

Recalibrating Land Governance in Kenya:

The Implications of the Land Laws (Amendment) Act, 2023

30th October 2025

Land has always been at the heart of Kenya's politics, economy and identity. On 15th October 2025, President William Ruto assented to a landmark legislative package, including the Land (Amendment) Act, 2023. The Act amends various laws including the Registration of Documents Act, the Land Control Act, the Land Registration Act, the Land Act, the Community Land Act and the Sectional Properties Act.

With the passage of this Act, the country is embarking on one of its most ambitious overhauls of land governance in decades. Parliament has ushered in changes that redefine the country's approach to public land management, compulsory acquisition, valuation of land and registration. The reforms are both bold and controversial promising to correct historical wrongs and enhance transparency, while simultaneously reshaping institutional authority and unsettling the landscape of land ownership in Kenya.

This article explores the major changes introduced by the Land (Amendment) Act, 2023.

1. *Compulsory land acquisition*

A major change in compulsory land acquisition has shifted authority from the National Land Commission (NLC) to the Cabinet Secretary for Lands, with the NLC now serving an advisory and supervisory role. This centralization aims to streamline processes and improve coordination, though critics warn it may reduce independent oversight and invite political influence. To address disputes and compensation issues, the Act establishes a Land Acquisition Committee, tasked with resolving cases within ninety days, offering a faster alternative to lengthy court processes.

2. *The Expanding Powers of the National Land Commission (NLC)*

At the heart of the reforms is a recalibration of the National Land Commission's (NLC) powers. Under Section 14 of the NLC Act, the

Commission could previously review public land grants only within five years of the Act's commencement. That limit has now been removed, allowing the NLC to re-examine any public land allocation at any time no matter how long ago it occurred. While this strengthens oversight and enables recovery of irregularly acquired land, it also creates uncertainty for title holders, investors and financial institutions reliant on stable land ownership.

Equally significant is the removal of time limits on historical land injustice claims. Previously, such claims had to be filed within five years of the Act's commencement, leaving many communities without recourse. The new framework allows displaced or dispossessed groups to seek redress at any time, promoting restorative justice. However, it also risks reopening long settled ownership disputes, complicating inheritance and tenure security.

3. Ownership of property by non-citizens

In a notable shift aligning with constitutional provisions, non-citizens are now permitted to own leasehold land for up to 99 years in Kenya. This change opens the door for foreign investors to participate more fully in the country's real estate and commercial land markets, while still maintaining the principle that ultimate ownership of land remains with Kenyan citizens and the State. By setting a clear and time-bound leasehold framework, the law balances the need to attract investment with the protection of national interests.

4. Valuation of public land leases

Beyond institutional restructuring, the Act also tackles Kenya's approach to the valuation of public land leases. Historically, rent for leased public land was fixed at the time of the grant

and rarely reviewed, even as property values increased. The new Act introduces a land value index and a ten year rent review cycle. Under the new arrangement, the Ministry of Lands will periodically reassess lease rent based on prevailing market conditions, subject to parliamentary approval. This innovation aligns land revenue with market realities and strengthens fiscal accountability. However, it may also increase operational costs for long-term lessees and alter valuations particularly for properties used as loan securities.

5. Registration of charges

Another significant change involves the registration of charges on leasehold property. The law now provides that no charge can be registered without a valid land rent clearance certificate. The intent is to enforce rent compliance before property owners use leased land as security for financing. This requirement is expected to boost revenue collection although it could delay financing transactions for those with outstanding rent arrears.

Conclusion

Taken together, these reforms represent a profound transformation of Kenya's land governance framework. They shift administrative power from the National Land Commission to the Ministry of Lands and open new avenues for addressing historical land injustices. At the same time, they challenge long-held assumptions about the permanence of land titles and the security of tenure. The government aims to strike a careful balance: recovering public land, promoting fairness and modernizing land management while also protecting private property rights, maintaining investor confidence and ensuring stable land markets. The ultimate success of these changes will depend on how effectively they are implemented.

The Land Laws (Amendment) Act, 2023 is therefore more than a simple policy update; it is a significant step in Kenya's ongoing effort to reconcile justice with development. Supporters see it as a move toward transparency, accountability and restitution for past wrongs, while critics warn it could unsettle property

markets and concentrate too much power in the hands of the State. As the country enters this new era of land reform, it is once again confronted with a fundamental question: who truly owns the land and at what price comes change?

By: Mercy Mumbe

Michael E. Okumu – Senior Partner

30th October, 2025