



NETWORK FOR WOMEN'S RIGHTS IN GHANA (NETRIGHT)

THE SIMPLIFICATION OF THE LAND BILL, 2018

RELATED LAWS AND LAND GOVERNANCE GUIDELINES IN GHANA

MANUAL

FOR WORKSHOPS WITH KEY STAKEHOLDERS



**STAR
Ghana**

Strengthening Transparency,
Accountability and Responsiveness



Ministry of Foreign Affairs of Denmark
DANIDA DANISH DEVELOPMENT COOPERATION

**NETWORK FOR WOMEN’S RIGHTS IN GHANA
(NETRIGHT)**

Under its project titled
**ADDRESSING SYSTEMIC BARRIERS TO
GENDER EQUALITY AND SOCIAL INCLUSION
IN LAND GOVERNANCE**

In collaboration with
Regional Focal Persons of NETRIGHT
and LAWA (Ghana) Alumnae Incorporated

With support from STAR-GHANA
Under its Gender and Social Inclusion (GESI)
Strategic Partnership grant award

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THE LAND BILL, 2018**

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LIST OF ACRONYMS

ACT	-	Act of Parliament
CLMC	-	Community Land Management Committee
CSO	-	Civil Society Organisation
DSW	-	Department of Social Welfare
EPA	-	Environmental Protection Agency
FAO	-	Food and Agriculture Organisation
FC	-	Forestry Commission
FPIC	-	Free, Prior and Informed Consent
GESI	-	Gender and Social Inclusion
GIDA	-	Ghana Irrigation Development (GSD)
GIPC	-	Ghana Investment Promotion Centre
GSD	-	Geological Survey Department
LAP	-	Land Administration Project
LAWA	-	Leadership and Advocacy for Women in Africa
L.I.	-	Legislative Instrument
LSLT	-	Large Scale Land Transactions
MoFA	-	Ministry of Food and Agriculture
MoU	-	Memorandum of Understanding
NETRIGHT	-	Network for Women's Rights in Ghana
NDPC	-	National Development Planning Commission
NGO	-	Non-Governmental Organisation
OASL	-	Office of the Administrator of Stool Lands
RLC	-	Regional Lands Commission
TCPD	-	Town and Country Planning Department
PNDCL	-	People's National Defence Council Law
PWD	-	Persons with Disability
TCPD	-	Town and Country Planning Department
UN	-	United Nations

1.0 OPENING SESSION

1.1 Introduction

This training manual was prepared by the Network for Women’s Rights in Ghana (NETRIGHT) and LAWA (Ghana) Alumnae Incorporated (LAWA-Ghana) and is intended for sensitization programmes on the draft Land Bill, 2017, the Lands Commission Act and the Guidelines for Large Scale Land Acquisition. It is aimed at equipping key stakeholders particularly with information on the Land Bill and other legal instruments to enable them to appreciate them and contribute towards the passage of the Land Bill.

(i) What is NETRIGHT and who are its partners?

NETRIGHT is a network of civil society organisations (CSOs) and individuals who have a clear interest in working together to bring a gender perspective to national processes as well as policy content and implementation. NETRIGHT draws attention to violations of women’s rights and campaigns for changes to achieve women’s equality. The network also creates space for debate and clearer articulation of different positions within the women’s movement in Ghana. NETRIGHT focuses on three (3) core areas namely economic justice, movement building and natural resources. To provide inclusiveness, NETRIGHT provides a national advocacy platform for CSOs around national and international processes and educates the about gender equality and women’s rights issues.

NETRIGHT in partnership with its regional focal points and LAWA-Ghana is implementing a 30 month project titled “Addressing Systemic Barriers to Gender Equality and Social Inclusion in Land Governance” under the Star-Ghana Gender and Social Inclusion

(GESI) Strategic Partnership grant award. The project is intended to contribute to evidence based advocacy for gender and social inclusion reforms in the land sector to protect livelihoods and land interest of especially rural women farmers.

LAWA-Ghana Alumnae Incorporated (LAWA-Ghana) is a non-profit organization, which was incorporated under the laws of the Republic of Ghana. It was formed by a group of Ghanaian female lawyers, who participated in a United States Agency for International Development (USAID) exchange program, which is known as the Leadership and Advocacy for Women in Africa (LAWA) program. The LAWA program begun in 1993 and has trained a number of female lawyers from many African countries in the United States of America and the alumnae in Ghana has set up the alumnae association to enable them to work together on projects. LAWA-Ghana which has an Executive Council headed by a Chairperson that steers the affairs of the organisation. The administration is headed by a Coordinator. LAWA-Ghana focuses on women's legal and socio-economic rights.

(ii) About the Training Manual

These materials were put together by Sheila Minkah-Premo for NETRIGHT. Sheila Minkah-Premo is a lawyer with a Masters in Law (LL.M) who is in private practice, a development consultant and a member of LAWA-Ghana. She has done a lot of work on land law and worked closely with the team that developed the Land Bill.

The materials include instructors guide notes which are in italics in this Manual. Participants should be lectured in a language and manner that participants understand. Preparation for the capacity building program includes making the following ready: workshop programme and Flip chart and markers. Participants should be given copies of the

Manual labeled as “Handouts for Participants”. Where possible provision should be made for materials in large fonts, braille, sign languages and other forms of non-spoken languages.

After the presentation of each instrument, questions are set out for participants to be taken through by the Facilitator to enable their views to be captured. This can be done in groups or as a brainstorm session. The responses from various stakeholders captured as part of the workshop report will be shared with the NETRIGHT Secretariat to enable them pick information from it to prepare memorandum on the appropriate instrument.

1.2 Aims and Objectives of Training Programme

Participants should first be asked to indicate their expectations for the workshop and these should be written down. The facilitator will then have to inform them about the aims and objectives of the workshop, which should already have been written out on a flip chart. The flip chart should then be pasted in a conspicuous place in the training room throughout the training.

(i) Aim of Manual

The aim of this Manual is summarise the Land Act, the Lands Commission Act and the Lands Commission Guidelines for Large-Scale Land Transactions in Ghana, 2016 to enable NETRIGHT to have uniform materials to be used to sensitize its members on these instruments so as to equip them with knowledge about them to guide advocacy in ensuring that these instruments address gender and social inclusion issues effectively.

(ii) Objectives

The objectives of the training programme are as follows:

- (i) To sensitize stakeholders on the draft Land Bill, 2017;
- (ii) To sensitize stakeholders on the Land Commission Act, 2008 (Act 767).
- (iii) To sensitize stakeholders on the draft Lands Commission's Guidelines for Large Scale Land Acquisition of 2016.
- (iv) To strategise on how to advocate for the passage of a Gender sensitive Land Bill.
- (v) To strategise on advocacy in ensuring that the Lands Commission Act and Lands Commission Guidelines for Large Scale Land Acquisition are amended to effectively address gender and social inclusion issues
- (vi) To strategise on how to ensure the effective implementation of the three legal instruments

2.0 BACKGROUND OF THE PROJECT

Participants should be asked to articulate and discuss problems with land and social inclusion issues in Ghana.

This exercise can be undertaken in the form of sharing of experiences and stories of women and persons with disabilities who have had challenges on these issues. Extracts from a few reported court cases can be shared as well.

2.1 Why the focus on the Land Bill and land related instruments?

The memorandum to the Land Bill highlights the background to the law as follows:

- There are several laws dealing with land in Ghana which are over 166. There is the need to bring them together in one document and to revise and consolidate the laws on land, with the view to harmonizing these laws to ensure sustainable land administration and management.
- In the 1999 National Land Policy recommended this as one of the key policy actions in the National Land Policy to address critical issues militating against effective land administration in this country.
- It is one of the programmes that the Land Administration Project (LAP) has been working on it as the outcome of reforms which were introduced in the land sector as a result of the implementation. It is a fifteen (15) to twenty five (25) year land administration reform programme with the goal of stimulating economic development, reducing poverty and promoting social stability by improving security of land tenure, simplifying the process for accessing land and making it fair, transparent and efficient. Phase I of the LAP was launched in 2003 and came to an end in 2011. The objective of this phase was to “undertake land policy and institutional reforms and key land administration pilots for laying the foundation for a sustainable decentralized land administration system that is fair, efficient, and cost-effective and that assures land tenure security”.

(ii) *Why the need to know about the Lands Commission Act, 2008 (Act 767)?*

- Prior to 2008 we had different institutions dealing with Public and Vested Land Management, Land Valuation, Survey and Mapping, title registration.
- This law was enacted under LAP-1 and created one Lands Commission with four divisions with room for others to be created.
- The divisions are: Public and Vested Land Management Division; Land Valuation Division; Survey and Mapping Division and Land Registration Division.

(iii) *Why the need for the Land Commission's Guidelines for Large-Scale Land Acquisitions in Ghana?*

- In recent times there have been a number of largescale land acquisitions that have led to the loss of livelihoods for a lot of rural farmers that includes women and the disabled most of whom were not consulted during the process leading to poverty.
- The Guidelines are meant to lay down a procedure whereby those who will potentially be affected by such acquisitions will be consulted and have a say in the process.
- It is important that Guidelines are finalised in a participatory manner so that the stakeholders it intends to benefit have a say in its finalisation.

2.2 What are some of the challenges in reviewing these instruments?

There are several challenges in trying to review the instruments to ensure that they address gender and social inclusion issues:

- Understanding the language in which the documents are drafted.
- The impact of cultural beliefs, practices and perceptions.
- The impact of religious beliefs and practices.
- The impact of social practices and expectations.
- The absence of the documents in accessible format such as Braille, large print, audio, plain-language, human-reader and other alternative modes.

Questions for participants

- 1. What other reasons account for the challenges in gender inequality in land governance in Ghana?***
- 2. What other reasons account for other socially excluded groups such as persons with disabilities in land governance in Ghana?***

3.0 OVERVIEW OF THE LAND BILL, 2017

3.1 Introduction

This section gives an overview of the draft Land Bill, 2017.

NB: The version of the Bill used for the simplification is the last version submitted by the Ministry of Lands and Natural Resources to Cabinet for approval. Following the approval by Cabinet the Cabinet Memorandum, which is a form of draft Bill has been submitted to the Ministry of Justice and Attorney Generals Department for finalisation and laying in Parliament.

3.2 Summary of Law

The draft Bill is made up of a Memorandum which sets out the rationale for the law and a summary of the contents of the clauses of the Bill.

Memorandum – Issues addressed in the memorandum includes the following:

Object of the draft Bill

The object of the Bill is to revise and consolidate the laws on land, with the view to harmonizing these laws to ensure sustainable land administration and management, effective land tenure and to provide for related matters.

Follow-up to National Land Policy of 1999

- The Bill is the outcome of reforms which were introduced in the land sector as a result of the implementation of the 1999 National Land Policy. The Land Administration Project (LAP)

was initiated as part of the implementation of the key policy actions recommended in the National Land Policy to address critical issues militating against effective land administration in this country. LAP is a fifteen to twenty five year land administration reform programme with the goal of stimulating economic development, reducing poverty and promoting social stability by improving security of land tenure, simplifying the process for accessing land and making it fair, transparent and efficient. Phase I of the LAP was launched in 2003 and came to an end in 2011. The objective of this phase was to “undertake land policy and institutional reforms and key land administration pilots for laying the foundation for a sustainable decentralized land administration system that is fair, efficient, and cost-effective and that assures land tenure security”. One of the key activities commenced under LAP-One was the preparation of a new Land Bill to consolidate and update the legal framework for land administration in the country.

- In order to complete the reforms started under LAP-One, LAP-Two was launched with the objective to “consolidate and strengthen land administration and management systems for efficient and transparent land service delivery.”
- The overall legal regime for land administration in Ghana consists of constitutional provisions, policy instruments, statutory enactments, judicial decisions, common law principles and customary laws and practices which have been enacted and developed or observed over the years to regulate land rights generally. The courts have also ruled on customary law issues resulting in a body of legal precedents for some land related customs. Currently some one hundred and sixty-six state laws that regulate land administration and establish

different mandates for different agencies exist in the statute books.

- There are many pieces of legislation and judicial decisions on land which have a significant impact on the constitutional, statutory, common law and customary laws on land. Whilst a number of these laws and decisions clarify the various legal rules, others confound them. Aside conflicts between various judicial decisions, sometimes from courts of coordinate jurisdiction whose judgments are of equal legal force, there are also inconsistencies between some statutes and the 1992 Constitution. The result is a confusion that has contributed to increase in the incidents of land litigation as various parties contest the import and practical consequences of the varied interpretations of the land laws in Ghana.

Compliments other new laws on land

The Bill seeks to complement the Lands Commission Act, 2008 (Act 767), the Administration of Stool Lands Act, 1998 (Act 481) and the Land Use and Spatial Planning Act, 2016 (Act 925) to provide a comprehensive legal regime for the land sector in Ghana, and also to support decentralised land service delivery to bring about efficiency, cost-effectiveness and enhanced accessibility to land.

Consolidation of numerous laws on land

The Bill also seeks to consolidate the various legislation on land into one enactment so as to provide a comprehensive statement in respect of the consolidated legislation. This will provide easy access to legislation on land and help remove the overlaps and inconsistencies that are currently associated with land legislation.

Reflects international best practices and human rights norms

- Additionally, international best practices on land management including the outcomes from the Rio Summit on Sustainable Development, the Africa Union Declaration on Land Issues and Challenges, the recent United Nations Sustainable Development Goals, other various United Nations Conventions and World Bank Policy Guidelines have been taken into account. Recent guiding principles such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forest developed by the Food and Agricultural Organization and the Land Governance Assessment Framework have all found expression in the Bill.
- Notably, it is further observed that the 1992 Constitution in its Directive Principles of State Policy embodies most of the principles covered by the international protocols and guidelines that have found expression in the Bill. The Bill has extensively been subjected to the overriding articles of the Constitution.
- **In pursuance of Article 22 of the Constitution and international best practice, the Bill provides that property acquired for valuable consideration by spouses during marriage is presumed to be owned by the spouses as tenants in common, unless a contrary intention is expressed. The Bill also provides that property acquired in marriage is to be registered in the names of the spouses unless a contrary intention is expressed. The Bill further provides for the consent of the spouses in the disposition of such property.** These provisions mainly reflect recent decisions of the Supreme Court including *Boafo v Boafo* [2005-2006] SCGLR 705, *Mensah v Mensah* [2012] 1 SCGLR 391, *Quartson v Quartson* [2012] SCGLR 1077; *Arthur (No 1)*

v Arthur (No 1) [2013-2014] 1 SCGLR 543 and *Fynn v Fynn & Anor* [2013-2014] 1 SCGLR 727.

Clarifies doubtful land issues

The Bill clarifies some of the issues which have been a source of doubt in the interpretation of land legislation. New concepts like the Customary Land Secretariats to provide a mechanism for a more efficient customary land administration have also been introduced.

Need for constitutional amendment

To address this anomaly, a constitutional amendment will be needed to address the issue of disparity in the collection and disbursement of revenue from lands the allodial title to which is held by stools, skins, clans and families.

Overview of provisions of draft Bill

The memorandum ends with an overview of the draft Bill.

Summary of key sections of the draft Bill

- The Bill has 273 clauses arranged under three parts covering the following:
 - Part 1 - Implementation and Interests and Rights in Land;
 - Part 2 - Land Administration and Land Management;
 - Part 3 - Offences and Miscellaneous Provisions

- It also has six schedules.

- The long title of law – **The objective of the Bill is to revise and consolidate the laws on land, with the view to harmonising those laws to ensure sustainable land**

administration and management, effective land tenure and to provide for related matters.

PART ONE: Implementation and Interests and Rights in Land

- *Clause 1 to 8* provides a general description of the interests in land in the country.
- **Clause 1: Interests in land** - The following are the interests in land: (a) allodial title; (b) customary law freehold; (c) common law freehold; (d) usufructuary interest; (f) leasehold interest; and (f) customary tenancy.
- **Clause 2: Interests in land** - The following are the interests in land: (a) allodial title; (b) customary law freehold; (c) common law freehold; (d) usufructuary interest; (e) leasehold interest; and (f) customary tenancy.
- **Clause 3: Allodial title** - The allodial title is (a) the highest or ultimate interest in land; and (b) held by a stool, skin, clan, family or an individual; and may have been acquired through conquest, pioneer discovery and settlement, gift, purchase or agreement.
- **Clause 4: Customary law freehold** - (1) The customary freehold is an interest which arises from a transaction under customary law, and it is (a) an absolute interest in land which is not subject to any proprietary obligations but are subject to the jurisdictional and cultural rights of the stool, skin, clan or family which holds the allodial title; (b) acquired when a person or group of persons, where the law permits, purchase

land outright from the stool, skin, clan or family which holds the allodial title; and (c) of perpetual duration and is inheritable and alienable without the consent of or payment to the stool, skin, clan or family. (2) The acquisition of customary freehold interest in respect of stool and skin lands has since the 22nd day of August, 1969 been proscribed.

- **Clause 5: Common law freehold** - A common law freehold arises from a transaction to which the rules of law generally known as common law are applicable and it is (a) of perpetual duration or for any other uncertain duration; (b) subject to the jurisdictional and cultural rights of the stool, skin, clan or family which holds the allodial title and is held free from obligations to any other person; and (c) inheritable and alienable.
- **Clause 6: Usufructuary interest** - (1) The usufruct is an interest in land, which is (a) acquired in the exercise of an inherent right by a subject or a member of a group which holds the allodial title through the development of an unappropriated portion of the group's land or by virtue of an express grant; or (b) acquired through settlement for a period of not less than fifty years, with the permission of the holder of an allodial title by a non-indigene or group of non-indigenes, except where the settlement is on agreed terms; and (c) inheritable and alienable. (2) Where alienation of the usufruct is to a person who is not a member of (a) the stool, skin, clan or family which holds the allodial title, or (b) a group of non-indigenes or from the family of a non-indigene who holds the customary freehold as provided in paragraph (b) of subsection (1) in the land in respect of which the usufruct is to be alienated, the alienation

is subject to the written consent of the stool, skin, clan or family and the performance of established customary obligations.

- **Clause 7: Leasehold interest** - A lease (a) is an interest in land for a duration which is certain or capable of being ascertained; (b) arises when a person who holds an allodial title, customary freehold, common law freehold or usufructuary interest conveys to another person an interest in land for a specified term subject to terms and conditions; (c) may in the case of a sublease or an assignment, arise when the holder of a leasehold interest with the permission of the lessor, grants a sublease out of that interest or assigns that interest; and (d) does not exhaust the interest of the grantor in the land.
- **Clause 8: Customary tenancy** - A customary tenancy (a) is an interest in land which is created by contract; (b) arises where a stool, skin, clan or family which holds the allodial title or a person who holds a customary freehold or usufructuary interest enters into an agreement with another person to grant that other person an interest in land upon agreed terms and conditions; and (c) may involve the payment of rent, the sharing of the produce of a farm or the physical partition or severance of the farm or land.
- **Clause 9: Stool, skin, clan and family lands** - Emphasises the fiduciary nature of the role of chiefs, *Tendana*, clan and family heads in the administration of land and makes provision for stool, skin, clan and family land to be treated in the same manner. The Bill recognises the role of *Tendana* in land management in some parts of Upper East and Upper West Regions of Ghana.

- **Clause 10** provides for restrictions on acquisition of land by non-citizens. This *clause* applies the restrictions imposed on land ownership by non-citizens to citizens in joint land ownership with non-citizens. It also applies the restriction to companies and corporate bodies which have more than forty percent foreign equity shareholding or ownership.
- **Clause 11: Prohibition of discriminatory practice - A decision or practice in respect of land under customary tenure, whether the land is individually or communally held shall be in accordance with the customs, traditions and practices of the community concerned but a decision or practice which discriminates on grounds of (a) gender, race, colour, religion, creed, and ethnic origin, or (b) social or economic status, in contravention of Article 17 of the Constitution is void.**
- **Clause 12** provides for protection of land and prohibits the use of land guards. It makes the use of land guards a criminal offence and provides severe sanctions for contravention of the prohibition.

PART TWO: Land Administration and Land Management

- **Clause 13 to 19 provides for Customary Land Management.** *Clause 13* provides for the management of clan and family lands in the same manner as stool and skin lands. *Clauses 14, 15, 16, 17 and 18* provide for the establishment of
- Customary Lands Secretariat, the functions, structure, powers and funding of the Customary Land Secretariat respectively. The Lands Commission and the Office of the Administrator of

Stool Lands are required to provide assistance to the Customary Lands Secretariats. *Clause 19* provides for the creation of reserve areas for common use in communities.

- **Conveyancing is provided for in clause 29 to 69:** Some of the key provisions: The provisions in these *clauses* generally reflect the existing law. *Clause 29* is on general provisions on transfers and says that a holder of an interest or right in land may, by an instrument, transfer that interest or right to any person with or without consideration.
 - *Clause 30* emphasizes that only legal practitioners can prepare conveyances. New provisions include *clause 31* which requires both the transferor and the transferee to sign a conveyance.
 - **Clause 34:** Record of customary transfer - (1) An oral grant of an interest in land under customary law may be recorded as specified in the First Schedule, or as near to that Schedule as the circumstances permit.
 - **Clause 35: - Parties to a conveyance :** (1) In every conveyance of an interest in land, the expressions used to denote the parties to the conveyance shall be deemed to include their heirs, successors, personal representatives and assigns, except insofar as a contrary intention is expressed in the conveyance or appears by necessary implication. ***Subclause (3) of clause 35 provides for gender empowerment by requiring that a conveyance of property for valuable consideration during marriage should be in the name of the spouses, unless a contrary***

intention is expressed. Furthermore *subclause (4) of clause 35* provides that where property is conveyed to only one spouse, that spouse should be presumed to be holding it in trust for the spouses, unless a contrary intention is expressed. Some of the key provisions are as follows:

- **Clause 36: Subject-matter of conveyance** - (1) Any word used in a conveyance indicating the intention of the person making the transfer to create or dispose of an interest in land is sufficient for that purpose. (2) A conveyance passes all interests and rights in the land which the person making the conveyance has power to convey, unless a contrary intention is expressed in the conveyance, or appears by necessary implication.
- **Clause 38: Person not party to a conveyance** - A person who is not a party to a conveyance may take an interest in land, or the benefit of a condition, right of entry, covenant or agreement which is the subject of the conveyance.
- **Clause 40: Voidable conveyance** – (1) A conveyance of land or an interest in land which is made with intent to defraud is voidable at the instance of a person who is prejudiced by the conveyance.
- **Clause 41: Unconscionability** - The court may set aside or modify an agreement to convey or a conveyance of an interest in land on the ground of unconscionability where it is satisfied after considering

- all the circumstances, including (a) the bargaining conduct of the parties, (b) their relative bargaining positions, (c) the value to each party of the agreement reached, and (d) evidence as to the commercial setting, purpose and effect of their agreement, that the transaction is unconscionable.

- **Clause 42: Other grounds for varying or setting aside conveyance** - The court may set aside or modify an agreement to convey or a conveyance of an interest in land on grounds which include (a) mistake; (b) fraud; (c) illegality; (d) duress; (e) misrepresentation; and (f) undue influence.

- **The rights of spouses are further enhanced by clause 44 which prohibits the transfer of land or interest in land acquired for valuable consideration during marriage without the written consent of the other spouse, unless a contrary intention is expressed. It reads:**
Clause 44: Restrictions on transfer of land by spouse - In the absence of a written agreement to the contrary by the spouses in a marriage, a spouse shall not, in respect of land, right or interest in land acquired for valuable consideration during marriage, (a) sell, exchange, transfer, mortgage or lease the land, right or interest in the land, (b) enter into a contract for the sale, exchange, transfer, mortgage or lease of the land, right or interest in the land, (c) give away the land, right or interest in the land *inter vivos*, or (d) enter into any other transaction in relation to the land, right or interest

in the land without the written consent of the other spouse, which consent shall not to be unreasonably withheld.

- **Clause 47: Implied covenants by transferor** – *Clause 47* introduces new provisions in *subclause (8) to (20)* including:
 - *Subclauses (8) and (9)* of *clause 47* provide for automatic renewal of lease subject to the discharge of established customary duties in respect of bare land for indigenes where land has been developed by the lessee for residential, perennial cash crop farming, commercial and industrial purposes. In the case of a citizen who is not an indigene of an area,
 - *Subclause (9)* provides for an implied term for the renewal of the lease subject to terms agreed by the parties.
 - *Subclause (11)* provides for the automatic renewal of leases of public land to citizens of Ghana.
 - Where the parties are unable to agree to the terms of the new lease, *subclauses (14) and (15)* provide first for settlement under the Alternative Dispute Resolution, 2010 (Act 798) and failing that settlement by court.
 - Where a lease is granted by a citizen to a non-citizen, *subclause (18)* provides that the lease is not subject to renewal unless the lease expressly provides for renewal.
 - *Subclause (19)* provides that a conveyance of a usufructuary interest to an indigene should not specify any duration of the interest.
 - Under *subclause (21)*, a holder of an allodial title is prohibited from alienating land which is the subject of

a usufructuary interest without obtaining the consent of and paying fair and adequate compensation to the holder of the usufructuary interest, where the land of the usufructuary right holder has been taken for development as a result of expansion of the town. The compensation should in any case not be less than forty per cent of the plots or the market value of the plots being disposed of.

- **Clause 48: Implied covenants by person to whom transfer is made:** In a conveyance by way of lease for valuable consideration there are implied the covenants relating to payment of rent, repair to adjoining premises, alterations and additions, injury to walls, assignment and subletting, illegal or immoral user, nuisance or annoyance, and yielding up the premises, in the terms set out in Part V of the Second Schedule.
- **Clause 49: Persons to take benefit of implied covenant –** The benefit of a covenant implied under section 47 or 48 is attached to the interest of the implied covenantee, and are capable of being enforced by a person in whom that interest or a part of that interest is vested.
- **Clause 54 Subclause (2)** provides for the service of notices by electronic mail where that is the normal mode of communication between the parties.
- **Clause 59** provides that there shall be no payment for consent to assign, sublet, part with possession, mortgage, or for change of use, renewal of lease, surrender of lease and any other transaction relating to leased land or interest in land.

- *Subclause (4) of clause 59* however, empowers the Minister in consultation with the Lands Commission and the Administrator of Stool Lands to make Regulations prescribing fees for expenses reasonably incurred in the granting of consent in respect of stool, skin, clan or family lands.
 - *Subclause (3) of clause 66* provides that customary obligations paid by a lessee should be stated in the conveyance.
- Electronic conveyancing - The Bill introduces the concept of electronic conveyancing in **clause 70 to 76**. **Clauses 70 and 71** provide for conveyances to be made electronically and for the structures for facilitating electronic conveyance. **Clauses 72 and 73** provides for persons who are qualified to undertake electronic conveyancing and the conditions for the conveyancing. Access granted by the Lands Commission to provide electronic conveyancing service is not transferable, *clause 74*. *Clause 75* stipulates the mandatory contents of an electronic conveyance.
- The Bill provides for the recording of customary land transactions, Title registration and deeds registration. The recording of customary land transactions is provided for in **clause 77**. **Clauses 78 and 79** provides for the interests and rights in land that are registrable under the Act. Provision is also made for the registration of condominiums, apartments and flats under Regulations to be made under the Act, subclause (2) of clause 78.
- **Clause 80 to 195** deals with title registration. The *clauses* generally reflect the current state of the law. Provision is made

for those who have an interest in land to register that interest within that registration district. Subclauses (4) and (5) of clause 94 provides protection for spouses in the registration of land acquired during marriage.

- **Clause 94:** Application for registration - (1) Subject to section 96, a person who claims to hold land or an interest in land situated in a registration district shall make an application setting forth that person's claim in the manner and within the period specified in the notice given under section 93. (2) The Land Registrar shall after the expiration of the notice given under section 93 proceed to examine the title of any person who has made a claim to any land or interest in land or is deemed to have made a claim under subsection (1) and may for that purpose examine any instrument relating to that land or interest. (3) Where a land referred to in the claim is subject to an interest which is registrable, the Land Registrar if satisfied with the validity of the title of the applicant shall record the particulars that will enable the interest and the name of the holder of the interest to be registered. **(4) An application for registration of land or an interest in land acquired for valuable consideration during marriage shall state the spouses in the marriage as the applicants unless a contrary intention is expressed in the conveyance. (5) Where only one of the spouses is stated as the applicant that spouse shall be presumed to have applied on behalf of that spouse and the other spouse unless a contrary intention is expressed in the conveyance.**

- The Bill provides for resolution of land disputes by resort to the procedures for resolution of disputes under the Alternative Dispute Resolution Act, 2010 (Act 798) in *clause 95*. This effectively abolishes the former Land Title Adjudication Committees.

- **Clause 99** provide for the powers and obligations of the Land Registrar.
 - *Subclause (2) of clause 99* enables a failure to obey an order of a Land Registrar to be referred to a District Court. This provision is to enable easier access to the courts and replaces the previous provision in which the reference was to be made to the High Court.
 - *Subclause (3) to (7) of clause 99* seeks to regulate the disposition of large tracts of stool, skin, clan and family lands.
 - *Subclause (3)* prohibits the Land Registrar from registering any large scale disposition of stool, skin, clan or family land if the Regional Lands Commission has not granted consent. The grounds on which consent may be refused include unconscionability, size of the land and the fairness of the terms of the agreement.
 - *Subclause (4)* defines a large scale disposition in respect of land for residential purpose as a disposition which exceeds ten acres and for agricultural or industrial purposes as land not exceeding fifty acres.
 - *Subclause (5)* provides a time limit within which notice of grant or refusal of consent

should be given to the applicant. The *subclause* further provides that where consent is not granted or refused within the specified time, consent will be deemed to have been granted.

- *Subclause (6)* permits a person dissatisfied with the decision of the Regional Lands Commission to refer the matter for resolution under the Alternative Dispute Resolution Act, 2010 (Act 798).
 - *Subclause (7)* gives the Minister power to make Regulations to provide for matters relating to the grounds for the grant of consent.
 - *Subclause (9)* makes it an offence for the Land Registrar to register a large scale disposition in contravention *subclause (3) or (8)*.
- **Clause 100** provides for application for first registration and limits the use of statutory declarations for registration. Statutory declarations are only permissible in the case of stool, skin, clan and family lands where the original deeds or documents are not available, and in the case of a person other than a stool, skin, clan or family where that person can establish to the satisfaction of the Land Registrar that the original deed or document cannot be found. The *clause* further provides that instruments relating to the first registration of stool, skin, clan and family lands are exempt from the payment of stamp duty.
 - **Clause 101** provides for the time and manner of first registration. *Subclause (2) of clause 101* provides that

an application for first registration is deemed to have been effected by the Land Registrar if it is not rejected within six months of the submission of the application. The registration by the Land Registrar is presumed to have been effected if it does not conflict with a prior registration.

- **Clause 103** provides for rejection of applications for first registration by the Land Registrar and the grounds upon which an application may be rejected. Under *subclause (2)*, the Land Registrar has six months within which to inform an applicant of the decision to grant or reject an application or of the status of the application. *Clause 104* enjoins the Registrar to notify the applicant in writing of the reasons for the rejection and to give opportunity to the applicant to make further representation within thirty days. It empowers an applicant who is dissatisfied with the rejection of an application to refer the matter for settlement by Alternative Dispute Resolution.

- Provision is made in **clause 105** for an applicant to submit another application where an earlier application to the Lands Commission cannot be found or damaged. It further nullifies a land certificate issued to another applicant after the submission of the earlier application which cannot be found. The *clause* also provides for administrative and criminal sanctions for an officer of the Lands Commission responsible for the loss of an application.

- **Clause 108** makes provision for the conclusiveness of the land register. It however, provides for the acquisition of interests in land by prescription and under the Limitations Act, 1972 (N.R.C.D. 54). A person who claims to have acquired an interest in land by prescription or under N.R.C.D. 54 may apply to the Regional Lands Commission for an appropriate amendment of the land register.
- **Clause 109** makes provision for provisional registration. It further provides for an applicant who is dissatisfied with the decision of the Land Registrar to grant the applicant provisional registration to appeal to the Regional Lands Commission and specifies the period within which the appeal should be determined.
- **Clause 112** is a new provision which prohibits claimants from instituting action in court in relation to matters concerning land registration until claimants have exhausted settlement under the Alternative Dispute Resolution Act, 2010 (Act 798).
- In **clause 114**, provision is made for registration to comply with any local plan for the affected area, except in the case of registration of an allodial title or where there is no local plan. District Assemblies are therefore required to submit copies of local plans to the Lands Commission. Registration contrary to a local plan is void and a Land Registrar who is responsible for such a registration commits an offence.

- In **clause 121**, priority of registered interests and instruments is clarified. The priority of registered interests is made subject to fraud, notice or mistake.
- Provision has been made for the registration of contractual licences issued by the Lands Commission for the use or enjoyment of public lands in **Clause 156**. **Clause 166** makes provision for the registration of Certificates of Allocation of public lands issued by the Lands Commission to Ministries, Departments and Agencies.
- **Clause 173** provides for the registration of a Judge's Certificate and a decision of a Court. It requires a judgment in respect of land to specify the interest in land which is the subject of the judgment. The *clause* requires a judgment relating to land to be accompanied by a site plan which delineates the boundaries and which is signed by the Director of the Survey and Mapping Division. *Subclause (3)* requires authentication of the site plan by the judge or the registrar of the court.
- **Clause 197** makes provision for a Land Registrar in charge of each office to publish a list of registered interests at the end of each month.
- **Clause 199 to 225** makes provisions for the registration of instruments affecting land. The provisions generally reflect the current law.
 - New provisions include subclause (2) of *clause 200* which prohibits the registration of an instrument

relating to land which does not provide adequate description of the land, sufficient reference to the date and particulars of any earlier registered instrument in respect of the land, and a site plan that has been approved by the Director of the Survey and Mapping Division.

- **Clause 213** provides for the publication of a list of registered instrument at the end of each month. *Subclause (3)* introduces sanctions for non-publication of the list of registered instruments by Land Registrars. Provision is made in **clause 217** for a formal hearing where a Land Registrar is not satisfied with the title of a grantor and an applicant refuses to withdraw the application for registration. For this purpose all persons who claim or appear to have an interest in the subject matter of the application must be heard. A person who is dissatisfied with the decision of the Land Registrar may appeal to the Regional Lands Commission or submit the matter for resolution under the Alternative Dispute Resolution Act, 2010 (Act 798).
- **Clause 224** provides for rectification of records of the Lands Commission regarding the plotting of an instrument which contains a site plan where the position or size of the land to which the site plan relates is found to be incorrect or where the plotting is as a result of a mistake or where the interested persons have consented. Rectification under the provision is subject to hearing the persons who are affected.

- **Clause 225 to 259 deals with acquisition of land by the Republic.**
 - *Clause 225* provides for the power of the Republic to compulsorily acquire land for public purposes and aligns the power with the provisions of Article 20 of the 1992 Constitution.
 - Provision is made in *clause 226* for acquisition of land by means of purchase or gift. *Clause 227* requires that public lands to be allocated for the purpose for which the lands were acquired or for the purposes of public interest. It further prohibits Ministries, Departments and Agencies that are allocated public lands from creating or transferring an interest in the land allocated.
 - *Clause 228* prevents an unlawful occupant of public lands from acquiring an interest in or right over that land by reason of the occupation and imposes a sanction for unlawful appropriation, sale or lease in respect of public lands.
 - In order to ensure availability of funds for payment of compensation for compulsorily acquired public lands, *clause 230* requires the intended user of the land to be acquired, to provide evidence in writing that the money intended for compensation has been paid into an interest yielding escrow account managed by the Lands Commission on behalf of the intended user.

- **Clause 231 to 259 provides the procedure for compulsory acquisition of land by the Republic.**
 - Novel provisions include *clauses 235 and 239* which impose an obligation on the Lands Commission to

consult **owners, occupiers, traditional authorities and community leaders of lands to be affected by the acquisition and to publish a report of the consultation.**

- Under *clause 239*, the Lands Commission is required to give notice where it intends to withdraw from a compulsory acquisition process and is empowered to forfeit an amount from the escrow account to cover the costs incurred before the withdrawal.
- *Clause 240* requires the Lands Commission to request for relevant information from the Land Use and Spatial Planning Authority pertaining to the user of the land for the assessment of compensation.
- *Clause 241* provides that the effective date of acquisition is the date of the publication of the Executive Instrument and further provides that an acquisition under an instrument which is not published under the provisions of the Act is voidable.
- *Clause 242* specifies the persons who may submit claims for the payment of compensation. This provision is intended to enable persons who have interest in land which is to be acquired to be aware of their rights to submit claims.
- In pursuance of transparency and awareness creation, provisions have been made for notices to be given to various stakeholders in *clauses 243 and 244* including the occupier of the land and anyone with an interest in the land.
- In order to satisfy the constitutional requirement for prompt payment of compensation, *clause 245* requires the Lands Commission, where there is no dispute, to pay compensation immediately it is assessed. It also

provides that a person who is dissatisfied with an assessment may apply to the Lands Commission for review and, when not satisfied, may submit the matter for resolution under the Alternative Dispute Resolution Act, 2010 (Act 798). The *clause* makes it clear that the right of a person to apply or resort to the High Court under Article 20 (2) (b) of the Constitution is not taken away by the provision. Sanctions have been provided against an officer who overvalues or undervalues the compensation payable.

- *Clause 246* deals with conflicting claims and how those claims are to be addressed.
- By *subclause (2) of clause 247*, the market value of any land compulsorily acquired by the Republic is the value as at the date of the publication of notice of assessment of compensation under *clause 244*.
- *Clause 250* in providing for fair and adequate compensation protects the rights of a vulnerable claimant by ensuring that that claimant is adequately represented in the process of assessment of compensation. This *clause* accords with international best practice. It also provides that where the assessment made by the Lands Commission is higher than that claimed by the claimant, the former should be paid.
- ***Clause 260 to 262 provides for the management of vested lands and de-vesting.*** *Clause 260* provides that with the coming into force of the 1992 Constitution it is unlawful to vest stool and skin lands in the Republic. The *clause* further prohibits the vesting of clan or family lands in the Republic. The Lands Commission is required under *clause 262* to

evaluate all existing vested lands with the view to recommending to the President, the de-vesting of those lands.

- **Clause 263 to 267 provides for temporary occupation of land where the land is needed for the public welfare or in the interest of the state.** The temporary occupation is for a specified period of not more than five years and is subject to renewal for a further period of five years after which the land must be returned to the owner or be compulsorily acquired. The temporary occupation is subject to the payment of rent at the market rate by the Republic. The Republic is also required to restore land which has been temporarily occupied by the Republic to the state in which it was before the occupation and to pay compensation for any damage done to the land during the period of occupation.

PART THREE: Offences and Miscellaneous Provisions

- **Offences** - Various offences have been provided for in *clause 268* to ensure transparency and accountability. The offences in this *clause* are in addition to the other offences which are provided for in other provisions of the Bill. Those other offences include use of land guards, unauthorised removal of boundary marks, unauthorised registration of large scale acquisition of land and loss of document by staff of the Lands Commission. *Clause 268* is the general offences provision and is applicable to provisions in the Bill for which offences have not been specifically provided. These include falsification of records, fraudulent issue of documents, fraudulent alteration of records and multiple sale of land.
- **Miscellaneous provisions are dealt with in clause 269 to 273.**

- **Clause 269** provides for the protection of an officer of the Lands Commission in the lawful performance of functions under the Bill.
- **Clause 270** empowers the Minister to make Regulations by Legislative Instrument in consultation with the Lands Commission.
- Interpretation of some words and expressions used in the Bill is provided for under **clause 271**.
- Repeals and savings of relevant enactments have been provided for under **clause 272**.
- Transitional provisions are dealt with in **clause 273**.

Questions for participants:

- 1. Do you think that the provisions of the Land Bill makes adequate provision for gender equality? If not what suggestions do you have to strengthen it further.***
- 2. Do you believe that the provisions of the Land Bill makes adequate provision for Persons with Disability? If not what else would you add or change to strengthen it.***

4.0 OVERVIEW OF THE LANDS COMMISSION ACT, 2008 (ACT 767)

4.1 Introduction

This section gives an overview of the Lands Commission Act, 2008 (Act 767) that was gazetted on 12th December 2008. It was one of the outputs of LAP-1.

The long title of the Act states as follows “AN ACT to establish the Lands Commission to integrate, subject to the Constitution, the operations of public service land institutions under the Commission in order to secure effective and efficient land administration and to provide for related matters.

This law brought together four land sector agencies under one Lands Commission.

4.2 Summary of provisions:

Act 767 law has 45 sections arranged under three parts.

PART I: The Lands Commission

- **Clause 1: Establishment of Lands Commission** – It is indicated that the Lands commission is established in accordance with Article 258 of the Constitution as a body corporate with a common seal that can sue and be sued.
- **Clause 2: Headquarters, Regional and other branches or office of the Commission** – It is indicated that the headquarters will

be in Accra. It is expected to have a branch in each region known as Regional Lands Commission. It also has the right to establish district offices.

- **Clause 3: Ministerial responsibility** – The Minister responsible for Lands has ministerial responsibility for the Lands Commission.
- **Clause 4: Objectives of the Commission** – The objectives are states as follows: (a) To promote the judicious use of land by the society and ensure that land use is in accordance with sustainable management principles and the maintenance of a sound eco-system; and (b) ensure that land development is effected in conformity with the nation’s development goals.
- **Clause 5: Functions of the Commission** – For the purpose of achieving its objectives the Commission shall (a) manage public lands on behalf of the Commission, (b) advise the Government, local authorities and traditional authorities on the policy framework for the development of particular areas of the country, (c) formulate and submit recommendations on national policy with respect to land use suitability or capability, (d) advice and assist in the registration of title to land, (e) register deeds and instrument affecting land throughout the country (f) facilitate the acquisition of land by the governments (g) establish standards for and regulate survey and mapping in the country (h) provide surveying and mapping services throughout the country (i) licence practitioners of cadastral survey (j) provide land and land related valuation services (k) ensure sustainable land use planning (l) in collaboration with other bodies instill order and discipline into

the land market (m) in collaboration with other bodies minimise or eliminate where possible the source of protracted land disputes (n) **promote community participation and public awareness at all levels in sustainable land management and development practices to ensure the highest and best use of land** (o) promote research into all aspect of land ownership, tenure and the operations of the land market and the land development process; (p) impose and collect levies, fees charges for services rendered; (q) establish and maintain a comprehensive land information system, and (r) perform other functions the Minister may assign to it.

- **Clause 6:** Independence of the Commission – Subject to other laws the Commission is independent in doing its work.
- **Clause 7:** The Commission is expected to collaboration with other institutions and co-ordination with other public bodies including: Office of Administrator of Stool Land (OASL), the body responsible for town and country planning, structures designed for the customary administration of stool, skin, family or community owned land or any other land; and other public agencies and government bodies or any public body that has activities or operations relevant to the functions of the Commission.

PART II: Composition, Qualifications and Appointment of Members

- **Clause 8: Composition of the Commission** – The Commission shall in accordance with Article 259 of the Constitution consist of (a) The Chairman, who shall not be a

- Minister or a Deputy Minister (b) one representative of and nominated by the following: (i) the National House of Chiefs; (ii) the Ghana Bar Association; (iii) the Ghana Institution of Surveyors; (iv) each Regional Lands Commission (v) the department responsible for town and country planning (vi) the National Association of Farmers and Fishermen (vii) the Environmental Protection Agency; and the Ministry responsible for Lands and Natural Resources and (c) the Executive Secretary of the Commission. (2) The President shall in accordance with Article 70 of the Constitution appoint the chairman and the other members of the Commission. (3) The President shall determine the salaries and allowances of the members in accordance with Article 71 of the Constitution.
- **Clause 9: Membership of Regional Lands Commission** – This shall consist of the following persons appointed by the Minister responsible for Lands: (a) the chairman shall not be a Minister or a Deputy Minister (b) one representative of and nominated by, (i) the Regional House of Chiefs (ii) each District Assembly within the Region (iii) the department responsible for town and country planning (c) one nominee of the Ghana Bar Association practicing in the Region (d) one nominee of the Ghana Institution of Surveyors practicing in the Region (e) one nominee of the National Association of Farmers and fishermen in the Region, and (f) the Regional Lands Officer.
- **Clause 10: functions of the Regional Lands Commission** – A Regional Lands Commission (RLC) shall perform the functions of the Commission in respect of the Region. It is provided in sub clause (3) that there shall be no disposition of

any stool land unless the RLC in the Region in which the land is situated has certified that the disposition or development is consistent with the development plan drawn up or approved by the planning authority for the area concerned. By sub clause (4) they are to consult the stools and other traditional authorities in all matters relating to the administration and development of stool lands and shall make available to them all relevant information and data.

- **Clause 11: Qualification for membership** – A person who qualifies as a member of the Lands Commission or RLC other than the Executive Secretary or Regional Lands Officer unless the person is qualified to be a Member of Parliament. Their positions shall be declared vacant if they are professionals and are suspended from their profession by a competent authority.
- **Clause 12: Tenure of office of members** – Apart from the Executive Secretary and the Regional Lands Officers the rest of the members of the Commission shall hold office for four years and may be eligible for reappointment. In addition their positions shall be declared vacant Furthermore the position of t other members of the Commission may be declared vacant if they are suspended from their professions or are removed from office by the President.
- **Clause 13: Resignation of members** – The Chairman or any other member of the Commission may resign by notice in writing addressed to the President. At the Regional level it is by notice addressed to the Minister.
- **Clause 14: Removal of members** - The Chairman or any other member of the Commission may be removed from office by

the President for inability to perform the functions of office or for misbehaviour. The Minister may do so at the Regional level.

- **Clause 16: Meetings of the Commission** – The Commission and the RLC are to meet at least quarterly for the dispatch of business. A quorum is half the members. The Chairman presides at meetings.
- **Clause 17: Power to co-opt** – The Commission or the RLC may co-opt a person to act as advisor.
- **Clause 18: Appointment of Committees** - The Commission and the RLC may set up committees made up of members and non-members.
- **Clause 19: Divisions of the Commission** – the commission shall have the following divisions (a) Survey and Mapping (b) Land Registration (c) Land Valuation (d) Public and Vested Lands Management Division and (e) any other Division the Commission may determine.
- **Clause 20: Functions of the Survey and Mapping Division** – They have a responsibility to supervise, regulate and control the survey and demarcation of land for the purposes of land use and land registration and to keep such records. They also have a responsibility for developing a national geodetic reference point for the country as well as other functions determined by the Commission.

- **Clause 21: Functions of the Land Registration Division** – Their functions include publication of notices of registration upon receipt of an application for registration; registration of title to land and other interests; registration of deeds and other instruments affecting land in area outside compulsory title registration districts; maintaining land registers that contains records of land and other interests in land and other functions determined by the Commission.
- **Clause 22: Functions of the Land Valuation Division** – Their functions includes: assessing the compensation payable upon acquisition of land by the Government; assessment of stamp duty; determining the values of properties rented, purchased, sold or leased by or to the Government; preparation and maintenance of valuation list for rating purposes; valuation of interests in land or land related interests for the general public at a fee; valuation of interest in land for the administration of estate duty; and other functions determined by the Commission.
- **Clause 23: Functions of the Public and Vested Lands Management Division** – Their role is facilitating the acquisition of land for Government; managing state acquired and vested land in conformity with approved land use plans and other functions determined by the Commission.
- **Clauses 24 to 32 deal with administrative matters** relating to the Commission including: appointment of the Executive Secretary, Secretariat of the Commission, Functions of the Chief Executive Officer, Directors of the Divisions of the Commission, Solicitor Secretary to the Commission, Internal

Auditor, Regional Lands Officer and other staff of the Commission. By clause 25 the Secretariat of the Commission includes the following: Client Service Access Unit, General Management and Logistics Unit, Policy Planning, Research and Special projects Unit, Monitoring and Evaluation Unit.

By section 25 the Secretariat of the Commission is expected to be made up as follows: (a) Client Service Access Unit; (b) General Management and Logistics; (c) Policy Planning Research and Special projects; (d) Monitoring and Evaluation Unit; (e) Finance Unit; (f) Human Resource Unit.

PART III – Financial and Miscellaneous provisions

- **Clauses 33 to 45 of the Act deals with Miscellaneous** matters including: Funds of the Commission; Accounts and Audit; Annual Report; Access to information; Offences by bodies corporate; Regulations; Transfer of assets obligations and rights; dissolution of Specified bodies and interpretation.

Questions for participants:

- 1. In your view are the provisions of this law gender friendly?***
- 2. Does it address other social inclusion issues?***
- 3. If not which sections could be amended to ensure that they address gender and social inclusion issues?***
- 4. Under the Land Administration Project they piloted the setting up of Gender Desk Officers at the Regional level of Lands Commission Offices. Do you agree that the law should be amended to make this part of the Secretariat?***

5.0 OVERVIEW OF THE GUIDELINES FOR LARGE SCALE LAND ACQUISITION

5.1 Introduction

This section gives an overview of the Land Commission Guidelines for Large Scale Land Acquisition, 2016 (hereinafter “the Guidelines”).

NB: The draft is under review and the Lands Commission is working on an updated draft that is not yet available.

5.2 Summary of provisions

The 25 paged Guidelines have nine sections and Appendices.

Preamble

It states as follows:

- There have been a spate of large scale land acquisitions in Ghana primarily for various agricultural purposes.
- Previous large scale acquisitions were by government for government projects and mining concessions have not directly involved traditional authorities and they only come in during compensation of surface rights holders.
- The new phenomenon needs to be addressed with tact since it has several ramifications.
- The import of the event can be better understood when it is appreciated that:
 - Most lands in Ghana are held by customary leaders (family heads, clan heads, chiefs, priests etc.) and many

- of them have no experience in dealing with such grants of lands of such large scale magnitude.
- Majority of land users in rural areas where there is demand for such lands are small holder farmers and their interest are not registered making them vulnerable.
 - Even though customary law requires consultation between traditional leadership and occupiers and users of land they normally do not conform to such rules.
 - In some cases the rights of subordinated and other subsidiary rights holders are flagrantly violated and abused and therefore would require the intervention of the state in furtherance of Article 36(8) of the 1992 Constitution to ensure social justice.
 - In some cases too projects that are supposed to be executed on such lands would require appropriate safeguards to ensure the protection of the environment as provided under Article 36(9) of the Constitution. This provision enjoins the state to take appropriate measures needed to protect and safeguard the national environment for posterity and protecting the wider international environment for mankind.
 - Speculative acquisitions that appear to be jeopardising State policy on land use and development; and
 - Some acquisitions are being undertaken without due regard to land use planning considerations and as a result, such lands are not being put to their highest and best uses.
- The Guidelines seeks to introduce safeguards and provide measures that should be put in place in handling large-scale land transactions. Also, in conformity with good governance

practices, it prescribes standard procedures that would ensure effective grassroots consultation with persons who would be directly affected by such transactions.

1.0 Aim of the Guidelines

The main purpose of the Guidelines is to provide a framework that on one hand:

- a. Establishes a means for informed, fair, inclusive and transparent decision-making by all stakeholders involved in large-scale land disposition by customary landowners; and on the other hand
- b. Outlines standard procedures and minimum responsibilities regarding large-scale land acquisitions by investors and state agencies.

Thus, the guidelines are aimed at assisting customary landowners and customary land resource users, investors, Regional Lands Commissions and other decision makers to better appreciate the due process and foreign investors whether private or public must follow to require land on a large-scale for investment purposes.

1.1 Objectives of the Guidelines

The objectives of the Guidelines are to:

1. Minimize speculative acquisitions and any practices that would undermine state policy on land development with due regard to the National Land Policy of 1999
2. Protect the interest of local communities by avoiding a situation where investors or individuals who acquire large tracts of land usurp the rights of the larger population and in the process subvert the intent of Article 36 (8) of the constitution.

3. Safeguard the interest of genuine investors by ensuring that their acquisition lead to secured rights in the atmosphere of mutual trust as to promote the principles in international law relating to foreign direct investments (FDIs).
4. Promote better land use and ensure that all acquisitions are made for uses that would conform to land use plan of the areas involved.
5. Promote government development policy objectives by facilitating development initiatives that would foster job creation and income generation, equity in resource distribution and balanced development in line with Ghana's development agenda as proposed under the National Development Planning Commission's (NDPC) 40- year Development Plan.

Ensure that the acquisition of large tracts of land conforms to international best practices as enshrined in the FAO/World Bank guidelines on Responsible Agricultural Investment (RAI).

2.0 Bases of the Guidelines

The procedures and requirements outlined in the Guidelines follow statutory enactments, policies, international guidelines, principles and best practices which underpin large-scale land transactions. These include but not limited to the following:

2.1 The Constitution of Ghana

The Constitution of Ghana is the supreme law of the country.

- Articles 34 to 41 of the 1992 constitution outline the Directive Principles of State Policy, which provide a general framework for a holistic national development agenda.
- Article 266(4) stipulates that “No interest in, or right over, any land in Ghana shall be created which vests in a person who is

not a citizen of Ghana a leasehold for a term of more than fifty years at any one time”.

(Stipulation on creation and vesting of interests or rights over land in non-citizens).

- Article 267 (1) provides that “All stool lands in Ghana shall vest in the appropriate stool on behalf of, and in trust for the subjects of the stool in accordance with customary land and usage.” (Provision on fiduciary and trust relationship over stool/skin lands in accordance with customary law and usage).
- Article 267 (7) provides for consultation with stool and other traditional authorities in matters relating to administration and development of stool land. (Provision on consultation with traditional authorities on administration and development of stool/skin lands).
- Article 268 (8) stipulates that “the Lands Commission and the Administrator of stool Lands shall co-ordinate with all relevant public agencies and traditional authorities and stools in preparing policy framework for rational and productive development and management of stool lands”. (Stipulation on collaboration amongst the Lands Commission, Administrator of Stool Lands, relevant public agencies, traditional authorities and stool/skins for land development and management).

2.2 National Resource Policies and Development Framework

The key policy and framework documents considered include:

- a. National Land Policy, 1999
- b. Food and Agricultural Sector Development Policy (FASDEP II) 2007
- c. National Water Policy, 2007
- d. National Irrigation Policy, 2010
- e. Ghana Forest Wildlife Policy, 2012

- f. National Employment Policy, 2012
- g. Minerals and Mining Policy of Ghana, 2013
- h. National Spatial Data Infrastructure Policy, 2013
- i. National Environmental Policy 2014
- j. Ghana National Spatial Data Infrastructure Policy, 2013
- k. Others

2.3 National Land Policy, 1999

The National Land Policy of Ghana is key among the policies listed above. The guidelines are, therefore, in line with provisions in the National Land Policy as follows:

- a. Section 4(b) of the policy provides that decision- making with respect to disposal of land should take into consideration, among others, natural resources of the land; conservation of land for the future generation; and accountability to the subjects for whom the land is held trust.
- b. Section 4 (c) provides: *‘No interest in or right over any land belonging to an individual, family or clan can be disposed of or declared stool/skin or traditional council land without consultation with the owner or occupier of the land.’*

2.4 National Laws and Regulations

The guidelines lend support to compliance with a number of statutory enactments and regulations including:

- a. Administration of Lands Act, 1962 (Act 123);
- b. Administration of Lands Regulations, 1962 (L.I. 232);
- c. Ghana Investment Promotion Centre Act, 1994 (Act 478);
- d. National Development Planning Commission Act, 1994 (Act 479);
- e. National Development Planning (Systems) Act, 1994 (Act 480);
- f. Environmental Assessment Regulations, 1999 (L.I 1952);

- g. Water Resources Commission Act, 1999 (LI 1652);
- h. Environmental Assessment Regulations, 1999 (LI 1652);
- i. Lands Commission Act, 2008 (Act 767);
- j. Alternative Dispute Resolution Act, 2010 (Act 789); and
- k. Others

2.5 International Guidelines and Principles

The generic and voluntary guidelines, international best practices and principles on large scale land transactions that provided a guide in conceptualizing the guidelines include the following:

- a. Land Policy Initiative of the African Union Commission
- b. United Nations Economic Commission for Africa (UNECA)
- c. FAO “Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries & Forests in Context of National Food Security”
- d. Africa Union’s Nairobi Action Plan on Large Scale Land Based Investments in Africa
- e. UN-Special Rapporteur on the Right to Food Principles on Large Scale Land Acquisition and Leases
- f. UN- Declaration on the Rights of Indigenous People.
- g. FAO “Principles of Responsible Agricultural Investment(RAI)’; and
- h. Others

3.0 Applicability

3.1 The Guidelines are applicable to land acquisitions of **20.23 hectares or 50 acres** or more for agriculture. Such acquisitions must take into consideration the under listed conditions that, they are:

- not in violation of human rights, particularly the rights of women and other vulnerable groups and right to compensation;
- b. based on Free, Prior and Informed Consent (FPIC) Of affected land owners, women, the youth and common land resources users;
- based on a thorough assessment of social, economic and environmental impacts, including the way they are gendered;
- based on transparent negotiations and contracts that specify clear and binding commitments about corporate social responsibilities, activities, employment and benefits-sharing between the investor and the communities; and
- based on consultative planning, independent oversight by recognized body and meaningful participation by all stakeholders.

3.2 *Notwithstanding the general applicability stated in 3.1:*

- an acquisition below fifty (50) acres or 20.23 hectares may also be subject to the guidelines if there is the likelihood of displacing affected persons and or violates human rights with due consideration to the location and nature of proposed investment.
- where an individual, a body corporate or its subsidiary acquires land and subsequently secures additional land in the same area such that the aggregate acreage is fifty (50) acres or 20.23 hectares or more the guidelines shall apply
- The guidelines will be useful to customary landowners, natural resource users, interest groups, individuals, foreign and domestic investors, NGOs, CSOs and government agencies.

4.0 Scope of the Guidelines

The Guidelines provide:

- A pragmatic approach to dealing with large-scale land acquisition by incorporating the principle of Free, Prior and Informed Consent (FPIC).
- Minimum requirements, obligations and standard procedures that grantors and guarantors of large-scale land and State Agencies involved in the process of land acquisition must comply with and these include:
- The role of land-owning communities;
 - a. The role and responsibilities of the investor;
 - b. The role of NGOs and CSOs;
 - c. The role of land the land sector agencies
 - d. Pre-registration requirements;
 - e. Registration of the Grant covering the acquisition; and
 - f. Post-registration requirements.

5.0 Role of The Land-Owning Community

The Guidelines are also intended to encourage land-owning communities to:

- a. Have an open-door and investor-friendly policy and be vigilant in its dealings with the potential investor;
- b. Probe into the benefit-sharing options of the proposed project;
- c. Safeguard the communal interest of all its members in terms of common natural resource use, sources of livelihood, local and food security and sovereignty, deprivation from loss of land and other rights;

- d. Consider long term benefits to the community rather than short term gains and hence, be guided by the benefits to be deprived from inter-generational equity;
- e. **Consider gender issues in the land acquisition process and the rights of women and other vulnerable persons to compensation;**
- f. Establish Community Land Management Committees and also 'buy into' future land information banks to be introduced by Lands Commission
- g. Endeavour to engage the Lands Commission, professionals from relevant bodies, NGOs and CSOs from the outset of the project to advise them on their dealings with investors in terms of negotiating skills, issues to probe and what answers to get back.

6.0 Roles of NGOs and CSOs

The roles of NGOs and CSOs in the acquisition process are as follows:

- a. Keep an eye on details that the bureaucrats may overlook in the process of the acquisition;
- b. **Serve as a 'watch dog' over the interest and rights of the community including the rights of women, youth and other vulnerable groups.**
- c. Support in sensitizing local communities of their rights and building their capacity to negotiate with investors and what questions to ask and what answers to get back.
- d. **Create awareness on the benefits, risks, and externalities of large-scale land acquisition on the livelihood of the community, the vulnerable women and the youth.**
- e. Sensitize and hold traditional authorities to good and governance standards.

- f. Ensure protection of the environment and land user rights.
- g. Ensure transparency of the acquisition process.
- h. Ensure that persons at the low level of representation within the land owning community are well represented at the Community land forum.
- i. Promote the establishment of Community Land Management Committees (CLMC)

7.0 Role of The Lands Commission

The land acquisition process involves the Lands Commission as the lead agency working in co-ordination with one or more of the under listed collaborating state agencies (listed in no particular order of relevance):

- a. Ghana Investment Promotion Centre (GIPC)
- b. Environmental Protection Agency (EPA)
- c. Town and Country Planning Department (TCPD)
- d. Office of the Administrator of Stool Lands (OASL)
- e. Forestry Commission (FC)
- f. Energy Commission
- g. Minerals Commission
- h. Water Resources Commission
- i. Geological Survey Department
- j. Ghana Irrigation Development (GSD)
- k. Others

8.0 Role of The Investor

The large-scale land acquisition process entails the investor(s) identifying the land he is interested in and liaising with the relevant State Agencies for advice. **The process requires investors knowing their responsibilities and financial commitments, facilitating the**

production of various reports such as environmental impact assessment, social impact assessment as well as having an understanding of the facilitating roles of NGOs and CSOs.

The investor shall testify among others, the following requirements:

- a. Conduct land tenure due diligence with the assistance of relevant agencies and professionals.
- b. Provide social, economic and environmental impact assessment report by engaging relevant professionals.
- c. Operate in a transparent manner, which includes FPIC and allow for third –party scrutiny both of which inure to reducing risk and transaction cost, sustainability and long- term profitability of the investment.
- d. Ensure that the investment does not harm food security and sustainability of livelihood of the affected communities but rather strengthen them.
- e. Ensure that contractual agreements are situated within the proper legal framework of Ghana.
- f. Bear the cost of all pre-contractual arrangements regarding the acquisition of land.
- g. Bear the cost all permits required for the acquisition and development of land.
- h. Obtain consent to compensation and bear the cost of compensation due to all affected persons including women.**
- i. Abide by the contractual arrangements and fulfil their social and other responsibilities to land-owning community in good faith.

In case the foreign investors registered in Ghana, the investor will have to seek necessary investment guide from the GIPC.

9.0 The Large-Scale Land Acquisition Process

The acquisition process involves three stages: Pre-registration, Concurrence/Registration and Post-registration (monitoring and compliance).

9.1 Stage One: Pre-Registration Stage

This stage involves the identification of the land by the investor, community engagement, negotiations, holding of local for a based on FIPC, gender considerations and presentation of the investment proposal with justification for the extent of land required.

9.1.1 Identification of Land and Stakeholders by Investor

- This process is mainly to be done by the investor by identifying land that meets his/her requirements. It also involves the investor identifying stakeholders, which includes all persons who hold interest in the land, the type of interest they hold and all users on the land and sample their opinions about the intended project to ascertain whether the acquisition is likely to succeed.
- Having secured an initial agreement with the land owners to permit the use of the land, the investor shall engaged the services of a licensed surveyor to survey the land to determine the extent of land and its suitability for the intended project. Subsequently, the investor shall conduct a search at the Lands Commission for registered interests in the land. The investor shall also check from the Minerals Commission whether any mineral prospecting or concession has been granted over the land.

9.1.2 Community Engagement and Negotiations

- This involves making contract with relevant land-owning and interest groups within the community and negotiating the date, time and venue for holding an initial consultative forum. This should be done in consultation with the Lands Commission, which should facilitate the engagement process with other government agencies such as the District Assembly, TCPD and Ministry of Food and Agriculture.
- The investor must seek relevant professional advice and conduct due diligence on the investment. The investor shall prepare a dossier containing the site plan, proposed development, information on investor profile, partners, communication strategy and affected communities as well as conduct a preliminary Environmental, Social, and Economic Impact Assessments of the proposed project to aid the negotiating process. The investor shall apply for concurrence to Lands Commission after the initial community engagement.

9.1.3 Investor Identity or Screening

Prior to holding a consultative forum, the investor should provide relevant information such as the identity of the investor; track record of the investor (or partners); nature and source of funding for investment; communication strategy with the community; proposed business plan and phases of land development to the Regional Lands Commission.

9.1.4 The Forum

- This is the high-point of the acquisition process.
- The purpose is to ensure that all stakeholders are fully informed of the acquisition and its likely effect on the

community so that the stakeholders will be able to give an informed opinion on the project. In line with this, a local hearing/forum should be held for the community members to accept, turn down or modify the nature of the proposed project before any final documentation is prepared.

- It is, however, anticipated that a preliminary agreement would have stated the essential aspects of the grant such as the location, size, term and proposed use of the land.

9.1.5 Purpose of the Forum

- To ensure effective consultation at the grassroots level, a local hearing (public forum) within the area where the land is to be acquired must be organized.
- The purpose is to:
 - a. Provide an opportunity for all persons likely to be affected by the proposed acquisition of the land to have first-hand detailed information on how much land will be involved, where the land is, its limits, what use it is proposed to be put and what possible impacts the proposal will have on the local community;
 - b. **Identify and address the concerns of the local community members including women with regard to the acquisition; and seek the informed consent of the local community member including women and other vulnerable groups to the project.**

9.1.5.1 Financing of the Forum

- Financing of the public hearing/forum shall be by the investor or acquiring body.
- The investor or acquiring body must submit to the Regional Lands Commission proposals on the process to be followed in organizing the forum for advice.

9.1.5.2 Facilitation of the Forum

- The forum should be facilitated by the Regional Lands Commission with an option of facilitating through a NGO or CSO operating in the area. The Regional Lands Officer in close liaison with the Representative(s) of the particular District Assembly on the Regional Lands Commission will organise this forum.
- The Regional Lands Officer will upon consultation with the traditional leaders give sufficient notices to all persons/stakeholders required to attend the forum at the specified time and place of meeting, preferably within the locality.
- The purpose of the forum should be made known to all parties including the acquiring body, person or investor.
- Before the forum, copies of information on the proposed acquisition and developments as well as ten (10) copies of the site plans should be supplied to the Lands Commission which includes the copies to the District Assembly, TCPD and MOFA and representatives from relevant participating State Agencies. Copies of the Site plans submitted to the District Assembly shall be used for publication under the Land Administration Act 123.

9.1.4.4 Presiding Over the Forum

The Regional Lands Commission in consultation with the traditional authority and opinion leaders of land-owning community who is also a person of repute to preside over the forum.

9.1.4.5 Participation at the Forum

Participants at the forum shall include the following:

- The District Chief Executive (DCE) of the area or his/her representative.
- The Traditional Ruler/Grantor/Clan or Family Head(s) or their elders involved in land matters;
- **Persons occupying and using any land within and contiguous to the land that is the subject matter of the acquisition;**
- The Member(s) of Parliament for the affected communities (optional);
- The Officer(s) in the District(s) responsible for the following Government establishments:

Government establishments: The District Planning Office of the Assembly; Ministry of Food and Agriculture; Environmental Protection Agency; Lands Commission; Office of the Administrator of Stool Lands; Town and Country Planning Department; Minerals Commission (optional depending on specific case); Forestry Commission (optional depending of specific case); Ghana Irrigation Development Authority (optional) and Others (optional depending on specific case) and may include:

- Concerned NGOs and CSOs.
- **Vulnerable and natural resource user groups (women, youth, and elderly indigenous people)**

- The investor(s) or their accredited representative(s) with informed knowledge of the proposed project shall also participate in the forum.

Each of the above-mentioned state agencies and groups may be required to provide a detailed but succinct report on the proposal from the perspective of their establishment. This will enlighten the participants on the issues at stake, enable the local community appreciate the import of the proposal in a wider context and help inform their decision on the project.

9.1.4.6 Issues to be Considered at the Forum

Key issues to be considered at the forum will include the following:

- a. Disclosure of the approximate extent of land under consideration;
- b. The plan for the proposed project must be displayed, the intended use adequately explained (including any phased development);
- c. Known impacts of the project disclosed;
- d. Proceedings should be open, transparent and participatory enough to enable every issue to be heard by all persons **including women, the aged, other vulnerable groups and the youth.**
- e. The needs, concerns, and expectations expressed and how the investor intends to address them should be recorded;
- f. Compensation/resettlement issues should be noted;
- g. **Concerns raised by women, the youth and other vulnerable groups about the project should be noted for consideration by the investor;**

- h. Dissenting views and objections should be noted to allow for balanced reporting;

9.1.4.7 Outcome of the Forum

- a. A duly signed/marked attendance list of all participants at the forum should be prepared and attached to the report of the forum.
- b. Proceedings must be recorded (in writing and on video) and signed/marked by:
 - i. The Chairperson of the forum;
 - ii. The Traditional Ruler/grantor or his representatives;
 - iii. District Chief Executive (DCE) – optional
 - iv. The Member(s) of Parliament for the affected communities (optional).
 - v. The District(s) Officer(s) responsible for the following Government establishments: Ministry of Food and Agriculture; Environmental Protection Agency; Lands Commission, Office of the Administrator of Stool Lands; Town and Country Planning Department
 - Minerals Commission (optional)
 - Forestry Commission (optional)
 - Concerned NGOs and CSOs
 - District Police Command (optional)
 - **Vulnerable groups and natural resource users (women, youth and elderly indigenous people) – (optional)**
 - The investor(s) or their accredited representative(s)

The Regional Lands Officer should ensure that:

- a. Proceedings are well recorded;
- b. Minutes of the forum must be certified by the chairman/person and recorder;

- c. Each technocrat at the session should provide his/her informed detailed and succinct preliminary opinion on the proposed acquisition and its conformity or otherwise with their plan in the District;
- d. An independent preliminary informed assessment and opinion from NGOs and CSOs on the proposed investment should be prepared and added to the dossier on the land submitted by the investor; and
- e. All forms provided as appendices in the Guidelines are properly completed under his/her supervision or delegated officers.

9.1.4.8 *Dissemination of the Outcome of the Forum*

The ultimate decision of the forum should be disseminated to the following:

- a. The Metropolitan, Municipal or District Assembly
- b. The Regional Lands Commission
- c. The Traditional Ruler
- d. The Traditional Council
- e. Affected Clan and Family Heads and their Principal Elders
- f. All those who affirmed the proceedings
- g. The Media
- h. Traditional leaders/ affected clan and family heads and Contiguous land-owning communities to the acquisition
- i. Member(s) of Parliament of the affected communities (optional).

9.1.4.9 *Memorandum of Understanding (MoU)*

MoU as an interim agreement between affected local communities and investors may be prepared before a final

lease is prepared. The MoU shall make clear provisions in regard to the following:

- a. Identity of the parties to the agreement and their contact address;
- b. Language of the forum and evidence that the import of the MoU was understood based on FPIC and where necessary, with interpreters in attendance;
- c. Identification of the rights and list of all potentially affected community members, groups including women and individuals;**
- d. Substantive of all parties to abide by the stipulated terms of the negotiations;
- e. Commitment of all parties to abide by the stipulated terms of the negotiations;
- f. Dispute resolution process which should be fair and accessible to all parties;
- g. Developmental phases of the land agreed on with timelines;
- h. What constitutes a breach of the agreement should be specified and the consequences for the breach and non-compliance;
- i. Re-entry clauses and to whom the land should revert;
- j. Basis and mode of compensation taking into account women and other vulnerable groups; and
- k. List of facilitating agencies in the acquisition process.

9.2 Stage Two: Certification (Concurrence) And/Or Registration

This stage involves the formal submission of the lease document to the Lands Commission for concurrence and/or registration. Upon the receipt of the formal application, for either concurrence for stool/skin lands or registration of family lands, which must include a copy of the

Feasibility Report on the proposal with justification for the extent of land, the Regional Lands Officer must:

- a. Satisfy himself/herself that Stage One has been complied with and that statutory declaration has been made and there is majority agreement on the acceptability of the proposal and the grant of the land;
- b. Cause an inspection of the land to apprise the Regional Lands Commission of the key elements about the land and to ascertain the veracity of the report of the local hearing;
- c. Satisfy himself/herself that the relevant Impact Assessment reports have been submitted and permit obtained from EPA and these are included in the application received for processing by the Lands Commission
- d. Make a recommendation to the Regional Lands Commission for its deliberation if the land is 1000 acres or (approximately 405 hectares) or less;
- e. Provide a summary report which must capture the essentials facts per the fact sheet/checklist attached to this Guidelines and his recommendation to the Regional Lands Commission.

9.2.1 Recommendation to the Lands Commission

Where the land exceeds thousand (1000) acres (approximately 405 hectares) a recommendation must be made to the National Lands Commission for its consideration. This referral must be accompanied by:

- a. The report of the local forum/hearing; and
- b. A brief report from the Regional Lands Officer together with his/her recommendations, including the fact sheet or checklist.

9.2.2 Term of Years and Size of Land to Be Granted

In considering applications the provisions of the Administration of Lands Act, 1962 (Act 123) section 12, are produced here in extensor:

- a. 12(1) Except as provided in subsection (4), a grant of mining or timber rights in a land subject to this Act shall not, subject to articles 266 and 267 of the Constitution, exceed a term of thirty years for mining and thirty years for timber despite anything to the contrary contained in any other enactment.
- b. 12(2) Except as provided in subsection (4), and despite anything to the contrary in any other enactment, a grant of a farming right to a land subject to this Act shall not exceed
 - (i) In the case of land for poultry rearing or the cultivation of cereals, a term of ten years; or
 - (ii) In the case of ranching or the cultivation of mixed or permanent crops, a term of fifty years.
- c. 12(3) Except as provided in subsection (4), a grant of a stool land to any one person and the aggregate of the grants shall not exceed as regards
 - (i) Mining right, 51.80 square kilometres for a grant or, in the aggregate 155.40 square kilometres,
 - (ii) Timber rights, 103.40 square kilometres for a grant or, in the aggregate 621.60 square kilometres, and
 - (iii) The right to collect rubber, to cultivated products of the soil, other than timber, or relating to the pursuit of animal husbandry,
 - For an individual, 2.59 square kilometres or in the aggregate 7.77 square kilometres;

- For a body corporate or unincorporated body of persons established or registered in Ghana 12.95 square kilometres or in the aggregate 25.90 square kilometres.
- d. 12(4) The President may, in the case of particular land where the President is satisfied that special circumstances exist that render compliance with the limits prescribed by this section prejudicial to the national interest or to the interest of a stool, direct that the grant of that land or any other interest in that land shall exceed the areas specified in subsection (3) and the land or an interest in that land may be granted although the limits are exceeded.

9.2.3 Compliance with Provisions of Administration of Lands Regulations, 1962 (Li.232)

All grants and processing of documents for stool/skin lands should also comply with all provisions of the Administration of Lands Regulations, 1962 (L.I. 232).

9.3 Stage Three: Post-Concurrence And/Or Registration Stage

This stage involves the community, investor and relevant state agencies collaborating to perform their roles in accordance with the following:

- a. Monitoring compliance with statutory enactments and terms of the agreement particularly regarding the fulfilment of investor's corporate social responsibility, mitigation of impact of the project and the duties of the community.
- b. Enforcement of sanctions for non-compliance of terms of agreement by either the community or the investor.
- c. Review of the terms and condition of the agreement in the face of extenuating circumstances. In addition to the above, the

relevant state agencies such as the Lands Commission, OASL and Town and Country Planning Department shall perform the under listed roles respectively.

- a. Serve as a repository for the registered transaction documents, evidence of proceedings at the public forum and Memorandum of Understanding signed between the parties for future referencing.
- b. Ensure that revenues collected are disbursed in accordance with the formula prescribed in Article 267 (6) of the Constitution.
- c. Ensure that the project implementation conforms to the approved land use for the area at all points in time.

APPENDICES

These are made up of various forms to be duly completed under the supervision of the Regional Lands Officer and submitted to the Lands Commission.

- Appendix 1: Fact sheet on the company – Which elicits basis information about the investor company
- Appendix 2: Lands Commission’s Vetting Checklist Form – A checklist on the compliance with the Guidelines
- Appendix 3: Stakeholder Consultation Process Form – requires information on formal engagement with stakeholders from community entry up to the organisation of public forum and thereafter. The form which is a sample, is expandable by row and should be reproduced in landscape format
- Appendix 4: Forum Participants Form (Community Members) – Sample of community members who participated in the public forum organised in respect of the land transactions.
- Appendix 5: Forum Participants Form (NGOs, CSOs, Agencies, etc.) – Sample of attendance list of CSOs, NGOs,

Public officials and Investor or their representatives who participated in the public forum organised in respect of the land transaction.

- Appendix 6: Project Objection Form – Sample of objection forum to land transaction or project implementation by community members(s).

Questions for participants:

- 1. In your view do the provisions of the guidelines adequately address gender and other social inclusion issues?***
- 2. If not which sections could be amended to ensure that it addresses gender and social inclusion issues?***

6.0 MISCELLANEOUS

6.1 Strategising For Change

With all the information from previous sections there is indeed the need to strategise to ensure the passage of a Land Bill with gender and social inclusion issues addressed and to advocate for amendments to the other instruments to make them more gender sensitive and socially inclusive.

(i) Need for education/sensitisation of all Stakeholders

There is the need for more people to be informed on issues relating to the Land Bill and the other instruments. This calls for advocacy on several fronts to ensure that more gender and socially inclusive laws are passed. The target groups should include Parliamentarians and policy makers including the Minister for Lands and Natural Resources.

(ii) *Advocacy To Push For The Early Passage Of The Bills*

There is the need to follow-up on the development of the Land Bill and to join the lobbying for the passage of a gender sensitive Land Bill, which also addresses other social inclusion issues.

There is also a need to lobby for amendments to the Land Commission Act and the Lands Commission Guidelines on Land to ensure that they are more gender sensitive and also address social inclusion issues.

(iii) *Building of Partnerships and Alliances*

Participants should consider forming partnerships, alliances or coalitions to push for the following:

- A Land Bill that effectively addresses gender and social inclusion issues.
- The amendment of the Lands Commission Act to ensure that it addresses gender and social inclusion issues.
- The review of the Lands Commission Guidelines to ensure that it effusively considers gender and social inclusion issues.

6.2 Plan of Action

With regard to the action plan following the training note the following:

- (i) Participants of training programmes should be asked to articulate their plan of action to promote the passage of the Land Bill and to push for the review of the Land Commission Act and the Land Commissions Guidelines in their Region, District or community.

- (ii) Participants should be encouraged to sit in groups to discuss this important issue. They should be informed that as a group it is easier for them to achieve a lot in coming together for action than to act as individuals.
- (iii) The plans should be written down and reviewed by all to assess if they have the following qualities:
 - Short
 - Workable
 - Achievable
 - Time bound
- (iv) The resources needed to realize them should also be discussed and suggestions made for changes if required.

6.3 Evaluation Exercise

An evaluation exercise should be undertaken. Evaluation forms should be given to participants to fill out.

APPENDICES

The Appendices are made up of the following documents:

1. Evaluation form
2. Draft Land Bill, 2017
3. Lands Commission Act, 2008 (Act 767)
4. Lands Commission Guidelines for Large Scale Land Acquisition, 2016