms of land administration.

#### 5.1.1 Human Resources & Administration Department

The Department of Human Resources and Administration following the restructuring exercise conducted in the Ministry of Lands consists of the following units which all report to the Director, Human Resources and Administration who in turn reports to the Permanent Secretary.

- (a) **General administrative services and transport;**
- (b) **Human Resources Management and Development Unit;**
- (c) **Planning and Information Unit;**
- (d) **Accounts and Internal Audit;**
- (e) **Procurement and Supplies; and**
- (f) **Registry Unit.**

This Department is responsible for the overall provision of the necessary support services for the effective and efficient operations of the Ministry.

### **Functions of the Department**

The Department carries out the following functions:-

- (a) facilitates the smooth operations of the Ministry through improved planning and co-ordination of the various ministerial units and ensures easy information flow;
- (b) co-ordinates with various departments, ministries, other organisations and members of the public on matters of administration of the Ministry;
- (c) supervises, organises, plans and manages the institution through provision of goods and services;
- (d) recruits personnel according to the needs of the establishment of the institution;
- (e) allocates financial resources to support personnel in the establishment and implements work programmes performed by the institution;
- (f) attends to matters pertaining to appointments, promotions, confirmations, discipline, dismissals, receptions and ceremonies; this entails looking after staff (office and housing), arranging funerals and other related functions and further entails the overall supervision of all the Departments and operating units in the institution;
- (g) undertakes training, both on the job and at institutions of learning and keeps up to date records of all transactions involving the Ministry; and
- (h) secures transport, office equipment and materials which are needed for the better operation of the Ministry.

### **5.1.2 LANDS DEPARTMENT**

The Lands Department of the Ministry of Lands, in general, is the custodian of all land in Zambia on behalf of the President of the Republic of Zambia. The President has delegated his powers 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. The Department is divided into three (3) sections namely:

- (a) **Lands Administration;**
- (b) **Legal; and**
- (c) **Estates and Valuation Section.**

The following are the functions of the various sections under the Lands Department:-

#### **LAND ADMINISTRATION**

- (a) ensuring that areas required for development are properly planned by the Local Authorities and the Department of Physical Planning under the Ministry of Local Government and Housing and the Land Husbandry Section in the Ministry of Agriculture, and Co-operatives;
- (b) regarding large scheduled Farms created under the Agricultural Land Act, the Ministry provides secretarial services to the Agricultural Lands Board, where applicants who wish to hold and transact in Agricultural land are interviewed; and
- (c) advising the Ministry on Land Administration, Land Policy and Legal Reforms, as well as perform other duties relevant to land such as negotiating, drawing up and executing documents where the Ministry is required to do so.

### **LEGAL SECTION**

This section:-

- (a) determines whether the covenants of the lease have been complied with;
- (b) advises Government and prepares documents for acquisition of land in the public interest;
- (c) advises the Minister on incorporation and registration of charitable and other community based organizations for the purpose of providing for perpetual succession to land under the Land (Perpetual Succession) Act – Chapter 186 of the Laws of Zambia; and
- (d) represents the Commissioner of Lands in any land dispute before the Lands Tribunal, the High Court and the Supreme Court.

### **ESTATES AND VALUATION SECTION**

#### **Estates Management**

There are two (2) major functions under this section:-

- (a) managing Government property portfolio i.e. keeping an up-to-date register of Government properties;
- (b) managing the landlord and tenant relationship for Government rented premises and vice-versa; and
- (c) managing the lessor (The President) lessee (private individuals) relationship, in other words, the direct lease from the State.

The functions here include:-

- (a) monitoring of compliance with the development clause in the offer letters;

- (b) compliance of the development clause is through physical property inspections and preparation of reports thereafter;
- (c) collection of the annual ground rents from lessees through billing and distribution of ground rent bills using either the mailing addresses or using physical property inspections and preparing reports thereafter; and
- (d) managing the Consent System. Under this system all transferees and assignees should be eligible to hold land.

### Valuation

This section carries out various types of valuations for different purposes, notably:-

- (a) rental valuations on behalf of Government institutions;
- (b) capital valuations where the Government wants to know the most reasonable value of the real property, which the Government either wants to purchase or dispose of; and
- (c) capital valuations for incomplete structures for compensation purposes after the property has been re-entered upon by the State.

### **5.1.3 SURVEY DEPARTMENT**

The Survey Department of the Ministry of Lands, in general, plays the role of a national centre for surveying and mapping services. It is solely responsible for the production and revision of national maps of Zambia, the planning of aerial photographs, cadastral surveys and provision of national control. The Department is divided into three branches, namely:

- (a) **Cadastral Services;**
- (b) **Mapping Services; and**
- (c) **Survey Services.**

The following are the functions of the sections under these branches:-

**Cadastral Services Branch** deals with services relating to the accurate fixation and recording of legal title as well as addresses issues of boundary disputes. This branch consists of:-

- (a) **the Cadastral Drawing Office** whose functions are the preparation of diagrams and plans for all surveys carried out by the Government, and compilation and updating of property diagrams and other assorted plans;
- (b) **the Examination Section** which is in charge of the verification and examination of all survey records lodged with the Department from both Government and

- private land surveyors. This section also manages the plan-room where all survey records are archived and the numbering of all properties in Zambia is done; and
- (c) **Field Surveys** of planned areas, property boundary disputes, surveys and verification of Chiefs' boundaries are also co-ordinated and carried out under this Branch.

**Mapping Services Branch** deals with services relating to the production and revision of national topographic maps and specialised mapping. It consists of three main sections:-

- (a) **the Photogrammetric Section** whose functions are planning aerial photography and mapping on a large scale from aerial photographs;
- (b) **the Reprographic Section** deals with the processing of aerial photographs at predetermined scales, the archiving of stat-filed copies of approved diagrams and plans for properties and reproduction of national maps; and
- (c) **the Cartographic Section** deals with the preparation, production and revision of national maps at various scales as well as the selling of these maps locally and internationally.

**The Survey Services Branch** deals with the establishment and maintenance of a reliable national control network for use in cadastral mapping engineering and other surveys. It consists of :-

- (a) **the Records Office** whose function is to secure and keep in good order all records of permanent control network stations across the country; and
- (b) **the Field Survey Headquarters** whose functions are to plan, co-ordinate and carry out surveys for the establishment, extension and maintenance of the network of national control stations in Zambia.

#### **5.1.4 LANDS AND DEEDS REGISTRY**

The principle function of the Lands and Deeds Department is to register ownership and real rights in and over immovable property in order to:

- (a) **provide security of title**  
 (b) **ensure a complete record**  
 (c) **provide easy access to information**  
 (d) **ensure speedy registration of all documents lodged; and**  
 (e) **be cost effective.**

The specific functions of the Department include:-



- (a) ensuring the registration of rights, interests and liabilities through assignments, mortgages, discharges, caveats, power of attorney, leases or deeds of arrangement;
- (b) maintaining of various registers i.e. the Land Register, Property Register, Miscellaneous Register, Water Register, Common Leasehold Register and Agricultural Charges;
- (c) issuing full title deeds and provisional certificates;
- (d) storing and maintaining records on the computer or on normal records that constitute the public register;
- (e) ensuring that revenue is collected from different categories of clients; and
- (f) providing direction for periodic verification of land disputes that arise out of inspection and re-entries.

### **5.1.5 LANDS TRIBUNAL**

In addition to these Departments there is the Lands Tribunal, a statutory body of the Ministry of Lands whose objective is to arbitrate the disputes arising under the Lands Act.

### **5.2 OFFICE OF THE VICE PRESIDENT**

The Office of the Vice President through the Department of Resettlement identifies land for Resettlement Schemes to resettle people particularly retirees and other urban residents in need of land to these designated areas so that they are given an opportunity to own land on title and secure their livelihood.. The Office of the Vice President will be required to work harmoniously with the Ministry of Lands so that suitable areas are designated, planned, demarcated and developed appropriately.

### **5.3 MINISTRY OF LEGAL AFFAIRS**

Land holding entails legal procedures as enshrined in the various pieces of legislation and covenants. This Ministry, amongst other things, renders legal advice to the Ministry of Lands during the review of legislation for the drafting by the Ministry of Legal Affairs of the Laws whether substantive or subsidiary. The Ministry of Legal Affairs also attends to the legal cases where the Ministry of Lands is a party and attends to all agreements entered into by the Ministry of Lands with other Parties to enable the Government achieve its goals under this Policy.

### **5.4 MINISTRY OF LOCAL GOVERNMENT AND HOUSING**

The Ministry of Local Government and Housing is charged with the responsibility of assessing land for human resettlement, industrial and commercial development activities. Through the Department of Physical Planning and Housing and the respective Local Authorities the Ministry is responsible for the preparation of structural and regional plans

to guide town and rural development. In addition City Municipal and District Councils are responsible for recommending applications for land. Consultations on land matters are held among the chiefs, Councils and the Ministry of Lands to ensure that land is not available for allocation but also to ensure that the customary rights of the local people are not infringed.

In addition, the Ministry through the Valuation Department advises the Ministry of Lands on property valuation and on any other matter pertaining to real estate management. The Valuation Department also utilises property data from the Lands and Deeds Registry of the Ministry of Lands to prepare valuation records.

In order for this Policy to achieve its intended goals, the Ministry of Local Government and Housing through the Local Authorities and Traditional Leaders should assist in identifying land for allocation and suitable applicants for that land.

### **5.5 MINISTRY OF AGRICULTURE AND CO-OPERATIVES**

The Ministry of Agriculture and Co-operatives through the Land Husbandry Section, is responsible for identifying, planning, demarcating and recommending land for agricultural purposes. This Ministry also monitors land user charges. Given the crucial role the Ministry of Agriculture and Co-operatives plays in land use planning it will assist in identifying and opening up suitable land for agricultural use to sustain Agricultural industry.

### **5.6 MINISTRY OF WORKS AND SUPPLY**

The Ministry of Works and Supply is responsible for the administration and maintenance of all Government property throughout the country.

### **5.7 MINISTRY OF COMMERCE, TRADE & INDUSTRY**

The Investment Centre under the Ministry of Commerce, Trade and Industry co-operates with the Ministry of Lands in identifying suitable land for various development projects. The Ministry will facilitate the speedy registration of Companies to assist prospective investors to acquire land for various investments. Therefore, strengthened co-operation between the two ministries is required to ensure an efficient land delivery service.

### **5.8 MINISTRY OF TOURISM, ENVIRONMENT & NATURAL RESOURCES**

The Department of National Parks and Wild Life Services under the Ministry of Tourism, Environment and Natural Resources gives concessions on land in Areas demarcated as Game Management Areas and National Parks. The Department, through the Protected Areas Planning Unit prepares development plans with the use of land information produced by the Ministry of Lands and also regulates the development of tourism enterprises in the country.

The Ministry assists entrepreneurs in the identification of land suitable for Tourism purposes including land in Game Management Areas.

The Ministry of Tourism, Environment and Natural Resources provides advice to the Ministry of Lands on the suitability of land for specific purposes such as natural resource conservation and for the protection of the environment.

This Ministry will therefore be expected to continue providing information necessary for land use planning for sustainable development. The Ministry of Lands will endeavour to strengthen its working relationship with the Ministry of Tourism, Environment and Natural Resources to ensure that land being made available for various developmental activities takes into account environmental considerations.

## **5.9 LOCAL COMMUNITIES**

The Local Communities constitute the lowest levels of governance groups. It is the Government's intention to design policies in a manner beneficial to the Local Communities. The Local Communities, including Community-based Organisations, shall collaborate closely with Government on the formulation of Land Policy and in the implementation of Policy for the benefit of all.

## **5.10 THE PRIVATE SECTOR**

The Private Sector, notably, individuals, bodies and organisations conducting business on or related to land shall be considered as partners in the implementation of this Policy, and are expected to contribute to the development of this nation through the sustainable use of the land.

## **5.11 NON GOVERNMENTAL ORGANISATIONS**

Non governmental Organisations play a very important role as a link between Government and the Civil Society and will assist Government to interpret and disseminate the Land Policy to the public and shall be expected to play an active role in the implementation of this Policy.

## **5.12 EDUCATION & RESEARCH INSTITUTIONS**

Education and Research Institutions shall provide knowledge, trained human resources and provide information on appropriate land management practices.

## **5.13 CO-OPERATING PARTNERS**

Co-operating Partners are recognised as development partners due to the assistance rendered in capacity building and in the provision of other resources.

## CHAPTER SIX

### 6.0 FUNDING

This Policy needs to be implemented with urgency. Therefore it is crucial for Government to mobilise resources and commitment from the public, traditional leaders and the private sector dealing in the land related enterprises.

The following sources of funding are envisaged to support activities necessary for the realisation of the objectives of this Policy:

- (a) adequate budgetary provision from the Treasury to the Ministry of Lands and other stakeholders;
- (b) revenue collected through periodically reviewed statutory fees, ground rent and charges for various land and survey services;
- (c) the Land Development Fund to assist in land development projects through Local Authorities.