

SPECIAL ISSUE

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LEGAL NOTICE NO. 281

THE LAND ACT

(No. 6 of 2012)

IN EXERCISE of the powers conferred by section 13(2) of the Land Act, 2012, the National Land Commission makes the following rules—

THE LAND (EXTENSION AND RENEWAL OF LEASES) RULES,
2017

1. These Rules may be cited as the Land (Extension and Renewal of Leases) Rules, 2017.

Citation.

2. (1) At any time before expiry of a lease, a lessee may apply to the Commission, through the office of the Commission in the respective county, for extension of lease in Form LA 22 set out in the Schedule.

Extension of lease.

(2) Upon receipt of the application, the Commission shall within seven days forward the application, to the Cabinet Secretary, where the national government is the lessor or the County Executive Committee Member responsible for matters relating to land, in the respective county government, where the county government is the lessor for, consideration.

(3) Upon receipt of an application under paragraph (2), the Cabinet Secretary or the County Executive Committee Member responsible for matters relating to land in the respective county government shall review the application on behalf of the national or county government, respectively, and within ninety days of receipt of the application either—

- (a) approve the extension of lease for a specified term with such terms and conditions as may be specified ; or
- (b) decline to extend the lease and give the reasons thereof.

(4) In order to determine whether to grant or decline to grant an extension, the Cabinet Secretary or the County Executive Committee Member responsible for matters relating to land of the respective county government shall consider—

- (a) in the case of a company, the names of the directors and their citizenship status including a search from the Registrar of Companies showing the shares of each director;
- (b) the clearance certificate, relating to all land rates and rents from the relevant authority;
- (c) information relating to any existing encumbrances on the title of the land for which an extension is applied for;

- (d) evidence that the lessee has complied with the terms and conditions of the existing lease to the satisfaction of the lessor; and
- (e) where the application for extension is by a non-citizen, the unexpired term and the term of extension sought to ensure that they do not cumulatively exceed ninety-nine years.

(5) The Commission shall not require a lessee to surrender the unexpired term of an existing lease as a condition for the grant of an extension of a lease.

(6) The decision to grant or not grant an extension shall be communicated to the Commission for implementation.

(7) Where approval of extension of the lease is granted, the Commission shall—

- (a) require the lessee to have the land revalued in order to determine the land rent and other requisite fees, payable;
- (b) require the lessee to have the land re-surveyed and geo-referenced, where applicable;
- (c) prepare a lease for the extended period, stating the terms and conditions of the extension; and
- (d) have the lease executed;
- (e) forward the executed lease to the Registrar for the registration and the noting of the extended term in the register.

(8) The grant of an extension of lease shall not extinguish the unexpired term and shall take effect from the last day of the unexpired term.

(9) Where the extension of lease is not granted by the national or county government, the Commission shall communicate the decision to the lessee within seven days of receipt of the decision and advise the lessee of the right of appeal.

3. (1) Within five years before the expiry of a leasehold tenure, the Commission shall, in accordance with section 13 of the Act, notify the lessee, by registered post and any other means provided under these regulations, that the lease is about to expire and forward a copy of the notification to the Cabinet Secretary or County Executive Committee Member responsible for matters relating to land in the relevant county government, as the case may be.

Notification of approaching expiration of the lease.

(2) The notification under paragraph (1) shall indicate the date of expiry the leasehold tenure, inform the lessee of the lessee's pre-emptive right, under section 13 of the Act, to apply for the extension of the lease and to whom to make the application.

(3) If the lessee does not respond to the notification under paragraph (1) within one year from the date of service of the notification, the Commission shall publish the notification in two

newspapers of nationwide circulation and require the lessee to respond within six months from the date of the publication.

(4) If the lessee does not respond to the notification referred to in paragraph (3), the Commission shall undertake physical verification of the land to establish the status of the land.

(5) If upon verification under paragraph (4) the Commission establishes that the lessee is in occupation of the land, the Commission shall advise the lessee on the need to apply for renewal and the consequences of failing to apply for the renewal.

(6) The service of a notification by the Commission under this regulation shall not preclude the lessee from seeking an extension of lease under regulation 2.

4.(1) A person who wishes to renew a lease shall apply to the Commission for renewal, through the office of the Commission in the respective county, in Form LA 23 set out in the Schedule.

Renewal of lease
before expiry.

(2) The Commission shall within seven days of receipt of an application under paragraph (1), forward the application to the Cabinet Secretary or County Executive Committee Member responsible for matters relating to land in the relevant county government for consideration.

(3) In order to determine whether to grant or not grant renewal, the national government or county government shall require—

- (a) in the case of a company, the names of the directors and their citizenship status including a search from the Registrar of Companies showing the shares of each director;
- (b) clearance certificate from the relevant authority in relation to all land rates and rents; and
- (c) evidence that the lessee has complied with the terms and conditions of the existing lease to the satisfaction of the lessor.

(4) Where the national or county government needs the land for public purpose in accordance to section 13(1)(a) of the Act, the national or county government shall notify the Commission of need for the land for public purpose and require the Commission to notify the lessee accordingly.

(5) Upon notification by the Commission under paragraph (4)—

- (a) the national or county government shall carry out an inventory of the developments on the land;
- (b) the lessee shall be required not to put up new developments or improvements thereon.

(6) The national government or county government shall within ninety days of receipt of the application under regulation 2—

- (a) approve the renewal of lease for a specified term with such terms and conditions as may be specified ; or

(b) not approve the renewal of the lease and give the reasons thereof.

(7) The decision of the national government or county government under paragraph (6) shall be forwarded to the Commission for implementation.

(8) Where approval of renewal of the lease is granted, the Commission shall—

- (a) require the lessee to have the land revalued to determine the payable land rent and other requisite fees;
- (b) require the lessee to have the land re-surveyed and geo-referenced; and
- (c) issue a new letter of allotment in Form LA 5 set out in the Schedule for the parcel and a new lease shall be issued in accordance with the provisions of the Act and these Rules.

(9) Where the renewal of lease is not granted by the national government or county government, the Commission shall communicate the decision to the applicant within seven days of receipt of the decision and advise the applicant of the right of appeal.

5. (1) Where the term of the lease has expired, the Commission shall require the lessee to apply for renewal of the lease in Form LA 23 set out in the Schedule.

Renewal of expired leases after expiry.

(2) In order to determine whether to grant or not grant renewal, the Commission shall require, whether the lessee is a citizen or non-citizen—

- (a) in the case of a company, the names of the directors and their citizenship status including a search from the Registrar of Companies showing the shares of each director;
- (b) clearance certificate relating to all land rates and rents, from the relevant organ; and
- (c) proof that the lessee has complied with the terms and conditions of the lease.

(3) In instances of substantial transactions, the Commission shall, in consultation with the national or county government ensure that—

- (a) the renewal is beneficial to the economy and the country as a whole;
- (b) the investment purpose is in accordance with the national or regional or county policies and plans; and
- (c) the renewal is in public interest, public safety, public order, public morality, public health and land use planning.

(4) The Commission shall carry out a site inspection to verify the status of developments.

6. (1) The Commission shall within seven days of receipt of an application under rule 5(1), forward the application to the County Executive Committee Member responsible for matters relating to land in the relevant county government for consideration.

Commission to seek for recommendations

(2) The County Executive Committee Member responsible for matters relating to land in the relevant county government shall before the determining an application for renewal of lease under rule 5(1) seek representations from the relevant authorities.

(3) The County Executive Committee Member responsible for matters relating to land in the relevant county government shall consider the representations of the relevant authorities and approve the renewal of the lease where favorable representations for renewal of the lease are received.

(4) Where approval of renewal of the lease is granted, the Commission shall—

- (a) require the lessee to have the land revalued to determine the payable land rent and other requisite fees;
- (b) require the lessee to have the land re-surveyed and geo-referenced; and
- (c) issue a new letter of allotment in Form LA 5 set out in the Schedule for the parcel and a new lease shall be issued in accordance with the provisions of the Act and these Rules.

(5) Where the national or county government needs land for public purpose in accordance to section 13 of the Act and upon satisfying themselves that the land is included in the National or County Spatial Plan and cities and urban area plans under County Governments Act, 2012 and Urban Areas and Cities Act, 2011 respectively, the national or county government shall notify the Commission of its intention not to renew the lease.

No. 17 of 2012.
No. 13 of 2011.

(6) The notice under paragraph (5) shall include the justification for the need of the land for public purpose.

(7) Upon notification under paragraph (6)—

- (a) the national or county government shall carry out an inventory of the developments on the land;
- (b) the lessee shall be required not to put up new developments or improvements thereon.

(8) Where the renewal of lease is not granted by the county government, the Commission shall communicate the decision to the applicant within seven days of receipt of the decision and advise the applicant of the right of appeal to the Commission.

7. (1) A lessee who is aggrieved by the decision not to extend or renew a lease may within thirty days, of receipt of the decision, appeal to the Commission through the office of the Commission in the respective county.

Independent Appeals
Committee

(2) The Commission shall within thirty days of receipt of an appeal the matter to an *ad hoc* Independent Appeals Committee established by the Commission at the county consisting of—

- (a) a representative from the Commission, who shall be the chairperson of the committee;

- (b) a representative from Kenya Institute of Planners;
- (c) a representative from Institution of Surveyors of Kenya;
- (d) a representative from Law Society of Kenya;
- (e) a representative from Kenya Bankers Association; and
- (f) a representative from Kenya Private Sector Alliance.

(4) The *ad hoc* Independent Appeals Committee shall hear and determine appeals within sixty days from the date of receipt of the appeal.

(5) The decision of the *ad hoc* Independent Appeals Committee shall be binding and any party dissatisfied with the decision may appeal to the court.

SCHEDULE

FORM LA. 22

(r. 2(1))



REPUBLIC OF KENYA

NATIONAL LAND COMMISSION

APPLICATION FOR EXTENSION OF LEASE

(To be submitted in TRIPLICATE in respect of each transaction and sent to or deposited at the appropriate office of the National Land Commission.)

To: National Land CommissionCounty

Date.....

I/ We HEREBY apply for extension of lease.

1. Details of the Applicant

Name:

Nationality

ID /Passport No.

Certificate of Incorporation No.....(where applicable)

Address

PIN No.

2. Description of Land-

Parcel No(s).

IR No. (where applicable)

Acreage..... (in Ha)

Locality

User

I attach the following supporting documents

1. Copy of ID/ Passport/Certificate of Registration of the registered proprietor(s)
2. Copy of the Title
3. Copy of official search
4. Rent and Rates Clearance Certificates (where applicable)

.....
Applicant

FORM LA. 23



(r. 4(1), 5(1))

REPUBLIC OF KENYA
NATIONAL LAND COMMISSION
APPLICATION FOR RENEWAL OF LEASE

(To be submitted in TRIPLICATE in respect of each transaction and sent to or deposited at the appropriate office of the National Land Commission.)

To: National Land Commission ,.....County

Date.....

I/ We HEREBY apply for Renewal of lease.

3. Details of the Applicant

Name:

Nationality

ID /Passport No.

Certificate of Incorporation No..... (where applicable)

Address

PIN No.

4. Description of Land-

Parcel No(s).

IR No (where applicable)

Acreage..... (in Ha)

Locality

User

GENERAL: This Letter of Allotment is subject to, and the lease will be made under the provisions of the Land Act (No. 6 of 2012) and certificate of title will be issued under the Land Registration Act (No. 3 of 2012)

SPECIAL CONDITIONS: (*See attached*)

I should be glad to receive your acceptance of the attached conditions together with banker's cheque for the amount as set out above within 90 days of the postmark:

If acceptance and payment respectfully are not received within the said 90 days from the date hereof the offer herein contained will be considered to have lapsed.

At the time you commence building you should exercise the greatest care to ensure that any building or other works are contained within the boundaries of the parcel for should you overstep the aforesaid boundaries the cost of removal and reconstruction must be borne by you.

The issue of the Government lease will be undertaken upon survey and proof of payment.

Your full name(s) ID, PIN, ADDRESS (Postal and Physical) AND CERTIFICATE OF INCORPORATION (*where applicable*) in BLOCK LETTERS, should be given for the purpose of the Certificate which will be submitted to you later. The attached special conditions form part of the offer which must be accepted in writing.

Yours faithfully,

Authority:

.....
For: National Land Commission

Dated the 21st November, 2017

MUHAMAD SWAZURI,
Chairperson, National Land Commission.

LEGAL NOTICE No. 282

THE LAND ACT

(No. 6 of 2012)

IN EXERCISE of the powers conferred under section 9(5) of the Land Act, the National Land Commission makes the following rules—

THE LAND (CONVERSION OF LAND) RULES, 2017

PART I—PRELIMINARY

1. These Regulations may be cited as the Land (Conversion of Land) Rules, 2017. Citation.
2. In these Rules unless the context states otherwise requires— Interpretation.
 “base map” means a topographical map depicting the natural and man-made features of the land;
3. (1) The national or county government may, on its own motion or upon a request, identify the land and notify the Commission, in Form Identification of land to be converted.