MINISTRY OF LANDS & PHYSICAL PLANNING

24

MOST FREQUENTLY ASKED QUESTIONS ON

COMMUNITY LAND ACT

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24 MOST FREQUENTLY ASKED QUESTIONS ON COMMUNITY LAND ACT

Community Land Registrar
1.0. **What does the Community Land Act provide for?**
- It provides for the recognition, protection and registration of community land rights;
- Management and administration of community land;
- The role of county government in relation to unregistered community land.

2.0. **Which laws have been repealed by the Community Land Act?**
   a) Group (Representatives) Act cap 287 (former group Ranches)
   b) Trust Lands Act cap 288 (Trust lands)

3.0. **What is a community according to the Act?**
A community is a group of people or land users who are citizens of Kenya sharing any of the following characteristics:
   a) A Common ancestry
   b) A Unique culture
   c) Similar socio-economic factors
   d) Occupy a geographical/ ecological space location
   e) Ethnicity
4.0 In what ways can a person become a member of community land?

a) By registration during the initial registration of the community
b) By birth.
b) By marriage
c) By inheritance
c) By acceptance of the community land management committee after the approval by the community assembly.
d) By a court order.

5.0. How does one cease to be a community member?

a) By death
b) Remarriage of a woman after divorce with a member of the community
c) Remarriage of a woman whose spouse and member of the community dies
d) Own Volunion.

6.0. What is community land according to the Act?

Community land consists
a) Land lawfully registered in the name of group representatives.
b) Land lawfully transferred to a specific community by any process of law,
c) Any other land declared to be community land by Act of
parliament,
d) Land that is lawfully held, managed or used by specific communities as community forests, grazing areas and shrines.
e) Ancestral lands and lands traditionally occupied by hunter-gatherer communities;
f) Land that is lawfully held as trusty land by the county governments excluding any public land.

7.0. **What is a Community Assembly?**

It is a gathering of registered adult members of a community convened in accordance with this Act.

8.0. **What is the role of the Community Assembly?**

- Elect 7-15 members of Community Land Management Committee (CLMC)
- Approve any allocation or conversion of community land
- Validate of claims of existing customary rights of occupancy
- Establish investment partnerships

9.0. **What is the role of County governments?**

Hold in trust all unregistered community land
- Ensure any transactions on unregistered Community land are undertaken in accordance with the Act
- Hold in trust monies payable for Compulsory Acquisition of
unregistered Community Land

- Release to communities all monies payable for compensation for compulsory acquisition of unregistered Community Land and interest upon registration of communities
- Consult with the Cabinet Secretary and NLC in establishment of Community Land Registration Units
- Submit inventory of unregistered community land to Cabinet Secretary for registration of Community Land
- Prepare comprehensive Adjudication Programme in consultation with Cabinet Secretary and communities
- Approve physical developments for community land
- Undertake continuous awareness programmes

10.0. Who owns community land?

Before registration of community land, it is held in trust by the respective county governments. After registration, the land is owned by the respective registered community.

11.0. How may community land be held

Community land may be held under customary, freehold, leasehold or any other tenure system as defined by law.
12. WHAT IS THE PROCESS OF REGISTRATION OF COMMUNITY LAND?

a) Development and submission of an Inventory of Unregistered Community Land
b) Establishment of Community Registration Units by Gazettement
c) Designation of Community Land Registrars for every Registration Unit
d) Appointment of Adjudication Officers for every Registration Unit
e) Public Education and Awareness
f) Submission of claims by communities over community Land
g) Registration of Communities
h) Adjudication of Community Land
i) Registration of Community Land

13.0. WHO PREPARES THE INVENTORY OF UNREGISTERED COMMUNITY LAND?

The County governments in consultation with communities by filling form CLA6

14.0. WHAT IS THE CONTENT OF AN INVENTORY?

- Name of community,
- Locality,
- Approximate area and current use of the land
• Any claims by any other persons / groups in respect of that land.

15.O. How does a community submit claim of an interest in land?
By notifying the community land registrar in form CLA1 with attachment of sketch of map, locality, approximate area and current use of the land.

16.O. How do we register a community?
Community Land Registrar

• Registrar receives a claim through CLA1
• Registrars publishes a notice inviting public for a meeting to
The community elects Community Land Management Committee (CLMC) members through secret ballot or through any agreed method. The Community Land Management Committee (CLMC) submits an application to the registrar for registration of community in form CLA3. Registrar issues certificate of registration of community in form CLA4.

17.0. **What are the functions of Community Land Management Committee (CLMC)?**

- Apply for registration of community
- Draft rules and by-laws of operation of the community
- Manage day to day activities on Community Land on behalf of Community
- Maintain register of community
- Maintain assets register
- Record customary rights and allocation of community land
- Cause preparation of physical development plans for Community Land
- Cause preparation of physical development plans for land to be allocated
• Maintain up to date financial books
• Protect environment and natural resources
• Establish investment partnerships
• Dispute resolution

18.0. WHAT IS THE MANAGEMENT AND ADMINISTRATION STRUCTURE OF COMMUNITY LAND?

(within the community:)
  a) Community Assembly (CA) (Governing organ)
  b) Community Land Management Committees (CLMC) (Administrative Organ)
  c) The Executive Officers of the CLMC

(outside the community:)
  d) County governments
  e) The national government through the Ministry of Lands and Physical Planning (MLPP) and the National Land Commission (NLC), Judiciary.

19.0. HOW IS THE COMMUNITY LAND REGISTERED?

• Upon registration of a community the Cabinet Secretary publishes a notice of intention to adjudicate and register community land.
• The adjudicated team demarcates the land excluding public
purpose and any adjudicated public land
• A cadastral map is prepared and presented to the Community Land Registrar for registration
• The Community Land Registrar issues a certificate of Title/lease to the registered community.

20.0 How are overriding intertests recognised during demarcation?
• The notice published by the Cabinet Secretary for adjudication of the land will invite people with interest over the land to lodge their claims
• The application for the claim will be made to the adjudication team in CLA8.
• If the application is approved the land is excluded from the community land.

21.0 Who is the adjudication team?
Its a working team comprising of land adjudication officers, surveyors, physical planners and the Committee mandated to of ascertainment of rights, demarcate and survey of community land.
22.0 **How are disputes resolved under community land Act?**

- Traditional Dispute & Conflict Resolution Mechanisms
- Internal Dispute Resolution Mechanisms set out in community by-laws
- Use of prevailing customary law by court or dispute resolution body so long as it is not repugnant to justice & morality or inconsistent with Constitution
- Mediation
- Arbitration
- Referring outstanding matters to court.

23.0 **Who keeps the community land title?**

The Community land Management Committe - CMLC

24.0 **Can Community land be converted to private or public land?**

Yes, by approval by 2/3 of Community Assembly

Registered Community Land maybe converted to:
- Public land ( through Compulsory Acquisition, Transfer or Surrender)
- Private land ( through transfer or allocation)