



SCHEDULE

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM TO THE KENYA TECHNICAL TRAINERS COLLEGE ORDER, 2014 NO.115

PART I

NAME OF THE STATUTORY INSTRUMENT: THE KENYA TECHNICAL TRAINERS COLLEGE ORDER, 2014

NAME OF THE PARENT ACT: THE TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING ACT, OF 2013

ENACTED PURSUANT TO SECTION 26 OF THE TECHNICAL AND VOCATIONAL EDUCATION AND TRAINING ACT, OF 2013

NAME OF THE MINISTRY/DEPARTMENT: MINISTRY OF EDUCATION SCIENCE AND TECHNOLOGY

DEPARTMENT OF SCIENCE AND TECHNOLOGY

Gazetted on: 22<sup>nd</sup> August, 2014

TABLED ON:.....

PART II

1. PURPOSE OF THE STATUTORY INSTRUMENT

The purpose of the Statutory Instrument is to operationalize section 26 (2) of the Act that provides for the establishment by the Cabinet Secretary of a technical trainer college by Order published in the Gazette.

2. LEGISLATIVE CONTEXT

To operationalize the Technical and Vocational education and Training Act, 2013 with respect to establishment a technical trainer college.

Paper laid by Hon A. Sule Leader of Majority on Tue 11/11/14



### 3. POLICY BACKGROUND

The Government on 23<sup>rd</sup> September, 2011 established a Taskforce on Alignment of the Higher Education, Science and Technology Sector with the Constitution of Kenya. The Taskforce developed policy Sessional paper No. 14 of 2012 which provides for the governance, management, development among others of Technical and Vocational Education and Training (TVET). This policy was developed against a backdrop of demands of constitutional reforms and change in political governance and the Vision 2030. The policy addresses the issues of access and equity, relevance, curricula, quality assurance, and certification, financing, governance and management, branding of TVET among other.

The policy took into cognizant that the Kenya labour force is expected to reach 14.5 million by the year 2015. This means that the Kenyan economy will have to create over 4.5 million additional jobs within that period. If this additional labour force has to contribute effectively to economic development, then there is urgent need to restructure and equip the TVET institutions in order to meet this need.

The policy recognizes different categories of the TVET institutions offering programmes at different levels. The technical trainer colleges under the TVET Act, 2013 are established as body corporates governed by a Council and may in collaboration with a University offer programmes leading to the award of undergraduate degree in technical and vocational education and training. One of the education major objectives is producing a properly and effectively trained, disciplined and patriotic youth that can in turn make a positive contribution to the development of the nation. This can be achieved by promoting TVET as a means to wealth creation. TVET is also a key factor in achieving Kenya Vision 2030 through production of critical mass skilled human resource which is fundamental to industrialization of a Nation.

The policy and the Act were subjected to interrogation by stakeholders through various forums by the Taskforce in 2012. The stakeholders included participant from the TVET sector, higher and basic education sector, Science, technology and innovation sector among others. In order to implement Section 26 of the Act the Cabinet Secretary developed the Kenya Technical Trainers College Order, 2014 and forwarded the same to the Attorney General for publication.

#### 4. CONSULTATION OUTCOME

During the various forums held with stakeholders it was agreed that TVET institution be categorized as follows:

- a) Vocational training centers, which shall offer courses up to Artisan certificate;
- b) Technical and vocational colleges, which shall offer programmes up to Diploma;
- c) Technical trainer Colleges which shall offer programmes up to Higher Diploma;
- d) National Polytechnics, which shall offer programmes up to Higher Diploma;
- e) Such other categories as the Cabinet Secretary may specify.

The institutions provided for under (c) and (d) shall be established by the Cabinet Secretary by Order published in the Gazette and shall be body corporate with perpetual succession and a common seal and in its corporate name, be capable of suing and being sued among other powers of a body corporate.

The stakeholders agreed that the polytechnics and the technical teachers college existing before the commencement of the TVET Act should be established in accordance with the provisions of the new Act. These institutions are as listed below:

- Kisumu Polytechnic
- Eldoret Polytechnic
- Kenya Technical Teachers College

#### 5. GUIDANCE

Once the Order is published and approved by Parliament the Cabinet Secretary will appoint Council members for Kenya Technical Trainer College and guide the institution on the implementation of the Order. Further the Ministry will sensitize the staff of the polytechnic on their new status and role in provision of TVET education.

#### 6. IMPACT

##### 6.1 The Impact on Fundamental Rights and Freedoms

The Constitution provide under Article 43(1) (f) access to quality education and also relevant education as per Article 55(a).

## 6.2 The Impact on the Private Sector

The Order provides for establishment of a body corporate which will have the legal status to enter into partnership with the private sector on matters relating to TVET. The private sector will be able to participate more effectively through development of curriculum which will be tailored to fit the market demand.

## 6.3 The Impact on the Public Sector

Under fourth Schedule the functions of ensuring Education policy, standards, curricula, examinations, and tertiary educational institutions is on the National Government. The establishment of the Kenya Technical Trainer College shall contribute to Vision 2030 which aims at creating a globally competitive and prosperous nation with a high quality of life through the channelling out of highly competitive and innovative graduates.

## 7. MONITORING AND REVIEW

The Ministry shall continuously monitor and evaluate the College on the implementation of the Order, Act and the TVET policy as per the Ministry's Strategic Plan.

## 8. CONTACT

Ministry of Education, Science and Technology  
Jogoo House 'B'  
Harambee Avenue  
P.O. Box 30040-00200  
**NAIROBI**

Legal Notice No.....

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

**(No... of 2014)**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

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IN EXERCISE of the powers conferred by Section 14(2) and 36 of the National Land Commission Act, 2012, the Commission makes the following Regulations—

**PART I—PRELIMINARY**

Citation and commencement

1. (1) These Regulations may be cited as the National Land Commission (Review of Grants and Dispositions) Regulations, 2014 and shall come into force on such date as the Commission may by notice in the Gazette, appoint.

(2) For purposes of subregulation (1), different dates may be appointed for different provisions of the Regulations.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“Act” means the National Land Commission Act;

“allocation of land” means the legal process of granting rights to public land;

“Committee” means a Committee established under Regulation 13 to hear complaints for the review of grants or dispositions;

“Commission” means the National Land Commission established under Article 67 of the Constitution;

“complainant” means a person who has lodged a complaint of any matter under the mandate of the Commission;

“complaint” means a claim made to the Commission by a complainant or by the Commission on its own motion for the review of grants or dispositions 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;

“Court” means the Environment and Land Court established under the Environment and Land Court Act of 2011 and includes other courts having jurisdiction on matters relating to land;

“disposition” has the meaning assigned to it under the Land Act;

“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 (other than a certificate of interest) issued by the Land Registration Court, and a certificate of title issued pursuant to the provisions of any Act, but does not include any grant issued by the Commission;

**Comment [c1]:** Going forward, all grants will be issued by the Commission; does it mean such grants are not subject for review in the event of a complaint?

“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; and

“Registrar” means the Chief Land Registrar, Deputy Chief Registrar, County Land Registrar and Land Registrar appointed under section 12 and 13 of the Land Registration Act.

Object of these Regulations

3. The object of these Regulations is to facilitate the expeditious, efficient, impartial and just resolution of disputes relating to grants and dispositions.

#### **PART II—THE PROCESS OF REVIEW OF GRANTS AND DISPOSITIONS**

Power of the Commission to commence investigations

4. (1) The Commission may on its own motion, or upon a complaint by a national or county government, a community or an individual review grants or dispositions of public land to establish their propriety or legality.

**Comment [c2]:** Add the words shown in red

(2) A complaint made to the Commission by a complainant before the coming into effect of these Regulations shall be investigated in accordance with these Regulations.

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

Commencement of the review of grants and dispositions process

5. (1) The chairperson of the committee may make a public request on for complaints for the review of grants or dispositions by the national government, a county government, a community, or an individual.

**Comment [c3]:** Add the words shown in red

**Comment [c4]:** Add the word “on” as shown in red

(2) The chairperson shall commence the process referred to in subregulation (1) by—

- (a) publication of a notice in the Gazette;
- (b) advertisement in at least two daily newspapers with national circulation; and
- (c) advertisement in the website of the Commission.

Acquisition or disposal of public land

6. The Commission may, from time to time, in writing require a government ministry, agency, state corporation or a county government 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).

Chief Land

7. (1) The Commission may request the Chief Land Registrar for details of the



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Registrar to  
provide details of  
grants

grants in a specific registry.

(2) Upon receipt of a request by the Commission, the Chief Land Registrar shall provide details of the grants within thirty days.

(3) Where necessary, the Chief Land Registrar may request the Commission for an additional fifteen days to respond to a request made under subregulation (1).

(4) Where the Chief Land Registrar is not able to provide the details requested even after the Commission has given additional time under subregulation (3), the Commission shall proceed with the matter despite absence of the details.

Form of  
complaint

8. (1) A complaint shall be made using Form NLC01 in the First Schedule and shall include—

- (a) a description of the property;
- (b) the name, address and location of the complainant;
- (c) the date of the complaint;
- (d) the particulars of the respondent;
- (e) the grounds on which the complaint is based;
- (f) the substance of the complaint;
- (g) a declaration that the legality or regularity of a grant is not under review by the Court or any other body prior to the application of the complaint to the Commission ~~other than the Commission~~; and
- (h) any other information.

Comment [c5]: Amend as shown in red

(2) A complainant may provide any document necessary to support the complaint.

(3) Where the complaint is made at the instance of the Commission on its own motion or where it 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 using Form NLC01 in the First Schedule.

(4) The Commission shall acknowledge each form received by placing a mark on it.

(5) No fees shall be charged in the lodging and determination of a complaint.

Register of  
complaints

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

(2) Upon vetting a complaint, the Commission may—

- (a) admit the complaint;

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- (b) consolidate complaints 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;

(3) For purposes of this regulation, a letter by the Commission notifying the complainant of the Commission's decision shall be deemed to be **sufficient** notice.

**Comment [c6]:** Add the word "sufficie shown in red

Power to place a restriction

**10.** The Commission shall place a restriction on any land that is subject to a complaint pending the hearing and determination of the complaint.

Withdrawal or termination of a complaint

**11.** (1) A complainant may, in writing, withdraw a complaint pending before the Commission at any stage during its consideration upon which 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.

(2) Where a complaint has been terminated or disposed off, the complainant shall not re-submit the complaint on the same or substantially same issue to the Commission.

Action on a complaint

**12.** (1) Upon admission of a complaint, the Commission shall, in writing and within ninety days, notify interested persons using Form NLC02 in the First Schedule.

(2) The Commission may issue summons to any person it deems necessary, using Form NLC03 in the First Schedule, to—

- (a) appear on an appointed date, time and venue; and
- (b) make representations on a matter as required.

**PART III—CONDUCT OF HEARINGS**

Establishment and membership of a Committee to hear complaints

**13.** (1) The Commission shall establish Committees, from time to time, consisting of at least three members of the Commission to hear complaints for the review of grants and dispositions.

(2) A Committee established under subregulation (1) 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; and

(b) shall take before the Commission's chairperson the oath or affirmation of office set out in the Second Schedule.

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

(5) The chairperson of the Committee constituted as per sub-regulation (1) shall be a member of the Commission.

**Comment [c7]:** If sub-regulation (4) is to suffice, then the committee as per sub-regulation (1) should have a membership of not less than 5 members of the Commission in any seating. If not, the decisions of the committee shall be recommendations to a full meeting of the Commission

**Comment [c8]:** Add sub-regulation (5) as shown in red

**14.** (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 subregulation (1) shall provide their reasons for the request and where applicable, provide supporting documents.

(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 vice-chairperson of the Committee shall make the determination.

**15.** (1) Subject to section 6(2)(b) of the Act, the conduct of hearings and the procedure to be followed shall be under the direction of the Commission.

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

**16.** (1) A party to a 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.

**17.** (1) A party who has a representative shall communicate with the Commission through the representative.

(2) The Commission shall communicate with a represented party only through the party's representative.

Disqualification of a member of the Committee

Conduct of hearings

Appearance at a hearing

Communication with the Commission

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Disclosure of documents

**18.** The Commission may, at any stage of the proceeding but before a hearing is complete, 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.

Notice of hearing

**19.** (1) The Commission shall send a notice of hearing to all parties using the prescribed Form NLC03 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 determine is fair 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 national circulation or otherwise as the Commission may direct.

(4) A notice of hearing shall include—

- (a) a statement of the purpose of the hearing;
- (b) a statement that where the party notified does not attend and participate in the hearing, the Commission may proceed in their absence 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.

Language

**20.** (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 the case may be, for parties or witnesses appearing before it.

Special needs

**21.** A party shall notify the Commission, as early as possible, of any special needs which they or their witnesses might have, including—

- (a) where a person has a physical disability; or

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(b) the need for a translator.

Priority of participation

**22.** The Commission shall set the priority for participation during the hearing based on—

(a) whether a person or organization is directly and substantially affected by the matters covered by the Commission's mandate; or

(b) the relevance of the testimony in relation to the Commission's mandate.

Oath or affirmation

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

Summoning of a witness

**24.** (1) The Commission may summon any person it considers relevant to the proceedings before it.

(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.

Protection of a witness

**25.** (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.

(2) The evidence referred to in subregulation (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.

Adjournment

**26.** 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.

Hearings

**27.** (1) Unless otherwise ordered by the Commission, where part of 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 considers appropriate.

(2) An exhibit, document, submissions or Commission orders relating to a hearing may be marked confidential and kept separate from the public record.

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(3) Access to the material referred to in subregulation (2) shall be availed by order of the Commission or as otherwise authorized by law.

Consideration of lawfulness of a grant or disposition

28. (1) Where the Commission finds that a grant or disposition was acquired in an unlawful manner, the Commission—

**Comment [c9]:** Is it "unlawful" or "lawful" manner?

(a) shall notify the Registrar to withdraw a restriction registered in the title; and

(b) may make any other orders as the Commission deems fit.

(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 using Form NLC04 in the First Schedule; and

(b) make any other orders as the Commission deems necessary.

(3) The Commission shall publish the revocation—

(a) in the Gazette; or

**Comment [c10]:** I propose the word "or" be replaced with the word "and"

(b) in two newspapers with national 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 any other orders as it deems necessary.

(5) Before the Commission acts under this regulation, every interested party shall be notified, in writing, of the Commission's determination.

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Decision of the  
Commission

29. (1) After concluding the hearing of the matter, the Commission shall render a decision within twenty-one days.
- (2) A decision under subregulation (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.

Orders

30. (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 requires 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 subregulation (3), the Registrar shall execute the order by revoking the title after the period for filing an appeal has elapsed.

Publication of  
orders

31. (1) The Commission shall publish its decisions and orders—
- (a) in the Gazette; or
  - (b) in two newspapers with national circulation; or
  - (c) on its website.

**Comment [c11]:** I propose the word "or" be replaced with the word "and"

Appeals

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

**PART IV—MISCELLANEOUS PROVISIONS**

Power to seek  
assistance

33. 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 powers under these regulations.

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Venue of making  
complaints

**34.** A person shall make their complaints to the Commission at any place that the Commission shall designate in the counties.

Dated this .....day of.....2014

**Dr. Mohamed Swazuri**  
*Chairperson,*  
*National Land Commission*



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**FIRST SCHEDULE**

**THE NATIONAL LAND COMMISSION COMPLAINTS FORM**

**REF. No.....**

**DATE:.....**

**(To be filled in duplicate)**

**Section One- Personal Details of Complainant**

1. Name of Complainant: .....
2. ID/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):  
.....

**Section Two – Particulars of the Property (where registered)**

Please complete 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): .....

**Section Three – Particulars of the Property (where unregistered)**

Please complete the following particulars of the property you wish to complain about:

- a) Land Reference Number/Parcel Number: .....
- b) Letter of Allotment: Reference No: .....Date:.....
- c) Temporary Occupation License Number.....Date.....
- d) Locality: .....
- e) Acreage (if known): .....
- f) Deed Plan Number (if applicable): .....
- g) Term of the lease (if known): .....

**Section Four– Nature of Complaint**

Please indicate the nature of the complaint and attach relevant documents to support your claim.

**Section Five– (To be filled where the complainant is an individual)**

Please indicate the special interest of the complainant in relation to the property and attach documents if any.

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(If we need more information, we may contact you).

**Section Six – Your proposed remedy**

Please indicate what you would like the Commission to do.

Date..... Signature/Thumb Print of the Complainant or the Duly Authorised  
Representative of the Complainant.....

(An unsigned form will be rejected)

**TO BE SENT TO:**

**The Secretary  
National Land Commission  
P.O. Box 44417  
NAIROBI**

FORM NLC02

*The Review of Grants and Dispositions Regulations, 2014*

**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 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 NLC03

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**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



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**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 order of the Commission duly certified;
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**