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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE PRESIDENTIAL MEMORANDUM OF REFERRAL ON THE
NATIONAL LAND COMMISSION (AMENDMENT) BILL, NATIONAL ASSEMBLY

NO.43 OF 2023

		THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 22 JUL 2025		DAY: TUESDAY	
TABLED BY:	HON. JOASH NYAMOKO, MP (CHAIRPERSON)	NATIONAL ASSEMBLY RECEIVED 22 JUL 2025 SPEAKER'S OFFICE P. O. Box 41842, NAIROBI.	
CLERK-AT THE TABLE:	IRZAKI MWANGI		

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July 2025

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CHAIRPERSON'S FOREWORD

This Report contains a detailed analysis of the Presidential Memorandum of Referral on the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023). On Tuesday, 1st July, 2025, the Rt. Hon. Speaker conveyed a message from His Excellency, the President referring the National Land Commission (Amendment) Bill (*National Assembly Bills No. 43 of 2023*), accompanied by a memorandum to the Departmental Committee on Lands.

The message from His Excellency the President, dated 26th June, 2025, stated that His Excellency the President had, declined to assent to the National Land Commission (Amendment) Bill (*National Assembly Bills No. 43 of 2023*) and attached a memorandum of referral detailing the reasons for declining to assent, in exercise of the powers conferred to him by Article 115(1)(b) of the Constitution.

The National Land Commission (Amendment) Bill (*National Assembly Bills No. 43 of 2023*) was published on 16th August 2023 vide Kenya *Gazette* Supplement No.129 of 2022 and was Read a First time on 27th September, 2023. The Bill, sponsored by the Deputy Chief Whip, the Hon. Owen Baya, MP was passed, with amendments, by the National Assembly on 13th February, 2025.

It is upon this premise, that the National Assembly Departmental Committee on Lands convened to deliberate on the Presidential Memorandum of Referral in accordance to Article 115 of the Constitution which provides that the President may refer a Bill back for reconsideration to Parliament to amend the Bill in light of the reservations of the President; or pass the Bill a second time without amendment.

I take this opportunity to thank and commend Committee Members for their devotion and commitment to duty, the Speaker and the Clerk of the National Assembly for providing leadership and direction and finally the Committee Secretariat for their exemplary performance in the provision of technical and logistical support.

On behalf of the Departmental Committee on Lands and pursuant to provisions of Standing Order 216 (5) (g), it is my pleasant privilege and honor to present the Report of the Committee

on its consideration of the Presidential Memorandum of Referral on the National Land Commission (Amendment) Bill, (National Assembly Bills No. 43 of 2023).

Hon. Joash Nyamache Nyamoko, HSC, M.P.

Chairperson, Departmental Committee on Lands

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Departmental Committee on Lands is one of the Departmental Committees of the National Assembly established under Standing Order 216 whose mandates pursuant to the Standing Order 216 (5) are as follows:
 - i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - ii. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;
 - iii. on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
 - iv. To study and review all legislation referred to it;
 - v. To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
 - vi. To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - vii. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
 - viii. To examine treaties, agreements and conventions;
 - ix. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - x. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - xi. To examine any questions raised by Members on a matter within its mandate.

1.2 Subjects under the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to oversee: matters related to lands and settlement including, land policy, land transactions, survey and mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information and management system.

1.3 Oversight

3. In executing its mandate, the Committee on Lands oversees the
 - i. State Department for Lands and Physical Planning
 - ii. The National Land Commission.

1.4 Committee Membership

4. The Departmental Committee on Lands was constituted by the House on Thursday, 27th October 2022 and comprises the following Members:

Chairperson

Hon. Joash Nyamache Nyamoko, MP
North Mugirango Constituency

UDA Party

Vice-Chairperson

Hon. Fatuma Abdi Jehow, MP
Women Representative Wajir County

ODM Party

Members

Hon. Dr. Rachael Kaki Nyamai, MP
Kitui South Constituency

JUBILEE Party

Hon. Irene Mrembo Njoki, MP
Bahati Constituency

JUBILEE Party

Hon. Dr. Gideon Ochanda, MP
Bondo Constituency

ODM Party

Hon. Leah Sopiato Sankaire, MP
Women Representative Kajiado County

ODM Party

Hon. Mathias Robi Nyambabe, MP
Kuria West Constituency

UDA Party

Hon. Ali Wario Guyo, MP
Garsen Constituency

ODM Party

Hon. Maj. Barrow Dekow, MP
Garissa Township Constituency

UDA Party

Hon. Omar Mwinyi, MP
Changamwe Constituency

ODM Party

Hon. Paul Katana, MP
Kaloleni Constituency

ODM Party

Hon. Thaddeus Nzambia, MP
Kilome Constituency

WIPER Party

Hon. Josses Lelmengit, MP
Emgwen Constituency

UDA Party

Hon. Anthony Kenga Mupe, MP
Rabai Constituency

JUBILEE Party

Hon. Gachoki Gitari, MP
Kirinyaga Central Constituency

UDA Party

1.5 Committee Secretariat

5. The Committee is facilitated by the following staff secretariat:

Mr. Joshua Ondari
Clerk Assistant I/Lead Clerk

Mr. Nebert Lomechu Ikai
Clerk Assistant I

Mr. Binensa Mabungu
Clerk Assistant III

Mr. Sidney Lugaga
Senior Legal Counsel

Ms. Judith Kiprop
Fiscal Analyst III

Mr. Murimi Mwangi
Media Relations Officer

Ms. Mary Kamande
**Public Communications
Officer**

Ms. Patricia Gichane
Legal Counsel II

Ms Audrey Ogutu
Legal Counsel II

Ms. Brenda Michira
Research Officer III

Mr. Yeziel Jillo
Senior Serjeant-At-Arms

Mr. Cosmas Akhonya
Audio Officer

CHAPTER TWO

2.0 PRESIDENTIAL MEMORANDUM OF REFERRAL TO THE NATIONAL LAND COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.43 OF 2023)

2.1 Background

6. On Tuesday, 1st July, 2025, the Rt. Hon. Speaker conveyed a message from His Excellency, the President referring the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) accompanied by a memorandum to the Departmental Committee on Lands.

7. The message from His Excellency the President, dated 26th June, 2025, stated that His Excellency the President had, declined to assent to the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) and attached a memorandum of referral detailing the reasons for declining to assent, in exercise of the powers conferred to him by Article 115(1)(b) of the Constitution.

2.2 Legislative Process

8. The National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) was published on 16th August, 2023 vide Kenya Gazette Supplement No.129 of 2022 and Read a First time on 27th September, 2023. The Bill, sponsored by the Deputy Chief Whip, the Hon. Owen Baya, MP was passed, with amendments, by the National Assembly on 13th February, 2025.

2.3 Legislative Framework

9. Article 115 of the Constitution regulates Presidential assent and referral. Article 115(1) of the Constitution provides that within fourteen days after receipt of a Bill, the President shall—assent to the Bill; or refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.

10. Article 115(2) of the Constitution provides that if the President refers a Bill back for reconsideration, Parliament may amend the Bill in light of the reservations of the President; or pass the Bill a second time without amendment.

11. Article 115(3) of the Constitution provides that if Parliament amends the Bill fully accommodating the reservations of the President, the Speaker shall re-submit the Bill to the President for assent.

12. Article 115(4) of the Constitution provides that Parliament, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the reservations from the President, by a vote supported by two-thirds of members of the National Assembly.

CHAPTER THREE

2.4 Analysis of the Presidential Memorandum of Referral

13. Attached below is a matrix containing an analysis of the memorandum of referral on the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) detailing the reasons for declining to assent,

No	Clause	Proposed amendment	Effect of the Amendment
1	(1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, on its own motion or upon a complaint by the national or a county government, a community or an individual, review any grants or dispositions of public land to establish their propriety or legality.	(a) deleting the proposed section 14(1) and substituting therefor the following new subsection — (1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, within five years of the coming into force of this section, on its own motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land issued before the 27th August, 2010 to establish their propriety or legality, upon hearing all parties affected.	Introduces a 5-year limit for reviewing grants or dispositions, and limits the scope of the National Land Commission to reviewing all grants or dispositions to apply to public land issued before the 27 th August, 2010.
2	(9) A person may register a determination that complies with Article 40(6) of the Constitution made under subsection (6) in the High Court.	(b) deleting the proposed section 14(9) and substituting therefor the following new subsection — (9) A person may register a determination made under	Narrows registration criteria provided under subsection (4) and removes constitutional reference to Article 40(6).

		subsection (4) in the High Court;	
3	(10) Where a person registers a determination under subsection 9, (a) the High Court shall enter judgment in accordance with the determination; and (b) includes any consequential orders issued as a result of the determination.	(c) deleting the proposed section 14(10);	Removes automatic court enforcement, meaning Commission decisions require separate legal action to be upheld in court.
4	(12) The Commission shall publish all determinations made under subsection (6).	(d) deleting the proposed section 14(12) and substituting therefor the following new subsection — (12) The Commission shall publish in the Gazette all determinations made under subsection (4).	Requires all matters that are published to be gazetted.
5	<i>(No existing text; this is a new provision)</i>	(e) inserting the following new subsection immediately after the proposed section 14(13) — (13) The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).	Empowers the Commission to seek an extension of the 5-year window , promoting flexibility under legislative oversight.
6	(1) Pursuant to Article 67(3) of the Constitution, the Commission shall initiate, receive, admit and	(a) deleting the proposed section 15(1) and substituting therefor the following new subsection —	Limits the role of the Commission to investigating historical land injustices , removing its authority to

	investigate a complaint on present or historical land injustices, complaint and recommend an appropriate redress.	(1) Pursuant to Article 67(2)(e) of the Constitution, the Commission shall initiate, receive, admit and investigate any historical land injustice complaint and recommend an appropriate redress.	investigate present-day disputes .
7	(3) For the purposes of this section, a historical land injustice includes a subsisting land injustice	(b) deleting the proposed section 15(3);	Limits the application of the Bill to historical land injustice.
8	(12) The Commission shall publish all determinations made under this section.	(c) deleting the proposed section 15(12) and substituting therefor the following new subsection — (12) The Commission shall publish in the Gazette all determinations made under this section.	Inserts a requirement that National Land Commission shall publish all determinations in the Kenya Gazette .
9	(15) The Commission shall publish regulations to operationalize this section within six months of enacting this Act.	(d) deleting the proposed section 15(15) and substituting therefor the following new subsection — (15) The Commission shall make regulations to operationalize this section within six months from the coming into force of this section.	Inserts the words “ make regulations to ” to make the sentence clear and simple to understand
10	<i>(No existing text; new clause being added)</i>	(e) adding the following new subsection after the proposed section 15(15) —	Introduces a sunset clause to limit application of the section to 5 years , meaning that all

		(16) The provisions of this section shall stand repealed within five years from the coming into force of this section.	historical land injustices must be resolved within 5 years of enactment of this Act.
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CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

14. The memorandum proposes to amend clause 1 of the Bill by deleting the proposed section 14(1) and substituting with a new subsection to introduce a **5-year limit** for reviewing grants or dispositions, and to limit the scope of the National Land Commission to reviewing all grants or dispositions to apply to public land issued before the 27th August, 2010.
15. The memorandum proposes to amend **clause 1 of the Bill** by deleting the proposed **section 14(9)** and substituting the proposed subsection with a new subsection to limit the criteria for registration to determination issued under **subsection (4)** and removes constitutional reference to Article 40(6), streamlining the enforcement trigger.
16. The memorandum proposes to amend **clause 1 of the Bill** by deleting the proposed section 14(10) and the effect of the amendment that **removes automatic court enforcement**, meaning Commission decisions require separate legal action to be upheld in court.
17. The memorandum proposes to amend **clause 1 of the Bill** by deleting the proposed section 14(12) and substituting the proposed subsection with a new subsection to limit the criteria for registration to determination issued under **subsection (4)** and removes constitutional reference to Article 40(6), streamlining the enforcement trigger.
18. The memorandum proposes to amend **clause 1 of the Bill** by inserting a new subsection immediately after the proposed section 14(13) to **empower** the Commission to seek an **extension of the 5-year window**, promoting flexibility under legislative oversight.
19. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(1) and substituting the proposed subsection with a new subsection to **limit the role of the Commission** to investigating **historical land injustices**, removing its authority to investigate **present-day disputes**. The Committee will

sponsor a Bill to amend the National Land Commission Act to empower the National Land Commission to investigate **present-day disputes**.

20. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(3) to limit the application of the Bill to historical land injustice. The Committee will sponsor a Bill to amend the National Land Commission Act to empower the National Land Commission to investigate **present-day disputes**.
21. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(12) and substituting the proposed subsection with a new subsection to insert a requirement that the National Land Commission shall publish all determinations in the **Kenya Gazette**.
22. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(15) to insert the words “**make regulations to**” to make the sentence clear and simple to understand.
23. The memorandum proposes to amend **clause 2 of the Bill** by inserting the following new subsection immediately after the proposed section 14(13) to introduce a **sunset clause** to limit application of the section to **5 years**, meaning that all historical land injustices must be resolved within 5 years of enactment of this Act.

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATIONS

24. Article 115 of the Constitution provides that Parliament — (a) may amend the Bill fully accommodating the reservations of the President or (b) may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the reservations from the President.
25. Pursuant to Article 115 of the Constitution, the Committee may consider the reservations and recommend that the National Assembly: (a) amends the Bill fully accommodating the reservations of the President or (b) pass the Bill a second time, with or without amendments that accommodate the reservations from the President.
26. Pursuant to Article 115 of the Constitution, the Committee recommends to the House to amend the Bill fully accommodating the reservations of the President relating to:
 - (a) **Clause 1 of the Bill** by deleting the proposed **section 14(1)** and substituting the proposed subsection with the following new subsection—

“(1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, within five years of the coming into force of this section, on its own motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land issued before the 27th August, 2010 to establish their propriety or legality, upon hearing all parties affected.”
 - (b) **Clause 1 of the Bill** by deleting the proposed **section 14(9)** and substituting the proposed subsection with the following new subsection—

“(9) A person may register a determination made under subsection (4) in the High Court;”
 - (c) **Clause 1 of the Bill** by deleting the proposed section 14(10).
 - (d) **Clause 1 of the Bill** by deleting the proposed section 14(12) and the proposed subsection with the following new subsection—

“(12) The Commission shall publish in the **Gazette** all determinations made under subsection (4).”

(e) **Clause 1 of the Bill by** inserting a new subsection immediately after the proposed section 14(13) —

“(13) The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).”

(f) **Clause 2 of the Bill by** deleting the proposed section 15(1) and the proposed subsection with the following new subsection—

“(1) Pursuant to Article 67(2)(e) of the Constitution, the Commission shall initiate, receive, admit and investigate any historical land injustice complaint and recommend an appropriate redress.”

(g) **Clause 2 of the Bill by** deleting the proposed section 15(3).

(h) **Clause 2 of the Bill by** deleting the proposed section 15(12) and the proposed subsection with the following new subsection—

“(12) The Commission shall publish in the Gazette all determinations made under this section.”

(i) **Clause 2 of the Bill by** deleting the proposed section 15(15) and the proposed subsection with the following new subsection—

“(15) The Commission shall **make regulations to** operationalize this section within six months from the coming into force of this section.”

(j) **Clause 2 of the Bill by** inserting the following new subsection immediately after the proposed section 14(13)—

“(16) The provisions of this section shall stand repealed within five years from the coming into force of this section.”

(k) The Committee resolves to sponsor a Bill to amend section 15(1) the National Land Commission Act to operationalise the National Land Commission to investigate present land injustices in accordance with article 67(2)(e) of the Constitution.

SIGNED..... DATE 17/7/2025

HON. JOASH NYAMACHE NYAMOKO, MP
(CHAIRPERSON)

THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 22 JUL 2025 DAY: TUESDAY

TABLED BY:	HON. JOASH NYAMOKO, MP (CHAIRPERSON)
CLERK-AT THE-TABLE:	INZOPU MWALE,



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT
DEPARTMENTAL COMMITTEE ON LANDS
REPORT ADOPTION LIST

We, the members of the Departmental Committee on Lands, have pursuant to Standing Orders 216 (5)(c), adopted this report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.

Date: 17/07/2025

No.	MEMBER	SIGNATURE
1.	Hon. Nyamoko Joash Nyamache, HSC, MP - <i>Chairperson</i>	
2.	Hon. Jehow Fatuma Abdi, MP – <i>Vice Chairperson</i>	
3.	Hon. (Dr.) Rachael Kaki Nyamai, CBS, MP	
4.	Hon. (Dr.) Ogolla Gideon Ochanda, MP	
5.	Hon. Shimbwa Omar Mwinyi, MP	Virtual.
6.	Hon. Robi Mathias Nyamabe, MP	
7.	Hon. Gitari Joseph Gachoki, MP	
8.	Hon. Katana Paul Kahindi, MP	Virtual
9.	Hon. Mupe Anthony Kenga, MP	
10.	Hon. Guyo Ali Wario, MP	
11.	Hon. (Eng.) Nzambia Thuddeus Kithua, MP	Virtual
12.	Hon. Lelmengit Jossess Kiptoo Kosgey, MP	
13.	Hon. Maj. (Rtd) Dekow Barrow Mohamed, MP	
14.	Hon. Sankaire Leah Sopiato, MP	
15.	Hon. Mrembo, Irene Njoki MP	Virtual



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT – FOURTH SESSION, 2025

DEPARTMENTAL COMMITTEE ON LANDS

MINUTES OF THE 25TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD AT THE COMMITTEE ROOM 22, 5TH FLOOR BUNGE TOWER ON THURSDAY, 17TH JULY 2025 AT 10:00 AM.

PRESENT

1. Hon. Nyamoko Joash Nyamache, HSC, M.P. - *Chairperson*
2. Hon. Jehow Fatuma Abdi, M.P. - *Vice Chairperson*
3. Hon. (Dr.) Rachael Kaki Nyamai, CBS, M.P.
4. Hon. Robi Mathias Nyamabe M.P.
5. Hon. Shimbwa Omar Mwinyi, M.P. - Virtual
6. Hon. Katana Paul Kahindi, M.P. - Virtual
7. Hon. (Eng.) Nzambia Thuddeus Kithua, M.P. - Virtual
8. Hon. Lelmengit Josses Kiptoo Kosgey, M.P.
9. Hon. Mrembo Irene Njoki, M.P. - Virtual

ABSENT WITH APOLOGIES

1. Hon. (Dr.) Ogolla Gideon Ochanda, M.P.
2. Hon. Gitari Joseph Gachoki, M.P.
3. Hon. Guyo Ali Wario, M.P.
4. Hon. Mupe Anthony Kenga, M.P.
5. Hon. Sankaire Leah Sopiato, M.P.
6. Hon. Maj. (Rtd) Dekow Barrow Mohamed, M.P.

COMMITTEE SECRETARIAT

1. Mr. Joshua Ondari - Lead Clerk
2. Mr. Nerbert Ikai - Assisting Clerk
3. Mr. Binensa Mabungu - Assisting Clerk
4. Mr. Sidney Lugaga - Senior Legal Counsel
5. Ms. Patricia Gichane - Legal Counsel
6. Ms. Mary Kamande - Public Communications Officer
7. Mr. Cosmas Akhonya - Audio Officer
8. Mr. Bromick Russel - Parliamentary Attaché

MIN/NO./NA/DC-LANDS/2025/156:

PRELIMINARIES

The meeting was called to order at Twelve minutes past Ten o'clock with a word of prayer by the Hon. (Dr.) Rachael Kaki Nyamai, CBS, M.P.

MIN/NO./NA/DC-LANDS/2025/157:

ADOPTION OF THE AGENDA

1. Preliminaries;
2. Confirmation of Minutes.
3. Matters Arising;
4. Pending Business
5. Meetings:
 - i) **Consideration and Adoption of the Report on The Presidential Memorandum of Referral on the National Land Commission (Amendment) Bill, National Assembly Bill No. 43 of 2023.**
6. Any Other Business
7. Adjournment

The agenda of the meeting was adopted after it was proposed by Hon. Lelmengit Jossess Kiptoo Kosgey M.P. and seconded by Hon. Robi Mathias Nyamabe, M.P.

MIN/NO./NA/DC-LANDS/2025/158:

CONFIRMATION OF MINUTES

The Confirmation of minutes was deferred to a later sitting

MIN/NO./NA/DC-LANDS/2025/159:

MATTERS ARISING

There were no matters arising

MIN/NO./NA/DC-LANDS/2025/160:

**CONSIDERATION AND ADOPTION
OF THE REPORT ON THE
PRESIDENTIAL MEMORANDUM
OF REFERRAL ON THE NATIONAL
LAND COMMISSION
(AMENDMENT) BILL, NATIONAL
ASSEMBLY BILL NO. 43 OF 2023.**

The Senior Legal Counsel took the Committee through the draft report with emphasis on the following;

COMMITTEE OBSERVATIONS

1. The memorandum proposed to amend clause 1 of the Bill by deleting the proposed section 14(1) and substituting with a new subsection to introduce a **5-year limit** for reviewing grants or dispositions, and to limit the scope of the National Land Commission to reviewing all grants or dispositions to apply to public land issued before the 27th August, 2010.

- section 14(9)** and substituting it with a new subsection to limit the criteria for registration to determination issued under **only subsection (4)** and removes constitutional reference to Article 40(6), streamlining the enforcement trigger.
3. The memorandum proposed to amend **clause 1 of the Bill** by deleting the proposed section 14(10) and the effect of the amendment that **removes automatic court enforcement**, meaning Commission decisions require separate legal action to be upheld in court.
 4. The memorandum proposed to amend **clause 1 of the Bill** by deleting the proposed section 14(12) and substituting with a new subsection to limit the criteria for registration to determination issued under **only subsection (4)** and removes constitutional reference to Article 40(6), streamlining the enforcement trigger.
 5. The memorandum proposed to amend **clause 1 of the Bill** by inserting a new subsection immediately after the proposed section 14(13) to **empower** the Commission to seek an **extension of the 5-year window**, promoting flexibility under legislative oversight.
 6. The memorandum proposed to amend **clause 2 of the Bill** by deleting the proposed section 15(1) and substituting with a new subsection to **limit the role of the Commission** to investigating **historical land injustices**, removing its authority to investigate **present-day disputes**. The Committee will sponsor a Bill to amend the Bill to empower the National Land Commission to investigate **present-day disputes**.
 7. The memorandum proposed to amend **clause 2 of the Bill** by deleting the proposed section 15(3) to limit the application of the Bill to historical land injustice. The Committee will sponsor a Bill to amend the Bill to empower the National Land Commission to investigate **present-day disputes**.
 8. The memorandum proposed to amend **clause 2 of the Bill** by deleting the proposed section 15(12) and substituting with a new subsection to insert a requirement that the National Land Commission shall publish all determinations in the **Kenya Gazette**.

9. The memorandum proposed to amend **clause 2 of the Bill** by deleting the proposed section 15(15) to insert the words “**make regulations to**” to make the sentence clear and simple to understand.
10. The memorandum proposed to amend **clause 2 of the Bill** by inserting the following new subsection immediately after the proposed section 14(13) to introduce a **sunset clause** to limit application of the section to **5 years**, meaning that all historical land injustices must be resolved within 5 years of enactment of this Act.

COMMITTEE RECOMMENDATIONS

11. Article 115 of the Constitution provides that Parliament — (a) may amend the Bill fully accommodating the reservations of the President or (b) may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the reservations from the President.
12. Pursuant to Article 115 of the Constitution, the Committee may consider the reservations and recommend that the National Assembly: (a) amends the Bill fully accommodating the reservations of the President or (b) pass the Bill a second time, with or without amendments that accommodate the reservations from the President.
13. Pursuant to Article 115 of the Constitution, the Committee resolved to amend the Bill fully accommodating the reservations of the President relating to:
 - (a) **Clause 1 of the Bill** by deleting the proposed **section 14(1)** and substituting it with the following new subsection—
 - “(1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, within five years of the coming into force of this section, on its own motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land issued before the 27th August, 2010 to establish their propriety or legality, upon hearing all parties affected.”

- (b) **Clause 1 of the Bill** by deleting the proposed **section 14(9)** and substituting it with the following new subsection—
- “(9) A person may register a determination made under subsection (4) in the High Court;”
- (c) **Clause 1 of the Bill** by deleting the proposed section 14(10).
- (d) **Clause 1 of the Bill** by deleting the proposed section 14(12) and it with the following new subsection—
- “(12) The Commission shall publish in the **Gazette** all determinations made under subsection (4).”
- (e) **Clause 1 of the Bill** by inserting a new subsection immediately after the proposed section 14(13) —
- “(13) The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).”
- (f) **Clause 2 of the Bill** by deleting the proposed section 15(1) and it with the following new subsection—
- “(1) Pursuant to Article 67(2)(e) of the Constitution, the Commission shall initiate, receive, admit and investigate any historical land injustice complaint and recommend an appropriate redress.”
- (g) **Clause 2 of the Bill** by deleting the proposed section 15(3).
- (h) **Clause 2 of the Bill** by deleting the proposed section 15(12) and it with the following new subsection—
- “(12) The Commission shall publish in the **Gazette** all determinations made under this section.”
- (i) **Clause 2 of the Bill** by deleting the proposed section 15(15) and it with the following new subsection—
- “(15) The Commission shall **make regulations to** operationalize this section within six months from the coming into force of this section.”

(j) **Clause 2 of the Bill** by inserting the following new subsection immediately after the proposed section 14(13)—

“(16) The provisions of this section shall stand repealed within five years from the coming into force of this section.”

(k) The Committee resolved to sponsor a Bill to amend section 15(1) the National Land Commission Act to empower the National Land Commission to investigate present-land injustices in accordance with article 67(2)(e) of the Constitution.

ADOPTION OF THE REPORT

The Report on The Presidential Memorandum of referral on the National Land Commission (Amendment) Bill (National Assembly Bill No. 43 of 2023) was adopted having been proposed by The Hon. (Dr) Rachael Kaki Nyamai, CBS, M.P and seconded by The Hon. Robi Mathias Nyamabe, M.P.

MIN/NO.NA/DC-LANDS/2025/161:

ANY OTHER BUSINESS

There was no other business

MIN/NO.NA/DC-LANDS/2025/162:

ADJOURNMENT

There being no other business, the meeting was adjourned at twenty minutes past twelve o'clock. The next meeting would be held on notice.

SIGNED.....

DATE.....

17/7/2025

**HON. JOASH NYAMACHE NYAMOKO, MP
(CHAIRPERSON)**



*Avale
Ondani
Deal. Ensure timeliness
are adhered to
2/7/25*

DIRECTORATE OF LEGISLATIVE & PROCEDURAL SERVICES
THE TABLE OFFICE

MEMO

TO : Director, Departmental Committees

FROM : Head of the Table Office Department

DATE : 1st July 2025

SUBJECT : MESSAGE FROM THE PRESIDENT

On Tuesday, 1st July 2025, the Honourable Speaker conveyed the following Message:

- Referral by His Excellency the President of two (2) National Assembly Bills –
 - (i) The National Land Commission (Amendment) Bill, 2023; and
 - (ii) The Cancer Prevention and Control (Amendment) (No. 2) Bill (National Assembly Bill No. 45 of 2022).

Enclosed herewith, please find the said Message together with the Memoranda for onward forwarding to the Departmental Committees on Lands and Health respectively.

Wanjiru Ndindiri

Encls.

Copy to: Clerk of the National Assembly
Deputy Clerks
Director, Legislative & Procedural Services
Chief Librarian, Library & ICT Services





*Office please forward
Applicable 2016.*

**EXECUTIVE OFFICE OF THE PRESIDENT
CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE**

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya

Ref. No. **EOP/CAB.26/4A VOL.VI/(152)**
and date

26th June, 2025

Hon. Moses F. M. Wetangula, EGH
Speaker
The National Assembly
Parliament of Kenya
Parliament Building
NAIROBI

*ADP
TO JWC PROCESS
CONVEYANCE
THE HOUSE
TUESDAY
1ST JULY
27/6*

Dear **Hon Speaker,**

TRANSMITTAL

MEMORANDA OF REFERRAL OF TWO BILLS OF PARLIAMENT

You are notified that **His Excellency the President** has on this 26th June, 2025, declined to assent to two bills, in exercise of the powers conferred to him by Article 115 (1) (b) of the Constitution.

The Bills which have been referred for reconsideration by the National Assembly by dint of this Presidential action are:

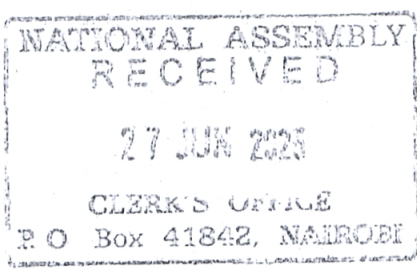
- I. **The National Land Commission (Amendment) Bill;** and
- II. **The Cancer Prevention and Control (Amendment) Bill** (National Assembly Bill No. 23 of 2025).

Accordingly, and by way of this letter, kindly be pleased to receive Two Memoranda of Referral detailing the reasons for decline of assent as set out by **His Excellency the President**, for your notification and further action.

Yours

Holicaw

HON. JOSEPH N. NANOK, EGH
For: **CHIEF OF STAFF &
HEAD OF THE PUBLIC SERVICE**





*Office
Please forward
Drafts etc
2025*

**EXECUTIVE OFFICE OF THE PRESIDENT
CHIEF OF STAFF AND HEAD OF THE PUBLIC SERVICE**

Telegraphic Address
Telephone: +254-20-2227436
When replying please quote

**STATE HOUSE
P.O. Box 40530-00100
Nairobi, Kenya**

Ref. No. **EOP/CAB.26/4A VOL.VI/(152)**
and date

26th June, 2025

Hon. Moses F. M. Wetangula, EGH
Speaker
The National Assembly
Parliament of Kenya
Parliament Building
NAIROBI

*0 DLR
TO
Jw
his
a
July
Tuesday
The House
1st
27/6*

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TRANSMITTAL

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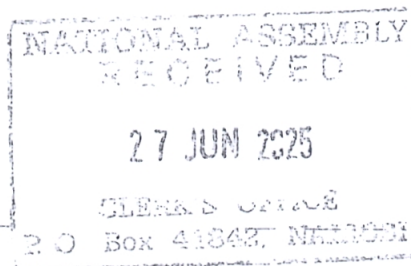
- I. **The National Land Commission (Amendment) Bill;** and
- II. **The Cancer Prevention and Control (Amendment) Bill** (National Assembly Bill No. 23 of 2025).

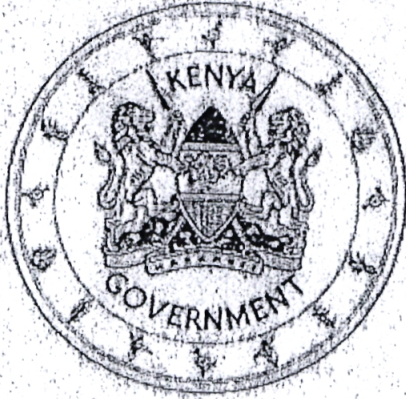
Accordingly, and by way of this letter, kindly be pleased to receive Two Memoranda of Referral detailing the reasons for decline of assent as set out by **His Excellency the President**, for your notification and further action.

Yours

Joseph N. Nanok

HON. JOSEPH N. NANOK, EGH
**For: CHIEF OF STAFF &
HEAD OF THE PUBLIC SERVICE**





D/Pr
to process for 4
cm
30/06/25

THE CONSTITUTION OF KENYA

REFERRAL of THE NATIONAL LAND COMMISSION (AMENDMENT) BILL, 2025

PRESIDENTIAL MEMORANDUM OF REFERRAL

By **HIS EXCELLENCY, THE HONOURABLE WILLIAM SAMOEI RUTO, Ph.D., C.G.H.**
President and Commander-in-Chief of the Kenya Defence Forces.

Submitted to the:

HON. SPEAKER OF THE NATIONAL ASSEMBLY.

WHEREAS a Bill entitled "*An Act of Parliament to amend the National Land Commission Act and for connected purposes*", the short title of which is "*The National Land Commission (Amendment) Bill, 2025*" was passed by the National Assembly on the 13th March 2025;

AND WHEREAS the National Land Commission (Amendment) Bill, 2025 was presented to me for assent in accordance with the provisions of the Constitution on the 17th June, 2025;

NATIONAL ASSEMBLY
RECEIVED
30 JUN 2025
CLERK'S OFFICE
P.O. Box 41842, NAIROBI



NOW THEREFORE, in exercise of the powers conferred on me by Article 115 (1) (b) of the Constitution, I decline to assent to the National Land Commission (Amendment) Bill, 2025, and refer the Bill for reconsideration by the National Assembly for the reasons set out hereunder:

CLAUSE 2

Clause 2 of the Bill provides for the repeal and replacement of **section 14 of the National Land Commission Act**. The clause proposes a new section 14 which provides as follows—

- (1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, on its own motion or upon a complaint by the national or a county government, a community or an individual, review any grants or dispositions of public land to establish their propriety or legality.
- (2) Subject to Articles 40, 47 and 60 of the Constitution, the Commission shall make rules for the better carrying out of its functions under subsection (1).
- (3) In the exercise of the powers under subsection (1), the Commission shall give every person who appears to the Commission to have an interest in the grant or disposition concerned, a notice of such review and an opportunity to appear before it and to inspect any relevant documents.



- (4) After hearing the parties in accordance with subsection (3), the Commission shall make a determination.
- (5) Where the Commission finds that the title was acquired in an unlawful manner, the Commission shall, direct the Registrar to revoke the title.
- (6) Where the Commission finds that the title was irregularly acquired, the Commission shall take appropriate steps to correct the irregularity and may also make consequential orders.
- (7) No revocation of title shall be effected against a bona fide purchaser for value without notice of a defect in the title.
- (8) In the exercise of its power under this section, the Commission shall be guided by the principles set out under Article 47 of the Constitution.
- (9) A person may register a determination that complies with Article 40(6) of the Constitution made under subsection (6) in the High Court.
- (10) Where a person registers a determination under subsection 9,
 - (a) Includes any consequential the High Court shall enter judgment in accordance with the determination; and
 - (b) Includes any consequential orders issued as a result of the determination.



- (11) A person may enforce a judgement that is entered under subsection (9) in the manner provided in the Civil Procedure Act.
- (12) The Commission shall publish all determinations made under subsection (6).
- (13) A person who is aggrieved by a determination under this section may apply for review of the under section 7 of the Fair Administrative Actions Act.

The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).

The proposed section 14(1) **gives the National Land Commission the power to perpetually review all grants or dispositions of public land** without giving a timeframe for the review. Further, the proposal gives the Commission the power to review all grants and dispositions of public land including the grants and dispositions that have been made by the Commission. This is in contrast to the current section 14 (1) of the Act which provides that the review of all grants or dispositions of public land shall be undertaken by the National Land Commission within five years of the commencement of the Act. The timeline of five years defines a historical period and enables the Commission to review all grants or dispositions of public land that had been undertaken by other Government bodies or offices before the National Land Commission was established in the Constitution and mandated to manage all public land.

The National Land Commission is mandated under section 5 of the National Land Commission Act to manage public land



on behalf of the national and county governments and to alienate public land on behalf of, and with the consent of the national and county governments. Therefore, the Commission is involved in the grant and disposition of all public land. The proposal to give the Commission the power to perpetually review complaints relating to grants and dispositions of public land including grants and dispositions of public land made by the Commission is inconsistent with Article 50(1) of the Constitution which provides that every person has a right to have any dispute that can be resolved by the application of the law decided in a fair and public hearing before a court or an independent and impartial tribunal or body. Granting the National Land Commission, the power to review grants and dispositions that it has made would amount to the Commission being a judge in its own cause and may compromise its impartiality and independence. This would also amount to conflict of interest. However, where such a function is granted to the Commission by legislation, there should be no conflict of interest in the performance of the function and the Commission's impartiality and independence in handling the reviews must be guaranteed as required by Article 50 of the Constitution.

RECOMMENDATION

For the foregoing reasons, I recommend that the Bill be amended in clause 2 by—

(a) deleting the proposed section 14(1) and substituting therefor the following new subsection—

(1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, within five years of the coming into force of this section, on its own



motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land issued before the 27th August, 2010 to establish their propriety or legality, upon hearing all parties affected.;

(b) deleting the proposed section 14(9) and substituting therefor the following new subsection—

(9) A person may register a determination made under subsection (4) in the High Court;

(c) deleting the proposed section 14(10);

(d) deleting the proposed section 14(12) and substituting therefor the following new subsection—

(12) The Commission shall publish in the *Gazette* all determinations made under subsection (4).; and

(e) inserting the following new subsection immediately after the proposed section 14(13)—

(13) The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).

CLAUSE 3

Clause 3 of the Bill provides for the repeal and replacement of section 15 of the National Land Commission Act. The clause proposes a new section 15 which provides as follows—



- I. Pursuant to Article 67(3) of the Constitution, the Commission shall initiate, receive, admit and investigate a complaint on present or historical land injustices, complaint and recommend an appropriate redress.
- II. For the purposes of this section, a historical land injustice means a grievance which—
 - (a) was occasioned by a violation of right in land on the basis of any law, policy, declaration, administrative practice, treaty or agreement;
 - (b) resulted in displacement from their habitual place of residence;
 - (c) occurred between 15th June 1895 when Kenya became a protectorate under the British East African Protectorate and 27th August, 2010 when the Constitution of Kenya was promulgated;
 - (d) has not been sufficiently resolved and subsists up to the period specified under paragraph (c); and
 - (e) meets the criteria set out under subsection 3 of this section.
- III. For the purposes of this section, a "historical land injustice" includes a subsisting land injustice.
- IV. A historical land claim may only be admitted, registered and processed by the Commission if—
 - (a) it is verifiable that the act complained of resulted in displacement of the claimant or other form of historical land injustice;



- (b) the claim has not or is not capable of being addressed through the ordinary court system on the basis that—
 - (i) the claim contradicts a law that was in force at the time when the injustice began; or
 - (ii) the claim is debarred under section 7 of the Limitation of Actions Act, or any other law;
- (c) the claimant was either a proprietor or occupant of the land upon which the claim is based;
- (d) no action or omission on the part of the claimant amounts to surrender or renouncement of the right to the land in question; and
- (e) it is brought within five years from the date of amendment of this Section.

V. A claim alleging historical land injustice shall be permissible if it was occasioned by—

- (a) colonial occupation;
- (b) independence struggle;
- (c) pre-independence treaty or agreement between a community and the government;
- (d) development-induced displacement for which no adequate compensation or other form of remedy was provided, including conversion of non-public land into public land;
- (e) inequitable land adjudication process or resettlement scheme;
- (f) politically motivated or conflict based eviction;
- (g) corruption or other form of illegality;
- (h) natural disaster; or



(i) other cause approved by the Commission.

VI. When conducting investigations under subsection (1) into historical land injustices the Commission may—

(a) request from any person including any government department such particulars, documents and information regarding any investigation, as may be necessary; or

(b) by notice in writing, addressed and delivered by a staff of the Commission to any person, direct such person, in relation to any investigation, to appear before the Commission at such time and place as may be specified in the notice, and to produce such documents or objects in the possession, custody or under the control of such person and which are relevant to that investigation.

VII. Where a complainant is unable to provide all the information necessary for the adequate submission or investigation of a complaint, the Commission shall take reasonable steps to have this information made available.

VIII. If at any stage during the course of an investigation, the Commission is of the opinion that the resources of the Commission may be more effectively utilized if all claims within a given area or township were to be investigated at the same time, the Commission shall cause to be published in the Gazette or in such other manner as the Commission may deem appropriate, a notice advising potential complainants of the decision and inviting them to lodge claims within a period specified in such notice.



- IX. A claim in respect of a matter contemplated in subsection (7) shall not be lodged after the expiry of the period specified in the said notice.
- X. The Commission, after investigating any case of historical land injustice referred to it, shall recommend any of the following remedies—
- (a) restitution;
 - (b) compensation, if it is impossible to restore the land;
 - (c) resettlement on an alternative land;
 - (d) rehabilitation through provision of social infrastructure;
 - (e) affirmative action programmes for marginalized groups and communities;
 - (f) creation of wayleaves and easements;
 - (g) order for revocation and reallocation of the land;
 - (h) order for revocation of an official declaration in respect of any public land and reallocation;
 - (i) sale and sharing of the proceeds;
 - (j) refund to bona fide third-party purchasers after valuation; or
 - (k) declaratory and preservation orders including injunctions.
- XI. Upon determination of a historical land injustice claim by the Commission, any authority mandated to act under the redress recommended shall be required to do so within three years.
- XII. The Commission shall publish all determinations made under this section.



- XIII. A person who is aggrieved by a determination under this section may apply for review of the determination under section 7 of the Fair Administrative action Act.
- XIV. The Commission shall complete an investigation under subsection (10) within one year.
- XV. The Commission shall publish regulations to operationalize this section within six months of enacting this Act.

Article 67(2)(e) of the Constitution provides that one of the functions of the National Land Commission is to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress.

The proposed section 15 gives the National Land Commission the power to investigate all present or historical land injustice complaints in perpetuity and does not provide a timeline for the review of historical land injustices. This is in contrast to the current section 15 of the Act which provides in subsection (11) that section 15 of the Act shall stand repealed within ten years.

This means that the National Land Commission must handle all historical injustices within ten years from the enactment of the Act.

Historical land injustices are events that have taken place within a given historical period. Therefore, cases arising therefrom are static in nature since they are defined by a specific period. The corresponding power to address such injustices should also be exercised within a fixed timeline as opposed to the mandate granted in perpetuity through the proposed clause 15(1).



Further, the definition and manner in which a present land injustice is handled should be distinguished from the definition and manner in which a historical land injustice is handled. The proposed section 15(1) provides for the investigation of present or historical land injustice by the National Land Commission but the proposed subsections 15(2) to (15) only define what amounts to a historical land injustice and the manner in which a historical land injustice shall be handled. The proposed section 15 does not define a present injustice and how it is supposed to be handled.

RECOMMENDATION

For the foregoing reasons, I recommend that the Bill be amended in clause 3 by—

(a) deleting the proposed section 15(1) and substituting therefor the following new subsection—

(1) Pursuant to Article 67(2)(e) of the Constitution, the Commission shall initiate, receive, admit and investigate any historical land injustice complaint and recommend an appropriate redress.;

(b) deleting the proposed section 15(3);

(c) deleting the proposed section 15(12) and substituting therefor the following new subsection—

(12) The Commission shall publish in the *Gazette* all determinations made under this section.;

(d) deleting the proposed section 15(15) and substituting therefor the following new subsection—



(15) The Commission shall make regulations to operationalize this section within six months from the coming into force of this section.

(e) adding the following new subsection after the proposed section 15(15)—

(16) The provisions of this section shall stand repealed within five years from the coming into force of this section.

IN WITNESS THEREOF, I hereunto have set my Hand and caused the Public Seal of the Republic to be affixed on this 21st day of June, in the Year of Our Lord **TWO THOUSAND AND TWENTY-FIVE.**



**WILLIAM SAMOEI RUTO,
PRESIDENT.**

Richard Amey