



THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 28 JUL. 2020

DAY.

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THE REGULATIONS

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EXPLANATORY MEMORANDA

- I. The Land Registration (Electronic Transactions) Regulations, 2020
(L.N No. 130 of 2020)
- II. The Land (Amendment) Regulations, 2020
(L.N No. 131 of 2020)
- III. The Survey (Electronic Cadastre Transactions) Regulations, 2020
(L.N No. 132 of 2020)
- IV. The Survey (Amendment) Regulations, 2020
(L.N No. 133 of 2020)

(ANNEXURES 1)

LEGAL NOTICE No. 130

THE LAND REGISTRATION ACT

(No. 3 of 2012)

IN EXERCISE of the powers conferred by section 110 of the Land Registration Act, 2012 the Cabinet Secretary for Lands and Physical Planning, after taking into account the advice of the National Land Commission, makes the following Regulations—

**THE LAND REGISTRATION (ELECTRONIC TRANSACTIONS)
REGULATIONS, 2020**

PART I—PRELIMINARY

- | | |
|---|-----------------|
| 1. These Regulations may be cited as the Land Registration (Electronic Transactions) Regulations, 2020. | Citation. |
| 2. These Regulations shall apply to the system in the registries set out in the First Schedule. | Application. |
| 3. In these Regulations, unless the context otherwise requires— | Interpretation. |
| “Act” means the Land Registration Act, 2012; | No. 3 of 2012 |
| “advanced electronic signature” has the meaning assigned to it in the Kenya Information and Communication Act, 1998; | No. 2 of 1998 |
| “authorized user” means an advocate qualified to practice under the Advocates Act who has been granted permission to access, query any information or submit any application, instrument or document in relation to any transaction in accordance with these Regulations on behalf of another person; | Cap. 16 |
| “electronic” has the meaning assigned to it in the Kenya Information and Communication Act, 1998; | No. 2 of 1998 |
| “electronic form” has the meaning assigned to it in the Kenya Information and Communication Act, 1998; | No. 2 of 1998 |
| “personal identification number (PIN)” means the personal identification number (PIN) issued under section 11 of the Tax of Procedures Act, 2015; | No. 29 of 2015 |
| “system” means the National Land Information System established in accordance with section 6(h) of the Land Act, 2012; | No. 6 of 2012 |
| “user” means a person who has signed up to the system and accepted the terms and conditions; | |
| “user account” means an online account created to allow access or submission of information in the system. | |

PART II—ELECTRONIC LAND REGISTRY

4. (1) The Chief Land Registrar shall maintain an electronic land registry established in accordance with section 7 of the Act. Electronic registry.
- (2) The electronic land registry shall be part of the system.
5. (1) The Chief Land Registrar shall maintain— Form of registers.
No. 27 of 2016
- (a) an electronic land register which shall contain the features specified in section 7(4) of the Act; and
- (b) an electronic community land register containing the particulars specified in section 8(1) of the Act and section 21(1) of the Community Land Act, 2016.
6. (1) All registry transactions under the Act shall be carried out through the system in the registries set out in the First Schedule. Electronic Registry transactions.
- (2) The Registrar may electronically, through the system—
- (a) issue a notice, certificate or any document which is required to be issued by the Registrar under the Act;
- (b) certify a form, document or extract of a document required to be certified by the Registrar under the Act; or
- (c) send any document issued or certified by the Registrar to the electronic addresses provided by a user for that purpose.
7. For the purposes of registration, the Registrar shall refer to the electronic cadastre in order to verify information relating to a parcel, where necessary. Access to the Cadastral Map.
8. (1) A person who wishes to use or undertake a transaction shall sign up to the system by providing the following information— Registration as a user of the system.
- (a) in the case of a natural person—
- (i) the name;
- (ii) the national identity card or alien card number;
- (iii) the personal identification number (PIN);
- (iv) a current passport size photo as profile picture;
- (v) personal contact details including postal address, email address, the telephone number and such other details as the system may require.
- (b) in the case of a legal person or a community—
- (i) the name;
- (ii) the incorporation or registration number;
- (iii) the personal identification number (PIN);
- (iv) the contact details including postal address, email address, the telephone number and such other details as the system may require; and

(v) the information required under paragraph (a) of its authorized representative.

(3) A user shall upon signing up accept the terms and conditions set out in the Second Schedule to these Regulations.

9. (1) There shall be a user account, user name and password created in the system for every user to enable the user log into the system.

User account.

(2) As an additional security measure, a One Time Password (OTP) in the form of a text message shall be sent to the user's Telephone Number to authenticate every log-in.

(3) A user shall keep the log in credentials, particularly the password, confidential to avoid unauthorized access to the system.

(4) A user may change his or her log in credentials from time to time.

(5) Every user shall apply or submit any instrument or document for registration or recording, under the Act, electronically through their user account.

10. An advocate shall be an authorized user upon providing additional information in Form eLRA 1 set out in the Third Schedule or as may be modified for use in the system.

Authorized user.

11. (1) A user shall —

User obligations.

(a) access the system and carry out transactions under the Act in the system in an individual capacity or through an authorized representative;

(b) complete such formalities as are required before accessing the system

(c) be responsible for the security of his or her login credentials and for any access made using the login credentials;

(d) use the information obtained from the system for lawful purposes only;

(e) be responsible for the accuracy and completeness of all information provided or submitted when using the system; and

(f) surrender or deactivate accounts of persons who have ceased being their authorized representatives.

(2) Where a user is a legal person or community, the user shall be responsible for —

(a) the selection and nomination of the user's authorized representative accessing the system on behalf of their organization;

(b) ensuring compliance of paragraph (1) by the authorized representatives; and

(c) notification of revocation of the nomination or employment of any authorized representative.

(3) A user shall not—

- (a) impersonate another person or entity;
- (b) collect information about other users;
- (c) make available disruptive commercial messages or advertisements or communications which are prohibited by law in the system;
- (d) reverse engineer or otherwise attempt to extract any source code;
- (e) use any robot, spider, site search or retrieval application, or other device to retrieve or index any portion of the system;
- (f) copy, exchange, disclose or use the land related information accessed from the system for any other purpose other than for purposes of the transactions under these Regulations without prior written approval of the Cabinet Secretary;
- (g) distribute, sell or combine any information accessed through the system; and
- (h) use the system or its products and services in any manner that contravenes the provisions of the Kenya Information and Communication Act, 1998, the Computer Misuse and Cybercrimes Act, 2018 or any other written law.

No. 2 of 1998
No. 5 of 2018
Searches.

12. (1) A user who wishes to conduct an official search in the electronic register shall apply to conduct an official search through the system and pay the prescribed fees.

(2) A user may under paragraph (1) apply to undertake the following categories of searches—

- (a) a current status search of which the result from the search shall include particulars of the subsisting entries in the register, certified copies of any document, the cadastral map, or plan filed in the registry; or
- (b) a historical search of which the result shall provide a history of computer folio and list all transactions availed in a chronological order together with the status and date for each entry.

PART III—PRE-REGISTRATION PROCESS

13. Pursuant to regulation 87(1) of the Land Registration (General) Regulations, 2017, a user shall use the forms set out in the Sixth Schedule to the Land Registration (General) Regulations, 2017, in the system subject to such modifications as the Chief Land Registrar may make, to enable the use of the forms electronically, in the system.

Forms.
LN 278/2017

14. (1) An authorized user shall obtain and maintain client instructions in respect of each electronic transaction in Form eLRA 2 set out in the Third Schedule.

Preparation of
instruments and
documents.

(2) For the purposes of preparation of an instrument or document for electronic registration or filing, an authorized user shall—

- (a) enter all the required information in the applicable electronic form;
- (b) cause the instrument or documents to be executed by use of advanced electronic signature of parties;
- (c) attach the relevant supporting documents required under the Act.

(3) Where it is not possible to execute the instruments or documents by way of an advanced electronic signature, the authorized user may—

- (a) enter the required information in the applicable electronic form;
- (b) print the duly filled form for execution and attestation;
- (c) scan and upload the duly executed and attested form onto the system; and
- (d) attach the relevant supporting documents as may be required under the Act.

15. (1) Where applicable, the authorized user shall submit the instrument or document for valuation in electronic form.

Valuation for stamp duty.

(2) Upon submission of the instrument for valuation under paragraph (1), the authorized user shall receive an electronic notification indicating the date and time when the request was received.

(3) The authorized user shall be notified of the assessed duty payable through SMS notification, email notification or any other form of electronic transmission to the contacts of a user provided during signing up.

16. The authorized user shall pay stamp duty through the Kenya Revenue Authority payment platform.

Payment of stamp duty.

PART IV—REGISTRATION PROCESS

17. (1) An authorized user shall submit the application, instruments or documents for registration in the system and pay the prescribed fee, where applicable.

Submission for registration.

(2) An instrument or document shall be deemed to be received for registration when the system generates a notice of electronic filing with a tracking number for the electronically filed application, instrument or document.

(3) An application, instrument or document that is submitted electronically outside the business hours specified in regulation 2 of the Land Registration (General) Regulations, 2017 shall be deemed to have been received on the next business day.

LN 278/2017

18. (1) Subject to regulation 8 of the Land Registration (General) Regulations, 2017, the tracking number assigned to the application or instrument by the system shall determine the priority of registration of the instrument.

Priority of registration.

(2) The Registrar shall ensure that applications for registration are dealt with in the order of the tracking number assigned at the time of lodging of the instrument.

19. An Authorized user shall manually present documents which the Registrar requires the production of an original.

Lodging of physical documents. Registrar's source of information.

20. The Registrar shall, for the purposes of processing the applications, rely on the documentation and data available within the system and may, where necessary, refer to the backup of manual records.

21. (1) The Registrar shall reject an application, instrument or document that appears—

Rejection of instruments.

(a) to be substantially defective; or

(b) to have been submitted for registration without the relevant supporting documents required under the Act or the Land Registration (General) Regulations, 2017.

LN 278/2017

(2) An authorized user shall, upon making the relevant corrections, lodge an instrument or document rejected under paragraph (1) afresh as though it were a new transaction.

(3) An authorized user whose application has been rejected under regulations 2 may appeal in the manner provided under regulation 37 of Land Registration (General) Regulations, 2017.

LN 278/2017

22. (1) The registration of an instrument or document shall be completed upon the approval of the transaction and the making of corresponding entries into the register by the Registrar.

Registration.

(2) Upon registration, there shall be an electronically generated notice to the effect that the document has been registered.

23. (1) The Registrar shall pursuant to section 30 of the Act issue an electronic certificate of title or lease in accordance with regulation 31(1) or (2) respectively of the Land Registration (General) Regulations, 2017.

Electronic certificate of title or lease. LN 278/2017

(2) The electronic certificate of title or lease shall contain unique serial numbers and security features which can be used to verify the authenticity of the certificate.

24. The Registrar shall make the registered instruments and documents available for download by the authorized user or any person conducting a search under regulation 12.

Availability of documents.

PART V — TRANSITIONAL PROVISIONS

25. (1) Where a transaction cannot be carried out using the electronic registration system, the person seeking to carry out the transaction shall carry out the transaction through such other means as the Chief Land Registrar may determine.

Manual transactions.

(2) An instrument or document filed and registered electronically at the registry under these Regulations has the same effect as if that instrument or document were in the form of a paper document.

FIRST SCHEDULE

REGISTRIES TO WHICH THESE REGULATIONS
SHALL APPLY (r. 2)

1. Nairobi Land Registry

SECOND SCHEDULE

TERMS AND CONDITIONS OF USE (r. 8(3))

SECOND SCHEDULE

TERMS AND CONDITIONS OF USE (r. 8(3))

1. Introduction
 - (a) The National Land Information System is an online system developed by the Government of Kenya through the Ministry of Lands and Physical Planning in collaboration with the National Land Commission. It is a system created for convenience in conducting land transactions.
 - (b) Upon registration to the system, a user is deemed to have accepted the terms and conditions and will equally be bound by the same. Once the user has completed the sign up process, a contract detailing the terms and conditions for use is entered into between the user and the system operators.
2. Availability of service and support
 - (a) The Government of Kenya aim is to ensure accessibility to NLIS at all times, however there could be service interruption to allow for upgrading or maintenance of the system.
 - (b) The system shall be available around the clock for searching for the copy or image of any instrument, dealing, or document in the system or the lodgment of documents through the system.
 - (c) Processing of electronic documents shall be done during the business hours when the back-end processes shall be available.
 - (d) The system support and back-end processes shall be available during the business hours set out in Regulation 2 on the business days set out in Regulation 4 of the Land Registration (General) Regulations, 2017.
 - (e) The Cabinet Secretary reserves the right to suspend the system in whole or in part in the circumstances where a significant breach of security has occurred or that a security system has failed that compromises or that could compromise the integrity or security of the system's databases or service until such security breach or failure has been rectified.
 - (f) The Ministry will endeavour to provide you with the services at all times or at any specific times or will be able to operate at all times error-free. Ministry makes no warranties in regard to the availability of services but all reasonable efforts will be made to provide the best possible service to you. Notices regarding planned system outages will be made available on the Ministry's website.
3. Obligations of Ministry

The Ministry shall:

- (a) Endeavour to maintain this system (NLIS) in good operational condition throughout the term of this agreement.
- (b) Endeavour to inform the users in cases of scheduled and/or unscheduled system maintenance.
- (c) Assist you to understand the operational requirements and any protocols adopted from time to time for use in the system.
- (d) Comply with all statutory and regulatory requirements imposed on the Ministry regarding the implementation and functionality of the system.

4. Security of the System

- (a) The User is responsible for maintenance of the confidentiality and control of all Security Measures associated with the use by the user (s). These Security Measures involve the use of digital signatures and digital certificates and are managed the Ministry.
 - (b) You are responsible for the selection and nomination of those of your people who you intend to be Subscribers and, therefore, users of the Security Measures.
 - (c) The Ministry reserves the right to reject with reasons thereof an application by any Applicant.
 - (d) You must promptly notify the Cabinet Secretary in the Ministry if a Subscriber stops working for you.
- (e) You are solely responsible for ensuring that the users comply with the User Obligations.
- (f) Any use of the NLIS by any person with access to the Security Measures used or made available to you or any of your people (whether authorized by you or not) constitutes sufficient authority for the Ministry to:
 - (i) act on any enquiries, provide such information, update its registers or to otherwise transact such dealings, with or under the instruction of that person; and
 - (ii) charge fees for the use of the products and services associated with NLIS.
 - (g) You shall promptly notify the Cabinet Secretary in the Ministry as soon as you become aware that any of the Security Measures used or available to you or any of your people are or have been compromised, or if you are aware of circumstances which give rise to a risk that those Security Measures have been compromised.
 - (h) You agree to help the Ministry with any investigation of any suspected or actual compromise of any of those Security Measures.
 - (i) Any activity by a user in the system shall be catalogued and an audit trail of such activity created in the system.
 - (j) You may request revocation of any of the Security Measures available to or being used by any of your people. Your people may also request revocation of their own Security Measures. The Ministry reserves the right at any time to revoke the Security Measures being used by you or any of your people in order to safeguard the integrity and security of NLIS databases.

Disclaimer

The Ministry will be held liable to the extent permissible in the relevant statute but will not be liable for acts of omission or commission out of its control.

5. Data Privacy Statement

- (a) The Ministry collects the applicant's personal information with the applicant's consent when the application is made for authorization to access the National Land Information System.
- (b) The Ministry does not on-board minors (any person under 18 years of age) except where an applicant additionally registers on their behalf as their parent and/guardian.
- (c) The information the Ministry collects and stores about the applicant includes but is not limited to the following: applicant's identity including name, photograph, address, location, phone number, identity document type and number, date of birth, email address, age, and gender.
- (d) The applicant consents to the Ministry making and retaining photocopies of personal information and all other documents provided in support of the application which will be kept for the term of the agreement for the purpose of enforcing the agreement.
- (e) The Ministry may make inquiries deemed necessary to verify the information provided in the application.
- (f) The information and documentation provided will be used to administer the authorization to access and use the system.
- (g) The Ministry may disclose your information to:
 - (i) Law enforcement agencies, regulatory authorities, courts or other statutory authorities in response to a demand issued with the appropriate lawful mandate and where the form and scope of the demand is compliant with the law;
 - (ii) Publicly available and/or restricted government databases to verify applicant's identity information in order to comply with the regulatory requirements;
 - (iii) Any other person that the Ministry deems legitimately necessary to share the data with.
- (h) The Ministry shall not release any information to any individual or entity that is acting beyond its legal mandate.
- (i) The Ministry has put in place technical and operational measures to ensure integrity and confidentiality of the applicant's data via controls around: information classification, access control, cryptography, physical and environmental security and monitoring and compliance.
- (j) Subject to legal and contractual exceptions, the applicant has rights under data protection laws in relation to their personal data. These are listed below:
 - (i) right to be informed that the Ministry is collecting personal data about the applicant

- (ii) right to access personal data that the Ministry holds about the applicant and request for information about how the Ministry will process it;
- (iii) right to request that the Ministry correct the personal data where it is inaccurate or incomplete;
- (iv) right to request that the Ministry erase the personal data noting that the Ministry may continue to retain the information if obligated by the law or entitled to do so;
- (v) right to object and withdraw the consent to processing of personal data. The Ministry may continue to process it if it has a legitimate or legal reason to do so;
- (vi) right to request restricted processing of the personal data noting that the Ministry may be entitled or legally obligated to continue processing the data and refuse the request;
- (vii) right to request transfer of the applicant's personal data (in an electronic format).
- (viii) the Ministry may need to request specific information from the applicant to help it confirm the applicant's identity and also ensure their right to access their personal data (or to exercise any of the other rights). This is a security measure to ensure that personal data is not disclosed to any person who has no right to receive it. The Ministry may also contact the applicant to ask for further information in relation to the applicant's request in order to speed up the response.

6. Copyright

The Government of the Republic of Kenya is the owner of all rights in and to the National Land Information System. The complete content of the National Land Information System platform is protected by the Copyright Laws of the Republic of Kenya and reproduction or redistribution of that content without the permission of the Government of the Republic of Kenya is strictly prohibited.

7. General Terms

- (a) The parties commit to a cooperative environment in the performance of the respective obligation to ensure any system difficulty and/or improvement is addressed.
- (b) The Ministry reserves the right to change and adjust these terms and conditions without any further reasons as long as it is necessary due to legal adjustments or technical progress.
- (c) The Ministry reserves the right to block the authorized user from the ability to upload content to National Land Information System if a violation of this agreement exists.
- (d) These terms and conditions are to be read and construed according to the laws of the Republic of Kenya, and you agree to submit to the jurisdiction of this country.
- (e) These terms and conditions record the entire agreement. If any provision of these terms and conditions are held by a court to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute or regulation it is to be severed so that the validity and enforceability of the remaining provisions are not affected.

8. User feedback

- (a) Feedback on user experience in the use of the system and specifically any complaints, complements and suggestions for improvement are highly encouraged.
- (b) The feedback in paragraph 1 can be channelled through the feedback portal in the system or through the address below:

Cabinet Secretary
Ardhi House
1st Ngong Avenue, off Ngong Road
Email: info@ardhi.go.ke
Tel: +254 202718050 / 204803886
P.O. Box 30450-00100
NAIROBI

I have read and understood the provisions of these terms and obligations and hereby agree to be so bound.

Name..... Sign Date.....

THIRD SCHEDULE

Form eLRA1

(r. 10)

The Chief Land Registrar
Ardhi House
Nairobi

Name/Partnership/LLP:		Id no./Reg. No./P.105	
Tel. No.		E-Mail Address:	
Physical Address:		Postal Address: Postal Code: Town:	
Contact Person Name:		P.105/	
Tel No.		Email Address	
In case of Partnership/LLP, individual authorised users:			
NAME	ID NO.	P.105/	TEL EMAIL

3. *The advocate must verify the identity of their client;*
4. *The advocate must retain the evidence they have relied on to support those certifications;*
5. *Where the client is signing this form under a Power of Attorney the identity that is required to be established is that of the attorney. Attach a copy of the Power of Attorney.*

Made on the 9th July, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 131

THE LAND ACT, 2012

(No. 6 of 2012)

THE LAND (AMENDMENT) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 160 of the Land Act, 2012, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE LAND (AMENDMENT) REGULATIONS, 2020

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

2. The Land Regulations, 2017, in these Regulations, referred L.N. 280/2017. to as the principal Regulations, are amended in regulation 2 by inserting the following new definitions in proper alphabetical sequence—

“authorised user” means a person who has been granted permission to access, query on any information or submit any information or document in relation to a transaction under these Regulations;

“Chief Land Registrar” means the Chief Land Registrar appointed under section 12 of the Act;

No. 3 of 2012

“electronic” means anything relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

“electronic form” means any information generated, sent, received or stored in magnetic, optical, computer memory, microfilm or similar device;

“System” means the National Land Information System developed pursuant to paragraph 6 (h) Act; and

“user” means a person who has created an online electronic account for access or submission of information by electronic means in the System, and may include a property owner or a professional.

**EXPLANATORY MEMORANDUM TO THE LAND REGISTRATION (ELECTRONIC
TRANSACTIONS) REGULATIONS, 2020**

PART I

Name of the Statutory Instrument	The Land Registration (Electronic Transactions) Regulations, 2020
Name of the parent Act	The Land Registration Act, 2012
Enacted Pursuant to	Section 110 of the Land Registration Act, 2012
Name of the Ministry	Ministry of Lands and Physical Planning
Gazetted on	July 14, 2020
Tabled on	

PART II

1. Purpose of the Statutory Instrument

These Regulations provide for the procedure of conducting electronic land transactions and shall initially apply to the Nairobi Registry and thereafter will be rolled out to other Registries.

The Regulations also seek to provide for electronic submission and registration of instruments or documents having regard to the Advocates Act (Cap. 16), the Kenya Information and Communications (Amendment) Act (No. 41A of 2013) and the amendments introduced by the Business Laws (Amendment) Act, 2020.

2. Legislative Context

The Land Act, 2012 at Section 6(h) requires the Cabinet Secretary, Lands and Physical Planning to coordinate the development and implementation of a National Land Information System in collaboration with the National Land Commission.

The Land Registration Act, 2012 recognizes electronic land information management through the maintenance of electronic registers and the dissemination of information in such registers by electronic means.

The enactment of the Business Laws (amendment) Act, 2020 entrenched electronic land administration and management of land information by amending various critical statutes bringing them into the 21st century through the introduction and/or recognition of new phenomena such as electronic signatures, electronic certificates of titles and electronic documents. These Regulations will thus push this further by prescribing guidelines for registration of interests in the system.

The other statutory instruments related and published alongside this instrument include; the Land Registration (Electronic Transactions) Regulations, 2020; the Survey (Electronic Cadastre Transactions) Regulations, 2020; the Survey (Amendment) Regulations, 2020; the Land (Allocation of Public Land) (Amendment) Regulations 2020; and the Land (Amendment) Regulations, 2020, Land (Extension and Renewal) (Amendment) Rules, 2020.

3. Policy Background

The Constitution details the land policy principles which must be adhered to when holding and managing land. Among the national land policy principles are equity, efficiency, security of tenure, sustainable and productive management of land resources, transparency and cost-effective administration of land and conservation of ecologically sensitive areas.

The formulation of the National Land Policy (Sessional Paper No. 3 of 2009) set the tone to guide the country towards a sustainable and equitable use of land. The policy addresses issues of land management and administration in Kenya and particularly recognized the need to improve the quality of land information through computerization both at the national and local levels. This is because land information in Kenya is currently held manually thus occasioning amongst others; inefficiency, delay, fraud and loss of revenue. The policy prescribes the establishment of national guidelines on land information governing matters such as land information standards, security, dissemination and pricing.

It is against this backdrop, that a strategic shift to digitization of land records and automation of land processes was mooted and crystallized with the introduction of Section 6(h) of the Land Act, 2012. This section empowered the Cabinet Secretary in charge of lands to develop a National Land Information System (NLIS) in collaboration with the National Land Commission.

4. Consultation outcome

The formulation of the statutory instruments has been spearheaded by a ministerial taskforce. However, it is critical from the onset to mention that the statutory instruments have been formulated during the COVID-19 pandemic period hence severely affecting the consultative process as far as physical interaction is concerned. The taskforce did surmount this limitation by resorting to online video or voice link consultation of both internal and external stakeholders as per the attached public participation matrix. In addition, most of the stakeholders gave written memoranda through which detailed representations were made. In total, thirty-five (35) written memoranda were received by the taskforce.

The National Land Commission led other public agencies and external stakeholders comprising the county governments as well as various professional bodies and civil society organizations. The Council of Governors (COG) and the County Assemblies Forum (CAF) also registered their presence.

Reaching out to individual members of the public through the online video or voice link has not happened owing to logistical challenges involved as opposed to reaching out to organized groups which we were able to reach. The process of stakeholder participation lasted for two weeks (14th – 29th May 2020).

5. Guidance

There is going to be need to engage with the users and the 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 Land Registration Act. The fundamental rights and freedoms as are spelled out in the Constitution have therefore not been interfered with in any way. On the contrary, the right to own and protection to property has been buttressed by way of an effective and efficient land information system. A positive impact in the form of protecting property will yield since it is expected that the runaway fraudulent activities will be arrested courtesy of the information system.

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 keeping of information in electronic format allows easy access to the private sector thus enhancing business and transactions over land. The system will also reduce cases of fraud and increased security to proprietors hence a ripple effect to the country at large.

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 land information management system, public agencies involved in land registration will be able to arrest the vices that have bedeviled 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

It is expected that upon application of these regulations, this country will have an effective and efficient registration system leveraging on information technology. Follow up and update of the registration system will be possible in an electronic environment.

8. Contact

The Cabinet Secretary
Ministry of Lands and Physical Planning

P.O Box 30450-00100

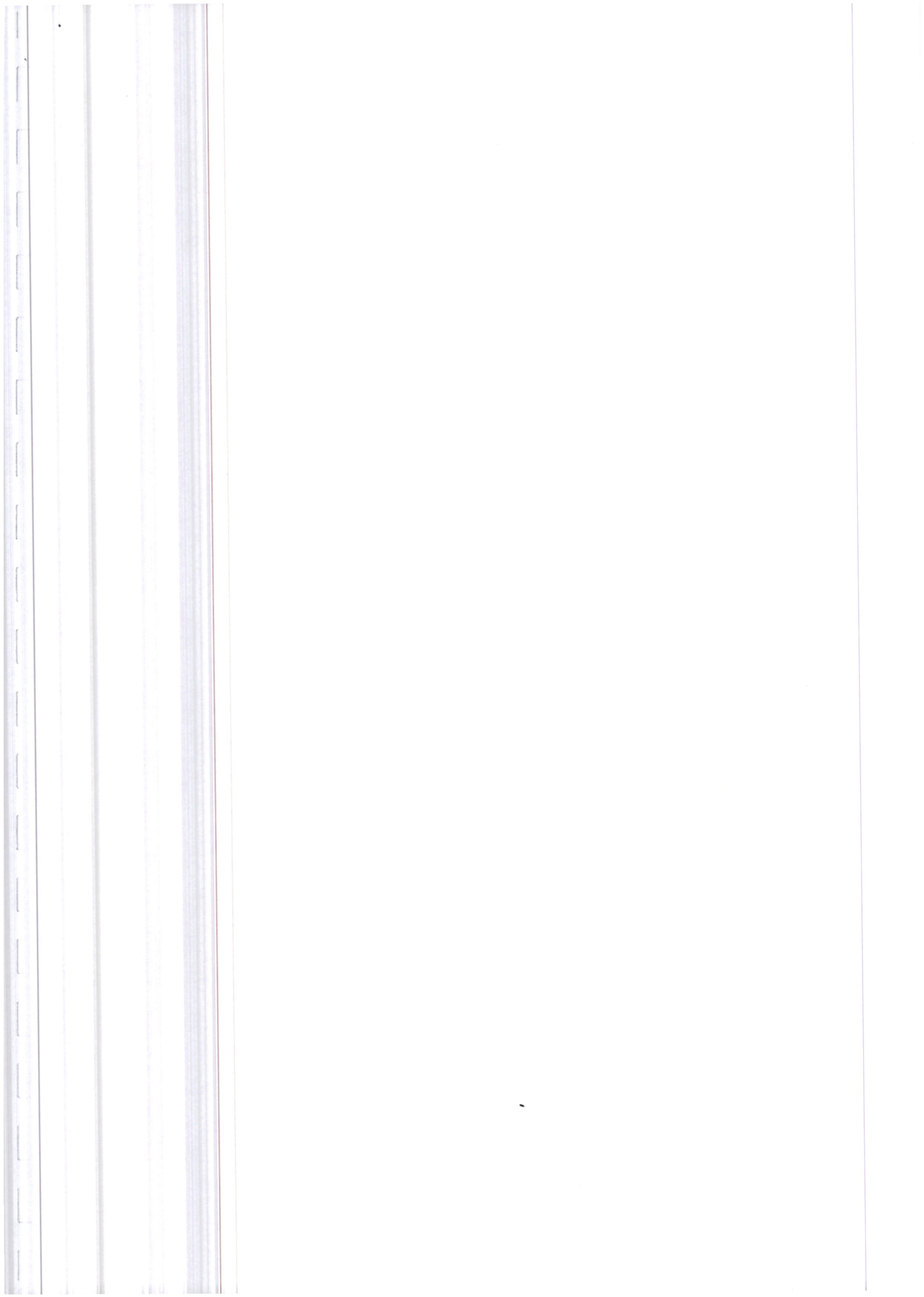
NAIROBI

Telephone No: 020 2718050

Email address: cslandskenya@gmail.com

Disclaimer

These notes act only as a guideline and as such they are not exhaustive and for clarity proper reference should be made to the main body of these regulations.



3. *The advocate must verify the identity of their client;*
4. *The advocate must retain the evidence they have relied on to support those certifications;*
5. *Where the client is signing this form under a Power of Attorney the identity that is required to be established is that of the attorney. Attach a copy of the Power of Attorney.*

Made on the 9th July, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE NO. 131

THE LAND ACT, 2012

(No. 6 of 2012)

THE LAND (AMENDMENT) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 160 of the Land Act, 2012, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE LAND (AMENDMENT) REGULATIONS, 2020

1. These Regulations may be cited as the Land (Amendment) Regulations, 2020.

2. The Land Regulations, 2017, in these Regulations, referred to as the principal Regulations, are amended in regulation 2 by inserting the following new definitions in proper alphabetical sequence—

“authorised user” means a person who has been granted permission to access, query on any information or submit any information or document in relation to a transaction under these Regulations;

“Chief Land Registrar” means the Chief Land Registrar appointed under section 12 of the Act;

No. 3 of 2012

“electronic” means anything relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

“electronic form” means any information generated, sent, received or stored in magnetic, optical, computer memory, microfilm or similar device;

“System” means the National Land Information System developed pursuant to paragraph 6 (h) Act; and

“user” means a person who has created an online electronic account for access or submission of information by electronic means in the System, and may include a property owner or a professional.

3. Regulation 3 (1) of the principal Regulations is amended by inserting the words "in physical or electronic form" immediately after the word "land".

4. Regulation 4 of the principal Regulations is amended by—

- (a) inserting the word "to" between the words "pursuant" and "section" appearing in paragraph (1).
- (b) inserting the words "in physical or electronic form" appearing immediately after the word "resources" in paragraph (1).

5. Regulation 6 of the principal Regulations is amended by inserting the following new paragraph immediately after paragraph (4)—

(5). Any notification and written feedback under this regulation may be given in electronic form.

6. Regulation 8 of the principal Regulations is amended—

- (a) in paragraph (1) by inserting the words "in electronic form" immediately after the word "inventory".
- (b) by inserting the following new paragraph immediately after paragraph (6)—

(7) Any submission of the inventory and the issuance of notices under this regulation may be done in electronic form.

7. Regulation 9 of the principal Regulations is amended—

- (a) in paragraph (1) by inserting the words "in electronic form" immediately after the words "county government";
- (b) by deleting paragraph (2) and substituting therefor the following new paragraph—

(2) Upon receipt of the application, the national government or relevant county government shall process the application whereupon the county government shall forward its recommendation to the Cabinet Secretary for grant of license to the successful applicant in Form LA 19 set out in the Third Schedule.

- (c) in paragraph (3) by deleting the word "Commission" and substituting therefor the words "Cabinet Secretary".
- (d) by inserting the following new paragraph immediately after paragraph (3)—

(4) The fees payable under any license shall be paid to the national government or relevant county government where applicable.

- (e) by inserting the following new paragraph immediately after paragraph (4)—

(5) Any applications under this Regulation may be made in electronic form.

8. Regulation 10 of the principal Regulations is amended by adding a new paragraph immediately after paragraph (2)—

(3) The notice issued under paragraph (1) may be made in electronic form.

9. Regulation 11 of the principal Regulations is amended by—

(a) deleting the word "Commission" wherever it appears and substituting therefor the words "Cabinet Secretary".

(b) deleting paragraph (2) and substituting therefor the following new paragraph—

(2) Land rent shall be payable to the national government or relevant county government, whichever is the head lessor.

(c) deleting paragraph (3).

10. The principal Regulations are amended by deleting regulation 12.

11. Regulation 13 of the principal Regulations is amended—

(a) by deleting the word "Commission" wherever it appears and substituting therefor the words "Cabinet Secretary".

(b) in paragraph (4) by deleting paragraph (b).

(c) by adding a new paragraph immediately after paragraph 13 (6)—

(7) The processing of applications under this regulation for purposes of consent to transfer, sublease or charge may be made in electronic form.

12. Regulation 14 of the principal Regulations is amended by adding the following new paragraph immediately after paragraph (6)—

(7) An application made under this regulation for purposes of notification may be made in electronic form.

13. Regulation 15 of the principal Regulations is amended—

(a) by deleting paragraph (3) and substituting therefor the following new paragraph—

(3) Upon receipt of the original title document and cadastral map and plan from the authority responsible for survey, the Commission shall forward the documents to the Cabinet Secretary for preparation and issuance of a lease for a term of ninety-nine years in the name of the registered proprietor.

(b) in paragraph (4) by deleting the word "Commission" and substituting therefor with the words "Cabinet Secretary".

(c) by adding the following new paragraph immediately after paragraph (6)—

(7) Any application made under this Regulation for purposes of conversion of tenure may be made in electronic form.

14. The principal Regulations are amended by deleting regulation 16 and replacing it with the following new regulation—

16. (1) An application for subdivision, amalgamation, partition and reparation of freehold land shall be submitted in electronic form to the relevant county government and shall be processed and approved in accordance with the laws relating to physical planning.

(2) The county government shall ascertain the viability of the subdivision, amalgamation, partition and reparation and shall in that regard seek representations, in physical or electronic form, from the relevant authorities including but not limited to—

- (a) officer representing the national Director of Surveys at the county;
- (b) officer representing the national Director of Physical Planning at the county;
- (c) the land administration officer of the national government at county;
- (d) representative of the Land Control Board, where applicable; and
- (e) any other relevant authority.

(3) Upon receipt of representations sought under paragraph (2), the relevant county government may grant development permission within thirty days and subsequently forward a copy of the same to the Cabinet Secretary in physical or electronic form.

(4) Where development permission sought as contemplated under paragraph (2) is denied, the relevant county government shall notify the applicant of its decision, in writing, within thirty days of the decision by physical or electronic means stating the reasons for refusal.

(5) Upon fulfilment of the requirements in paragraphs (2) and (3), the applicant shall cause a survey to be carried out and submit a cadastral map and plan to the Chief Land Registrar for registration and issuance of resultant title.

(6) The Chief Land Registrar shall decline to register a document where development permission has been denied.

(7) The applicant shall be required to submit the existing certificate of title to the Chief Land Registrar in exchange for a new one.

15. The principal Regulations are amended by deleting regulation 17 and replacing it with the following new Regulation—

17. (1) An application for subdivision, amalgamation, partition and reparation of leasehold land shall be submitted to the county government in physical or electronic form.

(2) The county government shall, before granting approval for subdivision, amalgamation, partition and reparation, seek representations in physical or electronic form from—

- (a) the officer representing the National Director of Surveys in the county;
- (b) the officer representing the National Director of Physical Planning in the county;
- (c) the land administration officer of the national government in the county;
- (d) the Land Control Board, where applicable; and
- (e) any other relevant authority.

(3) Upon receipt of the representations sought under paragraph (2), the county government may within thirty days, grant or refuse to grant the application.

(4) Where the application is not granted, the county government shall notify the applicant of the decision in writing by physical or electronic means within thirty days and set out the reasons for the refusal.

(5) The county government shall forward an approval granted under paragraph (5) to the Cabinet Secretary by physical or electronic means who shall—

- (a) cause the land to be re-surveyed and geo-referenced;
- (b) cause the land to be revalued in order to ascertain the land rent payable and other requisite fees; and
- (c) prepare subdivision, amalgamation, partition and reparation approval letters
- (d) prepare the subsequent lease and forward it to the Chief Land Registrar for registration in Form LA 29 as set out in the Third Schedule.

(6) The applicant shall be required to submit the existing certificate of lease to the Chief Land Registrar in exchange for a new one.

16. The principal Regulations are amended by deleting regulation 18 and replacing it with the following new Regulation—

18. (1) An application for change or extension of user on freehold land shall be submitted to the relevant county government by physical or electronic means.

(2) Upon receipt of the application, the county government shall ascertain the viability of the application and seek representations by physical or electronic means from relevant authorities including—

- (a) the officer representing the national Director of Surveys in the county;
- (b) the officer representing the national Director of Physical Planning in the county;

- (c) the land administration officer of the national government in the county;
- (d) the Land Control Board, where applicable; and
- (e) any other relevant authority.

(3) Upon receipt of the representations sought under paragraph (2), the county government may, within thirty days, approve or refuse to approve the application.

(4) Where the approval for development is not granted, the relevant county government shall notify the applicant of the decision in writing by physical or electronic means within thirty days and specify the reasons for refusal.

(5) Where the development permission is granted, the relevant county government shall forward the approval to the Cabinet Secretary in physical or electronic form for processing.

(6) On receipt of the approval from the county government under paragraph (5), the Cabinet Secretary shall cause an endorsement to be prepared in Form LA 30 set out in the Third Schedule which shall be forwarded to the Chief Land Registrar for noting in the register and the original certificate of title.

17. Regulation 19 of the principal Regulations is deleted and substituted therefor the following new Regulation—

19. (1) An application for change or extension of user on leasehold land shall be submitted to the relevant county government by physical or electronic means.

(2) Upon receipt of the application, the relevant county government shall ascertain the viability of the application and may seek representations by physical or electronic means from the relevant authorities including—

- (a) the officer representing the national Director of Surveys in the County;
- (b) the officer representing the national Director of Physical Planning in the County;
- (c) the land administration officer of the national government in the County;
- (d) the Land Control Board, where applicable; and
- (e) any other relevant authority.

(3) Upon receipt of the representations sought under paragraph (2), the relevant county government may, within thirty days, approve or refuse to approve the application.

(4) Where the approval for development is not granted, the relevant county government shall notify the applicant of its decision in writing, by physical or electronic means within thirty days and specify the reasons for the refusal.

(5) The county government shall forward the approval in physical or electronic form to the Cabinet Secretary, who shall—

- (a) cause the land to be re-surveyed and geo-referenced, where applicable;
- (b) cause the land to be revalued to ascertain the land rent payable and other requisite fees;
- (c) prepare the lease and forward it to the Chief Land Registrar for registration in Form LA 29 as set out in the Third Schedule.

18. Regulation 21 of the principal Regulations is amended by—

- (a) deleting paragraph (2) and substituting therefor the following new paragraph—
- (2) An application under paragraph (1) may be made in electronic form and shall be accompanied by proof of compliance with the special conditions on the lease where applicable.
- (b) adding the following new paragraph immediately after paragraph (6)—
- (7) The processing of applications under this Regulation for purposes of consent, may be made in electronic form.

19. The principal Regulations is amended by inserting the following new Part immediately after Part IV—

PART IVA—ELECTRONIC LODGING

21A. (1) There shall be a user account created for every User accounts. authorised user for purposes of electronic lodgement of documents.

(2) The authorised user provided for under paragraph (1) shall receive credentials for use in logging into the System.

21B. A user shall—

Users' obligations.

- (a) carry out such transactions as may be authorised under these Regulations;
- (b) be responsible for the security of the user's details for purposes of any transaction under these Regulations;
- (c) not distribute, sell or combine any information accessed through the System; and
- (d) not copy, exchange, disclose or use the land related information accessed from the System for any other purpose other than for purposes of the transactions under these Regulations.

20. (1) The First Schedule to the principal Regulations is amended by—

- (a) deleting Form LA 24 and Form LA 25.
- (b) deleting forms 12, 13, 14, 19, 20, 22, 26, 27, and 29 and substituting therefor the corresponding forms in the Schedule.

SCHEDULE

FORM LA. 12

(r. 36(2))

REPUBLIC OF KENYA
INDENT FOR CADASTRAL MAP AND PLAN

File Reference Number

To.

The Director of Surveys

Date:.....20.....

RE: Parcel Number.....

Your Ref.F/R.....

Please Supply Cadastral Map/Plan(s) for: Surrender

Lease

Conversion

Consolidation

Amalgamation

Extension of Lease

Renewal of lease

Change of User

Extension of user

.....
Officer Indenting

For Cabinet Secretary.

S.R.O. Name & Signature Date F/R

Report

Cadastral Map No. Cadastral Plan No.

S.H

Data

D.O.

Preparation

Ch/D

Checking

D/S.

S.R.O.

CP&CM

Signature

Blue – print Forwarded

Forwarded

REMARKS:

FORM LA. 13

(r. 36(3))

The Land Act, 2012

(to be completed in quadruplicate)

Presentation Book Date received for registration:

Registration Fees: Ksh. Paid

No. 20.....,20.....

Receipt No.

REPUBLIC OF KENYA

THE LAND ACT, 2012

LEASE

REGISTRATION UNIT:

TITLE No.

KNOW ALL PERSONS BY THESE PRESENTS the Cabinet secretary on behalf of the County

Government...../National Government in consideration of the sum of shillings.....

HEREBY LEASES TO:

.....
(herein after called "the lessee") ALL THAT piece of land situated in

.....comprised in the above-mentioned title containing by

measurement approximately.....Hectares

the said parcel of land with the dimensions, abutments and boundaries thereof as delineated on the plan annexed hereto and more particularly on the Cadastral Plan Number

..... deposited in the office of Director of Surveys for the term of.....years from the.....day of

.....20.....

at the annual rent of.....payable in advance on the first day of January in each year and subject to the provisions of the

Land Act No. 6 of 2012 and the following special conditions:

SPECIAL CONDITIONS

1. No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with the plans and specifications previously approved in writing by the County Government. The County Government shall not give its approval unless it is satisfied that the proposals are such as to develop the land adequately and satisfactorily.

2. The Lessee shall within six (6) calendar months of the actual registration of the lease submit in triplicate to the County Government building plans (including block plans showing the positions of the buildings and system of drainage for the disposal of the sewage, surface and sullage water), drawings, elevations and specifications of the

buildings the Lessee proposes to erect on the land and shall within 48 months of actual registrations of the lease complete the erection of such buildings and the construction of the drainage system in conformity with such plans, drawings, elevations and specifications as amended (if such be the case) by the County Government.

PROVIDED that notwithstanding anything to the contrary contained in or implied by the Land Act, 2012, if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the National and County Governments to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the county government or National government in respect of any antecedent breach of any conditions herein contained.

3. The Lessee shall maintain in good and substantial repair and conditions all buildings at any time erected on the land.

4. Should the Lessee give notice in writing to the County government or National government that the lessee is unable to complete the buildings within the period aforesaid the County government or National government shall at the lessee's expense accept a surrender of land comprised herein PROVIDED FURTHER that if such notice is aforesaid shall be given (1) within twelve months of the actual registration of the Lease, the County government or National government shall refund to the lessee fifty per centum of the stand premium paid in respect of the land or (2) at any subsequent time prior to the expiration of the said period to the County government or National government shall refund the Lessee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.

5. The land and buildings shall only be used for purposes.

6. The land shall be developed in accordance with the approved development plans.

7. The land shall not be used for any purpose which the County government or National government considers to be dangerous or offensive

8. The Lessee shall not subdivide, change or extend use of the land, without prior written consent of the county government and any other applicable regulatory authority.

9. The Lessee shall not sell, transfer, sublet, charge or part with possession of the land or any part thereof or any building thereon except with prior consent in writing of the County government or National government. No application of such consent (except in respect of a loan required for building purposes) will be considered until Special Condition No. 2 has been performed.

10. The Lessee shall from time to time pay to the County Government on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the County Government may assess.

11. The Lessee shall pay such rates, taxes, charges, duties, assessments or outgoings of whatever descriptions as may be imposed charged or assessed by the National and County Government upon the land or the buildings erected thereon, including any contribution or other sum paid by the County government or National government in lieu thereof.

12. The County government or National government or such person or authority as may be appointed for the purpose shall have the right to enter upon the land and lay and

have access to water main service pipes and drains, telephone wire, fiber optic and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any buildings in such a way as to cover or interfere with any existing alignments of main or services pipes or fiber optic or telephone wires and electric mains.

13. The County government or National government reserves the right to revise the annual ground rent payable here- under at the expiration of every ten years of the term. Such rental shall be at a rate to be determined by the County government or National government of the unimproved value of the land as at the end of every tenth year of the term.

Dated thisday of, 20.....

*Sealed with the common Seal of the Cabinet Secretary

Signed by

.....

On behalf of Cabinet Secretary

SIGNED by the Lessee in the presence of:

SIGNATURE:.....

ID/ PASSPORT NO:.....

PIN NO:.....

I CERTIFY that the above-named appeared before me on the day of....., 20..... and being known to me/being identified by acknowledged the above signature or marks to belong to the lessee and that the lessee freely and voluntarily executed this instrument and understood its contents.

.....

Signature of the Magistrate/ or Commissioner of Oaths/or Notary Public

REGISTERED thisday of, 20.....

Name..... Signature and Number.....

Land Registrar

DRAWN BY:

The Cabinet Secretary

PO Box 30450-00100

NAIROBI

*Delete whichever is not applicable

FORM LA. 14

(r. 36 (5))

REPUBLIC OF KENYA

THE LAND ACT, 2012

SUBMISSION OF LEASE DOCUMENT TO THE CHIEF LAND REGISTRAR

To: The Chief Land Registrar

Date.....

RE:

HEREWITH find Lease Document (in triplicate) for the above-mentioned parcel of land duly signed and executed by both the Lessor and the Lessee for registration purposes

Registration fees of KSh..... Has been paid vide Receipt

No.....of.....

Signed.....

For Cabinet Secretary,

CC.

Owner(please call upon the Land Registrar for collection of your Certificate of

Lease).

Made on the, 20

Designated officer authorized by the Cabinet Secretary.

FORM LA. 19

(r. 9(2))

THE MINISTRY OF LANDS AND PHYSICAL PLANNING

Temporary Occupation Licence

AN AGREEMENT made this day of Two thousand and.....BETWEEN the Cabinet Secretary or the County government, as the case may be(hereinafter referred to as “the Licensor”) of of the one part and (Full Name..... IDNo..... PIN No..... and Address.....) (hereinafter referred to as “the Licencee”) of the other part whereby the Licensor in pursuance of the powers conferred under sec 20(1) Land Act licences and the licencee agrees to occupy all that piece of land *shown edged red on the enclosed Plan No. being *Plot No.....(where unsurveyed) or Parcel No. situated in.....measuring.....for the purpose of.....

for the term of months/years from the date hereof and thereafter until determined as hereinafter provided at the *monthly/quarterly/yearly rental of Sh. Payable in advance on the first day of every*month/quarter/year.

If the aforesaid rent or any part thereof is unpaid for one calendar month after the same has become due or if the licencee commits any breach of or fail to perform any of the conditions set out here-under this licence shall thereupon cease and determine and the Licensor or any other person authorized on behalf of the County/National government may re-enter upon the land or any part thereof.

This licence may be determined at any time after the expiration of the nine (9) months by either party giving to the other three calendar months’ notice in writing and is subject (save where expressly herein otherwise provided) to the provisions of the Land Act No. 6 of 2012 and to the special conditions and other matters stated here below.

SPECIAL CONDITIONS

- (i) The Licencee shall comply with and conform to development permission requirements granted by the relevant county government and all applicable laws.
- (ii) The Licencee shall not sell, transfer, sublet or charge the land or any part thereof except with the prior consent in writing of the Commission.
- (iii) The Licencee shall pay such rates, taxes, charges, duties, assessments or outgoings of whatever description as may be imposed, charged or assessed by Commission upon the land or the

buildings erected thereon including any contribution or other sum paid by the..... in lieu thereof.

- (iv) The Licencee shall maintain the plot in a clean and tidy condition and in such condition deliver it up at the determination of the licence.

*Delete unnecessary words

P.T.O

For further special conditions, if any, see attached sheet.

Signed by the said

in the presence of:.....

..... Licencee

Stamp

Signed for and on behalf of the Cabinet Secretary

.....

Name.....

Designation.....

Form of Transfer

Name:

Address:

ID No/Certificate Of Incorporation No
.....

PIN:

hereby transfer all my rights, and interest in the within written licence to:

Name:

Address:

ID No/Certificate of incorporation No.....

PIN No:

In consideration of the sum of Kshs

Dated this..... day of 20.....

Signed by the said

in the presence of:

Licencee

Signed by the said

in the presence of-

transferee

Witness

The Cabinet Secretary hereby grants consent to the above transfer.

Dated this Day of, 20.....

FORM LA. 20

(r. 9(3))

REFERENCE NUMBER.....

REPUBLIC OF KENYA

MINISTRY OF LANDS AND PHYSICAL PLANNING

APPLICATION FOR CONSENT TO TRANSFER TEMPORARY LICENCE

(To be submitted in TRIPLICATE in respect of each transaction and sent to or deposited at the appropriate office of the cabinet secretary or such other office as the cabinet secretary may designate)

To: Cabinet Secretary

Date.....

TOL Reference No.....

I HEREBY apply for consent to transfer the above temporary licence and provide the following details-

1. Current registered owner details in BLOCK LETTERS

Name.....

ID. No.Certificate of Incorporation No.....PIN

Postal Address.....Physical Address.....

2. Proposed transferee (Details in BLOCK LETTERS)

Name.....

ID. No. Certificate of incorporation No..... PIN

3. Licence fees clearance certificate number.....(attach Duplicate)

For Official use (only)

(a) Consent fee Receipt No.....

(b) Consent issued/ Not issued.....

(c) Reason(s) for refusal to grant consent.....

.....

.

.....

(d) Name and Signature of Authorised Officer.....

FORM LA. 26

(r.13(1))

REFERENCE NUMBER.....

REPUBLIC OF KENYA

APPLICATION FOR CONSENT TO TRANSFER/ SUBLEASE/ CHARGE PUBLIC LAND

(To be submitted in TRIPLICATE in respect of each transaction and sent to or deposited at the appropriate office of the County government/National government)

To: Cabinet Secretary/CEC member

Date.....

I HEREBY apply for consent for the following transaction-

Nature of Transaction Tick as Appropriate

- 1 Lease
- 2 Charge
- 3 Transfer
- 4 Other (Specify)

1. Current registered owner details in BLOCK LETTERS Name.....

ID. No. Certificate of Incorporation No.....

PIN

Postal Address.....

Physical Address.....

2. Description of land -

Title No.

Correspondence File No. (if known).....

Locality.....County/City/Town/.....

..... Nature of development

3. Proposed purchaser, transferee, chargee, tenant, lessee etc, (Details in BLOCK LETTERS) Name.....ID. No.

Certificate of incorporation No..... PIN

4. Annual Rent clearance certificate number.....(attach Duplicate)

5. In case the application is made by a Law Firm /Agency on behalf of the registered owner:

(i) Name of Firm/Agency.....

(ii) Name of Advocate/Agent.....

(iii) Signature.....

(iv) Official stamp of the firm/Agent.....

6. In case the applicant is the owner-

- (a) Name.....
- (b) ID No. /Certificate of incorporation No (attach copy of ID).....
- (c) PIN No.....
- (d) Signature.....
- (a) Consent fee Receipt No.....
- (b) Consent issued/ Not issued.....
- (c) Reason(s) for failure to grant consent.....
-

Name and Signature of Authorised Officer.....

FORM LA 27

(r. 13(4)(a))

SERIAL NO

REPUBLIC OF KENYA
CONSENT CERTIFICATE FOR PUBLIC INSTITUTIONS
(Sec 87, Reg.61)

Ref. No.

To.

.....

.....

Dear Sir/ Madam,

Nature of Transaction(s).....

Parcel No.....

With reference to your application dated.....day of.....20..

Consent is hereby given in respect of the above-mentioned transactions.

.....

Name and Signature of Authorised Officer

This certificate is issued without erasure or alteration.

FORM LA. 29

(r. 17(6), 19(7))

REPUBLIC OF KENYA

SUBMISSION OF LEASE DOCUMENT TO THE CHIEF LAND REGISTRAR

To: The Chief Land Registrar

Date.....

RE:

HEREWITH find Lease Document (in triplicate) for the above mentioned parcel of land duly signed and executed by both the Lessor and the Lessee for registration purposes

Registration fees of KSh.....has been paid vide Receipt No.....of.....

.....

Name and Signature of Authorised Officer

CC

Owner(please call upon the Land Registrar for collection of your Certificate of Lease)

Dated the 9th July, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE No. 132

THE SURVEY ACT

(Cap. 299)

IN EXERCISE of the powers conferred by section 45(1)(a) of the Survey Act, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE SURVEY (ELECTRONIC CADASTRE TRANSACTIONS)
REGULATIONS, 2020

PART I—PRELIMINARY

1. These Regulations may be cited as the Survey (Electronic Cadastre Transactions) Regulations, 2020. Citation.

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

“authorized officer” means an officer authorized by the Director to perform functions under the Act;

“adjudication register” has the same meaning as assigned by the Land Adjudication Act; Cap. 284

“authentication” has the meaning as under section 32 of the Act;

EXPLANATORY MEMORANDUM TO:
THE LAND (AMENDMENT) REGULATIONS, 2020

PART I

Name of Statutory Instrument	The Land (Amendment) Regulations, 2020
Name of Parent Act	The Land Act, 2012
Enacted pursuant to	Section 160 of the Land Act, 2012
Name of the Ministry	Ministry of Lands and Physical Planning
Gazetted on	July 14, 2020
Tabled on	

PART II

1. Purpose of the Statutory Instruments

The Land Regulations (Amendment), 2020 (the amended statutory instrument) amend the Land Regulations, 2017 (the principal statutory instrument) published under the Land Act (the Act). The principal statutory instrument prescribe procedures and guidelines on how land processes under the Act should be carried out. The main purpose of the amended statutory instrument is to amend the principal statutory instrument with a view to entrenching the carrying out of land transactions through electronic means. The principal statutory instrument as then published in 2017 envisaged paper-based land processes and transactions hence the introduction of the amended statutory instrument to accommodate an electronic system of conducting land processes. The amended statutory instrument target the processes earlier prescribed in the principal statutory instrument and seek to provide a digital format of carrying out such processes.

Further, the Statute Law (Miscellaneous Amendments) Act, 2018 inter alia amended Section 23(2) and 28 of the Land Act to reassign the mandate of issuing leases to the Cabinet Secretary and collection of land rent to the Cabinet Secretary and the County governments as the case may be. In view of these amendments to the Act, it behoves that land processes that touch on issuance of leases and collection of land rent be captured vide the amended statutory instruments to reflect the current position of the Act.

2. Legislative Context

Section 6(h) of the Act grants power to the Cabinet Secretary to coordinate development and implementation of a National Land Information System in collaboration with the National Land Commission (the Commission). The Cabinet Secretary having developed the NLIS, it behoves that corresponding statutory instruments be formulated to implement the NLIS. Section 6(h) having come into place through Act No. 28 of 2016, the development of the NLIS and implementation of the same through these statutory instruments is long overdue.

The other statutory instruments related and published alongside these instruments are the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020; the Land (Allocation of Public Land) (Amendment) Regulations, 2020; the Survey (Electronic Cadastre Transactions) Regulations, 2020; the Survey (Amendment) Regulations, 2020; and, the Land Registration (Electronic Transactions) Regulations, 2020.

3. Policy Background

Chapter five of the Constitution of Kenya, 2010 (the Constitution) is on land and Environment. At the onset, Article 60 of the Constitution sets out the principles of landholding in Kenya. Equitable access to land; security of land rights; sustainable and productive management of land resources; transparent and cost effective administration of land; encouragement of communities to settle land disputes through recognised local community initiatives consistent with this Constitution etc. are some of the principles informing land management in Kenya. Further, the Constitution directs that these principles shall be implemented through a national land policy developed and reviewed regularly by the national government and through legislation.

The National Land Policy (sessional paper No. 3 of 2009) directed development of a National Land Information System which is manifested in Section 6(h) of the Act. One of the principles underpinning land management in Kenya is the principle of transparent and cost effective administration of land. The development of the NLIS and the implementation of the same through the formulation of the statutory instruments are in furtherance to this policy objective. Entrenching information technology in the conduct of land processes enhances transparency and cost effectiveness and hence a gain to the Kenyan economy.

4. Consultative Outcome

The formulation of the statutory instruments is being spearheaded by a ministerial taskforce. However, it is critical from the onset to mention that the statutory instruments have been formulated during the COVID-19 pandemic period hence severely affecting the consultative process as far as physical interaction is concerned. The taskforce did surmount this limitation by resorting to online video or voice link consultation of both internal and external stakeholders as per the attached public participation matrix. In addition, most of the stakeholders gave written memoranda through which detailed representations were made. In total, thirty five (35) written memoranda were received by the taskforce.

The external stakeholders did comprise of various public agencies spanning the national government and the county governments as well as various professional bodies and civil society organizations. The Council of Governors (COG) and the County Assemblies Forum (CAF) also registered their presence.

Reaching out individual members of the public through the online video or voice link has not happened owing to logistical challenges involved as opposed to reaching out organised groups we were able to reach. The process of stakeholder participation lasted for two weeks (14th - 27th May 2020).

5. Guidance

There is going to be need to engage with the users and enforcement agency involved in the application of the statutory instruments. The electronic land processes 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 National Land Commission and the government agencies tasked with land administration will need to be educated about the changes wrought by the statutory instruments. The Cabinet Secretary intends to put in place deliberate measures with a view to sensitize and educate users and members of the public on how to interact with the NLIS while seeking for land services.

6. Impact

6.1. The Impact on Fundamental Rights and Freedoms

The statutory instruments have been formulated in conformity with the Constitution of Kenya, 2010 and within powers conferred to the Cabinet Secretary and the Chairman National Commission under the Land Act. The fundamental rights and freedoms as are spelled out in the Constitution have therefore not been interfered with in any way. On the contrary, the processes preceding registration of land have been made transparent, cost effective and predictable.

6.2. The impact on the private sector

Going by the response and support received from the private sector during the formulation process of the statutory instruments, it is expected that the application thereof will create a positive impact on the private sector. The import of the statutory instruments is to eliminate or minimize the paper-based mode of carrying out land transactions processes. The statutory instruments therefore facilitate the implementation of a system, which seeks reduction of cost, turn-around time, efficient storage and access of data, real time-based transactions, etc. All these no doubt add up to improve on the administration and management of land in Kenya. The private sector therefore stands to gain greatly from this process.

6.3. The impact on the public sector

Land being a critical sector, the public agencies vested with the responsibility of managing and enforcing the statutory instruments have an enormous task of ensuring the envisaged

positive impact percolates to the general public. It is expected that the far reaching reforms introduced by the statutory instruments will go a long way to enable public agencies vested with land management to deliver land processes and transactions to the expectation of the general public.

6.4. Impact Assessment.

An Impact Assessment on these amended regulations has been conducted and is hereby attached to this memorandum.

7. Monitoring and Review

It is expected that upon application of the statutory instruments to implement the NLIS, it will be easy to monitor and review the land information on account of having data and information accessed from one central place at the touch of the button. The NLIS will in itself be an effective monitoring and review tool to inform the Cabinet Secretary and the National Land Commission on future trends and the necessary interventions to be made with a view of introducing more innovations in land management in Kenya.

8. Contact

The Cabinet Secretary
Ministry of Lands and Physical Planning
P.O Box 30450-00100
NAIROBI
Telephone No. Tel: +254(0)20 2718050
Email address-cslandskenya@gmail.com....

Disclaimer

This notes acts only as a guideline and as such they are not exhaustive and for clarity proper reference should be made to the main body of these regulations.



FORM LA. 29

(r. 17(6), 19(7))

REPUBLIC OF KENYA

SUBMISSION OF LEASE DOCUMENT TO THE CHIEF LAND REGISTRAR

To: The Chief Land Registrar

Date.....

RE:

HEREWITH find Lease Document (in triplicate) for the above mentioned parcel of land duly signed and executed by both the Lessor and the Lessee for registration purposes

Registration fees of KSh.....has been paid vide Receipt No.....of.....

.....

Name and Signature of Authorised Officer

CC

Owner(please call upon the Land Registrar for collection of your Certificate of Lease)

Dated the 9th July, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE No. 132

THE SURVEY ACT

(Cap. 299)

IN EXERCISE of the powers conferred by section 45(1)(a) of the Survey Act, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE SURVEY (ELECTRONIC CADASTRE TRANSACTIONS)
REGULATIONS, 2020

PART I—PRELIMINARY

1. These Regulations may be cited as the Survey (Electronic Cadastre Transactions) Regulations, 2020. Citation.

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

“authorized officer” means an officer authorized by the Director to perform functions under the Act;

“adjudication register” has the same meaning as assigned by the Land Adjudication Act; Cap. 284

“authentication” has the meaning as under section 32 of the Act;

- “cadastral plan” has the same meaning as assigned to it by the Land Act, 2012; No. 6 of 2012
- “cadastral map” has the meaning assigned to it under the Land Registration Act, 2012; No. 3 of 2012
- “checking fees” means fees payable for the authentication of plans submitted to the Director for approval;
- “Chief Land Registrar” means the person appointed as the Chief Land Registrar under section 12 of the Land Registration Act, 2012; No. 3 of 2012
- “electronic” means anything relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;;
- “electronic form” means any information generated, sent, received or stored in magnetic, optical, computer memory, microfilm or similar device;
- “parcel” has the same meaning assigned to it by the Land Registration Act, 2012; No. 3 of 2012
- “parcel plan” means a plan of a parcel prepared by a surveyor from the cadastral plan depicting the parcel number, boundary data, area and abutments and approved by the Director;
- “personal identification number (PIN)” means the personal identification number (PIN) issued under section 11 of the Tax of Procedures Act, 2015; No. 29 of 2015
- “sectional plan” has the meaning assigned to it by the Land Act, 2012; No. 6 of 2012
- “survey data” includes survey plans, field notes, computations and any other survey data submitted to the Director under the Act;
- “system” means the National Land Information System developed in accordance with section 6(h) of the Land Act, 2012; No. 6 of 2012
- “user” means any person who has signed up to the system and accepted the terms and conditions in accordance with regulation 5;
- “user account” means an online account created by a user to allow access or submission of information in the Electronic Cadastre.

PART II— ELECTRONIC CADASTRE

3. (1) The Director of Surveys shall maintain an electronic cadastre which shall be a module of the National Land Information System established in accordance with section 6(h) of the Land Act, 2012. Electronic cadastre. No. 6 of 2012
- (2) The Director, may by electronic means on the system—
- (a) issue a notice, certificate, instrument or document which is required to be issued by the Director under the Act;
- (b) certify a map, plan, form, document or extract of a map required to be certified by the Director under the Act;

- (c) send a duly issued or certified map, plan, form, document or extract of a map to a user through the user's electronic address; or
- (d) send notification to the user through short message service, email or online notification.

4. (1) A surveyor may execute a survey and submit survey data to the Director for authentication in electronic form through the system.

Survey plans and records.

(2) Notwithstanding paragraph (1), where a surveyor cannot submit survey data in electronic form through the system, a surveyor shall submit the survey data through such other means as the Director may determine.

(3) The Director shall maintain survey data submitted under paragraph (1) in electronic form.

5. (1) A person who wishes to access the electronic cadastre shall sign up to the system by providing the following information—

Registration as a user of the system.

- (a) the name;
- (b) the national identity card or alien card number;
- (c) the personal identification number (PIN);
- (d) a current passport size photo as profile picture;
- (e) personal contact details including postal address, email address, the telephone number and such other details as the system may require.

(2) A user shall upon signing up accept the terms and conditions set out in the First Schedule to these Regulations.

(3) Upon signing up, there shall be a user account, user name and password created in the system for every user to enable the user log into the system.

(4) A user shall—

- (a) complete such formalities as are required before accessing the system;
- (b) be responsible for the security of his or her login credentials and for any access made using the login credentials;
- (c) use the information obtained from the system for lawful purposes only; and
- (d) be responsible for the accuracy and completeness of all information provided or submitted when using the system.

(5) A user shall not—

- (a) impersonate another person or entity;
- (b) collect information about other users;
- (c) make available disruptive commercial messages or

advertisements or communications which are prohibited by law in the system;

- (d) reverse engineer or otherwise attempt to extract any source code;
- (e) use any robot, spider, site search or retrieval application, or other device to retrieve or index any portion of the system;
- (f) copy, exchange, disclose or use the land related information accessed from the system for any other purpose other than for purposes of the transactions under these Regulations without prior written approval of the Cabinet Secretary;
- (g) distribute, sell or combine any information accessed through the system; and
- (h) use the system or its products and services in any manner that contravenes the provisions of the Kenya Information and Communication Act, 1998, the Computer Misuse and Cybercrimes Act, 2018 or any other written law.

No. 2 of 1998

No. 5 of 2018

Access to the electronic cadastre by a surveyor.

6. (1) A surveyor who intends to access the electronic cadastre shall in addition to signing up to the system as a user, be required to sign up in the electronic cadastre module in the system by providing the information specified in Form SR1 set out in the Second Schedule.

(2) A surveyor shall access the electronic cadastre through the user account created in the system upon signing up as a user.

7. (1) In addition to the terms and conditions set out in the First Schedule of these Regulations, a surveyor shall—

Surveyor obligations.

- (a) carry out such transactions as may be authorized under these Regulations;
- (b) be responsible for the security of his or her credentials for purposes of any transaction under these Regulations;
- (c) not copy, exchange, disclose or use the land related information accessed from the system for any other purpose other than for purposes of the transactions under these Regulations.

(2) The Director may reject any transaction or process undertaken in the system in breach of the terms and conditions and any of the conditions in paragraph (1) may lead to rejection of the transaction or process in issue.

(3) Where the breach results to professional misconduct, the Director may refer the matter to the Land Surveyors Board for disciplinary action.

8. (1) A user may electronically access and download cadastral maps, cadastral plans or other plans on a read only format upon making a request, through the system, in Form SR2 set out in the Second Schedule and on payment of the prescribed fee.

Access to information in the electronic cadastre.

(2) The Director may allow a surveyor to electronically access and download survey data with non-edit rights upon request and payment of the prescribed fee.

(3) The Director may restrict access to specific survey data in the system, as may be necessary, in the public interest, as provided for in the Access to Information Act, 2016.

No. 3 of 2016

PART III—AUTHENTICATION OF A SURVEY

9. (1) For purposes of preparation of a survey for submission to the Director, a surveyor shall—

Submission of a survey to the Director.

- (a) submit the required information electronically in Form SR3 set out in the Second Schedule;
- (b) upload the relevant supporting documents as may be required under the Act.

(2) Upon receiving any survey data submitted under paragraph (1), the Director shall confirm receipt by sending a notification through short message service, email or directly through the system.

(3) The system shall automatically assign a tracking number to the survey data submitted under paragraph (2).

(4) The Director shall use the tracking number assigned under paragraph (3) to determine the priority of processing survey data submitted under this regulation.

10. (1) The Director shall review survey data and the supporting documents received under regulation 9 and authorize their processing.

Authorization for processing.

(2) The Director shall review the data and documents submitted under paragraph (1) on a case by case basis and shall authorize the processing based on the merit of each case.

(3) The Director may refuse to authorize the processing of documents received under regulation 9 and notify the surveyor of the refusal in Form SR4 set out in the Second Schedule setting out the reasons for refusal and return the data and documents.

11. (1) An authorized officer shall examine the survey data and authorize numbering of the data in Form SR5 set out in the Second Schedule.

Numbering of survey data.

(2) On completion of the numbering of the survey data, the Director shall notify the surveyor.

12. (1) An authorized officer shall check the survey data submitted under regulation 9(1)(a) in order to verify that the data is complete and meets the requirements prescribed under the Act.

Authentication.

(2) Upon verification that the survey data are complete and meet the requirements prescribed under the Act, the Director shall authenticate the survey paying due regard to the comments made during the checking of the survey.

(3) If the survey is authenticated as per comments made in (2), the Director shall assess the fee payable as per the provisions of the Fifth and Sixth Schedules of the Survey Regulations, 1994 and record it electronically in Form SR6 set out in the Second Schedule.

(4) Upon authentication, the Director shall notify the Surveyor of the authentication of the survey and the fees payable in Form SR7 set out in the Second Schedule.

(5) Where authentication is rejected, the Director shall notify the Surveyor of the rejection and provide the reasons therefor in Form SR8 set out in the Second Schedule.

(6) The notification referred to in paragraph (4) and (5) shall be made within seven days.

13. (1) The Director shall update the Electronic Cadastral Map after a surveyor—

Updating of the Electronic Cadastral Map.

- (a) has paid the fees specified in the notification of authentication of the survey;
- (b) has provided the required or pending approvals in electronic format; and
- (c) has requested the Director to update the Electronic Cadastral Map in Form SR9 set out in the Second Schedule.

(2) Subject to paragraph (1), the Director shall update the Electronic Cadastral Map to reflect the proposed amendment.

(3) The Director shall notify the surveyor after updating the Electronic Cadastral Map.

14. (1) The Director shall, on the request of the surveyor, seal the Electronic Cadastral Map within twenty-one day of the request.

Sealing the cadastral map.

(2) Upon sealing the cadastral map under paragraph (1) the Director shall notify—

- (a) the responsible officer for land administration within the Ministry; or
- (b) the National Land Commission, where applicable.

(3) The Director shall notify the surveyor of the sealing of the Electronic Cadastral Map in Form SR10 set out in the Second Schedule.

PART IV—MISCELLANEOUS

15. (1) The Director of Land Adjudication may send the adjudication register to the Chief Land Registrar together with particulars of all determinations of objections as required by section 27 of the Land Adjudication Act in electronic form through the system.

Preparation of maps.

Cap. 284

(2) The Director may, upon request prepare a parcel plan in electronic format for use in electronic conveyancing through the system.

(3) The Director shall prepare a parcel plan in electronic format to be embedded to the electronic title of a parcel.

16. For purposes of enabling electronic transactions, the forms prescribed under these Regulations may be used with the necessary modifications and additions as the Director may deem necessary. Modification and addition of forms.
17. These Regulations shall not affect the validity of any survey work effected prior to the coming into operation thereof. Transition.

FIRST SCHEDULE (r. 5(2))

TERMS AND CONDITIONS OF USE

1. Introduction

- (a) The National Land Information System is an online system developed by the Government of Kenya through the Ministry of Lands and Physical Planning in collaboration with the National Land Commission. It is a system created for convenience in conducting land transactions.
- (b) Upon registration to the system, a user is deemed to have accepted the terms and conditions and will equally be bound by the same. Once the user has completed the sign up process, a contract detailing the terms and conditions for use is entered into between the user and the system operators.

2. Availability of service and support

- (a) The Government of Kenya aim is to ensure accessibility to NLIS at all times, however there could be service interruption to allow for upgrading or maintenance of the system.
- (b) The system shall be available around the clock for searching for the copy or image of any instrument, dealing, or document in the system or the lodgment of documents through the system.
- (c) Processing of electronic documents shall be done during the business hours when the back-end processes shall be available.
- (d) The system support and back-end processes shall be available during the business hours.
- (e) The Cabinet Secretary reserves the right to suspend the system in whole or in part in the circumstances where a significant breach of security has occurred or that a security system has failed that compromises or that could compromise the integrity or security of the system's databases or service until such security breach or failure has been rectified.
- (f) The Ministry will endeavour to provide you with the services at all times or at any specific times or will be able to operate at all times error-free. The Ministry makes no warranties in regard to the availability of services but all reasonable efforts will be made to provide the best possible service to you. Notices regarding planned system outages will be made available on the Ministry's website.

3. Obligations of Ministry

The Ministry shall:

- (a) Endeavour to maintain this system (NLIS) in good operational condition throughout the term of this agreement.
- (b) Endeavour to inform the users in cases of scheduled and/or unscheduled system maintenance.
- (c) Assist you to understand the operational requirements and any protocols adopted from time to time for use in the system.
- (d) Comply with all statutory and regulatory requirements imposed on the Ministry regarding the implementation and functionality of the system.

4. Security of the System

- (a) The User is responsible for maintenance of the confidentiality and control of all Security Measures associated with the use by the user (s). These Security Measures involve the use of digital signatures and digital certificates and are managed by the Ministry.
- (b) You are responsible for the selection and nomination of those of your people who you intend to be Subscribers and, therefore, users of the Security Measures.
- (c) The Ministry reserves the right to reject with reasons thereof an application by any Applicant.
- (d) You must promptly notify the Cabinet Secretary in the Ministry if a Subscriber stops working for you.
- (e) You are solely responsible for ensuring that the users comply with the User Obligations.
- (f) Any use of the NLIS by any person with access to the Security Measures used or made available to you or any of your people (whether authorized by you or not) constitutes sufficient authority for the Ministry to:
 - (i) act on any enquiries, provide such information, update its registers or to otherwise transact such dealings, with or under the instruction of that person; and
 - (ii) charge fees for the use of the products and services associated with NLIS.
- (g) You shall promptly notify the Cabinet Secretary in the Ministry as soon as you become aware that any of the Security Measures used or available to you or any of your people are or have been compromised, or if you are aware of circumstances which give rise to a risk that those Security Measures have been compromised.
- (h) You agree to help the Ministry with any investigation of any suspected or actual compromise of any of those Security Measures.
- (i) Any activity by a user in the system shall be catalogued and an audit trail of such activity created in the system.
- (j) You may request revocation of any of the Security Measures available to or being used by any of your people. Your people may also request revocation of their own Security Measures. The Ministry reserves the right at any time to revoke the Security Measures being used by you or any of your people in order to safeguard the integrity and security of NLIS databases

Disclaimer

The Ministry will be held liable to the extent permissible in the relevant statute but will not be liable for acts of omission or commission out of its control.

5. Data Privacy Statement

- (a) The Ministry collects the applicant's personal information with the applicant's consent when the application is made for authorization to access the National Land Information System.

- (b) The Ministry does not on-board minors (any person under 18 years of age) except where an applicant additionally registers on their behalf as their parent and/guardian.
- (c) The information the Ministry collects and stores about the applicant includes but is not limited to the following: applicant's identity including name, photograph, address, location, phone number, identity document type and number, date of birth, email address, age, and gender.
- (d) The applicant consents to the Ministry making and retaining photocopies of personal information and all other documents provided in support of the application which will be kept for the term of the agreement for the purpose of enforcing the agreement.
- (e) The Ministry may make inquiries deemed necessary to verify the information provided in the application.
- (f) The information and documentation provided will be used to administer the authorization to access and use the system.
- (g) The Ministry may disclose your information to:
 - (i) Law enforcement agencies, regulatory authorities, courts or other statutory authorities in response to a demand issued with the appropriate lawful mandate and where the form and scope of the demand is compliant with the law;
 - (ii) Publicly available and/or restricted government databases to verify applicant's identity information in order to comply with the regulatory requirements;
 - (iii) Any other person that the Ministry deems legitimately necessary to share the data with.
- (h) The Ministry shall not release any information to any individual or entity that is acting beyond its legal mandate.
- (i) The Ministry has put in place technical and operational measures to ensure integrity and confidentiality of the applicant's data via controls around: information classification, access control, cryptography, physical and environmental security and monitoring and compliance.
- (j) Subject to legal and contractual exceptions, the applicant has rights under data protection laws in relation to their personal data. These are listed below:
 - (i) right to be informed that the Ministry is collecting personal data about the applicant;
 - (ii) right to access personal data that the Ministry holds about the applicant and request for information about how the Ministry will process it;
 - (iii) right to request that the Ministry correct the personal data where it is inaccurate or incomplete;
 - (iv) right to request that the Ministry erase the personal data noting that the Ministry may continue to retain the information if obligated by law or entitled to do so;

- (v) right to object and withdraw the consent to processing of personal data. The Ministry may continue to process it if it has a legitimate or legal reason to do so;
- (vi) right to request restricted processing of the personal data noting that the Ministry may be entitled or legally obligated to continue processing the data and refuse the request;
- (vii) Right to request transfer of the applicant's personal data (in an electronic format);
- (viii) The Ministry may need to request specific information from the applicant to help it confirm the applicant's identity and also ensure their right to access their personal data (or to exercise any of the other rights). This is a security measure to ensure that personal data is not disclosed to any person who has no right to receive it. The Ministry may also contact the applicant to ask for further information in relation to the applicant's request in order to speed up the response.

6. Copyright

The Government of the Republic of Kenya is the owner of all rights in and to the National Land Information System. The complete content of the National Land Information System platform is protected by the Copyright Laws of the Republic of Kenya and reproduction or redistribution of that content without the permission of the Government of the Republic of Kenya is strictly prohibited.

7. General Terms

- (a) The parties commit to a cooperative environment in the performance of the respective obligation to ensure any system difficulty and/or improvement is addressed.
- (b) The Ministry reserves the right to change and adjust these terms and conditions without any further reasons as long as it is necessary due to legal adjustments or technical progress.
- (c) The Ministry reserves the right to block the authorized user from the ability to upload content to the National Land Information System if a violation of this agreement exists.
- (d) These terms and conditions are to be read and construed according to the laws of the Republic of Kenya, and you agree to submit to the jurisdiction of this country.
- (e) These terms and conditions record the entire agreement. If any provision of these terms and conditions are held by a court to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute or regulation it is to be severed so that the validity and enforceability of the remaining provisions are not affected.

8. User feedback

- (a) Feedback on user experience in the use of the system and specifically any complaints, complements and suggestions for improvement are highly encouraged.
- (b) The feedback in paragraph (a) can be channelled through the feedback portal in the system or through the address below:

Cabinet Secretary
 Ardhi House
 1st Ngong Avenue, off Ngong Road
 Email: info@ardhi.go.ke
 Tel: +254 202718050 / 204803886
 P.O. Box 30450-00100
NAIROBI

I have read and understood the provisions of these terms and obligations and hereby agree to be so bound.

Name..... Sign.....

Date

SECOND SCHEDULE

FORM SR1

(r.6(1))

DETAILS REQUIRED FOR CREATING A USER ACCOUNT BY A SURVEYOR

- a) Name
- b) Personal Identity Number
- c) Survey Licence Number/ DOS Authorization Code
- d) Current Practicing Certificate Number
- e) Telephone Number
- f) E-mail Address
- g) Postal Address
- h) Passport Photo
- i) Physical Address

FORM SR2

(r.8(1))

REQUEST FOR PURCHASE OF DATA

To be completed by applicant				To be completed by Survey Records Officer		
S/N O	TYPE OF DATA	F/R No. / SHEE T No. / LR No. Parcel No.	No. OF COPI ES	ELECTRO NIC FORMAT	UNIT PRIC E	TOTA L COST
	Cadastral Plan					

	Cadastral Map					
	Topographical Map					
	Other Data & Forms					

APPROVAL OF REQUEST:

Request for purchase of maps is hereby Approved/Not approved.

(1) Approved: The OI/C Survey records to supply the maps after the above payment has been made

Not Approved: Reasons:

Signed: Date:

:

Director of Surveys

ACCOUNTS SECTION:

Payment of Kshs.....in respect of the maps requested for is hereby acknowledged

Signed: Date:

OI/C: Accounts.....

OI/C: SURVEY RECORDS:

Maps as requested for have been supplied

Signed: Date:

OI/C: Survey Records.....

FORM SR3

(r.9(1)(a))

SURVEY SUBMISSION FORM

- (1) Name of surveyor
- (2) Name of registered assistant—if applicable
- (3) Type of survey: (e.g. New grant; subdivision; partition; re-parcellation, combination; change of user; extension of user; renewal of lease; extension of lease; reestablishment; compilation etc.)
- (4) Date submitted
- (5) Locality
- (6) LR No. / Parcel No.
- (7) Plans used for data
- (8) Instruments used in the survey:
 - a. Manufacturer:

- b. Model:
- c. Serial No:
- d. Date of calibration (if applicable):
- (9) Field Notes:
 - a. Total number of pages:
 - b. Cover page;
 - c. Index to field notes
 - d. Other pages
- (10) Survey Plans:
 - a. Total number:
 - b. Form No. 2
 - c. Form No. 3
 - d. Form No. 4
- (11) Survey Computations:
 - a. Total number of pages
 - b. Surveyor's Report
 - c. Index to Computations
- (12) Soft copy observation data (where applicable)
- (13) Approval Documents

FORM SR4

(r.10(3))

NOTIFICATION OF REJECTION OF A SURVEY BEFORE NUMBERING OF RECORDS

The letter of rejection of a survey before numbering of records shall include:

- a) Tracking number
- b) Former parcel number(s) or LR Nos.
- c) Locality
- d) Reasons for returning the survey
- e)

FORM SR5

(r. 11(1))

NUMBERING OF SURVEY RECORDS

Survey Records Tracking Number

Records Officer

Entry No..... and date of receipt of records in SRO

Survey of L.R. No./Parcel No..... Plan F/R
No.....

Original No..... Comps. No.....
 Head Title Deed Plan No..... F. Notes No.....
 Locality.....
 Surveyor.....
 SK File No..... File is correct for locality of survey.
 Yes/No*..... File ref. of Provisional Approval

File ref. of Final Approval

Approval stamp added to plan. Yes/No*

Reference Plans

.....

Abuttals.....

.....

Cross references on Survey Plans (Total Nos. only).....

Cross references on Tracings (Total Nos. only).....

Registration completed (*Initials*)..... *Date*.....

Registration checked (*Initials*)..... *Date*.....

FORM SR6 (r.12(3))

AUTHENTICATION

Survey Records Tracking Number

PLAN No. F/R

Final Checker's recommendation

.....

.....

.....

Authentication Decision

.....

.....

.....

Plot Number							
Assessed Survey Fees							
Assessed Checking Fees							
Assessed Cadastral Map Updating Fees							
Assessed Total Fees							

FORM SR7

(r. 12(4))

NOTIFICATION OF AUTHENTICATION

SURVEY OF KENYA,

P.O. BOX 30046,

NAIROBI.

E-mail:

Ref. No.

Date:

LAND REGISTRATION ACT

REGISTRATION DISTRICT

REGISTRATION BLOCK/ RIM SHEET NUMBERS

Your Reference dated

Plan F/R representing the survey of parcels

(Old Parcel Nos.....) has been approved. Prints of the plan for use under section 18(6) of the Act are available at a cost of shs. each.

Further details are as follows: -

New Parcel No. Area (in hectares) Survey/checking fees Type of Boundary

.....

.....

.....

Prints of the new amended Cadastral Map will be forwarded to the appropriate authorities as soon as they are available

.....

For DIRECTOR OF SURVEYS

Copy to: Computations

Chief/Assistant Land Registrar

.....

FORM SR8

(r.12(5))

NOTIFICATION OF REJECTION OF A SURVEY

- a) Survey Records Tracking Number
- b) Date of notification
- c) Name of the Surveyor
- d) Locality
- e) New parcel numbers
- f) Fees payable to the Director
- g) New Survey Plan Number(s)
- h) Computations File Number
- i) Field Notes Number
- j) Reasons for returning the survey
- k) Requirement that corrections to the errors be done within twelve months

FORM SR9

(r.13(1)(c))

REQUEST TO UPDATE CADASTRAL MAP

- a) Survey Records Tracking Number
- b) Date of request
- c) Name of the Surveyor
- d) Locality
- e) New parcel numbers
- f) New Survey Plan Number(s)
- g) Computations File Number
- h) Field Notes Number
- i) Request for update of cadastral map

FORM SR10

(r. 14(3))

NOTIFICATION OF SEALING OF CADASTRAL MAP

- a) Survey Records Tracking Number
- b) Date of notification to Surveyor
- c) Officer notifying
- d) Name of the Surveyor
- e) Locality
- f) New parcel numbers
- g) New Survey Plan Number(s)
- h) Computations File Number
- i) Field Notes Number
- j) Office being notified: NLC/OI/C Land Administration

Made on the 9th July, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

LEGAL NOTICE No. 133

THE SURVEY ACT

(Cap. 299)

IN EXERCISE of the powers conferred by section 45 of the Survey Act, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE SURVEY (AMENDMENT) REGULATIONS, 2020

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

2. Regulation 6 of the Survey Regulations, 1994, in these Regulations, referred to as the “principal Regulations” is amended by deleting the words “deposited for safe keeping in the Survey Office” and substituting therefor the words “maintained in an electronic format”. Sub.leg

3. Regulation 24(1) of the principal Regulations is amended by adding the following new paragraph immediately after paragraph (b) —

(c) any other figure as the Director may from time to time, deem necessary.

4. The principal Regulations are amended by deleting regulation 25 and substituting therefor the following new regulation—

Maintenance of measuring instruments 25. (1) The Director may issue specifications for instruments to be used for surveys and guidelines on calibration of such instruments.

(2) Every surveyor shall record in their field notes the manufacturer’s name and number of the model of the equipment used for each survey.

(3) The Director may require a licensed surveyor to submit any measuring equipment for inspection.

(4) The Director may on receipt of measuring equipment under paragraph (3), refuse to authenticate any survey, which has been made with inappropriate or defective measuring equipment.

5. Regulation 30(2) of the principal Regulations is amended by deleting paragraph (2) and substituting therefor the following new paragraph—

(2) The Director may from time to time give guidance on the competent Authority responsible for giving approval for the subdivision of land or other transaction of any plot of land under relevant legislation.

6. Regulation 69 of the principal Regulations is amended by deleting paragraph (1) and substituting therefor the following paragraph—

(1) The Director may specify the forms and formats for making field notes.

7. Regulation 78 of the principal Regulations is amended by deleting paragraph (1) and substituting therefor the following new

paragraph—

(1) The Director may specify the forms and formats for making computations.

8. Regulation 86 of the principal Regulations is amended by deleting paragraph (1) and substituting therefor the following paragraph—

(1) The Director may specify the manner and format in which plans may be drawn.

9. Regulation 117 of the principal Regulations is amended—

(a) in paragraph (1) by inserting the words “in physical or electronic format” immediately after the word “published”; and

(b) in paragraph (2) by inserting the words “in physical or electronic format” immediately after the word “published”.

10. The principal Regulations are amended by deleting the Fourth Schedule.

Made on the 9th July, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

**EXPLANATORY MEMORANDUM TO
THE SURVEY (ELECTRONIC CADASTRE TRANSACTIONS) REGULATIONS 2020
AND THE SURVEY (AMENDMENT) REGULATIONS, 2020**

PART I

Name of Statutory Instrument	The Survey (Electronic Cadastre Transactions) Regulations, 2020 and the Survey (Amendment) Regulations, 2020
Name of Parent Act	The Survey Act (CAP 299)
Enacted pursuant to	Section 45 of the Survey Act (CAP 299)
Name of the Ministry	Ministry of Lands and Physical Planning
Gazetted on	July 14, 2020
Tabled on	

PART II

1. Purpose of the Statutory Instrument

The objective of the Survey (Electronic Cadastre Transactions) Regulations, 2020 Regulations is to provide for the establishment of an electronic cadastre for purposes of facilitating land transactions, by allowing for the lodging and access of the survey data electronically. The Survey (Amendment) Regulations, 2020 contain some amendments to the Survey Regulations, 1994 to support operation of the Survey (Electronic Cadastre Transactions) Regulations, 2020

2. Legislative Context

Land transactions in the country are currently, largely paper-based, as such, Regulation 3 of the Survey (Electronic Cadastre Transactions) Regulations, 2020 proposes the establishment and maintenance of an electronic cadastre as part of the National Land Information System contemplated under paragraph 6(h) of the Land Act, No. 6 of 2012.

The other statutory instruments related and published alongside these instruments are: the Land Regulations (Amendment), 2020; the Land (Extension and Renewal of Leases) (Amendment) Rules, 2020; the Land (Allocation of Public Land) (Amendment) Regulations, 2020; and the Land Registration (Electronic Transactions) Regulations, 2020.

3. Policy Background

The proposed Regulations have been made pursuant to the powers vested in the Cabinet Secretary, Ministry of Lands and Physical Planning under section 45 of the Survey Act, Chapter 299 of the laws of Kenya. Section 45 of the Survey Act, mandates the Cabinet Secretary to prescribe the manner in which surveys shall be carried out and the manner and form in which the records of surveys shall be prepared and furnished to the Director of Surveys.

Over the years, the Department of Surveys has faced challenges in the introduction and use of new surveying and positioning technologies and methodologies, in a rapidly changing technological environment. This has resulted in unnecessary delays in service delivery and has had a negative impact on the economy.

The introduction of these Regulations will result in efficiency and effectiveness in service delivery and improvement in the ease of doing business in Kenya.

4. Consultative Outcome

The formulation of the statutory instruments has been spearheaded by a ministerial taskforce. However, it is critical from the onset to mention that the statutory instruments have been formulated during the COVID-19 pandemic period hence severely affecting the consultative process as far as physical interaction is concerned. The taskforce did surmount this limitation by resorting to online video or voice link consultation of both internal and external stakeholders after invitations were made through public notices. The result of the public participation is as per the attached matrix. In addition, most of the stakeholders gave written memoranda through which detailed representations were made. In total, thirty five (35) written memoranda were received by the taskforce.

The external stakeholders did comprise of various public agencies spanning the national government and the county governments as well as various professional bodies and civil society organizations. The Council of Governors (COG) and the County Assemblies Forum (CAF) also registered their presence. The process of stakeholder participation lasted for two weeks (14th – 29th May 2020).

5. Guidance

Considering the challenges faced by most people in the adoption and use of technology, it will be necessary to continuously engage with the users and other stakeholders 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 public education.

6. Impact

6.1 The Impact on Fundamental Rights and Freedoms

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(4) of the Constitution, section 45 of the Survey Act, Chapter 299, section 24 of the Statutory Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

6.2 The impact on the private sector

Going by the responses and support received during the formulation 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 processing and approval of cadastral surveys. This also means that the conduct of land transactions will be easy, predictable and fast. Maps, plans and other survey data resulting from application of these regulations are expected to be more readily available and more reliable. This will consequently result in greater investor confidence

6.3 The impact on the public sector

Land being a critical sector, the public agencies vested with the responsibility of implementing these Regulations have an enormous task of ensuring that a positive impact envisaged by these Regulations is delivered to the general public. It is expected that the many changes and new features contained in these Regulations will enable the public agencies involved in land related activities to deliver their services much faster. Other public agencies that require knowledge of position and location of land parcels to execute their mandate will benefit immensely from the application of these regulations.

6.4 Impact Assessment

An Impact Assessment on these amended regulations has been conducted and is hereby attached to this memorandum.

7. Monitoring and Review

The Ministry will continuously seek feedback from public on the application of the Regulations to monitor the operation.

8. Contact

The Cabinet Secretary
Ministry of Lands and Physical Planning
P.O Box 30450-00100
NAIROBI
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Disclaimer

These notes act only as a guideline and as such they are not exhaustive and for clarity proper reference should be made to the main body of these Regulations.