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REPUBLIC OF KENYA

THE NATIONAL TREASURY AND PLANNING

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 08 SEP 2020

THE NATIONAL TREASURY

P.O. BOX 30007-00100

NAIROBI

KENYA

TABLED
BY:

HON AMB KIMUNYA

[Signature]

Ref. ZZ/TS/GP/30

20th August 2020

Michael Sialai, EBS

Clerk of the National Assembly

Parliament Building

NAIROBI

Dear

Sialai

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cit
25/8/20*

RE: LEGAL NOTICES ON THE TAX PROCEDURES (UNASSEMBLED MOTOR VEHICLES AND TRAILERS) (AMENDMENT) REGULATIONS, 2020, THE STAMP DUTY (VALUATION OF IMMOVABLE PROPERTY) REGULATIONS, 2020 AND THE STAMP DUTY (VALUATION OF IMMOVABLE PROPERTY) REGULATIONS, 2020

The above-mentioned Regulations were Gazetted on 14th August, 2020

In compliance with section 11 of the Statutory Instruments Act, I hereby submit the above-mentioned Regulations, Explanatory Memoranda and evidence of public participation on the same for tabling in the National Assembly.

Yours

Sincerely,

HON. (AMB.) UKUR YATANI, E.G.H

CABINET SECRETARY/THE NATIONAL TREASURY AND PLANNING

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Laid Again
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NATIONAL ASSEMBLY
RECEIVED
25 AUG 2020
CLERK'S OFFICE
P. O. Box 41842, NAIROBI

SPECIAL ISSUE

1739

Kenya Gazette Supplement No. 135

5th August, 2020

(Legislative Supplement No. 87

LEGAL NOTICE No. 139

THE TAX PROCEDURES ACT

(No. 29 of 2015)

IN EXERCISE of the powers conferred by section 112 of Tax Procedures Act, 2015, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE TAX PROCEDURES (UNASSEMBLED MOTOR VEHICLES AND TRAILERS) (AMENDMENT) REGULATIONS, 2020

1. These Regulations may be cited as the Tax Procedures (Unassembled Motor Vehicles and Trailers) (Amendment) Regulations, 2020.

Citation.

2. The Fourth Schedule to the Tax Procedures (Unassembled Motor Vehicles and Trailers) Regulations, 2020, is amended in paragraph 1 by inserting the following new subparagraphs immediately after subparagraph (f)—

Amendment of Fourth Schedule to L.N. 84/2020.

(g) king pin.

(h) hydraulic tipping jack kits.

(i) manhole assembly, valves and pump kits for tankers or bulkers.

Made on the 13th July, 2020.

UKUR YATANI,

Cabinet Secretary for National Treasury and Planning.

18-8-20

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 08 SEP 2020	DAY: TUESDAY
PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI	
TABLED BY:	HON. AMOS KIMUNYA, MP
CLEARANCE:	LEADER OF MAJORITY PARTY
TESTAMENTS:	Ashuku

**EXPLANATORY MEMORANDUM TO
THE TAX PROCEDURES (UNASSEMBLED MOTOR VEHICLES AND
TRAILERS) (AMENDMENT) REGULATIONS, 2020**

PART I

Name of Statutory Instrument	The Tax Procedures (Unassembled Motor Vehicles and Trailers) (Amendment) Regulations, 2020
Name of Parent Act	The Tax Procedure Act, 2015 (No. 29 of 2015)
Enacted pursuant to	Section 112 of the Tax Procedure Act, 2015 (No. 29 of 2015))
Name of the Ministry	The National Treasury and Planning
Gazetted on	14 th August, 2020

PART II

1. Purpose

The Regulations are aimed at promoting the assembly of trailers in Kenya.

2. Legislative Context

The Fourth Schedule to the Tax Procedures (Unassembled Motor Vehicles and Trailers) Regulations, 2019 lists parts that form a completely knocked down kits for trailers. However, some the parts were inadvertently omitted from the Schedule. The Regulations therefore seek to include the omitted parts in the Regulations.

3. Policy Background

The Regulations intends to include *“king pin, hydraulic tipping jack and manhole assembly, valves and pump kits for tankers/bulkers”* as part of Completely Knocked Down (CKD) kits for assembly of trailers under the Fourth Schedule to the Tax Procedures (Unassembled Motor Vehicles and Trailers) Regulations, 2019.

The Ministry of Industrialisation, Trade and Enterprise Development note that the parts, which are necessary and critical safety components in the assembly of

trailers were inadvertently omitted during the preparation of the Regulations and should be included.

4. Consultative Outcome

The proposed amendments were by the assemblers of trailers through the Ministry of Industrialisation, Trade and Enterprise Development and therefore there was no need for public participation.

5. The Impact

These Regulations was developed in conformity with the Constitution of Kenya, 2010 and it confers benefits to trailers assemblers by exempting additional parts from import duty for assembly of trailers.

The Regulations will not have significant impact on revenue from import duty since the Principal Regulations are already under implementation by the Kenya Revenue Authority.

6. Monitoring and Review

The Regulations will be implemented by the Kenya Revenue Authority and monitored by Ministry of Industrialisation, Trade and Enterprise Development together with the sector players.

7. Contact

The Cabinet Secretary

The National Treasury and Planning



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NAIROBI, 14th August, 2020

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**MINISTRY OF INDUSTRIALIZATION, TRADE AND ENTERPRISE
DEVELOPMENT
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Social Security House, Block A
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NAIROBI, GPO
KENYA

REF: MOI/CORP/5/3

Date: 27th April 2020

Hon. (Amb) Ukur Yattani, EGH
Cabinet Secretary
National Treasury & Planning
Treasury Building
NAIROBI

Dear CS

**AMENDMENT OF LEGAL NOTICE NO 84 – TAX PROCEDURES
(UNASSEMBLED) MOTOR VEHICLES AND TRAILERS)
REGULATIONS, 2019**

Reference is made an unreferenced letter from M/s Bhachu industries dated 15th January, 2020 (copy attached) requesting for an amendment of the above Legal Notice (**Legal Notice No. 84**) to include essential and important trailer parts which were omitted during the preparation and gazettment of the said Legal Notice.

Bhachu Industries Limited is the largest trailer manufacturer in sub-Saharan Africa employing over 600 people. It has modelled its business on establishing a local entity to fully manufacture semi-trailer of a diverse range to cater for the needs of the entire African market.

The Ministry recommends that the Regulations be amended to include the following trailer parts:

- King pin
- Hydraulic tipping jack kits, and
- Manhole assembly, valves and pump kits for Tankers /bulkers.

① Wangamburu
- FWA
29/4/20

Mr. Ngugi
②

consequently, the Ministry proposes the Regulations to be amended as follows:

- (1) Amend the Fourth Schedule of the Tax Procedures (Unassembled Motor Vehicles and Trailers) Regulations, 2019 by inserting the following parts immediately after item (f)
 - a) King Pin
 - b) Hydraulic tipping jack kits and
 - c) Manhole assembly, valves and pump kits for Tankers /bulklers.

The parts requested are critical safety components that are necessary in the manufacture of trailers. The proposed amendment further increases the competitiveness of trailers manufacturers in Kenya, creates employment and promotes local Industry.

Yours *Sincerely*



BETTY C. MAINA, CBS
CABINET SECRETARY

Encls. (2)

Copy to **Dr. F. O. Owino, PhD, CBS**
Principal Secretary
State Department for Industrialization
NAIROBI

Commissioner General
Kenya Revenue Authority
Times Towers
NAIROBI

(1)

(Legislative Supplement No. 27)

LEGAL NOTICE NO. 84

THE TAX PROCEDURES ACT

(No. 29 of 2015)

IN EXERCISE of the powers conferred by section 112 of the Tax Procedures Act, 2015 the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE TAX PROCEDURES (UNASSEMBLED MOTOR VEHICLES AND TRAILERS) REGULATIONS, 2019

1. These Regulations may be cited as the Tax Procedures (Unassembled Motor Vehicles and Trailers) Regulations, 2019. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“authorized assembler” means a person approved by the Cabinet Secretary to assemble motor vehicles or trailers in a bonded warehouse facility;

“assembly plant” means a bonded warehouse facility with plant and equipment for the assembly of motor vehicles or trailers by an authorized assembler;

“authorized importer” means a person approved by Cabinet Secretary to import completely knocked down kits for the assembly of motor vehicles or trailers in an assembly plant;

“automotive glass” means front and rear windscreens, and front and rear passenger glass;

“bonded warehouse facility” means a place or premises approved by the Commissioner where completely knocked down kits of unassembled motor vehicles or trailers are stored and used in the assembly of motor vehicles or trailers as the case may be;

“commercial vehicle” means a motor vehicle, other than a motorcar or a F.W.D. vehicle, with four or more wheels which is used primarily on roads;

“Commissioner” has the meaning assigned to it under section 2 (1) of the East African Community Customs Management Act, 2004; No. 1 of 2005.

“completely knocked down kit” means a motor vehicle or trailer kit comprising parts and sub-assemblies used for the assembly of a motor vehicle or trailer;

"F.W.D. vehicle" means a motor vehicle, other than a motorcar, with power transmittable to at least two front and two rear wheels which has a load capacity of not more than two tonnes;

"fasteners" means bolting or clipping;

"interior trim" means seats, floor mats, door panels or roof lining;

"light commercial vehicle" means any commercial vehicle having a load capacity of less than three tonnes;

"localization" means the development, manufacture or production of local motor vehicle or trailers parts, components, sub-assemblies and systems for use in the assembly of motor vehicles or trailers and after-sales support;

"medium or heavy commercial vehicle" means a commercial vehicle having a load capacity of three tonnes or more;

"monocoque body" or "mono-construction body" means a vehicle body in which the body frame is integrated or combined with the chassis as a single unit;

"motorcar" means a saloon or a station-wagon or a motorcar type and size;

"original equipment manufacturer" means a manufacturer of parts and sub-assemblies where the manufacturer owns the intellectual property rights in the parts or sub-assemblies;

"part" means an individual component shaped, fashioned or otherwise manufactured from one piece of metal or any other material and not joined or connected in any way to another component or material;

"sub-assembly" means a component consisting of any two or more parts joined together by any means;

"trailer" means any unpowered vehicle designed to be drawn by a tractor;

"tractor" means a vehicle constructed essentially for hauling or pushing another vehicle, appliance or load, whether or not the vehicle contains subsidiary provision for the transport, in connection with the main use of tractor, of tools, seeds, fertilisers or other goods;

"system" means a set of items working together as parts of a motor vehicle or trailer mechanism: and

"unassembled" means a completely knocked down kit consisting of parts and sub-assemblies used for the assembly of motor vehicles or trailers.

3. (1) A person who intends to import unassembled motor vehicles or trailers shall comply with the conditions specified in these Regulations.

Importation of unassembled motor vehicles or trailers.

(2) The importation of kits shall be classified as unassembled only if the kits are imported in accordance with these Regulations.

(3) Parts or sub-assemblies may be imported from different countries of origin and the importer shall ensure that all import documentation complies with these Regulations.

4. (1) A person shall not import unassembled motor vehicles or trailers unless that person is an authorized importer.

Application for approval of importation.

(2) A person who intends to import unassembled motor vehicles or trailers shall apply to the Cabinet Secretary for authorization.

(3) An application under subregulation (2) shall provide the details of models of motor vehicles or trailers to be imported.

(4) The Cabinet Secretary shall review an application under subregulation (2) and approve or decline the application.

(5) Upon approval, the applicant shall apply to the Commissioner for a license to operate a bonded warehouse facility.

(6) Despite subregulation (5), upon approval, an importer of unassembled motor vehicle or trailers may import knocked down kits if the importer satisfies the Commissioner that the importer has access to, or use of, a bonded warehouse facility.

5. A person applying for approval as an authorized importer of unassembled motor vehicles or trailers shall—

Conditions for approval as an importer.

- (a) be incorporated in Kenya;
- (b) have an assembly plant or a contract with an assembly plant licensed by the Commissioner as a bonded warehouse facility; and
- (c) be tax compliant.

6. (1) The assembling of motor vehicles or trailers shall be undertaken in a bonded warehouse facility licensed by the Commissioner.

Assembling of motor vehicles or trailers.

(2) The Commissioner may allow in bonded warehouse facilities the receiving of locally purchased parts and sub-assemblies as components for the assembly of motor vehicles or trailers.

7. (1) The Commissioner may permit the transfer of unassembled or assembled motor vehicles or trailers from one bonded warehouse facility to another.

Transfers between bonded warehouse facilities.

(2) Notwithstanding subregulation (1), the Commissioner may impose such conditions as may be necessary for the transfer of unassembled or assembled motor vehicles or trailers from one bonded warehouse facility to another.

8. Knocked down kits for motor vehicles shall be imported as individual parts or sub-assemblies as specified in the First and Second Schedules to these Regulations.

Knocked down kits
for motor vehicles.

9. Knocked down kits for trailers shall be imported as individual parts or sub-assemblies as specified in the Fourth Schedule to these Regulations.

Knocked down kits
for trailers.

10. (1) Parts or sub-assemblies imported as part of completely knocked down kits shall not include any of the parts that are specified in the Third Schedule to these Regulations.

Parts to be excluded.

(2) The excluded parts sub-assemblies when imported with the rest of the completely knocked down kits shall be declared separately and relevant duties paid by the importer.

(3) The parts and sub-assemblies that are specified in the Third Schedule or Fourth Schedule to these Regulations shall be reviewed after every two years or such other time as may be necessary, by the Cabinet Secretary, in consultation with the Cabinet Secretary responsible for matters relating to industry.

11. An authorised assembler or importer shall submit to the Cabinet Secretary an annual report on the number and type of assembled or imported vehicles or trailers as the case may be.

Annual reports.

12. Despite the provisions of these Regulations in respect of levels 1 and 2, the timelines specified in the agreements between the Government and the assemblers entered into before the commencement of these Regulations shall continue to apply.

Transition.

13. A person who contravenes any of the provisions of these Regulations commits an offence and shall be liable, on conviction, to the relevant penalties specified under the Act.

Offences.

14. (1) The Customs and Excise (Unassembled Motor Vehicles) Regulations, 1993 are revoked.

Revocation.
L.N. No. 363/1993.

(2) The Customs and Excise (Restricted Imports) (Commercial Trailers) Order, 2002 is revoked.

L.N. No. 128/2002.

FIRST SCHEDULE

(r. 8)

1. General Provisions

(1) Except where otherwise specified in these Regulations, each individual part or sub-assembly shall be imported un-attached to other parts or sub assemblies.

- (c) fuels;
- (d) hydraulic fluid;
- (e) sealers;
- (f) adhesives;
- (g) paint;
- (h) toughened flat glass;
- (i) canvas hoods, covers and screens;
- (j) soft trim upholstery;
- (k) sound deadening material;
- (l) pre-mixed metal pre-treatment chemicals;
- (m) hydraulic jacks;
- (n) scissor jacks; and
- (o) tool kits.

FOURTH SCHEDULE

(r. 9)

COMPLETELY KNOCKED DOWN KITS FOR TRAILERS

(1) The following parts or sub-assemblies shall constitute the complete knocked down kits for trailers—

- (a) axles;
- (b) suspensions;
- (c) air braking kits;
- (d) rims;
- (e) landing gears; and
- (f) turntables.

(2) The axle and suspension in paragraph 1 of this Schedule shall consist of the following parts and sub-assemblies—

- (a) brackets;
- (b) casting blocks;

- (c) equalizers;
- (d) fixed and adjusters arms;
- (e) shock absorbers;
- (f) springs (parabolic, air and helical);
- (g) air chambers;
- (h) axle lift kits;
- (i) axle beams complete with stubs, studs, hubs, drums and braking equipment; and
- (j) steeling axles complete with stubs, hubs, suds, steering arms and linkages.

Dated the 13th June, 2019.

HENRY ROTICH,
Cabinet Secretary for the National Treasury and Planning.

17820

SPECIAL ISSUE

1747

Kenya Gazette Supplement No. 137

5th August, 2020

(Legislative Supplement No. 89

LEGAL NOTICE No. 151

STAMP DUTY ACT

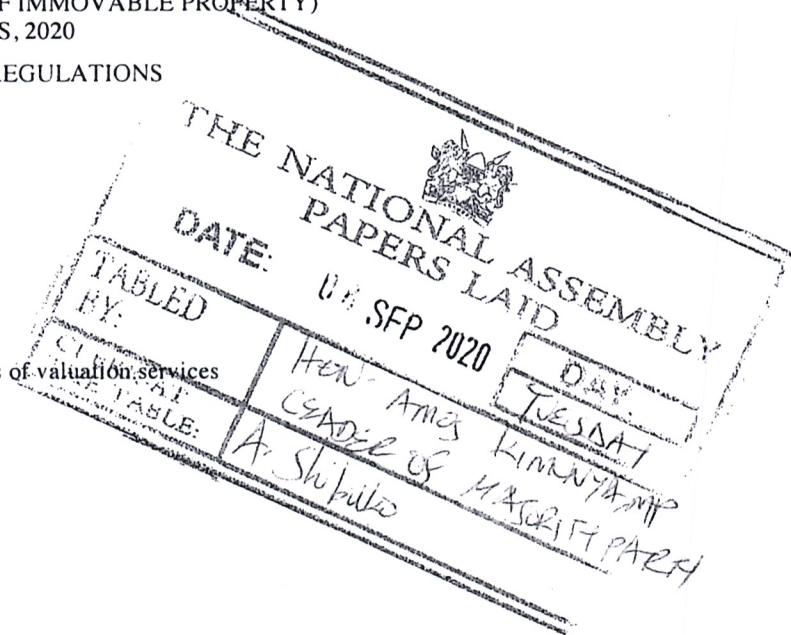
(Cap. 408)

**THE STAMP DUTY (VALUATION OF IMMOVABLE PROPERTY)
REGULATIONS, 2020**

ARRANGEMENT OF REGULATIONS

Regulation

- 1—Citation
- 2—Interpretation
- 3—Appointment of private valuers
- 4—Valuer to conduct valuation
- 5—Valuation report
- 6—Monitoring and audit assessments of valuation services
- 7—Value of an immovable property
- 8—Validity of valuation report
- 9—Objections
- 10—Grounds for objection
- 11—Time for lodging objection
- 12—Objections lodged out of time
- 13—Withdrawal of objection
- 14—Professional malpractice
- 15—Revocation of appointment
- 16—Valuation fees and other expenses
- 17—Submission of documents to Chief Government Valuer
- 18—Notices by the Chief Government Valuer



STAMP DUTY ACT

(Cap. 408)

IN EXERCISE of the powers conferred by section 119 of the Stamp Duty Act, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE STAMP DUTY (VALUATION OF IMMOVABLE PROPERTY) REGULATIONS, 2020

1. These Regulations may be cited as the Stamp Duty (Valuation of Immovable Property) Regulations, 2020. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“appointed valuer” means a private valuer appointed by the Chief Government Valuer under section 10A of the Act;

“immovable property” includes land, whether covered by water or not, any estate, right, intestate or easement on or over any land, and things attached to the earth or permanently fastened to anything attached to the earth;

“registered valuer” means a person whose name is for the time being entered in the register;

“register” means the register kept and maintained under section 6 (1) of the Valuers Act;

“transferee” means a person who receives immovable property through a transfer;

“market value” means the estimated value for which an immovable property should exchange on the date of its valuation between a willing buyer and willing seller in an arm’s length transaction; and

“Valuers Registration Board” means the Valuers Registration Board established under section 3 (1) of the Valuers Act.

3. (1) A person who wishes to be appointed a private valuer shall apply in writing to the Chief Government Valuer in the prescribed form. Appointment of private valuers.

(2) An applicant under paragraph (1) shall satisfy the following conditions—

(a) the applicant shall be registered in accordance with the Valuers Act;

(b) the applicant shall provide proof of a physical office address; and

- (c) the applicant shall provide a valid tax compliance certificate issued under the Tax Procedures Act, 2015.

(3) The Chief Government Valuer shall approve or reject the application within thirty days from the date of receipt thereof and notify the applicant of the decision in writing.

(4) Where the Chief Government Valuer rejects an application, the reasons thereof shall be specified in the notification given under paragraph (3).

(5) The Chief Government Valuer shall keep and maintain a list of appointed valuers appointed under these Regulations.

(6) An appointment of an appointed valuer under these Regulations shall be valid for a period of three years from the date of the appointment:

Provided that the appointment shall automatically cease where a valuer appointed under these Regulations ceases to comply with the provisions of paragraph (2).

(7) An appointed valuer whose appointment lapses on the expiry of the period specified in paragraph (6) may apply for reappointment in accordance with this regulation.

4. (1) A transferee of immovable property or the transferee's authorised representative shall apply to the Chief Government Valuer in writing for a valuation of the property.

Valuer to conduct valuation.

(2) The Chief Government Valuer may, if the transferee so elects, assign the application under paragraph (1) to a Government Valuer or an appointed valuer.

(3) Where the transferee elects to have the valuation of the property conducted by an appointed valuer, the Chief Government Valuer shall—

- (a) assign the valuation to an appointed valuer from the list kept and maintained under regulation 3 (5); and
- (b) within seven working days of the transferee's decision, notify the transferee of the name of the appointed valuer.

(4) The transferee shall bear the costs of the valuation where he or she elects to have the valuation conducted by an appointed valuer.

(5) The Government Valuer or appointed valuer shall submit a valuation report on the property within twenty-one days of the election by the transferee under paragraph (2) or, in the case of a valuation by an appointed valuer, immediately after payment has been made to him or her by the transferee.

5. (1) The Government Valuer or appointed valuer shall, on completion of a valuation, submit to the Chief Government Valuer a valuation report on immovable property transferred to a transferee which shall be accompanied by the following documents—

Valuation report.

- (a) a copy of the cadastral map indicating the location of the immovable property;
- (b) a copy of the title to the immovable property;
- (c) the Personal Identification Number (PIN) of the transferee issued under the Tax Procedures Act, 2015; and
- (d) any other relevant documents relating to the immovable property.

(2) The valuation report submitted under paragraph (1) shall include the following information—

- (a) the names and addresses of the registered owners of the immovable property;
- (b) the location of the immovable property;
- (c) the land reference number or land title number of the immovable property;
- (d) the tenure of the immovable property;
- (e) the details of the immovable property;
- (f) the valuation methodology used by the valuer;
- (g) the basis for the valuation of the immovable property;
- (h) the market value of the immovable property;
- (i) the date of the valuation of the immovable property;
- (j) any other relevant information obtained by the valuer during the valuation of the immovable property; and
- (k) the signature and seal of the valuer.

(3) The Chief Government Value shall review the valuation report on the immovable property and, if in agreement, approve the report.

(4) Where the Chief Government Valuer approves the valuation report, he shall notify the transferee and the Collector of Stamp Duty in writing of the approved market value of the property and the stamp duty payable thereon.

(5) Where the Chief Government Valuer so determines that a valuation report is deficient in any respect, he or she may revise the valuation report and notify in writing the valuer who conducted the valuation of the revision.

6. The Chief Government Valuer shall, with respect to a valuation conducted under these Regulations—

Monitoring and audit assessments of valuation services.

- (a) monitor the standard of valuation services offered by the valuer; and
- (b) conduct audit assessments of compliance with procedural and other requirements under the Act by the valuer.

7. Where a valuation of an immovable property is conducted under these Regulations, the value assigned to the property shall be its value on the date of the conveyance or transfer of the property.

Value of an immovable property.

8. A valuation report submitted under regulation 5 shall be valid for a period of twelve months from the date of the approval of the report by the Chief Government Valuer.

Validity of valuation report.

9. (1) A person aggrieved by the valuation of an immovable property under these Regulations may lodge an objection in writing to the Chief Government Valuer.

Objections.

(2) An objection under paragraph (1) shall state—

- (a) the grounds on which the objection is made; and
- (b) the value of the immovable property that person lodging the objection contends is the correct value of the immovable property.

(3) An objection under this regulation shall only be lodged by the person liable to pay the stamp duty in respect of the immovable property being transferred.

(4) An objection under this regulation shall be deemed to have been lodged at the time it is received by the Chief Government Valuer.

(5) The Chief Government Valuer shall, within twenty-one days of receiving an objection under this regulation—

- (a) dismiss the objection if he or she considers that an adjustment in the valuation of the immovable property is not justified; or
- (b) adjust the valuation of the immovable property if he or she considers that the adjustment is justified.

(6) The Chief Government Valuer shall notify the person who lodged the objection of the decision in writing, specifying the reasons for the decision.

10. An objection under regulation 9 shall be limited to the following matters— Grounds for objection.

- (a) the value assigned to the immovable property;
- (b) the apportionment of the area, dimensions or description of the immovable property;
- (c) that the immovable property that should have been included in the valuation has been valued separately;
- (d) that the immovable property that should have been valued separately has been included in the valuation; or
- (e) the person named in the report is not the true transferee of the immovable property.

11. An objection under regulation 9 shall be lodged with the Chief Government Valuer within twenty-one days from the date the transferee receives written notification of the approved market value of the immovable property. Time for lodging objection.

12. (1) The Chief Government Valuer may allow an application for extension of time to lodge an objection if the transferee was unable to lodge the objection within the period specified in regulation 11 on the grounds of being outside Kenya, sickness or other reasonable cause. Objections lodged out of time.

(2) An extension granted under paragraph (1) shall not be for a period exceeding one year from the date of notification of the approved value of the immovable property.

(3) The Chief Government Valuer may allow an extension of time to lodge an objection with or without conditions.

(4) The Chief Government Valuer shall notify in writing the aggrieved party of the rejection of extension of time to lodge an objection and specify the reasons for the rejection in the notification.

13. An aggrieved person who has lodged an objection under regulation 9 may withdraw the objection by notice in writing to the Chief Government Valuer. Withdrawal of objection.

14. Where a valuer commits professional malpractice in the course of rendering services under this Act, the person alleging the malpractice may report the matter to the Valuers Registration Board and, in case the malpractice is proven, the relevant sanctions specified in the Valuers Act shall apply. Professional malpractice.

15. The Chief Government Valuer shall revoke the appointment of an appointed valuer if that valuer commits an offence under section 113 of the Act or ceases to satisfy the conditions specified in regulation 3 (2).

Revocation of appointment.

16. (1) Valuation fees and other expenses relating to the valuation of an immovable property under these Regulations shall be payable to the appointed valuer conducting the valuation.

Valuation fees and other expenses.

(2) The valuation fees and other expenses payable under paragraph (1) shall be charged in accordance with the provisions of the Valuers Act.

(3) The valuation fees and other expenses payable under paragraph (1) shall be paid by the transferee.

17. A person required to submit or lodge an application, notice, statement, report or other document with the Chief Government Valuer under these Regulations shall do so electronically unless authorised in writing by the Chief Government Valuer to submit or lodge the document in any other manner.

Submission of documents to Chief Government Valuer.

18. A notice or other document required to be served on or given to a person by the Chief Government Valuer under these Regulations may be served or given to that person by—

Notices by the Chief Government Valuer.

- (a) delivering it to the person or the person's representative;
- (b) leaving it at, or sending it by registered post, to the person's last known place of business or residence; or
- (c) transmitting it in electronic form.

Made on the 14th July, 2020.

UKUR YATANI,
Cabinet Secretary for National Treasury and Planning.

LEGAL NOTICE No. 152

STAMP DUTY ACT

(Cap. 408)

IN EXERCISE of the powers conferred by section 119 of the Stamp Duty Act, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE STAMP DUTY (AMENDMENT) REGULATIONS, 2020

1. These Regulations may be cited as the Stamp Duty (Amendment) Regulations, 2020. Citation.

2. The Stamp Duty Regulations, hereinafter referred to as the principal Regulations, are amended by inserting the following new regulation immediately after Regulation 1— Sub. Leg.

Interpretation.

1A. In these Regulations, unless the context otherwise requires—

“certificate” includes a certificate in electronic form;

“electronic” has the same meaning assigned to it in section 2 of the Kenya Information and Communications Act, 1998;

“electronic form” has the same meaning assigned to it in section 2 of the Kenya Information and Communications Act, 1998;

“instrument” has the same meaning assigned to it in section 2 of the Land Registration Act, 2012;

“notice” includes a notice in electronic form; and

“System” means the National Land Information System established under section 6 (h) of the Land Act, 2012.

3. The principal Regulations are amended by deleting regulation 2 and replacing it with the following new regulation—

Payment of stamp duty.

2. (1) The stamp duty payable on any instrument specified in the First and Fourth Schedules may be paid and denoted by an adhesive revenue stamp affixed on the instrument or, subject to the provisions of regulation 3, by means of a revenue stamp impressed by a franking machine or by electronic means.

(2) The stamp duty chargeable on instruments under paragraph (1) shall be paid by electronic

means or banker's cheque and denoted by an embossed stamp which shall be embossed manually or by electronic means on the instrument under the direction of a collector in such manner as the collector may require.

4. The principal Regulations are amended in regulation 5 by adding the following new paragraph after paragraph (9)—

(10) The submission of instruments, issuance of notices, applications, transfer of stocks shares or marketable securities under these Regulations shall be made electronically through the System.

5. The principal Regulations are amended by adding the following new regulations immediately after regulation 12—

Forms may be modified for electronic transactions.

13. The forms prescribed by these Regulations may, with the necessary modifications, be used for electronic transactions.

Notices may be served electronically.

14. A notice under these Regulations may be served by registered post or through electronic means including electronic mail and Short Message Service at the address set out in the instrument which was submitted for stamp duty adjudication.

Made on the 14th July, 2020.

UKUR YATANI,
Cabinet Secretary for National Treasury and Planning.

17.8.20



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**EXPLANATORY MEMORANDUM TO
THE STAMP DUTY (VALUATION OF IMMOVABLE PROPERTY) REGULATIONS,
2020**

PART I

Name of Statutory Instrument	The Stamp Duty (Valuation of Immovable Properties) Regulations, 2020
Name of Parent Act	The Stamp Duty Act (Cap. 480)
Enacted pursuant to	Section 119 of the Stamp Duty Act (Cap. 480)
Name of the Ministry	Ministry of National Treasury and Planning
Gazetted on	14 th August, 2020

PART II

1. Purpose of the Statutory Instrument

The objective of these Regulations is to prescribe certain matters for the purposes of valuation of immovable properties for the payment of stamp duty under Section 10A of the Stamp Duty Act (Cap. 480).

2. Legislative Context

Section 5 of the Stamp Duty Act (Cap. 480) provides for liability for stamp duty. The section provides that every instrument specified in the Schedule to the Act is chargeable to duty when it relates to any property or anything done or to be done in Kenya.

The Amendment of Section 10A (1) of the Stamp Duty Act by the Tax Laws (Amendment) Act, 2018 permitted registered and practicing Valuers to undertake valuations of immovable properties for stamp duty purposes.

Section 10A(1) of the Act requires the Collector of Stamp Duty to refer to the Chief Government Valuer or a registered and practicing Valuer appointed by the Chief Government Valuer, any conveyance or transfer on sale of any immovable property before or after registration of the relevant instruments in order to determine the true open market value of such property as at the date of the conveyance or transfer for purposes of ascertaining whether any additional stamp duty is payable.

The Regulations therefore seek to provide a framework to operationalize the amendment.

3. Policy Background

The essential policy which lies behind the development of the Regulations is the Amendment of Section 10A (1) of the Stamp Duty Act by the Tax Laws (Amendment) Act, 2018 to allow registered and practicing Valuers to undertake valuations of immovable properties for stamp duty purposes.

Prior to the amendment of the Act, valuations for Stamp duty was undertaken by the Chief Government Valuer who is also the Head of the Directorate of Land Valuation within the Ministry of Lands and Physical Planning. The office is mandated to provide reliable real property valuations to the Government. The responsibilities of the Chief Government Valuer include advising the Government on valuation matters including valuation of property for purchase and compensation by Government; valuation of property for assessment of ground rent and rates on leases by Government and valuation for stamp duty purposes.

Over the years, the department has faced various challenges in the discharge of its functions including human resource capacity. This has resulted in delays in service delivery and has had a negative impact on the economy.

To address this challenge, Parliament adopted an innovative strategy of engaging the private sector through the amendment of the Act in order to enhance the department's efficiency and at the same time contain expenditure growth.

The introduction of these Regulations will not only ensure an increase in efficiency and effectiveness in service delivery but would also prevent economic growth and development from being curtailed.

4. Consultative Outcome

The formulation of the Regulations was spearheaded by the Ministry of National Treasury and Planning in consultation with Ministry of Lands and Physical Planning and the National Land Commission through the multi stakeholder joint taskforce appointed vide Gazette Notice No. 2170 published on March 13, 2020. The initial draft of the Regulations was subjected to public scrutiny where views were received from stakeholders and members of the public.

Due to the prevailing global health concerns the taskforce organized virtual meetings with stakeholders and members of the public to receive comments on the draft regulations. The consultation ran for two weeks from May 14, 2020 to May 29, 2020 as shown in the following schedule-

The consultation documents were availed on the Ministry of Lands and Physical Planning website <https://lands.go.ke> and responses could be sent to the Ministry by email or post.

The taskforce also received memoranda and submissions from the following-

The consultation made proposals as shown in the matrix attached marked Annexure 2.

The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

There is going to be need to engage with the users and enforcement agency involved in the application of these Regulations. These Regulations being new in many aspects will need to be brought to the attention of the public and users through mass media and other forms. More importantly, the office of the Chief Land Registrar and all involved in registration of interest in land services will need to be educated of the changes wrought by these regulations. The Cabinet Secretary plans to embark on this process by rolling out a program immediately these regulations come into force.

6. Impact

6.1 The Impact on Fundamental Rights and Freedoms

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010 and within powers conferred to the Cabinet Secretary under the Stamp Duty Act.

6.2 The impact on the private sector

Going by the response and support received from the private sector during the formulation process of these Regulations it is expected that the application thereof will create a positive impact on the private sector. The Regulations will go a long way to expedite valuation for stamp duty purpose. This also means that conduct of land transactions will be easy, predictable and fast.

6.3 The impact on the public sector

Land being a critical sector, the public agencies vested with the responsibility of managing and enforcing these Regulations have an enormous task of ensuring a positive impact envisaged by these Regulations is delivered to the general public. It is expected that through the many changes and new features contained in these Regulations will enable the public agencies involved in land registration to arrest the vices that have bedevilled the land sector in the past.

6.4 Impact Assessment

An impact assessment has been prepared for these regulations as attached and marked Annexure 3.

7. Monitoring and Review

The Ministries will seek feedback from the Kenya Revenue Authority being the agency responsible for collection of stamp duty on the application of the Regulations to monitor the operation.

8. Contact

The Cabinet Secretary

The National Treasury and Planning

REGULATORY IMPACT STATEMENT

(ANNEXURES 2)



Republic of Kenya

Ministry of Lands and Physical Planning

Regulatory Impact Assessment (RIA)

On

**The Electronic Land Transaction, Registration and Conveyancing
Regulations**

List of the proposed Statutory Instruments

1. Land Registration (Electronic Transactions) Regulations, 2020
2. Survey (Electronic Cadastre Transactions) Regulations, 2020
3. Survey (Amendment) Regulations, 2020
4. Stamp Duty (Valuation) Regulations, 2020
5. Stamp Duty (Amendment) Regulations, 2020
6. Land (Allocation of Public Land) (Amendment) Regulations 2020
7. Land (Amendment) Regulations, 2020
8. Land (Extension and Renewal) (Amendment) Rules, 2020
9. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020

This Regulatory Impact Assessment (RIA) has been prepared by the Ministry of Lands and Physical Planning for the proposed Land Registration (Electronic Land Transactions) Regulations, 2020 pursuant to Section 6 and 7 of the Statutory Instruments Act (No. 23 of 2013)

May 2020

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THE REGULATORY IMPACT ASSESSMENT

Executive Summary

This Regulatory Impact Assessment (RIA) is a policy tool whose purpose is to examine and measure the likely benefits, costs and effects of the proposed Electronic Land Transaction Regulations.

This report provides the scope to explore the context in which the regulatory measures are proposed and examines the regulatory alternatives such as conducting business as usual, adopting administrative approaches and developing sector specific regulations to support roll out of a digitalized National Land Information System (NLIS).

The proposed Regulations are still in the process of being developed and the drafts are intended to guide public participation and involvement. Under the proposed Regulations, the land registration and administration processes as set out in the Land Act and the Land Registration Act are not going to change. There are no significant policy changes required to give effect to the proposed Regulations. What the Regulations seek to achieve are minor technical changes aimed at enabling land registration and administration processes to be undertaken electronically. This is the trend in many jurisdictions across the world.

The RIA identifies enormous benefits of developing and implementing the proposed Regulations that by far outweigh the identified costs and demerits. Among the findings of this analysis include the increased efficiency in service delivery, integrated approach by key institutions leading to informed and timely decision making, long-term savings in both financial resources and time, improved cadastral coverage and ease of doing business among others.

The RIA takes note of the incidence of the COVID-19 disease, which has prompted promulgation of numerous health protocols prohibiting holding of public meetings and keeping distance. These measures have influenced the methodology adopted for undertaking public consultations.

Finally, the RIA concludes that digitalization of land records is necessary for Kenya and recommends the adoption of the Electronic Land Transaction Regulations to facilitate its full implementation and sustainability.

Introduction

The Ministry of Lands and Physical Planning, the National Land Commission and county governments have the mandate to administer the various land law statutes including the Land Registration Act, 2012, the Land Act, 2012, the Survey Act, Cap 299, the Community Land Act, 2016, Physical Planning and Land Use Act, 2019 and the Land Adjudication Act, Cap 284.

The Land Registration Act and the Land Act require the Cabinet Secretary and the National Land Commission to develop and implement a National Land Information System and to maintain a land register in which land. It is in the backdrop of the this legal requirement and the broader e-government strategy of modernization of government through improving access to government services that the MoLPP and the NLC are collaborating to digitalize land records as a measure of improving service delivery in land management administrations.

The automation of land records process will be given effect through the digitalized National Land Information System (NLIS), which shall facilitate online uploading of data from the line departments including survey, valuation, registration, physical planning, land administration, adjudication and settlement. The system will be linked to the companies' registry and the Registrar of persons. The system will serve the MoLPP, county governments, NLC, KRA, Banks, Judiciary, EACC, Lawyers and the public.

Before the roll out of the system existing paper records will be scanned to extract all relevant data, the records will be validated before developing an application interface (API) and training the system users.

Digitalization will provide a standardized and integrated online platform to enable customers to access services seamlessly, embrace efficient, timely and cost effective land management processes, improve public service delivery, eliminate fraud and avoid further deterioration of paper records and requirement of storage space. It will also boost the ongoing national titling programme of securing rights to land through issuance of titles.

The system will immensely contribute to the ease of doing business, as it will shrink the nine steps of business process for property registration requiring seventy-three (73) working days to three short steps requiring only twelve days.

This programme is premised on the ongoing legal reforms, which began with the constitutional classification of land in Kenya into three broad categories. Subsequently the Land Act, 2012 and the Land Registration Act, 2013 were enacted to repeal a number of legal frameworks which required maintenance of several land registration and management regimes. The Physical and Land Use Planning, 2019 gives effect to the devolution of planning function while the Land Value (Amendment) Act, 2019 provides for assessment of land values in respect of compulsory acquisition of land.

The Regulatory Making Authority

The Ministry of Lands and Physical Planning has the responsibility of implementing the Land Registration Act, 2012, the Land Act, 2012, the Survey Act, Cap 299, the Community Land Act, 2016, Physical Planning and Land Use Act, 2019 and the Land Adjudication Act, Cap 284. The Cabinet Secretary has, in collaboration with the National Land Commission Act, the legal mandate to prescribe subsidiary legislation under the enabling legislation. The Cabinet Secretary also has the collective responsibility of implementing the government's big four agenda by

leveraging on ICT to deliver services more efficiently and contribute to improving the ease of doing business in Kenya.

Statement of the Objectives and Purpose of the Proposed Regulations

Overall, objective and purpose of the Electronic Land Transaction Regulations is to:

- i) establish a digital NLIS to provide an efficient and effective land administration system;
- ii) leverage on ICT to improve the way in which information is structured, stored, managed, delivered and used
- iii) improve the ease doing business by cutting time for property registration;
- iv) provide the legislative framework and platform for facilitating cost effective and reliable paperless transactions in land and accessing land information in a timely manner
- v) Establish an electronic payment system to improve revenue collection by eliminating revenue leakages;
- vi) eliminate paper records that breed corruption, fraud and delays; and
- vii) promote public confidence in the integrity and reliability of electronic records and electronic transactions.

Salient features of a digitalized LIMS

The automation of the MoLPP functions has been attempted many times from as early as 2004. In 2014, an enhanced EDMS¹, with three different instances of the same application were implemented in the departments of Registration, Land Administration and the National Titling Center. In 2017, the current LIMS with semi-automated customer facing application and back office processing was implemented in the Registry with a focus on electronic collection of revenue. In addition, the system has modules that support valuation; lease processing, land rent and stamp duty processing. Some of the functions of the LIMS include:

- (a) Online application of services and ability to upload information and required documents via e-citizen such as online searches;
- (b) Online processing of applications;
- (c) Users/land owners access the system through user accounts and may initiate application for services in respect of their properties on the Public Online Self Service LIMS portal;
- (d) Online payments –e.g. land rent, stamp duty etc. that have resulted in reduced queues at the banking hall;
- (e) Provision of specific portal for lawyers, surveyors, and other professionals e.g., LSK portal;
- (f) Provision of a banks portal; and
- (g) Internally, several workflows within Land Rent, Land Administration, Land Valuation, Collector of Stamp Duty, Land Registration (Nairobi & Central) Departments have been automated.

The following system security measures have been implemented:

- (a) Online properties must be verified by the Registrars before any transaction is allowed;
- (b) The use of audit trails;

¹ Electronic Document Management System

- (c) Regular backups;
- (d) Verification of approvals through One Time Password (OTP);
- (e) Use of inbuilt system security and firewalls;
- (f) Use of SMS and email notifications; and
- (g) Owners and sellers verified through IPRS.

Future aspects of the system include:

- (a) Total automation of the land processes, that is, end to end processes;
- (b) Full implementation of cashless collection of 100% due revenue;
- (c) Upgrading of the system to ease transfer of property;
- (d) Integration with the cadastre data from Survey of Kenya; and
- (e) Scaling up the system to all registries across the country.

Background and Context

Policy and Legal Background

Since the colonial era, Kenya operated a purely manual land registration system where the land registries have relied on paper records. For many years, the data once collected was stored in different formats due to the different regimes of land registration. This was not only confusing, but hindered data access and allowed for easy manipulation and fraudulent transactions. The different processes meant tedious amount of paperwork, which in turn impacted on the turnaround time for processing transactions. Over the years, the vast data collected resulted in bulky records requiring significant storage space and costly maintenance processes.

The Kenya Vision 2030 aims to provide the national long-term development blueprint to create a globally competitive and prosperous nation, transforming Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens by 2030 in a clean and secure environment. Vision 2030 three pillars, namely the Economic, Social and Political are anchored on macroeconomic stability; continuity in governance reforms; enhanced equity and wealth creation opportunities for the poor. The Economic Pillar, which captures the expectations of the ICT market, seeks to improve the prosperity for all sectors.

The strategy of Vision 2030 is to undertake reforms in eight key sectors that form the foundation of society for socio-political and economic growth: Infrastructure, ICT, Energy, Science, Technology and Innovation (STI), Land Reform, Labour and Employment, National Values and Ethics, Public Sector Reforms, Ending Drought Emergencies and Security and Peace Building and Conflict Resolution.

Successive land reforms have witnessed the formulation of the national land policy in 2009, the classification of land into three broad categories under the Constitution of Kenya, 2010 and the promulgation of the national land use policy in 2017. The Land Act, 2012 and Land Registration Act, 2012 also saw the amalgamation different land registration regimes and repealed the various legal frameworks thereby streamlining land registration and administration.

The Land Registration Act provides for the maintenance of an electronic land register by the Registrar. Section 9 of the Act requires the Registrar to maintain a register and any document required under the Act in a secure, accessible and reliable format including electronic files and

an integrated land resource register. Section 10 of the Act requires the Registrar to make available to the public (including by electronic means) the land register.

The Land Registration Act requires the Registrar to keep the documents in a secure, accessible and reliable format including electronic files and integrated land resource register.

Consequently, the Ministry has commenced a programme of automation and digitization of land registries across the country with a view to ensure efficient and effective service delivery. The shift to an online paperless land registration system is driven by the need to improve management of land records through enhanced security, accuracy and integrity of land records, improve turnaround time for registration, enhanced access to land information beside enhanced revenue collection.

In 2019, the Ministry proposed Land Registration (Electronic Land Transactions) Regulations, 2020. The regulations were intended to:

- (a) Provide the procedure for conducting electronic land transactions, electronic submission and registration of documents in all registries.
- (b) Define use as a person who enters into a user agreement for various reasons and the process of registration as a user and the Chief Registrar's role in approving applications and terminating user's access.
- (c) Provide for electronic registry system.
- (d) Process of appeal against decisions of the Chief Land Registrar.
- (e) Guidelines on the use of the system to draw and engross conveyancing documents by authorized and qualified persons.
- (f) Creation of electronic documents, instruments and generation of electronic documents or lodging and registration.
- (g) Provide for the procedure to be followed by the Registrar in registration and recording process.
- (h) To provide for limitation of liability for Cabinet Secretary and Ministry officials.

The Regulations were annulled on grounds that:

- i) Contrary to Article 259(11) of the Constitution, consultation with the National Land Commission was not adequately demonstrated and neither was it stated in the enabling clause.
- ii) The regulation making authority failed to demonstrate that it conducted sufficient public participation in the development of the Regulations, contrary to section 5 and 5A of the Statutory Instruments Act 2013.
- iii) The regulation making authority failed to submit a regulatory impact statement as required by section 6, 7 and 8 of the Statutory Instruments Act 2013.
- iv) The Regulations were also not submitted to the National Assembly within the statutory timeline contemplated by section 11(1) of the Statutory Instruments Act 2013
- v) Prescribed Forms were not provided.
- vi) The Regulations gave the Chief Land Registrar very broad powers.
- vii) The Regulations provided for a single committee to hear and determine disputes yet the Ministry had pointed out that it serves about 10 million users.
- viii) The regulations were not clear on the payment platform.

- ix) Limitation of liability clause for the Cabinet Secretary and Ministry officials ought to be provided under the substantive law and not under Regulations.

It was in this context that the second taskforce was constituted to:

- a) Study, analyze and review the Land Registration Act, 2012; the Land Act, 2012; the Survey Act, Cap 299; the Community Land Act, 2016 Physical Planning and Land Use Act, 2019, the Land Adjudication Act, Cap 284 and National Land Commission Act, 2012 and together with the Regulations thereunder with a view to formulating new Regulations, Rules or Guidelines to facilitate electronic land transactions;
- b) Study Report of the Taskforce on Electronic Land Transaction, Registration, Conveyancing and other related Activities under Land Registration Act, 2012, Land Act, 2012 and Community Land Act, 2016, February, 2019;
- c) Carry out the assignment in compliance with the Constitution, Statutory Instruments Act, 2013 and existing legal framework
- d) Prepare a Regulatory Impact Assessment Statement for the related formulated regulations; and
- e) Carry out public participation on the formulated Regulations and related Regulatory Impact Assessment.

Domestic context

In order to mitigate the problem(s) of paper based record keeping, the Ministry of Lands and Physical Planning intends to leverage on advancements made in the information technology field with a view to developing a digital LIMS. This process commenced by reorganizing and scanning of land records at the Nairobi and Central Registries. Subsequently, an information system accessed through the e-citizen online portal was developed and rolled out. The system enabled citizens to access services in respect to the Nairobi Registry whose records have been fully digitized. Land registry services such as conducting searches, payment of duty and revenue have been made available online on pilot basis.

On its Part, the NLC developed a Land Information Management System in respect to public land (Public Land Information Management System (PLIMS)) which is now complete and is awaiting integration with land parcel data from Survey of Kenya and subsequent roll out.

More recently, the Ministry commenced on a programme of automation and digitization of the land registries across the country. The initiative was designed to ensure efficient and effective service delivery, enhance access to information, increase customer confidence, reduced business timelines, and enhanced revenue collection. Major activities involved in the digitization of land registries include:

- a) implementation of local area networks;
- b) establishment of interconnectivity between the registries and Ardhi House;
- c) setting up of ICT equipment, that is, desktop computers, network printers, servers, scanners and photocopiers; capacity building of Registry staff;
- d) conversion of analogue records to electronic records through scanning of the green cards, white cards and parcel files; indexing of all scanned images for serialization;
- e) data extraction from green cards and white cards;
- f) verification of the data captured;

- g) uploading verified data to the Electronic Document Management System (EDMS) for online transactions;
- h) training of the officers on online transactions; and
- i) online transaction of the registration process.

However, these systems are standalone solutions either due to the choice of the Database Management System (DBMS) or lack of interconnectivity between departments and institutions.

corruption, improve on the turnaround time needed for delivery of service, increase transparency and openness, increase revenue collection for government through the online payment, improve on security, and save money spent on logistics since services will be virtually available.

International context

In 2019 the Ministry of Lands Taskforce on Electronic Land Transactions, analyzed case studies from selected commonwealth countries with similar land tenure and registration systems to Kenya. These jurisdictions were also selected because they had developed or attempted to develop LIMS. They included New Zealand, Estonia, Netherlands, England & Wales, Australia, Canada, Singapore, Tanzania, Uganda, Ghana, Germany and Rwanda.

Among the lessons learnt and important observations are:

1. **Systems Architecture**

The architecture of the system forms the main framework on which digitized land transactions are run, a robust and scalable enterprise software architecture and design guided by interoperability, high availability and e-governance strategy awareness, is recommended.

2. **Systems Access**

Universal access to the system should be provided governed by predefined user rights and privileges for various categories of users.

3. **Systems Development**

An Agile strategic approach to systems development, which turned out to be successful as in the cases of Netherlands and Estonia is a proven methodology that should see a swift development of NLIS. This allows for regular review of business requirements and objectives during development while deploying and commissioning modules for immediate impact, faster implementation and lower Total Cost of Ownership.

4. **Systems Implementation**

This should be done in a phased manner starting with a pilot phase then scheduled regional roll-out while building on lessons learned throughout the process.

5. **Systems Security**

This is one of the key requirements for all the stages of the conveyancing and registration processes to guard against fraud; and vulnerability to cyber-attacks and identity theft.

6. **Legal Reforms**

A stable and responsive legal framework is key to the adoption and implementation of digitization. The studies show that most countries had to enact new laws and amend existing ones to make provisions and anchor e-conveyancing into law. These provide the basis developing regulations, which govern the relationship between the NLIS, operators and participants in the system, as is the case in the Australian Model.

The conclusions, which can be drawn from the above observations, are as follows:

- (a) Before embarking on digitization, it is important to reorganize the registries /cadastres and review the manual processes and workflows to remove duplicities while enhancing efficiencies;
- (b) In most jurisdictions, there exists a separate cadastre and land registry database which are then linked to other databases like in Netherlands and Estonia;
- (c) It takes a couple of years for the system to fully mature and eliminate all forms of paperwork. Most countries have adopted a phased approach to the systems development and deployment with a pilot area or region and which is scaled up to the rest of the offices and regions like in New Zealand;
- (d) In most countries, there was a private company involved in either system development or infrastructure management. This is the case in New Zealand, England & Wales and Canada;
- (e) Searches are open to public upon payment of some fee in most countries, however historical searches are restricted, and more fees are chargeable. To be able to request for the searches one has to register in the platform for authentication;
- (f) Digitization of land records and e-conveyancing is bound to be relatively budget intensive. As such, financial planning for short term (quick wins), mid-term and long term outcomes is key for the successful implementation. Inadequate budgetary allocations affected implementations in New Zealand, Canada and the UK;
- (g) Countries have done complete overhaul of their systems once overtaken by technology by providing better performing copies of the database and a solid data migration plan. System renewal and upgrades due to technological changes must follow a well-planned strategy. Netherlands had to do this in order to leap to more suitable technologies rather than do patching to obsolete technologies;
- (h) The world is adopting the block chain technology. The UK and Netherlands are exploring on the use while Estonia is already using it;
- (i) Most countries that successfully digitized land transactions adopted an all-inclusive consultative multi-sectoral user driven approach. Stakeholder participation is very important to eliminate incidences of resistance as was witnessed in countries like Australia, New Zealand and Estonia;
- (j) It emerged that strong political will is necessary to ensure focused development of LIMS as was the case in Rwanda, Estonia and Netherlands;
- (k) Systems development needs to be guided by a documented NLIS strategy/roadmap to ensure consolidated advancements in the digitization and e-Conveyancing process e.g. the case of Ghana which built on progress of LAP 1 and LAP 2;
- (l) Owing to the critical and sensitive nature of land transactions, efforts to ensure systems security, intrusion detection and prevention are key to facilitate data integrity and confidence by the citizens and other stakeholders;
- (m) To avoid duplicated efforts within government it is important to align e-government initiatives within an elaborate enterprise system architecture/infrastructure with the holistic view of interoperability of developed systems (both public and private). This ensures that digitization and e-conveyancing aligns to such strategies since this is bound to inform or affect other government functions. The Estonian case which rides on the X-Road is one worth emulating;

- (n) E-Conveyancing in most countries was enabled with digital signatures backed by supporting legislation. One cannot overemphasize the fundamental role of digital signatures in e-conveyancing as it facilitates a paperless process; and
- (o) Reliable connectivity to the NLIS will be crucial in ensuring faster uptake and adoption i.e. both at the institutional level (for internal institutional staff) and for external end users and professionals. In most countries where digitization and e-conveyancing is successful, Internet Service Provider infrastructure and coverage is widespread and reliable e.g. Estonia, New Zealand, Australia etc.

Legal and Policy Framework for Electronic Land Transactions

The following analysis illustrate the legal and policy framework within which the Electronic Land Transaction Regulations are being developed.

Policies and laws	Measures supporting the electronic land transactions Regulations
Constitution of Kenya, 2010	The Constitution sets out the principles of land policy in Kenya and requires that land shall be held, used and managed in a manner that is equitable, efficient, productive and sustainable, and in accordance with the following principles— (a) equitable access to land; (b) security of land rights; (c) sustainable and productive management of land resources; (d) transparent and cost effective administration of land; (e) sound conservation and protection of ecologically sensitive areas; (f) elimination of gender discrimination in law, customs and practices related to land and property in land; and (g) encouragement of communities to settle land disputes through recognized local community initiatives. The Constitution then declares all land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals and that; it shall be classified as public, community or private. All unregistered community land is to be held in trust by county governments on behalf of the respective communities. The Constitution further establishes the National Land Commission to manage public land on behalf of the national and county governments and to recommend a national land policy. It also requires Parliament to enact legislation to consolidate and rationalize the existing land laws and to regulate a number of matters pertaining to land

	management and administration.
Sessional Paper No. 3 of 2009 on National Land Policy	The National land policy was intended to guide the country towards efficient, sustainable and equitable use of land for prosperity and posterity. It was also intended to address the then critical issues of land administration, access to land, land use planning, restitution of historical injustices, environmental degradation, conflicts, unplanned proliferation of informal urban settlements, outdated legal framework, inadequate institutional framework and poor information management. The policy recognizes the above issues as having been responsible rampant land fragmentation, breakdown in land administration, disparities in land ownership and poverty. This has resulted in environmental, social, economic and political problems including deterioration in land quality, squatting and landlessness, disinheritance of some groups and individuals, urban squalor, under-utilization and abandonment of agricultural land, tenure insecurity and land conflicts. The spirit of the 2009 land policy informed the 2010 constitutional principles on land.
The Land Registration Act, 2012	This Act was intended to revise, consolidate and rationalize the multiple registration of regimes while giving effect to the constitutional principles on land and objects of devolved government relating land registration. The Act repealed: (a) the Indian Transfer of Property Act 1882; (b) the Government Lands Act, (Cap 280); (c) the Registration of Titles Act, (Cap 281); (d) the Land Titles Act, (Chapter 282); and (e) the Registered Land Act, (Cap. 300). Under section 9, the Act requires the Registrar to maintain the register and any document required to be kept under the Act in a secure, accessible and reliable format, including electronic files and an integrated land resource register. Section 10 provides that the Registrar shall make information in the register accessible to the public by electronic means or any other means as the Chief Land Registrar may prescribe.

	Section 15 requires the office or authority responsible for the survey of land to prepare and maintain a map or series of maps, to be known as the cadastral map, for every registration unit. The parcel boundaries on the maps are required to be geo- referenced and surveyed to standards ensuring compatibility with other documents required under the law. Section 110 of the Act mandates the Cabinet Secretary to make regulations prescribing, among other matters: (a) the manner and form of the registries of land, the procedures to be followed by the registries and hours they are to be open for business; (b) particulars and format to be contained in a register or other document required to be kept under this Act; and (c) any other matter for the better carrying into effect of the provisions of this Act. <i>Note:</i> 1. Regulation 16 provides that the register shall be both a paper form and an electronic format. 2. Regulation 36 provides that all fees payable to the Registrar under the Regulations shall be paid by electronic means or by banker's cheque. 3. Regulation 86 provides for electronic searches. 4. Regulations 87 and 89 accords the Registrar power to modify prescribed forms to enable electronic transactions. 5. Part XIII of the regulations deals with electronic registration and conveyancing and provides electronic dispositions as follows: (a) the register and all documents shall be maintained in electronic form; (b) transactions and dealings shall be done electronically; (c) Cabinet Secretary may issue guidelines form time to time to enable: (i) setting up of an electronic communications system under the Registrar's management and control, for maintaining the register in an electronic form and for enabling the carrying out of transactions under this Act which are capable of being effected electronically; (ii) access to the public of information maintained electronically;
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9. The National Construction Authority
10. The Institute of Surveyors of Kenya
11. Town and County Planners Association of Kenya
12. Architectural Association of Kenya
13. The Kenya Bankers Association
14. Civil Society Organisations
15. Land Surveyors Board
16. Valuers Registration Board
17. FIDA-Kenya
18. Lawyers Hub
19. Estate Agents Registration Board
20. Kenya Private Sector Alliance
21. Kenya Institute of Planners
22. Kenya Properties Developers Association
23. Nairobi Metropolitan Service
24. Roads Authorities-KeNHA, KURA, KeRRA and KRB
25. Kenya Railways
26. Nairobi Metropolitan Service
27. National Environmental Management Authority
28. Kenya Airports Authority
29. Engineers Board of Kenya
30. Institution of Engineers of Kenya
31. General public

The views of each of these institutions were analysed and the outcome was used to revise the Regulations⁸. The final set of Regulations are attached.

Statement on Regulatory and Non-Regulatory Options

Option 1: Maintaining the Status Quo/ Doing nothing/definition of the problem

Maintaining the status quo simply means doing nothing and continuing in our current state.

Although the Land Act, No. 6 of 2012 makes it a function of both the Cabinet Secretary and the National Land Commission to coordinate the development and implementation of a National Land Information System⁹, Kenya lacks a fully digitalized LIMS. Land information in Kenya is managed by various organizations including the Ministry, the National Land Commission, the Survey of Kenya and the county governments. Land registration and conveyancing services are largely manual and paper based which makes the system both bureaucratic and slow. This has in turn resulted in a number of secondary problems including the following:

- i) Poor land records management system, which has resulted, to accumulation manual records, dating back to over 100 years. Apart from shortage of storage space for paper-based records, this system is inefficient and time consuming. The current system does

⁸ Separate matrixes of the stakeholder inputs on each set of Regulations were prepared.

⁹ A Land Information System enables a country to capture accurate, current and reliable land-related data capable of integration into other geographic systems that allow data users and administrators to retrieve, create, update, store, view, analyze and publish land information.

The Task force also identified the following eight regions that were earmarked for public participation being geographically representative of the territory of Kenya:

- a) Nairobi
- b) Mombasa
- c) Kakamega
- d) Garissa
- e) Meru
- f) Nyeri
- g) Kisumu
- h) Eldoret

Approach and Methodologies

According to the taskforce calendar of events, the stakeholder consultations were intended to be undertaken during the month of April 2020. Unfortunately, this coincided with the global pandemic of the COVID-19 disease, which has seen governments across the world employ certain health protocols aimed at minimizing infections. During this period, there are movement restrictions, prohibition of public or social gathering, maintaining social distance and a requirement for people offering non-essential services to work from their homes. It is therefore neither lawful nor practical to convene stakeholder consultative sessions.

This therefore forced the taskforce to adopt an approach and methodology that is conducive to the circumstances of the day. The taskforce opted to adopt the following methodology:

1. Post draft copies of the proposed Regulations together with a notice of the Regulatory Impact Assessment onto the Ministry's website, publish copies in wide circulating print media or post the to the identified stakeholders;
2. Write letters and emails to the stakeholders inviting them to make their submissions on the draft Regulations within a specified time;
3. Post an advertisement in a newspaper with national circulation inviting any person or institution to make their submissions within a specified date and directing them on where they can get copies of the Regulations;
4. Supplement with the advertisement with radio or other electronic media;
5. Hold virtual/online meetings with select stakeholders where possible.

Based on the above approach, a total of of ... virtual meetings were held between the Taskforce and key stakeholders. The Ministry also received over forty (40) written representation. The following is the full list of persons and institutions consulted between May and June, 2020.

1. The National Land Commission (9 meetings involving top management and senior officials)
2. The Ministry of Lands & Physical Planning- All technical Departments
3. The Ministry of Transport, Infrastructure, Housing and Urban Development
4. The Kenya Revenue Authority
5. The National Treasury (Meeting with top management)
6. Ministry of ICT
7. The Council of Governors
8. The Law Society of Kenya (Virtual meeting of LSK members, members of LSK conveyancing committee followed by written memorandum)

Additionally, the Taskforce members made visits to the respective institutions for a firsthand experience and situational analysis i.e. Land Registries (Central & Nairobi), Land Administration, Valuation, ICT, Survey of Kenya, National Titling Centre and the Kenya National Archives and Documentation Service. In addition to the stakeholder consultative forum, the Taskforce conducted public hearings in the counties across the country from October 2 to 11, 2018.

Reports of these public consultative meetings were used in the development of the current sets of regulations. It should however be noted that Parliament determined that the Ministry did not demonstrate that it had conducted sufficient public participation in the development of the Regulations, contrary to section 5 and 5A of the Statutory Instruments Act 2013.

Current consultative process

Following the annulment by the Ministry of the Land Registration (Electronic Land Transactions) Regulations, 2019, the Ministry constituted a representative working group (Taskforce on Formulation of Regulations to facilitate Electronic Land Transactions, Registration, Conveyancing and other related activities) to prepare the current Regulations and undertake further stakeholder consultations in line with the recommendation from the National Assembly. The working group was comprised of representatives from the following institutions:

List of institutions represented in developing the Regulations:

1. Ministry of Lands and Physical Planning
2. National Land Commission
3. Institution of Surveyors of Kenya
4. Kenya Bankers Association
5. University of Nairobi
6. Law Society of Kenya
7. Kenya Law Reform Commission
8. Office of the Attorney General
9. Kenya Private Sector Alliance
10. Council of Governors
11. Directorate of Survey
12. Land Development Government Institute
13. Kenya Institute of Planners
14. Kenya Private Developers Association
15. Town and County Planners Association of Kenya

Pursuant to section 5 of the Statutory Instruments Act,⁶ the Taskforce identified the key stakeholders whom it intends to engage for consultations. These include the main professional and specialist institutions and individual who will be directly or indirectly affected by the proposed statutory instruments⁷.

⁶ Institutions from where there can be drawn knowledge of persons having expertise in fields relevant to the proposed statutory instrument and persons likely to be affected by the proposed statutory instrument.

⁷ See list of consulted institutions below

Consultative process

Legal requirements relating to public participation and consultation

Participation of the people, inclusivity, transparency and accountability are a constitutional requirements whenever a State or public officer applies the Constitution, enacts any law or makes or implements a public policy². This requirement is premised on the sovereignty principle³ which vests all sovereign power to the people of Kenya. This power entitles the people to unfettered access to the process of making public decisions through their involvement. This ensures transparency in the formulation of policy. Further, the objects of devolution⁴ give powers of self-governance to the people and enhance their participation in the exercise of the powers of the State and in making decisions affecting them and recognize the rights of communities to manage their own affairs and to further their development. Finally, the values and principles of public services requires the involvement of the people in the process of policymaking and part, transparency and provision to the public of timely and accurate information.

With regard to the subsidiary legislation making process, the Statutory Instruments Act, the Statutory Instruments Act requires that the regulatory making authority shall make consultations before making statutory instruments (Regulations), in particular where the proposed regulations are likely to have a direct, or a substantial indirect effect on business or restrict competition. The Act provides that in determining whether any consultation that was undertaken is appropriate, the regulation making authority shall have regard to all relevant matters, including the extent to which the consultation:

- (a) drew on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument; and
- (b) ensured that persons likely to be affected by the proposed statutory instrument had an adequate opportunity to comment on its proposed content.

The Statutory Instruments Act further requires that the persons to be consulted should either directly or by advertisement through representative organizations be invited to make submissions by a specified date, which should not be lesser than 14 days or be invited to participate in public hearings concerning the proposed instrument.

Initial participation of the people

When the initial taskforce was developing the Land Registration (Electronic Land Transactions) Regulations, 2019 that were annulled by Parliament, it conducted some level of public participation by holding stakeholder consultations and public hearings. The Taskforce met with Departments at the Ministry of Lands and Physical Planning, National Land Commission, Industry Experts, County Governments and Civil Society Organizations. Invitations were sent out to the stakeholders specifically requesting them to make structured submissions/presentations to the taskforce on the Status of Digitization; Challenges; Workflows; Quick Wins; Existence of a Document Management System; Security of Records; and Proposals for E-conveyancing.

² Article 10 of the Constitution

³ Article 1 of the Constitution

⁴ Article 174(c) of the Constitution

⁵ Article 232 (1) of the Constitution

	• Regulations 18-19 An application for change of user to be made electronically • Reegulation 21-Application for consent to transfer, sublease or charge on leasehold land to be done electronically. • Insertion of new Part IVA-Electronic Lodging of instruments and documents in the system: Provides for electronic for of documents and the powers of the CLR in relation to electronic documents. Verification and refusal to accept defective documents, user accounts, obligations of users and restrictions on access.
Land (Extension and Renewal) (Amendment) Rules, 2020.	• Proposes to amend the Land (Extension and Renewal) Rules, 2017 to” • Delete the requirement under regulation 2 to apply for extension/renewal of lease to the Commission and make it the preserve of the national or county government. • Insert a provision to the effect that it shall not be a requirement for a lessee to surrender the unexpired term of an existing lease as a condition for the grant of an extension of a lease. • The application for extension/renewal shall be done electronically. • Deleting the requirement to forward the decision of approval of extension/renewal of the national government or county government to the Commission for implementation. • Extension/renewal to be done electronically. • Provisions requiring issuance of allotment letter and the restriction for new developments on the land are deleted
Land (Allocation of Public Land) (Amendment) Regulations, 2020	• These Regulations are developed under the powers granted under the National Land Commission and the Land Act • The Regulations propose that the processes of issuing and collection of letters of allotment, preparation and execution of leases be done in both physical and electronic form. • The Regulations recognize the existence special categories of persons including persons living with disabilities, who may need the processes to be conducted physically. • The Regulations provide that during the conduct of auctions the fees payable shall be made to the National or respective County Government. • The adoption and application of these Regulations will facilitate the ease of doing business in the country as far as land transactions are concerned.

	duties under the Act may be paid. • The submission of an executed instrument for purposes of the Stamp duty Act to be done electronically as an alternative to manual submission, • An application for adjudication stamp duty under paragraph 5 (3) to be done electronically. • An application for spoiled or misused stamps under Regulation 11(1) to be made electronically. The regulations also propose to add the following provisions: • Proposal to insert a new regulation 13 to require that forms under that prescribed forms may be modified to enable electronic lodgement. • A new provision providing that all notices under the Stamp duty Act may be served by registered post, electronically or physically.
Land (Amendment) Regulations, 2020.	• Proposes to amend the Land Regulations, 2017 to provide for: • Meaning of the terms :electronic” and “electronic form” • Data base for public land kept under paragraph 3 to be in electronic format • Inventory of land based natural resources to be kept electronically. • Notification and written feedback required under regulation 6 in relation to a variation order may be given in electronic form. • Inventory of public lands vested in institutions required under regulation 8 to be kept in electronic format. • Issuance of licenses and quit notice in relation to un-alienated public land to be done electronically. • Payment of land rent to be coordinated electronically. • Deletion of regulation 12 relating to procedures of obtaining the land rent certificate • Regulation 13 Applications for consent to transfer, lease or sublease to be done electronically. • Regulations 14 and 15: Conversion of tenure of 999 years leases for non-citizens to 99 year leases to be done electronically. • Regulations 16 and 17: Subdivision, amalgamation, partition and reparation of freehold land-amend to mandate the Chief Land Registrar to require an electronic lodgement before subdivision, amalgamation, partition and reparation of freehold land.

Survey (Electronic Cadastre Transactions) Regulations, 2020	• Requires Director of Survey to maintain an Electronic Cadastre to be part of NLIS. • DS has power to issue an electronic notice, certificate, instrument or document • Certify a map, plan, form, document or extract of a map /send a notice or duly issued or certified map, plan, form, document or extract of a map to a user electronically. • Notification to the user to be electronic. • All survey plans, field notes, computations and other survey data to be executed and transmitted electronically, • Surveyor/User to access the electronic Cadastre through a user account created in the system and may access Cadastral maps, cadastral plans or other plans on a read only format. • DS has power to suspend or terminate a user's access in the system • Application for submission to DS to be done electronically by uploading documents which shall be numbered, checked and authenticated/ Notification of receipt of documents, • DS to update the electronic cadastral map upon payment of fees approval • Upon updating the DS shall seal the electronic cadastral map and notify either the Director land administration of the NLC as the case may be, • An adjudication register, shall be submitted to the Chief Land Registrar in electronic format. • A cadastral map of an adjudicated community land shall be submitted to the Community Land Registrar in electronic format. /Cadastral plans, cadastral maps, sectional plans including other plans, shall be provided to the CLR in electronic format. • Mutation form (LRA-27) shall be presented to the Chief Land Registrar in electronic format. • DS may, upon request prepare a parcel plan in electronic format for use in electronic conveyancing and prepare a parcel plan to be embedded to the title of that particular parcel. • Validity of electronic maps-same as physical • Electronic payment of fees
Stamp (Amendment) Regulations, 2020	Duty • These Regulations seek to amend the Stamp Duty Regulations, issued under the Stamp Duty Act (Cap 480) • The Regulations seek to: • Insert new definitions for terms including certificate, electronic form, instrument, notice and system. • Make electronic means as one of the ways through which

9. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020

Following stakeholder consultations however, the following two sets of Regulations have been dropped on the basis that they are being developed under different processes:

1. Stamp Duty (Valuation) Regulations, 2020; and
2. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

The table below shows the salient features of all the proposed statutory instruments:

Land Registration (Electronic Transactions) Regulations, 2020	• Applies to all registries gradually, beginning with the Nairobi Registry/Schedule to be updated gradually. • Requires the Chief Land Registrar to maintain an electronic land registry in accordance with section 7 of the Act. • The registry to be Part of LIMS. • Registrar to issue notices, certificates and other documents electronically/certify and transmit documents through the system • Requires cadastral maps to be kept in electronic form. • Authorized users (individuals and legal persons) to register their particulars in the system and open user accounts and bear certain responsibilities/provides for professional acting on behalf of clients. • CLR has power to suspend or terminate a user's access in the system • Inter-institutional appeals committee to determine disputes arising from CLR's decisions • Electronic search (current and historical) to be done electronically • Pre-registration process-filling of e-forms, e-signatures, uploading supporting documents, e-valuation and e-payment. • Registration to begin with e-application through the system 24/7 • Evidence of registration-e-generated notice of filing with a tracking number, which determines priority of registration. • Effect of e-registration, documents have same legal effect as paper documents. • Manual lodging of documents in exceptional circumstances. • Scrutiny and authentication of documents/power to reject and return documents to resubmission. • Electronic certificate of title or lease to be issued through the system and down loaded by the user.
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The County Governments Act, 2012 and the Urban Areas and Cities Act, 2011	Parts XI and V of the County Governments Act and the Urban Areas and Cities Act respectively provide for processes of planning in respect to planning authorities/cities and urban areas/sub-counties and wards, the development control procedural aspects found in the Physical and Land Use Planning Act. Section 104 (3) of the County Governments Act provides that a county government shall designate county departments, cities and urban areas, sub-counties and wards as planning authorities of the county. Section 12 of the Urban Areas and Cities Act provides that the management of a city or a municipality shall vest in the county government and administered on its behalf by the relevant Board; a manager or such other staff. Further, these two statutes generally vest development control function on the county governments as well as boards and managers.
Valuation for Rating Act (CAP 266) and the Rating Act (CAP 267)	Valuation for rating Act mandates county governments to value land for the purposes of rates and other purposes. The Act applies in respect of urban areas but not agricultural land. This is a national legislation that was intended for the defunct local authorities. County governments are expected to 'domesticate' the Act in their respective jurisdictions.

Overview of the proposed regulatory instruments

The proposed Statutory Instruments which are the subject of this analysis are:

1. Land Registration (Electronic Transactions) Regulations, 2020
2. Survey (Electronic Cadastre Transactions) Regulations, 2020
3. Survey (Amendment) Regulations, 2020
4. Stamp Duty (Valuation) Regulations, 2020
5. Stamp Duty (Amendment) Regulations, 2020
6. Land (Allocation of Public Land) (Amendment) Regulations 2020
7. Land (Amendment) Regulations, 2020
8. Land (Extension and Renewal) (Amendment) Rules, 2020

	“mean that the instrument referred to is stamped with the required and sufficient stamp and that the stamp has been cancelled, if necessary, in accordance with the provisions of this Act”. This implies that documents must be physically availed at the registry for stamping.
The Sectional Properties Act, 1987	The Sectional Properties Act has been under review and amending Bill is pending presentation to Parliament. The Act provides for the division of buildings into units to be owned by individual proprietors and common property to be owned by proprietors of the units as tenants in common and to provide for the use and management of the units and common property for connected purposes. Since the individual units in a building are defined in a sectional plan, preparation of the sectional plan and registration thereof are critical elements informing registration of sectional interests in a building. Part II of the Bill is dedicated to this. Under this part, a sectional plan is prepared by a surveyor on confirmation of ownership of the parcel of land the plan will apply. To aid electronic processing and registration, it is necessary to require the sectional plan to be prepared in electronic form. This necessitates an amendment to Section 4(2) of the Bill to accommodate the electronic version of the sectional plan as a pre-requisite for registration of the sectional plan. The same will apply to Section 9(1) of the Bill, which sets out the requirements of sectional plans.
The Computer Misuse and Cyber Crimes Act, 2018	The Computer Misuse and Cyber Crimes Act seeks to guide and regulate electronic transactions in Kenya. Safety of the electronic systems as far as human interface is concerned is legally guaranteed by this Act. Risks associated with digitization of transactions and computer related offences, investigation, prosecution, sanctions and penalties are provided in the Act. This statute is, therefore, of great relevance since it serves as a deterrent to those who may have the intent of committing computer related offences
The Physical and Land Use Planning Act, 2019	The Physical and Land Use Planning Act provides for principles, procedures and standards for the preparation and implementation of physical and land use development plans at the national, county, urban, rural and cities levels. The Act provides for development of physical and land use planning and approval of development control applications by county governments.

	provided under Section 7 of the Community Land Act. This entire process is comprehensively provided under the Community Land Regulations, 2017.
The Kenya Information and Communications Act, 2013	The Kenya Information and Communications Act provides for electronic commerce and for connected purposes. Under Section 83G, it is provided that where any law provides that information or other matter shall be in writing then such requirement shall be deemed to have been satisfied if such information or matter is rendered or made available in an electronic form and accessible so as to be usable for a subsequent reference. The electronic format of doing documents and data has through this Act, been made to rank the same as if such documents or data are physically rendered. It is therefore instructive to note that section 83G supersedes contrary provisions of other statutes. However, under Section 83B, any rule or law requiring writing or signatures in the creation or execution of a will; negotiable instruments and documents of title will be exempt from the provision of 83G unless the Minister¹¹ by order modifies by removing or adding any class of transactions or matters. Processing of electronic titles may not be possible unless title documents are excluded from the list of class of transactions by the Minister hence the proposed amendment as captured in the Schedule of Proposed Amendments. Even though electronic signatures and advanced electronic signature are provided for in the Act, the same cannot be actualized unless the Cabinet Secretary for ICT develops regulations in line with Section 83R.
The Stamp Duty Act (CAP 480)	The Stamp Duty Act provides for the procedure and requirements for stamping instruments. Currently, the stamp duty fees are payable online through the e-citizen portal. The fixing of the stamp denoting payment of the duty is, however, done manually by presentation of the documents to the registry. Under Section 2 on interpretation, 'stamp' means a stamp embossed or impressed by means of a dye or a franking machine or adhesive stamp; and stamped and duly stamped

	various spatial information stakeholders across the country. This has resulted in duplication in the management of land information systems. This problem arises because spatial information is being collected and or maintained by different government organizations. The crucial aspect is that all the databases used by the various organizations are supposed to be based on the Cadastre maintained by the Director of Surveys. Surveyors are still required to present their work using computational procedures that do not conform to technological advancement. This has forced surveyors who use relatively new technologies such as Global Navigation Satellite Systems (GNSS) or Total Stations, to convert the electronic data to paper (analogue data) before presenting their work. The process of conversion is not only time consuming but is also prone to errors.
The National Land Commission Act,	The Act breathes life into the National Land Commission which is established under the constitution and makes further provisions on the functions and powers of the Commission. One of the functions assigned to the Commission under Section 5 of the Act is to develop and maintain an effective land information system for management of public land.
The Community Land Act	The Community Land Act gives effect to Article 63(5) of the Constitution to provide for the recognition, protection and registration of community land rights; management and administration of community land; the role of county governments in relation to unregistered community land, and for connected purposes. Section 10 of the Act provides that there shall be maintained for each registration unit, a community land register in accordance with Section 8 of the Land Registration Act, 2012. The Act secures the interest of communities as far as ownership of community land that is under control of a community is concerned. The interest of communities is secured by bringing all community land under a registration regime as provided for by the Land Registration Act. This process involves registration of communities and putting in place the Community Land Management Committees, by the Community Land Registrar as

		in favour of the Registrar or of other users) by persons using the system; (vii) modifying any enactment; (viii) specifying instruments which may be lodged electronically; and (ix) specifying the instruments or transactions for which fees may be made by electronic means. 6. The regulations provide that all instruments prepared electronically shall be subject to the same requirements as any other instrument under the Act or any law in force subject such modifications, relating to the format, required to enable the use of the instrument electronically. 7. The Land Registration (Electronic Land Transactions) (Revocation) Regulations, 2019 were revoked by LN No 187 of 2019 following a directive by the National Assembly following nullification of the Regulations for reasons stated elsewhere in this report,
The Land Act		The Land Act, 2012 was intended revise, consolidate and rationalize laws relating to land, separate land substantive law with land registration procedural law and to provide for sustainable administration and management of land. The Act repealed the Wayleaves Act (Cap. 292) and the Land Acquisition Act (Cap. 295). Under section 6 (h), the Act requires the Cabinet Secretary to coordinate the development and implementation of a National Land Information System in collaboration with the National Land Commission. Under section 160 both the Cabinet Secretary and the NLC have power to make regulations prescribing various matters including the manner of assessing value of an interest in land. <i>Note:</i> The Land Act Regulations under Regulation 70 provide for electronic service of documents
The Survey Act (Cap 299)		The Survey Act provides for surveys, geographical names and the licensing of land surveyors, The Act requires to be reviewed to align it the digital NLIS. The Act lacks a framework of collaboration between the

- (iii) creation of electronic documents and instruments;
- (iv) the recording or registration of electronic documents in the register;
- (v) the electronic generation and communication of applications for registration in the register;
- (vi) provision for a system of electronic payments in relation to transactions involving payment of fees; and
- (vii) other ancillary matters necessary for improving the land registration system and service delivery generally.

Further this Part provides the guidelines may regulate:

- (a) the making up and keeping of the register and any other register provided for under the Act in electronic format;
- (b) the procedure to be followed by any person applying for information from the register;
- (c) the procedure to be followed by the persons authorized to apply for recording or registration in the register;
- (d) the procedure to be followed by the Registrar in relation to :
 - (i) any application;
 - (ii) making the documents and information required available; and
 - (iii) the recording or registration of electronic documents to which such an application relates;
- (e) the use of the system in relation to:
 - (i) the kinds of instruments which may be authorized for use in the system;
 - (ii) the persons who may be authorized to use the system having regard to the provisions of the Advocates Act (Cap. 16) on the qualification of persons who may draw and engross conveyancing documents and instruments;
 - (iii) the suspension or revocation of a person's authorization to use the system;
 - (iv) the method of appeal against suspension or revocation under sub paragraph (iii);
 - (v) the imposition of obligations on persons using the system, and
 - (vi) the creation of deemed warranties (whether

not allow cross-referencing of records or interface of databases thus constraining orderly and timely updating of the records. Paper based systems make it hard to access stored data and information thus creating the possibility of making misinformed decisions with unreliable outcomes.

- ii) The absence of linkages and interfaces has resulted to lack of collaboration and occasioned duplication of functions between various offices and institutions. This problem arises because spatial information is collected and or maintained by different offices and institutions yet they are all expected to base their databases on the Cadastre maintained by the Director of Surveys. There has been data redundancies and wastage of resources even in cases where some of the offices have adopted digital databases without standard data model thereby making integration of the data sharing impossible. Due to this scenario, Registry users are frustrated by loss and misplacement of records, increased cases of corruption, fraud and low productivity by the service providers.
- iii) Operating a paper based LIMS in silos has resulted to delays in land transactions including the processing of survey documents, registration of documents and issuance of title deeds. This in turn affects the user and complicates the ease of doing business.
- iv) It has also led to low cadastral coverage for Kenya where only about 20% of the land is covered in the formal cadastral (fixed boundaries) system. This is further complicated by informal land tenure in most urban areas and community land ownership. It is therefore a primary and immediate need for the government to not only digitalize and automate land transactions but also to fast track the adjudication programme in the rest of the country in order to bring all the land into a unified and integrated register.

Option 2: Establishing LIMS administratively in the absence of the regulatory instrument

As pointed out above, the Land Registration Act provides for the maintenance of an electronic land register by the Registrar. Section 9 of the Act requires the Registrar to maintain a register and any document required under the Act in a secure, accessible and reliable format including electronic files and an integrated land resource register. Section 10 of the Act requires the Registrar to make available to the public (including by electronic means) the land register. The import of this provision is that nothing prevents the Ministry from administratively setting up a digital LIMS and giving it functions.

However the fact that the system is intended to integrate diverse offices and institutions which are not necessarily answerable to the Ministry poses implementational and enforcement questions.

Option 3: Establishing NLIS and prescribing the enabling Electronic land Transaction Regulations

Establishment of National Land Information System (NLIS) to facilitate online uploading of data from the line departments including survey, valuation, registration, physical planning, land administration, adjudication and settlement. In addition, to be linked in the system is the companies' registry and the Registrar of persons. The system will serve the MoLPP, county governments, NLC, KRA, Banks, Judiciary, EACC, Lawyers and the public

Prescribing the enabling Electronic Transaction Regulations affords the Cabinet Secretary an opportunity to guide how the NLIS is expected to work and the role of different institutions. It

gives the system the much-needed legal basis and certainty, which have grave implications in terms of funding. The consultative process through which the regulations are developed also provides room for buy-in and support from the line departments and institutions and therefore increases their chances of full implementation.

Options and Impact analysis

Option 1: Maintaining the Status Quo	Option 2: Establishing LIMS administratively in the absence of the regulatory instrument	Option 3: Establishing NLIS and prescribing the enabling Electronic land Transaction Regulations
If the option of doing nothing is pursued, it will mean that land management and administration will continue to be undertaken manually and land information and records will continue to be stored on paper records. The requirement by law to establish the NLIS will not materialize since the system cannot be established manually. It will remain costly in terms of both time and resources for the Ministry to capture, store and share information. The following business process for property registration involving several steps and many working days will persist: 1) Title search-3 days 2) Land rent clearance-19 days 3) Land rate clearance-5 days 4) Consent to transfer clearance -9days 5) File valuation	It is administratively possible for Ministry to establish a Land Information Management System. However, land administration and management involves many other departments and institutions, which outside the ambit of the ministry mandate and control. The Ministry will therefore not be in apposition to influence the robustness of the system to the extent that some aspects will be let to the goodwill of other players. An administrative measure may succeed in the short run but will face the danger of alteration or even abandonment in the end. There is no guarantee that the following existing steps will reduce: 1) Title search-3 days 2) Land rent clearance-19 days 3) Land rate clearance-5 days 4) Consent to transfer clearance -9days	A digitalized National Land Information System (NLIS) with a capacity to facilitate online uploading of data from the line departments including survey, valuation, registration, physical planning, land administration, adjudication and settlement. In addition, to be linked in the system is the companies' registry and the Registrar of persons. The system will serve the MoLPP, county governments, NLC, KRA, Banks, Judiciary, EACC, Lawyers and the public. Before the roll out of the system existing paper records will be scanned to extract all relevant data, the records will be validated before developing an application interface (API) and training the system users. The enabling legislative framework guarantee that electronic records have the

requisition- 4 days 6) Site visit & reporting- 20 days 7) Endorsement & assessment – 4 days 8) Payment of stamp duty- 5days 9) Title registration-5 days Total 73 working days Nine steps i. No additional budgetary implications ii. Opportunity to address existing challenges lost ii. Current challenges would persist v. Paper based and manual systems v. Costly including hidden costs vi. Possibility of total collapse	5) File valuation requisition- 4 days 6) Site visit & reporting- 20 days 7) Endorsement & assessment – 4 days 8) Payment of stamp duty- 5days 9) Title registration-5 days Total 73 working days Nine steps i. Additional budgetary implications ii. Some challenges addressed administratively while others persist iii. Enforcement and implemtatational challenges iv. Possibility of stand-alone databases to remain unlinked v. Uncertainty as to when it will become fully operational vi. Possibility of total collapse due to lack of public awareness vii. unsustainable	same value as manual records. The legal framework will also facilitate standardization and online integration to enable customers to access services seamlessly, embrace efficient, timely and cost effective land management processes, improve public service delivery, eliminate fraud and avoid further deterioration of paper records and requirement of storage space. The existing business process for property registration involving several steps and many working days will be restructured into the following three major steps: 1) Application for land rent clearance certificate and consent to transfer- 5 days 2) Valuation site visit and report writing 3 days 3) Registration of title – 4 days Total 12 working days Three steps Demerits of Digitalization of land records i) High costs of project initiation and maintenance-converting large volumes of manual records into digital records requires highly trained personnel and
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		designing complex applications, which is expensive. Training of employees costs and costs of creating awareness among users ii) Voluminous records. It will take time to convert all manual records for the past 100years into digital. This may occasion delays and high transaction costs iii) Reconstruction of torn, misplaced and missing records. Tattered or ineligible records will pose a major challenge to digitalization. iv) Illiteracy. Land dealers who are illiterate and unable to afford hiring advocates will find it a challenge in using the online platform v) Opposition from within. There is a possibility that those working in the registries may harbor ears that the success of the exercise might prejudice their jobs. vi) Lack of political/institutional will. Land abuses were mainly perpetrated by persons working in public authorities to facilitate illegalities like grabbing and double registration. With digitalization this will no longer be possible hence
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		the propensity to fight back. vii) Duplication. Before the system comes fully in use, there is bound to be duplication of jobs where some procedures are done manually before conversion to digital. Merits of Digitalization of land records i) Efficiency and improved service delivery by streamlining and simplifying land management and administration processes. The system helps improve decision making by providing real time information and reports including integrated cadastral mapping. i) Improves data accuracy and eliminates redundant or fraudulent data entries. Records in the system are easily and securely updatable and editable. ii) Transparency and accountability. The system reduces fraud and land grabbing as online records is likely to show the citizenry what land is held by whom. It provides 24/7 access to the system and data from any internet connection iii) Ease of doing business. Digitalization supports
--	--	--

		investment, productivity and growth. It enhances support to businesses dealing in land by enabling them to transact faster and flexibly through touch of a button. iv) Cost effective and value for money. It will eventually cut the costs on managing paper records. v) Time saving by reducing turnaround time for land conveyancing vi) Convenience through ability to transact without physical presence in the registry and ability to pay electronically vii) Cures the problem of misplaced, missing and torn records viii) Long-term preservation of records and lower archiving costs. ix) Enables sharing of records between Ministry, NLC, county governments, banks, companies registry etc. x) Reliable backup. It is a legal requirement that data stored in the system should be properly backed up. xi) Increased security and control. Data in the system strictly controlled in terms of permissions
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		as to who can retrieve it. xii) Phased implementation to deal with cost issues and create room to inculcate lessons learnt. xiii) Legal and policy certainty/budgetary allocations guaranteed xiv) Sustainable
--	--	---

Preferred Option

Based on the above analysis and the experiences from other jurisdictions, option 3 is the preferred option

Economic impact of the Regulations

The economic impact of the regulations will include:

1. Improved productivity as a result of introduction of more efficient business processes
2. Economic benefit from improved and secured property rights. The establishment of an effective land administration system and security of land tenure is beneficial for the government as it supports economic development by increasing production and generating revenue to some extent. It may also enhance efficient use of scarce resources, increase household income and play an important role in reducing poverty.
3. The quality of land administration services affects revenue generation. Poor land administration, poor land valuation and inefficient and unscrupulous employees threaten tenure security and reduce the amount of revenue that can be generated from land
4. Land administration plays a crucial role in providing security of land tenure. It also evidences that the use value, collateral value and exchange value of land is increased after registration, which has benefited the housing, investment, and finance sectors of the economy.

Environmental impact

The adoption of the proposed Regulations in themselves do not have any impact. However, the application of the Regulations within the Stakeholder environment and workplace environment create benefits mentioned in this report.

Social impact

The Regulations are sustainable service for the future and will ensure improved livelihoods through security of tenure and access to financial credit.

Reasons why other Options are not appropriate

Based on the above analysis and the experiences of other jurisdictions, options 1 and 2 are not appropriate for Kenya

Statement explaining the effect of the proposed legislation: Benefits and Costs analysis

Benefits

Shifting away from manual handling of land records to paperless, digitalized information processing system brings with it the benefits of information and communication technology namely:

1. Improved efficiency and effectiveness- A digital LIMS will eliminate the need for more physical space to store records. It will also provide an opportunity to timely update of the databases besides easing access and sharing of information.
2. An integrated approach- The old problem of information being held at different offices, duplication and data redundancies will be resolved with the introduction of a single database capable of serving different interfaced offices and institutions.
3. Reduced turnaround time for conveyancing- Delays in land transactions including the processing of survey documents, issuance of title deeds and registration of documents will be greatly reduced,
4. Improved cadastral coverage-At present only 30% of Kenya's land is covered in the formal cadastral system¹⁰. This is bound to improve with the adoption of a system that eliminates the delays at the registration offices.
5. Improved ease of doing business-land is key resource factor in Kenya and its administration impacts on nearly all other businesses who have to acquire land, lease premises or pay for rates to be able undertake their businesses.

Financial cost

Rolling out a digital LIMS for Kenya will involve development or purchase of the system, maintenance of the system and training of personnel to gain both operational efficiency and to cope with potential problems with the proposed system. There will also be the issue of purchasing supporting hardware and annual licenses for the software. All this is expected to be around Ksh **600 million** (estimated). Since the system will be phased out over a number of years, this budget can be spread out and financed in piece meal. This is a cost payable by the Ministry and does not implicate the user in any manner.

Effect on public sector

The depth and potential impact of electronic system of land registration on the public sector is huge. The system provides opportunity to improve public sector accountability and transparency. A computerized system offers huge potential for operational efficiencies and improved customer experiences within the public sector. It allows creation of online-access platform for individuals and businesses to request services register complaints and submit payments easily.

Computerization is also expected to improve revenue collection efforts of the Government and lower the costs associated with service delivery.

¹⁰ 2016 TF Report, Ministry of Lands and Physical Planning

Effect on private sector

Electronic system for land registration will help to provide security of tenure to land owners necessary to support investment, productivity and growth. It will influence access to credit through the banking sector.

Effect on businesses

Businesses dealing with land registration and conveyancing will save a lot both in terms of time and in terms of resources. It will also be convenient to conveyancing advocates as it minimizes on delays and duplication of efforts. As is evidenced from the study by the Taskforce, the turnaround time for land conveyancing in Estonia reduced from 90 to 5 days. In the case of Kenya, this will reduce from 73 to 12 days with room for more improvements as the system is fully implemented.

Fundamental rights and freedoms

The proposed regulatory instruments will facilitate the full enjoyment of the right to property as stipulated under Article 40 of the Constitution. The instruments do not limit the fundamental rights and freedoms set out under the Constitution.

Taxes/fees and revenue

The proposed regulatory instruments neither impose, waive nor vary any tax or fees imposed under any law in Kenya. Indeed the instrument seeks to provide for easier and more convenient methods of payment of land registration fees, transfer fees and stamp duty fees but not alteration of the actual fees is proposed.

Effect on existing legal frameworks

The regulatory instruments propose amendments to other existing statutory instruments for purposes of providing adequate legal framework for electronic land transactions. Where consequential amendments are required under substantive laws, a separate proposal for those amendments has been prepared. The following statutes have been identified as requiring amendments in this regard.

Statutory instruments proposed to be amended

- i. Land Regulations, 2017,
- ii. Survey Regulations. 1994
- iii. Land (Allocation of Public Land) Regulations, 2017,
- iv. Land (Extension and Renewal of Leases) Rules, 2017.

Statutes proposed for consequential amendments

- i. Land Act, 2012,
- ii. Land Registration Act, 2012,
- iii. Survey Act, Cap 299,
- iv. Stamp Duty Act, cap 480.
- v. Law of Contract, Cap 23,
- vi. Registration of Documents Act, Cap 285
- vii. Kenya Information and Communications Act, 1998.

Conclusion

Based on the analysis of this report, a National Land Information System for Kenya is not only a requirement but also extremely necessary if the country is to reap the benefits of a clean land records system. There are enormous economic, social, environmental benefits for the country to develop and implement the system. For the system to be fully implemented, it has to be wholly backed in law. The proposed Regulations are intended to achieve this important national priority.

Recommendation

Given the fact that the proposed Regulations will facilitate the full implementation of a digital NLIS, this Regulatory Impact Assessment recommends the adoption of the proposed Regulations as proposed, subject to the, alterations, adaptations, qualifications and exceptions as may be proposed during the mandatory public participation process.

SPECIAL ISSUE



THE KENYA GAZETTE

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GAZETTE NOTICE No. 3895

THE STATUTORY INSTRUMENTS ACT

(No. 23 of 2013)

NOTIFICATION OF REGULATORY IMPACT STATEMENT

PURSUANT to section 8 of the Statutory Instruments Act, 2013, the Cabinet Secretary for Lands and Physical Planning in consultation with the Cabinet Secretary for the National Treasury and Planning and the National Land Commission notifies the general public that a Regulatory Impact Statement on the proposed regulations to implement electronic land transactions has been prepared to assess the impact of the regulations on the community and businesses.

The proposed Statutory Instruments include the following:

1. Land Registration (Electronic Transactions) Regulations, 2020.
2. Survey (Electronic Cadastre Transactions) Regulations, 2020.
3. Survey (Amendment) Regulations, 2020.
4. Stamp Duty (Valuation) Regulations, 2020.
5. Stamp Duty (Amendment) Regulations, 2020.
6. Land (Amendment) Regulations, 2020.
7. Land (Extension and Renewal of Leases) (Amendment) Rules, 2020.
8. The Land (Allocation of Public Land) (Amendment) Rules, 2020.
9. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

The main objective of the proposed regulations is to facilitate the implementation of the National Land Information Management System (NLIMS) developed pursuant to section 6 (h) of the Land Act, 2012. Specifically, the regulations seek to—

- (a) provide for the operationalization of the NLIMS;
- (b) leverage on ICT to improve the way in which information is structured, stored, managed, delivered and used;
- (c) improve ease of doing business by cutting time for property registration;

- (d) provide the legislative framework and platform for facilitating cost effective and reliable paperless transactions in land and accessing land information in a timely manner;
- (e) establish an electronic payment system to improve revenue collection by eliminating revenue leakages;
- (f) reduce paper work and records that takes up lot of space and difficult to access, retrieve and store; delays; and
- (g) promote public confidence in the integrity and reliability of electronic records and electronic transactions.

This is therefore to request all persons likely to be affected by the proposed regulations to submit written memorandum on the proposed regulations to reach the undersigned within fourteen (14) days from the date of publication of this notice.

The draft Regulatory Impact Statement and the proposed regulations are available on the Ministry's website: <https://lands.go.ke>. The proposed regulations and the Regulatory Impact Statement are also available on request through the Ministry's email address at elandtransactions@gmail.com during normal working hours.

Due to the prevailing global health concerns, the Ministry also welcomes any stakeholder who would prefer virtual interaction on the subject matter to notify the Ministry through the email address given below in order for the Ministry to prepare for such meetings. The virtual meetings will be scheduled as public forums and will take place between Thursday, 11th June to Thursday, 18th June, 2020 starting from 10.00 a.m. to 4.00 p.m. to discuss the proposed Regulations and the Regulatory Impact Statement and comments received.

Please send your written comments to:

*The Principal Secretary,
Ministry of Lands and Physical Planning,
Ardhi House, 1st Ngong Avenue,
P.O. Box 30450-00100,
Nairobi*

or

Email: elandtransactions@gmail.com

Dated the 8th May, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

Local MPs put hurdles in plan to build dams up north

AVID MWERE

The government's plan to build dams in northern Kenya and other semi-arid regions is running into headwinds after a group of MPs threatened to marshal communities to stop the projects. MPs claim they were left out of the process, including the siting of dams, despite having presented views to the Defence and Foreign Affairs Committee of the National Assembly.

dams called 'peace dams' are meant to check communal and cross-border conflicts brought about by drought. About Sh1 billion for construction of the four dams in the counties of Mandera, Wajir, Garissa, Marsabit and Tana River was approved in the Supplementary Budget II passed by the National Assembly two weeks ago. More billions have also been allocated in the 2020/21 financial year, whose estimates are currently before the National Assembly.

Construction works is set to be done early this week. The construction will be overseen by two regional development authorities: Ewaso-Ng'ro Development Authority and the Coast Development Authority. MPs Dida Raso (Saku, Marsabit),

Ahmed Ibrahim (Wajir North) and Abdikarim Osman (Fafi, Garissa) have questioned how the locations for the dams were identified.

"As the area MP, I consider this to be a blatant interference in the management of the affairs of my constituency. It was not involved where the dam should be built until recently when an engineer from the Coast Development Authority came visiting," Mr. Osman said.

About Sh100 million has been allocated to Irissa Teno dam in Wajir, Marsabit's North Horr constituency.

has two projects — Sh100 million for Malalaba dam and Sh250 million for Chafra-Chachane dam.

Boji dam in Mandera South has been allocated Sh250 million, Fula dam in Tana River (Sh100 million) and Galinagala dam in Fafi constituency (Sh200 million).

Mr. Metto said that all the legislators in the affected areas were engaged and requested to present their proposals.

Last December, President Kenyatta visited Garissa County and announced that a dam would be built in the developed unit.

Legislation > Counties to pay staff

Bill seeks hiring of community health workers

will provide for recognition of rural grassroots

WELLOWINO
a samwell
@wellowino.com

Counties will be compelled to recruit community health workers, pay them and provide necessary health services and facilities. The Bill, which is currently before the National Assembly, will provide for the recognition of community health workers and their services.

Community Health Bill sponsored by Senator Agnes Zandiri, will provide for the recognition of community health workers and their services. The Bill, which is currently before the National Assembly, will provide for the recognition of community health workers and their services.

Community health workers recognised by law and provided volunteer services. The Bill provides a legal framework for the effective delivery of community health services. The Bill provides a framework for the implementation of community health services and standards for community health workers and their services.

especially as the country battles Covid-19, cannot be gainsaid. It is imperative that awareness-raising through tailor-made rural public sensitisation campaigns, removal of stigmatised training of Community Health Workers and equipping the health facilities for handling of cases, is urgently undertaken.

The Bill comes after the national and the county governments signed a deal to progressively scale up provisions of universal healthcare. The Inter-governmental Partnership Agreement, signed between the two levels of government, realised the deal further proposed the recruitment of Community Health Extension Workers by counties and placing Community Health Volunteers on an agreed stipend of Sh2,000.

In the Bill, Dr. Zandiri proposes that community health workers should be nominated by the community in a public baraza and then competitively recruited by the county public service board.

The Bill creates an office of the Director of Community Health Services in the county public service. The holder of the office will advise the CEC on the integration of community health in the respective county integrated development plan and the annual development plan among others.

The role
Community health officers will then be expected to monitor and evaluate the implementation of decisions arising from community dialogues and health action days, coordinate the implementation of community health services by the community health workers and provide technical support and training to community health workers and the committee.

Sh1 billion

Money allocated for building four dams in Mandera, Wajir, Garissa and Marsabit counties



REPUBLIC OF KENYA

PUBLIC NOTICE

IN THE MATTER OF
THE STATUTORY INSTRUMENTS ACT (No. 23 OF 2013);
THE LAND REGISTRATION ACT (No. 3 OF 2012);
THE LAND ACT (No. 61 OF 2012);
THE PHYSICAL AND LAND USE PLANNING ACT, 2019;
THE SURVEY ACT (CAP 259); AND
THE STAMP DUTY ACT (CAP 480)

NOTIFICATION OF REGULATORY IMPACT STATEMENT ON THE PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

PURSUANT to section 6 of the Statutory Instruments Act (No. 23 of 2013), the Cabinet Secretary, Ministry of Lands and Physical Planning, in consultation with the Cabinet Secretary, the National Treasury and the National Land Commission hereby notifies the general public that a Regulatory Impact Statement on the proposed Land Transactions (Electronic) Regulations, 2020 has been prepared to assess the impact of the Regulations on the community and business.

The proposed Statutory Instruments include the following:

- Land Registration (Electronic Transactions) Regulations, 2020;
- Survey (Electronic Geospatial Transactions) Regulations, 2020;
- Stamp Duty (Valuation) Regulations, 2020;
- Stamp Duty (Amendment) Regulations, 2020;
- Land (Amendment) Regulations, 2020;
- Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
- The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and
- Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

The main objective of the proposed Regulations is to give effect to the provisions of the Land Act, 2012, with regard to the development and implementation of a National Land Information System and the maintenance of a land register and land documents in a secure, accessible and reliable format. Specifically the Regulations seek to:

- Establish a digital National Land Information System (NLIS) to provide an efficient and effective land administration system;
- Leverage on ICT to improve the way in which information is structured, stored, managed, delivered and used;
- Improve ease of doing business by cutting time for property registration;
- Provide the legislative framework and platform for facilitating cost-effective and reliable paperless transactions in land and accessing land information in a timely manner;
- Establish an electronic payment system to improve revenue collection by eliminating revenue leakages;
- Reduce paper work and records that takes up lot of space and difficult to access, retrieve and store, delete, and;
- Promote public confidence in the integrity and reliability of electronic records and electronic transactions.

It is therefore to require all persons likely to be affected by the proposed Regulations to submit written comments on the proposed Land Transactions (Electronic) Regulations, 2020 so as to assist the undersigned, not later than fourteen (14) days from the date of publication of this notice.

The draft Regulatory Impact Report and the proposed sets of the Land Transactions (Electronic) Regulations, 2020 are available under the Ministry's website: <http://lands.go.ke>. The proposed Regulations and the Regulatory Impact Statement are also available on request through the Ministry's email address: elandtransactions@gmail.com during normal working hours.

It is open for anyone with comments on the proposed Regulations to make their comments by way of email or submission of a written memorandum to the email address at elandtransactions@gmail.com.

Due to the prevailing global health concerns, the Ministry is encouraging members of the public to submit their comments and proposals for input on the Regulations and the RIA through written submissions and memorandums. The inputs should be sent through email address elandtransactions@gmail.com.

The Ministry also welcomes any stakeholder who would prefer virtual interaction on the subject matter to notify the Ministry through the email address given below in order for the Ministry to prepare for such meetings. The virtual meetings will be scheduled as public forum and will take place between **Thursday, 14 May to Friday, 22 May, 2020 starting from 10.00 a.m. to 2.00 p.m.** to discuss the proposed Regulations and the Regulatory Impact Statement and comments received. The Ministry will hold virtual meeting with sub-stakeholders to discuss their comments from the Ministry of Lands and Physical Planning Headquarters.

Please send your written comments to:

The Principal Secretary
Ministry of Lands and Physical Planning
Arch House 11, Ngara Avenue
P.O. Box 10450-00100
NAIROBI

OR

Email to: elandtransactions@gmail.com



REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING
Office of the Cabinet Secretary

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Fax: +254(0)20 2724470
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Web: www.ardhi.go.ke
When replying please quote:

Ardhi House
1st Ngong Avenue
P.O. BOX 30450-00100
Nairobi, KENYA

Ref. No. MOLEPP/ADM/CSO/1/369

May 2, 2020

Mr. Joash Dache, MBS
Chief Executive Officer
Kenya Law Reform Commission
P.O. Box 34999-00100
NAIROBI

Dear Mr. Dache,

RE: REVIEW OF REGULATORY IMPACT STATEMENT ON PROPOSED
REGULATIONS TO ENABLE ELECTRONIC LAND TRANSACTIONS,
REGISTRATION AND CONVEYANCING

Reference is made to the subject matter.

The Ministry through a multi stakeholder joint taskforce appointed vide Gazette Notice No. 2170 and published on March 13, 2020 has developed draft regulations to support electronic land transactions, registration and conveyancing.

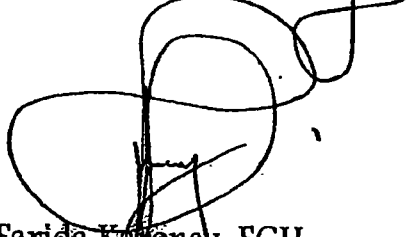
The main purpose of the proposed regulations is to promote efficiency in service delivery and the land administration system generally. A regulatory impact statement for the proposed regulations has been prepared by the Ministry pursuant to Sections 6 and 7 of the Statutory Instruments Act (No. 23 of 2013). Section 7 (3) of the Act requires the Ministry to procure independent advice as to the adequacy of the regulatory impact statement and the assessment made therein.

This is therefore to request you to review the report prepared by the Ministry as required by the Act. We intend to have the regulations as soon as possible and would be grateful if we could receive your comments within the shortest time possible.

We hereby forward a copy of the regulatory impact statement for your review.

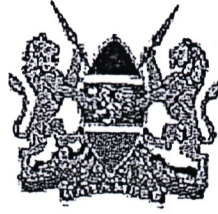
Thank you for your continued support and cooperation.

Yours *Sincerely*

A handwritten signature in black ink, appearing to read 'Farida Kaffoney', written over a large, loopy circular mark.

Farida Kaffoney, EGH
CABINET SECRETARY

Encl.



MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

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When replying please quote

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Avenue
P.O. Box 30450- 00100
Nairobi, Kenya

May 13, 2020

Eng. Collins Juma
President
Engineers Board of Kenya
Fortis Suites, 9th Floor, Hospital Road
P.O Box 30324-00100
NAIROBI

Dear *June*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The above subject matter refers.

The Land Act (No. 6 of 2012) and the Land Registration Act (No. 3 of 2012) require the Ministry and the National Land Commission to develop and implement a National Land Information Management System (NLIMS) and to maintain a land register in electronic form. It is against the backdrop of these legal provisions and the broader e-government strategy, which is meant to improve service delivery, that the Government embarked on the development of NLIMS, a system that links and networks all land-related agencies in the country.

The Ministry appointed a taskforce vide Gazette Notice No. 2170 of March 13, 2020 to review the existing legal framework to enable effective implementation of NLIMS. The taskforce has developed various sets of regulations to support

electronic land transactions, registration and conveyancing. The proposed statutory instruments are as follows:

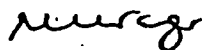
1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
4. Stamp Duty (Amendment) Regulations, 2020;
5. Land (Amendment) Regulations, 2020;
6. Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
7. The Land (Allocation of Public Land) (Amendments, Regulations), 2020;
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020; and
9. Survey (Amendment) Regulations, 2020.

A regulatory impact statement for the proposed regulations has been prepared (enclosed for reference).

The taskforce wishes to engage the Engineers Board of Kenya on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

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When replying please quote

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Avenue
P.O. Box 30450- 00100
Nairobi, Kenya

May 13, 2020

Eng. Nathaniel Omwolo Matalanga
President
Institution of Engineers of Kenya
Transcom Annex, 1st Floor Ngong Road
P.O Box 41346-00100
NAIROBI

Dear *Matalanga*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The above subject matter refers.

The Land Act (No. 6 of 2012) and the Land Registration Act (No. 3 of 2012) require the Ministry and the National Land Commission to develop and implement a National Land Information Management System (NLIMS) and to maintain a land register in electronic form. It is against the backdrop of these legal provisions and the broader e-government strategy, which is meant to improve service delivery, that the Government embarked on the development of NLIMS, a system that links and networks all land-related agencies in the country.

The Ministry appointed a taskforce vide Gazette Notice No. 2170 of March 13, 2020 to review the existing legal framework to enable effective implementation of NLIMS. The taskforce has developed various sets of regulations to support

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1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
4. Stamp Duty (Amendment) Regulations, 2020;
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8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020; and
9. Survey (Amendment) Regulations, 2020.

A regulatory impact statement for the proposed regulations has been prepared (enclosed for reference).

The taskforce wishes to engage the Institution of Engineers of Kenya on the draft regulations on **May 21st 2020 at 10.00am**. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *S. G. G. G.*

Nicholas Muraguri

DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING

Office of the Principal Secretary

Tel: +254(0)20 2718050
Fax: +254(0)202724470
When replying please quote .

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Eng. Maurice Akech
Executive Director
National Construction Authority
9th Floor, KCB Towers
Upper Hill
NAIROBI

Dear

A Kech

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as electronic land transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a taskforce with membership from the National government, National Land Commission, Council of Governors and private sector was appointed vide gazette Notice No. 2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory Instrument Act, 2013.

The Taskforce has since prepared the proposed Statutory Instruments and Regulatory Impact Assessment Report in line with the existing land laws and the Statutory Instrument Act, 2013 as below:-

1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
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8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

Given the above, the Ministry has placed the instruments in its website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual stakeholders participation/ engagements will also be carried out between Thursday May 14, 2020 to Friday 22, 2020 as per the notice in the Ministry's website and Daily Nation dated Thursday May 8, 2020.

Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary

Chief Administrative Secretary

Encl



**MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY**

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When replying please quote

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

Mr. Solomon Kitungu
Principal Secretary
Ministry of Transport, Infrastructure, Housing,
Urban Development and Public Works
Transcom House, Ngong Road
P. O Box 52692-00200
NAIROBI

May 14, 2020

Dear *Mr. Kitungu*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a Taskforce with membership from the National Government, National Land Commission, Council of Governors and private sector was appointed vide Gazette Notice No.2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

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and
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

Given the above, the Ministry has placed the instruments in its Website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual Stakeholders participation/engagements will also be carried out between Thursday May 14, 2020 to Friday 22, 2020 as per the notice in the Ministry's Website and Daily Nation dated Thursday May 8, 2020.

The taskforce wishes to engage the Ministry of Transport, Infrastructure, and Housing on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *Sincerely*



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl

The Taskforce has since prepared the proposed Statutory instruments and Regulatory Impact Assessment Report in line with the existing Land Laws and the Statutory Instrument Act, 2013 as below:-

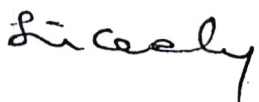
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Given the above, the Ministry has placed the instruments in its Website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual Stakeholders participation/engagements will also be carried out between Thursday May 14, 2020 to Friday 22, 2020 as per the notice in the Ministry's Website and Daily Nation dated Thursday May 8, 2020.

The taskforce wishes to engage the Architectural Association of Kenya on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

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When replying please quote

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 14, 2020

Eng. Jacob Mwingi
Chief Executive Officer
Architectural Association of Kenya
Room 605-6th Floor
Blue Violet Plaza Kindaruma
Off Ngong Road
P. O Box 44258-00100
NAIROBI

Dear

Mwingi

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a Taskforce with membership from the National Government, National Land Commission, Council of Governors and private sector was appointed vide Gazette Notice No.2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

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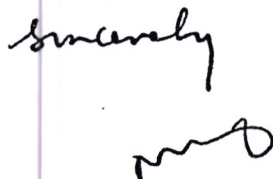
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The taskforce wishes to engage the Town County Planners Association of Kenya on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

Mr. Mairura Omwenga
Chairman
Town County Planners Association of Kenya
Galena Road, Kilimani
Block 2, White Court
P. O Box 15692-00100
NAIROBI

May 14, 2020

Dear *Mr. Omwenga*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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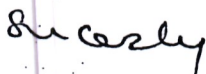
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Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to:

Cabinet Secretary
Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING

Office of the Principal Secretary

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Dr. Lawrence Esho
Chairperson
Kenya Institute of Planners
NSSF Building, Block A, Eastern Wing, 10th Floor
P O Box 10682-00100
NAIROBI

Dear

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as electronic land transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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Thank you for your continued support and cooperation.

Yours

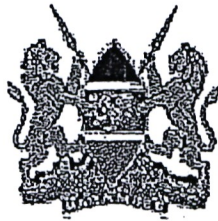


DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

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Chief Administrative Secretary

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Mr. Nelson Havi
The President
Law Society of Kenya
Lavington, Opposite Valley Arcade, Gitanga Road
P.O Box 72219-00200
NAIROBI

Dear *Havi*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as electronic land transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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Thank you for your continued support and cooperation.

Yours

Sincerely

Muraguri

DR. NICHOLAS MURAGURI

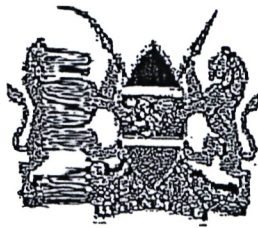
PRINCIPAL SECRETARY

Copy to:

Cabinet Secretary

Chief Administrative Secretary

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MINISTRY OF LANDS AND PHYSICAL PLANNING

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Mr. James Mburu
Commissioner General
Kenya Revenue Authority
Times Towers, Haile Selassie Avenue
P.O. Box 48240-00100
NAIROBI

Dear *Mr. Mburu*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as electronic land transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING
Office of the Cabinet Secretary

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Web: www.ardhi.go.ke
When replying please quote:

Ardhi House
1st Ngong Avenue
P.O. BOX 30450-00100
Nairobi, KENYA

Ref. MOLPP/ADM/CSO/1/357

June 9, 2020

Hon. Wycliffe Ambetsa Oparanya, EGH, CGJ
Chairman
Council of Governors
P. O. Box 40401-00100
NAIROBI

Dear *Chairman,*

RE: **DELIBERATION ON PROPOSED LAND TRANSACTIONS
(ELECTRONIC) REGULATIONS 2020**

Reference is made to the above-named subject, your letter dated May 28, 2020, our letter dated June 3, 2020 and our subsequent virtual communications.

We take note of your recognition of our efforts to develop various sets of draft regulations to support electronic land transactions, registration and conveyancing.

We also acknowledge your interest in participating in the review of the said draft regulations.

In light of the foregoing, we invite Governors in the Legal and Human Rights Committee and Urban Development Planning and Lands Committee to a virtual meeting on June 11, 2020 at 10.00 a.m. The meeting credentials will be shared on Wednesday June 10, 2020.

Thank you for your continued support and cooperation.

Yours

Sincerely

8.	Kenya Private Sector Alliance / KPDA / Kenya Bankers Association (KBA)/ Civil Society Organizations • Kenya Land Alliance • Federation of Women Lawyers (FIDA) • Reconcile • Pamoja Trust • GROOTS • Kituo Cha Sheria • Centre for Minority Rights Development • Land Development & Governance Institute • Haki Jamii	27 th May 2020	10:00 AM
9.	Ministry of National Treasury and Planning	29 th May 2020	10:00 AM



Republic of Kenya

**TASKFORCE ON FORMULATION OF RELATED REGULATIONS TO FACILITATE
ELECTRONIC REGISTRATION, CONVEYANCING AND OTHER LAND TRANSACTIONS
IN LINE WITH EXISTING LAND LAWS**

PUBLIC PARTICIPATION

SCHEDULE OF VIRTUAL MEETINGS

NO.	STAKEHOLDER	DATE	TIME
1.	Ministry of Lands & Physical Planning – All Technical Departments	14 th May 2020	10:00 AM
2.	Council of Governors	18 th May 2020	10:00AM
3.	Kenya Revenue Authority/ICT Authority	19 th May 2020	10:00AM
4.	Law Society of Kenya (LSK)	20 th May 2020	10:00 AM
5.	Kenya Institute of Planners / Town County Planners Association of Kenya/ Architectural Association of Kenya + Relevant Agencies • Nairobi Metropolitan Services • NEMA • Roads Authorities – KeNHA, KURA, KeRRA, KRB • Kenya Airport Authority • Engineers Board of Kenya • Institution of Engineers of Kenya • National Construction Authority • Ministry of Transport, Infrastructure, Housing and Urban Development	21st May 2020	10:00 AM
6.	Institution of Surveyors of Kenya / Land Surveyors Board /Valuers Registration Board/ Estate Agents Registration Board	22 nd May 2020	10:00 AM
7.	County Assembly Forum	26 th May 2020	10:00 AM

PUBLIC
PARTICIPATION

(ANNEXURES 3a)

STATUTORY INSTRUMENTS ACT
(NO. 23 of 2013)

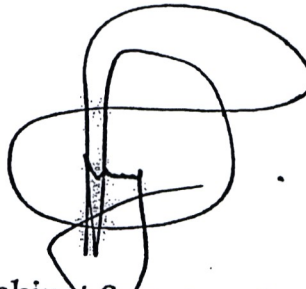
CERTIFICATE OF COMPLIANCE

(Pursuant to Section 7(4) of the Statutory Instruments Act)

Whereas the Cabinet Secretary for Lands and Physical Planning has caused the preparation of a Regulatory Impact Statement of the proposed regulations to support electronic land transactions pursuant to Section 6 of the Statutory Instruments Act, IT IS HEREBY CERTIFIED that the aforesaid Regulatory Impact Statement:

- a) Meets the requirements relating to regulatory impact statement in the Statutory Instruments Act No. 23 of 2013 and the guidelines have been complied with; and
- b) In my opinion, the regulatory impact statement adequately assesses the likely impact of the proposed regulations to support electronic land transactions.

Dated in Nairobi this 18th Day of June 2020



FARIDA KARONEY, EGH
Cabinet Secretary for Lands and Physical Planning

KENYA LAW REFORM COMMISSION



Independent Agency for Responsive Law Reform

rams: "LAWREFORM" NAIROBI
hanc: Nairobi, +254-20-2241186/2241201
+254-20-2225786
info@klrc.go.ke

replying please quote

No. KLRC/RES/29 VOL IV (20)
and Date



KENYA LAW REFORM COMMISSION
REINSURANCE PLAZA
3RD FLOOR
TAIFA ROAD
P.O. Box 34999-00100
NAIROBI, KENYA

15th June 2020

20

Farida Karoney, EGH
The Cabinet Secretary
Ministry of Lands and Physical Planning
Ardhi House
1st Ngong Avenue
P.O. Box 30450 -00100
NAIROBI.

Dear Cabinet Secretary,

**RE: REVIEW OF REGULATORY IMPACT STATEMENT ON THE PROPOSED
REGULATIONS TO ENABLE ELECTRONIC LAND TRANSACTIONS, REGISTRATION
AND CONVEYANCING**

Your letter Ref MOLPP/ADM/CSO/1/369 dated May 2, 2020 refers.

The Kenya Law Reform Commission has reviewed the Regulatory Impact Statement and notes that it contains all the components required under Section 7 of the Statutory Instruments Act 2013.

In this regard, it is the Commission's opinion, as an independent agency from the Ministry, that the Regulatory Impact Statement and the assessment contained therein, satisfies the requirements of all the Statutory Instruments Act, 2013.

We thank you for your continued support and cooperation.

Yours sincerely,

Hon. Josephine Sinyo, EBS

Ag. Secretary/Chief Executive Officer

electronic land transactions, registration and conveyancing. The proposed statutory instruments are as follows:

1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
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7. The Land (Allocation of Public Land) (Amendments, Regulations), 2020;
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020; and
9. Survey (Amendment) Regulations, 2020.

A regulatory impact statement for the proposed regulations has been prepared (enclosed for reference).

The taskforce wishes to engage you and members of the Kenya Airports Authority Board on the draft regulations on **May 21, 2020**. The purpose of this letter, therefore, is to invite you to the said meeting. Please, confirm your availability to enable us plan accordingly.

Thank you for your continued support and cooperation.

Yours *minutely*
Nicholas

Dr. Nicholas Muraguri

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING

Office of the Principal Secretary

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Avenue
P.O. Box 30450- 00100
Nairobi, Kenya

May 13, 2020

Mr. Isaac Awuondo
The Chairman
Kenya Airports Authority Board
Head Office, Off Airport North Road.
P.O Box 19001 (00501)
NAIROBI

Dear *Mr. Awuondo*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The above subject matter refers.

The Land Act (No. 6 of 2012) and the Land Registration Act (No. 3 of 2012) require the Ministry and the National Land Commission to develop and implement a National Land Information Management System (NLIMS) and to maintain a land register in electronic form. It is against the backdrop of these legal provisions and the broader e-government strategy, which is meant to improve service delivery, that the Government embarked on the development of NLIMS, a system that links and networks all land-related agencies in the country.

The Ministry appointed a taskforce vide Gazette Notice No. 2170 of March 13, 2020 to review the existing legal framework to enable effective implementation of NLIMS. The taskforce has developed various sets of regulations to support

electronic land transactions, registration and conveyancing. The proposed statutory instruments are as follows:

1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
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8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020; and
9. Survey (Amendment) Regulations, 2020.

A regulatory impact statement for the proposed regulations has been prepared (enclosed for reference).

The taskforce wishes to engage the Kenya Roads Board on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *sincerely*
nmg

DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Avenue
P.O. Box 30450- 00100
Nairobi, Kenya

May 13, 2020

Eng. Jacob Ruwa, OGW
Executive Director
Kenya Roads Board
P.O Box 73718-00100
NAIROBI

Dear *Eng. Ruwa*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The above subject matter refers.

The Land Act (No. 6 of 2012) and the Land Registration Act (No. 3 of 2012) require the Ministry and the National Land Commission to develop and implement a National Land Information Management System (NLIMS) and to maintain a land register in electronic form. It is against the backdrop of these legal provisions and the broader e-government strategy, which is meant to improve service delivery, that the Government embarked on the development of NLIMS, a system that links and networks all land-related agencies in the country.

The Ministry appointed a taskforce vide Gazette Notice No. 2170 of March 13, 2020 to review the existing legal framework to enable effective implementation of NLIMS. The taskforce has developed various sets of regulations to support

The Taskforce has since prepared the proposed Statutory instruments and Regulatory Impact Assessment Report in line with the existing Land Laws and the Statutory Instrument Act, 2013 as below:-

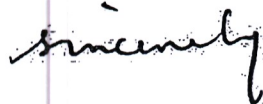
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3. Stamp Duty (Valuation) Regulations, 2020;
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5. Land (Amendment) Regulations, 2020;
6. Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
7. The Land (Allocation of Public Land) (Amendments, Regulations), 2020;
and
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

Given the above, the Ministry has placed the instruments in its Website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual Stakeholders participation/engagements will also be carried out between Thursday May 14, 2020 to Friday 22, 2020 as per the notice in the Ministry's Website and Daily Nation dated Thursday May 8, 2020.

The taskforce wishes to engage the Kenya Rural Roads Authority on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl



**MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY**

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When replying please quote

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450-00100
Nairobi, Kenya

May 14, 2020

Eng. Silas Kinoti
Ag. Director General
Kenya Rural Roads Authority
BARABARA Plaza JKIA, Off Airport South Road
Along Mazao Road opposite Aviation House
P. O Box 41727-00100
NAIROBI

Dear *Eng. Kinoti*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a Taskforce with membership from the National Government, National Land Commission, Council of Governors and private sector was appointed vide Gazette Notice No.2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

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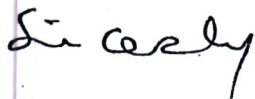
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The taskforce wishes to engage the Kenya National Highways Authority on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI
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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 14, 2020

Eng. Peter Mundinia
Executive Director
Kenya National Highways Authority
Barabara plaza
Off Airport South Road, opposite KCAA
P. O Box 49712-00100
NAIROBI

Dear

Mundinia

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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The taskforce wishes to engage NEMA on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *sincerely*



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 14, 2020

Mr. Mamo B. Mamo
Ag. Director General
National Environment Management Authority
Popo Road South C, Off Mombasa Road
P.O Box 67839-00200
NAIROBI

Dear *Mr. Mamo*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a Taskforce with membership from the National Government, National Land Commission, Council of Governors and private sector was appointed vide Gazette Notice No.2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

The Taskforce has since prepared the proposed Statutory instruments and Regulatory Impact Assessment Report in line with the existing Land Laws and the Statutory Instrument Act, 2013 as below:-



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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

Mr. Philip Mainga
Managing Director
Kenya Railways Corporation
P. O Box 7150-20100
NAIROBI

May 14, 2020

Dear Mr. Mainga

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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The taskforce wishes to engage the Kenya Railways Corporation on the draft regulations on May 21st 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *Sincerely*

Muraguri

DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Ms. Rose Mwaura
Chief Executive Officer
Institution of Surveyors of Kenya
10th Floor, Reinsurance Plaza
Taifa Road, Aga Khan Walk
P O Box 40707-00100
NAIROBI

Dear

Mwaura

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as electronic land transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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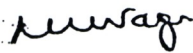
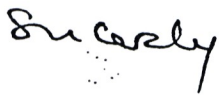
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Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI

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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 14, 2020

Ms. Pauline Gituri
Land Surveyors Board
Ardhi House, 10th Floor, Wing A
1st Ngong Avenue
P. O Box 30450-00100
NAIROBI

Dear *Ms. Gituri*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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The taskforce wishes to engage the **Land Surveyors Board** on the draft regulations on **May 22nd 2020** at **10.00am**. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *sincerely*



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 14, 2020

Mr. Charles Moemi
Director, valuation
1st Ngong Avenue, off Ngong Road
Ardhi House, 3rd floor Wing B, Office 313
P.O. Box 30450-00100
NAIROBI

Dear *Moemi*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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The taskforce wishes to engage Valuation Registration Board on the draft regulations on May 22nd 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *Sincerely*

Nicholas Muraguri

DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Ms. Eunice M. Macharia
Chairperson
Estate Agents Registration Board
P O Box 30089
NAIROBI

Dear

Macharia

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as electronic land transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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Thank you for your continued support and cooperation.

Yours *Sincerely*

Signature

DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary

Chief Administrative Secretary

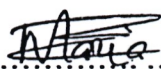
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	Members to continue working on the comments from the public participation on Tuesday and Wednesday. Taskforce Meetings to review the comments to be held on Thursday and Friday
MIN.07/30/2020	Adjournment and Date of the Next Meeting
	- The Chair closed the meeting at 12:59 pm with closing prayers from Mary Wandia. - The Next meeting was scheduled for Thursday the 4th of June, 2020.

Minutes Read and Confirmed by:

Chairman  Date. 10/6/2020

Secretary  Date. 10/06/2020

Secretary  Date. 10.06.2020

	demonstration of what part of the advice was taken and what was not taken. In the case of these regulations, the Commission should advise the Ministry. This should be deliberate and in writing. There should be evidence by the Ministry how the advice was acted on.
MIN.05/30/2020	Comments on Proposed Regulations
	Land Registration 1. Change the opening. 2. Section 13 (h) effects in drafting. 3. The schedule is clearer than the body for the registration. This should be brought out here. 4. Timelines for the court after appeal. 5. Appeal body should have a lawyer since it is quasi-judicial. Timeline for the court should not be 30 days we leave it to the court rules. 6. Which court? Define. 7. A lot in the body should be informed in the Terms and Condition especially on access and use. Land Allocation Regulations Payment of Fees • Why are we moving the fees from the Commission to the CS. Payment to government do to the consolidated Fund. It's a policy issue. Check PFM. Pre-Publication and representation to the Parliamentary committee • The engagement with the parliamentary committee should be when the drafts are cleaned. • They should be submitted in a near final form. • The law requires the committee to check that Public Participation has been done.
MIN.06/30/2020	Way forward
	• As the date of launching the system, which should be backed by the regulations is already set on 1st July 2020, the taskforce should consider working backwards to track progress • Gazette notice will determine how the taskforce will progress towards the launch • Special focus should be put on Regulation 6h and general issues on registration • Resolve NLC issue with the CS as a way forward • Have a smaller team to work closely with drafters to fine tune the drafts developed to date • On Physical Planning Regulations, the sub-committee should consider engaging the DG for further comments. Professional Associations that have not submitted their memoranda should be implored to do so within the set timelines • Written memoranda should be submitted by the organizations as promised during the meeting and in line with set timelines

6. The taskforce should ensure that all the requirements are adhered to while avoiding any mistakes as this could lead to rejection of otherwise great regulations.
7. There is a lot of good material in the Terms and Conditions segment of the regulations that could be in the body of the document. This could answer a lot of how and by whom that could save the taskforce energy on answering these questions

Feedback from the Taskforce

In case of virtual participation, how should evidence of the engagement be presented, is virtual engagement considered as adequate public participation?

Response: Section 5A of Statutory Instruments Act requires explanation for not being able to hold physical participation. This can be used in Covid period. However, ensure advice is sought if that is the requirement, back this up with written evidence in form of list participants engaged. Where consultation between entities is a statutory requirement, demonstrate that this was done e.g. consultation between the Ministry and NLC in establishing the system

If signatures are not obtained, what happens?

Response: Explain the reasons for the virtual meeting, in this case COVID 19 ,based on Section 5A of SIA.

IS the RIA Document to be published supposed to be a final or preliminary document?

Response: Yes RIA is supposed to be a final document and should guide public participation. It should have been finalized by the publication stage.

Will there be a separate RIA on Stamp duty?

Response: No we can put all the facts about the different sections under the same RIA but touching on different aspects

On PLUPA Regulations, 17 pieces of regulations under Section 90 of the Act have been formulated and are at the AG for professional drafting in readiness of stakeholder engagement. How do the two processes of general and electronic regulations fuse, given the different stages and timelines?

Response: The gaps in the general regulations should be reviewed and be filled so that at the end of the day we have one set of regulations while providing the electronic aspect.

What is the difference between consultation and advice?

Response

1. Consultation, demonstrate that the person was consulted. The committee invites the other party for consultation. Demonstrate evidence of the consultation.
2. Advice of the other entity is sought in undertaking a certain task, in this case formulation of Regulations. Such advice is submitted in writing. However, advice must not always be taken. There must be

	4. Drafting Comments on Proposed Regulations 5. Way Forward	
MIN.02/30/2020	Preliminaries	
	• The Chair called the meeting to order at 11:18 a.m. • Opening prayers were said by Mildred Ambani. • The Chair took members through the day's agenda.	
MIN.03/30/2020	Introduction and Welcoming Remarks	
	• The Chair presented an overview of the Taskforce including its TORs, mandate, the milestones it had realized and the roadmap for the remaining activities. • The Chair introduced the Taskforce Members and requested Mr. Wilson Dima Dima, the Parliamentary Legal Counsel to introduce himself. He reported that the CS had informed him about the process that is going on and what has been done so far, that he was happy to contribute to the process of development of the regulations	
MIN.04/30/2020	Overall Expectation of Parliament in Scrutiny of Instruments	
	Remarks by Parliamentary Legal Counsel 1. He explained that his role is to advise the Parliamentary Committee on Delegated Legislation and he would share with the taskforce the expectations of the committee 2. His work was not to redraft but to guide and advise the taskforce. He expressed confidence in the drafting work as several drafters are members of the taskforce 3. He explained that the parliamentary committee has only two options with regard to regulations submitted to it, either to approve or annul them. The committee has no mandate to amend the regulations 4. He explained that Section 13 of Statutory Instruments Act provides all the aspects committee look at. He presented a checklist that the Taskforce needs adhere to to meet the minimum requirements for the regulations to be approved including: a. Regulations should be submitted in 7 days. In this case, the Ministry has 3 weeks (because Parliament sits twice a week) upon publication. b. There should be clear demonstration of public participation, key issues being where, when, by whom and the signatures of the participants to the meetings held virtually or otherwise. Comments from the stakeholders and the resolutions of such engagement should be appended. c. Conformity of regulations with the legal frameworks, the Constitution and other written laws. Adherence to Article 259 of the Constitution should be demonstrated. 5. Notice of the Regulatory Impact Assessment (RIA) should be gazetted and copy appended to the submission to parliament	

MINUTES OF THE 30TH MEETING OF THE TASKFORCE ON FORMULATION OF RELATED REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES WITH THE HEAD OF LEGAL TEAM OF THE PARLIAMENTARY COMMITTEE ON DELEGATED LEGISLATION VIRTUALLY ON TUESDAY, 2ND JUNE, 2020 AT 11:00 A.M.

Attendance of the Taskforce Members

S/No.	Name	Position
1.	Eric Nyadimo	Chair
2.	Herbert Were	Member
3.	Mildred Ambani	Member
4.	David Gatimu	Member
5.	Esther Omulele	Member
6.	Victor Ouno	Member
7.	Eugene Lawi	Member
8.	Tom Abuta	Member
9.	Mary Macharia	Joint Secretary
10.	Julius Kahindi	Member
11.	Samuel Nthuni	Member
12.	Sereu Moinket	Member
13.	Clarah Ketyenya	Joint Secretary
14.	Edward Ole Kateiya	Member
15.	Elizabeth Njoroge	Member
16.	Jasper Mwenda	Member
17.	Agnes Matunda	Secretariat
18.	George Ruhara	Secretariat
19.	Mugendi Moses	Joint Secretary
20.	Caroline Kihara	Member
21.	Carolyn Menin	Member
22.	Truphosa Achar	Member
23.	Charles Wamae	Member
24.	Damaris Lukwo	Secretariat
25.	Catherine Ochanda	Member
26.	Rachel Dinda	Secretariat
27.	Annette Omwoyo	Joint Secretary
28.	James Nombi	Joint Secretary
29.	Brian Kimutai	Member

Attendance of the Stakeholder

30	Wilson Dima Dima	Head, Legal Team, PCDL
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Apologies

1.	Stephen Chebii	Member, TFELTR
2.	Nancy Awere	Member, TFELTR
3.	Peter Musyimi	Member TFELTR

MIN.01/30/2020

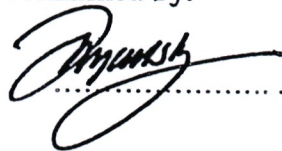
Agenda

1. Preliminaries
2. Introduction and Welcoming Remarks
3. Overall Expectation of Parliament in Scrutiny of Statutory Instruments

	Cadastre Survey Regulations • Need to regularize on the checking fees. • Other Professional should also be allowed to download maps. • There are too many maps. Physical Planning Regulations • Clarify Conformance conditions. • Why can't the system check the documents without having to submit other documents for instance no need to keep checking payments made to the Finance Officers and revenue monitoring.
MIN.05/29/2020	Adjournment and Date of the Next Meeting
	• There being no other business, the Chairperson thanked the guests for their time and contribution to the meeting, after which he called upon Mr. David Gatimu to give a vote of thanks. • The Chairperson informed the Taskforce members that the stakeholder engagement with the National Treasury is scheduled to be on Friday, 29th May, 2020 at the Treasury Building, and that as for the NLC meeting, the Cabinet Secretary will advise. • The meeting ended at 4:00pm with closing prayers from Esther Omulele

Minutes Read and Confirmed by:

CHAIRMAN



DATE

10/6/2020

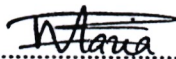
SECRETARY



DATE

10/06/2020

SECRETARY



DATE

10.06.2020

	Physical Planning Regulations
MIN.04/29/2020	Plenary Discussions
	The following comments/ questions were made/ raised after the presentation: Registration Regulations - There should be no use of manual transaction as an alternative and regulations. - There is need to put safeguards in place to ensure the rights of the marginalized are protected during registration. - There is need to educate the Communities on the transition and regulations. - On the <i>Appeals Committee</i>, -Be clear on the composition of the appeals committee. -There is lack of Non-State Actors and other players in land management e.g. KeNHA, KWS etc. Land Administration Regulations - The definition of electronic form should be harmonized. - Matters Public Land falls under the mandate of NLC, hence proposed amendment will perpetuate illegality. - To insert the element of public participation before renewal of leases especially in mega projects. - The regulations should take into consideration both the literate and illiterate. - There is need to be clear on the role of each institution for instance MoLPP and NLC. - The Director Land Administration is not in any statute. - There is a lot of deletion of the word <i>Commission</i> to be replaced with the <i>Cabinet Secretary Lands</i>. - Ensure that appointment of the Committee conforms to the 2/3 gender rule. - To take into consideration the role of the public in both public land inventory and allocation. Valuation Regulations - To include definition of a Valuer, Government Valuer and Licensed Practicing Valuer appointed by the Chief Government Valuer. - Amendment to stamp duty act to allow the Collector of Stamp Duty to appoint Valuers. - Cover the Valuation processes. - Chief Government Valuer to authenticate the work done by the Private Valuers. - There is need to consider immovable properties as pointed out by KRA.

44.	Nyangori Ohenjo	CEO, CEMIRIDE
45.	Pauline McAsila	KPDA
46.	Pauline Vata	EXECUTIVE DIRECTOR, HAKIJAMII
47.	Lucy Kiai	CO-OPERATIVE BANK
48.	Peter Lewis*	
49.	Racheal Matilya	HOMEAFRIKA LIMITED
50.	Raymond Molenje	KBA
51.	Starnley Maina	KPDA
52.	Stella Mutai	NCBA
53.	Elizabeth Mwangi	CEO, KEPSA
54.	B. Gitari*	
55.	Ravi Kohli	BOARD OF DIRECTOR, KPDA
56.	Tyson Mwenda	KEPSA
57.	Austin Waga	STANBIC BANK
58.	Angela Wangari	STANBIC BANK
59.	Nelly Towett*	
60.	Elizabeth Gichohi	FIDA
61.	Grace Ananda*	
62.	Jevans Otieno	PROP TECH KENYA
63.	Gikonyo Gitonga	BOARD OF DIRECTOR, KPDA
64.	Peter Thairu	KEPSA
Absent with Apologies		
1.	Brian Kimutai	Member, TFELTR
2.	Peter Musyimi	Member, TFELTR
MIN.01/29/2020	Adoption of Agenda	
	Items of discussion were adopted as follows: 1. Preamble/Introductions 2. Presentations 3. Plenary discussions 4. AOB	
MIN.02/29/2020	Preamble	
	• The Chair called the meeting to order at 10:15 am. • Opening prayers were said by Caroline Wanjeri. • The Chair introduced members of the Taskforce. • The Chair formally welcomed members from KPDA, KEPSA, KBA and the Civil Societies to the meeting. • The Chair invited the top officials from the various institutions to give their opening remarks. • The Chair took members through the programme and rules of meeting.	
MIN.03/29/2020	Presentations on Proposed Regulations	
	Highlights of regulations were done in the form of PowerPoint presentations in line with the programme as follows: • Registration Regulations • Land Administration Regulations • Valuation Regulations • Cadastre Survey Regulations	

MINUTES OF THE 29TH MEETING OF THE TASKFORCE ON FORMULATION OF REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES WITH KENYA PROPERTY DEVELOPERS ASSOCIATION (KPSA), KENYA BANKERS ASSOCIATION (KBA), KENYA PRIVATE SECTOR ALLIANCE (KEPSA) AND THE CIVIL SOCIETIES (CSO's) HELD VIRTUALLY ON WEDNESDAY, MAY 27, 2020 AT 10:00 A.M.

Attendance

S.N.	Name	Position
1.	Eric Nyadimo	Chair, TFELTR
2	Sereu Moinket	Member, TFELTR
3.	Tom Abuta	Member, TFELTR
4.	Agnes Matunda	Secretariat, TFELTR
5.	Anette Omwoyo	Joint Secretary, TFELTR
6.	Carol Wanjeri	Member, TFELTR
7.	Carolyne Menin	Member, TFELTR
8.	Charles Wamae	Member, TFELTR
9.	Damaris Lukwo	Secretariat, TFELTR
10	David Gatimu	Member, TFELTR
11.	Edward Ole Kateiya	Member, TFELTR
12.	Elizabeth Njoroge	Member, TFELTR
13.	Eshter Omulele	Member, TFELTR
14.	Eugene Lawi	Member, TFELTR
15.	George Ruhara	Member, TFELTR
16.	Herbert Were	Member, TFELTR
17.	James Nombi	Joint Secretary, TFELTR
18	Nancy Awere	Secretariat, TFELTR
19.	Rachel Dinda	Secretariat, TFELTR
20.	Jasper Mwenda	Member, TFELTR
21.	Julius Kahindi	Member, TFELTR
22	Dr. Mary Wandia	Joint Secretary, TFELTR
23.	Mildred Ambani	Member, TFELTR
24.	Mugendi Moses	Joint Secretary, TFELTR
25.	Ouno Victor	Member, TFELTR
26.	Dr. Samuel Nthuni	Member, TFELTR
27.	Truphosa Achar	Member, TFELTR
28.	Dr. Samuel Nthuni	Member, TFELTR
29	Stephen Chebii	Secretariat, TFELTR
30.	Catherine Ochanda	Member, TFELTR
31.	Angela Nyanchama	RECONCILE
32.	Catherine Kariuki	BOARD MEMBER, LDGI
33.	Cynthia Wakio	KPSA
34.	Dr. Mwendwa Makathimo	EXECUTIVE DIRECTOR, LDGI
35.	Carolyne Karugu	BOARD OF DIRECTOR, KPSA
36.	Emily Njeru	KEPSA
37.	Eshter Muiru	International Land Coalition
38.	Faith Allubbe	CEO, KLA
39.	Ken Otieno	CEO, RECONCILE
40.	Simon Kiriba*	Bowman
41.	Liz Kaimuri*	
42.	Mwathane Ibrahim	CHAIRMAN, LDGI
43.	Nancy Ikinu	CHAIRLADY, FIDA

	addressed immediately. 14. Collection of Revenue through payment of stamp duties and any other sources should ensure that the County Government also give its approval and charges it's fees as these are the main own source revenue.
MIN.05/28/2020	General questions raised on Land
	• Which institution handles the issues on boundaries? IEBC OR Survey office. • How can one land have two title deeds? This might be a case in dispute, a caveat to be placed while investigation is carried out. • Where can we forward such like cases in (2) above? The case can be forwarded to Chief Land Registrar.
MIN.06/27/2020	Adjournment and Date of the Next Meeting
	• There being no other business, the chairperson thanked the guests for their time and contribution to the meeting, after which he called upon Mr. Eugene Lawi to give a vote of thanks. • The meeting ended at 2:00 p.m with a word of prayer from Moses Mugendi • The next meeting (with Civil Societies, KEPSA, KPDA and KBA) was scheduled for Wednesday, 27th May, 2020.

Minutes Read and Confirmed by:

Chairman  Date 10/6/2020

Secretary  Date 10/06/2020

Secretary  Date 10.06.2020

Other issues raised concerning the Proposed Regulations

1. Devolution entails decentralization of governance and service provision; however, most of the proposed processes in these regulations contradict this purpose.
2. It is embedded in the Constitution of Kenya and counties being the devolved units will be largely affected by these regulations.
3. The proposed amendments are in conflict with the existing Supreme Law and subsequent legislation.
4. We have noted the deletion of County Executive Committee Member with Cabinet Secretary, National Land Commission Chairman with the same Cabinet Secretary. This waters-down the spirit of devolution.
5. The Committee therefore recommends that all laws and regulations be developed, adopted and implemented in a manner that is consistent with the Kenya Constitution.
6. The proposed draft regulations grant development approval rights for projects of strategic national importance and Inter-county projects to the cabinet secretary which contradicts schedule four of the Constitution of Kenya on powers given to counties. Apart from violating the constitution, these projects generate substantial revenue to the counties and allowing it will usurp counties some of their own-revenue generation stream.
7. It is further the feeling of the Committees that if the regulations are enacted as they are, Counties will lose out hugely on revenues that and noting that these are major technical changes aimed at undermining the spirit of devolution.
8. The Electronic system should not be centralized in Nairobi but should be decentralized at the County Levels. No effort has been made to disclose this will be done.
9. Extension and renewal of Leases should be the prerogative of the County Governments and National Land Commission, because they best understand emerging issues on the ground that may inform rejection e.g. new public need or proliferation of squatters.
10. We emphasize that registration of leases for public land must be informed by National Land Commission and County Governments and the transfer of land assets to County governments is long overdue.
11. Powers to approve and allocate public land should NOT be given to the Cabinet Secretary Lands only, this is against the constitution which administers that Public Land is held in custody by The County Government and administered on its behalf by NLC, I therefore wish to say that any allocation of Land should be made after proper and intensive consultation is done with the County Government. We have witnessed a number of problems and challenges in Counties like Lamu and Turkana where allocation of Land for Port and Oil was done without proper consultation with the Counties.
12. The powers to approve or deny change of user should NOT be left to the Chief Land Registrar and the County must be fully involved since Physical Planning is fully devolved and Counties have enough capacity to look into the matter.
13. The Survey Act has not been reviewed since inception of devolution and hence subdivision and mutations are being done in the Counties without the consent of the County Government, this should be

and agencies to review and comment.

(2) The fully circulated application shall be received by the –

(I) Director-General for the prescribed projects of national importance for onward approval by the Cabinet Secretary.

Recommended amendment

Amend the following to state: -(1) Subject to the provisions of Section 60 of the Act, the authorized planning officer shall transmit an electronic copy of the application to the authorized technical officer of the relevant authorities and agencies to review and comment.

(2) The fully circulated application shall be received by the –

(I) county director of physical and land use planning for the prescribed projects of national importance for onward approval by the County Executive Committee Member of physical and land use planning;”

Remarks

It is good to note Section 57 of PLUPA which states-
“(1) A person shall not carry out development within a county without a development permission granted by the respective county executive committee member.

Section recommended for amendment

Regulation 19(1) -The Cabinet Secretary shall approve or decline applications for prescribed projects of strategic national importance in accordance with Section 69(4) of the Act;”

Recommended amendment

Amend the clause to state that: -The CEC in charge of physical and land use planning shall approve or decline applications for prescribed projects of strategic national importance in accordance with Section 69 and 33 of the Act.

Remarks

See section 57 of PLUPA.

Section 69 on refers to consideration of the Cabinet secretary of a development permission (meaning a permission that has already been granted by the County Government.)

Further Section 69 refers to section 33 of the PLUPA which provides that, “The County Executive Committee members of all counties participating in the Inter-County physical and land use development plan shall separately submit the plans to the respective County Assemblies for approval and thereafter submit the same to the Director-General of Physical and Land Use Planning for coordination and certification.”

development proposals listed under section 1 of the Third Schedule of the Act, the County Executive Members in charge of physical and land use planning shall—

Remarks

Section 57 of the Physical and Land Use Planning Act - Processing of development applications and grant of development permissions are vested with the CEC.

A person shall not carry out development within a county without a development permission granted by the respective county executive committee member.

Further Section 69 of the PLUPA refers to consideration of the Cabinet secretary of a development permission (meaning a permission that has already been granted by the County Government)

Section recommended for amendment

Regulation 12(1)- The Cabinet Secretary in consultation with the National Land Commission shall appoint an Electronic Appeals Standing Committee to hear appeals against the termination of user's account.

Recommended amendment

Amend to state: -

“The County Physical and Land Use Planning Liaison Committee shall hear appeals against the termination of user's account within fourteen (14) days of the decision by the county executive committee member.”

Remarks

The County Physical and Land Use Planning Liaison Committee shall hear appeals against the termination of user's account within fourteen (14) days of the decision by the county executive committee member.

Section recommended for amendment

Regulation 15 (2) -The application shall be received and downloaded by the authorized planning officer and subject to prescribed fees in accordance to the regulations issued from time to time by—

Recommended amendment

Amend to state:- The application shall be received and downloaded by the authorized county planning officer and subject to prescribed fees in accordance to the regulations issued from time to time by-

Remarks

All developments including projects of strategic national importance or inter- county to be subjected to the fees and charges as prescribed by county finance act.

Section recommended for amendment

Regulations 17 (1) - Subject to the provisions of Section 60 of the Act, the authorized planning officer shall transmit an electronic copy of the application to the authorized technical officer of the relevant authorities

Physical and Land Use Planning Regulations, 2020

Section recommended for amendment -Physical and Land Use Planning regulations-2020

Regulation 3(1) -There shall be established an electronic development control and enforcement system being a module within the National Land Information System for the purpose of handling applications for development permission.

Recommended amendment

Amend to state: -There shall be established an electronic development control and enforcement system managed by the County Governments for the purpose of handling applications for development permission.

Remarks

Development control is a County Government function

Section recommended for amendment

Regulation 4 (1) -The Director-General shall maintain in the system, an electronic database for the –

- (i) approved physical and land use plans in accordance to provisions of the First and Second Schedules of the Act;
- development control instruments including handbooks, codes, zoning ordinances, policy statements, guidelines, circulars and manuals; and
- (iii) Registers of documents submitted by applicants for development permission as provided in Schedule 1.

Recommended amendment

Amend the following to state: -

“(1) The County Directors of Physical and Land Use Planning/CEC shall maintain in the system, an electronic database for the–

- (i) approved physical and land use plans (note preparation and approval of these plans is a county function) in accordance to provisions of the First and Second Schedules of the Act;
- (ii) development control (note this is a county function) instruments including handbooks, codes, zoning ordinances, policy statements, guidelines, circulars and manuals; and
- Registers of documents submitted by applicants for development permission (County function) as provided in Schedule 1.

Remarks

This responsibility to be bestowed with the County

Section recommended for amendment

Regulation 5(1)- For purposes of submission of development proposals listed under section 1 of the Third Schedule of the Act, the Director-General shall–

Recommended amendment

Amend the following to state:- (1) For purposes of submission of

Regulation 3(1) - The Director shall maintain an Electronic Cadastre which shall be part of the National Land Information System established in accordance with section 6(h) of the Land Act.

Recommended amendment

Amend the following to: - The Director of Survey” shall maintain an Electronic Cadastre which shall be part of the National Land Information System established in accordance with section 6(h) of the Land Act.

Remarks

- There is lack of clarity of which specific Director is being addressed.
- The Amendment provides more clarity

section recommended for amendment

Regulation 9(1) -The Director may immediately suspend a user’s access when it comes to his/her notice that the user—

- (a) has contravened the obligations or the terms and conditions of access;
- (b) is suspected to have committed any fraud, identity theft or system misuse;
- (c) allows an unauthorized/unqualified person to access the system;
- (d) in the case of professionals, is not in good standing;
- (e) is dead;
- (f) is declared insolvent;
- (g) Is declared of unsound mind.

Recommended amendment

Amend the following to state that:-

“9. (1) The Director may immediately suspend a user’s access when it comes to his/her notice that the user —

- (a) has contravened the obligations or the terms and conditions of access;
- (b) is suspected to have committed any fraud, identity theft or system misuse;
- (c) allows an unauthorized/unqualified person to access the system;
- (d) is dead;
- (e) is declared insolvent;
- (f) Is declared of unsound mind.

Remarks

CAF proposes the removal of sub clause (d) because it lacks basis of what amounts to good standing. This clause can be misused to discriminate against professionals who carry land transactions daily as their tool of trade.

Alternatively, expound on what amount to good standing with regards to professionals. Is it professionals who are in probation due to professional misconduct or neglect in their various fields or professionals who have been suspended by their regulatory body?

the people resident in the county, and shall be administered on their behalf by the National Land Commission, if it is classified under--clause (1) (a), (c), (d) or (e); and clause (1) (b), other than land held, used or occupied by a national State organ

Section recommended for amendment -Draft land (allocation of public land) amendment regulations

Regulation 34a -A letter of allotment issued under the provisions of this Act and these regulations may be done in electronic form.

Recommended amendment

Amend to state: - A letter of allotment after provision of approved plans shall be issued under the provisions of this Act and these regulations may be done in electronic form.

Remarks

Planning should be the basis of these allocations to ensure order.

Section recommended for amendment

Regulation 36(1) and 36(3)

36 (1) The cabinet secretary shall prepare and execute leases emanating from allocation of public land.

36 (3) In order to facilitate the preparation of leases on public land, the cabinet secretary shall request for three copies of sealed cadastral plan and cadastral map in Form LA 12 set out in the Schedule from the office or authority responsible for surveys.

Recommended amendment

Amend to state: - Regulation 36 (1)

The National Land Commission shall prepare and execute leases emanating from allocation of public land”.

Regulation 36(3) – ‘In order to facilitate the preparation of leases on public land, the National Land Commission shall request for three copies of sealed cadastral plan and cadastral map in Form LA 12 set out in the Schedule from the office or authority responsible for surveys.’

Remarks

Refer to Article 62 (3) of the Constitution of Kenya which reads as follows:
- (3) Public land classified under clause (1) (f) to (m) Shall vest in and be held by the national government in trust for the people of Kenya and shall be administered on their behalf by the National Land Commission.”

Cadastre Survey Regulations, 2020

section recommended for amendment Draft survey electronic cadastre transactions regulations-2020

	Section recommended for amendment 1. Regulation 6 - Cadastral maps shall for purposes of registration under these Regulations, be Maintained in electronic form.” Recommended amendment Amend the clause to state: - “Cadastral maps shall for purposes of registration under these Regulations, be maintained by the County Governments in electronic form” Remarks Land survey and mapping is a county function as per Schedule four of the Constitution. Section recommended for amendment 2. The membership of the Electronic Appeals Standing Committee shall comprise of: (a) Three representatives from the Ministry; (b) One representative from National Land Commission (c) One representative from Council of Governors; (d) Four representatives from the private sector provided that one of them shall be an Information Technology Specialist well versed with system forensic audit and cybercrime Recommended amendment Add more members representing counties. Remarks Not representative considering 47 No. County Governments <u>Land Administration Regulations, 2020</u> Section recommended for amendment -Draft land (extension and renewal of leases) (amendment) rules, 2020 Regulation 3 -Where the County Executive Committee Member approves an application under paragraph (2), the County Executive Committee Member shall inform the Cabinet Secretary to- (a) require the lessee to have the land re-valued in order to determine the land rent and other requisite fees, payable; Recommended amendment Amend to state that: - ‘3) Where the County Executive Committee Member approves an application under paragraph (2), the County Executive Committee Member shall inform the National Land Commission to – (a) require the lessee to have the land re-valued in order to determine the land rent and other requisite fees, payable; (b) require the lessee to have the land re-surveyed and geo-referenced, where applicable;’ Remarks Refer to Article 62 (3) of the Constitution of Kenya which reads as follows: ‘Public land shall vest in and be held by a county government in trust for
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46.	Hassan Omar	CAF
47.	Teno	CAF
48.	John Isaac Oganga	CAF, Busia
49.	Vince Karumba	CAF, Kiambu
50.	Robert Ringera	CAF
51.	Sherry Gatonye	CAF
52.	Edward Ouma*	
53.	John Gatumu Gichari	CAF Embu
54.	Nathan Mwari*	
55.	Harrison Mwaluko*	
56.	Atanasio Kabaire*	
Absent with Apologies		
1.	Brian Kimutai	Member, TFELTR
2.	Peter Musyimi	Member, TFELTR
MIN.01/28/2020	Adoption of Agenda	
	Items of discussion were adopted as follows: 1. Preamble/ Introductions 2. Presentations 3. Plenary discussions 4. AOB	
MIN.02/28/2020	Preamble/Introductions	
	• The Chair called the meeting to order at 10:20 am. • Opening prayers were said by Sereu Moinket • The Chair introduced members of the Taskforce. • The Chair formally welcomed members from the County Assemblies Forum to the meeting. • The Chair invited the Chair Lands Committee Ms. Rose Wairimu to give her opening remarks. • The Chair took members through the programme and rules of meeting. • He gave a brief summary of what the Taskforce had done since its formulation.	
MIN.03/28/2020	Presentations on Proposed Regulations	
	Highlights of regulations were done in the form of PowerPoint presentations in line with the programme as follows: • Registration Regulations • Land Administration Regulations • Valuation Regulations • Cadastre Survey Regulations • Physical Planning Regulations	
MIN.04/28/2020	Plenary Discussions	
	The following comments/ questions were made/ raised after the presentation: <u>Registration Regulations</u>	

MINUTES OF THE 28TH MEETING OF THE TASKFORCE ON FORMULATION OF REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES WITH MEMBERS OF THE COUNTY ASSEMBLIES FORUM(CAF) HELD VIRTUALLY ON MONDAY, MAY 26, 2020 AT 10:00 A.M.

Attendance

S.N.	Name	Position
1.	Eric Nyadimo	Chair, TFELTR
2	Julius Kahindi	Member, TFELTR
3.	Agnes Matunda	Secretariat, TFELTR
4.	Caroline Wanjeri	Member, TFELTR
5.	Damaris Lukwo	Secretariat, TFELTR
6.	Mildred Ambani	Member, TFELTR
7.	Sereu Moinket	Member, TFELTR
8.	Truphosa Achar	Member, TFELTR
9.	Tom Abuta	Member, TFELTR
10	George Ruhara	Secretariat, TFELTR
11.	Clarah Ketyenya	Joint Secretary, TFELTR
12.	Herbert Were	Member, TFELTR
13.	Moses Mugendi	Joint Secretary, TFELTR
14.	Jasper Mwenda	Member, TFELTR
15.	Elizabeth Njoroge	Member, TFELTR
16.	Esther Omulele	Member, TFELTR
17.	Eugene Lawi	Member, TFELTR
18	Nancy Awere	Secretariat, TFELTR
19.	Rachel Dinda	Secretariat, TFELTR
20.	David Gatimu	Member, TFELTR
21.	James Nombi	Joint Secretary, TFELTR
22	Dr. Victor Ouno	Member, TFELTR
23.	Stephen Chebii	Secretariat, TFELTR
24.	Charles Wamae	Member, TFELTR
25.	Annette Omwoyo	Joint Secretary, TFELTR
26.	Dr. Mary Macharia	Joint Secretary, TFELTR
27.	Dr. Samuel Nthuni	Member, TFELTR
28	Edward Ole Kateiya	Member, TFELTR
29.	Catherine Ochanda	Member, TFELTR
30.	Carolyn Menin	Member, TFELTR
31.	Rose Wairimu Kamau	CAF, Nyeri County
32.	Austin Munene	CAF Secretariat
33.	Stephen Ngethe Chege	CAF, Nakuru
34.	David Malel	CAF, Nakuru
35.	Peter Palang'a	CAF, Nakuru
36.	Adan Dye	CAF, Mandera
37.	Margaret Gatonye	CAF, Kiambu
38.	Yvonne Waweru	CAF, Kiambu
39.	Sumaya Mubarak Ali	CAF, Garissa
40.	Salome Awino	CAF
41.	Hindia Hussein	CAF, Mandera
42.	Judy Oduma	CEO, CAF
43.	Abdi Ali	CAF
44.	Gladys Kairu	CAF
45.	Josephat Waweru	CAF

	• Provide regulations and guidelines to cover general boundary survey. • Need to have electronic forms, which can be used to carry out all the operations online. • On submission of information to Director, both ISK and LSB should be linked (LSB maintain register of Licensed Surveyor). • On Reg 16 – provide timeline when the Director can be able to respond to rejection of authentication e.g. within 7 days. • Electronic signatures with security features shall be deemed to bear the seal of Survey of Kenya. • Updating of maps to be done at the Village Committee level for the Villagers to know which land is affected by Subdivision. • Instead of Refuse use Decline 13(2) Survey Regulations. • There is need to have Cadastral Technical Committee under the Director of Survey. Other questions asked • How will documents be transmitted electronically? • How are the sectional properties Act included in these regulations? • Surveyors to pay fees earlier?
MIN.05/27/2020	General Comments
	• How many processes can we eliminate? • Do we have the capacity to execute this? • Relook at the issue of integrity and abuse • What is the role of the Professional bodies in the management of the systems? • Need for a master plan for the process • Data clean-up is necessary • Need for a category of users • One stop land information Centre. • Guarantee on the use of data • Include Estate Agents in the RIA Report. • Provide portal for the Estate Agents.
MIN.06/27/2020	Adjournment and Date of the Next Meeting
	• There being no other business, the Chairperson thanked the guests for their time and dedication to the meeting, after which he called upon Mr. Julius Kahindi to give a vote of thanks. • The meeting ended at 4:40 pm with a word of prayer from Truphosa Achar. • The next meeting (with County Assembly Forum) was scheduled for Tuesday, 26th May, 2020.

Minutes Read and Confirmed by:

Chair: Date: 10/6/2020

Secretary Date: 10/06/2020

Secretary Date: 10.06.2020

- On section 24(2) regulations should be consistent with the Principal Act.
- Consult experts in various field e.g. Private Valuers.
- Rename the Valuation Regulations or provide addition on Valuation.
- Need to include Estate Agents in form 1A.
- In article 260 of the Constitution, define Land and Property separately.
- Objections to Value should be done in 7 days, need for timeline for response from Chief Government Valuer.
- Technical Valuation Objection Review Committee to be formed, to review values that have been objected to. The Committee to comprise of ISK, EARB, VRB and MoLPP.
- To rework Reg 10(2)-it should be based on a registered property and check how it applies to letter of allotment.
- To provide a Transitional Clause because the roll out will not be at done once.
- To include forms for Appointment and Transferee for stamp duty purposes.
- To check what ISK submitted on Removal and Suspension.
- To insert a new section on appointment of Valuers.
- Define Chief Government Valuer and an Appointed Valuer.

Cadastral Survey Regulations

- There is need to amend the Survey Act, it is long overdue.
- Provide a better definition for User and Authorized User.
- Allow Non-Surveyors to download maps.
- Provide timelines for Director of Survey to update maps.
- There is need to include a representative form ISK in the Grievance Committee.
- Do not only talk of field notes but also extend to records.
- Provide guidelines and timelines on how mutation survey should be submitted tied to geo-referencing.
- Survey Act to accommodate 3D Cadastral.
- Specify sections of the Survey Act.
- There is need to quote LR No. on forms SR2.
- Allow for submission of manual for some time (transitional clause).
- Need to change forms SR3 and SR5 to include modern equipment.
- Provide timelines for the Coordinate System.
- To correct typo error –Chief Land Registrar or Director of Survey to suspend.
- Provide link to the LSB (they should maintain an electronic database).
- Cadastral to be the basis from which other information will be retrieved.

- There is need to change the forms from manual to electronic.
- Reg 10- to provide a clause in the Act on how one can access information within the register.
- Reg 14 -on searches –to change the unregistered dealings to read registered dealings.
- Allow other professionals to carry out searches.
- Expand application to cover other areas other than Nairobi.

Land Administration Regulations

- Terms of suspension –harmonize who can suspend a user from the system. For instance the Committee to suspend a user and not one individual.
- Need for more clarity on licensing of alienated Public Land.
- To relook at the mandates of the various bodies i.e. MoLPP and NLC.
- Appeal Tribunal to be made up of an even number of people.
- Repeated regulation to be corrected in due time.
- Proposed Independent Appeals Committee.

Physical Planning Regulations

- There is need for separation of application forms.
- The role of system management vested with the Director General of Planning should be vested with an officer directly generating data necessary for registration, preferably the Chief Land Registrar or Director of Surveys
- Reg 14 – include georeferenced topographical map on list of documents required during the submission of development application.
- Include Estate Agents and Surveyors in list of authorized officers of Physical Planning Module.
- On Module Integration –change the term Cadastral Outlay to Cadastral Overlay to take note of the terminology change.

Valuation Regulations

- There is need to revise the Valuers Act.
- There is need to include Valuers in the list of Authorized users.
- On the Validity of the Valuation Report, the report should be valid for 6months and not 12.
- Propose for an amendment on the uneconomical land resulting for acquisition of part of land that renders the remaining portion uneconomical.
- There is need for a definition of a Valuation Report and state what it should contain.
- Under the Stamp Duty Regulations, the involvement of a Registered Private Valuer has been left out.

MIN.02/27/2020	Preamble • The Chair called the meeting to order at 10:10 am. • Opening prayers were said by Caroline Wanjeri. • The Chair introduced members of the Taskforce. • The Chair formally welcomed members from ISK, VRB, LSB and EARB to the meeting. • The Chair invited the top officials from ISK and the Registration Boards to give their opening remarks. • The Chair took members through the programme and rules of meeting. The programme was adopted as follows: <table><tr><th>Time</th><th>Item</th><th>Assigned To</th></tr><tr><td>10:00 - 10:30 am</td><td>Welcome, Introduction and Opening Remarks</td><td>Eric Nyadimo, Taskforce Chair</td></tr><tr><td>10:30 - 10:55 am</td><td>Land Registration (Electronic Transactions) Regulations, 2020</td><td>Sereu Moinket</td></tr><tr><td>10:55 - 11:20 am</td><td>The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and Land (Amendment) Regulations, 2020; and the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020</td><td>Tom Abuta</td></tr><tr><td>11:20 - 11:55 pm</td><td>Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020</td><td>David Gatimu</td></tr><tr><td>11:55 - 12:20 pm</td><td>Stamp Duty (Valuation) Regulations, 2020; and Stamp Duty (Amendment) Regulations, 2020</td><td>Esther Omulele</td></tr><tr><td>12:20 - 12:50 pm</td><td>Survey (Electronic Cadastre Transactions) Regulations, 2020; and Survey (Amendment) Regulations, 2020</td><td>Jasper Mwenda</td></tr><tr><td>12:50 - 1:30 pm</td><td>Break</td><td>All</td></tr><tr><td>1:30 - 4:00 pm</td><td>Plenary Discussions</td><td>Eric Nyadimo, Taskforce Chair</td></tr><tr><td>4:00 - 4:15 pm</td><td>Vote of Thanks and Closing</td><td>Julius Kahindi</td></tr></table>	Time	Item	Assigned To	10:00 - 10:30 am	Welcome, Introduction and Opening Remarks	Eric Nyadimo, Taskforce Chair	10:30 - 10:55 am	Land Registration (Electronic Transactions) Regulations, 2020	Sereu Moinket	10:55 - 11:20 am	The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and Land (Amendment) Regulations, 2020; and the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020	Tom Abuta	11:20 - 11:55 pm	Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020	David Gatimu	11:55 - 12:20 pm	Stamp Duty (Valuation) Regulations, 2020; and Stamp Duty (Amendment) Regulations, 2020	Esther Omulele	12:20 - 12:50 pm	Survey (Electronic Cadastre Transactions) Regulations, 2020; and Survey (Amendment) Regulations, 2020	Jasper Mwenda	12:50 - 1:30 pm	Break	All	1:30 - 4:00 pm	Plenary Discussions	Eric Nyadimo, Taskforce Chair	4:00 - 4:15 pm	Vote of Thanks and Closing	Julius Kahindi
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MIN.03/27/2020	Presentations on Proposed Regulations Highlights of regulations were done in the form of PowerPoint presentations in line with the programme as follows: • Registration Regulations • Land Administration Regulations • Physical Planning Regulations • Valuation Regulations • Cadaster Survey Regulations																														
MIN.04/27/2020	Plenary Discussions The following comments/ questions were made/ raised after the presentation: Registration Regulations • There is need to include a Land Surveyor and a representative from the ISK in the Appeals Committee. • Elaborate more on the User. • There is need to be more specific on the appointment of members of the Appeals Committee for instance who are the three representative from the Ministry.																														

44.	Nelly Mbugua	ISK
45.	Nora Nyakora	EARB
46.	Bernard Gachoka	ISK
47.	Jesse Kihoro	Valuer, ISK
48.	Wafula Nabutola	ISK
49.	Prof. Wayumba Gordon	TUK/ALSK
50.	Wycliffe Ongonge	ISK, Western
51.	Rose M. Mwaura	CEO, ISK
52.	Simon Ochieng	ISK
53.	Bibianna Rabuku	ISK
54.	Christopher Kinyua	ISK
55.	Dr. David Siriba	UoN
56.	Gikonyo Gitonga	KEPSA/KPDA
57.	Ruth Okal	Fahari, IREIT/ISK
58.	Edward Mwangi	ISK
59.	Prof. Faith Karanja	LSB
60.	Wycliffe Abiero	ISK
61.	Adam Kipkemei	ISK
62.	Monica Obongo	VRB
63.	Nicodemus Wanjala	GTL
64.	Victor Olonde	MOLPP
65.	Leah Muraguri	EARB
66.	Henry Ngomo	LSB
67.	Franklin Pendo	ISK
68.	Nicky Nzioki	UoN
69.	Sammy Musyoka	LSB
70.	Kipkoech Evans	ISK
71.	Joel Odhiambo	LSB
72.	Japhet Mitambo***	
73.	Ramadhan Abdul	ISK
74.	Robert Koech	ISK
75.	S.G. Mwangi	LSB
76.	Ephantus Waweru	ISK
77.	Isaiah Bonyo	ISK
78.	Paul Odak	ISK
79.	Nicholas Owino	MoLPP
80.	Charles Moemi	CGV, MoLPP
81.	Marcel Byron	MoLPP
82.	Charles Ohawa	MoLPP
83.	S.Makena	MoLPP
84.	Kenneth Sabatia	ISK

Absent with Apologies

1.	Brian Kimutai	Member, TFELTR
2.	Peter Musyimi	Member, TFELTR

MIN.01/27/2020	Adoption of Agenda
	Items of discussion were adopted as follows: 1. Preamble/ Introductions 2. Presentations 3. Plenary discussions 4. AOB

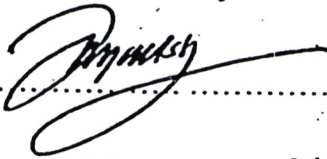
MINUTES OF THE 27TH MEETING OF THE TASKFORCE ON FORMULATION OF REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES WITH INSTITUTE OF SURVEYORS OF KENYA (ISK), VALUERS REGISTRATION BOARD (VRB), LAND SURVEYORS BOARD (LSB), ESTATE AGENTS REGISTRATION BOARD (EARB) HELD VIRTUALLY ON FRIDAY, MAY 22, 2020 AT 10:00 A.M.

Attendance

S.N.	Name	Position
1.	Eric Nyadimo	Chair, TFELTR
2	Julius Kahindi	Member, TFELTR
3.	Agnes Matunda	Secretariat, TFELTR
4.	Carolyn Wanjeri	Member, TFELTR
5.	Damaris Lukwo	Secretariat, TFELTR
6.	Mildred Ambani	Member, TFELTR
7.	Sereu Moinket	Member, TFELTR
8.	Truphosa Achar	Member, TFELTR
9.	Tom Abuta	Member, TFELTR
10	George Ruhara	Secretariat, TFELTR
11.	Clarah Ketyenya	Joint Secretary, TFELTR
12.	Herbert Were	Member, TFELTR
13.	Moses Mugendi	Joint Secretary, TFELTR
14.	Jasper Mwenda	Member, TFELTR
15.	Elizabeth Njoroge	Member, TFELTR
16.	Esther Omulele	Member, TFELTR
17.	Eugene Lawi	Member, TFELTR
18	Nancy Awere	Secretariat, TFELTR
19.	Rachel Dinda	Secretariat, TFELTR
20.	David Gatimu	Member, TFELTR
21.	James Nombi	Joint Secretary, TFELTR
22	Dr. Victor Ouno	Member, TFELTR
23.	Stephen Chebii	Secretariat, TFELTR
24.	Charles Wamae	Member, TFELTR
25.	Annette Omwoyo	Joint Secretary, TFELTR
26.	Catherine Ochanda	Member, TFELTR
27.	Dr. Mary Macharia	Joint Secretary, TFELTR
28.	Dr. Samuel Nthuni	Member, TFELTR
29	Edward Ole Kateiya	Member, TFELTR
30.	Carolyne Menin	Member, TFELTR
31.	Kennedy Kubasu	ALSK
32.	Abraham Samoei	President, ISK
33.	Catherine Kariuki	VRB
34.	Peris Moraa****	
35.	Collins Mwange	ISK
36.	Dr. Musyoka	UoN, ISK
37.	Emily Njeru	LSB
38.	Erastus Chege	ISK
39.	Eunice Macharia	Chair, EARB
40.	Irene Kyatu	IEBC/GIS CHAPTER
41.	Jecinta Bowers Owino	ISK
42.	Julius Rotich	ALSK, Chairman
43.	Martin A. Dang'ana	SoK

	• Consider allowing professional institutes a little more time for submission of written submissions, the institutions are still consulting their membership, and with Covid-19 challenges the inputs are taking a while to trickle in. • Transition clauses should provide for use of both electronic and manual transaction to ensure continuity. • Taskforce to sieve out what concerns the regulations – it is not the work of the taskforce to come up with new procedures etc. • Check through PLUPA regulations.
MIN.07/26/2020	Way forward
	Chairman Remarks • The chair thanked members and requested that written memorandums be submitted by the organizations as promised during the meeting • The chair requested members to continue working on the comments from the public participation and revise the regulations accordingly.
MIN.08/25/2020	Adjournment and Date of the Next Meeting
	A vote of thanks was passed and the fruitful engagements were acknowledged. The meeting ended at 5:00 p.m. Closing prayers were said by Mildred Ambani. Next public participation meeting was scheduled for Wednesday, May 22, 2020.

Minutes Read and Confirmed by:

Chairman  Date.. 10/6/2020

Secretary  Date.. 10/06/2020

Secretary  Date.. 10.06.2020

- Public land is under National or County Government. How then can all allocation be made by the Cabinet Secretary, Lands?
- Who decides on conformance conditions?
- Were the Control functions and development plans not delegated to counties?
- What actions have the Ministry taken to ensure the capacity of the officers in the Counties where functions have been delegated
- Certificate of good standing informs the regulatory Board of registration and licensing of the members, therefore the former should be generated by the professional bodies and not the Board.
- DC/ID should be different from each engineering discipline. The former for the structural cum mechanical and the electrical submission should be different as they capture different details
- Provide for those providing land user service to be licensed in the regulations, the regulations are not clear how this would be effected between the County and the National Government
- Why should architect appoint a structural engineer? The architect should advice the developer to appoint structural engineer
- Approval process must be procedural and according to the law
- What measures have we taken into consideration to ensure that all steps of enforcement lead to desired results?
- The taskforce is asked to define all the officers that are defined in the regulations, define good standing and how advice can be given
- Technical development committee can't be anchored in the law. Sec 14, 16(3) of PLUPA can anchor thus for land use – Discuss this, can the taskforce address this dilemma on where to anchor this
- There should not be any variance between the regulations being developed and the old done previously
- There should be clear cut between County and National Government on appeal suspension
- It looks like the Director General is the one that disciplines while the disciplinary mechanism is at the county level.
- Period in Registration 21, 22-60 days in the event of consent, liaison gives permission to develop, this should be concluded
- On suspension of development, at compliance once development is completed, compliance should be given out and followed up with empirical evidence, professional liability taken should be included
- Judicial processes should be with appeal process takes precedence. Approval on 30 days less integrated with enforcement notice
- Under Sec 38, 39 appeal on Units/ National project at National level
- PLUPA should put in place a provision; a bedrock to the development control to find landing and connection for all the regulations and other provisions.

General Comments

- Provide an overview of the structure of NLIMS – who is to hold the data?
- Extend the period for further consultation

- Building Code being developed by NCA – there are duplications which need to be looked into in PLUPA
- Rectify several typos such as change or extension of use ‘NOT user’; include change of development density- this is missing (Mairura)
- Juliana Mutua: County Government Act is no 17 of 2012 and not 2013. Please note. What happens when all the steps of enforcement fail to achieve desired results due to failed governance? – timelines to be followed – liaison committees not in place
- Juliet Rita: On Site Inspection, she foresees overlaps with mandate of NCA. Maybe NCA representatives can give insights into this.
- By way of devolution, planning is one function that was devolved to the lowest unit possible, as it is possibly up to village level, if that is the preferred situation, how will the system allow the execution of the Regulations by the village or ward officer – have a schedule of officers
- In the context of Cities, what is the coordination framework for City Director of Planning and County Director of Physical and Land Use Planning? Who should communicate upwards to the CECM?
- The building code being domiciled under NCA is a major challenge. The code should be domiciled under county governments and Ministry of Lands
- Include in the document a clause on basis of calculation of development control submission of fees – refer to the Tariffs and pricing – encourage counties to come up with a structure
- In planning regulations under Section. 5: Requirements for handling applications for development approval - The online links that the DG will establish for ease of information cross-referencing should be more specific on the relevant authorities involved. In most cases, the Roads Authorities are not involved in this process leading to various ills e.g. encroachments onto road reserves – most of the work is done by the counties – if there is a way in which the relevant authorities can be captured so that the development application can be channeled - check on how this can be done – look for a way of specifying the roads authorities
- On Electronic Development Control and Enforcement Regulations, PART III is appearing twice. Perhaps it is a typo – needs a revisit.
- Which exact court does one appeal to if aggrieved by Electronic Appeals Standing Committee? ELC/ High Court?
- It is inaccurate to describe people defined as professionals yet they do not have regulatory bodies. Reference has, for instance, been made to urban designers. The question is: What is the regulatory body for urban designers? Can they be defined and how can they be identified?
- Sect 14(7) of Development Control and Enforcement System Regulations – Are reasons supposed to be given verbally or in a prescribed form?
- Is it change of or extension of user? Does it include change of development density as well?

- Reg 13 – full detailed application – outline application can be considered
- Reg 21/22: in the event that there is no material comment and the 60 days have expired – the liaison committee should have a regulation to give approval provide in sec 61
- Supervision of development – at compliance once development is completed – have a requirement for the professionals to provide compliance certificate ... follow with empirical evidence – should be included -
- The judicial process should have connection with the appeal process – approvals in 30 days or less – appeal process should have a time line – integrate with enforcement notices – PLUPA 63(c) - needs to be strengthened
- Linkage between the development control processes and PLUPA – where are the general PLUPA regulations
- Who are the recipients of the applications - For professional competence, efficiency and accountability, each professional to keep to their area of competency. All professionals indemnify the developer and cannot be employed by other professionals.
- Why should the Architect appoint a structural engineer? The Architect should advice the developer to appoint a structural engineer. This is the correct process. – to look into this and change
- Response: Juliana Mutua - Architect appointing the Engineer- thought it has all to do with convenience and established working relations. However, agreed that the Developer should be afforded the opportunity to appoint the Engineer.
- How do we ensure that National Government, Counties and Municipalities employ qualified professionals like architects, engineers to check drawings and enforce development?
- What is the value addition of a planning officer inspecting a building construction? Inspections should be done by architects and engineers. – depends on the county/NCA can also assist.
- Who decides on conformance conditions? – decided by various technical officers
- Whoever is uploading documents should upload the contract to prove ownership of the work. This is important. Could this be part of NCA work?
- Can we put a designation of who can be in charge and who can be employed at the county and at the national levels – the two (2) levels of government should employ qualified professionals – non-professionals are easily intimidated
- Eng. Matalanga suggested that the team should consider including a schedule in the PLUPA Regulations defining the technical officers working at the County and National Government. This team comprises various professionals as well as supportive team and the enforcement team (diploma holders and 'askaris')
- Provide for those providing land use services to be licenced by their regulating professional bodies and of good standing
- The approving professionals at various government levels must be licenced professionals by their regulating bodies
- Role of NCA – carry out to ensure that there are no overlaps. Inspection role of NCA should be taken into consideration

- We have surveyors in both National and County Governments. The regulations are not clear on how operations will run at county/National government levels – there are counties who have Licensed Surveyors and work is submitted under them
- In survey regulations are under Reg.7: Access to information. Will it be possible to access the survey field notes apart from the plans/maps e.g. in a situation where there is need to verify the approved documents used in alienation and survey of land, some of which is road reserve
- Since the mutation form has been amended under the land registration regulation 2017 to incorporate an endorsement by a licenced planner or advocate, how do we link this requirement in the application for development permission?
- Land Consolidation Act (cap 283) has been repealed needs to be captured as such in documentation – some jobs are still being processed
- Surveyors should be defined in the preliminary as Government surveyors and Licensed surveyor
- Electronic Appeals - Land Surveyors Board to be captured as members of appeals against termination of users' access by Director of Surveys
- Transition clauses should provide for use of both electronic and manual transaction to ensure continuity

Physical Planning

- Define development – to be done
- Add Surveyors as part of the Licensed Professionals – submission of documents – provide access to them
- Professionals should stick to their lanes for professional competency
- Reg 19 – provision that the CS to decline is not very clear – needs to be clarified – all development applications must be submitted to the county govt for approval – check into this
- Performance and Monitoring – part iv is dealing with buildings which should be dealt with by NCA – components on planning are missed out – NCA has more competence
- Reg. 24/25 – goes outside the practice – check on this further.
- Building inspection works should not be done by the Planner – check on this
- Clarity on the Planning Unit -
- Reg. 10 – define good standing and the role of professional body vs the registration boards – role is really with the registration bodies
- DVTC – should be anchored to section 14 and 16(3) of the PLUPA which provides for the county consultative forum
- Low risk projects to have a different circulation process
- There should be no variance between the regulations under PLUPA and the electronic regulations – valid question
- Have a clear demarcation between the county and national government on the system especially on termination of users

Valuation/Stamp Duty

- Excision of land during compulsory acquisition is synonymous with sub-division of land. The process warrants the services of a planner as there is outright re-surveying which should be premised on planning.
- The process of participation of stakeholders during compulsory acquisition should be well thought out including dealing with any contestations therein – see how this can be done
- Involvement of private valuers appointed by the Chief Valuer is welcome, but there is a need to have very well-documented considerations to ensure uniformity. In land acquisition, we have observed situations where the Project Affected Persons present valuation reports done by private valuers which differ seriously from that done by the Government Valuer.
- Compulsory acquisition – must be gazetted
- The regulations propose that Valuation Reports be valid for twelve (12) months. This period can be limiting. Suggest twenty-four (24) months and provide a justification for the period. This relates to Stamp Duty – compulsory acquisition is governed by the Land Act.
- Compensation money and survey fees – may not be feasible to submit the monies to NLC- Check on this further.

Registration

There is need to put an element of timeline within which a search certificate should be expected once an application is made electronically. The experience with the Nairobi Registry is that if the records are accurate, the search comes out in time – dependent on whether the data has been cleaned up or not

Land Administration

- Public land is either under national or county government. How then can all allocation fees be paid to Cabinet Secretary only. Land allocation under County government, payment must be to CEC – some of the fees should be remitted to the CRF while others should go to the National Government. There is need for a further review, especially of stand premium.
- In extension and renewal of leases and administration of public land there is amendment to delete National Land Commission and replace this with Cabinet Secretary Lands, unless the principal act was or is amended to incorporate that, we may be treading on a legal landmine. A subsidiary legislation to the best of my knowledge cannot amend a substantive legislation – section 13(2), Section 23(2)

Survey

- Assumption Survey plans including mutation forms are predicated on approved plans – the procedures will be followed
- All survey work must be by licenced surveyors both in Government and private sector – this is covered by the Regulations – an Admin issue for the use of Surveyors supervised by the DOS

	Planners Association of Kenya, Architectural Association of Kenya, Institution of Engineers of Kenya, Engineers Board of Kenya, Kenya Rural Roads Authority, Kenya Airports Authority, NEMA, National Construction Authority, Nairobi Metropolitan Services and State Department of Transport to introduce their members and make opening remarks. • Opening Remarks made by Stakeholders 1. President, IEK, Eng. Matangala Nathaniel indicated that they received the invitation late. As such, they had not prepared their written submission. He also observed that they wished to be included throughout the process. 2. Eng. Mwongera Chair EBK appreciated the Taskforce for the invitation, indicated that engineers played a critical role in land use and physical planning, and said there exists calamity of plans in Kenya, encroachment on roads leads to loss of investments. Some of these could be nipped in bud if engineers were involved. 3. Kenneth Wando, who represented the roads authorities (KenHA, KURA/ KRB), appreciated the efforts of the Ministry, committed to support the taskforce. He indicated that they would submit their memorandum later. 4. Rashid Abdullahi, who spoke on behalf of KAA, reported that KAA was facing challenges of land use around the airport. He indicated that he had been part of team that prepared draft PLUPA regulations and noted the deliberations were fruitful. He congratulated the Chair on the good work that his team had done and hoped for successful deliberations. 5. Sakwa Oceanic (spoke on behalf of NEMA) thanked the taskforce and promised to do a comprehensive memorandum later. 6. Samson Lukoba introduced the NCA CEO Eng. Maurice Akech. The CEO raised concerns about mix-ups in the letter that was sent to his office, appreciated the efforts of MoLPP, said that they have been working with the Ministry through its representatives in the taskforce, promised to continue to support 7. Jones Nyangweso, who represented the Nairobi Metropolitan Services, congratulated the taskforce on putting the great ideas together. 8. Brenda Mwango, State Department of Transport representative indicated that they received their invitation letter late and could not do a written submission, supported the Ministry's efforts and promised to submit their memorandum later.
MIN.05/26/2020	Power-Point Presentations – Overview of Draft Regulations Proposed electronic land transactions regulations were presented in the following order: • Valuation Regulations were presented by Esther Omulele. • Registration Regulations were done by Clarah Ketyenya. • Land Administration Regulations were presented by Tom Abuta. • Survey Regulations were done by Jasper Mwenda. • Physical Planning Regulations were presented by David Gatimu
MIN.06/26/2020	Plenary Discussion

43	John Barreh	KIP
44	Juliet Rita	AAK
45	Kenneth Wando	KERRA
46	Leina Kilesi	KIP
47	Stephen Mwilu	
48	Lucy Gathika	KRB
49	Mairura Omwenga	TCPAK
50	Grace Njeri	KeNHA
51	Juliana Mutua	NMS
52	Mwango Brenda	State Department of Transport
53	Nathaniel Natalanga	IEK
54	Obop Michael	KeNHA
55	Oceanic Sakwa	NEMA
56	Odak Paul	KURA
57	Patrick Gitile	KURA
58	Rashid Abdullahi	KA
59	Robert Itambo	KeNHA
60	Robert Koech	KIP
61	Samson Lukoba	NCA
62	Edward Wabwoto	NEMA
64	Erick Akuba	TCPAK
65	Fredrick Warega	TCPAK
66	P. Bosne	KeNHA
67	Mileah Muendo	KeNHA
68	Gacera A	
69	Jones Nyangweso	NMS
70	Joyce Kariuki	KIP
71	Jatani	KURA
72	Erastus Mwongera	Chair, EBK
73	Sylvester	
Apologies		
1.	Peter Musyimi	Member, TFELTR
2.	Eugene Lawi	Member, TFELTR
3.	Nancy Awere	Member, TFELTR
4.	Brian Kimutai	Member, TFELTR
MIN.01/26/2020 Adoption of Agenda		
	1. Preamble 2. Overview of Draft Regulations 3. Plenary Discussion 4. Close	
MIN.02/26/2020 Preliminaries		
	• The Chair called the meeting to order at 10:20 a.m. • Opening prayers were said by Mildred Ambani. • The Chair took members through the day's agenda. • The Chair presented an overview of the Taskforce including its TORs, mandate, the milestones it had realized and the roadmap for the remaining activities. • The Chair introduced the Taskforce Members and requested representatives from Kenya Institute of Planners, Town and County	

MINUTES OF THE 26TH MEETING OF THE TASKFORCE ON FORMULATION OF RELATED REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES WITH KAA, KURA, KRB, KENHA, KERRA, NCA, MINISTRY OF TRANSPORT, EBK, NMS, NEMA, TCPAK, AAK AND KIP HELD VIRTUALLY ON WENESDAY, MAY 21, 2020 AT 10:00 A.M.

Attendance of the Taskforce Members

S/No.	Name	Position
1.	Eric Nyadimo	Chair
2.	Rachel Dinda	Secretariat
3.	Mildred Ambani	Member
4.	David Gatimu	Member
5.	Esther Omulele	Member
6.	Victor Ouno	Member
7.	Herbert Were	Member
8.	Tom Abuta	Member
9.	Mary Macharia	Joint Secretary
10.	Julius Kahindi	Member
11.	Samuel Nthuni	Member
12.	Sereu Moinket	Member
13.	Clarah Ketyenya	Joint Secretary
14.	Edward Ole Kateiya	Member
15.	Elizabeth Njoroge	Member
16.	Jasper Mwenda	Member
17.	Agnes Matunda	Secretariat
18.	George Ruhara	Secretariat
19.	Mugendi Moses	Joint Secretary
20.	Caroline Kihara	Member
21.	Carolyne Menin	Member
22.	Truphosa Achar	Member
23.	Charles Wamae	Member
24.	Damaris Lukwo	Secretariat
25.	Catherine Ochanda	Member
26.	Stephen Chebii	Secretariat
27.	Annette Omwoyo	Joint Secretary
28.	James Nombi	Joint Secretary

Attendance of the Stakeholders

29	Anthony Kusimba	KeNHA
30	Susan Rutto	NCA
31	Cindy Ogola	NCA
32.	Alexandra Muhaya	KAA
33	Juliet Kabere	AAK
34.	Catherine Kassim	KRB
35.	Catherine Mungania	EBK
36	Kim Mc Okoth	KIP
37	Cyrus Mbisi	AAK
38	Eliud Munene	KeNHA
39	Maurice Akech	NCA
40	Hellen Njoki	KIP
41	Irene Keino	TCPAK
42	James Odongo	AAK

	- NLC should not be part of the committee since they have rejected the appeal. Response It is ok for the NLC to sit in this committee since they are the agents to the National government or the County government. Survey: - Authentication of people submitting documents: Response Reg 8 and 9 have handled this where the submission is only done by the Licensed surveyor and the government surveyor. Devolution of Survey function and need to amend the Survey Act. Response: Restricted ourselves to the Survey Act, CAP 299. Disconnect between the subdivision and the RIM leading to multiplicity of titles.
MIN.07/25/2020	Way forward & Adjournment
	- The chair thanked members and requested that a written memorandum be submitted by LSK. - Charles Wamae gave the vote of thanks and acknowledged all participants for the fruitful engagement. - Closing prayers were said by Esther Omulele. - The Chair ended the meeting at 4.07pm. - Next meeting was scheduled for Thursday 21st May, 2020 from 10:00a.m with TCPAK, KIP and AAK.

Approval

Chairman  Date. 10/6/2020

Secretary  Date. 10/06/2020

Secretary  Date. 10.06.2020

	Counties proposed to have appeal committees for each county, the chair invited views from the team. The taskforce recommended one appeal committee. - Land Control Board have been abolished but no gazettelement has been done. Response: This will be checked further. - What measures have been put in place to deal with digitization of land transactions of land with Settlement Fund Scheme SFT issues especially in Coast? Response This can be captured in Survey, the team to consider. Not happening now as Nairobi is ongoing but once digitization of Mombasa will be reached it will be done. The taskforce should visit Mombasa and document views of the locals. All the records of SFT are in Nairobi. Action Organize for a virtual meeting with the Mombasa people to document this matter. - fake advocates, password that LSK can provide to members to be used on the system. - Define manual processes, some place there was manual process, hard copies but not paper documents. - Nairobi will be gazette first. But we should have timelines to anticipate other counties adoption of electronic system. Response May be difficult to give timelines but the CS will gazette as the registries gets ready. - Security and integrity of the system should be looked at. Response The team will relook on this matter further. Need for advocates to sit in the appeal committee. Response This will be relooked further. Land Administration Section 23 (2) of the Land Act, where is the link with NLC and MOLPP in lease preparation. Response: The team has looked at the supreme court advisory 2016 but the Land Act was changed in 2018. - Reg 3- Extension and renewal of lease. Should have 90 days, what happens after lapse. Response: This will be relooked at so that its clear and compel the government so that it will be presumed done if 90 days expire. - Reg 8- Change to after 5 years not within 5 years. Response The taskforce to check if they have mandate on this. - Reg 9. May appeal to the court, which court, should be clarified. Response The team will look on this further.
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	• Definition of professional accessing the system is not done well. Recommendation to use definition in the Act. Response The advocates are the professional undertaking this exercise. • Reg 8- access by professional not identified as an advocate. - Check, Canada, Ontario Response Details required are for the advocate in the form. • Suspension of user. Esther presentation it was not there the issue of "suspected user", should reconsider if this will give rise to the suspension. • Attestation: Unauthorized user. This need to be checked. It may fall back to the advocate. Response Advocates will play a key role. • Priority of documents and rejection of documents will be relooked at. • Appeal process in the registration should be retained. • Reg 13 be specific on the advocates. Response This will be relooked at and its noted. • Reg 25- use the words Registrar shall. Response This will be relooked at and its noted. • Someone can generate interest by showing a title deed and allowed to search. How it can be captured in the system. • IS it that there is need to have owner consent before searching? Response This will be relooked at. Terms and Use • Disclaimer: Reconsider putting the disclaimer, we must be sure that the processes are genuine. Perhaps should be CONSENT so that information put can be used by government. Response To relook into this to avoid doubt by users of the system. General Comments Appeal committee should be streamlined. ADR should be more robust. Regulations to be expanded to allow ADR. • Some changes in the current Regulations – e.g. ownership – all documents emanating from the system should provide comfort • System Operator must also ensure that the details in system ensure that there is no identity fraud – provide an encryption key to ensure that info that is relayed has the same sanctity when compared to other electronic systems • Representation of the LSK in the appeal committee, be specific on the private actors. • Issue of the Appeal committee, need to have one electronic committee. Response
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Physical Planning

- Neighbourhood resident challenges, how they should be informed.

Response:

PLUPA 58 (7) Neighborhoods should be notified for a development application, clearance needed from the community. Need to have community sit in the liaison committee.

- Appeal processes

Response

Covered in PLUPA 62(3) Read part V of PLUPA.

- Some of the tasks for the Physical Planning can be handled by private physical planners to expedite service delivery.

Response:

Need to have regulations that bid the private professional in their work.

Valuation:

- Government has given room for the private valuers, this should be factored. Likelihood of mischief if private valuers are allowed.

Response

The regulations have not yet been enacted.

Response

The owner will choose to use a private valuer or the government valuer.

- Stamp duty rule of 30days of execution of the document. This is a good opportunity to recommended amendment of this section of the act, it should change to the date the value makes payment.

Response:

Need to relook at this provision and will make relevant recommendations.

Market value definition

Response

This can be expanded to include other assets.

- The issue of the stamping- Hong Kong experience in e-stamping which is effective and recognized by law.

Response:

The team will benchmark with Hong Kong and manual processes will complement the electronic process.

- Suspension of user

Response

Lack of standard for Valuers in the laws.

- Contents of the Valuation report. Be specific on the Process of sale and transfer, distinguish the two. Transfer of documents Form D.

Response

The team focused on the transactions but not the details of the report.

Registration

	6. Close																																	
MIN.02/25/2020	Preliminaries																																	
	• The Chair called the meeting to order at 10:26am. • Opening prayers were said by Caroline Wanjeri. • The Chair took members through the Agenda. • The Chair introduced the Taskforce Members and requested LSK to briefly introduce themselves.																																	
MIN.03/25/2020	Agenda																																	
	The program was adopted as follows: <table><tr><th>Time</th><th>Item</th><th>Assigned To</th></tr><tr><td>10:00 - 10:30 am</td><td>Welcome, Introduction and Opening Remarks</td><td>Eric Nyadimo, Taskforce Chair</td></tr><tr><td>10:30 - 10:55 am</td><td>Survey (Electronic Cadastre Transactions) Regulations, 2020; and Survey (Amendment) Regulations, 2020</td><td>Jasper Mwenda</td></tr><tr><td>10:55 - 11:20 am</td><td>Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020</td><td>David Gatimu</td></tr><tr><td>11:20 - 11:55 pm</td><td>The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and Land (Amendment) Regulations, 2020; and the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020</td><td>Tom Abuta</td></tr><tr><td>11:55 - 12:20 pm</td><td>Stamp Duty (Valuation) Regulations, 2020; and Stamp Duty (Amendment) Regulations, 2020</td><td>Esther Omulele</td></tr><tr><td>12:20 -12:50 pm</td><td>Land Registration (Electronic Transactions) Regulations, 2020</td><td>Sereu Moinket</td></tr><tr><td>12:50 - 1:30 pm</td><td>Break</td><td>All</td></tr><tr><td>1:30 - 4:00 pm</td><td>Plenary Discussions</td><td>Eric Nyadimo, Taskforce Chair</td></tr><tr><td>4:00 - 4:15 pm</td><td>Vote of Thanks and Closing</td><td>Charles Wamae</td></tr><tr><td colspan="3">END OF PROGRAMME</td></tr></table>	Time	Item	Assigned To	10:00 - 10:30 am	Welcome, Introduction and Opening Remarks	Eric Nyadimo, Taskforce Chair	10:30 - 10:55 am	Survey (Electronic Cadastre Transactions) Regulations, 2020; and Survey (Amendment) Regulations, 2020	Jasper Mwenda	10:55 - 11:20 am	Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020	David Gatimu	11:20 - 11:55 pm	The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and Land (Amendment) Regulations, 2020; and the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020	Tom Abuta	11:55 - 12:20 pm	Stamp Duty (Valuation) Regulations, 2020; and Stamp Duty (Amendment) Regulations, 2020	Esther Omulele	12:20 -12:50 pm	Land Registration (Electronic Transactions) Regulations, 2020	Sereu Moinket	12:50 - 1:30 pm	Break	All	1:30 - 4:00 pm	Plenary Discussions	Eric Nyadimo, Taskforce Chair	4:00 - 4:15 pm	Vote of Thanks and Closing	Charles Wamae	END OF PROGRAMME		
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MIN.04/25/2020	Introduction to the Taskforce																																	
	The Chair presented an overview of the Taskforce including its mandate, milestones to date and road map of remaining activities.																																	
MIN.05/25/2020	Regulations																																	
	Land electronic regulations were presented in the following order: • Survey Regulations • Physical Planning Regulations • Land Administration Regulations • Valuation Regulations • Registration Regulations																																	
MIN.06/25/2020	Plenary Discussion																																	

8	Eric Theuri	LSK
9	Gichohi Waweru	LSK Secretariat
10	Isaac Kiarie	LSK Kitale Branch
11	Jacqueline Waihenya	LSK Mombasa Branch
12	Janeirene Maina	LSK
13	Janet Katisya	LSK Coast
14	Janet Othero	Triple OK Law
15	Karim Chakera	LSK
16	Kennedy Owiti	LSK
17	Maritim Joshua	LSK North Rift Branch
18	Morgan Omusundi	LSK North Rift Branch
19	Mutua J. Makau	LSK South Eastern Branch
20	Nasra Nanda	Dentons HH & M
21	Nyabena Mathew	LSK Mombasa Branch
22	Ramadhan Abubakar	LSK Mt Kenya Branch
23	Ribin N. Ondwari	Ashivita Advocates
24	Rosemary Nderitu	LSK Mt Kenya Branch
25	Stephen Kibungei	LSK
26	Yasmin Abdulkadar	LSK
27	Joan Mati	LSK Lower Eastern Kitui
28	Mildred Chelimo	LSK
29	Nancy Mwangi	S.M Muhia & Co. Advocates
30	Wanja Gitau	LSK
31	Gichohi Waweru	LSK
32	Carolyne W. Kanyingi	LSK
33	Peter Mwangi	LSK
34	Justus Mutia	LSK South Eastern Branch
35	Riziki Emukule	LSK
36	Wanjiru Mutero	LSK
37	Collins Odhiambo	Deputy CEO LSK
38	Lorna Mainnah	LSK
39	Deborah Ontiri	LSK
40	Chrispine Odhiambo	LSK
41	Ms. Nduta	Letangule Advocates
42	Winnie Mumalla Muchela	LSK
43	Beth Michoma	LSK
44	Bellinda Akello	LSK
45	Irene Kiwool	LSK
46	Kellen	LSK
47	Nderitu	LSK
48	Ochang' Ajigo	LSK
49	Wilkins Ochola	LSK
50	Maroko	LSK
51	Herine Kabita	LSK Council Member
MIN.01/25/2020	Agenda	
	1. Program 2. Introduction to the Taskforce 3. Terms of Reference 4. Regulations 5. Plenary Discussion	

MINUTES OF THE 25th PUBLIC PARTICIPATION MEETING OF THE TASKFORCE ON FORMULATION OF RELATED REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES AND LAW SOCIETY OF KENYA (LSK) HELD VIRTUALLY ON WEDNESDAY 20TH MAY 2020 AT 10:00 AM.

Attendance of the Taskforce Members

S/No.	Name	Position
1	Eric Nyadimo	Chair
2	Rachel Dinda	Secretariat
3	Mildred Ambani	Member
4	David Gatimu	Member
5	Esther Omulele	Member
6	Victor Ouno	Member
7	Herbert Were	Member
8	Tom Abuta	Member
9	Mary Macharia	Joint Secretary
10	Julius Kahindi	Member
11	Samuel Nthuni	Member
12	Sereu Moinket	Member
13	Clarah Ketyenya	Joint Secretary
14	Edward Ole Kateiya	Member
15	Elizabeth Njoroge	Member
16	Jasper Mwenda	Member
17	Agnes Matunda	Secretariat
18	George Ruhara	Secretariat
19	Mugendi Moses	Joint Secretary
20	Caroline Kihara	Member
21	Carolyne Menin	Member
22	Truphosa Achar	Member
23	Charles Wamae	Member
24	Damaris Lukwo	Secretariat
25	Eugene Lawi	Member
26	Catherine Ochanda	Member
27	Stephen Chebii	Secretariat
28	Nancy Awere	Secretariat
29	Brian Kimutai	Member
30	Annette Omwoyo	Joint Secretary
31	James Nombi	Joint Secretary

Apologies

1.	Peter Musyimi	Member
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Law Society of Kenya members present

1	J. M Mburu	LSK
2	Barbara Wangari	LSK Rift Branch
3	C. Kigera	LSK
4	Carolyne Kamende	LSK
5	Carolyne Muthiani	LSK
6	Carren Kerubo Ondeyo	LSK
7	David Njoroge	LSK Mt. Kenya Branch

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	The issue of land rent was also not well covered/ adequately articulated, for instance, it was not clear how the Ministry of Lands was going to collect the data on leasehold property, or issue demand notices to owners of these property. The role of KRA in collection of rent through ITax was not properly documented. There was need for documentation of land that attracted land rent to ensure enhanced collection. Other questions raised were: -Is there a mechanism for monitoring the number (the existing) leasehold property? -Is the Ministry of Lands able to share the information with KRA? -How can KRA get the information? Systems issues raised • Ensure all transactions done are traceable • System should have accountability from end user perspective. • Transactions need to be approved by the right parties. • The Ministry should share what the system is and what it can do. • Security features to be looked at to safeguard data. • Is their regulation for electronic signatures? Has ICT Authority developed regulations on this? the regulations are there under KICA law enacted in 2013. Issues of support maintenance are being addressed to bring on board more stakeholders and coordinate operations of different government agencies. • Water-tight security features should be developed to safeguard data security. • NPKI – digital signature for all public offices should be inputted to ensure security safeguards. The system should be aligned to this
MIN.05/24/2020	<u>Adjournment and Date of the Next Meeting</u>
	There being no other business, the Chairperson thanked the guests for their time and dedication to the meeting, after which he called upon Ms. Truphosa Achar to give a vote of thanks and say closing prayers. The meeting ended at 1:55 pm. The next meeting (with the Law Society of Kenya) was scheduled for Wednesday, 20th May, 2020.

Minutes Read and Confirmed by:

Chairman:

..... Date 10/6/2020

Joint Secretary:

..... Date 10/06/2020

Joint Secretary:

..... Date 10.06.2020

	1. Preamble/ introductions 2. Presentations 3. Plenary discussions 4. AOB
MIN.02/24/2020	Preamble
	• The chairman called the meeting to order at 10:26 am. • Opening prayers were said by Moses Mugendi. • The Chair introduced members of the Taskforce. • The Chair formally welcomed members from KRA and ICTA to the meeting. • The Chair took members through the programme. • The Chair gave background information for formulation of the regulations which are to enhance efficiency and effectiveness in data access. • The officials from both ICTA and KRA introduced themselves to the taskforce. • In summary, the Chair talked about what the Taskforce had done since its formulation.
MIN.03/24/2020	Presentations on Proposed Regulations
	Highlights of regulations were done in the form of Power-Point presentations in line with the programme as follows: 1. Registration 2. Survey 3. Planning 4. Land Administration 5. Valuation.
MIN.04/24/2020	Plenary Discussions
	The following comments/ questions were made/ raised after presentations: • Valuation report- (information sharing) what is left out is the sharing of information on Valuation, there should be seamless flow of information. There is need to link ITAX with NLIS and provide a regulation that links ITAX with NLIS. The administrative process established should be regulated. • Market Value-the definition of market value should not only be limited to land, but should also include shares as the value of any property goes beyond land aspects. • PIN-there is need to capture the PIN; the initial data only captures the ID leaving out the PIN. • Land Rent

MINUTES OF THE 24TH MEETING OF THE TASKFORCE ON FORMULATION OF REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES (WITH OFFICIALS FROM ICT AUTHORITY AND KENYA REVENUE AUTHORITY) HELD VIRTUALLY ON TUESDAY, MAY 19, 2020 AT 10:00 A.M.

Attendance

S.N.	Name	Position
1.	Eric Nyadimo	Chair, TFELTR
2	Tom Abuta	Member, TFELTR
3.	Truphosa Achar	Member, TFELTR
4.	Mildred Ambani	Secretariat, TFELTR
5.	Agnes Matunda	Member, TFELTR
6.	Dr. Mary Macharia	Joint Secretary, TFELTR
7.	Dr. Samuel Nthuni	Member, TFELTR
8.	Sereu Moinket	Member, TFELTR
9.	Clarah Ketyenya	Joint Secretary, TFELTR
10	Elizabeth Njoroge	Member, TFELTR
11.	David Gatimu	Member, TFELTR
12.	George Ruhara	Member, TFELTR
13.	Herbert Were	Member, TFELTR
14.	Moses Mugendi	Joint Secretary, TFELTR
15.	Dr. Victor Ouno	Member, TFELTR
16.	Stephen Chebii	Secretariat, TFELTR
17.	Julius Kahindi	Member, TFELTR
18.	Nancy Awere	Secretariat, TFELTR
19.	Eugene Lawi	Member, TFELTR
20.	Rachel Dinda	Secretariat, TFELTR
21.	Edward Ole Kateiya	Member, TFELTR
22	Catherine Ochanda	Member, TFELTR
23.	Charles Wamae	Member, TFELTR
24.	Carolyn Menin	Member, TFELTR
25.	Annette Omwoyo	Member, TFELTR
26.	Esther Omulele	Member, TFELTR
27.	Damaris Lukwo	Secretariat, TFELTR
28..	James Nombi	Member, TFELTR
29.	Caroline Wanjeri	Member, TFELTR
30.	Philip Irode	ICTA
31.	Margaret Ogega	KRA
32.	Desterius Shilabukha	KRA
33.	Margaret Masaku	KRA
34.	Pauline Kimotho	ICTA
35.	Millicent Saina	KRA
Absent with Apologies		
1.	Brian Kimutai	Member, TFELTR
2.	Peter Musyimi	Member, TFELTR
3.	Jasper Mwenda	Member, TFELTR
Minutes		
MIN.01/24/2020	Adoption of Agenda	
	Items of discussion were adopted as follows:	

Approval

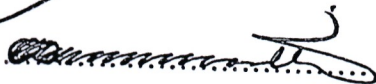
Chairman



Date

10/6/2020

Secretary



Date

10/06/2020

Secretary



Date

10/06 2020

	• Role of CS in extension of lease need to be clarified as it's a development application and should be tabled at the county. Response: The Survey is premised on the requisite approvals and the survey module is established on this understanding. Comments from Mwenda Riungu- Tana River • Regulations are not speaking to each other. No linkage of the different regulations. Response The regulations are based on clear workflows. The taskforce should relook into this matter. • There should be clear linkage of PLUPA general regulations and electronic regulations. • On Land Administration, how will the approvals be done electronically, the Land Administration regulations do not mention the role of County Government.
MIN.07/23/2020	Way forward
	Chairman Remarks • County government has the resources to do the NLIS system. The system will be rolled out phase by phase. • Other county systems should be linked to the NLIS. • Involvement of the stakeholders is timely since these are the draft documents. CoG should consider submitting a comprehensive written memorandum to the Taskforce Ng'eno Remarks • COG have been involved in several consultative meetings in the land sector and just like in previous engagements, CoG should be able to guide the regulation process. • Taskforce should ensure the regulations are informed by the laws and the TA report and Article 62 for the CoK on supremacy of the Institutions established to govern the land sector such as the NLC. • Section 56 (c) of PLUPA should be respected as it gives the counties the mandate to consider applications and grant development permission. Under Sec. 69 (4), CS receives secondary applications whose approval has been granted by the County Government. • The CoG will submit a written memorandum. • The taskforce should avail the improved regulations for validation by CoG before they are forwarded to the CS.
MIN.08/23/2020	Adjournment and Date of the Next Meeting
	• Eugene Lawi gave the vote of thanks and acknowledged all participants for the fruitful engagement. • The meeting ended at 4.38pm with closing prayers form Caroline Wanjeri. • The next meeting was scheduled for Thursday 19th May 2020 from 10:00a.m with Treasury and the Kenya Revenue Authority.

- Legal notice 156 provides for classification of the projects and the role of CS and Director General of Physical and Land Use Planning on the same. This issue can be deliberated further.
- Comments from Elizabeth Mburu- Director, Meru County

- DG should not control the PLUPA system. The system should be established in collaboration with County Governments.

Response

Sections 103 and 114 of the Land Act provide safeguards against abuse of mandates vested with the two levels of government.

The proposed Technical Committee is a hurdle in the county in fast tracking the development application process

Response

The Committee is important to check standards and validation of the applications; this is good for ownership of the processes and to ensure the County Director approves application on point of information as envisaged in PLUPA 20 (g).

- DG should circulate the plans to the Counties on the Strategic projects.
- CS should not overall mandate on private land. In case of agricultural land, whose subdivision is controlled by Land Control Boards established by the CS, it has proven difficult for counties to tame the boards. The boards should be controlled by the County governments.

Response:

The Land Control Board is in place as per the Land Control Act, which stands un-repealed. However, their effectiveness and practicability of the Act should be considered, moving forward.

- Survey is a devolved function but so far the counties have been locked out of the survey process by the Survey Act.
- During presentation of Stamp Duty regulations, there was mention of other valuation regulations already in circulation, but which have not been brought to the attention of the counties. This does not sit well with devolution

Response:

The private valuers incorporation regulations have been drafted and will be circulated at the right time by the relevant team.

Comments from Sarah Masaki- CECM Muranga County

- There is concerted effort to lock out the County governments from the formulation of the regulations and so far public notices published indicate the regulations are being established in consultation of the National Government and NLC. Counties should be considered at the inception stage of such tasks.

Response

The Taskforce seeks views to make the draft rich and is willing to incorporate CoG views.

- Survey regulations left out planning role, which presents a loophole of subdivisions being undertaken by surveyors without reference to planners.
- Development control is a county function and so control of the system should not be left with the DG.

	Response: The taskforce restricted itself to the provisions of the existing Survey Act and Regulations. However, it noted areas of regulations that need to be improved to bring them up to date with the system, pending the amendment of the Act 2. Land Allocation: Reg 26. Mandates the CS to execute Leases. The CS should be replaced with NLC in line with the Land Act. Article 62 (3) mandates the NLC to manage public land. Further reference is made to the Supreme Court Advisory paragraph 2, which states that this is the function of the NLC. Response: Article 63 of the Constitution is clear on categories of public land. When land is allocated, it becomes private land and is under the CS. Leases are executed on private land. 3. The proposed Standing Appeal Committee should be established in consultation with COG and NLC. Article 259 of the COK provides that there should be consultations between the two level of Government in undertaking different activities. - Propose membership of the committee should be 3 MOLPP reps, 3 COG reps while the number of private sector reps is reduced to ensure the total membership does not exceed the 9 stipulated in Mwongozo, - There should be County Standing Committees in addition to the national one as NLIS will be administered in different counties. Response: The Registration team will deliberate further on this. 4. Regarding Stamp Duty, under Reg (2), Counties should be left to dictate own payment methods. Further, County government should have control of the NLIS system. Response: Stamp Duty is a tax and established by the National Treasury and collected by KRA. Comments from Hon Ngeno. - The Constitution provides rules of all players. Thus, the taskforce should be alive to its provision as they formulate the regulations. Further, the Taskforce should be alive to the Report by the Transition Authority dated 1st April 2016 which details the roles of national government and county government. Also, Sections 13 (2) of the Land Act denies the role of CS and NLC. - Section 56(3) PLUPA provides that the county governments shall have power within their jurisdiction to consider and approve all development application and provide development permission - Issue of Extension of Leases is in the domain of the NLC and the Taskforce should ensure this is upheld. Comments from Nicholas Waweru, Director Physical Planning, Kiambu County - County governments should have control of the national strategic projects as they will be implemented in counties Response:
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governments. As the draft regulations are, it mean that counties don't have any responsibility on strategic projects which are a preserve of the national government

Response:

Development control should be through the NLIS system and the county governments have a role where the project is being undertaken in that particular county. The counties would only channel projects deemed to be strategic or intercounty to the relevant approving authorities

- c) Sec 90 of PLUPA requires development of general regulations under the Act. there is need to stablish a clear link between the draft Regulations submitted to the (under section 90) and the electronic system ones

Response:

The manual processes need to be regulated before the electronic regulations. The two have been tied together.

- d) Reg 12 PLUPA- establishing a standing appeal committee at National Level, PLUPA is duplication of roles as PLUPA has very clear dispute resolution mechanism, the Liaison Committees. The existing resolution mechanism should be used and a member with IT background be adopted as a member in the existing committees.

Response:

The functions of the two committees are different the appeals committee under electronic regulations is purely administrative, dealing with issues of access to user accounts. Liaison committees established under PLUPA are for handling disputes arising from planning processes

- e) The CS should not prescribe fees for counties as counties have responsibility to prescribe their own fees.

Response:

There is need to coordinate how the various fees are generated

- f) The Land Administration regulations provide that Development Control issues for private land shall be handled by the CS. This is offensive and does not sit well with the County Governments who have a direct role on development control

Response:

All development processes start at the county level and approvals ae done there. However, administrative processes to inform eventual registration are vested with the CS

- g) Regarding Extension and renewal of Lease, NLC has the mandate under the CoK and laws to manage such transactions on behalf of the county governments and not the CS, this mandate according to the County government should be retained with NLC.

Response:

Section 13 of the Land Act, gives the mandate of NLC to make rules in extension and renewal of Leases. The aspect of processing leases is vested with the CS. Extension of Leases is with CS, since leases before expiry is private land. It follows that renewal and allocation processes are vested with the NLC.

Eva Sawe

1. The proposed amendments to Survey regulations should be stayed awaiting the amendment of the Survey Act. The principal Act should be amended first to align it with the Constitution before the regulations to avoid double work.

	<table><tr><th>Time</th><th>Item</th><th>Assigned To</th></tr><tr><td>10:00 - 10:30 am</td><td>Welcome, Introduction and Opening Remarks</td><td>Eric Nyadimo, Taskforce Chair</td></tr><tr><td>10:30 - 11:00 am</td><td>Land Registration (Electronic Transactions) Regulations, 2020</td><td>Sereu Moinket</td></tr><tr><td>11:00 - 11:30 am</td><td>Survey (Electronic Cadastre Transactions) Regulations, 2020; and Survey (Amendment) Regulations, 2020</td><td>Jasper Mwenda</td></tr><tr><td>11:30 - 12:00 pm</td><td>Stamp Duty (Valuation) Regulations, 2020; and Stamp Duty (Amendment) Regulations, 2020</td><td>Esther Omulele</td></tr><tr><td>12:00 - 12:30 pm</td><td>The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and Land (Amendment) Regulations, 2020; and the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020</td><td>Tom Abuta</td></tr><tr><td>12:30 -1:00 pm</td><td>Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020</td><td>David Gatimu</td></tr><tr><td>1:30 - 2:00 pm</td><td>Break</td><td>All</td></tr><tr><td>2:00 - 4:00 pm</td><td>Plenary Discussions</td><td>Eric Nyadimo, Taskforce Chair</td></tr><tr><td>4:00 - 4:15 pm</td><td>Vote of Thanks and Closing</td><td>Eugene Lawi</td></tr><tr><td colspan="3">END OF PROGRAMME</td></tr></table> It was noted that since the meeting started of late there was need to keep to time and allow more time for plenary discussion.	Time	Item	Assigned To	10:00 - 10:30 am	Welcome, Introduction and Opening Remarks	Eric Nyadimo, Taskforce Chair	10:30 - 11:00 am	Land Registration (Electronic Transactions) Regulations, 2020	Sereu Moinket	11:00 - 11:30 am	Survey (Electronic Cadastre Transactions) Regulations, 2020; and Survey (Amendment) Regulations, 2020	Jasper Mwenda	11:30 - 12:00 pm	Stamp Duty (Valuation) Regulations, 2020; and Stamp Duty (Amendment) Regulations, 2020	Esther Omulele	12:00 - 12:30 pm	The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and Land (Amendment) Regulations, 2020; and the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020	Tom Abuta	12:30 -1:00 pm	Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020	David Gatimu	1:30 - 2:00 pm	Break	All	2:00 - 4:00 pm	Plenary Discussions	Eric Nyadimo, Taskforce Chair	4:00 - 4:15 pm	Vote of Thanks and Closing	Eugene Lawi	END OF PROGRAMME		
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MIN.04/23/2020	Introduction to the Taskforce																																	
	The chair presented an overview of the Taskforce including its mandate, milestones to date and road map of remaining activities.																																	
MIN.05/23/2020	Regulations																																	
	A highlight of regulations in form of Power Point presentations was presented in line with the programme as follows a) Registration Regulations b) Cadastre and Survey Regulations c) Valuation Regulations d) Land Administration Regulations e) Physical Planning Regulations																																	
MIN.06/23/2020	Plenary Discussion																																	
	Eva Sawe and Nicodemus Mbwika were nominated to table the COG comments and inputs. Comments from Nicodemus: He appreciated work done to date and highlighted several issues touching on 1. Governance issues Centralized system with diversity, NLIS envisages integrated system. The system should not negate devolution. 2. Legal issues Offensive language 3. Administrative Issues The country having the necessary infrastructure to uptake the system Recommendations a) Director General to operate PLUPA system, development control should not be managed from the National level because the functions are devolved. There be established a national System whose standards the counties can use to develop their own systems then appropriate linkages be established. Response: There is need for establishment of standards to coordinate development control by both the national and county governments. b) With reference to PLUPA sec63 and67, development application for all types of development need to be done with the county																																	

8	Hon Barsosio	CECM Elgeyo Marakwet County
9	Hon. Charles Dadu	CECM Lands Kilifi County
10	Beatrice Chelangat	Planner, Nyeri County
11	Hon Ngeno K Barnabas - Kericho County	Chair CECMs Caucus
12	Mutuku Erastus	Narok County
13	Anita Wakoli	Trans Nzoia County
14	Charles Obondo	Planner Homa Bay County
15	Hon. Hamilton Parseina	CECM Lands Kajiado County
16	Veronicah Ndunge	Nandi County
17	Julius	
18	Sarah Masaki	Muranga County
19	Sylvia Inziani	Kericho County
20	Bii K Ng'eny	County Director of Planning, Makueni County
21	Alphonse Rotich	County Director Physical Planning, Baringo County
22	Joseph Shuel	CECM, Laikipia County
23	Elizabeth Mburu	Director, Meru County
24	Nicholas Waweru	Director Physical Planning, Kiambu County
25	Evans Kipruto	CoG
26	Emma Nyaboke	CoG
27	David Kitonga	Director Lands Kitui County
28	Hon Sereti Vivian Mpetti	CECM Lands Narok County
29	Hon Koima Kibiwott	CECM Baringo County
30	Nicodemus Mbweni	CoG, Secretariat
MIN.01/23/2020	Agenda	
	1. Program 2. Introduction to the Taskforce 3. Terms of Reference 4. Regulations 5. Plenary Discussion 6. Close	
MIN.02/23/2020	Preliminaries	
	• The Chair called the meeting to order at 11:52am. • Opening prayers were said by Mildred Ambani. • The Chair took members through the Agenda. • The Chair introduced the Taskforce Members and requested Hon. Ng'eno to introduce CoG to team.	
MIN.03/23/2020	MIN.02/23/2020-minute number not clear	
	The program was adopted as follows:	

MINUTES OF THE 23RD PUBLIC PARTICIPATION MEETING OF THE TASKFORCE ON FORMULATION OF RELATED REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES AND THE COUNCIL OF GOVERNORS (COG) HELD VIRTUALLY ON MONDAY 18TH MAY 2020 AT 11:00 AM.

Attendance of the Taskforce Members

S/No.	Name	Position
1	Eric Nyadimo	Chair
2	Rachel Dinda	Secretariat
3	Mildred Ambani	Member
4	David Gatimu	Member
5	Esther Omulele	Member
6	Victor Ouno	Member
7	Herbert Were	Member
8	Tom Abuta	Member
9	Mary Macharia	Joint Secretary
10	Julius Kahindi	Member
11	Samuel Nthuni	Member
12	Sereu Moinket	Member
13	Clarah Ketyenya	Joint Secretary
14	Edward Ole Kateiya	Member
15	Elizabeth Njoroge	Member
16	Jasper Mwenda	Member
17	Agnes Matunda	Secretariat
18	George Ruhara	Secretariat
19	Mugendi Moses	Joint Secretary
20	Caroline Kihara	Member
21	Carolyne Menin	Member
22	Truphosa Achar	Member
23	Charles Wamae	Member
24	Damaris Lukwo	Secretariat
25	Eugene Lawi	Member
26	Catherine Ochanda	Member
27	Stephen Chebii	Secretariat
28	James Nombi	Joint Secretary
29	Annette Omwoyo	Joint Secretary

Apologies

1.	Nancy Awere	Secretariat
2.	Peter Musyimi	Member
3.	Brian Kimutai	Member

COG members present

1	Eve Bosibori	Planner, Nyamira County
2	Robert Sangori	Homa Bay County
3	Alex Nthiwa	Chief Officer, Makueni County
4	Mwenda Riungu	County Planning Director, Tana River County
5	Maurice Otieno	Mandera County
6	James Ambuga	CoG
7	Eva Sawe	CoG

[illegible]

	• To validate the Forms on the system, there is need to convene a meeting with the developers • Professionals in the built environment should be users across the modules • System should be open and accommodating • The provision of manual payment of fees needs to be looked at as the system should be geared towards doing away with manual payments • Need to look critically at the Business Laws Amendment • Need to circulate the information on the website to all members of staff – Victor to take action
MIN.04/22/2020	Adjournment and Date of the Next Meeting
	Vote of Thanks was given by Caroline Wanjeri after which the Chair closed the meeting at 3.47pm. Closing prayers were said by Agnes Kwamboka. The NLC meeting was slated for Friday, 15 th of May 2020.

Minutes Read and Confirmed by:

Chairman  Date. 10/6/2020

Secretary  Date. 10/06/2020

Secretary  Date. 10-06-2020

- Establishment of the system is being vested with the DG – check on how the same can be shared with the County Director to ensure efficiency and decentralization of functions – check Reg. 4(3)
- Check on clause 12 and clause 13 on assignment of duties
- PLUPA has not assigned responsibilities to Municipal Authorities and other entities in secondary statutes – check on substantive establishments under PLUPA
- Have separate provisions for development control of projects of strategic national importance and inter-county projects
- The regulations need to be effectively mainstreamed
- On category of users, add Surveyor who would need to interact directly with the planning module to make decisions
- Look at provisions of Section 20 (i)(j) of PLUPA on functions of the County Director of Physical and Land Use Planning with regard to issuance of development permission. Structures to be established by the Director should be left to his discretion and need not be regulated
- Consider provisions of Section 60 of PLUPA in view of the proposed technical validation committee. The committee seems to perform the same functions with the authorities the application is circulated to
- The CS is better placed to consult the county governments rather than NLC on development control matters, as counties are direct players in the process
- There are cross-cutting roles that need further clarification

Valuation Regulations and Registration Regulations.

- Reg. 19(2)(b)
- Search fees were waived – under Reg. 14 – to relook
- Reg. 23 (3) – as drafted, it presents a gray area and should be relooked
- Check issue of minor errors
- Issue of electronic sealing and franking
- Reg. 16 on valuation is skeletal and needs to be firmed up.
- Chief Government Valuer is still tied to the collector of stamp duty.
- Applications be made directly to the Government Valuer

General Comments

- There are many forms which need to be relooked and merged
The basis of the Electronic Appeals Committee derive need to be clarified and mandate should be mainstreamed. If it is a quasi-judicial body, then it should be set up properly
- Have a representative of the CS in-charge of ICT
- It may be important to decentralize the operations of committee from Nairobi for efficiency
- Relook at the composition of membership
- Provide appeal to the court – ELC

	Immediate Feedback on Sereu's Presentation Mr. Cyrus Mbogo: need to introduce adequate restrictions/limitations on user access to avoid abuse of the system Survey Regulations Jasper Mwenda took the meeting through the survey regulations: Survey (Electronic Cadastre Transactions) Regulations, 2020 and Survey (Amendment) Regulations, 2020. Immediate Feedback on Mwenda's Presentation Mr. Paul Ndung'u: Regulation 17 on payment of fees to licensed surveyors needs to be refined. The Director of Survey should confer with the surveyor (to confirm) before approval/update of the cadastral map. Valuation Regulations Esther Omulele made the power-point presentation on valuation regulations: Stamp Duty (Valuation) Regulations, 2020 and Stamp Duty (Amendment) Regulations, 2020. She indicated that the regulations were anchored on Stamp Duty Act (Cap. 480). Physical Planning Regulations Mr. David Gatimu made the presentation for Physical and Land Use Planning. Immediate Feedback on Physical Planning Regulations Mr. Masinde (Director General, Physical Planning): What is being proposed should be anchored on substantive laws, any mix-ups and contradictions also need to be refined. He was appreciative of the Taskforce's efforts. Land Administration Regulations • Tom Abuta made the presentation on Land (Electronic Transactions) Regulations/ Rules, 2020, land administration processes and Land (Amendment) Regulations, 2020. • Mr. Abuta highlighted, inter alia, key terminologies such as 'electronic form,' 'electronic,' and 'user' that have been introduced in the regulations. There was a short lunch break. it was agreed that the sitting would reconvene for plenary session at 2:10pm.
MIN.03/22/2020	Plenary Session: Comments/Questions – Ministry of Lands & Physical Planning
	Planning Regulations • Reduce on the number of definitions • Reconsider the line spacing of documents presented during application as this makes the process cumbersome • Check on mandates granted to various actors in the regulations in line with those in PLUPA • There be clear definition of development conditions and permissions

8.	Michael Kagwe	MoLPP
9.	Monica Obongo	MoLPP
10.	Cyrus Muchoki	MoLPP
11.	Philip Abongo	MoLPP
12.	Paul Ndungu	MoLPP
13.	Andrew Khaemba	MoLPP
14.	Dr. Zubeda Mucheke	MoLPP
15.	Dr. Peter Mburu	MoLPP
16.	Irene Muttai	MoLPP
17.	Victor Olonde	MoLPP
18.	Charles Wanjohi	MoLPP
19.	Lucy Mburu	MoLPP
20.	Michael Muikiria	MoLPP
21.	Berita Choka	MoLPP
22.	Zaverio Kinyua	MoLPP
23.	Felix Maura	MoLPP
24.	Jeff Manthi	MoLPP
25.	Kahochio Machua	MoLPP
In Attendance		
1.	Julius Tarus	NLC-ICT
2.	Ben Amollo	
3.	Jacqueline Waihenya	LSK
4.	Rachel Wanyonyi	
5.	Innocent Muganda	
6.	Vikki Chiira	
7.	Lorna Mainnah	LSK
8.	Deborah Ontiri	LSK
9.	Havi	
10.	Nora	
11.	Maria	
MIN.01/22/2020 Preamble		
	• The Chair called the meeting to order at 10:17 am. • Opening prayers were said by Clarah Ketyenya. • The Chair formally welcomed members to the meeting. • Virtual meeting rules were outlined. • The Chair went through the virtual meeting programme. • The Ministry Representative, Ms. Esther Ogega, was asked to give opening remarks. • Heads of Departments/ Directors and their representatives were introduced. • The Chair formally introduced members of the Taskforce and gave a synopsis of what the Taskforce had done. • The Stakeholder-participation schedule was highlighted.	
MIN.02/22/2020 Power-point Presentations on Proposed Regulations		
	Registration Regulations Sereu Moinket took the meeting through the proposed regulations.	

MINUTES OF THE 22ND MEETING OF THE TASKFORCE ON FORMULATION OF RELATED REGULATIONS TO FACILITATE ELECTRONIC LAND TRANSACTIONS, REGISTRATION, CONVEYANCING AND OTHER RELATED ACTIVITIES (WITH HEADS OF DEPARTMENTS/ DIRECTORS IN THE MINISTRY OF LANDS AND PHYSICAL PLANNING) HELD VIRTUALLY ON THURSDAY MAY 14, 2020 AT 10:00 A.M.

Attendance of Taskforce Members

S.N.	Name	Position
1	Eric Nyadimo	Chair
2	Jasper Mwenda	Member
3	Mildred Ambani	Member
4	Agnes Matunda	Secretariat
5	Julius Kahindi	Member
6	Mary Macharia	Joint Secretary
7	Samuel Nthuni	Member
8	Sereu Moinket	Member
9	Clarah Ketyenya	Joint Secretary
10	Elizabeth Njoroge	Member
11	David Gatimu	Member
12	Truphosa Achar	Member
13	Herbert Were	Member
14	Moses Mugendi	Joint Secretary
15	Victor Ouno	Member
16	James Nombi	Joint Secretary
17	Tom Abuta	Member
18	Nancy Awere	Secretariat
19	Eugene Lawi	Member
20	Rachel Dinda	Secretariat
21	Edward Ole Kateiya	Member
22	Charles Wamae	Member
23	George Ruhara	Secretariat
24	Carolyn Menin	Member
25	Damaris Lukwo	Secretariat
26	Brian Kimutai	Member
27	Esther Omulele	Member
28.	Caroline Kihara	Member
29.	Stephen Chebii	Secretariat

Apologies

1.	Catherine Ochanda	Member
2.	Peter Musyimi	Member
3.	Annette Omwoyo	Joint Secretary

Attendance by Ministry of Lands and Physical Planning

1.	Esther Ogega	MoLPP
2.	P. K. Mwangi	MoLPP
3.	Augustine Masinde	MoLPP
4.	Edward Kosgei	MoLPP
5.	David Nyandoro	MoLPP
6.	Andrew Nyambeche	MoLPP
7.	Cyrus Mbogo	MoLPP

The Taskforce has since prepared the proposed Statutory instruments and Regulatory Impact Assessment Report in line with the existing Land Laws and the Statutory Instrument Act, 2013 as below:-

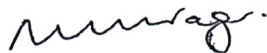
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2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
4. Stamp Duty (Amendment) Regulations, 2020;
5. Land (Amendment) Regulations, 2020;
6. Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
7. The Land (Allocation of Public Land) (Amendments, Regulations), 2020; and
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

Given the above, the Ministry has placed the instruments in its Website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual Stakeholders participation/engagements will also be carried out between Thursday May 14, 2020 to Friday 22, 2020 as per the notice in the Ministry's Website and Daily Nation dated Thursday May 8, 2020.

Please note that all Civil Society meeting will be held on 22nd May 2020 at 10.00am. It will be a Virtual meeting. Kindly share contacts of your participant/s.

Thank you for your continued support and cooperation.

Yours Sincerely



DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

Tel: +254(0)20 2718050
Fax: +254(0)202724470
When replying please quote

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Mr. George Onyango
Regional Director
We Effect
Lower Kabete Ngecha Road
P. O Box 45767-00100
NAIROBI

Dear

Onyango

RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a Taskforce with membership from the National Government, National Land Commission, Council of Governors and private sector was appointed vide Gazette Notice No.2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

The Taskforce has since prepared the proposed Statutory instruments and Regulatory Impact Assessment Report in line with the existing Land Laws and the Statutory Instrument Act, 2013 as below:-

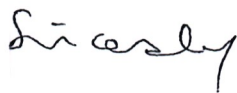
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Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

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Fax: +254(0)202724470
When replying please quote

MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Ms. Pauline Vata
Executive Director
Haki Jamii
P. O Box 11356-00100
NAIROBI

Dear *Vata*

**RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS**

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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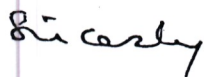
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DR. NICHOLAS MURAGURI

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Mr. Kennedy Masime
Executive Director
Land Development Governance Institute
Prof. Nelson Awori Centre, 5th Floor
Suite B6, Ralph Bulche Road
P O Box 8222-00100
NAIROBI

Dear *Masime.*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

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Yours



DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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**MINISTRY OF LANDS AND PHYSICAL PLANNING
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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Mr. Nyang'ori Ohenjo
Chief Executive Officer
Centre for Minority Rights Development
Dam Estate, Suite No. 132, Off Langata Road
P. O Box 14692
NAIROBI

Dear *Ohenjo*

**RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS**

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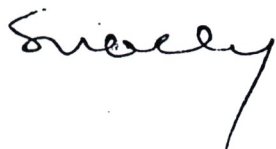
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PRINCIPAL SECRETARY

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Chief Administrative Secretary

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Ms. Annette Mbogoh
Ag. Executive Director
Kituo Cha Sheria
P. O Box 7483-00300
NAIROBI

Dear

**RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS**

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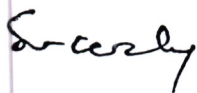
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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Ms. Fridah Githuku
Executive Director
GROOTS Kenya
Divyam House no. 2, Cedar
Road off Langata Road Westlands
P. O Box 10320
NAIROBI

Dear

Fridah

RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS

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PRINCIPAL SECRETARY

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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Mr. Samuel Orlando
The Executive Director
Pamoja Trust
P.O BOX 10269-00100
NAIROBI

Dear

Samuel

**RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS**

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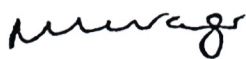
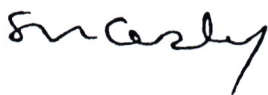
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DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Ken Otieno
Ag. Executive Director
Resource Conflict Institute (RECONCILE)
Off Oginga Odinga Avenue, next to
Sunrise Evans Hospital
P.O Box 7150-20100
NAKURU, KENYA

Dear

RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS

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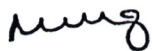
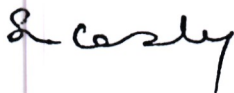
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DR. NICHOLAS MURAGURI

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Anne Ireri
Executive Director
Federation of Women Lawyers (FIDA)
Amboseli Road, Off Gitanga Road
P.O. Box 72219-00200
NAIROBI

Dear 

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

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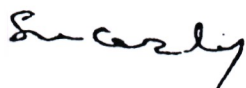
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DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

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Send By
seamster on
13/5/20 (Reg.)

MINISTRY OF LANDS AND PHYSICAL PLANNING
OFFICE OF THE PRINCIPAL SECRETARY

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 11, 2020

Ms. Faith Allube
Chief Executive Officer
Kenya Land Alliance
Miti Mingi Mbaruk Road
P. O Box 2177-20100
NAKURU

Dear

Allube.

RE: INVITATION TO A STAKEHOLDER-ENGAGEMENT FORUM ON
FORMULATION OF ELECTRONIC LAND TRANSACTION REGULATIONS

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Thank you for your continued support and cooperation.

Yours *Sincerely*

[Signature]

DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

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MINISTRY OF LANDS AND PHYSICAL PLANNING

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Mr. Joshua Oigara
The Chairperson
Kenya Bankers Association
13th Floor, International House
Mama Ngina Street
P.O Box 73100 – 00200
NAIROBI

Dear

Oigara

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

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The taskforce wishes to engage the Kenya Property Development Authority on the draft regulations on May 25th 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *sincerely*

muraguri

DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 14, 2020

Ms. Elizabeth Mwangi
Chief Executive Officer
Kenya Property Development Association
Fatima Flats, Suite 48
Marcus Garvey Road off Argwings Kodhek Road
P. O Box 76154-00508
NAIROBI

Dear *Mr. Mwangi*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic Land Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

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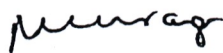
The Taskforce has since prepared the proposed Statutory Instruments and Regulatory Impact Assessment Report in line with the existing land laws and the Statutory Instrument Act, 2013 as below:-

1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
4. Stamp Duty (Amendment) Regulations, 2020;
5. Land (Amendment) Regulations, 2020;
6. Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
7. The Land (Allocation of Public Land) (Amendment) Regulations, 2020; and
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

Given the above, the Ministry has placed the instruments in its website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual stakeholders participation/ engagements will also be carried out between Thursday May 14, 2020 to Friday 22, 2020 as per the notice in the Ministry's website and Daily Nation dated Thursday May 8, 2020.

Thank you for your continued support and cooperation.

Yours



DR. NICHOLAS MURAGURI

PRINCIPAL SECRETARY

Copy to: Cabinet Secretary

Chief Administrative Secretary

Encl



MINISTRY OF LANDS AND PHYSICAL PLANNING

Office of the Principal Secretary

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TFELTR/SEM/REGS/COM/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 7, 2020

Mr. Gikonyo Gitonga
The Chairperson – Lands and Physical Planning Sector Board
Kenya Private Sector Alliance
5th Floor, Shelter Afrique Building, Mamlaka Rd.
P O Box 3556-00100
NAIROBI

Dear

Gikonyo

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS, 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as electronic land transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a taskforce with membership from the National government, National Land Commission, Council of Governors and private sector was appointed vide gazette Notice No. 2170 of March 13, 2020 to assist the Ministry in the formulation of Land

The Taskforce has since prepared the proposed Statutory instruments and Regulatory Impact Assessment Report in line with the existing Land Laws and the Statutory Instrument Act, 2013 as below:-

1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
4. Stamp Duty (Amendment) Regulations, 2020;
5. Land (Amendment) Regulations, 2020;
6. Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
7. The Land (Allocation of Public Land) (Amendments, Regulations), 2020; and
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020.

Given the above, the Ministry has placed the instruments in its Website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual Stakeholders participation/engagements will also be carried out between Thursday May 14, 2020 to Friday 22, 2020 as per the notice in the Ministry's Website and Daily Nation dated Thursday May 8, 2020.

The taskforce wishes to engage **Information & Communication Technology Authority** on the draft regulations on May 19th 2020 at 10.00am. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *Sincerely*

Nicholas Muraguri

DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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MOLPP/TFELTR/REGS/01

Ardhi House
1st Ngong Road
P.O. Box 30450- 00100
Nairobi, Kenya

May 14, 2020

Dr. Katherine Getao, EBS
Chief Executive Officer
Information & Communication Technology Authority
Teleposta Tower, 12th Floor
Kenyatta Avenue
P. O Box 27150-00100
NAIROBI

Dear *Getao*

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Lands and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of Doing Business as far as Electronic End Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a Taskforce with membership from the National Government, National Land Commission, Council of Governors and private sector was appointed vide Gazette Notice No.2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transactions (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

electronic land transactions, registration and conveyancing. The proposed statutory instruments are as follows:

1. Land Registration (Electronic Transactions) Regulations, 2020;
2. Survey (Electronic Cadastre Transactions) Regulations, 2020;
3. Stamp Duty (Valuation) Regulations, 2020;
4. Stamp Duty (Amendment) Regulations, 2020;
5. Land (Amendment) Regulations, 2020;
6. Land (Extension and Renewal of Leases) (Amendment) Rules, 2020;
7. The Land (Allocation of Public Land) (Amendments, Regulations), 2020;
8. Physical and Land Use Planning (Electronic Development Control and Enforcement System) Regulations, 2020; and
9. Survey (Amendment) Regulations, 2020.

A regulatory impact statement for the proposed regulations has been prepared (enclosed for reference).

The taskforce wishes to engage the **Ministry of Information, Communication & Telecommunication** on the draft regulations on **May 19th 2020 at 10.00am**. The purpose of this letter, therefore, is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *sincerely*
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DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

Copy to: Cabinet Secretary
Chief Administrative Secretary

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P.O. Box 30450- 00100
Nairobi, Kenya

MOLPP/TFELTR/REGS/01

May 13, 2020

Mr. Jerome Ochieng
Principal Secretary
Ministry of Information, Communication & Telecommunication
Teleposta Towers, Kenyatta Ave. Koinange Street
P.O Box 30025-00100
NAIROBI

Dear ~~Mr. Ochieng~~ Mr. Ochieng

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The above subject matter refers.

The Land Act (No. 6 of 2012) and the Land Registration Act (No. 3 of 2012) require the Ministry and the National Land Commission to develop and implement a National Land Information Management System (NLIMS) and to maintain a land register in electronic form. It is against the backdrop of these legal provisions and the broader e-government strategy, which is meant to improve service delivery, that the Government embarked on the development of NLIMS, a system that links and networks all land-related agencies in the country.

The Ministry appointed a taskforce vide Gazette Notice No. 2170 of March 13, 2020 to review the existing legal framework to enable effective implementation of NLIMS. The taskforce has developed various sets of regulations to support

Given the above the Ministry has placed the instruments in its website and the stakeholders are invited to make inputs and submit written submissions on the same. Virtual Stakeholders participatory/engagements will also be carried out between Thursday May 14, 2020 to Friday 2020 as per the notice in the Ministry's Website and Daily Nation dated Thursday May 8, 2020.

The taskforce wishes to engage the **Association of Licensed Surveyors of Kenya** on the draft regulations on May 22nd 2020 at 10.00am. The purpose of this letter, therefore is to invite you to the said meeting. Attached please find schedule and dates of the meetings. Be keen to note your specific organization virtual meeting dates (Zoom)

Thank you for your continued support and cooperation.

Yours *sincerely*



DR. NICHOLAS MURAGURI
PRINCIPAL SECRETARY

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Ardhi House
1st Ngong Road

Mr. Julius Rotich
Chairman
Association of Licensed Surveyors of Kenya
P.O Box 62093-00200
NAIROBI

14th May 2020

Dear

RE: PROPOSED LAND TRANSACTIONS (ELECTRONIC) REGULATIONS 2020

The Ministry of Land and Physical Planning in collaboration with the National Treasury, National Land Commission and other key stakeholders is in the process of developing various sets of Regulations to facilitate Ease of doing Business as far as Electronic Land Transactions is concerned so as to enhance transparency, accountability and efficiency in land administration and management.

To this end, a Taskforce with membership from the National Government, National Land Commission, Council of Governors and private sector was appointed vide Gazette Notice No. 2170 of March 13, 2020 to assist the Ministry in the formulation of Land Transaction (Electronic) Regulations, 2020 and also prepare a Regulatory Impact Statement in line with the Statutory instrument Act, 2013.

The Taskforce has since prepared the proposed statutory instrument and Regulatory Impact Assessment Report in line with the existing Land Laws and the Statutory instrument Act 2013 as below:-

1. Land Registration (Electronic Transactions) Regulations 2020.
2. Survey (Electronic Cadastre Transactions) Regulations 2020.
3. Stamp Duty (Valuation) Regulations 2020.
4. Stamp Duty Amendment) Regulations 2020.
5. Land (Amendment) Regulations 2020.
6. Land (Extension and Renewal of Leases) Amendment Rules 2020.
7. The Land (Allocation of Public Land) Amendments Regulations) 2020: and
8. Physical and Land use Planning (Electronic Development Control and Enforcement System, 2020.