



ANNEX V: LAND TRANSFER PROCEDURES

Issuing authority:

Ministry of Lands and Natural Resources and Environmental Protection

Independence Avenue

P.O. Box 50042

Lusaka

<http://www.mlnrep.gov.zm>

a) Land considerations

There are two categories of land in the Republic of Zambia:

- I.** State land – comprising only 6% of land in the country. The land is zoned into residential, commercial or industrial use by the district councils according to their jurisdictions;
- II.** Customary land – approximately 94% of all land in the Republic of Zambia is held under this system of tenure. Such land falls under the jurisdiction of the traditional chiefs.

b) Systems of tenure

There are only two types of tenure in the Republic of Zambia. These are leasehold and customary tenure. The country has no freehold tenure system. The leasehold tenure runs for 99 years and is renewable for a further 99 years. Furthermore, renewal is possible if there is no breach of the conditions in the existing agreement. Land in the customary area can be converted to leasehold – thus allowing it to be used as collateral. Under the 1995 Act, land now has value and can be sold even without improvement on the land.

Before land can be bought or sold, 'state consent' must be obtained. The consent is issued by the Commissioner of Lands upon application. If consent is not granted within 45 days of filing the application, the application is deemed granted. If consent is refused, the reasons for refusal must be furnished to the applicant within 30 days.

Acquisition of land in an area designated as state land will require consent of the relevant district council. Land that does not fall within the jurisdiction of any council can be alienated upon direct application to the Commissioner of Lands. He will then make a formal offer to the applicant, which will contain similar conditions to those contained in the offer made for an application of land situated in the customary area.

Note: These approvals, once obtained, should be submitted to the relevant district council, which will

submit the documents to the Commissioner of Lands. The Commissioner will then make a formal offer to the applicant. The letter of offer will stipulate, among other conditions:

- I.** The consideration fee: This is not a fixed amount and is dependent upon locality, services provided by the state or council and other related factors;
- II.** Survey requirements: This can be carried out by a private or governmental surveyor. Submission of a diagram or plan attached to the lease agreement is a mandatory requirement prior to issuance of the certificate of title;
- III.** Preparation fee: The office of the Commissioner of Lands charges fees for preparation of the lease. These fees are fixed through statutory instruments, but are subject to change;
- IV.** Registration fee: Charged by the Lands and Deeds Registry before lease is registered and the certificate issued;
- V.** Property transfer tax: This is 10% of the value of land and is paid to the Zambia Revenue Authority by the vendor;
- VI.** No tax is payable where land is acquired from the state. Upon acceptance of the offer and payment of these charges, a 99-year lease to transfer the title will be prepared and, if the land is already surveyed, the title deeds will be issued within 60 days. If not surveyed, the process can take up to three months or more.

c) Lands tribunal

The Lands Act of 1995 also provides for establishment of a lands tribunal to speed up the resolution of land disputes. The tribunal is headed by a person who is qualified to be a judge of the High Court. The tribunal's decision is subject to appeal to the Supreme Court within 30 days of the decision.

d) Land for investment

ZDA is in the process of setting up land banks for investment in the priority sectors. The land banks comprise already demarcated plots and the process of acquiring these plots is fast-traced from application for the land on behalf of the licensed investor, to approvals from the local authorities, up to the Commissioner of Lands. The following land categories are available for investment in the Republic of Zambia.



e) **Agricultural land**

The government has embarked on a development programme through opening up new farm blocks for commercial development and expansion of the agriculture sector. The following farm blocks were identified for potential investors: Chambishi, Lusaka East, Lusaka South, Lumwana and Ndola (Sub-Sahara Gemstone Exchange Industrial Park) and Roma Park.

f) **Land acquisition and transfer**

Land can be acquired and transferred in the Republic of Zambia in the following ways:

ACQUISITION OF STATE LAND BY NON-ZAMBIANS

A non-Zambian can acquire land under the following conditions:

- I.** He or she is a permanent resident in the Republic of Zambia;
- II.** He or she is an investor within the meaning of the ZDA Act or any other law pertaining to investment in the Republic of Zambia;
- III.** In exceptional cases, by presidential consent in writing;
- IV.** A person registers a company under the Companies Act, with no less than 75% Zambian shareholding;
- V.** Title deed will be issued in the name of the registered company;
- VI.** Under a short-term tenancy of not more than five years;
- VII.** If the person is granted concession or right – under the National Parks and Wildlife Act.

Requirements

- 1) One has to identify the land one wishes to purchase and negotiate the price with the potential seller, the owner of the land on title, if it's in private hands and get a copy of the original title from the seller.
- 2) Hire a registered lawyer to carry out due diligence on the land. A list of registered Zambian lawyers can be found on <http://www.laz.org.zm>.

- 3) The lawyer will then proceed to conduct an official land search at the Ministry of Lands offices to establish the true owner of the land and to make sure that the land is free of any encumbrances.
- 4) The purchaser will request the seller to instruct his lawyer to draft a sale agreement, which will then be forwarded to the purchaser's lawyer for further review.
- 5) The seller's lawyer will then invite the buyer to sign the sale agreement.
- 6) The seller and his lawyer will proceed to obtain the land registration documents, which include:
 - a) Consent to assign (consent is issued by the Ministry of Lands);
 - b) Ground rates clearance certificate issued by the local council to show that all rates accruing on the land have been fully paid;
 - c) Land rent clearance certificate from the Ministry of Lands to indicate that all outstanding ground rates have been fully paid.
- 7) After the consent to assign land has been issued, the purchaser's lawyer drafts the transfer documents, sends it to the client for review and then forwards it to the seller's lawyer for execution by the seller.
- 8) The seller then signs the documents and his lawyer forwards the land registration documents to the buyer's lawyer. These documents also include the original title of the parcel of land, land consent, certificate of incorporation and compliance of the company, Zambia Revenue Authority TPIN for the company and the identification document or passport for the directors of the company or the individual and three colour passport photos for each director.

NB: Non-citizens need to have the ZRA TPIN in order to effectively transfer the land.

- 9) The buyer's lawyer will then submit the transfer document for valuation by the Ministry of Lands. A government valuer will value the land and then the buyer will be required to pay property transfer tax, which is pegged at 5%.

Do: One is required to obtain the Zambia Revenue Authority payment slip from the online tax portal before one can proceed to make payments at the bank.



- 10) Upon payment of the property transfer tax, the transfer document is submitted to the Ministry of Lands and Natural Resources and Environmental Protection offices for checking for completeness. This can take 1–3 days.
- 11) Upon checking for completeness of the documents, the buyer's lawyer will submit them for registration upon payment of the consent fee. The registration of the transfer takes 2–4 weeks.
- 12) Upon registration of the transfer, the certificate of title or lease will bear the name of the buyer, who will be considered as the legal and beneficial owner of the land.

ACQUISITION OF CUSTOMARY LAND

In order to acquire land in a customary area, one will be required to do the following:

Requirements

- I. The written consent of the area chief;
- II. Approval of the district council in the area;
- III. Additional approval from the Director of National Parks and Wildlife, if the land is in a game management area.

PURCHASE OF PRIVATE LAND

Land in private ownership can be bought and sold and title deeds issued by the Commissioner of Lands. In all instances, 'state consent' will have to be obtained by the vendor before title deeds can pass to the purchaser.

The consent is issued by the Commissioner of Lands on application. If consent is not granted within 45 days of filing the application, the application is deemed to be granted. If consent is refused, the reasons for refusal must be furnished to the applicant within 30 days.

Note: These approvals, once obtained, should be submitted to the relevant district council, which will submit the documents to the Commissioner of Lands. The Commissioner will then make a formal offer to the applicant. The letter of offer will stipulate, among other conditions:



Consideration fee – This is not a fixed amount and is dependent upon locality, services provided by the state or council and other related factors.

Survey requirements – This can be carried out by a registered private or government surveyor. Submission of a diagram or plan attached to the lease agreement is a mandatory requirement prior to issuance of the certificate of title.

Preparation fee – The office of the Commissioner of Lands charges fees for preparation of the lease. These fees are fixed through statutory instruments, but are subject to change.

Registration fee – Charged by the Lands and Deeds Registry before the lease is registered and the certificate issued.

Property transfer tax – This is 5% of the value of land and is paid to the Zambia Revenue Authority by the vendor.

Cost: This varies with the locality of the land

Duration: 10 working days

Document issued: Title deed or lease agreement