

(Legislative Supplement No. 30)

LEGAL NOTICE NO. 71

**THE NATIONAL LAND COMMISSION ACT, 2012**

*(No. 5 of 2012)*

IN EXERCISE of the powers conferred by section, 14 (1), 14 (2) and 36 of the National Land Commission Act, 2012, the National Land Commission makes the following Regulations:—

**THE NATIONAL LAND COMMISSION (REVIEW OF GRANTS AND DISPOSITIONS OF PUBLIC LAND) REGULATIONS, 2017**

**PART I—PRELIMINARY**

1. These Regulations may be cited as the National Land Commission (Review of Grants and Dispositions of Public Land) Regulations, 2017.

Citation and commencement

“allocation of land” has the meaning assigned to it in section 2 of the Land Act, 2012;

Interpretation.  
No. 6 of 2012.

“committee” means a committee established under regulation 13;

“Commission” means the National Land Commission established by Article 67 of the Constitution;

“complainant” means a person who has lodged a complaint with respect to any matter relating to the mandate of the Commission;

“complaint” means a claim made to the Commission by a complainant for the review of grants or dispositions of public land under section 14 of the Act;

“county” means one of the counties into which the territory of Kenya is divided under Article 6 of the Constitution as read together with the First Schedule to the Constitution;

“Court” means the Environment and Land Court established under the Environment and Land Court Act, 2012 and any other courts that have jurisdiction on matters relating to land;

No. 19 of 2012.

“disposition” has the meaning assigned to it under section 2 of the Land Act, 2012;

No. 3 of 2012.

“document” means any record made or stored in physical or electronic form and includes written, electronic, audiotape, videotape, digital reproductions, photography, maps, graphs, microfiche or any other data and information recorded or shared by means of any device;

“grant” means any conveyance, agreement for sale, lease or licence for a period exceeding three years, made by and on behalf of the Government, and includes a certificate of title (other than a

certificate of interest) issued by the Environment Land Court, and a certificate of title issued pursuant to the provisions of any Act, but does not include any grant issued by the Commission;

“interested person” means a person who has a registered interest in the grant or disposition concerned and includes a person who appears to the Commission to have an interest in the land or lease;

“person” includes a legal person;

“public land” has the meaning assigned under Article 62 of the Constitution;

“Registrar” means the Chief Land Registrar, Deputy Chief Registrar, County Land Registrar or any other Land Registrar appointed under section 12 and 13 of the Land Registration Act, 2012.

No. 3 of 2012.

3. The object of these Regulations is to facilitate the expeditious, efficient, impartial and just resolution of disputes relating to grants and dispositions of public land.

Object of these Regulations.

## PART II—THE PROCESS OF REVIEW OF GRANTS AND DISPOSITIONS OF PUBLIC LAND

4. The Commission shall subject to section 14 of the Act have the power to review all grants or dispositions of public land to establish their propriety or legality on its own motion or upon a complaint by the national or a county government, a community or an individual.

Power of the Commission to review grants and dispositions of public land.

5. (1) The national government, a county government, a community, or an individual may pursuant to section 14(1) present a complaint to the Commission in Form NLC01 set out in the First Schedule.

Complaint.

(2) A complaint may be accompanied by such documents as may be necessary to support the complaint.

(3) Where the complaint is made orally or otherwise by a complainant who cannot read or write, the complaint shall be reduced into writing by a designated officer of the Commission in Form NLC01 set out in the First Schedule.

(4) The Commission shall acknowledge each complaint received by placing a mark of a stamp on the form.

(5) A complaint shall be lodged to the Commission free of charge.

(6) Upon receiving a complaint, the Commission shall vet the complaint confirm that the complaint has been made in accordance with these Regulations.

(7) Where the complaint is in accordance with the Regulations, the Commission shall consider the complaint and—

- (a) admit the complaint and commence the review process;
- (b) consolidate the complaint with others of a similar nature;
- (c) advise the complainant, in writing, that the matter does not necessitate a review;

- (d) advise the complainant, in writing, that the matter is not within the mandate of the Commission; or
- (e) advise the complainant that the matter lies for determination by another body or institution.

6. The Commission shall keep a register of complaints in which all complaints shall, upon receipt, be entered and given a reference number.

Register of complaints.

7. The Commission shall direct the Registrar to place a restriction on any land that is subject to a complaint pending the hearing and determination of the complaint.

Power to place a restriction.

8. (1) The Commission may, upon receiving a complaint under regulation 5(1) or pursuant to its resolution to review the grants and dispositions, invite, by a notice made by the chairperson, every person who appears to the Commission to have an interest in the grant or disposition concerned, to appear before it, to produce or inspect any relevant documents.

Notice.

(2) The chairperson may make the notice under paragraph (1) by—

- (a) a notice in the Gazette;
- (b) advertisement in at least two daily newspapers with national circulation; or
- (c) advertisement in the website of the Commission.

9. In addition to the notice made under regulation 8, the Commission may, within ninety days, identify and notify interested persons of the review and the opportunity to appear before it and to inspect any relevant documents in Form NLC02 set out in the First Schedule.

Notification of interested parties.

10. The Commission may issue summons to any person whose appearance on an appointed date, time and venue to make representations on such matter as may be required or to produce documents such documents as may be required in Form NLC03 set out in the First Schedule.

Summons.

11. The Commission may, when undertaking a review, request a government ministry, agency, state corporation or a county government, in writing, to provide—

Request for inventory and details of inventory.

- (a) an inventory of any grant or disposition of public land held or previously held by them; or
- (b) any details on the inventory supplied under paragraph (a).

12. (1) The Commission may request the Chief Land Registrar, in writing, for details of the grants in a specific registry.

Request to the Chief Land Registrar to provide details.

(2) Upon receipt of a request of the Commission, the Chief Land Registrar shall within thirty days, provide the details requested for under paragraph (1).

(3) The Chief Land Registrar may, where necessary, request the Commission for an additional fifteen days within which to respond to a request made under paragraph (1).

(4) Where the Chief Land Registrar is not able to provide the details requested even after the Commission has given additional time under paragraph (1), the Commission shall proceed with the matter despite absence of the details.

13. (1) A complainant may, at any stage before a review is determined, in writing, withdraw a complaint pending before the Commission.

*Withdrawal or termination of a complaint*

(2) Upon receiving a letter seeking to withdraw a complaint, the Commission may --

- (a) terminate further proceedings in the matter; or
- (b) decide to continue the proceedings on its own motion and make a determination.

(3) Where a complaint has been terminated or disposed of, the complainant shall not re-submit the complaint on the same or substantially same issue to the Commission.

### PART III—CONDUCT OF HEARINGS

14. (1) The Commission may establish Committees consisting of at least three members of the Commission to consider such complaints and review grants and dispositions of public land as the Commission may specify.

*Committees to hear complaints.*

(2) A Committee established under paragraph (1) may co-opt into its membership, such persons whose knowledge and skills are necessary to assist the Committee carry out its mandate.

(3) A person co-opted to the Committee under paragraph (2)—

- (a) is entitled to attend the Committee's meetings and participate in its deliberations but shall not vote in any matter before it; and
- (b) shall take before the Commission's chairperson the oath or affirmation of office set out in the Second Schedule.

(4) A decision of a committee established under paragraph (1) shall be deemed to be a decision of the Commission.

15. (1) An interested person may, at least seven days prior to a hearing, request, in writing, for the disqualification of a member of a Committee.

*Disqualification of a member of the Committee.*

(2) The request for disqualification shall be accompanied by the reasons for the request and where applicable, supporting documents.

(3) Upon receipt of a request for disqualification, the chairperson of the Committee shall consider the request and make a ruling on the request.

(4) Where the request is for the disqualification of the chairperson of the Committee, the vice-chairperson of the Committee shall make the determination.

16. (1) Subject to section 6(2)(b) of the Act, a Committee shall regulate its own procedures and the conduct of proceedings before it.

Conduct of hearings.

(2) A Committee shall sit at such times and such places as the Commission shall determine.

17. (1) A party to a complaint or review proceeding may act in person or through a representative.

Appearance at a hearing.

(2) Where a person ceases to represent a party, the representative or the party shall promptly notify the Commission in writing.

18. The Commission shall communicate directly to a party acting in person and through the representative of a party, where a party is acting through representative.

Communication.

19. (1) The Commission shall send a hearing notice to all parties to a complaint or review in Form NLC03 set out in the First Schedule.

Notice of hearing.

(2) The notice of hearing shall be sent by mail or electronically at least thirty days prior to the hearing date or within such other period as the Commission may consider reasonable in the circumstances.

(3) Where the Commission is of the opinion that because the parties to any proceeding before it are so numerous or for any other reason it is impracticable to give notice of the hearing individually to the parties or persons entitled to receive notice, the Commission may instead cause reasonable notice of the hearing to be given to such parties or persons by advertisement in at least two newspapers with nationwide circulation or otherwise as the Commission may determine.

20. (1) The languages to be used during a hearing shall be Kiswahili or English.

Languages.

(2) The Commission shall, taking into account all the circumstances, provide competent interpreters for spoken or sign language, as may be necessary, for parties or witnesses appearing before it.

21. A party shall, as early as is practicable, notify the Commission of any special needs which the party or the witnesses of the might have, including—

Notification of special needs.

- (a) where a person has a physical disability; or
- (b) the need for a translator.

22. The Commission shall set the order for participation during the hearing based on—

Priority of participation.

- (a) whether a person or organization is directly and substantially affected by the review that the Commission is undertaking; or
- (b) the relevance of the testimony in relation to the review being undertaken.

23. A witness shall give evidence after taking an oath or affirmation as set out in the Third Schedule. Oath or affirmation.

24. (1) The Commission may summon any person it considers relevant to the proceedings before it in Form NLC03 set out in the First Schedule. Summoning of a witness.

(2) The Commission shall ensure that it preserves the dignity of every witness at its hearings.

(3) The Commission may request a witness or any other participant to advise the Commission on the name and particulars of any other person whom they consider to have relevant information relating to the proceedings before it.

25. (1) The Commission shall arrange with the relevant government agencies for the protection of persons placed in danger by reason of their evidence or other interaction with the Commission or persons who apply for protection to the Commission, in writing. Protection of a witness.

(2) The evidence referred to in paragraph (1) includes that which has not been given before the Commission.

26. A hearing may be adjourned, from time to time, by the Commission of its own motion or where it is shown, to the satisfaction of the Commission, that the adjournment is required to permit a hearing to be held. Adjournment

27. (1) The hearings shall be open to the public unless otherwise ordered by the Commission. Hearings

(2) Where a hearing is closed to the public, it may be attended by—

- (a) parties and their representatives;
- (b) witnesses;
- (c) staff of the Commission; and
- (d) such other persons as the Commission may consider necessary.

(3) An exhibit, document, submissions or Commission orders relating to a hearing may be marked confidential and kept in a record that is separate from the public record.

(4) Access to exhibit, document, submissions or Commission orders kept in a record that separate from the public record under paragraph (3) shall not be permitted unless by order of the Commission or as otherwise authorized by law.

28. (1) Where the Commission finds that a grant or disposition was acquired in a lawful manner, the Commission— Consideration of lawfulness of a grant or disposition.

- (a) shall request the Registrar to withdraw any restriction registered in the title; and
- (b) may, subject to section 14 of the Act, make any other orders as the Commission considers fit.

(2) Where the Commission finds that a grant or disposition was unlawfully acquired, the Commission may—

- (a) direct the Registrar to revoke the title within thirty days in Form NLC04 set out in the First Schedule; and
- (b) make any other orders as the Commission deems necessary.

(3) The Commission shall publish a notice of the revocation—

- (a) in the Gazette; or
- (b) in two newspapers with nationwide circulation; or
- (c) on the parcel of land.

(4) Where the Commission finds that the grant or disposition was irregular, the Commission—

- (a) shall take appropriate steps to correct the irregularity; and
- (b) may make such other orders as it deems necessary.

(5) The Commission shall notify all the parties and interested parties to a review under these Regulations of the finding of the Commission, in writing.

29. (1) After concluding a review, the Commission shall render a decision within reasonable time.

Decision of the Commission.

(2) A decision of the Commission (1) shall be in writing and shall state—

- (a) the nature of the complaint;
- (b) a summary of the relevant facts and evidence adduced before the Commission;
- (c) the determination and reasons supporting the Commission's decision;
- (d) the remedy, if any, to which any of the parties is entitled to; and
- (e) the order of the Commission necessary to enforce the remedy.

(3) After the decision is rendered, the Commission may correct typographical errors without prejudice to the substance of its findings.

30. (1) A person aggrieved by the decision of the Commission may, within fourteen days of the Commission's decision, appeal to the Court.

Appeals.

31. (1) An order made by the Commission shall be—

Orders.

- (a) extracted and authenticated as an order of the Commission; and
- (b) signed under the seal of the Commission.

(2) A certified copy of the order shall be made available to the parties within seven working days of the order being made by the Commission.

(3) Where the order directs the revocation of a title, a certified copy of the order and the proceedings shall be delivered to the Registrar.

(4) After receiving the order referred to in paragraph (3), the Registrar shall revoke the title after the period for filing an appeal has elapsed.

32. (1) The Commission shall publish its decisions and orders—

- (a) in the Gazette; or
- (b) in two newspapers with nationwide circulation; or
- (c) on its website.

Publication of orders.

#### PART IV—MISCELLANEOUS PROVISIONS

33. The Commission may seek the assistance of the National Police Service or any other office of the national or county governments to facilitate a review and enforce its powers under these Regulations.

Power to seek assistance.

34. A person shall make their complaints to the Commission at such places, in the counties, as the Commission shall determine.

Venue of making complaints.

35. (1) A complaint made to the Commission by a complainant before the commencement of these Regulations shall be reviewed in accordance with these Regulations.

Transitional provision.

(2) Despite paragraph (1), nothing in these Regulations shall nullify any action taken by the Commission before the coming into effect of these Regulations.



FIRST SCHEDULE

FORM NLC01

(r. 5(1), (3))

THE NATIONAL LAND COMMISSION COMPLAINTS FORM

Ref. No ..... Date:.....

(To be filled in duplicate)

PART 1 – DETAILS OF COMPLAINANT

- 1. Name of Complainant: .....
- 2. ID Number/Passport Number/Certificate of Registration Number (if applicable): .....
- 3. PIN Number (if applicable): .....
- 4. Postal Address: .....
- 5. Telephone Number(s):.....
- 6. Email address (if any): .....
- 7. Contact Person (in case the complainant is not an individual):.....

PART 2 – PARTICULARS OF THE PROPERTY (WHERE REGISTERED)

(Indicate the following particulars of the property you wish to complain about)

- 8. Land Reference Number/Title Number:
- 9. Title Registration Number: e.g. I.R. No./C.R. No./I.R.N. No./Vol. No. Folio GLA File No: .....
- 10. Locality: .....
- 11. Deed Plan Number/RIM (If known): .....

PART 3 – PARTICULARS OF THE PROPERTY (WHERE UNREGISTERED)

(Indicate the following particulars of the property you wish to complain about)

- 12. Land Reference Number/Parcel Number: .....
- 13. Letter of Allotment: Reference No. ....and date of allotment.....
- 14. Temporary Occupation Licence Number: .....and date of the issuance of the Temporary Occupational Licence.....
- 15. Locality: .....
- 16. Acreage (if known):.....
- 17. Deed Plan Number (if applicable):.....
- 18. Term of the lease (if known): .....



**PART 7—DECLARATION**

(Make a declaration on whether the legality or regularity of a grant is under review by any other body other than the Commission)

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**PART 8— ANY OTHER INFORMATION THAT IS RELEVANT.**

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**Signature/Thumb Print of the Complainant or the Duly Authorized Representative of the Complainant .....**

**Date .....**

*(An unsigned form will not be accepted)*

To be sent to:  
The Secretary,  
National Land Commission,  
P.O. Box 44417.  
**NAIROBI**

FORM NLC 02

(r. 9)

**NOTICE TO INTERESTED PARTIES UNDER SECTION 14 (3) OF THE NATIONAL LAND COMMISSION ACT**

Land Reference No/Title Number .....

Complaint Ref Number .....

To:

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.....

.....

Date:.....

You are **HEREBY** notified that the Commission on its own motion/ or on a complaint by .....will review the Grant(s) or Disposition(s) relating to the above property to establish its/their propriety or legality. A hearing will be held at ..... on the day of.....20..... at a.m./p.m. or soon thereafter.

The Commission has identified you as an interested party within the meaning of the section 14(3) of the Act and accordingly notifies you that you are entitled to make representations at the hearing either in person or through your representative(s) and to bring any documents that you deem necessary. You are also entitled to obtain from the Commission documents (if any) supporting the complaint.

Please note that in case of your non-attendance, the Commission will proceed with the hearing and determination despite your absence.

Given under my hand this..... day..... of 20.....

Name.....

Signed .....

*Secretary to the Commission*

FORM NLC03

(r. 10, 19(1), 24(1))

**HEARING NOTICE/SUMMONS BY THE NATIONAL LAND COMMISSION**

Land Reference No/Title Number.....

Complaint Ref Number: .....

To:

.....  
.....  
.....

Date: .....

You are **HEREBY** summoned to appear before the Commission aton the day of 20 at A.M./P.M. or soon thereafter in relation to a review of the grants or dispositions relating to the above property at the instance of the Commission/complaint generally or with regard to the specific issue of and the purpose of the hearing.....

You are required to bring any documents that you deem necessary.

Please note that failure to comply with these summons without justification or lawful excuse may constitute an obstruction or hindrance under section 35(1)(a) of the Act.

Given under my hand this..... day..... of 20.....

Name.....

Signed .....

*Secretary to the Commission*

FORM NLC04

(r. 28(2)(a))

DIRECTION BY THE NATIONAL LAND COMMISSION TO THE REGISTRAR UNDER SECTION 14 (5) OF THE ACT

Land Reference No/Title Number: .....

Complaint Ref Number: .....

To the Registrar:

Date:.....

1. In reference to the above complaint and following the determination thereof the Commission HEREBY DIRECTS the Registrar to revoke the above referenced title as per the Commission's Order No..... dated DD/MM/YY) ..... Attached is the duly certified order of the Commission.

2. A copy of the determination of the Commission duly certified.

Kindly acknowledge receipt of these directions on the reverse side of the duplicate of this notice with a confirmation of the action taken.

Given under my hand this..... day..... of 20.....

Name.....

Signed.....

Secretary to the Commission

[To be completed by the Registrar on the back of form NLC 04]

TITLE No. ....

The Register has been amended by making the following entry in the Register in all relevant sections: TITLE REVOKED BY ORDER OF THE NATIONAL LAND COMMISSION PURSUANT TO COMPLAINT REFERENCE NUMBER DATED

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

Seal .....

SIGNED by the Registrar

Name:.....

Signature: .....

SECOND SCHEDULE

(r. 13(3)(b))

OATH/AFFIRMATION OF A MEMBER CO-OPTED TO THE COMMITTEE

I ..... having been co-opted to the National Land Commission's Committee to hear the complaints for review of grants and dispositions do swear/solemnly affirm that I will faithfully and fully, impartially and to the best of my knowledge and ability, perform the functions and exercise the powers

devolving upon me by virtue of this co-option without fear, favour, bias, affection, ill-will or prejudice (SO HELP ME GOD).

Sworn/Declared by the said .....

Before me this day of 20 .....

*Chairperson,  
National Land Commission.*

**THIRD SCHEDULE**

**OATH/AFFIRMATION OF A WITNESS**

(r. 23)

1 .....swear/affirm that the evidence I shall give before this Committee shall be the truth, the whole truth and nothing but the truth (SO HELP ME GOD).

Made on the 7th April, 2017.

**MOHAMED SWAZURI,**  
*Chairperson, National Land Commission.*