

Legal Notice No.....

**LAND ACT
(No. 6 of 2012)**

IN EXERCISE of the powers conferred by section 160 of the Land Act, the Cabinet Secretary responsible for matters relating to land and physical planning, makes the following Regulations—

Land (Amendment) Regulations, 2020.

Citation.

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

Amendment of
Regulation 2 of L. N.
No. 280 of 2017.

2. The Land Regulations, 2017, hereinafter referred to as the "principal Regulations" is amended in Regulation 2 by inserting the following new definition in their proper alphabetical sequence—

Act No.1 of 2009.

(a) “electronic” has the same meaning assigned under the Kenya Information and Communication Act;

Act No.1 of 2009.

(b) “electronic form” has the same meaning assigned under the Kenya Information and Communication Act;

(c) “register” includes electronic form; and

Act No.6 of 2012.

(d) “system” means the National Land Information System developed under Section 6(h) of the Land Act.

(e) “Electronic Appeals Committee” means an appeals committee appointed by the Cabinet secretary under regulation 21E.

(f) “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.

Amendment of
Regulation 3 of L. N.
No. 280 of 2017.

3. Regulation 3 of the principal Regulations is amended by adding the words "including electronic form" appearing after the word land.

Amendment of
Regulation 4 of L.
N. No. 280 of 2017.

4. Regulation 4 of the principal Regulations is amended in sub-Regulation (1) by adding the words “including electronic form” appearing after the word resources.

Amendment of
Regulation 6 of L. N.
No. 280 of 2017.

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

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

Amendment
Regulation 8 of L. N.
No. 280 of 2017.

6. Regulation 8 of the principal Regulations is amended—

(a) in sub- Regulation (1) by inserting the word "in electronic form" appearing after the word "inventory;

(b) by inserting the following new sub-Regulation immediately after sub-Regulation (6)—

(7). Any submission under these Regulation to the inventory and the issuing of notices under sub-regulation (4) and (5) may be made in electronic form.

Amendment
Regulation 9 of L. N.
No. 280 of 2017.

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

(a) inserting the word "in electronic form" after the word "county government" appearing in sub-Regulation (1).

(b) deleting sub-Regulation (2) and substituting therefor the following new sub-Regulation

(2) Upon receipt of the application, the national 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) deleting the word "Commission" appearing in Sub-Regulation (3) and substituting therefor the words "Cabinet Secretary".

(d) deleting sub-Regulation (4) and substituting therefor the following new sub-Regulation;

(4) The fees payable under any license shall be paid to the Cabinet Secretary where the national government is the licensor, and into the County Revenue Fund account where the county government is the licensor.

(e) inserting a new sub-regulation (5) as follows;

(5) Any applications under sub-regulations (1) (2) (3) and (4) may be made in electronic form.”

Amendment
Regulation 10 of L.
N. No. 280 of 2017.

- 8.** Regulation 10 of the principal Regulations is amended by adding a new sub-regulation (3) immediately after sub-Regulation (2)—

(3). The notice issued under sub-regulation (1) may be made in electronic form.

Amendment of
Regulation 11 of L.
N. No. 280 of 2017.

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

- (a) deleting the word "Commission" wherever it appears in the Regulation and substituting therefor the words "Cabinet Secretary".
- (b) deleting sub-Regulation (2) and substituting therefor the following new sub-Regulation;
(2) Land rent shall be payable to the Cabinet Secretary where the head lessor is the national government and into the County Revenue Fund account where the county is the head lessor.
- (c) deleting sub-Regulation (3).

Amendment of
Regulation 12 of L.
N. No. 280 of 2017.

- 10.** Regulation 12 of the principal Regulations is deleted.

Amendment of
Regulation 13 of L.
N. No. 280 of 2017.

- 11.** Regulation 13 of the principal Regulations is amended by—

- (a) deleting the word "Commission" wherever it appears in the Regulation and substituting therefor the words "Cabinet Secretary".
- (b) deleting subparagraph (2)
- (c) by adding a new sub-regulation (7) immediately after sub-Regulation (6)—

(7) The processing of applications under sub-Regulation (1), (4) (5) and (6) for purposes of consent to transfer, sublease or charge may be made in electronic form.

Amendment of
Regulation 14 of L.
N. No. 280 of 2017.

- 12.** Regulation 14 of the principal Regulations is amended by—

- (a) deleting the marginal note "Commission to notify" and substituting therefor the following marginal note

"Notification of affected non-citizen land owners.

- (b) deleting the word "Commission" wherever it appears in this Regulation and substituting therefor the words "Cabinet Secretary".
- (c) inserting the following new sub-Regulation immediately after sub-Regulation (6).

(7) Any application made under sub-Regulation (1) and (3) for purposes of notification may be made in electronic form.

Amendment of
Regulation 15 of L.
N. No. 280 of 2017.

13. Regulation 15 of the principal Regulations is amended by—

- (a) deleting the word "Commission" wherever it appears in this Regulation and substituting therefor the words "Cabinet Secretary".
- (b) inserting the following new sub-Regulation immediately after sub-Regulation (6).

(7) Any application made under sub-Regulation (1) (2) (3) and (4) for purposes of conversion of tenure may be made in electronic form.

Amendment of
Regulation 16 of L.
N. No. 280 of 2017.

14. Regulation 16 of the principal Regulations is amended by inserting the following new sub-Regulation immediately after sub-Regulation (7).

- (i) inserting the following new sub-Regulation (1A) immediately after sub-regulation (1) as follows;

(1A.) An application under sub-regulation (1) shall be submitted, processed and approved in electronic form.

- (ii) inserting the following new sub-Regulation (3A) immediately after sub-regulation (3) as follows;

3A. An application under sub-regulation (2) and (3) to seek representations and approval may be made in electronic form.

- (iii) inserting the following new sub-Regulation (4A) immediately after sub-regulation (4) as follows;

4A. Any notification made to an applicant as provided for under sub-Regulation (4) may be made in electronic form.

Amendment of
Regulation 17 of L.
N. No. 280 of 2017.

15. Regulation 17 of the principal Regulations is amended by -

- (i) inserting the following new sub-Regulation (1A) immediately after sub-regulation (1) as follows;

(1A.) An application under sub-regulation (1) shall be submitted to the county government in electronic form.

- (ii) Deleting the words "Commission and of" appearing after the word "the" and after the word "national" at sub-regulation 2(c)

- (iii) inserting the following new sub-Regulation (2A) immediately after sub-regulation (2) as follows;

(2A) circulation of applications to seek representations under paragraph (2) may be made in electronic form

- (iv) inserting the following new sub-Regulation (4A) immediately after sub-regulation (4) as follows;

(4A) notification of the decision under paragraph (4) may be done in electronic form

(v) deleting the words “and forward the letters together with the cadastral map and plan to commission” appearing after the word “letters” at sub-regulation (5)(c)

(vi) inserting the following new paragraph (d) immediately after sub-regulation (5) (c) as follows;

(d) prepare the subsequent lease(s) and forward them to the Chief Land Registrar for registration in Form LA 29 set out in the Third Schedule

(vii) deleting sub-regulation (6)

(viii) inserting the following new sub-Regulation (6A) immediately after sub-regulation (6) as follows;

6A. Any leases prepared under sub regulation (5) and approvals under sub-Regulation (6) shall be made in electronic form.

Amendment of
Regulation 18 of L.
N. No. 280 of 2017.

16. Regulation 18 of the principal Regulations is amended by

(i) inserting the following new sub-Regulation (1A) immediately after sub-regulation (1) as follows;

(1A.) An application under sub-regulation (1) shall be submitted to the county government in electronic form.

(ii) inserting the following new sub-Regulation (2A) immediately after sub-regulation (2) as follows;

2A. An application under sub-regulation (2) to seek representations may be made in electronic form.

(iii) Inserting the following new sub-Regulation (7) immediately after sub- Regulation (6).

(7) The processing of applications under sub-Regulation (4) (5) and (6) for purposes of change or extension of user on freehold land may be made electronically.

Amendment of
Regulation 19 of L.
N. No. 280 of 2017.

17. Regulation 19 of the principal Regulations is amended by—

(i) inserting the following new sub-Regulation (1A) immediately after sub-regulation (1) as follows;

(1A.) An application under sub-regulation (1) shall be submitted to the county government in electronic form.

(ii) Deleting the words “Commission and of” appearing after the word “the” and after the word “national” at sub-regulation 2(c)

(iii) inserting the following new sub-Regulation (2A) immediately after sub-regulation (2) as follows;

(2A) circulation of applications to seek representations under paragraph (2) may be made in electronic form.

(iv) inserting the following new sub-Regulation (4A) immediately after sub-regulation (4) as follows;

4A. Any notification to an applicant as provided for under sub-Regulation (4) may be made in electronic form.

(v) Inserting the following new paragraph (5)(c) immediately after paragraph (5(b)) as follows

(5)(c) prepare lease and forward it to the Chief Land Registrar for registration in Form LA 29 set out in the Third Schedule.

(vi) deleting sub- Regulation (6) and (7)

(vii) inserting the following new sub-regulation (7A) after sub-regulation (7) as follows

(7A) Forwarding of approval to the cabinet secretary under paragraph (5) may be made in electronic form.

Amendment of
Regulation 21 of L.
N. No. 280 of 2017.

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

(a) deleting sub-regulation (2) and substitute it a new sub-regulation as follows

(2) An application in (1) above shall be accompanied by proof of compliance with the special conditions on the lease, where applicable and may be made in electronic form.

(b) inserting the following new sub-Regulation immediately after sub-Regulation (6).

(7) The processing of applications under sub-Regulation (1) and (4) for purposes of consent, may be made in electronic form.

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

IVA. Electronic Lodging

User account

21A. (1) There shall be a user account created in the system for every authorise user.
(2) The authorised user shall receive credentials for use in logging into their user account.

User obligations.

21B. A person who has been allowed access into the system shall—

- (a) carry out such transactions as may be authorized under these Regulations;
- (b) be responsible for the security of his or her 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.

Suspension and termination

21C. Suspension and Termination of a user's access

(1) The Director Land Administration may at any time immediately suspend a user's access if the user—

- (a) Is suspected to commit any fraud, identity theft or system misuse;
- (b) contravenes the obligations or the terms and conditions of access;
- (c) allows an unauthorised/unqualified person to access the system
- (d) is dead
- (e) is declared insolvent and the Director Land Administration is duly notified
- (f) is declared of unsound mind and the Director Land Administration is duly notified

(2) The Director Land Administration shall on making the decision under sub-Regulation (1) immediately inform the user of that decision and shall specify in the notification -

- (a) the grounds of suspension;
- (b) the facts which, in the opinion of the Director Land Administration justify each ground of suspension and intention to terminate; and
- (c) the period within which the user shall be required to respond to the notification.

(3) The notification under sub-regulation (2) may be served by—

- (a) An electronic transmission to any electronic address specified in the user agreement as the user's SMS Notification, email notification or any other form of electronic transmission
- (b) post, to any postal address specified in the user agreement as the user's address of service;

(4) A user may respond to a suspension notice in writing or in electronic form stating the reason why the suspension of access should be withdrawn and the response served upon the Director Land Administration before the expiry of the suspension period.

- (5) The Director Land Administration shall upon receipt of a response under sub-regulation (4) if satisfied that it is no longer appropriate to suspend a user's access withdraw the suspension by sending a notification to that effect to the user.

Termination of user's access

21D. Termination of a user's access

- (1) Subject to Regulation 21(C)(1), the Director Land Administration shall immediately terminate the user's access to the system if the user is dead or upon receiving official notification that the user is declared insolvent or of unsound mind.
- (2) The Director Land Administration shall if not satisfied with a user's response under regulation 21(C)(4) terminate a user's access by sending a notice to that effect to the user.
- (3) The user may be at liberty to file an appeal to the appeals committee, through the Cabinet Secretary, within 14 days of the Director Land Administration's decision to terminate a user's access

Appeal against termination

21E. Appeals against the decision of the Director Land Administration to terminate a user's access

- (1) The Cabinet Secretary shall appoint an appeals committee of not more than 9 members comprising of representatives from the following-
- (a) 3 representatives from the Ministry
 - (b) 1 representative from the National Land Commission;
 - (c) 3 representative from the private sector where one will be an expert system forensic and cybercrimes;
- (2) The Electronic Appeals Committee shall hear appeals to the cabinet secretary and arising from decisions of the relevant Directorates or the National Land Commission to terminate access to the system by any user.
- (3) The Electronic Appeals Committee shall hear and determine any matter referred to it within 30 days and immediately notify the user of their finding.
- (4) A user aggrieved by the Electronic Appeals Committee finding may appeal to the court within 30 days from the date of making of the decision by the committee.

Amendment to the First Schedule of L. N. No. 280 of 2017.

- 20.** The principal Regulations is amended in the First Schedule by deleting Form LA 25

Made on the.....2020

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning

DRAFT