

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM TO THE PHYSICAL AND LAND USE PLANNING (CLASSIFICATION OF STRATEGIC NATIONAL OR INTER-COUNTY PROJECTS) REGULATIONS, 2019 No. 1

Name of the Statutory Instrument: The Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019

Name of the Parent Act: Physical and Land Use Planning Act No. 13 of 2019


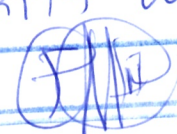
Enacted Pursuant to: Section 69 (3) of the Physical and Land Use Planning Act No. 13 of 2019

Name of the Ministry/ Department: Ministry of Lands and Physical Planning

Gazetted on:

20th September, 2019

Tabled on:

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 01 OCT 2019	
D.O.Y. TUESDAY	
TABLED BY:	MAJORITY WHIP
CLERK AT THE TABLE:	

1. Purpose of the Statutory instrument:

- 1.1 To make Regulations prescribing for the projects that may be classified as a strategic national or inter-county project.

2. Legislative Context:

- 2.1 Section 69 (3) of the Physical and Land Use Planning Act No. 13 of 2019.

3. Policy Background:

- 3.1 Under section 21 of Part I of the Fourth Schedule the National Government has the responsibility of formulating general principles of land planning and coordination of planning by the counties. Parliament adopted the Sessional Paper No. 1 of 2017 on National Land Use Policy.

4. Consultation outcome:

- 4.1 The process of formulating the Regulations was participatory, interdisciplinary and consultative. The Technical Working Team comprised of membership from the following institutions:

- 1) National Land Commission
- 2) County Government of Kiambu
- 3) Ministry of Defence
- 4) Export Processing Zone Authority
- 5) County Government of Nyeri
- 6) Council of Governors
- 7) State Department of Housing and Urban Development
- 8) Kenya Maritime Authority
- 9) County Government of Kakamega
- 10) Kerio Valley Development Authority
- 11) Kenya Water Towers Agency
- 12) Kenya Power Ltd.
- 13) Communications Authority of Kenya
- 14) Institution of Surveyors of Kenya
- 15) Kenya Institute of Planners
- 16) Town and County Planners Association of Kenya
- 17) Architectural Association of Kenya
- 18) Kenya Urban Roads Authority
- 19) Kenya National Highways Authority
- 20) Urban Development Department
- 21) Ministry of Lands and Physical Planning
- 22) Tana and Athi River Development Authority
- 23) Water Resources Authority
- 24) National Construction Authority
- 25) Kenya Railways Corporation
- 26) Kenya Wildlife Services
- 27) Konza Techno City Development Authority
- 28) Lake Basin Development Authority

The Team prepared a layman's draft regulations which were submitted to the Attorney General for professional drafting. On 16th September, 2019 the Attorney General presented the draft regulations to the Ministry for comments. The Ministry uploaded the regulations on its website. Further the Ministry published a public notice on 16th September, 2019 informing members of the public that the regulations were uploaded on its website, www.lands.go.ke and invited stakeholders to submit comments vide email addresses, cslandskenya@gmail.com and info@ardhi.go.ke .

On Tuesday 17th September, 2019 a stakeholder meeting was held in Jacaranda Hotel, Nairobi and was attended by one hundred and sixty (160 no.) persons from MDAs, County Governments, Council of Governors, Public Universities, Professional Bodies, National Land Commission, Communications Authority and Private Sector entities and resolved to have continuous engagement through additional meetings on 23rd, 24th and 25th of September, 2019.

5. Guidance: The Ministry intends to issue practising notes to professional associations, The Physical Planners Registration Board and County Governments, conduct county sensitization workshops, disseminate free copies and undertake continuous professional development training through professional bodies and through various media platforms.

6. Impact

6.1 The impact on Fundamental Rights and Freedoms

These Regulations support socio-economic rights provided for under Chapter 4 of the Constitution particularly the right to the highest attainable standards of health, sustainable environment, accessible and adequate housing and clean and safe water in adequate quantities.

6.2 The impact on the Private Sector

The Regulations provide for fair and professional practice, accountability by the government on projects of strategic national or inter-county importance.

6.3 The impact on the public sector

The Regulations ensure expeditious, efficient, lawful, reasonable and procedurally fair administration of actions by the Government in implementing projects of strategic national or inter-county importance.

7. Monitoring and review

The provisions set out in this statutory instrument aim to create harmony and cohesion in the implementation of strategic national or inter-county projects by reconciling the efforts of national and county governments in achieving these goals.

8. Contact

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