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ANNOTATED DRAFT MINISTERIAL ORDER ON ASSIGNMENT OF LAND IN RWANDA

August 2014

This report is made possible by the support of the American People through the United States Agency for International Development (USAID)

CONTACT INFORMATION:

Anna Knox

Chief of Party

LAND Project

Nyarutarama, Kigali

Tel: +250 786 689 685

aknox@land-project.org

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Contract No. AID=696-C-12-00002
Chemonics International

Recommended Citation: Nielsen, Robin. 2014. *Annotated Draft Ministerial Order on Assignment of Land in Rwanda*. Kigali, Rwanda: USAID | LAND Project.

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

CONTENTS

Executive Summary.....6

1.0 INTRODUCTION8

2.0 OBJECTIVES AND PRINCIPLES GOVERNING REVIEW9

3.0 OVERVIEW OF DRAFT ORDER9

4.0 ANNOTATED DRAFT ORDER 13

5.0 CONCLUSION31

DRAFT

EXECUTIVE SUMMARY

This report introduces a draft Ministerial Order determining the Conditions and Modalities for the Assignment of Land (Draft Order). The Draft Order is prepared by the USAID-Rwanda LAND Project at the request of the Rwanda Natural Resources Authority (RNRA) and is prepared under the authority of Law No. 43/2013 of 16/06/2013 Governing Land in Rwanda (2013 Land Law).

The 2013 Land Law uses assignment of land to support temporary arrangements for the productive use of land that is underutilized or degraded. The Draft Order primarily relates to leased land meant for agriculture, livestock, and forestry, as set forth in Article 52 of the 2013 Land Law. However, it also extends to underutilized land in the private domain of the State and other government bodies, providing a single system for assignments of both categories of land.

The 2013 Land Law does not state how the requisition and assignment of land under an emphyteutic lease shall affect the lease and rights and obligations of the lessee. The Draft Order is based on the premise, implied from the 2013 Land Law, that the lease is suspended during the period of assignment rather than terminated. This legal construction may help bring more land into productive use while preserving the underlying rights of government bodies and leaseholders who may be temporarily unable to use the land. The Draft Order uses the same governance and administrative system proposed in other proposed draft land legislation, which promotes efficiency and development of the kind of broad expertise that can support effective decentralization.

In addition, the structure of the Draft Order:

1. Allows for rapid processing of assignments of land when assignees undertake an established lessee's land uses;
2. Permits prospective assignees to apply for an assignment with a proposed change in land use, subject to any land use plans and assessment of the possible need for environmental and social impact studies and other requirements;
3. Allows assignees to continue established uses of assigned land for up to three years after a locally-applicable change in land use planning;
4. Allows rapid termination of the assignment contract in the event that the assignee is unable to use the land as intended;
5. Limits the liability of the lessee and the assignee to their respective periods of possession and use of the land;
6. Requires notification of lessees (with a copy of an application for repossession of land) before renewal of a contract for assignment of land; and
7. Supports the efficient and uniform processing of assignments of land by encouraging central management of the process until the time that sufficient capacity exists within decentralized government authorities.

Through these and other elements, the Draft Order is designed to help the process for the assignment of land operate in a manner that prioritizes the productive use of land while helping protect marginalized and vulnerable landholders from being permanently dispossessed without effective notice and meaningful opportunity to demonstrate their interest in retaining their land. Additional legislative instruments address requisition, repossession, and confiscation of land with provide further protections and efficiencies.

The proposed next steps for RNRA with relation to the Draft Order, and with the support of the LAND Project, as desired, are as follows:

1. Decide the big issues presented in the Draft Order, including the governance and administrative structure for assignments of land, the roles of various government bodies, the general procedures, etc. and revise the Draft Order accordingly.
2. Perform a provision-by provision review of the Draft Order, revising, and identifying content that should be moved to instructions and procedures. Create the derivative instruments.
3. Develop a proposed set of tools (application forms, contracts, checklists, timelines, etc.) to implement the Draft Order and accompanying instructions and procedures.

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1.0 INTRODUCTION

The five-year Rwanda LAND Project seeks to strengthen the resilience of Rwandan citizens, communities, and institutions and their ability to adapt to land-related economic, environmental, and social change. The project has two main components:

1. Increased capacity of local Rwandan institutions to generate high-quality evidence-based research on land related issues and Government of Rwanda (GOR) laws and policies; and
2. Increased understanding of land laws, policies, regulations, and legal judgments on land-related issues by GOR officials, local civil society organizations, research institutes, and citizens.

During the second year of operations, the project's GOR counterpart prioritized reviewing key pieces of land legislation. During a meeting between the project and the Rwanda Natural Resources Authority (RNRA), the parties agreed to divide the activity into two tasks: 1) reviewing land-related draft laws and regulations to address their legal soundness and implications; and 2) drafting new regulations provided for in the 2013 Land Law. The first task is completed. The second task includes drafting the following proposed orders:

1. Presidential Order determining Procedures to be followed in Land Allocation and Land Leasing;
2. Prime Minister Order determining the list of swamp land, their classification, boundaries, and modalities for use, development, and management for the sustainable benefit of all Rwandans; and
3. Ministerial Order determining the conditions and modalities for Assignment of Land.

This report is the third in the series, a draft Ministerial Order determining the conditions and modalities of the assignment of land. In conducting the work, the authors reviewed:

- Rwandan legal framework for land and administrative procedure, with particular attention to Law No. 43/2013 of 16/06/2013 Governing Land in Rwanda (2013 Land Law) and Ministerial Order 001/2008 of 01/04/2008 determining the Requirements and Procedures for Land Lease (2008 Order);¹
- Law and regulations relating to systems of temporary land assignment and transfer in other African countries, including Kenya and South Africa; and
- Law and regulations relating to the temporary transfer of land in non-African countries, including Australia, New Zealand, and Germany.

In addition, the authors met with stakeholders from RNRA and received valuable input on a variety of issues related to the Draft Order.

¹ Preparing a proposed draft Presidential Order to govern land allocation and leasing was a task within the three drafting assignments noted, and the work on that task informed the development of this Draft Order because the existing 2008 Order covered the assignment of land.

The report is organized as follows: Section 2.0 provides a brief overview of the objectives and principles governing the review. Section 3.0 gives an overview of the proposed Draft Order. Section 4.0 sets out the proposed Draft Order, with annotations in footnotes for ease of reference. Section 5.0 concludes.

2.0. OBJECTIVES AND PRINCIPLES GOVERNING REVIEW

The purpose of this report and Draft Order is to:

1. Identify areas where a new Ministerial Order can support GOR policy objectives, including encouraging the productive use of land, addressing instances of land degradation, and protecting the land rights of those who are economically and socially marginalized; and
2. Help strengthen a system of land administration that is efficient, predictable, equitable, and adaptable to increased decentralization of authority as capacity increases.

Legislative drafting, including drafting orders designed to implement laws, is a multi-stage and multi-layered process. This Draft Order is part of the early stages of a process of updating and strengthening the rapidly maturing system of land administration in Rwanda, particularly in the management of land in the private domain of the State, local authorities, public institutions, and parastatals. In addition, the authors anticipate that a good percentage of the content of the current draft should be moved to instructions and procedures. The authors anticipate that, as RNRA reviews the initial drafts of this order and companion instruments and analyzes the experience with the existing legal framework, more issues and options will emerge for consideration, which can inform subsequent drafts.

3.0 OVERVIEW OF DRAFT ORDER

Some of the primary objectives of Rwanda's system of land administration are to:

1. Improve land access and productive use of land by all Rwandans, especially those who are economically and socially marginalized;
2. Support investment in land by making the process and procedures for obtaining and retaining the necessary land accessible, efficient, and predictable; and
3. Support land use planning and development of land consistent with principles of economic growth, alleviation of poverty, sustainable land use, and environmental protection.

The proposed Draft Order aims to support these objectives by situating the process of land assignment within a strengthened and expanded administrative framework for the management of GOR land. The Draft Order uses a governance and administrative system that is based at the central level but permits decentralization of functions relating to the assignment of land where capacity exists.

Nature of “assignment.” The 2013 Land Law defines a land assignment as:

a temporary transfer by the State of the right to use land to a third party when the lessee or owner has failed to fulfill land use directives and obligations. (Article 2(13)).

The Land Law allows the GOR to requisition and assign two categories of land:

1. GOR land designated for agriculture, livestock, or forestry uses that is under an emphyteutic lease and that is not under productive use for no sound reason (Article 52); and
2. Land that is within the private domain of the State, local authorities, public institutions, or parastatals that is not leased out, and that is underexploited, degraded, or about to be degraded (Article 55).

This use of the term, “assignment,” differs from the traditional understanding of an assignment whereby a lessee transfers specific rights and responsibilities relating to the land to a third party (assignee). For example, a typical assignment is an agreement by the lessee with an assignee for transfer of the right to use agricultural land for a growing season in exchange for payment of rent, improvement of the soil, and a percentage of the crop grown. In this standard kind of assignment, the lease between the lessor and lessee remains in force, and the terms of the arrangement generally do not involve the lessor. In some cases, the lessor can proceed against either the lessee or the assignee (or both) for enforcement of the terms of the lease.²

Under the 2013 Land Law, in the case of land under an emphyteutic lease, the lessor (GOR) seizes (“requisitions”) the land and transfers the right to use the land from the lessee to a third party assignee. GOR can requisition land for renewable three-year periods and can assign the land without the lessee’s consent. The lessee has a right to apply for repossession at the end of the period of assignment, with the actual right to repossession subject to the GOR/lessor’s approval. Absent approved repossession and productive use of the land, the GOR/lessor can confiscate the land from the lessee, resulting in a permanent transfer of the land from the lessee to the GOR and, thereafter, to a new lessee.

In the case of land in the private domain of the State or another governmental body that was not leased out, the GOR can assign the land to a third party for up to five years. The governmental body has a right of repossession throughout the period of assignment.

Options for handling the emphyteutic lease. The 2013 Land Law is silent on how the underlying emphyteutic lease is handled in the case of requisition and assignment, i.e., whether the lease is terminated or held in abeyance. A standard way of handling the matter would be for the GOR/lessor to terminate the lease for material breach (e.g., failure to use the land productively, degradation of the land) and then enter into a new lease with a third party. Terms and conditions from the original emphyteutic lease, such as the rent and the agreed business plan, can be carried over to the assignment if desired, or new conditions negotiated. A separate contract can be entered into by the GOR/lessor and the original emphyteutic lessee that allows the lessee to apply for

² See e.g., Henry Dyson. 20023. French Property and Inheritance Law. London: Oxford University Press; Brookers, Ltd. 2012. New Zealand Land Law 2d edition and Property Law Legislation. Auckland: Brookers, Ltd. (Thompson Reuters); S. Rowton Simpson. 1976. Land Law and Registration. London: Royal Institute of Chartered Surveyors.

possession at the end of the term of the assignment and grants the former lessee priority over any other applicants.

Alternatively, assuming that Rwanda permits the temporary suspension of contracts,³ the original emphyteutic lease might be held in abeyance when the land is requisitioned. Upon seizure of the land, the GOR/lessor takes possession of the land and can thereafter transfer rights and obligations relating to the land to a third party (assignee). The period of assignment would be limited to the periods set forth in the 2013 Land Law or the remaining term of the emphyteutic lease, whichever is shorter. At the end of the period, if the original lessee qualifies for repossession, the emphyteutic lease would come back into effect. If this method of managing requisitions and assignments is desired, the form for emphyteutic lease should identify the possibility of suspension and requisition, and the rights and obligations of the parties in that event. In addition, any future revision to the 2013 Land Law should address the intended impact of requisition and assignment on the emphyteutic lease.⁴

Assuming that the civil law permits suspension of the lease, as between the two options there is no apparent substantive difference: in both cases all the rights and obligations under the lease and the new agreement can be dealt with by statute, form provisions, or negotiated on a case-by-case basis. Marginalized landholders can be protected to the same degree. Some procedural efficiencies are available using either method, and both methods require a moderate degree of capacity for the implementing official to manage the transfers of rights and obligations.

However, while the two methods appear to be substantively and procedurally similar, it appears more likely that drafters of the 2013 Land Law and 2008 Order intended some type of suspension of the underlying lease. If the drafters intended that upon evidence of breach, the GOR would terminate the lease and make the land available for a new, short-term lease with the original lessee holding a continuing right of repossession, there would be no need for the distinct procedure included in the law: the basic principles of contract would govern. The 2013 Land Law's classification of the transfers as requisitions and assignments of the land suggests that the drafters intended to create a separate procedure that is based on, but also distinct from, the processes of leasing.

Accordingly, the authors prepared this draft based on an assumption that the emphyteutic lease is suspended (see Article 15) for the period of the assignment. Note, however, some ambiguity remains in the requisition and assignment process. For example, if the lease is suspended once the land is assigned, what is the status of the lessee's rights and obligations under the lease in the event that the land is requisitioned but not yet assigned? If possible, these ambiguities (like the ultimate issue of how the emphyteutic lease is handled) should be addressed in a future draft of the Land Law.

³ We were unable to find a statement regarding the suspension of contracts in the Civil Code or other laws addressing contracts. We were also unable to find any descriptions of the use of this practice in other jurisdictions. The lack of references is not, however, surprising because most provisions regarding assignments of land rights reviewed use the more traditional structure under which the lessee assigns the rights to the assignee and the underlying lease between the lessor and lessee remains in effect. See e.g., Kenya's Land Act, 2012, Articles 69 ff.

⁴ A third possibility—to do nothing regarding the emphyteutic lease—is legally quite problematic for all concerned. In that case the lease would continue in force during the requisition and assignment, both parties (the GOR/lessor and lessee) would be in breach, the agreement for assignment of land between the GOR and the assignee would be void or voidable, and the assignee could potentially be liable for tortious interference with contract—truly a situation where only the lawyers benefit.

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4.0 ANNOTATED DRAFT ORDER

DRAFT MINISTERIAL ORDER NO. _____ OF _____ DETERMINING THE CONDITIONS AND MODALITIES FOR ASSIGNMENT OF LAND

TABLE OF CONTENTS

Preamble

CHAPTER I: GENERAL PROVISIONS

- Article 1: Purpose of Order
- Article 2: Scope of Order
- Article 3: Definitions

CHAPTER II: ASSIGNMENTS OF LAND, GENERALLY

- Article 4: Responsibility for assignment of land
- Article 5: Internal governance and administrative body, delegation, and decentralization
- Article 6: Verification of basis for assignment
- Article 7: Public notice of planned assignment of land
- Article 8: Applicants for assignments of land
- Article 9: Application form, content, and supporting documentation
- Article 10: Submission of applications and incomplete applications
- Article 11: Proposed new land use
- Article 12: Method of selection of assignee and criteria applied
- Article 13: Timeline for decision-making and notification
- Article 14: Negotiate terms of assignment and execute contract
- Article 15: Registration of transfer of rights to assignee

CHAPTER III: TERMS OF ASSIGNMENT OF LAND

- Article 16: Suspension of emphyteutic lease
- Article 17: Rights and obligations of the emphyteutic lessee
- Article 18: Rights and obligations of assignee
- Article 19: Applicable law for assignments on land with mining activities
- Article 20: Rights and obligations of assignee on mining land
- Article 21: Length of assignment of land under emphyteutic lease
- Article 22: Obligation of notice to lessee before renewal of assignment
- Article 23: Length of assignment of degraded or unexploited land of the State and other government bodies

CHAPTER IV: CHANGE IN LAND USE

- Article 24: General prohibition against change in land use
- Article 25: Requests for change in land use
- Article 26: Applications for land use change
- Article 27: Authority over changes in land use of assigned land
- Article 28: Criteria for reviewing application for change in land use
- Article 29: Decision on application for change in land use

- Article 30: Timing of decision for change in land use
Article 31: Notification of the change in assignee's intended use of land
Article 32: Registration of changed land use
Article 33: Change in land use plan by Government of Rwanda

CHAPTER V: TERMINATION OF ASSIGNMENT

- Article 34: Termination of assignment by government body
Article 35: Termination of assignment by assignee
Article 36: Effect of termination of assignment

CHAPTER VI: MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Section One: Miscellaneous provisions

- Article 37: Request for information
Article 38: Serving notices to individuals
Article 39: Serving of notices to the general public
Article 40: Fees and charges
Article 41: Right of review
Article 42: Right of appeal

Section Two: Transitional and final provisions

- Article 43: Validity of prior rights on land in private domain of State and other governmental entities
Article 44: Abrogation of contrary provisions
Article 45: Coming into force of this Order

Given the Constitution of the Republic of Rwanda of June 4th, 2003 as amended to date, especially in its articles 11, 28, 29, 30, 31, 32, 43, 93, 120, 200 and 201;

Given Law No. 43/2013 of 16/06/2013 Governing Land in Rwanda (2013 Land Law) especially in its articles 3, 4, 5, 10, 11, 14 - 18, 23, 25, 27, 32 - 44, 50 - 61, 69 - 70, and 72 -73;

Given the Presidential Order N° 53/01 of 12/10/2006 determining the structure, the powers and the functioning of the Office of the Registrar of Land Titles;

Given Ministerial Order No. 003/14 of 14/04/14 determining responsibilities, organization, and functioning of District Land Bureau;

Given Ministerial Order 001/2008 of 01/04/2008 determining the Requirements and Procedures for Land Lease;

After consideration and adoption by the Cabinet, in its meeting of [_____]:

HEREBY ORDERS:

CHAPTER I: GENERAL PROVISIONS

Article 1: Purpose of Order⁵

The purpose of this Order is to create a system governing the short-term use of land under assignment that:

1. Promotes the productive and sustainable use of land held in the private domain of the State, local authorities, public institutions, and parastatals; and
2. Protects against unwarranted permanent dispossession of landholders, especially those who are economically and socially marginalized.

Article 2: Scope of Order

This Order sets rules, procedures, and processes for the assignment of land in the private domain of the State, local authorities, public institutions, and parastatals. The land subject to this Order is either:

1. Land under an emphyteutic lease that is meant for agriculture, livestock, or forestry that: a) the State has requisitioned and made available for assignment; and b) for which the State has suspended the emphyteutic lease;⁶ or
2. Land retained by the State, local authorities, public institutions, and parastatals in their private domains, whether exploited or not.⁷

Article 3: Definitions

⁵ The purpose and scope of the Draft Order is derived from: 1) the provisions relating to the assignment of land in the 2013 Land Law; 2) Ministerial Order No. 1/2008 01/04/2008 determining the requirements and procedures for land lease (2008 Land Lease Order); and 3) policy statements focused on improving the productivity and sustainable use of land, and protecting the rights of marginalized landholders contained in the 2013 Land Law, the Land Policy, the Economic Development and Poverty Reduction Strategy 2013 – 2018, and the 2010 Framework and Guidelines for Land Policy in Africa.

⁶ The impact of assignment on the emphyteutic lease should be, if possible, set out in a future version of the Land Law. As noted in the Overview, based on implications in the Land Law, the Draft Order takes the position that the emphyteutic lease is suspended during the period of assignment. Reference to the suspension, and the impact on the lessee's rights and obligations, is also included in Chapter III.

⁷ The Draft Order includes the assignment of land that is within the private domain of the State, local authorities, public institutions, and parastatals that: 1) has not been leased out to third parties; and 2) is degraded, about to be degraded, or unexploited. This category of land is referenced in Article 55 of the 2013 Land Law as requiring the mandatory, temporary transfer of the land to a person who can make the land productive. The nature of the transfer described in the article is ambiguous. The English version of the Land Law uses the term "allocation" rather than "assignment." However, in the French version, the verb, *confier*, is used, which is translated as "assignment" in other portions of the law. In addition, the article is within the group of articles relating to the assignment of land. The period of transfer is short (up to five years, renewable), like an assignment. However, the article notes that the transfer should be based on a business plan, implying that the third party is responsible for creating and submitting a plan of use, as would be true for an applicant for a land allocation and emphyteutic lease. In contrast, in a traditional assignment of land, there is a general assumption that the assignee will take up the business or development plan of the current landholder or lessee. Finally, the article provides that the landholding governmental body can repossess the land from the assignee at any time, which is at odds with both a standard assignment and a land allocation and lease. The authors elected to include this category of land (i.e., land within the private domain of the State, local authorities, public institutions, and parastatals that has not been leased out) as available for assignment in this Draft Order because of its placement in the 2013 Land Law and its close resemblance to other land subject to assignment to third parties. However, it may well be that after consideration, RNRA determines that this category of land is better situated in the Presidential Order on land allocation and leasing.

The following terms used in this Order are defined as follows:

Business Plan: a written document that sets out a detailed description of the objectives and design for a planned project and the project's anticipated operational, management, and financial structure and forecast.

Land assignment:⁸ a temporary transfer by the State of the right to use land to a third party when the lessee or owner has failed to fulfill land use directives and obligations.

Land in the private domain of the State and other government bodies: land in the private domain of the State, local authorities, public institutions, and parastatals.

Emphyteutic lease:⁹ an agreement between a landholder and person that grants the person a long-term right to use a parcel of land as if the person were the landowner, subject to payment of agreed rent and the person's improvement or productive use of the land. Emphyteutic leases have terms of between three (3) and ninety-nine (99) years and may be renewable.

Environmental and social impact assessment (ESIA)¹⁰: an evaluation that identifies effects that may be caused by planned human activities or a project. An Environmental and Social Impact Assessment is equivalent to an environmental impact assessment (EIA) that includes the required social impact assessment section.

Lessor: a landholder who grants a lease and rents property to another.

Lessee: one who rents property from another.

Person: an individual, a registered company, or an association with legal personality.

Registrar: the Registrar of Land Titles or Deputy Registrar of Land Titles.

⁸ The proposed Draft Order includes the definition of "land assignment" from the 2013 Land Law, which is different than the traditional legal definition of "assignment." As noted in the Overview above, the legal framework governing land allows for the governing authority to requisition or seize land under an emphyteutic lease under certain conditions. The governing authority may (but is not required to) thereafter transfer the use of the land and obligations related to the land to a third party on a temporary basis. That temporary transfer of rights from the lessee to the assignee by the governing authority (the lessor) that seized the land from the lessee is considered an "assignment." The 2013 Land Law does not describe the manner in which the contractual relationships to the land are created and terminated in an assignment. The Overview discusses possible options.

⁹ The Draft Order includes a definition of "emphyteutic lease" that is adjusted slightly from the definition in the 2013 Land Law. The definition in the 2013 Land Law limits emphyteutic leases to leases of "State land." The definition is problematic because "State" is defined and used in various instruments in a manner that does not extend to parastatals, public institutions, and, in some cases, local authorities. However, all of those entities are emphyteutic lessors. For purposes of this draft, the Draft Order suggests a revision of the term so that it uses the common definition of the term and is not restricted to land leased by the State. Under the broader definition (which is also used in the Civil Code and the text of other instruments), emphyteutic leases can be granted by public institutions and parastatals, as envisioned by the text of Land Law and subordinate instruments.

¹⁰ The term Environmental and Social Impact Assessment (ESIA) is a revised term for the Environmental Impact Assessment (EIS) currently in use in Rwanda and referenced in the 2005 Environmental Law. The standard EIS includes a social impact section; the change in title is international best practice and may help to give appropriate attention to the social impact section of the assessment. For further discussion of the issue of retitling the EIS, please see the discussion in USAID-Rwanda LAND Project's Draft Prime Minister Order on the Modalities for the Use, Development, and Management of Swamp Land in Rwanda.

CHAPTER II: ASSIGNMENTS OF LAND, GENERALLY

Article 4: Responsibility for assignment of land¹¹

The central government body with authority over land has primary responsibility for managing the assignment of land that has either been requisitioned or has been found to be degraded or unexploited land in the private domain of the State, local authorities, public institutions, or parastatals. This responsibility includes the following tasks:

1. Verify basis for land requisition and assignment;
2. Publish notice of planned assignment;
3. Select assignee;
4. Establish terms and conditions governing assignment;
5. Negotiate and execute contract for assignment of land;
6. Manage performance of the contract of assignment, as necessary; and
7. Upon termination of assignment, facilitate repossession, transfer of the land, or confiscation as dictated by applicable law and circumstances.

Article 5: Internal governance and administrative body, delegation, and decentralization

The central government body with authority for land shall establish an internal working committee or other internal administrative and governance body to manage, delegate, and oversee the processes for the assignment of land.¹²

The central government body with authority over land may delegate tasks related to the assignment of land to competent government bodies, including specialized government bodies and local authorities. In the event of such delegation or decentralization, the

¹¹ This article identifies the central governance body with authority over land as responsible for the assignment of land. Although the article also permits delegation of the authority to decentralized bodies with capacity, such as district land offices, the engagement of the central authority in the process is important for several reasons. First, assignments are granted when another party, usually an emphyteutic lessee but also potentially a governmental entity, such as a public institution, has failed to put or keep the land under productive use, or has permitted the land to become degraded. Assignees, therefore will potentially have a larger task than the original landholder or lessee because the land may be in a compromised condition. Second, assignments can extend for a period of up to six years, which may be as long as some emphyteutic leases. There is no reason to distinguish between the requirements for lessees of shorter emphyteutic leases (which are allocated by the central governmental body responsible for land) and assignees. Third, assignments are likely to be rarer than leases, which means that some decentralized authorities may have little or no experience with them and there may be a temptation to handle assignments rapidly and without as much attention to the qualifications of the applicants. Note, however, the local decentralized authorities have perhaps the best knowledge of the local communities and the issues various groups face in accessing land and securing their land rights. Thus, while in the initial period some level of central control is useful to set standards and procedures and help ensure consistency, local input will be essential to the assignment of land process, including land identification and the selection of assignees. In addition, assignments of land, as opposed to land allocation and leasing, are less complicated transactions and potentially a good area to plan for decentralization of duties as soon as capacity exists.

¹² The authors recommend creation of a working committee within the central body with authority for land to manage the assignment of land, land allocation and leasing, issuance of use agreements for swamp land, and, if practical, land expropriation. The report discusses the suggested internal governance body more thoroughly in Section 2. For purposes of the Draft Order, the provisions refer to authority and responsibility of the central body for land in order to maintain flexibility for the body in how it wishes to organize the administrative and governance functions internally.

central government body shall have responsibility to oversee the operations of the designated government bodies.

Article 6: Verification of basis for assignment

Prior to any assignment of land under this Order the central government body for land or a designated government body must verify that the land either:

1. Qualifies for assignment under Article 52 of Law No. 43/2013 of 16/06/2013 governing land in Rwanda; or
2. Qualifies for assignment under Article 55 of Law No. 43/2013 of 16/06/2013 governing land in Rwanda.

Verification may be made by:

1. Personal inspection and reporting by an official from the central government body for land; or
2. Personal inspection and reporting by an official from the designated government body.

Reports shall be in writing and submitted to the central government body for land. A copy of the report shall be submitted to any designated government body conducting investigations of land and the District Land Office.

Article 7: Public notice of planned assignment of land¹³

The central government body with authority over land or the designated government body shall publish a notice of the availability of land for assignment in accordance with the notice procedures set out in this Order in Chapter VI. The notice shall:

1. Identify the land;
2. Identify the established land use and the existence of any Business Plan;
3. State the length of the assignment;
4. State the rights and obligations of the assignee;
5. Describe the application procedure and the selection process; and
6. State the timeline for submission of applications and the decision on the assignment.

Article 8: Applicants for assignments of land

Any person can apply for an assignment of land.

Article 9: Application form, content, and supporting documentation¹⁴

¹³ The notice is more comprehensive than some standard forms, but the additional detail may assist in streamlining the process because applicants may self-select based on the detailed description of the terms of the assignment. The list of information on the assignment includes a statement of the rights and obligations of the assignee, such as rehabilitation of land. Note also that if the GOR wishes to consider new land uses during the term of the assignment, the notification should also indicate that the successful applicant may need to provide additional documentation, including a Business Plan and potentially an ESIA and confirmation of community consultation.

¹⁴ The proposed application is comprehensive, but less involved than suggested for a land allocation. Because the length of an assignment is relatively short, in most cases the assignee will likely continue the use made of the land by the lessee. In the event that the assignee intends to change the land use, the

Applicants for an assignment of land shall complete and submit an application in the form provided in Annex 1 to this Order. The application shall include:

1. Proof of identification of the applicant, which shall be provided as follows:
 - a. Individuals, whether applying individually or as a group of individuals, shall provide their national identification and passport photos.
 - b. If an applicant is an individual and married under a regime of community of property or limited community of acquests, the application must be joint with the spouse and identification provided for both individuals.
 - c. If the applicant is a corporate entity, association, cooperative or other legal entity, or the applicant represents such an entity, identification must include proof of the entity's registration as a legal person.
2. Location of the land applied for, by District, Sector, and Cell;
3. Any other land held by the applicant, including the land's location, use, and tenure status;
4. A statement regarding the planned land use and development;
5. A statement whether the planned use and development is consistent with the lessee's actual land use and Business Plan, if applicable;
6. The applicant's experience with the land use(s) designated for the subject land and demonstrated ability to exploit, protect, and conserve land, as appropriate; and
7. Any required fee.

The government body designated to review and render decisions on applications may request additional relevant information from applicants. All applicants shall be advised of the request for additional information and shall have equal chance to submit the additional information.

Article 10: Submission of applications and incomplete applications

Applicants shall submit applications for assignments of land to the central government body with authority over land or the designated government body.

If a designated government body accepts applications, it shall forward them to the central body with authority for land within two (2) business days.

All applications must be complete before they will be considered. The government body receiving applications is responsible for reviewing applications for completeness at the time of submission. The government body shall refuse any incomplete applications and shall advise the person submitting the application of the information that must be provided to complete the application.

Article 11: Proposed new land use

In the event that an applicant's proposed land use is substantially different than the lessee's land use, the following steps shall be taken:

decision-making authority will need to determine what information will be required, including, potentially an ESIA and Business Plan and evidence of the applicant's capabilities to conserve the land and productively exploit it, as required by Article 54 of the 2013 Land Law. If the assignee plans to introduce new land uses, the reviewing body will need to conduct an evaluation of the current and proposed land uses and determine what additional requirements the applicant must meet. The new land use may, for example, require new social and environmental studies (or addendums) and community consultations.

1. The government authority accepting an application for an assignment of land with a proposed new land use must confirm that the applicant's proposed land use is consistent with the land uses identified in applicable national and district-level land use plans. If the proposed land use is not consistent with existing land use plans, the government authority must reject the application.
2. If the proposed new land use is consistent with applicable land use plans, the government authority must advise the applicant proposing a new land use that, if selected, he or she will be required to submit a Business Plan and may be required to conduct an Environmental and Social Impact Assessment and related studies and consultations as a condition of the assignment.
3. Upon receipt of the application with a proposed new land use, the government body with authority for land shall contact the government authority for the environment to assess whether the proposed land use requires an Environmental and Social Impact Assessment, permit, or other action. The government body with authority for the environment shall conduct the assessment and advise the government body with authority for land of the result.

Article 12: Method of selection of assignee and criteria applied¹⁵

The central government body with authority over land or the designated government body shall select the assignee.

In making its selection of assignee, the government body shall review applications for an assignment of land and conduct any additional information gathering using the following criteria¹⁶ to guide the decision-making:

1. Identification of the applicant as within a group targeted by the GOR for support;
2. Reputation of applicant for managing similar land, land uses, and projects, as applicable;
3. Applicant's proposed land use and its relation to the lessee's existing land uses and Business Plan;
4. If applicant's proposed land use is substantially different than the lessee's land use, the need for an Environmental and Social Impact Assessment, community consultations, permits, or other studies or actions;¹⁷
5. Financial ability of applicant to undertake the assignment;
6. Applicant's proposed schedule for bringing land into productive use and remedying any degraded conditions.

The government body shall assess each applicant with relation to the criteria and assign each applicant a rank. The government body shall select the applicant with the highest rank.

¹⁵ The article requires the decision-maker to take into account the relationship between the lessee's current or planned land uses and business plan and those proposed by the applicant. The article does not guide the decision-maker as to what priority to place of the extent to which an assignee's planned use relates to the lessee's use or planned use. The omission is intentional: in some cases, the best applicant will be the one who can seamlessly take over the operations of a lessee; in other cases, the lessee's plan may have been ill-advised or otherwise unworkable and an entirely new operation may be necessary to make the land productive.

¹⁶ The criteria include those factors that will likely have an impact on the ability of an applicant to bring land into productive use in accordance with the existing uses and Business Plan, as applicable.

¹⁷ The government body for the environment shall provide this information.

In order to aid its decision-making, the government body may query any applicants proposing new land uses regarding their plans to conduct any required assessments, consultations, or studies to meet environmental and social obligations should they be selected for the assignment.

Article 13: Timeline for decision-making and notification

The central government body with authority over land or the designated government body shall make its decision within ten (10) business days of the application deadline or five (5) business days after the body's receipt of the applications, whichever is longer.

The government body shall notify the successful applicant, other applicants, and the public within one (1) business day of the decision. The government body shall publish public notice of the assignment in accordance with the standard in Chapter VI within three (3) business days of the selection.

Article 14: Negotiate terms of assignment and execute contract

The central government body with authority over land shall negotiate terms of the contract of assignment with the selected assignee and execute the contract of assignment.¹⁸ A form contract of assignment is at Annex 2 to this Order.

Article 15: Registration of transfer of rights to assignee¹⁹

Following execution of the contract of assignment, the government body for land shall provide the Registrar with the information regarding the assignment necessary for registration of the transfer of rights.

CHAPTER III: TERMS OF ASSIGNMENT OF LAND²⁰

Article 16: Suspension of emphyteutic lease

In the event that the Government of Rwanda requisitions land under Article 52 of Law No. 43/2013 of 16/06/2013 governing Land in Rwanda, the emphyteutic lease shall be suspended for the period of any assignment of the requisitioned land to a third party.

Article 17: Rights and obligations of the emphyteutic lessee

The suspension of an emphyteutic lease and requisition and assignment of land under emphyteutic lease to a third party assignee shall have the following effect on the rights and obligations of the emphyteutic lessee, unless modified by the terms of any written

¹⁸ Negotiation and execution of contracts of assignment should be performed by the central government body for land, rather than a local office. If the central body has delegated various steps in the process to a local authority, the execution of contract of assignment is an opportunity for the central body to review the file and supporting documentation and ask any questions and address any issues or omissions before the contract is finalized. The process is also a method to keep the central body advised as to the assignment activity nationwide.

¹⁹ The register should note that the emphyteutic lease was suspended and the land assigned to the assignee for the contracted period.

²⁰ The rights and obligations are drawn from the 2013 Land Law and common law principles of contract. These terms are set out in the Order as opposed to left for the form of contract because, unlike the emphyteutic lease form provided, there appears no established form for an assignment of land and it is unknown how RNRA will want to handle to legal transfer of rights.

agreement between the lessee and the central governmental body with authority for land:

1. For the period during which the emphyteutic lease is suspended, the lessee shall have no rights of possession or use of the subject land nor any rights to any improvements on the land or production or profit from the land.
2. For the period during which the emphyteutic lease is suspended, the lessee shall have no rights to transfer the subject land. If the lessee dies during the period of lease suspension, the right of any heirs to the leased land shall be equivalent to the rights held by the lessee before death.²¹
3. After termination of the assignment, the lessee has the right to request repossession in accordance with Article 56 of Law No. 43/2013 of 16/06/2013 governing Land in Rwanda.

If a lessee is an individual married under a regime of community of property or limited community of acquests, the rights and obligations may be held jointly with his or her spouse.

Article 18: Rights and obligations of assignee

The assignee shall have the following rights, unless modified by the terms and conditions of the contract of assignment:

1. Full and exclusive possession and use of the subject land, in accordance with the existing or new Business Plan, or as agreed in the contract of assignment, but with no right to transfer the land, whether by lease, mortgage, gift, sale, bequest, assignment, or any other method of transferring any rights to the land or land uses or activities on the land; and
2. Production and profits from the land and any activities on the land earned or received during the period of the assignment.²²

The assignee has the following obligations:

1. To manage and operate activities on the land in accordance to the established or new Business Plan, or as agreed to in the contract of assignment;
2. To pay all rent, fees, and other costs related to land and land use for the period of the assignment;
3. To maintain land uses in compliance with national, district, and municipal land use plans; and
4. To use, conserve, and protect the land and its natural resources and improvements as a trustee for the Government of Rwanda and lessee.

²¹ In other words, any heirs with interests in the land step into the shoes of the lessee (and, for example, would be able to claim the lessee's right to request repossession under Article 56).

²² This provision limits the assignee's rights to production to the period of assignment, thus potentially denying the assignee rights to standing crops at the time the assignment concludes. The Order could extend the rights to production through the harvest period immediately following the termination of the assignment, but the assignee would be required to have access to the land of harvesting and an interest in the new assignee or former lessee's care of the crops. Because of the difficulties managing any continuing interest of the assignee in standing crops, the authors did not extend the assignee's rights. While the current provision is simpler, one consequence is that assignees will have little incentive to plant a final crop, unless they can negotiate with the government for the value of the standing crops, perhaps with the value paid by the new assignee or lessee.

If an assignee is an individual married under a regime of community of property or limited community of acquests, the rights and obligations shall be held jointly with his or her spouse.

Article 19: Applicable law for assignments on land with mining activities

The assignment of land with mining sites and quarries shall be governed by the legal framework governing minerals and mining and the environment in Rwanda.

Article 20: Rights and obligations of assignee on mining land²³

The assignee on mining land has no right to minerals on or beneath the surface the leased land.

The assignee shall permit authorized persons to enter the assigned land for purposes of research, exploration, or extraction of minerals in accordance with applicable law. The assignee shall be entitled to compensation for any damage to the leased land that interferes with the assignee's land use and any damages to any improvements or activities of the assignee.

Article 21: Length of assignment of land under emphyteutic lease and renewal²⁴

An assignment of land under an emphyteutic lease is valid for the contracted period, up to three (3) years, or the period of land requisition, whichever is shorter.

An assignment of land under an emphyteutic lease may be renewed for the same contracted period, up to a total period of assignment of six (6) years or the total period of land requisition, whichever is shorter.

The decision of the government body on renewal of the assignment shall be based on the same criteria as the government body used in the determination of the original assignment.

Prior to any renewal of an assignment of land under an emphyteutic lease, the central government body with authority for land or the designated government body must give notice to the lessee and allow the lessee an opportunity to apply for repossession in accordance with Article 22 of this Order and Article 56 and Article 57 of Law No. 43/2013 of 16/06/2013 governing Land in Rwanda.

Article 22: Obligation of notice to lessee before renewal of assignment

An assignee's right to renewal of an assignment is subject to the emphyteutic lessee's right to seek repossession at the end of the initial term, as set forth in Article 56 of Law No. 43/2013 of 16/06/2013 governing Land in Rwanda.

Prior to any renewal of an assignment of land under a suspended emphyteutic lease, the government body responsible for the renewal of an assignment of land must notify the

²³ These principles relating to mining land are carried over from the 2008 Order on land leases because they appear to be equally applicable to assignees.

²⁴ This article is based on the time limits on land requisitions set forth in Article 52 of the 2013 Land Law and encompasses obligations relating to the lessee's right to repossession.

lessee of the subject land of the termination of the period of assignment and the opportunity to request repossession of the land.

Notice under this section shall be given in accordance with the provisions in Chapter VI of this Order. The notice must contain:

1. An explanation of the right to repossession as set forth in Article 56 of Law No. 43/2013 of 16/06/2013 governing Land in Rwanda;
2. An application for repossession in the prescribed form;
3. Information on where to file the application; and
4. The deadline for filing the application.

A form application for repossession of land is attached as Annex 3 to this Order.

Article 23: Length of assignment of degraded or unexploited land of the State and other government bodies

Land in the private domain of the State and other government bodies that is degraded or unexploited may be assigned for a period of up to five (5) years, with one renewal for an equivalent period.

The decision of the government body on renewal of the assignment shall be based on the same criteria as the government body used in the determination of the original assignment.

Renewals are subject to the State or government body's right of repossession set forth in Article 55 of Law No. 43/2013 of 16/06/2013 governing Land in Rwanda.

CHAPTER IV: CHANGE IN LAND USE²⁵

Article 24: General prohibition against change in land use

Land development and uses under assignments of land shall comply with national, district, and municipal land use plans.

An assignee shall not alter the use of assigned land in a manner that is contrary to an established land use plan, except by an order of the Minister having land in his/her attributions.

Article 25: Requests for change in land use

Assignees may apply for change of land use that is consistent with the established land use plan.

Assignees must use the form attached as Annex 4 of this Order to request a change in land use. Assignees shall submit their request for a change in land use to the designated government body.

²⁵ This chapter is almost identical to the chapter in the draft order on land allocation and leasing. The provisions are offered of consideration in the context of land assignments because the assignment may continue for six years and thus may span a period in which the area undergoes a change in land use planning. In addition, an assignee may well discover that the intended use of the land by the lessee (or the assignee himself) was ill-considered and seek a change in land use within the current land use plan.

Article 26: Applications for land use change

The requirements for application for a change in use of land within an established national or district land use plan shall be the same as for the application for assignment of land, including the requirement of identification and consent of spouses, if applicable, with the following additions:

1. The assignee shall describe:
 - a. the reason for the change in land use; and
 - b. the planned new land use.
2. The application must be supported by a clearance certificate issued by local authorities.
3. For a change in land use for project land, the assignee must provide a plan for addressing any required Environmental and Social Impact Assessment, permit, or other requirements relating to the change in land use.

Upon receipt of the application with a proposed new land use, the government authority for land will contact the government authority for the environment to assess whether the proposed land use requires an Environmental and Social Impact Assessment or new Environmental and Social Impact Assessment, permit, or other action. The government body with authority for the environment shall conduct the assessment and advise the government body with authority for land of the result.

The government body with authority for land shall notify the assignee of the decision regarding the need for an Environmental and Social Impact Assessment, permit, or other requirement. If the proposed new land use requires an Environmental and Social Impact Assessment, permit, or other requirement, the government body shall advise the assignee of the process for obtaining the necessary documents.

Article 27: Authority over changes in land use of assigned land

The central government body with authority over land has authority over changes in uses of land under assignment. The central government body may delegate decision-making authority to a competent government body, subject to the central government body's review of the proposed decision.

Article 28: Criteria for reviewing application for change in land use

The central government body with authority over land or the designated government body shall base its decision on the request for a change in land use on the following criteria:

1. Need for a change in land use, as stated in the application;
2. Relative value of the current and desired land uses under Government of Rwanda policy;
3. Economic feasibility of the new land use;
4. New Business Plan, if required
5. Any Environmental and Social Impact Assessment or plan for compliance with any applicable Environmental and Social Impact Assessment or other standards or requirements; and
6. The requested period of the assignment.

Article 29: Decision on application for change in land use

The decision of the government body on an application for a change in land use shall be issued in writing and shall include:

1. Whether the application is granted or denied;
2. If the application is approved, the new land use;
3. If the application is denied, a statement as to the reason for the denial; and
4. If the land use is changed, any change in the length of the assignment.

Article 30: Timing of decision for change in land use

The central government body with authority over land or the designated government body shall make its decision on an application for a change in land use within 14 days of receipt of the application.

If the central authority has delegated the review of the application, the decision-making body must seek review of the proposed decision by the central authority. The decision-making authority must submit its proposed decision to the central authority within 7 days of receipt of the application. The central authority shall have 7 days to make the final decision.

Article 31: Notification of the change in assignee's intended use of land

The central government body with authority over land or the designated government body shall notify the applicant of the decision on the application for a change in land use within three (3) days of its decision.

Article 32: Registration of changed land use

The central government body with authority over land or the designated government body shall notify the Registrar of a decision to grant a request for a change in land use within three (3) days of its decision.

The Registrar shall register the change in land use and any change in the term of the assignment on the Certificate of Leasehold Title.

Article 33: Change in land use plan by Government of Rwanda²⁶

1. Notification of any new land use plan governing assigned land shall be made in accordance with the notice provisions in Chapter VI.
2. Assignees with an assignment period of less than three (3) years as of the date of the notification of change in land use plan shall not be required to bring their land uses into compliance with the changed land use plan.
3. Assignees with an assignment period of three (3) years or more from the date of notification of the change in land use plan shall be required to bring their use of land into compliance with the new plan. Assignees shall have a period of at least

²⁶ Consistent with input from stakeholders, this provision limits the obligations of assignees to comply with new land use plans to those who have assignment of three years or more. The proposed article gives assignees a period of two years to comply with the new land use plan, which is identical to the period of time for lessees to comply. The article also gives assignees an opportunity to cancel their assignment contract within six months, without penalty.

- two (2) years from the day of publication of any new obligations to bring the use of the land under lease into compliance.
4. Any assignee with an assignment period of three years or more as of the date of notification of a change in the land use plan that impacts the assignee's operation shall have the option to cancel the assignment without penalty. Cancellation must be made within six (6) months of the date of notification of the change in land use plan.

CHAPTER V: TERMINATION OF ASSIGNMENT

Article 34: Termination of assignment by Government of Rwanda

The central government body with authority for land can terminate an assignment of land under the following circumstances:

1. At the expiration of the term of the agreement for the assignment of land, where the former lessee has been granted repossession in accordance with Law No. 43/2013 of 16/06/2013 governing Land in Rwanda, or where renewal of the assignment is not available;
2. With fifteen (15) days written notice and upon evidence that the assignee is in material breach of the contract for the assignment of land;
3. Pursuant to Article 55 of Law No. 43/2013 of 16/06/2013 governing Land in Rwanda, at any time that the State, local authority, public institution, or parastatal seeks repossession of the land in its private domain and pays compensation for any development of the land by the assignee; or
4. Upon expropriation of the land in the public interest, in accordance with the applicable law.

Article 35: Termination of assignment by assignee

An assignee may terminate an assignment under the following circumstances:

1. The expiration of the contract of assignment;
2. Upon fifteen (15) days written notice to the government body responsible for the assignment of land, where the assignee is unable to use the subject land as intended in the contract of assignment because of actions of the lessee or other third party outside the control of the assignee;
3. Where mining operations affect the assignee's ability to use the land or activities and the assignee wishes to terminate the assignment;
4. Where the assignee must comply with a new land use plan and the assignee elects to terminate the assignment as provided for in Article 32; or
5. Where the assigned land is expropriated in the public interest.

Article 36: Effect of termination of assignment²⁷

²⁷ These rights of termination are essential to attracting assignees because they allow the assignee to terminate the assignment in the event the assignee cannot realize a sufficient profit or otherwise loses the ability to benefit from the assignment as a result of the actions of others.

The list of effects of termination include absolving the assignee of responsibility for payments of rent and other charges related to the subject land after the assignee is no longer in possession. This change from a common law principle of assignment is consistent with the nature of the assignment that appears to be intended by the 2013 Land Law because in general the Land Law does not extend obligations related to use and possession of land to parties who are not in possession of land. In addition, the release from continuing liability for rent after vacation of the land is adopted by Kenya's 2012 Land Act, Section 71.

Termination of a contract of assignment, whether by Government of Rwanda or the assignee, shall have the following effects:

1. The assignee's rights to possess and occupy the land shall cease;
2. The assignee shall continue to be responsible for payment of any unpaid rent or other charges due to the assignee's use and possession of the land up to the date of termination of the assignment;
3. An assignee who terminates the contract of assignment because of land expropriation in the public interest or because mining activities adversely impacted the assignee's ability to use the land shall be compensated in accordance with remedies contained in legislation related to expropriation in the public interest; and
4. Upon vacation of the land, the assignee shall not be responsible for future rent or charges related to possession or use of the land.

CHAPTER VI: MISCELLANEOUS, TRANSITIONAL AND FINAL PROVISIONS

Section One: Miscellaneous provisions

Article 37: Request for information²⁸

Any governmental body with authority over land may, by notice in writing, require an assignee provide the governmental body with information, in writing or by interview, about the occupation and use of the assigned land.

If an assignee cannot respond in writing, the responsible officer shall interview that person and obtain the required information by means of that interview. The interviewee may request another person for his or her choosing be present at the interview and may decline to be interviewed if after making such a request, no person is present at the interview. In that circumstance, the official may arrange for a third party of the official's selection to be present.

Article 38: Serving notices to individuals

Without prejudice to the notice provisions in this Order or related legislation, governmental notices that are served on individuals shall be delivered to the individual by hand, or sent to the individual at the address of record. Notices shall be drafted in Kinyarwanda and English, and any other language that is used by the population to whom the notice is directed. If the governmental body has reasonable cause to know that these methods have not been successful, notice shall be made by affixing a copy of the notice in a conspicuous place at the District, sector, and cell offices where the land is located.

Article 39: Serving of notices to the general public

Where a notice or other information is to be published or given such publicity as will bring it to the attention of all persons likely to be affected by it, the governmental body responsible for issuing the notice shall:

1. Draft the notice in Kinyarwanda and English, and any other language that is used by the population to whom the notice is directed;

²⁸ This article is retained from the existing 2008 Order.

2. Affix the notice in a conspicuous position at the sector and cell offices of the sector and cell in which the land is located and in such other public places in any cell or village as the sector executive secretary shall direct; and
3. Summarize the notice and communicate it orally to the people living and working in the area where the land is located at such meetings as may be convened by the sector or cell executive secretary for that purpose.

Article 40: Fees and charges²⁹

Any fees or charges payable under this Order shall be prescribed in specific laws or gazetted regulations developed by competent authorities in accordance with the law.

The Registrar shall refuse to make an entry in the register of title or register a document with respect to an assignment of land with respect to which a charge has not been paid in whole or in part, unless and until he or she is satisfied on the basis of written evidence produced before him or her that it has been agreed between the payer and payee that such charge may be paid in instalments and there are no arrears in those instalments.

Unpaid fees or charges incurred by the Government in connection with any attempt to recover an unpaid charge shall constitute a civil debt owed by the payer to the Government.

The governmental authority responsible for land shall establish arrangements to review, and if the case is made out to remit in whole or in part the charges and fees payable by any person in connection with the holding of a contract of assignment who claims that by reason of poverty, infirmity, the effects of a natural or other disaster or other similar cause, he or she cannot pay the charges or fees required to be paid under a contract of assignment and thereafter to keep such case under continuous review and, where necessary, make further adjustments, either to increase or reduce the charges or fees which are to be paid.

Article 41: Right of review³⁰

Anyone adversely impacted by the actions of the relevant governmental body with relation to the assignment of land has a right to seek review of the action by the governmental body that took the action. The request for review shall be made in writing and shall be supported by any relevant documents or information. The governmental body shall review the matter in accordance with procedures adopted by the central governmental body with authority over land, and in accordance with any administrative procedures governing procedures for the internal review of governmental actions.

The governmental body shall render a decision in writing within fifteen (15) days from the date of receipt of the request for review.

If the petitioner is not satisfied or no reply was given within the time specified in paragraph one of this article, the petitioner can refer the matter for review by the central governmental body with authority for land. The request for review must be made within

²⁹ This article is retained from the 2008 Order.

³⁰ This article provides for the right to administrative review and appeal to a judicial body. The process is essential to supporting the right of property granted in the Constitution, due process rights associated with the property right, and the accountability of government.

fifteen (15) days from the date of notification of the decision of the lower authority, or the expiration of the period for review.

The central governmental body for land shall review the matter in accordance with its procedures for review and in accordance with any administrative procedures governing procedures for the internal review of government actions. The central body shall render a decision within thirty (30) days of receipt.

Article 42: Right of appeal

If the petitioner is not satisfied by the decision of the central body with authority over land, he or she may refer the matter to the competent court of law. The procedures governing such review, including timelines, shall be as set forth by the court and any relevant laws of administrative procedure.

Section Two: Transitional and final provisions³¹

Article 43: Validity of prior rights on land in private domain of State and other governmental entities

Unless the contrary is specifically provided for in this Order, any right, interest, title, power, or obligation lawfully agreed to, acquired, accrued, established, coming into force or exercisable in accordance with the laws prior to Law No. 43/2013 of 16/06/2013 governing land in Rwanda or this Order under either written law or custom in any private state land, any private parastatal's land, any private City of Kigali land or any private District land is hereby declared to be and to remain valid, effective and enforceable under the Law and this Order.

Article 44: Abrogation of contrary provisions

All previous regulations contrary to this Order are hereby repealed.

Article 45: Coming into force of this Order

This Order comes into force on the day of its publication in the Official Gazette of the Republic of Rwanda.

³¹ These articles are carried over from the standard provisions included in the 2008 Order.

5.0 CONCLUSION

The ability of the Government of Rwanda to transfer land that is degraded or unexploited to third parties is critical to the efforts to protect land and bring it into productive use. The legal framework uses a variation of a traditional assignment of land under lease or in the private domain of governmental bodies to accomplish the short-term transfers in an efficient fashion. However, because the process can in some cases lead to permanent transfer of the land, caution is needed to ensure that sufficient protections against inappropriate dispossession exist.

The Draft Order strikes a balance between streamlining the process for desirable assignments of land and helping to protect marginalized landholders from dispossession and ensuring that uses of assigned land are subject to the same requirements to assess environmental and social impacts as other land transfers. The Draft Order should be supported by regulations governing the requisition and confiscation of land under the 2013 Land Law.

The proposed next steps for RNRA with relation to the Draft Order, and with the support of the LAND Project, as desired, are as follows:

1. Decide the big issues presented in the Draft Order, including the governance and administrative structure for assignments of land, the roles of various government bodies, the general procedures, etc. and revise the Draft Order accordingly.
2. Perform a provision-by provision review of the Draft Order, revising, and identifying content that should be moved to instructions and procedures. Create the derivative instruments.
3. Develop a proposed set of tools (application forms, contracts, checklists, timelines, etc.) to implement the Draft Order and accompanying instructions and procedures.