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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY


THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON LANDS

.....

REPORT ON THE PRESIDENTIAL MEMORANDUM OF REFERRAL ON THE
NATIONAL LAND COMMISSION (AMENDMENT) BILL, NATIONAL ASSEMBLY

NO.43 OF 2023	
	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 22 JUL 2025	DAY: TUESDAY
TABLED BY:	Hon. JOASH NYAMAKO, MP (CHAIRPERSON)
CLERK-AT THE-TABLE:	IMZOPU MWANGI

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CHAIRPERSON'S FOREWORD

This Report contains a detailed analysis of the Presidential Memorandum of Referral on the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023). On Tuesday, 1st July, 2025, the Rt. Hon. Speaker conveyed a message from His Excellency, the President referring the National Land Commission (Amendment) Bill (*National Assembly Bills No. 43 of 2023*), accompanied by a memorandum to the Departmental Committee on Lands.

The message from His Excellency the President, dated 26th June, 2025, stated that His Excellency the President had, declined to assent to the National Land Commission (Amendment) Bill (*National Assembly Bills No. 43 of 2023*) and attached a memorandum of referral detailing the reasons for declining to assent, in exercise of the powers conferred to him by Article 115(1)(b) of the Constitution.

The National Land Commission (Amendment) Bill (*National Assembly Bills No. 43 of 2023*) was published on 16th August 2023 vide Kenya Gazette Supplement No.129 of 2022 and was Read a First time on 27th September, 2023. The Bill, sponsored by the Deputy Chief Whip, the Hon. Owen Baya, MP was passed, with amendments, by the National Assembly on 13th February, 2025.

It is upon this premise, that the National Assembly Departmental Committee on Lands convened to deliberate on the Presidential Memorandum of Referral in accordance to Article 115 of the Constitution which provides that the President may refer a Bill back for reconsideration to Parliament to amend the Bill in light of the reservations of the President; or pass the Bill a second time without amendment.

I take this opportunity to thank and commend Committee Members for their devotion and commitment to duty, the Speaker and the Clerk of the National Assembly for providing leadership and direction and finally the Committee Secretariat for their exemplary performance in the provision of technical and logistical support.

On behalf of the Departmental Committee on Lands and pursuant to provisions of Standing Order 216 (5) (g), it is my pleasant privilege and honor to present the Report of the Committee

on its consideration of the Presidential Memorandum of Referral on the National Land Commission (Amendment) Bill, (National Assembly Bills No. 43 of 2023).

Hon. Joash Nyamache Nyamoko, HSC, M.P.

Chairperson, Departmental Committee on Lands

CHAPTER ONE

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Departmental Committee on Lands is one of the Departmental Committees of the National Assembly established under Standing Order 216 whose mandates pursuant to the Standing Order 216 (5) are as follows:
 - i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - ii. To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;
 - iii. on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;
 - iv. To study and review all legislation referred to it;
 - v. To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
 - vi. To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - vii. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);
 - viii. To examine treaties, agreements and conventions;
 - ix. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - x. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - xi. To examine any questions raised by Members on a matter within its mandate.

1.2 Subjects under the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to oversee: matters related to lands and settlement including, land policy, land transactions, survey and mapping, land adjudication, settlement, land registration, land valuation, administration of community and public land and land information and management system.

1.3 Oversight

3. In executing its mandate, the Committee on Lands oversees the
 - i. State Department for Lands and Physical Planning
 - ii. The National Land Commission.

1.4 Committee Membership

4. The Departmental Committee on Lands was constituted by the House on Thursday, 27th October 2022 and comprises the following Members:

Chairperson

Hon. Joash Nyamache Nyamoko, MP
North Mugirango Constituency
UDA Party

Vice-Chairperson

Hon. Fatuma Abdi Jehow, MP
Women Representative Wajir County
ODM Party

Members

Hon. Dr. Rachael Kaki Nyamai, MP
Kitui South Constituency
JUBILEE Party

Hon. Irene Mrembo Njoki, MP
Bahati Constituency
JUBILEE Party

Hon. Dr. Gideon Ochanda, MP
Bondo Constituency
ODM Party

Hon. Leah Sopiato Sankaire, MP
Women Representative Kajiado County
ODM Party

Hon. Mathias Robi Nyambabe, MP
Kuria West Constituency
UDA Party

Hon. Ali Wario Guyo, MP
Garsen Constituency
ODM Party

Hon. Maj. Barrow Dekow, MP
Garissa Township Constituency
UDA Party

Hon. Omar Mwinyi, MP
Changamwe Constituency
ODM Party

Hon. Paul Katana, MP
Kaloleni Constituency
ODM Party

Hon. Thaddeus Nzambia, MP
Kilome Constituency
WIPER Party

Hon. Josses Lelmengit, MP
Emgwen Constituency
UDA Party

Hon. Anthony Kenga Mupe, MP
Rabai Constituency
JUBILEE Party

Hon. Gachoki Gitari, MP
Kirinyaga Central Constituency
UDA Party

1.5 Committee Secretariat

5. The Committee is facilitated by the following staff secretariat:

Mr. Joshua Ondari
Clerk Assistant I/Lead Clerk

Mr. Nebert Lomechu Ikai
Clerk Assistant I

Mr. Binensa Mabungu
Clerk Assistant III

Mr. Sidney Lugaga
Senior Legal Counsel

Ms. Judith Kiprop
Fiscal Analyst III

Mr. Murimi Mwangi
Media Relations Officer

Ms. Mary Kamande
**Public Communications
Officer**

Ms. Patricia Gichane
Legal Counsel II

Ms Audrey Ogutu
Legal Counsel II

Ms. Brenda Michira
Research Officer III

Mr. Yeziel Jillo
Senior Serjeant-At-Arms

Mr. Cosmas Akhonya
Audio Officer

CHAPTER TWO

2.0 PRESIDENTIAL MEMORANDUM OF REFERRAL TO THE NATIONAL LAND COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.43 OF 2023)

2.1 Background

6. On Tuesday, 1st July, 2025, the Rt. Hon. Speaker conveyed a message from His Excellency, the President referring the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) accompanied by a memorandum to the Departmental Committee on Lands.
7. The message from His Excellency the President, dated 26th June, 2025, stated that His Excellency the President had, declined to assent to the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) and attached a memorandum of referral detailing the reasons for declining to assent, in exercise of the powers conferred to him by Article 115(1)(b) of the Constitution.

2.2 Legislative Process

8. The National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) was published on 16th August, 2023 vide Kenya Gazette Supplement No.129 of 2022 and Read a First time on 27th September, 2023. The Bill, sponsored by the Deputy Chief Whip, the Hon. Owen Baya, MP was passed, with amendments, by the National Assembly on 13th February, 2025.

2.3 Legislative Framework

9. Article 115 of the Constitution regulates Presidential assent and referral. Article 115(1) of the Constitution provides that within fourteen days after receipt of a Bill, the President shall—assent to the Bill; or refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.
10. Article 115(2) of the Constitution provides that if the President refers a Bill back for reconsideration, Parliament may amend the Bill in light of the reservations of the President; or pass the Bill a second time without amendment.

11. Article 115(3) of the Constitution provides that if Parliament amends the Bill fully accommodating the reservations of the President, the Speaker shall re-submit the Bill to the President for assent.
12. Article 115(4) of the Constitution provides that Parliament, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the reservations from the President, by a vote supported by two-thirds of members of the National Assembly.

CHAPTER THREE

2.4 Analysis of the Presidential Memorandum of Referral

13. Attached below is a matrix containing an analysis of the memorandum of referral on the National Land Commission (Amendment) Bill (National Assembly Bills No. 43 of 2023) detailing the reasons for declining to assent,

No	Clause	Proposed amendment	Effect of the Amendment
1	(1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, on its own motion or upon a complaint by the national or a county government, a community or an individual, review any grants or dispositions of public land to establish their propriety or legality.	(a) deleting the proposed section 14(1) and substituting therefor the following new subsection — (1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, within five years of the coming into force of this section, on its own motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land issued before the 27th August, 2010 to establish their propriety or legality, upon hearing all parties affected.	Introduces a 5-year limit for reviewing grants or dispositions, and limits the scope of the National Land Commission to reviewing all grants or dispositions to apply to public land issued before the 27 th August, 2010.
2	(9) A person may register a determination that complies with Article 40(6) of the Constitution made under subsection (6) in the High Court.	(b) deleting the proposed section 14(9) and substituting therefor the following new subsection — (9) A person may register a determination made under	Narrows registration criteria provided under subsection (4) and removes constitutional reference to Article 40(6).

		subsection (4) in the High Court;	
3	(10) Where a person registers a determination under subsection 9, (a) the High Court shall enter judgment in accordance with the determination; and (b) includes any consequential orders issued as a result of the determination.	(c) deleting the proposed section 14(10);	Removes automatic court enforcement, meaning Commission decisions require separate legal action to be upheld in court.
4	(12) The Commission shall publish all determinations made under subsection (6).	(d) deleting the proposed section 14(12) and substituting therefor the following new subsection — (12) The Commission shall publish in the Gazette all determinations made under subsection (4).	Requires all matters that are published to be gazetted.
5	<i>(No existing text; this is a new provision)</i>	(e) inserting the following new subsection immediately after the proposed section 14(13) — (13) The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).	Empowers the Commission to seek an extension of the 5-year window , promoting flexibility under legislative oversight.
6	(1) Pursuant to Article 67(3) of the Constitution, the Commission shall initiate, receive, admit and	(a) deleting the proposed section 15(1) and substituting therefor the following new subsection —	Limits the role of the Commission to investigating historical land injustices , removing its authority to

	investigate a complaint on present or historical land injustices, complaint and recommend an appropriate redress.	(1) Pursuant to Article 67(2)(e) of the Constitution, the Commission shall initiate, receive, admit and investigate any historical land injustice complaint and recommend an appropriate redress.	investigate present-day disputes .
7	(3) For the purposes of this section, a historical land injustice includes a subsisting land injustice	(b) deleting the proposed section 15(3);	Limits the application of the Bill to historical land injustice.
8	(12) The Commission shall publish all determinations made under this section.	(c) deleting the proposed section 15(12) and substituting therefor the following new subsection — (12) The Commission shall publish in the Gazette all determinations made under this section.	Inserts a requirement that National Land Commission shall publish all determinations in the Kenya Gazette .
9	(15) The Commission shall publish regulations to operationalize this section within six months of enacting this Act.	(d) deleting the proposed section 15(15) and substituting therefor the following new subsection — (15) The Commission shall make regulations to operationalize this section within six months from the coming into force of this section.	Inserts the words “ make regulations to ” to make the sentence clear and simple to understand
10	<i>(No existing text; new clause being added)</i>	(e) adding the following new subsection after the proposed section 15(15) —	Introduces a sunset clause to limit application of the section to 5 years , meaning that all

		(16) The provisions of this section shall stand repealed within five years from the coming into force of this section.	historical land injustices must be resolved within 5 years of enactment of this Act.
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CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

14. The memorandum proposes to amend clause 1 of the Bill by deleting the proposed section 14(1) and substituting with a new subsection to introduce a **5-year limit** for reviewing grants or dispositions, and to limit the scope of the National Land Commission to reviewing all grants or dispositions to apply to public land issued before the 27th August, 2010.
15. The memorandum proposes to amend **clause 1 of the Bill** by deleting the proposed **section 14(9)** and substituting the proposed subsection with a new subsection to limit the criteria for registration to determination issued under **subsection (4)** and removes constitutional reference to Article 40(6), streamlining the enforcement trigger.
16. The memorandum proposes to amend **clause 1 of the Bill** by deleting the proposed section 14(10) and the effect of the amendment that **removes automatic court enforcement**, meaning Commission decisions require separate legal action to be upheld in court.
17. The memorandum proposes to amend **clause 1 of the Bill** by deleting the proposed section 14(12) and substituting the proposed subsection with a new subsection to limit the criteria for registration to determination issued under **subsection (4)** and removes constitutional reference to Article 40(6), streamlining the enforcement trigger.
18. The memorandum proposes to amend **clause 1 of the Bill** by inserting a new subsection immediately after the proposed section 14(13) to **empower** the Commission to seek an **extension of the 5-year window**, promoting flexibility under legislative oversight.
19. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(1) and substituting the proposed subsection with a new subsection to **limit the role of the Commission** to investigating **historical land injustices**, removing its authority to investigate **present-day disputes**. The Committee will

sponsor a Bill to amend the National Land Commission Act to empower the National Land Commission to investigate **present-day disputes**.

20. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(3) to limit the application of the Bill to historical land injustice. The Committee will sponsor a Bill to amend the National Land Commission Act to empower the National Land Commission to investigate **present-day disputes**.
21. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(12) and substituting the proposed subsection with a new subsection to insert a requirement that the National Land Commission shall publish all determinations in the **Kenya Gazette**.
22. The memorandum proposes to amend **clause 2 of the Bill** by deleting the proposed section 15(15) to insert the words “**make regulations to**” to make the sentence clear and simple to understand.
23. The memorandum proposes to amend **clause 2 of the Bill** by inserting the following new subsection immediately after the proposed section 14(13) to introduce a **sunset clause** to limit application of the section to **5 years**, meaning that all historical land injustices must be resolved within 5 years of enactment of this Act.

CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATIONS

24. Article 115 of the Constitution provides that Parliament — (a) may amend the Bill fully accommodating the reservations of the President or (b) may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the reservations from the President.
25. Pursuant to Article 115 of the Constitution, the Committee may consider the reservations and recommend that the National Assembly: (a) amends the Bill fully accommodating the reservations of the President or (b) pass the Bill a second time, with or without amendments that accommodate the reservations from the President.
26. Pursuant to Article 115 of the Constitution, the Committee recommends to the House to amend the Bill fully accommodating the reservations of the President relating to:
 - (a) **Clause 1 of the Bill** by deleting the proposed **section 14(1)** and substituting the proposed subsection with the following new subsection—

“(1) Subject to Article 68(c)(v) of the Constitution, the Commission shall, within five years of the coming into force of this section, on its own motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land issued before the 27th August, 2010 to establish their propriety or legality, upon hearing all parties affected.”
 - (b) **Clause 1 of the Bill** by deleting the proposed **section 14(9)** and substituting the proposed subsection with the following new subsection—

“(9) A person may register a determination made under subsection (4) in the High Court;”
 - (c) **Clause 1 of the Bill** by deleting the proposed section 14(10).
 - (d) **Clause 1 of the Bill** by deleting the proposed section 14(12) and the proposed subsection with the following new subsection—

- “(12) The Commission shall publish in the **Gazette** all determinations made under subsection (4).”
- (e) **Clause 1 of the Bill** by inserting a new subsection immediately after the proposed section 14(13) —
- “(13) The Commission may, where it considers it necessary, petition Parliament to extend the period for undertaking the review specified in subsection (1).”
- (f) **Clause 2 of the Bill** by deleting the proposed section 15(1) and the proposed subsection with the following new subsection—
- “(1) Pursuant to Article 67(2)(e) of the Constitution, the Commission shall initiate, receive, admit and investigate any historical land injustice complaint and recommend an appropriate redress.”
- (g) **Clause 2 of the Bill** by deleting the proposed section 15(3).
- (h) **Clause 2 of the Bill** by deleting the proposed section 15(12) and the proposed subsection with the following new subsection—
- “(12) The Commission shall publish in the Gazette all determinations made under this section.”
- (i) **Clause 2 of the Bill** by deleting the proposed section 15(15) and the proposed subsection with the following new subsection—
- “(15) The Commission shall **make regulations to** operationalize this section within six months from the coming into force of this section.”
- (j) **Clause 2 of the Bill** by inserting the following new subsection immediately after the proposed section 14(13)—
- “(16) The provisions of this section shall stand repealed within five years from the coming into force of this section.”
- (k) The Committee resolves to sponsor a Bill to amend section 15(1) the National Land Commission Act to operationalise the National Land Commission to investigate present land injustices in accordance with article 67(2)(e) of the Constitution.

SIGNED..... DATE.....

17/7/2025

HON. JOASH NYAMACHE NYAMOKO, MP
(CHAIRPERSON)

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 22 JUL	DAY: TUESDAY
TABLED BY:	HON. JOASH NYAMOKO, MP (CHAIRPERSON)
CLERK-AT THE-TABLE:	INZOPU MWALE,



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ADOPTION LIST

We, the members of the Departmental Committee on Lands, have pursuant to Standing Orders 216 (5)(c), adopted this report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.

Date: 17/07/2025

No.	MEMBER	SIGNATURE
1.	Hon. Nyamoko Joash Nyamache, HSC, MP - <i>Chairperson</i>	
2.	Hon. Jehow Fatuma Abdi, MP – <i>Vice Chairperson</i>	
3.	Hon. (Dr.) Rachael Kaki Nyamai, CBS, MP	
4.	Hon. (Dr.) Ogolla Gideon Ochanda, MP	
5.	Hon. Shimbwa Omar Mwinyi, MP	Virtual
6.	Hon. Robi Mathias Nyamabe, MP	
7.	Hon. Gitari Joseph Gachoki, MP	
8.	Hon. Katana Paul Kahindi, MP	Virtual
9.	Hon. Mupe Anthony Kenga, MP	
10.	Hon. Guyo Ali Wario, MP	
11.	Hon. (Eng.) Nzambia Thuddeus Kithua, MP	Virtual
12.	Hon. Lelmengit Jossess Kiptoo Kosgey, MP	
13.	Hon. Maj. (Rtd) Dekow Barrow Mohamed, MP	
14.	Hon. Sankaire Leah Sopiato, MP	
15.	Hon. Mrembo, Irene Njoki MP	Virtual

