

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2020

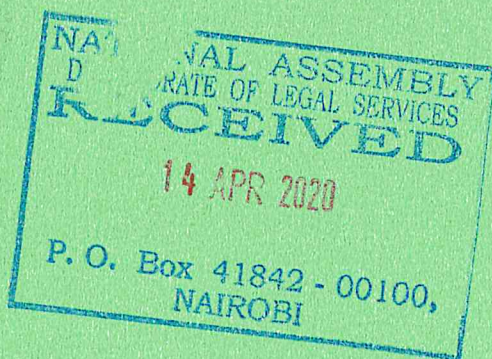
NAIROBI, 23rd March, 2020

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**THE LAND REGISTRATION (AMENDMENT) BILL,
2020**

A Bill for

AN ACT of Parliament to amend the Land Registration Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Land Registration (Amendment) Act, 2020. Short title

2. The Land Registration Act, 2012 is amended by inserting the following new Part immediately after section 90— Insertion of a new Part into No.3 of 2012.

PART VIII A—COMPLAINTS MECHANISM

Application.
No. 3 of 2012.
Cap. 299.

90A. This Part shall apply to complaints relating to land registration services under the Land Registration Act, 2012 and also to survey of land services under the Survey Act.

Establishment of the Office of the Complaints Reviewer.

90B. There is established the office of the Complaints Reviewer in the Lands Registry and Survey of Kenya which shall perform the functions and exercise the powers provided for in this Part.

Function of the Office of the Complaints Reviewer.

90C. The Complaints Reviewer shall provide a free, effective and impartial complaints review mechanism at the Lands Registry and Survey of Kenya by reviewing and determining complaints regarding land registration and survey services.

Powers of the Complaints Reviewer.

90D. (1) The Complaints Reviewer shall have powers to—

- (a) receive, process and resolve all complaints relating to land registration and surveying lodged by public;
- (b) recommend actions to remedy complaints relating to Land

registration and survey services at the Lands Registry and Survey of Kenya;

- (c) provide advisory opinions or proposals on improvement of processes and procedures;
- (d) maintain a register and keep a file of all complaints, including proceedings and determinations;
- (e) submit quarterly and annual reports to the Cabinet Secretary on the complaints investigated, the remedial actions recommended and matters pertaining to the functions of the office; and
- (f) determine frequency of meetings, sittings and venues.

(2) The powers of the Complaints Reviewer are limited to matters listed in sub-section (1) and shall not include complaints—

- (a) relating to the merits of a decision of the Land registry and Director of Survey;
- (b) by the Land Registry and Survey of Kenya employees concerning their employment or by applicants for employment about recruitment procedures; and
- (c) that are subject of legal proceedings.

(3) The Complaints Reviewer shall only consider complaints that have been fully considered within the internal complaints procedures at the lands registry and Survey of Kenya and the complainant received a final response and is dissatisfied.

Appointment of the
Complaints Reviewer.

90E. There shall be a Complaints Reviewer who shall be appointed by the

Cabinet Secretary for a term of three years renewable once.

Qualifications for appointment.

90F. A person shall qualify to be appointed as the Complaints Reviewer if the person—

- (a) is a citizen of Kenya;
- (b) is an advocate of the High Court of Kenya with at least ten years' experience; and
- (c) meets the requirements of Chapter Six of the Constitution.

Vacancy in the office of Complaints Reviewer.

90G. The office of the Complaints Reviewer shall become vacant if the holder—

- (a) dies;
- (b) by notice in writing resigns; or
- (c) is removed from office by the Cabinet Secretary for—
 - (i) gross misconduct;
 - (ii) violation of any law including a contravention of Chapter Six of the Constitution;
 - (iii) physical or mental incapacity to perform the functions of the office;
 - (iv) incompetence; or
 - (v) bankruptcy.

Filling of vacancy.

90H. Where a vacancy occurs in the office of the Complaints Reviewer, the Cabinet Secretary shall appoint a Complaints Reviewer within fourteen days of occurrence of a vacancy.

Protection from personal liability.

90I. No matter or action done by the Office of the Complaints Reviewer or any officer, employee or agent of the office shall, if the matter or action is done *bona fide* for executing the functions, powers or duties of the office, render the Complaints Reviewer, officer, employee or agent or

any person acting on his directions personally liable to any action, claim or demand.

Conduct of business and affairs of the office.

90J. The office of the Complaints Reviewer shall—

- (a) determine rules of procedure for the conduct of its business; and
- (b) keep minutes of its proceedings and decisions.

Appointment of staff.

90K. (1) The Public Service Commission may employ such staff for the office of the Complaints Reviewer as may be necessary for the proper discharge of the functions of the Complaints Reviewer under this Act.

(2) The staff appointed under subsection (1) shall serve on such terms and conditions as the Public Service Commission may determine.

(3) The Cabinet Secretary, upon request by the office of the Complaints Reviewer, shall second such number of public officers as may be necessary for the proper performance of the functions of the office.

(5) A public officer seconded to the office of the Complaints Reviewer shall, during the period of secondment, be deemed to be an officer of the Office and shall be subject only to the direction and control of the Office of the Complaints Reviewer.

Procedure for lodging and handling a complaint.

90L. (1) The Cabinet Secretary may make regulations for the better carrying into effect of the provisions of this Part.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations relating to the procedure for lodging and handling a complaint and any other matter incidental thereto.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons for the Bill

The principal object of this Bill is to amend the Land Registration Act No. 3 of 2012 in order to establish the Office of a Complaints Reviewer who shall be responsible for providing free, effective and impartial complaints review mechanism at the Lands Registry and Survey of Kenya by reviewing and determining complaints regarding land registration and survey services. This is geared towards ensuring the effective delivery of land registration and survey services by giving the public an avenue of lodging complaints and having their complaints resolved effectively.

Statement on whether the Bill concerns county governments

This Bill is not a Bill concerning county governments within the meaning of Article 110(1)(a) and the Fourth Schedule to the Constitution.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not limit any fundamental rights and freedoms but it delegates legislative power to the Cabinet Secretary to make regulations on the procedure for lodging and handling complaints and any other matter incidental thereto.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 13th March, 2020.

ADEN DUALE,
Leader of the Majority Party.

