

BURKINA FASO

UNITY-PROGRESS-JUSTICE

NATIONAL ASSEMBLY

IV TH REPUBLIC

FOURTH LEGISLATURE

ACT N° 034-OF THE YEAR 2009 ON RURAL LAND TENURE SYSTEM

THE NATIONAL ASSEMBLY

In accordance with the provisions of the Constitution;

In accordance with the resolution n° 001-2007/AN of 04 June 2007, concerning validation of tenure of the members of Parliament;

Deliberated during the parliamentary proceedings of 16 June 2009 and enacted the law as follows:

PART I : GENERAL PROVISIONS

CHAPTER I : OBJECTIVE, SCOPE OF APPLICATION AND DEFINITIONS

Section 1 : Objective, Scope of application

Article 1 :

This act determines the property and land tenure system applicable to rural lands and the principle of land tenure security of all the rural land stake-holders.

It aims to:

- ensure equitable access to rural lands for all stake-holders in the rural area, natural and legal entities of public and private law.
- promote investments, increase productivity in the agro-forestry-pastoral sector and reduce poverty in rural areas
- Promote rational and sustainable management of natural resources
- Contribute to preservation and consolidation of social harmony

Article 2 :

This Act applies to rural land, understood as being those located within the administrative boundaries of rural municipalities and used for purposes of production and conservation.

Also included within the scope of this Act are the village lands attached to urban municipalities.

Article 3 :

This Act does not apply to land used for housing, trade and related activities as determined by the master plan of town and country planning and the land use plans.

Notwithstanding the provisions of Article 2 above, protected and notified forests, wildlife areas, grazing land, mineral and water resources remain subject to the provisions of special laws relating thereto, especially the Forestry Code, the Mining Code, the Environmental code, the guidance law on grazing and the guidance law on water management.

Article 4 :

The rural land is a national wealth. As such, the State as guarantor of the general interest :

- Ensures rational and sustainable management of rural land;
- Fights against land speculation in rural areas and promotes effective development of rural land for the collective well-being;
- Ensures sustainable use of rural land in the interest of future generations;
- Organizes effective legal recognition of legitimate local land rights of rural populations;
- Ensures the security of property rights and tenure regularly established on rural land;
- Ensures, generally speaking, the protection of national interests and preservation of national wealth of rural areas

Article 5 :

The rural lands are classified in the following categories :

- Rural land of the State;
- Rural land of the local authorities;
- Rural land owned by individuals

Section 2 : Definitions

Article 6 :

For the purposes of this Act, the following terms have the connotation of:

- **Land tenure security** : the set of processes, measures and actions of all kinds to protect land owners, possessors and users of rural land against any challenge, disturbance of their right or against any risk of eviction;
- **Rural land stake-holders** : individuals or group of individuals or legal entities of private law or public law, enjoying rights on rural lands, either as land-lords, or holders of tenure rights, or owners, or even as simple users of rural land;
- **Local land charters**: local land conventions based on locally developed customs, usages or practices, and designed in the context of the implementation of this Act, to consider the ecological, economic, social and cultural diversity in rural communities;
- **Local places of shared natural resources**: rural areas such as village forests, sacred groves, ponds, areas of land used for grazing, cattle tracks, which, according to local land conventions do not belong to specific individuals or families, and whose use is in accordance with local customs and traditions, and which are open to all local rural stake-holders;
- **Rural land ownership**: the de facto power legitimately exercised on rural land in reference to local land customs and traditions;

- **Rural land-use rights:** the rights of rural land-use, granted for a fixed duration, in personal capacity, by a rural property owner to another individual or group of individuals;
- **Loan of rural land:** the agreement by which one person authorizes another to occupy and use a rural land of which he is the land-lord or owner, for household activities and in personal capacity for a fixed or indefinite term with the obligation for the borrower to vacate the premises when the lender shows intention of taking repossession of the land;
- **Rural farming lease or lease of land:** the agreement by which the owner or landlord assigns the enjoyment of his land to the lessee for carrying out agro-forestry-pastoral activities, for a specified period and, upon payment of a periodic rent;
- **Land without heir :** land belonging to a person deceased without leaving an heir.

CHAPTER II : NATIONAL POLICY ON LAND TENURE SECURITY IN RURAL AREAS

Section 1 : Contents and implementation of the national policy on land tenure security in rural areas

Article 7 :

The national policy on land tenure security in rural areas should :

- Encourage the recognition and protection of property rights, enjoyment of possessions and land use rights of all stake-holders of rural lands;
- Promote equitable access to rural land for all rural stakeholders, without distinctions of ethnic origin, sex, religion, nationality and political affiliation;
- Promote sustainable development of rural land resources and contribute to food security, economic development and the fight against poverty;
- Contribute to the prevention and management of land conflicts and the consolidation of social harmony;
- Guide the building of an effective institutional framework for securing rural land.

Article 8 :

The implementation, monitoring and evaluation of national policy of rural land tenure security is done through a national program of rural land tenure security, developed by the government, ensuring the coordination of all involved ministries and public institutions and with the effective participation of other stake-holders in rural lands, especially the local bodies, customary and traditional authorities, the private sector and civil society.

The national program of rural land tenure security determines :

- The main operational measures to be taken in the short, medium and long terms, to ensure effective security of land rights of rural stake-holders and rational and sustainable management of rural land;
- The institutional, human, technical and financial mobilization and technical capacity to strengthen at all local levels, to ensure the effective implementation of rural land policy and laws;
- Mechanisms and tools for monitoring and evaluating the implementation of the policy and the laws relating to land tenure security in rural areas.

Section 2 : Framing and actualization of the national policy on rural land tenure security

Article 9 :

The government frames, evaluates, implements, and actualizes the national policy on rural land tenure security.

Article 10 :

The framing and actualization of the national policy on rural land tenure security is done in a participative manner and is based on the principle of the broadest agreement between all categories of rural stake-holders, especially the local bodies, customary and traditional authorities, the private sector and civil society.

The national policy on rural land tenure security is adopted by decree of the council of ministers.

PART II : THE LOCAL LAND CHARTERS

CHAPTER I : OBJECTIVE AND CONTENTS OF THE LOCAL LAND CHARTERS

Section 1 : Objective of the local land charters

Article 11 :

In the conditions defined below, the provisions of this act can be clarified and/or adapted to specificities of the rural areas and specificities of local needs, through the framing of local land charters.

Article 12 :

The local land charters must contribute to the effective implementation of the present act, by promoting responsible natural resource management of local holdings.

Section 2 : Contents of the local land charters

Article 13 :

The local land charters determine locally the rules pertaining to:

- respect for positive local customs related to access and use of rural land
- respect and conservation of specific plant, animal, wildlife and fish species on notified areas;
- identification and conservation of local places of shared natural resources and the means for their equitable access and participatory management;
- rural land loans, including the duration of the loan, the related compensation, the conditions for renewal, the duration of the cessation of cultivation of rural lands resulting in termination of the loan, the reasons for terminating the loan by the lender and conditions of repossession by him of his land and the length of notice to be observed by the lender in exercising his right of repossession, the conditions in which the heirs can continue the land loan contracted by their author under the Family and Personal code ;
- the types of positive actions to be initiated at local level to support vulnerable groups, particularly women, pastoralists and youth;
- the local authorities responsible for preventing and alternatively managing rural land disputes and the procedure applicable to them.

Article 14 :

The local land charters cannot depart from the provisions of this act or other laws in force. They must be drafted in accordance with human rights, public order and morality.

CHAPTER II : FRAMING, ADOPTION AND VALIDITY OF LOCAL LAND CHARTERS

Section 1 : Framing and adoption of local land charters

Article 15 :

The local land charters can be initiated at the village or inter village level. They can also be initiated at the level of one or more municipalities, considering especially the resource type or need for harmonization of land management at local level.

Article 16:

The local land charters are drafted in a participatory manner through the involvement of all local socio-professional categories concerned by the use and management of the resource in question.

The following stake-holders are automatically involved in the process of framing local land charters:

- Representatives of traditional and customary bodies ;
- Representatives of rural producers organizations including organizations of farmers, pastoralists, forest users, women and youth;
- The local representatives of local chambers of agriculture.

Locals from the region can be associated with the framing of local land charters taking into consideration their knowledge of the area or their experience and commitment to local development.

Article 17 :

The framing of local land charters is done in a progressive manner based on identified local land management needs.

Article 18:

The decentralized technical departments of the state provide assistance in the process of framing local land charters and ensure their compatibility with laws in force.

The State assists rural communities in framing local land charters by providing them with a model type of local land charter and any methodological support as appropriate.

Article 19 :

The local land charters framed at the village or inter village level are adopted in village or inter-village assembly respectively.

Section 2 : Validity of the local land charters

Article 20 :

The local land charters are validated through deliberations at the municipal council.

The deliberation specifies, for each charter, the objective and the area covered by the application of the charter.

Article 21 :

The local land charter becomes effective after transmission of the deliberation of validation to the supervising authority, subject to the conditions of entry in force of the acts of local authorities.

Article 22:

The approved local land charters are recorded in the register of local land charters of the respective municipality.

Any concerned person has the right for free communication of the register of local land charters upon request addressed to the Mayor of the concerned municipality. Issuance of the copies of the register of local land charters is subject to common stamp duty.

Article 23 :

The municipal councils, village development councils and the local agricultural chambers ensure dissemination and spread of local land charters as well as information and awareness amongst the local people. To this end, they work together with the technical departments of the State, customary and traditional bodies and civil society.

Article 24:

The methods for framing and validating local land charters are specified by decree of the Council of Ministers.

PART III : RECOGNITION AND PROTECTION OF RURAL LAND RIGHTS

CHAPTER I : LAND RIGHTS OF THE STATE AND THE LOCAL AUTHORITIES

Section 1 : Rural land of the State

Article 25 :

The rural land of the State includes:

- By rights, all rural land managed by the state on public funds ;
- Land reserved by the town and country master plans for development;
- Rural land acquired by the State from individuals by processes of common law;
- The land acquired by exercising pre-emptive right or applying the procedure of expropriation for public purposes.

Article 26 :

All rural land owned by the State must be identified, demarcated and registered in the name of the state. They are managed in a rational and sustainable manner by the relevant departments of the State or any specialized governmental agency created for this purpose.

Section 2 : Rural land of the local authorities

Article 27 :

The rural land of the local authorities comprises :

- Rural land ceded to them by the state;
- Rural land acquired by the local authorities by processes of common law;
- The land acquired by exercising pre-emptive right or applying the procedure of expropriation for public purposes.

Article 28 :

Exercising pre-emptive right and the implementation of the expropriation process for public purposes by local authorities are subject to prior authorization of the supervisory authority.

Article 29:

In addition to the management of their rural land, the State can transfer a part of the management of rural land owned by the State to local governments, in accordance with the laws in force.

Article 30:

All rural lands under the ownership of local authorities must be identified, demarcated and registered in the name of the concerned local authority. They are managed in a rational and sustainable manner by the relevant departments of the local authority with technical support from the government.

Article 31 :

Local authorities are required, together with the relevant technical departments, and in consultation with village development councils, the regional chambers of agriculture and producer organizations to specifically identify, demarcate, and secure local places of shared natural resources within their geographical limits.

Article 32:

Subject to the application of specific provisions of the Forestry Code, the Environmental Code, the framework laws for water management and grazing, the local places of shared natural resources are registered in the name of the relevant local authority, they are nevertheless subject to a special classification, placing them under a protective legal regime similar to that of the public domain and are therefore inalienable, and exempt from seizure, unless prior declassification.

The management of the local places of shared natural resources may be delegated to local users specially formed for this purpose. The terms of use and management of local places of shared natural resources are specified by the local land charters.

Article 33 :

The terms of compensation in case of expropriation for public utility will be specified by decree of the council of ministers.

CHAPTER II : RURAL LAND OWNERSHIP OF INDIVIDUALS

Section 1 : Rural land ownership

Article 34 :

Rural land ownership can be exercised individually or collectively. Rural land ownership is exercised individually when the land in question is the property of a single person. It is exercised collectively when the land in question falls within the common property of many people, such as that of members of a family.

Article 35:

The regularly established rural landholdings are recognized by this Act. The rural land ownership is established when on the one hand, evidence of constituting facts is reported and, when on the other hand, no challenge is mounted during the adversarial procedure of recognition under this Act.

Article 36 :

Subject to the identification of local places of shared natural resources, identified and integrated into the concerned municipality, the following facts constitute the basis of land ownership:

- The unanimous recognition of a person or family in the capacity of de facto owner of a rural land by the local population, especially by neighboring land owners, and local traditional authorities;

- The continued, public, peaceful and unequivocal development as de facto owner, for at least thirty years, of rural land for rural production.

Recognized or proven loans and leases of rural land can under no circumstances form the basis of rural land ownership.

Article 37 :

The facts of land ownership can be proved by all legal means. However, to be effective against third parties, the facts for land-ownership must be invoked by the property owner himself or by one or more persons acting on his behalf and for his account.

Article 38 :

In cases of dispute over possession, the owner of rural land can initiate a possessory action in the courts. The judge in charge of a possessory action can visit the scene of the dispute to verify the reality of the land situation and collect additional information as needed. He may request the assistance of an expert registered at the courts of Burkina Faso

Article 39 :

Any rural land owner may seek, individually or collectively, recognition of his possession. To this end, he sends an application to the territorial jurisdiction, for recognition of rural land ownership.

The application for recognition of rural land ownership is made on a form provided by the municipality and is subject to common stamp duty.

The constitutive documents of the application for recognition of rural land ownership and details of the procedure for establishing possession of rural land are specified by decree of the Council of ministers.

Article 40 :

The implementation of the procedure for recognition of rural land ownership is carried out by the rural land department of the concerned municipality. It consists of, at the minimum, the following measures and actions:

- Information, by all appropriate means, about the individuals concerned by the application for recognition of rural land ownership;
- Information on the location of the land;
- A public and adversarial local land enquiry for informing the rural land department on the reality and nature of rural land ownership;
- A period of notification for receiving any potential challenges;
- Demarcation of the land by all appropriate means.

Article 41 :

Any municipality may on its own initiative, undertake one or several activities of establishing rural ownership in all or part of its territory.

Article 42:

In addition to the provisions of the Article 40 above, the details of the procedure for carrying out the activities of establishing rural land ownership, initiated by the municipalities, are specified by decree of the Council of Ministers.

Article 43 :

The activities of establishing rural land ownership are financed through:

- The resources of the municipality;
- State subsidies;
- Donations from individuals or legal entities of private law;

- The resources of the National Fund for land tenure security in rural areas;
- Contributions from development partners;
- All other resources authorized by the regulations in force.

The State may initiate all appropriate incentives to promote private sector contribution for financing the activities of establishing rural land ownership.

Article 44 :

Any rural land owner whose proof of ownership has been established in accordance with the provisions of this Act shall be issued a rural land ownership certificate by the mayor of the concerned municipality.

The certificate of rural land ownership is an administrative act with the same legal value as a possession title as provided by the regulations on agrarian and land reforms in Burkina Faso.

Article 45 :

The certificate of rural land ownership is prepared by the rural land department, after formal checking and verification of payment of related duties and/or taxes. The rate or amount of duties and/or taxes due are determined by regulation.

Article 46 :

The certificate of rural land ownership is signed by the mayor and is registered in the local register of rural landholdings created for this purpose.

The terms of organization and maintaining the register of rural landholdings are fixed by decree of the Council of Ministers.

Article 47 :

The certificate of rural land ownership is transferable through inheritance. It may also be transferred inter vivos, for free or in return of a payment, under the conditions provided by the regulations on agrarian and land reforms in Burkina Faso.

Article 48 :

The assignment of a rural land ownership is established on a standard form provided by the municipality. To be enforceable against third parties, the assignment must be recorded in the register of rural land transactions at the behest of the transferee.

The act of registering the transfer in the register of rural land transactions gives rise to the payment of duties and/or taxes the amounts of which are specified by regulations.

The terms of organization and maintaining the register of rural landholdings are fixed by decree of the Council of Ministers.

Article 49 :

The assignee of a certificate of rural land ownership is issued a title deed established in his name, under the conditions provided by the regulations in force on agrarian and land reforms in Burkina Faso.

Article 50:

Valid assignment of rural landholdings are subject to special conditions, relative to, especially, verification of the actual agreement of the rural land owners and their heirs.

In addition, measures relating to the concerned areas and the conditions for land development can be imposed on transferees.

The specific conditions applicable to assignment of rural land under the preceding paragraph of this Article are specified by decree of the Council of Ministers.

Section 2 : Rural land use rights

Article 51 :

The following constitute the rights to use rural land:

- Rural land loans granted for a fixed or unspecified duration;
- Rural farming lease or farming lease;
- Temporary cultivation permits awarded under provisions of section 61 below of this Act.

The rural land use rights shall be entered in the register of rural land transactions.

Article 52 :

The loan of rural land may be oral or written. The written agreement of rural land loan can be done through a private act. The oral loan of land must be through an oral statement at the village land commission. The declaration of land loan is recorded on the spot by the village land commission on a form provided by the municipality. The loan of rural land is recorded in the register of rural land transactions.

The recipient of a rural land loan cannot in turn lend the loaned land to a third party without express prior authorization of the original lender. Unauthorized loan to a third party is void against the land owner or possessor.

Article 53 :

The parties to a loan of land can freely determine the duration. When the term of a loan of rural land is not determined by the parties, the loan term is determined according to the provisions of the local land charter where the land is situated.

In the silence of the parties, and failing determination by the local land charter, the term of the loan is considered in dispute, which is then determined by the local conflict management authority or by the court, referring to the local land customs and practices.

Article 54 :

A rural land may be loaned for free or in return of a payment. Unless determined in writing by the parties, the compensation for the loan is determined according to the provisions of the local land charter where the land is situated. This compensation may be determined in cash or in kind.

In the silence of the parties, and failing determination by the local land charter, the compensation due is considered in dispute, which is then determined by the local conflict management authority or by the court, referring to the local land customs and practices.

Article 55 :

The rural land loan ends when the lender manifests his intention to regain repossession of his land or, if applicable, on the expiry of the term agreed between the parties. The loan may also be terminated prematurely for non-compliance with specific terms of the loan.

In case of death of the borrower of rural land, his heirs may continue the loan under the same conditions as the deceased.

Article 56 :

Upon expiry of the agreed term of the land loan, the parties can decide to renew the loan. In the silence of the parties, the loan is considered renewed by tacit agreement.

Article 57 :

Subject to a specific term limit for the loan of land, the lender may regain possession of the land for carrying out production himself or by a member of his family or for any other legitimate reason. He is in this case liable to inform the borrower in accordance with the provisions of a notice period.

The notice period for the repossession of land is determined according to the provisions of the local land charter where the land is situated. In the silence of the parties, and in the absence of a notice period of repossession of land provided by local land charter, the lender must inform the borrower of his intention to regain possession at least one year in advance, so as not to jeopardize his productive operations in progress.

In case of non compliance with notice period of repossession of land by the lender, the borrower of rural land can get a restraining order on the premises by judge of the high Court under the territorial jurisdiction until the harvest and the complete removal of his production.

Article 58 :

Unless expressly agreed between the parties, the cessation of the actual cultivation of the land loaned, for a period determined by the local land charter where the land is situated, ends the land loan and authorizes the repossession, by rights, of land by the rural land owner.

In the absence of determination by a local land charter, the duration of cessation of the actual cultivation of the land lent referred to in the preceding paragraph of this article is in dispute, which is then determined by the local conflict management authority or by the court, referring to the local land customs and practices.

Article 59 :

The farming lease must be agreed to in writing. The writing can be an act under private law on a form provided by the municipality. It can also be prepared by a ministerial officer.

The written agreement must specify:

- The identity of the parties to the contract;
- Brief description of the land and the particulars of the certificate of rural land ownership;
- The duration of the lease and the conditions of renewal;
- The amount of rent and payment terms;
- The nature of permitted activities, investments or improvements.

Article 60 :

Any farming lease has a term of minimum five years. The lease is recorded in the register of rural land transactions.

Article 61:

Any person or legal entity of private law may request a municipality, the permission to temporarily develop uncultivated rural land within the territorial jurisdiction of the municipality.

The rural areas listed below are not considered uncultivated land for the purposes of this Act:

- Fallow land ;
- Pastures and cattle track allowances;
- The local places of shared natural resources;
- The forest reserves of the state and local governments.

Article 62 :

When the request for temporary cultivation of rural land is for a land without any title, the mayor of the municipality concerned, prior to any authorization, orders the rural land department to prepare a certificate of rural land ownership in the name of the rural property owner, in accordance with the procedure laid down in Article 39 above. In this case, the certification of rural land ownership is at the applicant's expense.

Article 63:

The authorization for temporary cultivation can not be granted for a period more than five years.

At the end of the period of temporary cultivation, the rural owner or landlord regains full rights to the land. The recipient of the temporary cultivation permission is required to release the land concerned, without being able to claim any compensation in lieu of investments and improvements he has made on the land.

Article 64 :

A decree of the Council of Ministers shall specify the procedures for issuing permits for temporary cultivation of rural lands and the conditions for restitution of the land back to the possessor or owner of the rural land.

Section 3: Long-term leases and assignment of rural land developed by state and local authorities

Article 65 :

The State or local governments will agree on priority on rural land, developed or to be developed, and owned by them, for long leases to individuals or natural or legal entities of private law, wishing to make productive investments for profit in rural areas.

Depending on the context, priority will be given to rural operators, natural or legal entities, such as local producer organizations for issuing leases.

Article 66 :

The long-term lease of rural land is a lease between, on the one hand, the lease holder or lessor of land and on the other hand, the lessee or tenant of land, for a term of between eighteen years at least and ninety nine years maximum and giving rise to a periodic rent. The long-term lease can be made only on registered land. It is a real estate and can be mortgaged. The leasehold must be published in the land records in accordance with the laws in force.

Article 67 :

The long-term lease agreement specifies the purpose of the contract, the size of the land, the duration of the lease and the amount and terms of payment of rent. The schedule of conditions specific to the developed land is attached with the long-term lease. The schedule defines the obligations of land development and sets the amount and terms of payment of annual fees relating to the use of common facilities on the enclosure. Moreover, it specifies the provisions on the prohibition of sub-letting of land under lease

Article 68 :

The State or local government, party to the long-term lease agreement, undertake to ensure the lessee free, secure and peaceful enjoyment of tenure for the term of the long-term lease.

The lessee agrees to carry out effectively and on time, the investment and improvements provided in the schedule of conditions and use the land in a sustainable manner.

Article 69 :

The long-term lease expires at the end of its term. At the end of the lease, the land returns to the state or the local authority with all the investment and improvements made. The

lessee can not claim any compensation in lieu of investments or improvements made.
The long-term lease can also expire in the cases below:

- Death of lessee without heir or dissolution of the legal entity;
- Amicable Termination;
- Termination owing to breach by either party of contractual terms.

Article 70 :

In case of death of the lessee before the end of the agreement, his heirs may continue the long-term lease for the term remaining.

On its expiry, the long-term lease can be renewed at the request of the lessee or his heirs.

Section 4 : Land-ownership in rural areas

Article 71 :

In addition to the long-term leases, individuals or legal entities of private law wishing to undertake productive investments for profit in rural areas can access agricultural and pastoral lands, managed by the State or by local authorities, by way of assignment.

Article 72 :

Any holder of a certificate of rural land ownership can apply for issuance of a title deed of his rural land if he meets the requirements set by the regulations in force.

The application for issuance of a title deed is filed to the revenue office and the land notifications under the territorial jurisdiction or over the single window under the territorial jurisdiction, if any, under the guise of the rural land department of the concerned municipality.

Article 73 :

The assignment of rural land for profit activities is done only through tender. The assignment is accompanied by a schedule of conditions setting out the terms and conditions of development and the penalties for non compliance with the terms of that schedule.

The assignee is issued a property title after complete payment of the transfer price and the related fees and taxes. He must himself cultivate the land for at least ten consecutive years and is not allowed to change the destination of the land, without prior authorization.

Article 74 :

The failure of cultivation of rural land acquired for profit activities is penalized by levying a fee for non-cultivation to the budget of the state and/or the local authorities. It may extend to withdrawal of plot.

A decree of the Council of Ministers shall specify the requirements for the recognition of non-cultivation and the rates and rules for collecting this tax.

Article 75 :

The state and local governments can organize special programs for allotting individuals or groups, land developed from their respective rural land holdings for the benefit of disadvantaged rural producer groups such as small farmers, women, youth and breeders.

The proportion of land to be reserved by the State for special award programs under this article shall be determined through regulations for each development.

Article 76 :

The beneficiaries of the special award programs listed in Article 75 above, receive a notice of award giving them the full rights to request the issuance of an operating license in accordance with the laws in force.

The schedule of conditions annexed to the notice of awards define the conditions and terms of occupation and use that can lead to permanent transfer of land and issue of title deeds in the name of the beneficiaries. The permanent transfer is established by order of Minister of Finance.

PART IV: RURAL LAND TENURE SECURITY INSTITUTIONS

CHAPTER I : LOCAL LAND MANAGEMENT STRUCTURES

Section 1 : Rural land Department

Article 77 :

In each rural community a rural land department is created.

The rural land department is responsible for, on the one hand, for all the land management and security activities of the municipality lands including the local places for shared natural resources, and on the other hand, the activities for ensuring land tenure security of individual rural land owners within the territorial limits of the municipality.

The rural land department also contributes to the preservation, securing and management of land owned by the region and state, within the territorial limits of the municipality concerned.

Article 78 :

As part of its general tasks defined in the preceding section of this Act, the Rural Land department, in collaboration with the village land commission ensures the proper maintenance of rural land records, especially:

- The register of rural landholdings;
- The register of rural land transactions;
- The register of local land charters;
- The register of rural land conciliations.

Article 79 :

The powers, organization and functioning of rural land departments and the procedures for keeping rural land records are specified by decree of Council of Ministers.

Article 80 :

In urban municipalities in which villages are included, the services and functions of rural land departments are performed by land offices of those municipalities in collaboration with village land commissions created within the village development councils.

Section 2 : The village land commissions

Article 81 :

A specialized subcommittee in charge of land issues, called village land commission, is created in each village under the village development council. It includes, by rights, the customary and traditional village bodies in charge of land or their representatives. It may appoint any person whose participation is deemed useful.

Article 82 :

The village land commission is responsible for facilitating the effective implementation of the tasks of the rural land department by helping, on the one hand, in securing and managing land in the municipality and, on the other hand, by participating in the land tenure security of all rural stake-holders in the municipality. Specifically, the village land commission provides the population information and awareness regarding land matters, identifies local places for shared natural resources, participates in the recognition of local property rights and works generally to prevent rural land conflicts.

The composition, powers and functioning of village land commissions are specified by decree of the Council of Ministers.

Section 3 : Local consultative bodies for land-related matters

Article 83 :

Rural municipalities can create local consultative bodies for land-related matters. At the request of the municipality, these bodies are assigned to consider all issues relating to land tenure security of local stake-holders, local land management and governance, land equity issues and sustainable use of rural lands, and to recommend any measures they deem appropriate.

Depending on the specific needs of managing a resource, local consultative bodies for land-related matters may also be created at the inter-municipality level.

Article 84 :

The local consultative bodies for land-related matters have merely an advisory role. However, they can on their own initiative, make proposals to the municipal board or regional council, particularly in matters pertaining to the framing of local land charters, prevention of conflicts over rural land or development of rural area.

Article 85 :

The local consultative bodies for land-related matters must include the representatives of the village development councils, the decentralized technical departments of the State, the civil society, women's organizations and representatives of customary and traditional bodies.

Local resource persons recognized for their experience, integrity and moral authority can be appointed members of local consultative bodies for a fixed, renewable term.

CHAPTER II : CENTRAL AND INTERMEDIARY INSTITUTIONS AND DEPARTMENTS OF LAND TENURE SECURITY

Section 1 : Decentralized government institutions and departments

Article 86 :

The relevant decentralized technical departments of the state provide assistance to the rural land departments in the field of land management of the local bodies and securing the rural individual landholdings. This support also covers capacity building. The decentralized technical departments of the state are also responsible for assisting the

regions in the set-up of their regional land offices, for managing their own land area and in the co-operative development and implementation of the regional land use plans.

Article 87 :

The controlling and parent bodies at central and local levels are responsible for ensuring regularity of the actions of the rural land departments and, generally speaking, local land governance.

Section 2: The specialized governmental agency responsible for the establishment, planning and land management of the state rural land

Article 88 :

A dedicated state agency is created for the establishment and preservation of rural land of the state, to work towards securing the rural area of the state and promote the development, cultivation, and rational management of rural land developed or to be developed by the state. It ensures compliance with specific and general schedule of conditions pertaining to developed rural lands.

The public body under this article is also involved in the sustainable management of rural land in rural communities and regions. On request by the local bodies, it can intervene on their behalf, in accordance with the conditions laid down by decree of the Council of Ministers.

Article 89 :

The specialized public agency has legal personality and autonomy of management.

The designation, powers, functioning and terms of intervention of this specialized public body are specified by decree of the Council of Ministers.

Section 3 : The National Fund for securing land tenure in rural areas

Article 90 :

A National Fund for securing land tenure in rural areas is hereby established. This fund is assigned exclusively to the promotion and subsidizing of activities for securing land tenure in rural areas and for financing rural land management activities.

The organization, operating procedures, funding and the terms of use of fund resources are determined by decree of Council of Ministers.

Section 4: The national body for coordination, monitoring and evaluation of rural land policy and legislation

Article 91:

The state establishes and ensures the proper functioning of a national body for coordination, monitoring and evaluation of national policy and legislation concerning security of land tenure in rural communities

Article 92 :

The national body for coordination, monitoring and evaluation of national policy and legislation concerning rural land management must involve all public, private and civil society stake-holders concerned by the rational, equitable, peaceful and sustainable management of land in rural areas, including representatives from the local bodies, customary and traditional authorities, and centers of research and excellence.

The national body for coordination under the previous article of this Act, can be decentralized at the regional level.

Article 93 :

The composition, organization and functioning of the national body for coordination, monitoring and evaluation of national policy and legislation concerning rural land management and its branches are specified by decree of the Council of Ministers

TITLE V : RURAL LAND CONFLICTS

CHAPTER I : MANDATORY PRIOR PREVENTION AND CONCILIATION

Section 1 : Preventive measures

Article 94 :

The State shall take and implement all necessary measures to effectively prevent and reduce land conflicts in rural areas.

Under the Prevention of rural land conflicts, the State develops and implements, in consultation with all stakeholders, especially the local authorities and regional chambers of agriculture, the appropriate measures for sound development and management of rural areas.

Article 95 :

The State and local authorities shall take all appropriate measures to ensure the involvement of customary and traditional bodies, civil society and resource persons in the prevention of rural land conflicts.

Section 2 : Conciliation

Article 96 :

For the rural land disputes, conciliation should be attempted before initiating litigation. The efforts at conciliation with respect to land disputes are made by local authorities usually responsible for managing land disputes. The local land charters determine the procedure applicable to local authorities for conciliation.

In consideration of local circumstances, local land charters may provide for the establishment of ad hoc local bodies responsible for managing rural land disputes.

The local authority responsible for alternative conflict management has a period of forty five days from the referral of the dispute to implement the conciliation between the parties. This period may be extended once.

Article 97 :

Any conciliation proceeding shall be recorded in a report of conciliation or of non-conciliation.

In case of conciliation, the conciliation report shall be subject to approval of the judge of the high court under the territorial jurisdiction. In case of a failure of conciliation, either

party may appeal to the higher court, adding to the committal the report of non-conciliation.

The reports of conciliation or non-conciliation are recorded in conciliation registers of the rural communities. A copy of the report is issued to each party. Copies of reports of conciliation or non-conciliation are subject to common stamp duty.

CHAPTER II : JURISDICTION ,OFFENCES AND PENALTIES

Section 1 : Jurisdiction

Article 98 :

The high court has exclusive jurisdiction to hear land disputes between individuals, groups of individuals or legal entities of private law regarding the existence, nature or form of land rights in rural areas.

Article 99 :

Under the direction of a land dispute, the High Court may, for information, visit the village land commissions, rural land departments, traditional authorities and representatives of regional agriculture chambers. It can also have the information of the local land records conveyed, without moving itself.

Article 100 :

The administrative courts are competent to adjudicate land disputes between the administration and persons or groups of persons in private law, regarding allotments, tenders and assignment of rural land made by the administration, and the related issuance and administrative acts. The administrative courts are competent to judge the validity of local land charters

Article 101 :

Any decision on a non-registered rural land, brings the obligation for the party that won the case, to proceed with the registration of concerned land in accordance with the decision

Section 2 : Offences and penalties

Article 102 :

Constitute forgery and forgery of public documents, fraudulent alteration of rural land records and certificates of rural land ownership and the intentional use of such documents.

Article 103:

Constitute a total or partial destruction of rural land records, the physical alterations caused intentionally in order to render impossible their use. These acts are punishable by imprisonment of five to ten years and a fine of one hundred thousand (100 000) CFA francs to one million (1,000,000) CFA francs or one of these two penalties

Article 104 :

Constitute as false statements under the adversarial proceedings for ascertaining rural land ownership, any abusive legal claim and any malicious evidence made intentionally in order to be recognized as holder of land rights or to recognize such rights to a third person. They are punishable by imprisonment of three months to three years and a fine of fifty thousand (50,000) CFA francs to five hundred thousand (500,000) CFA francs or one of these two penalties.

Article 105:

Violations of provisions of the land charters of a penal nature are defined and sanctioned by decree of the Council of Ministers.

TITLE VI : TRANSITIONAL AND FINAL PROVISIONS

CHAPTER I : TRANSITIONAL PROVISIONS

Article 106 :

The reports of ascertainment of land ownership established before the entry into force of this Act, as part of pilot land tenure security activities hold value as certificates of rural landholding. Subject to eventual status of ownership of the land concerned, they confer their holders the enjoyment of all rights and benefits under this Act to holders of certificates of land ownership in rural areas.

Land tenure security activities concerned by this provision are specified by decree of the Council of Ministers.

Article 107 :

In the absence of local land charter, the issues concerning them are decided in accordance with local land uses and customs, provided that these are not in conflict with existing regulations, human rights and morality.

Article 108:

From the entry into force of this Act, the palaver report is replaced by the assignment of rural land ownership under section 48 above.

The palaver report established before the entry into force of this Act shall remain valid.

Article 109 :

The State is implementing a land communication and information campaign including the wide dissemination of this Act to the relevant departments, its spread amongst the people and taking measures for awareness about rural land tenure security by all appropriate means.

Article 110 :

The state is developing a national program of rural land tenure security for ensuring the effective implementation of this Act. The national program must define the timing of implementation of all central and local institutions of land management under this Act, the measures to strengthen capacity of authorities implementing the provisions of this Act.

Article 111 :

The implementation of this act is being constantly monitored and a participatory evaluation is to be planned after a period of five years from its entry into force.

CHAPTER 2 : FINAL PROVISIONS

Article 112 :

This act which repeals all earlier contrary provisions shall be enforced as the law of the State.

Thus done and deliberated in general session at Ouagadougou, the 16th of June 2009.

Signed by the President, **Roch-Marc Christian Kabore**

And the speaker of the house, Kadiatou Korsaga.

