Report and recommendations following the visit of the legal expert
from HM Land Registry

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Section 1: Executive summary of findings

The objective for the legal expert was to provide advice to RNRA on regulatory and administrative procedures around land markets, protection and contract enforcement and activities required to enable professional conveyancing.

Rwanda is well underway with an ambitious programme to improve its land administration, land registration and conveyancing laws and procedures. My recommendations are intended to build on the impressive work that has already been done. I have not limited them entirely to legal matters, as my objectives were to include administrative and conveyancing issues.

This section contains a summary of my recommendations. They are set out with more detailed explanations and discussion in Section 2. My recommendations are—

1. Make it clear on the face of it that the copy (duplicate) certificate of title issued to the owner or mortgagee is just a copy of the register, the original of which is held by the registrar. The copy certificate should be marked ‘Copy’, dated, and state clearly that before any future transactions an up to date copy should be obtained (explaining how) to ensure no new entries have been made. The copy certificate should include all registered mortgages, annotations, caveats and other register entries current at the time it was issued. The same should apply to leases, subleases and other title documents, the original of which is held by the registrar.

2. Make the LAIS website sufficiently secure so that land title information is publicly accessible. To allow for public access, split and separate the information on the register into public information, which can be viewed by anyone, and private information, which is collected only for government and security reasons, and will not be publicly available.

3. Provide copies of the register for any UPI title on line or in paper, to anyone who pays a small fee, after they have identified themselves using their ID (an anti-fraud measure). The copy of the certificate should include mortgages, annotations, caveats and all other entries subsisting at the time of issue of the copy, and be dated with the date of issue. Copies of related documents such as the lease and sub-lease should also be available, as potential buyers and lenders will want to ensure that the copy they are inspecting is up to date and genuine.

4. Streamline the conveyancing and registration process, in particular—
   - Complete the process of appointing and training all Land Sector Managers as public notaries
   - Appoint private notaries
   - Give all land notaries, private and public, access to LAIS, both to obtain information and to lodge applications
   - Put a duty on notaries to deal with registration of land transactions in which they are involved
   - Make the LAIS system a national system, accessible by any land notary, for lodging applications in any part of the country
• As applications increase, assistant registration officers could be authorized to approve straightforward applications on behalf of the Land Registrar and Deputy Land Registrars, subject to strict technical authority control
• Provide much more freely available guidance to customers so they understand what is needed for the transaction
• Abolish the requirement to lodge registration certificates, leases, freehold or conditional freehold title and the extract of the Cadastral Plan (that information is already held by the registrar)
• Abolish certificates of freehold title and conditional freehold title. This information should be included in the title recorded at the register, and so be apparent from copies.
• Correct technical design faults in the LAIS system. This needs a budget for ongoing corrections and improvements
• More attention needs to be paid to the potential for fraud

5. Create a separate Land Registry, but if that is not possible, create the concept of a Land Registry. Bring together information about land registration in one website. Currently information on line is scattered and not easy to find, even on RNRA site. Detailed guidance should be put together in the website, with printed copies available from local government offices and other buildings frequently used by members of the public. Useful information on other sites should be put on the land registration site. There can be links to and from other sites such Rwanda Online and Rwanda e-Registration

6. Mortgages should be registered and de-registered by the land registry, not by the Rwanda Development Board. This way the mortgage can be registered at the same time as the transfer, where a mortgage is used to fund the purchase. There will be no registration gap, and the mortgage can be referred to on the copy of the register supplied to the buyer and to the mortgagee. If necessary, the RNRA can push information about the registration of mortgages to the RDB after registration (the reverse of what happens now).

7. The registration of a mortgage should not prevent other transactions being registered, such as a second mortgage.

8. Reduce registration fees so that the fee does not deter registration. This will probably mean having a sliding scale of fees so that the lowest value properties pay the smallest registration fee. The fee for the lowest value land should be negligible. The fee for registration of successors on inheritance could be reduced to nil or a negligible amount according to the value of the land.

9. Valuation – introduce a national valuation scheme that attributes a value to each demarcated parcel of land, if this has not already been done on systematic registration. In due course the initial valuation can be replaced by actual value in the form of price paid on any transfer. In the meantime the values could be automatically updated at a regular intervals on the basis of comparisons of market data from the same area. This would avoid the need for expensive valuations in particular for poor people applying for micro-finance loans.
10. Training and guidance material – In a country where most people have to undertake their own conveyancing, there needs to be more clear, simple, easy to find, step by step guidance aimed at citizens and other users. Also, thorough and regularly updated legal training is needed for all land notaries, local government officers involved in land registration and RNRA land and mapping employees.

11. Continue to provide legal help and advice by local land notaries for people without online access. Where there is a potential conflict of interest (for instance in the case of a husband and wife), parties should be pointed towards independent legal advice. The independent legal advice might be given by another public land notary, or a Maison de la Justice, or Microjustice Rwanda. Additional training could be given to land notaries and other advice providers about conflicts of interest and providing independent legal advice.

12. A priority protection period is needed in a good conveyancing system, to prevent hostile entries being made on a title register between the period when the parties become committed to a transaction and its registration.

13. An Indemnity Fund should be held by or on behalf of the Registrar of titles for the payment of compensation in respect of mistakes made by the Registrar and Deputy Registrars, and other members of staff acting under their authority. There need to be clear rules about the circumstances under which payments can be made.

14. Condominium law needs revision so as to be more clear and precise, in particular with regard to the legal basis of the condominium association. This may make the law more complex, but clear guidance can be published to assist users. Training of staff and legal professionals is needed. (A more detailed analysis is in Section 2.)

15. A legal regulator will be needed to oversee both private notaries and public notaries to ensure they are trained to the same levels of knowledge and competence, and uphold the same standards of conduct and practice.

16. Electronic Signatures and electronic stamps/seals – new laws will be needed to allow for the use of electronic documents and electronic signatures for land transactions. The LAIS system and the conveyancing procedures need to mature and become more secure before work begins on digital conveyancing and registration. When RNRA is ready to start work on fully digital services HM Land Registry should be in a position to share its knowledge and experience with RNRA in designing and building such services.

17. The RNRA should consider introducing law and procedures to enable the registration of private leases and sub-leases. This will give protection for both private citizens and commercial organisations who take a lease, or long term rental, from another owner.

18. Rationalise and consolidate land and registration laws.
Section 2: Analysis, findings, observations and recommendations

In this section is a discussion of each recommendation. I had access only to the Law governing land in Rwanda, No 43/2013 of 16/6/2013 (referred to as the New Land Law), and the Ministerial Order determining modalities of land registration, No 002/2008 of 1/4/2008 (referred to as the Land Registration Order). The Land Registration Order is out of date in that it refers throughout to the Organic Land Law, No 08/2005, which has been revoked and replaced by the New Land Law. The Land Registration Order is currently being amended to take account of the New Land Law, but I have not had access to the draft. I can therefore make my comments and recommendations only by reference to the Land Registration Order of 2008 and the New Land Law of 2013, which do not match each other.

I also had access to the Land Administration Manual 1 – Land Administration Procedures, of June 2012. This manual is in the process of being updated, but I did not have access to the revised draft. This may account for any lack of understanding of the registration process in the comments below.

I have not attempted to re-draft any legislation or set out in detail how current legislation needs amending. Each recommendation, if adopted, will involve analysis of the current laws to decide how they will need changing.

I am not a mapping expert or an IT expert, so those aspects of registration are not covered in any detail in this report. Below I set out each recommendation followed by a commentary with more detail.

Recommendation 1

Make it clear on the face of it that the copy (duplicate) certificate of title issued to the owner or mortgagee is just a copy of the register, the original of which is held by the registrar. The copy certificate should be marked "Copy", dated, and state clearly that before any future transactions an up to date copy should be obtained (explaining how) to ensure no new entries have been made. The copy certificate should include all registered mortgages, annotations, caveats and other register entries current at the time it was issued. The same should apply to leases, subleases and other title documents, the original of which is held by the registrar.

It is a fundamental principle of a title registration system that the register kept by the registrar is the basis of the title of the owner. Rwanda has adopted a registration of title system rather than a registration of deeds system (Article 4 and 5, and definition of ‘duplicate certificate’ in Article 3 of the Land Registration Order). The title of the owner therefore cannot depend on a piece of paper held by the owner or the owner’s mortgagee – the duplicate certificate of registration. The duplicate certificate is merely a snapshot copy in time of the register kept by the registrar. Indeed, the duplicate certificate of registration is not even an accurate reflection of the legal reality at the time it was issued, since it does not include mortgages, annotations and caveats. I understand these are merely noted on the electronic register of the relevant UPI, not on the duplicate certificate of title. The certificate of registration does not show subsequent mortgages even if you
ask for a duplicate. A mortgage is simply a display item in LAIS and a physical restriction on subsequent transactions.

The duplicate certificate of registration is therefore not a document of title, nor even a particularly helpful copy of the register. It may help to provide evidence of ownership, but only at the moment of the time and date it was published. A duplicate certificate of registration should therefore state clearly on the face of it that—

a) it is merely a copy of the original certificate held by the registrar
b) it was valid at the date and time of issue, which should be clearly stated on the certificate
c) that before any transaction with the land is undertaken, the current state of the register should be checked to ensure no new entries have been made
d) any transactions with the land must be registered with the registrar of lands and mapping otherwise they will not be legal.

I would suggest that the duplicate certificate is described on its face and in legislation as a copy certificate, or official copy certificate, rather than a duplicate. The word duplicate implies that it has equal weight to the original, when in fact it has no weight as a document of title. It is just a copy of part of the register of a UPI at a certain time and date.

These simple steps of adding an explanation and guidance notes to the certificate should assist with the understanding that the duplicate certificate is not a title document and cannot be used to pass title, or as a basis for secured lending. If this is understood by both citizens and government officials, it will not be necessary to produce the duplicate certificate (or lease or plan) when an application is made to register a transfer or mortgage of the land, and it will not be necessary to hand these documents to the mortgagor by way of security. Indeed, it will not even be essential to issue the duplicate certificate of title and lease/freehold or conditional leasehold title. The owner (or any of them) and the mortgagee can request a copy of the register for their records if they wish, or simply request a copy next time they need to check the entries in the register for a transaction or dispute.

The title of the owner is proved by checking the register held by the registrar, and the security of the mortgage is proved by registration of the mortgage, which can also be evidenced by checking the register. All entries relating to that UPI should be shown in the copy. This will greatly assist the conveyancing process.

Efficient conveyancing relies on a fast, consistent service giving full access to all the information on the register that is necessary for a buyer/lender/developer to know. It should not be necessary to travel a long distance to a busy office and wait in a queue for a district officer who has access to the LAIS system to check the register of the UPI and tell you of any entries affecting it. To enable conveyancing, full copies of any register, and ultimately a map search and address search facility, need to be available online. That way any interested party, including buyers, developers, and government officials can quickly identify a plot and its owner, and all the matters affecting the land.

For further recommendations on the provision of this information see recommendations 2 and 3. See also recommendation 12 regarding priority protection for buyers and lenders.)

Amendments will be needed to the New land law – Art 18, and to the Modalities of land registration, Ministerial Order 002/2008 – Art 14, 60, 68, 69, and possibly other articles.
Recommendation 2

Make the LAIS system sufficiently secure so that land title information is publicly accessible. To allow for public access, split and separate the information on the register into public information, which can be viewed by anyone, and private information, which is collected only for government and security reasons, and will not be publicly available.

The Land Registration Order, Article 22, provides that “the Register of Titles, and the Alphabetical Index [required by Article 14(c)], are public documents. Anyone may consult them under the supervision of the Registrar or the Deputy Registrar, after paying the fee determined by the regulations.” This service – the ability of anyone to consult the register - is vital to enable efficient and effective conveyancing and mortgaging of land. It would also provide a steady income stream if a small fee is charged. In order to properly provide this service as required under the Order, the RNRA electronic registration system first needs to be made more secure.

I understand from IT colleagues that the LAIS 2 system is currently not sufficiently secure to allow for public access by internet or smart phone. This deficiency needs to be remedied as quickly as possible. It is not for the legal specialist to say how the system can be made secure enough, but it must be able to withstand hacking by fraudsters, attacks on service, and system failure, in order to protect the integrity of the register.

Once the system is made sufficiently secure, the information held by the registrar should be split into separate data stores of public and private information. The information that is essential to a buyer, mortgagee, lawyer or other person who needs to investigate title will be public information. Information not essential for investigation of title, or that needs protecting for the prevention of fraud, would be private. Only the registrar, deputy registrars and others authorised by them such as a limited number of RNRA staff, and investigative officers of other government departments, would have access to the private information.

So for instance, the following information might be included in the public database, and appear in any official copy of the register provided under Article 22—

- The name and address of the owner(s)
- The matrimonial regime, if married
- The description of the property and its UPI, permitted land use, and value or price paid
- Whether the land is freehold, conditional freehold or leasehold
- The name and address of any mortgagee and the date of the mortgage (but not the amount of the loan)
- The name and address of any person who has the benefit of a seizure, caveat, sublease, servitude or annotation with sufficient details of the entry to know what it relates to, who has the benefit of the interest, which court (if any) ordered it, with the date (but not the amount of any debt if it relates to a debt)

The following types of information would be included in the private database—

- Identification numbers of owners and any other information collected to assist with verification of identity and fraud prevention
- Amount of a mortgage loan
- Amount of debts protected by caveats
Most European countries are subject to strict data protections laws, whereby personal information about private individuals may not be published unless another law says that they must be. So for instance if the law says that there must be a register of land and that it must be open to the public, the information can be published for that purpose but only for that purpose. I could not find a data protection law for Rwanda1. There is an Access to Information Law (No 04/2013 of 08/02/2013 Law relating to access to Information), but it relates to “freedom of information” – that is giving citizens access to information held by public bodies. The law includes an exemption for information that will “involve interference in the privacy of an individual when it is not of public interest”. But Article 22 of the Land Registration Order requires that the register is made public, so it must be in the public interest to publish information held in the register. Article 6 of the law goes on to clarify what may constitute the public interest, and includes “to ensure that any public authority with regulatory mission properly discharges its functions”. The law does not, therefore, prevent the RNRA from providing copies of the register.

The Land Registration Order should be clarified to state more clearly what information is kept in the register. This will mean that any copies or official copies will legally include that information. The order should also state that any other information collected for identification verification and anti-fraud purposes is not part of the register, and cannot be inspected and copied.

Thus only the public information would appear on any copy of the register issued to any member of the public. This will fit with the requirement for the register to be a public document, as set out in Article 22 of the Land Registration Order, while protecting the limited amount of information that should not be made public. It will also answer the needs of citizens and organisations that need access to information about land, for sale and purchase and investment purposes.

A buyer and their legal adviser, if any, need to know if the seller has a mortgage, so that they can ensure that the mortgage is paid off on completion of the sale. They do not need to know the amount of the debt. They also need to know about any caveats or other entries affecting the land. They should therefore be able to get a full copy of all entries in the register.

Some government or police officials and investigators may need to check the private information, and rules can be devised to allow for this. Back office systems can be designed to pull and push information from and to the private register as needed. Rwanda Online is already being designed to work this way.

Article 22 of the Land Registration Order should therefore be retained in the revision, with clarification as to what is public information and what is not public.

**Recommendation 3**

Provide copies of the register for any UPI title, on line or in paper, to anyone who pays a small fee, after they have identified themselves using their ID (an anti-fraud measure). The copy of the certificate should include mortgages, annotations and caveats and all other entries subsisting at the time of issue, and be dated with the date of issue. Copies of related documents such as the lease and sub-lease should also be available, as potential buyers and lenders will want to ensure that the copy they are inspecting is up to date and genuine.

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1 I saw some data protection provisions in the Law Governing Information and Communication Technologies of 2013, a draft of which I found online. But I have not been able to find out whether or not the law has come into force.
The register and documents held by the registrar in a title registration system should be the single source of truth. Any copies or duplicates issued by the registrar cannot be relied upon as title documents, but could be relied on as evidence of the ownership and matters affecting the land if they are up to date copies obtained from the RNRA. (As for a means to protect against adverse entries being made in the register between the date of the copies and the registration of a new transaction, see recommendation 12.)

Quick, easy and cheap access to up to date register information is an essential tool for buying and selling land, for mortgaging it, and for confirming rights to land for many other reasons. Once the LAIS2 system has been made sufficiently secure, as mentioned in Recommendation 2, an information service should be made publicly available both on line and in paper. For security reasons, the information service data should be separated from the actual register – to protect the integrity of the register.

As has been pointed out above, Article 22 allows for public access to the Register of Titles “under the supervision of the Registrar or Deputy Registrar” and after payment of a fee determined by regulations. If the Registrar approves a method of providing copies of the register, online and in paper, and is satisfied with the conditions for providing the service, then it will be effectively provided under the supervision of the Registrar, so the legal requirements will be satisfied.

The online service should therefore be available to anyone, whether they are members of the public with access to the internet, smart phones and printers, lawyers or other property professionals, public notaries (and in due course private notaries) or other government officers. Those using the online service themselves should be able to download and print copies of the register. Payment could be made online. Accounts can be set up with regular users such as lawyers or property professionals, so that they could be charged by direct debit. Accounts with other government departments could be set up so that they are not charged the fee, if thought appropriate.

For the online service it is important to have built-in security measures and design, such as requiring customers to use an account or give their ID when ordering register copies and document copies. This will deter fraudsters, who will not want to give their identity.

A paper service can be offered to those without internet access of their own. Any local government officers at sector or district level should be able to download and print the copies from the RNRA service in order to provide the paper copies at a small fee.

The focus should be on the needs of the users of the system. As well as owners, other important users will include buyers, lenders, micro-finance institutions, government departments, construction companies, lawyers and notaries, planners, surveyors and valuers, bailiffs, architects, police and fraud investigators. The land registration system should be designed with customers and stakeholders needs put first.

Currently a buyer or a bank official has to go to the District Office that deals with the land they are interested in (which could be a considerable distance away) to make verbal enquiries about what entries are registered against a UPI. There seemed to be a lack of clarity about what information could be given, and how it is given. It does not seem to be possible to run off a copy of a the register for a land parcel showing all the relevant current entries. It seems that the enquirer may have to rely on the judgement of the District Office officer for what they are told.
Interviewees told us that currently, to investigate the title to a property before a sale, a lender has to take a letter to the Rwanda Development Board asking if the parcel is clear of mortgages. The RDB (after checking the RNRA LAIS system) then write back saying whether or not there is a mortgage registered. It was not clear whether the RDB would also reveal other restrictions on the title such as seizures, caveats and sub-leases. It is also necessary to check the zoning plan to ensure the correct use of the land. Currently 10 District land use plans are online out of a total of 30 Districts, so it may be possible to do this online. Otherwise a visit to the District Office responsible for the land is necessary.

Another interviewee told us that to investigate title a bank will normally send an officer to the District Office, with the duplicate registration certificate, to carry out “due diligence” checks on the title, and might only use the RDB if they know the customer well. A buyer should also carry out such checks. Clearly access to an online service to view and print out a current copy of a register of title with all its entries would be invaluable in terms of time and cost saving. A small fee would still amount to less than the cost (in time and travel expense) of a journey to a District Office. Once all local zoning plans are online these preparatory steps can be taken in minutes at a very small cost.

The copies can be marked as “Official copies” if thought appropriate, together with wording as suggested in Recommendation 1 to indicate that the copy is not a title document but a copy of the original register that is held by the Registrar as at the date stated on the copy. The copies can be signed and sealed electronically within the system. The draft Law Governing Information and Communication Technologies of 2013 allows for electronic seals at Article 127, but I have not been able to find out whether this law has been enacted. If not, such a law would be needed. The Deputy Registrars are already electronically signing their approval of registration applications.

The service may need a search facility allowing customers to search either by UPI or by property address. Ultimately the search facility could allow for a map search. Buyers and mortgagees will learn to demand to see these. This service could also be used by the courts during court proceedings, to ensure that the copies of the register they are inspecting are completely up to date.

These dated official copies of the register would be an essential tool used as part of the priority protection process suggested at Recommendation 12.

**Recommendation 4**

**Streamline the conveyancing and registration process, in particular—**

- Complete the process of appointing and training all Sector Land Managers as public notaries
- Appoint private notaries
- Give all land notaries, private and public, access to LAIS, both to obtain information and to lodge applications
- Put a duty on notaries to deal with registration of land transactions in which they are involved
- Make the LAIS system a national system, accessible by any land notary, for lodging applications in any part of the country
As applications increase, assistant registration officers could be authorized to approve straightforward applications on behalf of the Land Registrar and Deputy Land Registrars, subject to strict technical authority control.

- Provide much more freely available guidance to customers so they understand what is needed for the transaction
- Abolish the requirement to lodge registration certificates, leases, freehold or conditional freehold title and the extract of the Cadastral Plan (that information is already held by the registrar)
- Abolish certificates of freehold title and conditional freehold title. This information should be included in the title recorded at the register, and so be apparent from copies
- Correct technical design faults in the LAIS system. This needs a budget for ongoing corrections and improvements
- More attention needs to be paid to the potential for fraud

I will deal with each bullet point in turn.

- **Complete the process of appointing and training Sector Land Managers for all Sectors**

This is already planned, but it is worth expressing strong support for the continuation of the policy. Clearly it will make a big difference to follow-up land registration, and the understanding and accessibility of registration procedures. One interviewee explained that there used to be only one public notary for the whole of Rwanda. Then there was only one at District Office level but they were available only one day a week. Now you can go to the Sector in some areas. So it is recognised that there have been huge improvements in the process, but it will be much easier if there is widespread access to land notaries. While there are no private notaries in Rwanda, the process of appointing and training Sector Land Managers as public notaries is essential.

At one District Office we were told "with full decentralisation and a reduced registration fee, there is a risk of the SLMs being overwhelmed. During Land Week notarial services were also provided at sector level. In some sectors so many people wanted to use this service that they had to send people away as they could not cope. They were mostly purchasers. Registration on succession is still low." So clearly there will be an ongoing need for Sector Land Managers for many years yet.

- **Appoint private notaries**

The policy of decentralisation is bringing big benefits to the poorer rural communities in Rwanda, but it also has some disadvantages to customers. These problems may be overcome by more electronic ways of working. Huge strides have been made in a short time to make the land registration system more accessible, but further improvements could streamline the system.

In most countries, notaries and lawyers play a more active part in the conveyancing process, investigating title for their clients, completing the transaction and lodging the application for registration on behalf of the parties. I appreciate that the majority of Rwandans will not be able to pay for the costs of employing a lawyer, and in any case there are, as yet, no private notaries. However, it is to be expected that incomes will rise and private notaries will in due course become recognised. Then some parties will want to use a lawyer/notary to advise them, notarise the documents, and complete the transaction on their behalf. It may save them time and money, as well as adding assurance, to have a lawyer acting on their behalf. It could be easier if the parties could go to a lawyer for notarising and making applications, quicker than getting an appointment with a government office.

Citizens and businesses should be able to choose whether to act for themselves using a public
notary, or whether to appoint a lawyer/notary to act on their behalf.

The law is in place for the appointment of private notaries, but a ministerial order has to be made to govern the details, such as training, appointment and regulation of notaries. The requirements should apply to both public and private notaries.

- Give all land notaries, private and public, access to LAIS, both to obtain information and to lodge applications.

If public land notaries, and in due course private notaries, are properly trained, it should not be necessary for their work to be overseen and checked by officers at a District Land Office. It should be possible for them to lodge applications in LAIS that will go directly to a Deputy Land Registrar for approval. Assistant registration officers can assist the Deputy Land Registrar by vetting and quality controlling applications before they go to the Deputy Land Registrar for final approval, but the number of processing layers could be refined and reduced.

- Put a duty on notaries to deal with registration of land transactions in which they are involved.

A requirement for notaries to deal with the application for registration should help to ensure the proper and timely updating of the register, since many transactions need to be notarised. This should also result in an increase in the levels of registration as some transactions that are currently not being registered would be. The requirement could be written into secondary legislation regarding notaries, with extra guidance and training if necessary from a legal services regulatory body (see recommendation 15).

- Make the LAIS system a national system, accessible by any land notary, for lodging applications in any part of the country.

Interviews with property professionals confirmed that the current process for land transactions can be cumbersome - you have to go through four levels of government agencies—

Sector (to obtain identity documents, complete and notarise a transfer agreement, and lodge)
District (to check and process)
Lands department (Deputy Registrar approval and registration)
District (to print and seal)
Sector (to collect new documents)

Several of these stages involve personal attendance, sometimes more than once. For instance it may be necessary to come to the Sector office to obtain a marriage certificate or certificate of celibacy, then queue up just to book an appointment with the Sector notary. Then the seller and buyer come back for the appointment to complete the sale agreement and have it notarised. A bank officer may also have to attend if a mortgage is being used to buy the property.

If the parties have all the correct document with them, the land notary can notarise the transaction documents (if necessary), then initiate the registration straight away, inspecting and collecting the documents for delivery to the District office where processing will begin. If any documents are missing the parties will be sent away again. The seller and buyer must assemble all necessary documents and return to the appropriate sector land manager or District Office to make the application for registration, with a bank officer if there is a mortgage to assist the
purcha
se. A bank officer must also attend to collect the new duplicate registration certificate after completion of the registration, so that they can then register the mortgage with RDB.

It is acknowledged that the service proposed by Rwanda Online may help to alleviate some of the steps in the process, but it is currently unclear to what extent. We were told, for instance, that the sale agreement could be notarised anywhere – the parties would not necessarily have to go to the District or Sector Office where the land is situated. The documents and application for registration could then be uploaded to Rwanda Online at home by the seller. We were also told that after completion of the registration, the new duplicate registration certificate could be printed out at any District Office, so again the buyer would not have to go to the District or Sector office where the land is situated, but could go to the most convenient office. However, this does not fit with information given to us by other interviewees.

For instance, we were told that District officers have access on LAIS only to titles in the area that their District Office deals with. In addition, the duplicate registration certificate has to be manually stamped (sealed) at the District Office with the seal of the District in which the land is situated. So it would not be possible to supply the certificate at any District Office.

We therefore recommend that the registration system should be a fully national service, so that information can be obtained, applications lodged and certificates printed out at any District or Sector Office (or indeed in the office of the Private notary in due course).

If notaries, both public and private, are properly trained both in the law and the workings of the LAIS system they should be able to feed in the application for registration of the transaction as soon as they have notarised any land transaction documents that need notarising. This should be possible if only ID documents are needed (not copies of title documents) since the parties should have those documents available to enable the notarisation.

Other documents were mentioned during various interviews, such as tax receipts and land use certificates, but these are not referred to in the Land Administration Manual or the Land Registration Order. I was told that the land notary must check that taxes for previous years have been paid before notarising any sale agreement. If these are requirements under other legislation then they should be included in the Land Registration Order when it is amended, but otherwise it is arguable that they are not necessary for registration of the transaction. The appropriate authorities must have other ways of enforcing these requirements, independently of the land registration process.

I was told that with LAIS 2 you can check whether land taxes have been paid. If they have not, it will not allow the application to proceed. I have not had the opportunity to check tax laws, as to whether this is a legislative requirement or an administrative convenience. Either way, it may be that there is an alternative way to deal with this – that RNRA continues with the registration but informs the relevant tax authority of the transfer, so that the tax authority can proceed to fulfil their role as enforcement authority. There is a danger in putting the RNRA into the position of a tax enforcement authority, in that it may put people off registering their land transactions and leave them resorting to informal methods of dealing in land.

The requirement for notaries to deal with the application for registration should help to ensure the proper updating of the register, since many transactions need to be notarised. The requirement could be written into secondary legislation regarding notaries, with extra guidance and training if necessary from a legal services regulatory body (see recommendation 15).
As applications increase, assistant registration officers could be authorised to approve straightforward applications on behalf of the Land Registrar and Deputy Land Registrars, subject to strict technical authority control.

In due course, as applications increase and the assistant registration officers (legal professionals) are fully trained and experienced, they could be authorised to approve the most straightforward applications on behalf of the Deputy Land Registrar, leaving only more complex matters, difficult legal questions and disputes to the Deputy Land Registrar. Levels of technical authority can be set out, so it is clear to all staff what work can be done by each officer, according to the level of technical authority they have reached, and when work must be referred to an officer with a higher technical authority or to the Deputy Registrar. Internal staff guidance manuals should cover most aspects of registration that the staff will encounter and how to deal with them. They should include the level of technical authority at which decisions can be made and when they must be referred to a person with a higher or lower level of technical authority. As well as confirming what to do in specific situations, the manuals would refer to the appropriate law, so that staff can explain the requirements to applicants with authority.

Once registrations reach a sufficient volume it will become impossible for the five Deputy Land Registrars to sign off every one personally. They must be able to delegate the approval of cases to trained registration officers. HM Land Registry of England and Wales processed nearly four and a half million substantive applications in the financial year 2013-14. It would be impossible for all these to be approved by a Deputy Land Registrar. The vast majority of straightforward applications are dealt with by trained land registry officers. Only difficult or sensitive cases are referred to land registry lawyers, and they will refer only difficult points of law to a Land Registrar. The Land Registrars do not deal with individual cases, only strategic matters. In due course RNRA will have to adopt a similar flattening of the decision making process so that more staff have authority to approve registrations. This will avoid bottlenecks arising, and will help to develop staff. We understand District Offices already have legal professionals to assist the Deputy Land Registrars, so it is possible they could be authorised to approve cases. This may require a clarification in the Land Registration Order.

Provide much more freely available guidance to customers so they understand what is needed for the transaction

There is a need for more helpful guidance material, both on line and for distribution in paper at appropriate local government offices, giving step by step guidance for those who want to carry out their own conveyancing. A good example is shown on the Rwanda.eRegulations pages which are linked from the Rwanda Development Board. There is also a link on the RNRA partners page, but the link is broken. These pages may be slightly out of date, but similar guidance should be on the RNRA website. See recommendation 10 below.


If the RNRA published detailed clear guidance on the legal and procedural requirements for transfers, mortgages and all other aspects of registration, aimed at both legal professionals and members of the public, fewer mistakes would be made. More conveyancing work could be done by lawyers and notaries in private practice at more competitive rates (when private notaries are appointed). This might increase private sector employment. The burden of checking applications
at the RNRA and District offices would be reduced as applications will be improved. Applications could proceed quicker and costs would be reduced. In England and Wales, land registration has contributed to lower legal costs for buying and selling a house. In the 1860s the legal costs for buying a typical house were 2 to 3 per cent of the sale price. Today the combined cost of solicitors’ and land registration fee for a purchase of an average priced property is just 0.5 per cent.

- Abolish the requirement to lodge registration certificates, leases, freehold or conditional freehold title and the extract of the Cadastral Plan (that information is already held by the registrar)

There should be no need for an applicant to provide the duplicate certificate of registration, lease, copy of the UPI plan and freehold certificate, since these are simply copies of the information already held by the registrar. In fact the registrar may have more up to date records than are shown on the duplicate documents. The registered owner’s ID documents together with their attendance before a notary should be sufficient to confirm that the person is the correct person who can deal with the land. The LAIS system does another ID check in any case. It should not be necessary to also hand in documents that are only copies. These copies, should, in any case, be publicly available to enable speedy and efficient conveyancing.

If ID verification is the concern, this can be addressed by other ID verification and anti-fraud measures. See the final bullet point below.

- Abolish certificates of freehold title and conditional freehold title. That information should be included in the register, and included in all copies of the register.

There is no need for a separate document to evidence the fact that the land is held freehold or conditional freehold. That fact should be evident from the register of title, copies of which should be available to anyone for a small fee. If the land is leasehold, that should also be evident from copies of the register, and an official copy of the lease should also be available for a small fee.

- Correct technical design faults in the LAIS system. This needs a budget for ongoing corrections and improvements

We were informed that there could be a technical problem if the Deputy Registrar could not view scanned copies of the duplicate certificate of registration. I understand that entry of the details of the transaction into the LAIS system alters the details on the register immediately, and it is not possible to see the history. Without the copy of the registration certificate the Deputy Registrar could not see the details of the previous owner. I believe this is an important design fault with the IT system that should be rectified. The Deputy Registrar should be able to see the details of the previous owner within the LAIS system without looking at scanned copies of paper documents. The LAIS system should be designed to show both the selling owner and the buying owner, (or the deceased owner and the successors as the case may be) at least until the Deputy Registrar approves the transaction so that the register can be changed.

We identified other snagging details that need remediing, as they would help to streamline the registration process. We were told that once the Deputy Land Registrar has approved an application there is no alert to the LAIS officer or printer. The printer has to check through the physical files s/he is holding, and see on the screen if it has been approved. The Deputy Land Registrar can approve a file, or return it to “accepted” status if s/he find there is a problem with it. If there is a problem or something missing, the Deputy Land Registrar adds a note to the screen, and changes the status back to “accepted”. There is no alert for the LAIS processor. The printer
will look at the list and compare it with the files s/he is holding ready to print. If the printer notices a file on the list is still in “accepted” status, s/he may notice the note, and return the file to the LAIS processor to hand back to the DLO. The LAIS processor is probably too busy to check the status of the files. This lack of any alert, either that the file is ready to print, or that there is a query on the file, means a file can just sit in the processing queue until the printer notices that there is a problem. It would be a simple matter, technically, to flag applications in the LAIS system if they are ready to print, or if they need to be referred back to the District office for more attention.

Also, the printer has to click on “sent to print” to show that the file is now completed, but they can print the appropriate documents without pressing “sent to print”. This leaves the file on the list when it should have been removed. This is another small improvement that could be made to the system.

In theory the caveat is cancelled after one month unless you receive confirmation of court proceedings, but in practice the caveat can stay on indefinitely. An electronic flag could easily be added so that such entries could be removed, either manually or automatically if no further application was received within the month.

We were told that there is no budget for such ongoing improvements – everything has to be done through a project. This seems wasteful and inefficient. Any electronic system needs provision for ongoing improvements and bug-fixing, and a formal request for change procedure. HM Land Registry for England & Wales has scheduled software releases at least every three weeks, to deal with such minor issues.

- More attention needs to be paid to the potential for fraud

Some people we interviewed seemed unconcerned about property fraud, suggesting that it was not a problem in Rwanda. That was clearly not the case when we visited the Community Meeting arranged as part of Land Week, where one problem discussed involved a man who had sold the same plot multiple times. That was just one example of property fraud, and it was clearly a big problem for the people who had paid their money but been tricked.

It is important for those responsible for land registration to try to stay ahead of the fraudsters, not wait for fraud to happen then realise that something needs to be done. Wherever there are assets of value, including land, there will be criminals trying to defraud people.

Serious consideration needs to be given to potential fraud and how to guard against it. I am not a fraud expert, but HM Land Registry does have a team of employees whose job is specifically to protect against fraud. RNRA should consider taking separate expert advice on this area, which is highly specialised.

There is a strong argument that the history of the register should be retained and archived, but still be accessible, even though the Torrens system means that only the current register is needed. It is sometimes necessary to look at the history of a title for various reasons, such as claims of a mistake in the register, disputes or fraud investigations. There should be an audit trail, and as more and more transactions are registered the RNRA may find an increasing need to look at the history of titles.

We were also told that the application could only be made by the seller because of the need for the seller’s ID details. However, it is the buyer who will have the greatest interest in registering the transaction, and either way one party will have to give the other their ID credentials for
registration purposes, which seems to open up opportunities for fraud. If notaries are made responsible for registering transactions, the parties could give their ID credentials directly to the notary without disclosing them to the other party. The notary could then enter them into the LAIS system securely. The ID information would become private information, not visible on any copies of the register (see recommendation 2).

**Recommendation 5**

Create a separate Land Registry, but if that is not possible, create the concept of a Land Registry. Bring together information about land registration in one website. Currently information on line is scattered and not easy to find, even on RNRA site. Detailed guidance should be put together in the website, with printed copies available from local government offices and other buildings frequently used by members of the public. Useful information on other sites should be put on the land registration site. There can be links to and from other sites such Rwanda Online and Rwanda e-Registration.

It will be hard to spread knowledge and understanding of land registration and the need to update the land register on each transaction if there is no concept of a land registry entity. The land registry of Rwanda as such is part of a large, complex organisation, the RNRA. Furthermore, many of its functions are carried out by local district officers or sector land managers, who have many other functions and demands on their time and attention. They are not employees of the Department of Lands and Mapping, or even of the RNRA, and the training they receive does not seem to be lengthy or ongoing.

Information about land registration is not easy to find even on the RNRA website. The Department for Lands and Mapping has its own page but there is no mention of land registration on it, only land administration. The forms needed for most transactions are there, but more useful information about the process of land transfer and registration was found on the Rwanda Development Board/eRegulations Rwanda website (though this seems slightly out of date and many of the links are broken). There is also a link on the RNRA partners page, but the link is broken. The eRegulations website shows step by step guidance, with images of all the forms needed, where they have to be obtained and where they must be presented.


It would be possible to have this information, and other guidance material put together either on a separate land registration website, or at least on the RNRA website but with a very prominent link to the land registration pages from the landing page.

Even in European countries knowledge of the land registry and land registration is not widespread among many members of the public, because buying, selling and mortgaging real property is not a frequent activity for most people, and land registration is just a small part of the transaction at the beginning (obtaining up to date land registry information) and end of the process (registering the transaction). In Rwanda, familiarity with the land registration process is more important to members of the public, because most people will have to be more personally involved in conveyancing and registration than in European countries, where lawyers and notaries undertake much of the process on behalf of the parties. Familiarity and understanding would be easier to foster if there was a single entity called the Land Registry, possibly autonomous, but failing that as an identifiable unit within the RNRA, with its own employees who will be accountable to it, and are trained by it. Training will be thorough and ongoing. Publicity would become simpler.
The Land Registry employees could still be located in District and Sector offices, in support of the de-centralisation policy. However, land registration should be a national service, consistent throughout the country. It is not an area of law where Districts are free to apply local variations. Only a truly national service that applies the same standards and practices throughout the country can inspire trust, confidence and certainty among its users. Investors would be put off and the system will be inefficient if it is applied in different ways depending on which District the land is in.

It was suggested to us that it was not possible to justify financially the employment of Sector Land Managers at Sector level by the RNRA, who would be responsible only for land registration. I suggest that the situation must be monitored, as it appears that the Sector Land Managers have a very wide range of responsibilities that could become almost limitless – acting as land notaries, taking in and inspecting and checking registration applications, taking the applications to the local District Office twice a week, inspecting land use, reporting on land use, involvement in land disputes and reporting on them, giving legal advice to citizens.

There are also proposals to give Sector Land Managers access to the LAIS system so that they can directly input applications instead of having to physically take them to the District Office twice a week and collect completed applications. Furthermore it is intended to give the SLMs tablets, with appropriate software, to enable them to carry out a survey and update the map on site when land has been sub-divided. I support these proposals as they will improve customer experience and accessibility, but they will add to the responsibilities and workload of Sector Land Managers.

In order to successfully decentralise to sector level, adequate offices, electricity, and equipment are needed. We were told that if there is no electricity the applications have to be brought to the District Office. That can take up to 6 hours travel from the most distant sectors. There may be only 5 transactions per week, but they can take a month to process.

We understand that the contracts of the existing and new Sector Land Managers with the RNRA may only be temporary, as long as funds last, and after that they will become District Office employees. With their added duties, and with the potential increase in registrations, the work of the Sector Land Managers could justify their full time employment by the RNRA on a permanent basis.

**Recommendation 6**

Mortgages should be registered and de-registered by the land registry, not by the Rwanda Development Board. This way the mortgage can be registered at the same time as the transfer, where a mortgage is used to fund the purchase. There will be no registration gap, and the mortgage can be referred to on the copy of the register supplied to the buyer and to the mortgagee. If necessary, the RNRA can push information about the registration of mortgages to the RDB after registration (the reverse of what happens now).

A mortgage is a charge on land, and should be registered in the land registry. It is illogical, inefficient and somewhat risky for a mortgage to be registered separately through a different agency after the registration of the transfer that it has funded. Even if the transaction involves only a mortgage with no transfer, the mortgage is a charge on land, so should be approved and registered within the land registry.

To have the registration of mortgages of land governed by a separate regime from land and registration law is unusual and out of step with most conveyancing and land law regimes. If the Registrar General of Companies needs a record of bank lending then there is no reason why the
RNRA could not automatically push the information to the RDB after the registration in the land register, instead of the other way round as is the case at present. It is only after registration in the title register that a mortgage should be effective as a security, so that is the point at which it could be recorded by the Director General. Currently the RDB is acting as an intermediary, both for the purposes of registration and de-registration of mortgages, and supplying information to lenders. The lenders should go directly to the RNRA for these services.

This would not only bring the registration of mortgages to where it should logically be, but would also give the RNRA/Land Registry a valuable additional source of income in the form or mortgage registration fees that could be used to further develop its services and raise its profile.

It will make conveyancing more efficient as the mortgage will be registered at the same time as the transfer it is funding. This will reduce the risk of fraud and prevent other entries being made in the registration gap between registration of the transfer and the mortgage. It will mean that mortgage funds can be released sooner. It could mean that the funds can be released immediately on completion of a sale transaction without waiting for registration, on the basis of undertakings given by a private notary (once they are appointed), to repay the seller’s mortgage and register the sale and new mortgage. This is how conveyancing operates in many European countries.

We were told that many banks will not release the mortgage funds which are needed to help buy the property until after the transaction has been registered with RNRA and the mortgage has been registered with RDB. This seems inefficient and unfair on the seller. Also it was not clear how the seller’s mortgage will be paid off so as to allow for the sale and the new mortgage to be registered, if the mortgage funds for the new mortgage are not released until after the new mortgage is registered. I assume that the seller’s mortgage is released on the basis of a letter of comfort from the buyer’s lender that payment will be made after registration of the new mortgage.

Clearly the Law on Mortgages No 10/2009 of 14/05/2009 will need amending if this recommendation is accepted. If it is thought appropriate, the Director General can retain the power of enforcement of mortgages, but in many countries these powers are overseen by the courts, not by a government official. In any case there should be a duty to note on the land register any notice served on the mortgagor under Article 15 of the Mortgage Law, and also the appointment of a Receiver under Article 16.

It will help citizens to understand the concept of the land register if all transactions involving their land, including taking out a mortgage on it, have to be registered at the land registry rather than some transactions at the land registry and some at the Rwanda Development Board.

It is appreciated that the Rwanda Development Board provides the very valuable service of promoting investment in Rwanda and advising businesses how to operate, but that advice-giving function would not be affected by mortgage registration being carried out by the RNRA or an independent Land Registry.

**Recommendation 7**

The registration of a mortgage should not prevent other transactions being registered, such as a second mortgage.
Mortgage applications are in a different system so LAIS just receives the basic details. The record is pushed into LAIS using the UPI. There are no attachments for it in LAIS, just the basic details including the amount. RDB pushes the mortgage and certificate to local storage. The entry is displayed electronically in LAIS, and has the effect of locking the register. Only limited transactions can be performed when a mortgage is annotated, such as change of name and a caveat for unpaid taxes. It would be possible to register a second mortgage only if the system is tweaked.

We were told at one District Office that about 5% of problems are caused by caveats and mortgages, because the mortgage must be de-registered before any new transaction can be registered.

This is largely a technical issue. The law does not appear to prevent a person taking out a second mortgage, or prevent that mortgage from being registered. However, we understand that the current LAIS system does effectively prevent the registration of second mortgages, and prevents the registration of subsequent dealings such as sales of part of the land, without the removal of the mortgage. This is unusual and risky for the mortgagee.

In a free market it is for the parties – the borrower and the lender – to decide whether to enter into a second mortgage. Because of the constraints of the LAIS system we understand that a lender would have to agree to pay off the first mortgage in order to lend additional funds, and so become the first mortgagee. This seems to be an unnecessary and awkward constraint. Many lenders will be happy to lend a smaller amount on a second mortgage, and may not want to take over the first mortgage, but the LAIS system forces them to do so.

If an owner wants to sell part of the land they have to have the mortgage removed before this can be done. If they are not in a position to pay off the mortgage, the mortgagee would have to remove the mortgage then re-mortgage the appropriate title. The title will be split and the new plots given new title numbers. This will also be a problem for a developer selling off plots of land. The mortgagee should be able to simply give written consent to the sale off of part of the land, leaving the mortgage secure on the remaining land (they will have an agreement to be paid part of the sale proceeds). They should be able to give a discharge of part with respect to the land being sold.

This constraint of the system needs correction. Also consideration should be given to changing the process whereby a UPI is cancelled when a plot is divided. It should be possible for the person who wishes to sell off part of a plot to keep the existing UPI, keeping all the existing entries on the register. The new plot can then have a new UPI with only the appropriate entries.

**Recommendation 8**

Reduce registration fees so that the fee does not deter registration. This will probably mean having a sliding scale of fees so that the lowest value properties pay the smallest registration fee. The fee for the lowest value land should be negligible. The fee for registration of successors on inheritance could be reduced to nil, or a negligible amount according to the value of the land.

A reduction in the registration fee is essential to encourage poor people to register their transactions, both on inheritance and transfer. The current transfer fee, being a flat fee, is out of all proportion with the income of most Rwandans. A land transfer normally costs 27,000 RwF (including notarisation, transfer fee, and certificate), but excluding surveying costs. This can amount to 33% of the annual income of the poorest people. The comparisons between average
income and registration fees have already been made in previous reports (Land Tenure Regularisation Support Programme – Towards sustainability in Land Administration, July 2013, pages 19-20), so I will not repeat them here, but would once again stress the urgent need to deal with this issue.

The money and time spent on systematic registration will have been thrown away if ongoing registration is not maintained. There is a belief that the situation is already deteriorating. If registration is not simple and affordable, poor people will not be able to benefit from the advantages of registration by way of mortgages and micro-finance, and will not be able to easily sell their land if they wish to. Compulsory purchase will become difficult so development will be hindered.

**Recommendation 9**

Valuation – introduce a national valuation scheme that attributes a value to each demarcated parcel of land, if this has not already been done on systematic registration. In due course the initial valuation can be replaced by actual value in the form of price paid on any transfer. In the meantime the values could be automatically updated at a regular intervals on the basis of comparisons of market data from the same area. The value or price paid should be shown on the register. This would avoid the need for expensive valuations in particular for poor people applying for micro-finance loans.

I was told that valuation is needed for the abstract of a mortgage, not for taxation. I understand that there is a major challenge in the micro-finance sector, which is relied on by many poor people and, in particular women, to help them develop their small businesses. To get a loan, I was told, you have to get a valuation of the land from a private valuer. Many micro-finance loans are for very small amounts, say $100-$150 US. They are also short term, for 1 to 2 years, after which a new loan is needed. Each time a loan is renewed a new valuation must be paid for. The fee is very high for a borrower. The fee can be 30% of the loan, which will hinder investment and profitability, and puts off some borrowers altogether if they do not have the money to hand.

The people using micro-finance are very poor. They need affordable or free valuations that do not prevent them from borrowing what they need. (There is a similar problem with auditing services, which are also necessary for micro-financing.) There are a couple of options that could be considered to help alleviate this problem, thus improving access to micro-finance and helping people out of poverty.

The Association for Micro-Finance Institutions (AMIR Consult Ltd) suggested that with the appropriate partners they could form a partnership to set up a team of valuers, a few in each district, who could move around and do valuations for micro-finance loans at a very low price, which could depend on the amount of the loan. The valuers would not have to do this at a loss, because AMIR, due to their relationship with micro-finance organisations, would be able to provide them with plenty of work. AMIR would control the cost and quality assurance of the valuations. (We understand that the cost of valuations is currently set for valuers across the board by the Institute of Real Property Valuers in Rwanda, the minimum fee being 60,000RwF, but it is not binding and not all valuers stick to this fee).

However, there is another alternative which could be used, and is used by many banks in European countries to lend smaller amounts. For instance in England and Wales the register of title usually includes the amount of the price paid or value stated on the last change of ownership. Using that figure, banks will make an adjustment to the value based on market trends
for the area. It gives them a sufficiently accurate valuation to make small or additional loans once they have checked the register for other charges or restrictions on the land.

If such a revaluation tool were available in Rwanda it would be invaluable for micro-financing for poor people. It could be used initially and/or on subsequent loans. If a borrower decides they want to change to a different bank with more favourable terms, it ought to be possible to do an adjustment to the previous valuation based on market changes. The new lender could use the adjusted valuation.

The valuations can be adjusted according to price paid data collected by the RNRA LAIS system. At the Land Sector Thematic Working Group it was mentioned that there is now an Institute of Property Valuers and a book of price references. It was said that new law requires that is reviewed annually. We have seen an estimation of price per hectare of agricultural land in Rwanda as an average of RwF 1,000,000 (Land Tenure Regularisation Support Program 2013, p20). So data is available, and the figures for initial valuations could be calculated if they do not already exist.

While in Kigali I also read a newspaper report (The New Times, Rwanda, 16 March 2015, page 3) stating that, in connection with expropriation, the value of the land will also be reviewed annually and approved by the Regulatory Council of Real Property Valuers. It will help with valuation for expropriation. An e-valuation tool will automatically update value through comparisons of market data from the same area. If this can be done for expropriation purposes, it can equally be used for mortgages, particularly for micro-finance purposes.

I suggest that this tool is shared and publicised, so that it can be used for micro-finance and other mortgage purposes, as banks see fit.

Micro-finance institutions (MFIs) will usually register a loan (though not all loans need collateral). So another advantage of making it easier and cheaper for people to borrow money through MFIs is that people will become more familiar with the need to register land transactions, particularly if the RNRA takes over the registration of mortgages. The MFIs can also give out guidance about land registration procedures. If land registry information becomes freely available online, the MFI can check the title to land parcels without having to travel to the district or sector office to check that the land is registered in the borrower’s name and the plot matches the one valued, as they currently do.

**Recommendation 10**

Training and guidance material – In a country where most people have to undertake their own conveyancing, there needs to be more clear, simple, easy to find, step by step guidance aimed at citizens and other users. Also, thorough and regularly updated legal training is needed for all land notaries, local government officers involved in land registration and RNRA land and mapping employees.

In one interview I was told: “people are not aware of registration. Some people know nothing. It can be a long process. They have to get documents from their local authority. Some come direct to the District office thinking they will be dealt with quickly. We have to send them away to collect documents from the Sector.”

Another interviewee said: “There is very little education for the people about leasehold and freehold, and the ability to claim a freehold title from the government in place of an emphyteutic
lease. Most people don’t know they can do this. Of those who do, some prefer not to, because land tax on freehold land is higher than lease fees on an emphyteutic lease. You can still get a mortgage on the lease, so they think there is no point in getting the freehold.”

With regard to external guidance for applicants, there could be much more guidance both online and in paper. This is referred to in Recommendation 4 above. As suggested, guidance can show step by step requirements of what documents are needed, where to get them and where to take them, as shown in the eRegistration pages of Rwanda Development Board website—

Such guidance could also be produced in paper form for distribution in Sector and District offices, micro-finance institutions, Maison a la Justice, local business development centres, by house builders, and in other offices frequently used by members of the public. As most citizens in Rwanda have to undertake their own conveyancing, there needs to be plenty of free help and guidance, both self-help guidance and from local public land notaries.

It is very helpful that the standard application forms for the registration of land transactions all include a list of required documents. We saw that in one district office these forms were displayed on the wall for public view, which is a good idea, but a lot more could be done to make self-help guidance freely available.

With regard to internal legal training of RNRA and District staff, it may be stating the obvious to say that training at all levels needs to be thorough and consistent with the level of responsibility and job function. But this is not made easier by the fact that the District Land Officers, the customer care staff and in due course the Sector Land Managers will be employees of the District authority, not of the RNRA. The lack of accountability of the staff administering the land registration system to the Lands and Mapping Department of the RNRA gives some cause for concern, but we were assured that this is not a problem as “everyone wants the same thing”. Nevertheless, it must make training for RNRA duties more difficult, as these officers also have responsibilities for building and development matters. That makes it more important that they have clear and detailed guidance material to refer to. Guidance for staff should set out not only the straightforward “happy path”, but also give officers some guidance on what to do when an application is not quite right. For instance, we were told that sometimes applications are rejected for trivial reasons that will not affect the validity of the transaction, such as the date and the signature on the application form being transposed. Some level of discretion can be allowed in many instances, and guidance will help staff to make the right decisions in unusual cases. The Land Administration Manual 1 – Land Administration Procedures, of June 2012 – while being detailed is somewhat repetitive, and sets out only what is needed for each type of application. It does not cover different scenarios where an application may not be perfect, but allowances can be made, or work-arounds used, to help the applicant.

In a visit to one District Office we were told that Sector Land Managers have multiple roles and they need guidance on first registration. All plots are now mapped, but some have no information regarding ownership. Sector Land Managers need guidance on how to deal with this land.

In one interview I was told: “District and Sector notaries do not have a clue about condominium law. Contracts are usually signed at Sector level but they don’t understand them.” Clearly this needs to be addressed, but see also recommendation 14.
Even Judges, I was told, need more training in land and registration law. It seems they are making orders which contradict statutory law, which puts the Deputy Land Registrars in a difficult position.

**Recommendation 11**

Continue to provide legal help and advice by local land notaries for people without online access. Where there is a potential conflict of interest (for instance in the case of a husband and wife), parties should be pointed towards independent legal advice. The independent legal advice might be given by another public land notary, or a Maison de la Justice, or Microjustice Rwanda. Additional training could be given to land notaries and other advice providers about conflicts of interest and providing independent legal advice.

Because of high levels of poverty in Rwanda, many people do not have access to internet facilities. Such people will also not have access to lawyers, so will continue to need help and legal advice from local land notaries and District officials for their land transactions. The appointment of Sector Land Managers in all Sectors will help fulfil this need once they are properly trained, so that they can give legal help where necessary.

I have some concerns about public notaries giving legal advice where there could be a potential conflict of interest. For instance in the case of a husband and wife, what is in the interest of the husband may not be in the interest of the wife, but the husband may be able to exert pressure on the wife to comply (or vice versa). In such a case in the UK and other European countries, the lawyer is under a professional duty to refer the wife to take independent legal advice. This may not be easy in Rwanda where the wife is unlikely to be able to afford to pay a lawyer. However, the wife could be referred to another public land notary. Also, I understand that there are Maisons de la Justice, which currently give free legal advice mainly on criminal matters. I also came across a charity called Microjustice Rwanda – [www.microjustice4all.org](http://www.microjustice4all.org) – an organisation dedicated to legally empower the poor and excluded, whose website states that they focus on land registration for property protection, access to collateral and investment opportunities, among other things.

It would be a good idea if public notaries (and private notaries once they are appointed) can be trained to recognise when such independent advice might be needed, and how to refer those in need of it.

Notaries, Advisers from Maisons de la Justice and Microjustice Rwanda could also be trained on the type of independent legal advice to give in various circumstances if people are referred to them. For example, if a husband wants to take out a mortgage on the property to help fund his business, there is a risk of the couple losing their home if repayments are not made. Although the wife has to agree if the property is held under the Community of Property regime, there is a risk of undue influence being exerted on her by the husband. Equally, if the husband wants to sell or buy land, but the wife is uncertain, advice can be given. Other Agencies might co-sponsor such training as it can help to protect women's rights, as well as helping to protect human rights generally.

**Recommendation 12**

A priority protection period is needed in a good conveyancing system, to prevent hostile entries being made on a title register between the period when the parties become committed to a transaction and its registration.
A procedure for priority protection is an invaluable tool that is used by conveyancers in the conveyancing process, to protect the interests of buyers and lenders. It is a mechanism to stop adverse entries being made on the register between the time the lender and buyer become committed to payment of monies and the time that the transaction is completed by registration. Such adverse entries, like a charging order made by the court against the property of the seller, or a bankruptcy petition filed against the seller, may be unusual but can be disastrous for the buyer and lender.

The official search procedure provides a means:

- to update the details of a previously obtained official copy of the register of title by checking the up-to-date subsisting entries in the register of title,
- to obtain the details of any relevant pending application or priority official search entered on the day list since the date of the official copies already inspected,
- to ensure, where appropriate, that no adverse entries are made in the register before a protectable disposition is completed by registration, by providing a priority period for the benefit of the applicant.

Besides updating the details of a previously obtained official copy of the register a priority search has the effect of ‘freezing’ the register. This ensures that no adverse entries are made in the register during the priority period granted under the official search certificate.

Under English law a person can only apply for a priority search if the search is in respect of a “protectable disposition” - that is any disposition for valuable consideration of a registered estate or charge (mortgage) that must be registered (a transfer, mortgage, lease or easement).

A protectable disposition and valuable consideration can be defined in the Land Registration Order, as can the length of the priority period. In England and Wales the priority period is 30 working days. The “day list” is a record showing the date and time at which every pending application was made and every application for an official search with priority.

When an official search is carried out, an official search certificate is issued. Because more than one version of a register can be prepared during the same day, the result of the search will be given from one second past midnight at the beginning of the ‘search from’ date on the official copy of the register that the applicant already holds. A result of an official search with priority reveals entries made since the beginning of the ‘search from’ day.

The official certificate will contain:

- a statement, where applicable, that there have been no adverse entries since the search from date. This means that no adverse entries have been made in the register and that there are no pending applications or unexpired priority searches noted on the day list or
- details of any relevant adverse entries made in the register on or after the search from date. This will usually be by reference to an official copy of the register issued with the certificate. Any changes can be identified by comparing this official copy with the one already held.
notice of the entry of any relevant pending application or proposal by the registrar to alter the register affecting the title entered on the day list

- notice of the entry on the day list of any relevant official search with priority, the priority period of which has not expired, entered on the day list

- the date and time at which the priority period commences and expires if the official search is with priority.

Priority under an official search commences when it is received and entered on the day list. The priority period ends at midnight marking the end of the 30th business day after the day on which the official search application was received. To obtain the priority conferred by the official search certificate, the application to register the protected disposition (and any other dealing upon which that disposition is dependent) must be received and entered on the day list before midnight on the 30th business day.

Any other application received in respect of that parcel of land during the priority protection period will be postponed to the protected disposition. If the protected application is dependent upon an earlier registrable disposition, that earlier disposition will also benefit from the protection afforded by the official search certificate if it is also lodged within the priority period, and is, in due course, completed by registration. So if a transfer is funded by a mortgage, an official search certificate obtained on behalf of the mortgagee will provide protection not only for the lender but also for the buyer, as the registration of the mortgage is dependent on the registration of the transfer.

More details can be seen in HM Land Registry’s Practice Guide 12 – Official searches and outline applications—


New rules in the Land Registration Order would clearly be needed to include a system of priority protection in Rwanda.

**Recommendation 13**

An Indemnity Fund should be held by or on behalf of the Registrar of titles for the payment of compensation in respect of mistakes made by the Registrar and Deputy Registrars, and other members of staff acting under their authority. There need to be clear rules about the circumstances under which payments can be made.

A major benefit of the register of title is the certainty that comes from a State-backed guarantee of title. Clarity of ownership through secure and reliable property rights has a direct influence on the property market, domestic and commercial.

It is important for fairness and transparency in the justice system that the rules for indemnity claims and payments are clear. I would recommend that the provisions in the Land Registration Order are expanded and clarified. Article 66 of the Order confirms that the State is liable for the mistakes of the Registrar and Deputy Registrars. The Article says “That liability must not exceed the value of the land and attachments to the land at the time the mistake occurred; that value is increased by one fifth.”
This rule is not at all clear as to what type of mistakes will incur the indemnity payment, or whether the payments can be reduced due to any fault of the claimant. There is also no mention of rights of recourse by the RNRA against applicants who may bear some responsibility for the mistake. The Land Registration Act 2002 for England and Wales contains a whole Schedule on Indemnity, (Schedule 8)—


Article 67 of the Land Registration Order provides for an Assurance fee to be paid to the Public Treasury on the registration of any land or transaction under the Order. Any damages and costs awarded against the State in respect of the liability of the Registrar or Deputy Registrar for mistakes must be paid out of the Assurance fee. The Article seems to say, though the wording is not clear, that any money paid out of the Assurance Fund will result in a reduction of the annual budget of the RNRA for the Lands and Mapping department.

This provision needs reconsideration. First, I was told that the Article has not been put into effect – that there is no Assurance fee and no separate Assurance fund. Second, there needs to be such a fund, and it should be quite separate from the annual budget of the RNRA. Mistakes are bound to be made, that is inevitable and is a risk that must be provided for. A separate indemnity (Assurance) fund must be set up to cover those risks, and the RNRA should not be “punished” by having its budget reduced because of payments from it. The mistakes can be due to no fault of the registrar. A mistake in the register can be the result of fraud by an applicant, but under a system of title registration (and under Article 66 of the Land Registration Order) the State will act as the guarantor of title.

By way of comparison, the Indemnity Fund operated by HM Land Registry in the year 2013/14 paid out £11.2m (2012/13: £11.9m) including payments arising from fraud and forgery of £6.4m excluding related costs (2012/13 £4.4m excluding related costs), the increase arising from one large case, which distorted the outturn for the year. During the year £2.2m was recovered under our rights of recourse. Our total revenue was £381.3million for the year, from a total of 26,254,742 applications and various commercial products. HMLR also keeps a substantial fund for claims that we know must be incurred but not yet reported. Such claims are the inevitable consequence of the State guarantee of title, and must be provided for.

A benefit of the fund being under the control of RNRA would be that payments could be made from it without the claimant having to go to Court. If it is clear that there is a mistake in the register, an offer can be made by the Registrar. This can reduce the amount of costs incurred and awarded against the RNRA, and the amount of interest that may be incurred by delays in payment.

Recommendation 14

Condominium law needs revision so as to be more clear and precise, in particular with regard to the legal basis of the condominium association. This may make the law more complex, but clear guidance should be published to assist users. Training of staff and legal professionals is needed.

By its nature, condominium law is complex in any jurisdiction. Condominium law has to deal with multiple ownership of different parts of land and buildings, some owned singly and some collectively, often on different overlapping levels. The condominium is purely an invention of statute, and as such the law must be comprehensive and precise, covering in detail the creation, finance, management and termination of the condominium. It is therefore inevitable that the law will be complex, and not easy to understand for average citizens. However, it is not necessary for
citizens or developers to fully comprehend the law, provided that clear, simple guidance is published, explaining the aspects of Condominium organisation that they do need to understand.

With regard to the law itself, there are different approaches in different jurisdictions, all of which have advantages and disadvantages. The main difference is in the means of creation, and the legal basis of the condominium association—

1. In some jurisdictions the condominium is created by deposit of the plan with the land registry. The condominium association is created solely under the condominium law, and is effectively registered with the land registry. All the necessary documents are deposited at the land registry. All the provisions covering creation, finance, management and termination of the condominium are set out in the legislation relating to condominiums, so the legislation tends to be long and complex.

2. In some jurisdictions the condominium association is set up under existing provisions for company law. For instance in England and Wales, it is possible to set up a Company that is a not-for-profit company (this can be stipulated in the Articles of Association). So in England and Wales (where Commonhold is the equivalent of Condominium) the Commonhold Association must first be registered as a company before the Commonhold can be registered at the land registry. This means that many aspects of the creation, administration and termination of the Commonhold Association will be governed by existing Company law and Insolvency law, so they will not all need to be included in the Commonhold or Condominium Law (although appropriate amendments must be made to accommodate the Commonhold Association). While this may make the Commonhold/Condominium law shorter it does not make it any less complex. In fact it means that reference must be made to more than one set of laws.

In Rwanda the Law No 15/2010 of 07/05/2010 – Creating and Organizing Condominiums and setting up procedures for their registration – attempts to provide for Condominiums, but it is not sufficiently precise or thorough to do so adequately.

For instance, Article 2(1) defines the Association of Owners in a condominium as “a non-commercial organisation of at least 2 owners in a condominium associated for the purpose of proper administration, maintenance and operation of the real estate under the condominium”. Article 8 goes on to say “The association of co-owners in a condominium registered in accordance with related laws shall be a legal entity.” However, the law does not state what those related laws are. It seems that it is no longer possible to form an Association of the type envisaged when the law was drafted. I was told that the law on Associations has subsequently been repealed. I have therefore looked at the alternatives – companies, co-operatives and non-governmental organisations (NGOs).

It would not be possible to use Company law of Rwanda to set up the Condominium Association unless the law is changed. Law No. 07/2009 of 27/04/2009 – the Law relating to Companies – defines a Company as being “a corporate body of one or more persons for making profit” (Art 2(12)). It goes on to say that it must be “for commercial purposes” (Art 3), and that “every company shall be considered to be for commercial purposes” (Art 12). The same applies to businesses of low income. Under Ministerial Order No.02/2009/MINICOM of 8/5/2009, Art 2 confirms that the company must be for “business activity… in order to gain profit”. A Condominium Association should not make a profit.
Co-operative law is not suitable for setting up the Condominium Association either. Law No.50/2009 of 18/9/2007 – Determining the Establishment, Organisation and Functioning of Co-operative Organisations in Rwanda contains various provisions that make a co-operative unsuitable for setting up a Condominium Association. For instance Article 3(1) says that membership must be open to all, and 3(7) says that the co-operative must show concern for the development of the community where the co-operative is located. More important is that Art 10 requires the minimum number of people to establish a co-operative will be seven. A condominium may consist of as few as two members. Also the mechanism for setting up a co-operative seems burdensome, needing the approval first of the Sector Secretary, then the District Mayor, then the organisation responsible for co-operatives, followed by advertisement in the Official Gazette. Furthermore, contributions must be equal (Art 29), membership ends on death (Art 30), a member can withdraw at any time (Art 31) or be expelled (Art 32), and has a right to receive dividends and bonuses (Art 46(4)). None of these provisions is compatible with the rules needed for a Condominium Association.

In some cases, I was told, an NGO is being used as the legal basis for the Condominium Association. Again, this is not a suitable vehicle. The website for the Rwanda Governance Board confirms that “An NGO is an organization which is comprised of natural persons or of autonomous collective voluntary organizations whose aim is to improve economic, social and cultural development and to advocate for public interests of a certain group, natural persons, organizations or with the view of promoting common interest of their members.” It also requires at least three people to form it. (Arts 2(2) and 5, Law N°04/2012 OF 17/02/2012 governing the organization and functioning of National Non-Governmental organizations). Members have the right to withdraw (Art 7). The law is not precise, but seems to allow NGOs to operate before they are registered, but to require temporary registration with the Rwanda Governance Board, followed by an application for full registration with legal personality nine months later.

The governing NGOs, though more suitable, is clearly not designed for a Condominium Association, and the provisions mentioned above make it inadequate for their legal basis.

The terms of reference for the legal expert, and time constraints, do not allow for a re-drafting of the Condominium Law of Rwanda. However, the law does need re-drafting. In particular it should cover the following matters in detail—

a. I recommend that the law provides for a new type of legal personality specifically for Condominium Associations. They are a very particular type of organisation with clear but limited powers and duties. Those powers and duties should be set out in the Condominium Law, not by a vague reference to “related laws” which are not specified. I suggest that registration of the Condominium Association should be the responsibility of the Registrar of Land Titles, since the purpose of the Association is to administer land and buildings on the land.

b. The law should provide for how the Condominium and the Association are formed, for instance by the deposit of the condominium plan and Association documents with the Registrar of Lands.

c. The law should make provision about the form and content of the memorandum and articles of association for the Condominium Association, what must be included in them, and any other documents required for its formation. These might be set out in secondary legislation.

d. Provision for the registrar to retain and store copies of the documents required to form the condominium.
e. Provision for registration of the condominium before there are any unit holders, so
that the developer can set up the Association, then hand over the Association and
common parts to the unit holders as they buy the units. The developer retains the
individual units until they are sold. The legislation should set out when the
handover must be done.

f. There should be a general prohibition on charging the common parts.

g. There should be clear rules as to how the shares and liabilities of the unit holders
are assessed, and limits on how those shares can be changed.

h. There should be provision for a reserve fund and how it is to be administered.

i. Clear rules are needed in the event of increasing or reducing the size of the
condominium.

j. Provision must be made for ending the condominium, by agreement or on
insolvency.

k. The law should make it clear that the unit holder’s share in the Condominium
Association passes to any buyer, and any buyer must become a member of the
Association.

In England and Wales the equivalent of condominium is called commonhold. The drafting of
the primary legislation is fairly clear. It is contained in Part 1 of the Commonhold and Leasehold
Reform Act 2002—


The Act is supported by two sets of detailed rules in secondary legislation made by the Minister.


However, Commonhold law in England and Wales is also affected by separate company and
insolvency law. An alternative is to put all the legislation for commonholds into one discrete set of
laws. This is the approach taken in New Zealand (Unit Titles Act 2010) and in Western Australia
(Stata Titles Act 1985) —


Although these Acts appear long and complex, all the law is essentially contained in a single Act,
and both the condominium and the Association are created when the appropriate documents (as
specified in the laws) are deposited and registered by the land registrar. This helps to reduce
complexity, as the applicant does not have to go to separate institutions or look at several
different laws. This arrangement would suit the one stop shop arrangement adopted in Rwanda.

As mentioned, the law is complex whatever approach is taken, so it is essential that good
guidance is published to help developers and other land professionals, and also to guide unit
owners. In addition, legal professionals and notaries will need thorough training so they too
understand the law and requirements for condominiums.

Land Registry publishes a practice guide giving help with the registration of commonhold land—

https://www.gov.uk/government/publications/commonhold
In other jurisdictions there are also publications and organisations to help and advise people on how to administer condominiums. Here are examples from Canada and Western Australia—

http://www.condoinformation.ca/contents


HM Land Registry of England and Wales has experts on commonhold law, which is very similar to condominium law, who may be able to offer further advice and assistance if needed in the re-drafting of Rwanda’s condominium law.

Recommendation 15

A legal regulator will be needed to oversee both private notaries and public notaries to ensure they are trained to the same levels of knowledge and competence, and uphold the same standards of conduct and practice.

Article 22 of Law No.13bis/2014 of 21/05/2014 Governing the Office of Notary already sets out that an Order of the Minister shall determine modalities for the supervision of a private notary. I recommend that a legal regulator is needed to supervise both private and public notaries. The regulator’s duties would include supervising compliance with various requirements of the law such as Article 16 (compliance with the law), Article 17 (independence), Article 20 (the duty of good conduct), and Article 21 (observance of professional secrecy).

An Order of the Minister is needed in any event, under Articles 6 and 8 of the Law, to provide for “the modalities for access to and practice of the office of notary by private persons”, and determining “the format of and modalities for obtaining a private notary’s card”.

It is probably already the intention of the Rwanda Ministry of Justice to provide for such a regulator when the appropriate Order is made, so this is not a lengthy recommendation. I note there is already a Bar Association of Rwanda, and an Institute of Valuers, and most countries have similar regulatory bodies.

Recommendation 16

Electronic Signatures and electronic stamps/seals – new laws will be needed to allow for the use of electronic documents and electronic signatures for land transactions. The LAIS system and the conveyancing procedures need to mature and become more secure before work begins on digital conveyancing and registration. When RNRA is ready to start work on fully digital services HM Land Registry should be in a position to share its knowledge and experience with RNRA in designing and building such services.


I found a draft Law Governing Information and Communication Technologies of 2013 online. But I have not been able to find out whether or not the law has come into force.

The draft law is comprehensive, and would appear to provide for e-documents, e-signatures, e-notarisation and e-sealing (see Articles 122, 127, 138), subject to any document excluded by an Order of the Prime Minister under Article 125.

Until many of the recommendations and improvements to the system have been put into effect it may not be practical to start work on digital documents and signatures. In the meantime the RNRA could ensure that the ICT legislation, if it has not yet been enacted, will not exclude immovable property transactions.

As this is a complex area both legally and technically, it would need a separate workflow with both legal and technical experts involved. It also needs much user research and customer education. I recommend that this is considered as a separate workstream in the future once other legal and technical improvements have been made and consolidated.

**Recommendation 17**

The RNRA should consider introducing law and procedures to enable the registration of private leases and sub-leases. This will give protection for both private citizens and commercial organisations who take a lease, or long term rental, from another owner.

As freehold ownership in Rwanda increases, those owners will wish to use their land and buildings as they see fit. Some owners may wish to rent out their properties while retaining the ownership. Some people or organisations may want the security of long term leases, and also a means of protecting their interest in the land. In England and Wales, any lease or sub-lease of more than seven years must be registered, and will be given its own title number and register. The lease details will also be noted on the freehold or superior leasehold title of the lessor. Leases of between 3 to 5 years can be noted on the title of the lessor, although they will not be registered and given their own title number.

Many commercial organisations may prefer to lease rather than buy land, because of the flexibility it gives them. I was told that if the lease contains a provision agreeing for annotation of the lease on the title of the lessor the Deputy Registrar would have to comply, and make an annotation. However, this is voluntary and probably not well known. As the property market grows and becomes more varied, private leases are likely to become more common and it will be important to record these interests in land. Registration will not only protect the interests of the parties, it will provide information to government departments for tax and planning purposes, and provide data for other property professionals and commercial organisations and researchers.

**Recommendation 18**

Rationalise and consolidate land and registration laws.

There are a large number of laws relating to land law, leasing, and registration, as shown by the long list on the RNRA website.


I appreciate that many of these laws are considered to cover discrete areas of law, and that there seems to be a preference for short laws. But it means that many different laws have to be found and referred to, and then cross referenced. In addition the laws sometimes contradict each other.

For instance Presidential Order N° 61/01 Of 21/11/2008 Modifying And Complementing The Presidential Order N° 30/01 Of 29/06/2007 Determining The Number Of Years Of Land Lease
confirms that foreigners may be granted leases of 99 years, amending the period of 49 years in the 2007 Order. However the 2007 order was not revoked, and we were assured more than once by professionals that foreigners could have a lease of only 49 years.

I also found many small ambiguities in the laws, for instance Article 15 of the Land Registration Order refers to “full title” when I believe it should refer to freehold title. Article 47 refers to “entry of satisfaction” of a mortgage. In English “satisfaction” would mean that the mortgage has been paid off so should be removed. Here I believe it refers to the annotation of a mortgage that has been granted. Article 64 has details about publication of register details in the Official Gazette, but there is no indication of the circumstances in which the publication can take place. There are other examples too detailed for this report. I accept some of these ambiguities may be the result of mis-translation into English, but others need attention.

It would not only be easier to find relevant laws if many of these laws were consolidated, it would also be easier to ensure that they are consistent with each other.

I support the recommendation already made in the Landesa report – Assessment of Rwanda’s Legal Framework Governing the Land Sector, August 2013, recommendation 1 at section 3.1.1, but would go further by suggesting that the consolidation could involve more laws than just those covering institutional frameworks. This would clearly be a major undertaking, but could also mean that the laws could be further clarified and ambiguities corrected.

Section 3: Next steps

We present our report and findings for consideration by DFID and the RNRA, in the expectation that the recommendations made within it might be discussed and explored in more detail as DFID consider their work plan to support maintenance of Rwanda’s land administration system over the period of July 2015 – July 2018.

The regulatory and administrative procedures and other legal guidelines developed as an outcome of this assignment will, subject to approval by RNRA, be developed further to suit the purpose. Other recommendations will be adopted as appropriate and shared with District, Sector Land officers and other government partners for application in the field. Where applicable, additional instruments will be defined to facilitate enhancement of a fair, efficient, improved, secure and accessible land administration system.

We wish to offer our support and assistance in that process, and would like to thank DFID, iFUSE and the RNRA for the opportunity to take part in this deployment.

Section 4: General deployment information

In March 2015 DFID commissioned experts from Her Majesty’s Land Registry to assess the current land registration environment in Rwanda using the Investment Facility for Utilising UK Specialist Expertise (iFUSE). The objectives for the legal expert were to:
To provide advice to the Rwanda Natural Resources Authority on regulatory and administrative procedures around land markets, protection and contract enforcement and activities required to enable professional conveyancing.

- Baseline the current situation by assessing the current legislative framework and supporting guidelines and procedures for land registration.
- Identify any changes required to existing legislation, or additional rules required to: protect land rights, enforce contracts, and regulate administrative procedures around land markets.

The Land Registry legal expert was Joy Bailey, Lawyer and Assistant Land Registrar attached to Registration Legal Services at HM Land Registry’s head office.

Section 5: Background

Rwanda is the most densely populated country in Africa, with over 400 people per square kilometre and a population growth rate of 2.6% per year. 90% of all Rwandans live in households that own some farming land. About 80% are dependent upon agriculture, and 60% of farming households cultivate less than 0.5 ha of land. 46% of Rwandans live under the poverty line with 24% living in extreme poverty. The population density, population growth, dependence on agriculture and limited land availability places a great strain on land resources and makes land one of the key issues for the government and people of Rwanda. Measures to reduce poverty and to manage land are policy priorities for the Government of Rwanda.

Rwanda has conducted one of the most successful land tenure regularisation (LTR) projects in recent times, with 10.3 million parcels mapped and registered in five years. To ensure that the records held by the Rwanda Natural Resources Authority (RNRA), Lands and Mapping Department (DLM) are an accurate reflection of the actual rights on the ground, a maintenance system is being developed. This is based on the deployment of the Land Administration Information System (LAIS) and the implementation of revised land laws. The whole system depends on a decentralised approach to land administration. Although the main database will be held centrally in Kigali, the responsibility for amending the land registers will be at zone, districts, and sector level. This decentralised approach requires modification of the land administration systems, and will inevitably require development of new procedures governing land administration and management.

Clear, accurate and accessible information on land ownership supports investment through (1) reassuring investors on the ownership and stability of infrastructure investments and (2) reassuring banks of the land/property assets held by individuals seeking credit.

Section 6: Summary terms of reference for the deployment

A copy of the Terms of Reference for the legal expert is attached at Annex 1.

Section 7: Mission methodology
There were two principal methods used to obtain information on the state of land registration in Rwanda in order to complete the mission.

The first consisted of reviewing the available literature relevant to the issue of land law and land registration in Rwanda to gain background information and an overview of the general position. The second method was to have meetings with relevant stakeholders to obtain their views and ask questions to fill in any knowledge gaps and clarify understanding.

In addition to meeting relevant stakeholders from the Rwanda Natural Resources Authority, we also interviewed other stakeholders with an interest in land registration. A full list of interviewees is in the next section.

We also visited District and Sector offices, and attended a community meeting held as part of Land Week.

Section 8: Summary of activities

In the short time available before deployment, searches of the internet provided some information and reports relating to land registration and administration in Rwanda, and the RNRA website provided a list of most of the relevant laws, with links to them. Not all the laws are translated in English. Further background reading was provided throughout the visit by RNRA and DFID.

A list of the papers referred to is contained in Appendix 2.

I arrived in Rwanda on Sunday 15 March 2015 and stayed until Thursday 2 May 2015. In Kigali, I had a full agenda of visits and meetings with a variety of stakeholders including visits to District and Sector offices.

I was interested in how these users of the land registration service found the process, and to identify strengths and weakness from their perspective. With respect to the RNRA, I was interested to find out about their work processes, how much was driven by the legal framework and how much was internal process.

I also attended a meeting of the Land Sector Thematic Working Group which included representatives from the other donors who have been providing support to the Land Administration sector in Rwanda. These meetings were used to not only gain an understanding of the various processes and the relevant institutional background but also to see where any identified interventions would complement and not conflict with their existing and continuing projects.

I would like to record my gratitude to all who gave generously of their time to meet with me and my colleague Katie Gordon-Smith, and made my visit both productive and enjoyable. Particular thanks must go to Rhona Nyakurama Butare, Land Administration Project Manager of RNRA, who organised my busy programme of meetings. I am also extremely grateful to Sam Biraro, Evaluation and Monitoring Officer of the RNRA, who gave us valuable time in the middle of a very busy Land Week programme. Sarah Love of DFID supported us throughout the visit, and has supplied us with several useful documents.

The full list of people I met and questioned during the visit is as follows (listed in the order in which I met them):
<table>
<thead>
<tr>
<th>Name</th>
<th>Position and Organisation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sarah Love</td>
<td>Lead Adviser, Land Tenure Regularisation programme (LTR), DFID</td>
</tr>
<tr>
<td>Justus Turyatemba</td>
<td>Programme Manager for the LTR, DFID</td>
</tr>
<tr>
<td>Didier Sagashya</td>
<td>Deputy Director General, Land and Mapping Department, RNRA</td>
</tr>
<tr>
<td>Rhona Nyakurama</td>
<td>Land Administration Project Manager, RNRA</td>
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<tr>
<td>Alex Nkurunziza</td>
<td>Local ICT Adviser, RNRA</td>
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<tr>
<td>Scovia</td>
<td>LAIS Processor, Kigali District</td>
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<tr>
<td>Sam Biraro</td>
<td>Evaluation and Monitoring Officer, RNRA</td>
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<tr>
<td>Dr Emmanuel Nkurunziza</td>
<td>Director General and Registrar of Land Titles, RNRA</td>
</tr>
<tr>
<td>Yves Sangano</td>
<td>SRO/State Attorney, Office of the Registrar General, Rwanda</td>
</tr>
<tr>
<td>Commissioner Jeanmarie</td>
<td>Deputy Commissioner for Regions and Decentralised Taxes, Rwanda Revenue Authority</td>
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<tr>
<td>Gakwerere</td>
<td></td>
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<tr>
<td>Grace Nishimwe</td>
<td>Deputy Registrar of Land Titles, Kigali Central Province</td>
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<tr>
<td>Deputy Mayor</td>
<td>Bugasera, at the Land Week Campaign Community Meeting</td>
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<tr>
<td>Jacques Hakizimana</td>
<td>District Land Officer, Kicukiro, Kigali</td>
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<tr>
<td>Marie Rose Nirere</td>
<td>Sector Executive Secretary</td>
</tr>
<tr>
<td>Ezekial Kamanzi</td>
<td>Sector Land Manager</td>
</tr>
<tr>
<td>Zinoa</td>
<td>Sector Executive Secretary</td>
</tr>
<tr>
<td>Zinoa</td>
<td>Sector Land Manager</td>
</tr>
<tr>
<td>Land Sector Thematic Working Group members, including Daya Bragante (UN Commission for Africa), Anna Knox (USAID Land Project), Enid Ingabire (Land Project) and others</td>
<td></td>
</tr>
<tr>
<td>Pothin Muvara</td>
<td>Deputy Registrar of Land Titles, Western Province, RNRA</td>
</tr>
<tr>
<td>Damascene</td>
<td>Former District Land Officer and land notary, Karongi District</td>
</tr>
<tr>
<td>Legal Professional</td>
<td>Karongi District</td>
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<tr>
<td>Solomon Kyewalabye</td>
<td>Software Developer, LAIS Consultant to RNRA</td>
</tr>
<tr>
<td>Donata Butere</td>
<td>IT Business Analyst, RNRA</td>
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<tr>
<td>Jacky Mugwaneza</td>
<td>Executive Secretary, Rwanda Bankers Association</td>
</tr>
<tr>
<td>Francois Naganda</td>
<td>Director of Land Administration, RNRA</td>
</tr>
<tr>
<td>Bonaventure Nzeyimana</td>
<td>Legal Adviser, RNRA</td>
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Comment [H1]: Please would you complete the full name on our behalf. Thank you very much.

Comment [H2]: Please would you complete the full names on our behalf. Thank you very much.

Comment [H3]: Please would you complete the full names on our behalf. Thank you very much.
Section 9: Attachments and annexes

Annex 1: iFUSE Terms of Reference

1. Title of the assignment

Technical assistance to advise Rwanda Natural Resources Authority (RNRA) on Legal issues in land ownership, land leasing and land expropriation.

2. Objective(s)

To provide advice to RNRA on regulatory and administrative procedures around land markets, protection and contract enforcement and activities required to enable professional conveyancing.

3. Short description of the assignment:

This assignment requires a Legal Expert, to deliver the following tasks:

- In coordination with RNRA, develop a work plan for the deployment that provides an overview of the assistance approach, a statement of expected outcomes and an activities schedule
- Baseline the current situation by assessing the current legislative framework and supporting guidelines and procedures for land registration.
- Identify any changes required to existing legislation, or additional rules required to: protect land rights, enforce contracts, and regulate administrative procedures around land markets.

4. Strategic basis

What is the specific investment climate challenge that this assignment is intended to...
respond to?

Rwanda has conducted one of the most successful land tenure regularisation (LTR) projects in recent times, with 10.3 million parcels mapped and registered in five years. To ensure that the records held by the Rwanda Natural Resources Authority (RNRA), Lands and Mapping Department (DLM) are an accurate reflection of the actual rights on the ground, a maintenance system is being developed. This is around the deployment of the Land Administration Information System (LAIS) and the implementation of revised land laws. The whole system depends on a decentralised approach to land administration. Although the main database will be held centrally in Kigali, the responsibility for amending the land registers will be at zone, districts, and sector level. This decentralised approach requires modification of the land administration systems, and will inevitably require development of new procedures governing land administration and management.

Clear, accurate and accessible information on land ownership supports investment through (1) reassuring investors on the ownership and stability of infrastructure investments and (2) reassuring banks of the land/property assets held by individuals seeking credit.

How will the deployment’s specific outputs contribute to meeting this challenge?
The assignment will advise on any changes or additions required to the law, to enable land and property conveyancing.

5. Beneficiary organisation:
The Government of Rwanda through its Natural Resources Authority (RNRA).

6. Assignment follow-up

Subject to the outcome of the assignment what follow-up action do you intend to take?
The regulatory and administrative procedures and other legal guidelines developed as an outcome of this assignment will, subject to approval by RNRA, be developed further to suit the purpose. Other recommendations will be adopted as appropriate and shared with District, Sector Land officers and other government partners for application in the field. Where applicable, additional instruments will be defined to facilitate enhancement of a fair, efficient, improved, secure and accessible land administration system.

7. Designated contact for the assignment and contact (email and phone number)

Eng. Didier Sagashya
Deputy Director General
Department of Lands and Mapping
Rwanda Natural Resources Authority
Didier.sagasya@rnra.rw
Mobile: +250 (0)788301811

Or Rhona Nyakulama Butare
Land Administration Project Manager, Rwanda Natural Resources Authority (RNRA)
Email: nyakulama@yahoo.com
Mobile: +250 (0) 0785 101342
<table>
<thead>
<tr>
<th>8. DFID country office or regional contact (email and phone number)</th>
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<tbody>
<tr>
<td>Sarah Love, Lead Adviser for the Land Tenure Regularisation (LTR) programme</td>
</tr>
<tr>
<td>Email: <a href="mailto:S-Love@dfid.gov.uk">S-Love@dfid.gov.uk</a></td>
</tr>
<tr>
<td>Mobile: +250 (0)788 306164</td>
</tr>
<tr>
<td>or Justus Turyatemba, Programme Manager for the LTR programme</td>
</tr>
<tr>
<td>Email: <a href="mailto:j-turyatemba@dfid.gov.uk">j-turyatemba@dfid.gov.uk</a></td>
</tr>
<tr>
<td>Mobile: +250 (0)788 387163</td>
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<th>9. Deliverable(s)</th>
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<tr>
<td>Report detailing any changes required to the existing legal framework to enable:</td>
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<tr>
<td>- Regulatory and administrative procedures around land markets</td>
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<tr>
<td>- Protection and contract enforcement guidelines</td>
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<td>- Professional conveyancing</td>
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<th>10. Description of required expertise</th>
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<tr>
<td>The Legal Expert Advisor shall have the following minimum requirements to be considered for this assignment:</td>
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<tr>
<td>- A degree or equivalent level qualification in land law, land management or land administration,</td>
</tr>
<tr>
<td>- Extensive experience of working on Land Administration Systems</td>
</tr>
<tr>
<td>- Experience of mentoring and transfer of knowledge and responsibility to others</td>
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<tr>
<td>- Clear communication: fluency in English and proven ability in report writing</td>
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**Language requirement (if other than English):**
N/A

**Relevant country experience and preferred comparative knowledge:**
Experience in Sub-Saharan Africa would be an advantage.

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<th>11. Indicative methodology</th>
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<tr>
<td><strong>Who will the expert work with?</strong></td>
</tr>
<tr>
<td>Rwanda Natural Resources Authority, Districts and Land Sectors plus other team of consultants working on the programme.</td>
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**What technical inputs will the expert be expected to provide?**
See section 3 above

<table>
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<th>12. Assignment schedule</th>
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<tr>
<td><strong>Target for start date:</strong> mid to end February 2015</td>
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<tr>
<td><strong>Completion not later than:</strong> end April 2015</td>
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13. Expert input

**Number of days required in-country:**

15 working days in Kigali

**Additional days for preparation and final deliverables:** To be agreed

14. Risks, assumptions and conditionality factors

**What documents will the expert need, and who will provide them?**

Documents will be provided by RNRA

**Key government officials the expert will have access to:**

Senior officials of Rwanda Natural Resources Authority

**Working space (where will the expert work?):**

RNRA head office in Kigali

**Are translation services required and if so who will provide them?**

Not required

**Other delivery risks and proposals for their management:**

- Establishing good relationships with RNRA staff.
- Embedding understanding of reforms widely in the organisation rather than in the hands of 1 individual is a prudent course to take.
- Good coordination and sharing of learning/observations/outputs with the other two IFUSE funded deployments to RNRA.

15. Request initiator (name, title, organisation, email and phone number):

Eng. Didier Sagashya  
Deputy Director General  
Department of Lands and Mapping  
Rwanda Natural Resources Authority  
[Didier.sagasya@rnra.rw](mailto:Didier.sagasya@rnra.rw)  
Mobile: +250 (0)788301811

16. Request date:

18th June, 2014 (revised version of ToRs submitted 8th December)

17. DFID adviser approval (if applicable)

Sarah Love, Lead Adviser for the Land Tenure Regularisation (LTR) programme  
Email: S-Love@dfid.gov.uk  
Mobile: +250 (0)788 306164

**Date of approval:** ........
Appendix 2 – Documents reviewed

Laws
Expropriation Law
Valuation Law
Land lease period law
Condominium law
Land sharing order
Shore land
Eastern Province obtaining land lease
Systematic land registration fees
Land consolidation ministerial order
Condominium certificate instruction
Freehold land titles order
Abandoned assets law
District land bureau ministerial order
Freehold Titles template
Land sharing amended Ministerial order
Land use planning law
Lease period amendment
Lost title instruction
New fees presidential order
New land law
Notary law
Procedures for land lease
Procedures for land registration
Registrar of land titles Order
Sub-lease, DLBs ,freehold orders
Law on Mortgages No 10/2009
Other documents

National Land Policy, February 2004

Land Tenure Regularisation Support Program – Towards sustainability in Land Administration


Landesa report – Assessment of Rwanda’s Legal Framework Governing the Land Sector, August 2013

Land Tenure Regularisation Support Programme – Terms of Reference for development of a three year work plan July 2015 – July 2018

Assessment Report – Towards a sustainable land administration service, Michel Magis, 13 February 2015 (draft)

Musanze District Land Week community meeting report, February 2015

Bugasera Land Week community meeting report, March 2015