

LEGAL NOTICE No. 132

THE SURVEY ACT

(Cap. 299)

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

THE SURVEY (ELECTRONIC CADASTRE TRANSACTIONS)
REGULATIONS, 2020

PART I—PRELIMINARY

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

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

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

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

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

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

PART II— ELECTRONIC CADASTRE

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

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

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

Survey plans and records.

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

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

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

Registration as a user of the system.

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

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

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

(4) A user shall—

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

(5) A user shall not—

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

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

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

No. 2 of 1998

No. 5 of 2018

Access to the electronic cadastre by a surveyor.

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

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

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

Surveyor obligations.

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

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

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

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

Access to information in the electronic cadastre.

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

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

No. 3 of 2016

PART III—AUTHENTICATION OF A SURVEY

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

Submission of a survey to the Director.

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

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

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

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

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

Authorization for processing.

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

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

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

Numbering of survey data.

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

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

Authentication.

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

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

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

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

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

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

Updating of the Electronic Cadastral Map.

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

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

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

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

Sealing the cadastral map.

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

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

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

PART IV—MISCELLANEOUS

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

Preparation of maps.

Cap. 284

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

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

16. For purposes of enabling electronic transactions, the forms prescribed under these Regulations may be used with the necessary modifications and additions as the Director may deem necessary. Modification and addition of forms.

17. These Regulations shall not affect the validity of any survey work effected prior to the coming into operation thereof. Transition.

FIRST SCHEDULE

(r. 5(2))

TERMS AND CONDITIONS OF USE

1. Introduction

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

2. Availability of service and support

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

3. Obligations of Ministry

The Ministry shall:

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

4. Security of the System

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

Disclaimer

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

5. Data Privacy Statement

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

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

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

6. Copyright

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

7. General Terms

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

8. User feedback

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

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

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

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

Date

SECOND SCHEDULE

FORM SR1

(r.6(1))

DETAILS REQUIRED FOR CREATING A USER ACCOUNT BY A SURVEYOR

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

FORM SR2

(r.8(1))

REQUEST FOR PURCHASE OF DATA

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

	Cadastral Map					
	Topographical Map					
	Other Data & Forms					

APPROVAL OF REQUEST:

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

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

Not Approved: Reasons:

Signed: Date:

:

Director of Surveys

ACCOUNTS SECTION:

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

Signed: Date:

OI/C: Accounts.....

OI/C: SURVEY RECORDS:

Maps as requested for have been supplied

Signed: Date:

OI/C: Survey Records.....

FORM SR3

(r.9(1)(a))

SURVEY SUBMISSION FORM

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

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

FORM SR4

(r.10(3))

NOTIFICATION OF REJECTION OF A SURVEY BEFORE NUMBERING OF RECORDS

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

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

FORM SR5

(r. 11(1))

NUMBERING OF SURVEY RECORDS

Survey Records Tracking Number

Records Officer

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

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

No.....

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

File ref. of Final Approval

Approval stamp added to plan. Yes/No*

Reference Plans

.....

Abuttals.....

.....

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

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

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

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

FORM SR6

(r.12(3))

AUTHENTICATION

Survey Records Tracking Number

PLAN No. F/R

Final Checker's recommendation

.....

.....

.....

Authentication Decision

.....

.....

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

FORM SR7

(r. 12(4))

NOTIFICATION OF AUTHENTICATION

SURVEY OF KENYA,
P.O. BOX 30046,
NAIROBI.

E-mail:

Ref. No.

Date:

LAND REGISTRATION ACT

REGISTRATION DISTRICT

REGISTRATION BLOCK/ RIM SHEET NUMBERS

Your Reference dated

Plan F/R representing the survey of parcels

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

Further details are as follows: -

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

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

.....

For DIRECTOR OF SURVEYS

Copy to: Computations

Chief/Assistant Land Registrar

.....

FORM SR8

(r.12(5))

NOTIFICATION OF REJECTION OF A SURVEY

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

FORM SR9

(r.13(1)(c))

REQUEST TO UPDATE CADASTRAL MAP

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

FORM SR10

(r. 14(3))

NOTIFICATION OF SEALING OF CADASTRAL MAP

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

Made on the 9th July, 2020.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.