

NO. 5 OF 2012

THE NATIONAL LAND COMMISSION ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. The National Land Commission (Review of Grants and Dispositions of Public Land) Regulations.....	3
2. The National Land Commission (Investigation of Historical Land Injustices) Regulations.....	15

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

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation
2. Interpretation
3. Object of these Regulations

PART II – THE PROCESS OF REVIEW OF GRANTS AND DISPOSITIONS OF PUBLIC LAND

4. Power of the Commission to review grants and dispositions of public land
5. Complaint
6. Register of complaints
7. Power to place a restriction
8. Notice
9. Notification of interested parties
10. Summons
11. Request for inventory and details of inventory
12. Request to the Chief Land Registrar to provide details
13. Withdrawal or termination of a complaint

PART III – CONDUCT OF HEARINGS

14. Committees to hear complaints
15. Disqualification of a member of the Committee
16. Conduct of hearings
17. Appearance of a hearing
18. Communication
19. Notice of hearing
20. Language
21. Notification of special needs
22. Priority of participation
23. Oath or affirmation
24. Summoning of a witness
25. Protection of a witness
26. Adjournment
27. Hearings
28. Consideration of lawfulness of a grant or disposition
29. Decision of the Commission
30. Appeals
31. Orders
32. Publication of orders

PART IV – MISCELLANEOUS PROVISIONS

33. Power to seek assistance
34. Venue of making complaints
35. Transitional provision

SCHEDULES

[Subsidiary]

FORMS

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

OATH/AFFIRMATION OF A WITNESS

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

[Legal Notice 71 of 2017]

PART I – PRELIMINARY

1. Citation

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

2. Interpretation

In these Regulations, unless the context otherwise requires—

"allocation of land" has the meaning assigned to it in section 2 of the Land Act (Cap. 280);

"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 (Cap. 8D) and any other courts that have jurisdiction on matters relating to land;

"disposition" has the meaning assigned to it under section 2 of the Land Act (Cap. 280);

"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 (either 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 (Cap. 300).

3. Object of these Regulations

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.

[Subsidiary]

PART II – THE PROCESS OF REVIEW OF
GRANTS AND DISPOSITIONS OF PUBLIC LAND**4. Power of the Commission to review grants and dispositions of public land**

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.

5. Complaint

(1) The national government, a county government, 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.

(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. Register of complaints

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

7. Power to place a restriction

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.

8. Notice

(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.

(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. Notification of interested parties

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.

10. Summons

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.

11. Request for inventory and details of inventory

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

- (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. Request to the Chief Land Registrar to provide details

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

(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 (3), the Commission shall proceed with the matter despite absence of the details.

13. Withdrawal or termination of a complaint

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

(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. Committees to hear complaints

(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.

(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.

[Subsidiary]

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

15. Disqualification of a member of the Committee

(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.

(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. Conduct of hearings

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

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

17. Appearance of a hearing

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

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

18. Communication

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.

19. Notice of hearing

(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.

(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. Language

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

(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. Notification of special needs

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—

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

22. Priority of participation

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

- (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. Oath or affirmation

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

24. Summoning of a witness

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

(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. Protection of a witness

(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.

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

26. Adjournment

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.

27. Hearings

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

(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. Consideration of lawfulness of a grant or disposition

(1) Where the Commission finds that a grant or disposition was acquired in a lawful manner, the Commission—

- (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.

[Subsidiary]

(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. Decision of the Commission

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

(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. Appeals

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

31. Orders

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

- (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. Publication of orders

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.

PART IV – MISCELLANEOUS PROVISIONS

33. Power to seek assistance

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.

34. Venue of making complaints

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

35. Transitional provision

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

(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

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

FORMS

FORM NLC01

THE NATIONAL LAND COMMISSION COMPLAINTS FORM

Ref. No. Date:

(To be filed 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):

National Land Commission

[Subsidiary]

17. Deed Plan Number (if applicable):

18. Term of the lease (if known):

PART 4—NATURE OF COMPLAINT

(Indicate the nature of the complaint, the grounds and substance of the complaint and attach relevant documents to support your claim)

PART 5 -SPECIAL INTEREST

(To be filled where the complainant is an individual)

(Indicate the special interest of the complainant in relation to the property and attach documents if any)

PART 6 - YOUR PROPOSED REMEDY

(Indicate your prayers to the Commission)

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)

PART 8 — ANY OTHER INFORMATION THAT IS RELEVANT,

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 NLC02 (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:

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 NLC 03 (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 at on 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 NLC0 4 (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.

National Land Commission

[Subsidiary]

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. 14(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

[r. 23]

OATH/AFFIRMATION OF A WITNESS

I 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).

THE NATIONAL LAND COMMISSION (INVESTIGATION OF HISTORICAL LAND INJUSTICES) REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation
2. Application
3. Interpretation

PART II – THE PROCEDURE FOR THE INVESTIGATION AND RESOLUTION OF CLAIMS ARISING OUT OF HISTORICAL LAND INJUSTICES

4. Power of the Commission to commence investigations
5. Commencement of investigation and resolution of claims
6. Requisition for Information
7. Lodging a claim
8. Register of claims
9. Power to place a restriction

PART III – CONDUCT OF HEARINGS

10. Establishment of Committee
11. Investigations of a claim
12. Conduct of hearings
13. Hearing Notice
14. Notice to appear
15. Notification of special needs
16. Disqualification of a member of the Committee
17. Appearance at a hearing
18. Hearings
19. Language
20. Oath or affirmation
21. Summons to appear
22. Disclosure of documents
23. Protection of a witness
24. Adjournment
25. Decision of the Commission
26. Decision
27. Publication of decisions
28. Appeals

PART IV – MISCELLANEOUS PROVISIONS

29. Communication with the Commission
30. Power to seek assistance
31. Claim made to the Commission by a claimant before the commencement of these Regulations

SCHEDULES

SCHEDULE —

FORMS

THE NATIONAL LAND COMMISSION (INVESTIGATION OF HISTORICAL LAND INJUSTICES) REGULATIONS

[Legal Notice 258 of 2017]

PART I – PRELIMINARY

1. Citation

These Rules may be cited as the National Land Commission (Investigation of Historical Land Injustices) Regulations.

2. Application

These Regulations shall apply to historical land injustices that occurred between the 15th June, 1895 and the 27th August, 2010.

3. Interpretation

In these Regulations, unless the context otherwise requires—

"claim" means a grievance lodged with the Commission as contemplated in section 15(3) of the National Land Commission Act (Cap. 281);

"claimant" means a person or group of persons who have lodged a claim pursuant to section 15(3) of the Act;

"Commission office" means the headquarters of the Commission located in Nairobi or any other office that the Commission may designate as its office generally or for a particular purpose;

"Commission staff" means member of staff of the Commission appointed under section 22 of the Act or any other persons who are authorised by the Commission to perform functions of the Commission;

"Committee" means the Committee established under regulation 11 to investigate claims arising out of historical land injustices and recommend appropriate redress;

"community" has the meaning assigned to it under section 2 of the Community Land Act (Cap. 287);

"Court" means the Environment and Land Court established under the Environment and Land Court Act (Cap. 8D), and includes other courts having jurisdiction on matters relating to land;

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

"interested person" means a person who is affected by a claim or remedy arising out of historical land injustices;

"person of interest" means a person who may be in possession of useful information relating to an investigation into historical land injustice;

"present land injustices" means a grievance which occurred after 27th August, 2010; and

"remedy" means a remedy that the Commission may recommend after investigating any case of historical land injustice under section 15 (9) of the Act.

[Subsidiary]

PART II – THE PROCEDURE FOR THE INVESTIGATION AND RESOLUTION
OF CLAIMS ARISING OUT OF HISTORICAL LAND INJUSTICES

4. Power of the Commission to commence investigations

Pursuant to Article 67(2)(e) of the Constitution and section 15(1) of the National Land Commission Act (Cap. 281) the Commission may initiate investigations on its own initiative or upon a complaint into historical land injustices and recommend appropriate redress.

5. Commencement of investigation and resolution of claims

(1) The Commission may on its own initiative request the public to submit claims arising out of historical land Injustices.

(2) The Commission shall make the request in sub-regulation (1) by—

- (a) a notice in at least one daily newspaper with national circulation;
- (b) notice in the website of the Commission; and
- (c) an announcement on local radio stations.

6. Requisition for Information

The Commission may request from any person including any government department or state organ such particulars, documents and information regarding any investigation, as may be necessary.

7. Lodging a claim

(1) A person may lodge a claim in Form NLC/HLI/01 set out in the Schedule or through a letter, a Memorandum or oral submission of the venue of making claim at any place that the Commission may designate as Commission offices.

(2) The claim lodged shall contain—

- (a) the name, address and location of the claimant;
- (b) a description of the property including parcel number or other appropriate description where a parcel number is not available;
- (c) the date of the claim;
- (d) the grounds on which the claim is based and description of the injustice;
- (e) the period when the injustice occurred;
- (f) the resultant effect;
- (g) the particulars of the respondent if any;
- (h) the number and particulars of witnesses they wish to call;
- (i) any previous attempts made to resolve the injustice; and
- (j) the suggested remedy.

(3) A claim shall be accompanied by any document necessary to support the claim.

(4) Where the claim is made at the initiative of the Commission or where it is made in writing, orally or otherwise by a claimant, the claim shall be reduced, by a designated officer of the Commission, into a claim in Form NLC/HLI/01 set out in the Schedule.

(5) The Commission shall acknowledge every claim lodged in Form NLC/HLI/02 set out in the Schedule.

(6) Upon receiving a complaint, the Commission shall vet the claim, against the admissibility checklist in Form NLC/HLI/03 set out in the Schedule and on the confirmation that the complaint has been made in accordance with these Regulations the Commission may—

- (a) admit the claim;
- (b) reject the claim stating the reasons for the rejection;
- (c) refer claimants to other relevant institutions or mechanisms for the resolution of the claim; or

(d) consolidate the claim with other claims of similar nature.

(7) Upon vetting a claim, the Commission shall notify the complainant of its decision to reject the claim, refer the claim to relevant institutions or consolidate the claim, in writing stating, the reasons for the decision.

(8) Upon admission of a claim, the Commission shall, within ninety days, notify the claimant of the admission in Form NLC/HLI/04 set out in the Schedule and issue a notice to appear in Form NLC/HLI/05 set out in the Schedule to the claimant.

8. Register of claims

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

9. Power to place a restriction

The Commission may place a restriction on any land that is subject to a historical land injustice claim that has been admitted under regulation 7(6)(a) pending investigation and determination of the claim.

PART III – CONDUCT OF HEARINGS

10. Establishment of Committee

(1) The Commission may establish a Committee consisting of at least three members of the Commission to hear and recommend appropriate remedies for claims arising out of historical land injustices.

(2) The Committee may co-opt into its membership, persons whose knowledge and skills are necessary to assist the Committee carry out its mandate.

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

- (a) is entitled to attend the Committee's meetings and participate in its deliberations but shall not vote in any matter before it;
- (b) shall take before the Commission's Chairperson the oath or affirmation of office; and
- (c) shall be paid such fees as the Commission shall determine.

(4) A decision of the Committee shall be deemed to be a decision of the Commission.

11. Investigations of a claim

A Committee shall in the course of an investigations into historical land injustices undertake—

- (a) background checks including official searches, where appropriate;
- (b) site visits;
- (c) review and verification of documents;
- (d) interviews;
- (e) public hearings, where appropriate;
- (f) consultative meetings with interested parties and persons of interest; or
- (g) research.

12. Conduct of hearings

(1) Subject to section 6(2)(b) of the National Land Commission Act (Cap. 281) the conduct of hearings and the procedure to be followed at hearings shall under regulation rules be as directed by the Commission.

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

(3) The Committee shall not be bound by strict rules of evidence.

[Subsidiary]

13. Hearing Notice

(1) The Commission shall, at least thirty days prior to the hearing date or within such other period as the Committee may determine is fair in the circumstances, send a notice of hearing to all parties to a claim by mail or electronically.

(2) A notice of hearing shall include—

- (a) a statement of the purpose of the hearing;
- (b) a statement that the Commission may proceed in the absence of a party notified twice but has failed to attend to or participate in a hearing and the party shall not be entitled to any further notice in the proceedings; and
- (c) any other information or direction that the Commission considers necessary for the proper conduct of the hearing.

(3) The Commission may, if it is of the opinion that 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, cause reasonable notice of the hearing to be given to such parties or persons by advertisement in at least one newspaper with national circulation or in such other means as determined by the Commission.

(4) The Commission shall issue summons in Form NLC/HLI/06 set out in the schedule, against a party who repeatedly fails to appear as notified.

14. Notice to appear

(1) The Commission may give notice to any person to appear before it in relation to any investigation or proceedings under these Regulations in Form NLC/HLI/05 set out in the Schedule.

(2) The notice shall be in writing and shall be addressed and delivered by a staff of the Commission or an appointed agent and shall direct such person, in relation to any investigation, to appear before the Commission at such time and place as may be specified in the notice.

(3) The Commission shall ensure that it preserves the dignity of every person during its investigations and hearings.

(4) 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.

15. Notification of special needs

A party shall notify the Commission, as early as possible, of any disability, the need for a translator or any other special needs which the party or their witnesses might have.

16. Disqualification of a member of the Committee

(1) An interested person may, at least seven days prior to a hearing, request a member of the Committee to disqualify themselves from the hearing.

(2) The interested person referred to in sub-regulation (1) shall provide their reasons for the request and where applicable, provide supporting evidence.

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

(4) Where the request is for the disqualification of the Chairperson of the Committee, the Commission's Chairperson shall make the determination and replace the Chairperson of the Committee in respect of that matter only.

17. Appearance at a hearing

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

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

18. Hearings

- (1) The hearings shall be open to the public unless otherwise ordered by the Committee.
- (2) Where a hearing is closed to the public, it may only be attended by—
 - (a) the parties and their representatives;
 - (b) the witnesses;
 - (c) members of staff of the Commission; and
 - (d) such other persons as the Committee may consider necessary.
- (3) An exhibit, document, submissions or Committee orders relating to a hearing may be marked confidential and kept separate from the public record.
- (4) Access to the material referred to in regulation (3) shall be availed by order of the Committee.

19. Language

- (1) The languages to be used during a hearing shall be Kiswahili, English and Kenyan sign language or where appropriate other languages understood by claimants and witnesses.
- (2) The Commission shall provide competent interpreters for spoken or sign language, as the case may be, for parties or witnesses appearing before it.

20. Oath or affirmation

A witness shall give evidence after taking an oath or affirmation.

21. Summons to appear

The Commission may issue summons to any person in Form NLC/HLI/06 in the Schedule, to—

- (a) appear before it on an appointed date, time, venue and make representations on a matter as required; or
- (b) submit such documents or evidence on the claim as the Commission may require.

22. Disclosure of documents

The Committee may, at any stage of the proceeding and before completion of a hearing, make orders for—

- (a) the exchange of certified documents which are not subject to a claim of privilege;
- (b) the oral or written examination of a party;
- (c) the exchange of witness statements;
- (d) the reports of expert witnesses;
- (e) the provision of particulars; or
- (f) any other form of disclosure.

23. Protection of a witness

- (1) The Commission shall on its own initiative or on an application by a person, in writing, 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 relating to the investigation of a claim.
- (2) The evidence referred to in sub-regulation (1) includes that which has not been given before the Commission.
- (3) Any person may make an application, in writing, to the Commission for protection.

[Subsidiary]

24. Adjournment

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

25. Decision of the Commission

(1) After concluding investigations of the matter, the Commission shall render a decision within twenty-one days.

(2) A decision under sub-regulation (1) shall be in writing and shall contain—

- (a) the nature of the claim;
- (b) a summary of the relevant facts and evidence adduced before the Commission;
- (c) the determination and reasons supporting the Committee's decision; and
- (d) a recommendation on the remedy, if any, to which a party is entitled.

26. Decision

(1) A determination made by the Commission shall be —

- (a) extracted and authenticated as a decision of the Commission; and
- (b) signed by the Chairperson under the seal of the Commission.

(2) A certified copy of the recommendation shall be made available to the parties within sixty working days from the date of determination.

(3) Upon making a determination, the Commission shall within twenty one days furnish the authorities responsible for redress recommended with a copy of the determination for appropriate action.

27. Publication of decisions

The Commission shall publish its decisions and recommendations—

- (a) in the Kenya *Gazette*;
- (b) in at least one newspaper with national circulation; or
- (c) on the website of the Commission.

28. Appeals

A person aggrieved by the decision of the Commission may, within twenty eight days of the publication of the decisions, appeal to the Court.

PART IV – MISCELLANEOUS PROVISIONS

29. Communication with the Commission

A party who has a representative shall communicate with the Commission through the representative.

30. Power to seek assistance

The Commission may seek the assistance of the National Police Service or any other office of the national or county governments to facilitate its work and enforce its decisions under these rules.

31. Claim made to the Commission by a claimant before the commencement of these Regulations

(1) Claim made to the Commission by a claimant before the commencement of these Regulations shall be investigated in accordance with these Regulations.

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

SCHEDULE

FORMS

FORM NLC /HLI/01 (r. 7(1)(4))

The Historical Land Injustices Rules, 2016

LODGING A HISTORICAL LAND INJUSTICE CLAIM

Ref. No Date:

(To be filled in duplicate)

Part I - Personal Details of Claimant(s)

1. Name of Claimant:

2. Address

(a) ID/Passport Number

(b) Registration No/Incorporation No. (Where applicable)

3. Date of the Claim

4. Grounds on which the claim is made
.....
.....

5. Number and particulars of witnesses
.....
.....

6. Period when the injustice occurred

7. Resultant effect
.....
.....

8. Previous attempts to resolve the injustice

9. Contact Person (in case the claimant is not an individual):

Telephone

Email

Postal Address

Part II - Particulars and description of the Property

Please complete the following particulars of the property you wish to make a claim on:

1. Land Reference Number/Parcel Number/other physical description:
.....
.....

2. Acreage (if applicable):

3. County

4. Sub-County

5. Location

6. Sub-Location

7. Village

8. Physical features

9. Settlement/Development Characteristics

10. Boundaries

11. Any other information the claimant wishes to provide

Part III - Suggested remedy

[Subsidiary]

Kindly suggest your preferred resolution to your claim

Signature/Thumb Print of the Claimant or the Duly Authorised Representative of the Claimant

Date

TO BE SUBMITTED TO:

The Secretary/CEO

National Land Commission

P.O. Box 44417-00100

Ardhi House, 12th floor, wing B

FORM NLC HLI 02 (r. 7(5))

The Historical Land Injustices Rules, 2016

ACKNOWLEDGEMENT FORM

Claim Ref Number:

To:

Date:

The Commission hereby acknowledges receipt of your Historical Land Injustice claim dated the day of 20 which is under consideration.

You will be notified of the progress in due course.

Name

Signed

CEO/ SECRETARY TO THE COMMISSION

FORM NLC HLI 03 (r. 7(3))

The Historical Land Injustices Rules, 2016

ADMISSIBILITY CHECKLIST FORM

This form shall be used to assess all Historical land injustices claims

NO.	ADMISSIBILITY CRITERIA	YES	NO	REMARKS
1.	Did the historical land injustice occur between 15th June 1895 and 27th August 2010?			
2.	Was violation of right in land based on- (a) law (b) policy (c) treaty (d) administrative action			

-
3. Was the historical land injustice-
(a) colonial occupation
b) independence struggle
c) treaty or agreement
d) development induced
e) inequitable land adjudication
f) politically motivated or conflict based eviction
g) corruption or other form of illegality
h) natural disaster
i) any other cause approved by the Commission including-
(i) illegal acquisitions
(ii) multiple allocations
(iii) exclusion of source of livelihoods
- 4 Does the claim contradict the law that was in force at the time when the injustice began?
If yes, explain
- 5 Was the claimant an occupier or proprietor of land on which the claim is based?

National Land Commission

[Subsidiary]

- 6 Does action or omission on the part of claimant amount to surrender or renouncement to the right on land?
- 7 Is the claim brought within a period of five years from the date of commencement of this Act?
- 8 Has the historical land injustice not been sufficiently resolved. If yes, indicate previous attempts at resolution

FORM NLC/HLI/04 _____ (r. 7(8))

The Historical Land Injustices Rules, 2016

NOTICE OF ADMISSION OF CLAIM

Claim Ref Number:

To:

Date:

The Commission has assessed your Historical Land Injustice claim and finds it Admissible for further investigation by the Commission. You will be contacted in due course

Not admissible for the following reasons:

.....
.....

Name

Signed

CEO/ SECRETARY TO THE COMMISSION

.....

FORM NLC/HLI/05 _____ (r. 7(8), 15(1))

The Historical Land Injustices Rules, 2016

NOTICE TO APPEAR

Claim Ref Number: Date:

To:

.....
.....

Summary of Claim:

.....

.....
You are hereby requested to appear before the Historical Land Injustices
Committee sitting at on the day of
20 atam/pm to give information in reference to the
above claim. You are also requested to bring any supporting documents or any
witnesses you may consider relevant.

Acknowledgement of receipt
Name of Signature
Claimant
Date
Return to CEO/ Secretary

FORM NLC/HLI/06 _____ (r. 14(4) & 22)

The Historical Land Injustices Rules, 2016

SUMMONS

Claim Ref Number:
To:

.....
.....
Date:
Claim:

.....
Pursuant to Article 67(2)(e), 252(3) of the Constitution of Kenya and Section
6 of the National Land Commission Act, you are hereby summoned to appear
before the Historical Land Injustices Committee sitting at
on day of 20 at
am/pm. to give evidence in reference to the above claim. You are also required to
bring any supporting documents.

Name
Signed
CEO/SECRETARY TO THE COMMISSION
Served Signature.....
upon
Date
Place
Time
Served Signature
by
