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LEGAL NOTICE NO. 156

THE PHYSICAL AND LAND USE PLANNING (CLASSIFICATION OF STRATEGIC NATIONAL OR INTER-COUNTY PROJECTS) REGULATIONS, 2019

IN EXERCISE of the powers conferred by section 69 (3) of the Physical and Land Use Planning Act, 2019, the Cabinet Secretary for Lands and Physical Planning makes the following Regulations—

THE PHYSICAL AND LAND USE PLANNING (CLASSIFICATION OF STRATEGIC NATIONAL OR INTER-COUNTY PROJECTS) REGULATIONS, 2019

Citation.

1. These Regulations may be cited as the Physical and Land Use Planning (Classification of Strategic National or Inter-County Projects) Regulations, 2019.

Interpretation.

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

"inter-county projects" means projects carried out in implementation of approved inter-county physical and land use development plans and projects for the realisation of public purpose objectives of national significance beyond the jurisdiction of individual counties;

"projects of strategic national importance" means projects that are conceived, designed and implemented in furtherance of the Kenya Vision 2030, the Big Four Agenda, Medium Term Plan and other national strategic objectives that arise out of the residual functions of the National Government and include programme activities or initiatives that have implications in terms of the obligatory demands on the State in terms of international conventions and treaties ratified by Kenya, inter-boundary resource use and management, law of the sea, aviation law, United Nations declarations, African Union and the Regional Economic blocks declarations and agreements; and

"public purpose" means the purposes of—

(a) transportation including roads, canals, highways, railways, bridges, wharves and airports;

(b) public buildings including schools, libraries, hospitals, factories, and public housing that fall under the National Government;

(c) public utilities for water, sewerage, electricity, gas, communication, irrigation and drainage, dams and reservoir whose implementation and management goes beyond the county governments;

(d) public parks, playgrounds, gardens and sports facilities that fall under public land held by the National Government;

(e) national security and defence installations;

(f) settlement of squatters, the poor and landless, and internally displaced persons whose magnitude exceeds the capacity of county governments; and

(g) any other similar purpose.

Application of Regulations.

3. These Regulations shall apply to National Government ministries, departments and agencies including regional development authorities, national security organs, national road development entities, research institutes, state-owned learning institutions, state-owned sporting and cultural facilities, environmental and wildlife management authorities and private sector entities that are implementing projects of national significance under special licence or declarations

Types of projects.

4. These Regulations shall apply to the following types of projects—

(a) projects for the implementation of National Government functions specified in Part I of the Fourth Schedule to the Constitution;

(b) projects for the implementation of functions not assigned to either level of government that are undertaken by the National Government for the social and economic well-being of Kenyans under Article 186 (3) of the Constitution;

(c) national projects that are conceived, designed and implemented under Kenya Vision 2030;

(d) projects implemented by the private sector in special economic zones and export processing zones;

(e) projects undertaken by the National Government in inter-coastal zones, the territorial sea, exclusive economic zones and inland lakes;

(f) projects undertaken by the National Government under international conventions, declarations or treaties ratified by Kenya

(g) projects undertaken on public land that is held by the National Government including on reserved public land, wetlands, riparian areas, public forests, national reserves, mountains and gazetted water towers;

(h) projects undertaken by regional development authorities;

(i) inter-county projects implemented by the National Government in collaboration with a county government; and

(j) any other project as may be determined by the Cabinet Secretary under the Act or any other written law.

Strategic and Inter-county projects.

5. A project shall be deemed to be a strategic or inter-county project of national importance if—

(a) it is implemented on public land held by the National Government;

(b) it is funded by the National Government;

(c) it is for the implementation of a National Government development programme;

(d) it is for the implementation of a development programme under a special arrangement between the National Government and a county government;

(e) it is implemented by the private sector and, due to its scale, geographical area, economic and environmental effects, entails partnership with the National Government;

(f) it is provided for by national legislation;

(g) it is undertaken in a special planning area under section 52 of the Act; or

(h) it is specified in the National Physical and Land Use Plan under section 21 of the Act.

Criteria.

6. For the purposes of these Regulations, the projects of strategic national or inter-county importance shall be determined in accordance with the criteria set out in the Schedule.

SCHEDULE *(r. 6)*

PRESCRIBED STRATEGIC NATIONAL OR INTER-COUNTY PROJECTS

Land transport.

1. Projects for the following types of roads—

(a) Class A road corridors;

(b) Class B road corridors;

(c) Class C road corridors;

(d) inter-county roads;

(e) major urban roads including primary, secondary and arterial roads;

(f) special roads serving a strategic national facility including roads serving beaches, mineral extraction areas, military camps and other security facilities, learning institutions, conservation areas and special projects roads; and

(g) any road leading to international borders.

Railway corridors.

2. Projects for the entire rail transport corridor.

Airports.

3. Projects for the following types of airports—

(a) international airports;

(b) national airports;

(c) regional airports;

(d) special airports; and

(e) private airstrips.

4. Projects for the following types of water transport— Water transport.

(a) harbors and ports including seaports and inland ports;

(b) international ports;

(c) national ports; and

(d) regional ports.

5. Projects for the following types of industrial areas— Industrialization.

(a) special economic zones, industrial and technology parks; and

(b) export processing zones;

6. Projects undertaken at national museums and archeological sites. Museums and archeological sites.

7. Projects for the development of national theatres and cultural exhibition sites including projects undertaken at the— Theatres and cultural exhibition centres.

(a) Bomas of Kenya;

(b) Kenya National Theatre; and

(c) national heritage sites of cultural and historical significance.

8. Projects for the following types of stadia and sports centres— Stadia and sports centres.

(a) national stadia;

(b) national arenas; and

(c) Jamhuri Park.

9. Projects for the following types of public educational and learning institutions— Education and training institutions.

(a) universities;

(b) tertiary and technical training institutions;

(c) special education institutions;

(d) primary and secondary schools; and

(e) national libraries.

10. Projects for the following types of housing on public land held by the National Government— Housing.

(a) affordable housing;

(b) institutional housing;

(c) public housing; and

(d) emergency housing.

Resettlement and relocation.

11. Projects for the management of the following types of persons—

(a) landless people;

(b) internally displaced people;

(c) refugees and asylum seekers;

(d) project affected people; and

(e) informal settlements dwellers.

Metropolitan and city development.

12. Projects for the following types of developments—

(a) declared metropolitan areas;

(b) regional transportation and commercial hubs;

(c) special cities;

(d) gateway cities; and

(e) border towns.

Land use programmes.

13. Projects for the following types of land use programmes—

(a) land banking;

(b) land reservation;

(c) land acquisition and purchases; and

(d) land titling.

Public forests.

14. Projects for the management of public forests in the following areas—

(a) National Government forests; and

(b) gazetted water towers.

Ecologically sensitive and fragile areas.

15. Projects in the following ecologically sensitive or fragile areas—

(a) mountains;

(b) coastal zones;

(c) wetlands; and

(d) riparian reserves.

Wildlife conservation areas.

16. Projects in the following types of wildlife conservation areas—

(a) national parks and reserves;

(b) wildlife dispersal corridors;

(c) special protected areas; and

(d) wildlife sanctuaries.

Geologically unstable areas.

17. Projects in the following types of geologically unstable areas—

(a) areas prone to volcanic activity;

(b) areas prone to seismic activity; and

(c) areas prone to landslides.

Irrigation schemes.

18. Projects for the following types of irrigation schemes—

(a) large scale irrigation schemes of at least three thousand acres;

(b) medium scale irrigation schemes between one hundred and three thousand acres; and

(c) small scale irrigation schemes of not more than one hundred acres.

Strategic installations.

19. Projects involving the following strategic installations—

(a) State Houses and State Lodges;

(b) Parliament Buildings;

(c) installations belonging to national security organs including the Kenya Defence Forces, National Police Service, National Intelligence Service and Kenya Coast Guard Service;

(d) installations belonging to the Kenya Space Agency;

(e) foreign embassies, consulates, high commissions and the United Nations facilities;

(f) border control facilities;

(g) nuclear energy facilities;

(h) national broadcasting and telecommunications sites;

(i) oil depots and the strategic oil reserve;

(j) the National Youth Service;

(k) the Strategic Grain Reserve;

(l) National Cereals and Produce Board depots;

(m) Kenya Medical Suplies Agency depots;

(n) Kenya Wildlife Service facilities; and

(o) Kenya Forest Service facilities.

Blue economy.

20. Projects in the blue economy and developments within coastal areas including—

(a) harvesting and trade of marine living resources including fisheries and aquaculture projects;

(b) extraction and use of marine non-living resources;

(c) use of renewable non-exhaustible natural energy; and

(d) commerce and trade in and around the oceans including maritime transport, coastal development, tourism and recreation projects.

Energy.

21. Projects for the following types of energy—

(a) the entire electricity national grid;

(b) energy generation stations;

(c) electricity transmission infrastructure (all transmission lines and substations);

(d) electricity distribution infrastructure (all distribution and service lines and substations);

(e) national and regional control centers;

(f) nuclear power stations;

(g) electronic waste disposal facilities; and

(h) nuclear waste disposal facilities.

Telecommunications.

22. Projects for the following types of telecommunications facilities—

(a) base transmission stations;

(b) telecommunication substations;

(c) telecommunication masts; and

(d) fibre optic cables and fibre optic cables landing sites.

Mining, quarrying and sand harvesting

23. Projects for the mining of coal, gold, iron and rare minerals, and sand harvesting including the harvesting of beach sand.

Oil and gas.

24. Projects for the following developments in the oil and gas sector—

(a) oil and gas pipelines into and out of Kenya;

(b) underground oil and gas storage facilities; and

(c) liquefied petroleum and natural gas reception buildings and facilities.

Public utility areas.

25. Projects for the following types of national or inter-county public utilities—

(a) water treatment works;

(b) sewerage treatment works;

(c) solid waste management sites;

(d) plastic waste disposal sites; and

(e) bio-medical waste disposal sites.

National referral hospitals.

26. Projects for the development of national referral hospitals.

Public purpose areas.

27. Projects for the development of the following types of public purpose areas—

(a) correctional facilities including prisons, borstal institutions, remand homes, reform schools and young offenders institutions;

(b) public parks and open spaces;

(c) public libraries;

(d) court and tribunal buildings;

(e) disaster management centres; and

(f) meteorological centres.

Dated the 19th September, 2019.

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning.

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