



THE REPUBLIC OF KENYA

LAWS OF KENYA

**THE PHYSICAL AND LAND USE PLANNING (DEVELOPMENT
CONTROL FOR INTER-COUNTY PROJECTS) REGULATIONS**

NO. 245 OF 2021

Revised and published by the National Council for Law Reporting
with the authority of the Attorney-General as gazetted by the Government Printer

www.kenyalaw.org

Kenya

Physical and Land Use Planning Act

Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations

Legal Notice 245 of 2021

Legislation as at 31 December 2022

By [Kenya Law](#) and [Laws.Africa](#). Share widely and freely.

www.kenyalaw.org | info@kenyalaw.org

FRBR URI: /akn/ke/act/ln/2021/245/eng@2022-12-31

There is no copyright on the legislative content of this document.

This PDF copy is licensed under a Creative Commons Attribution NonCommercial ShareAlike 4.0 License ([CC BY-NC-SA 4.0](#)). This license enables reusers to distribute, remix, adapt, and build upon the material in any medium or format for noncommercial purposes only, and only so long as attribution is given to the creator. If you remix, adapt, or build upon the material, you must license the modified material under identical terms. CC BY-NC-SA includes the following elements:

- BY: credit must be given to the creator.
- NC: Only noncommercial uses of the work are permitted.
- SA: Adaptations must be shared under the same terms.

Share widely and freely.

Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations (Legal Notice 245 of 2021)
Contents

Part I – PRELIMINARY	1
1. Citation	1
2. Interpretation	1
3. Object of the Regulations	1
Part II – DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS	1
4. Reservation of land for Inter-County Projects	1
5. Preliminary conceptual application	2
6. Scope of Inter-County Project Proposal	2
7. Notice of intention to prepare Inter-County Project proposal	2
8. Public participation	2
9. Notice of completion of an Inter-County proposal	2
10. Appeals	3
11. Application for approval of Inter-County Project Proposal	3
12. Approval by county assemblies	3
13. Notice of Approval of the Inter-County Project Proposal	4
14. Implementation of the approved Inter-County project proposal	4
Part III – COMPLIANCE	4
15. Monitoring	4
16. Compliance	4

PHYSICAL AND LAND USE PLANNING ACT

PHYSICAL AND LAND USE PLANNING (DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS) REGULATIONS

LEGAL NOTICE 245 OF 2021

Published in Kenya Gazette Vol. CXXIII—No. 253 on 10 December 2021

Commenced on 10 December 2021

[Revised by [24th Annual Supplement \(Legal Notice 221 of 2023\)](#) on 31 December 2022]

Part I – PRELIMINARY

1. Citation

These Regulations may be cited as the Physical and Land Use Planning (Development Control for Inter-County Projects) Regulations.

2. Interpretation

In these Regulations, unless the content otherwise requires—

“Inter-County Project” means a project carried out for the realization of development objectives for a geographical area covering two or more counties or parts thereof;

“Joint Committee” means the Inter-County Joint Physical and Land Use Planning Committee established for the purpose of formulation of an Inter-County Physical and Land Use Development Plan and for connected purposes under section 29; and

“reservation of land” means setting aside land for one or more purpose in the public interest.

3. Object of the Regulations

The object of these Regulations is to provide for the procedures, standards, guidelines and prescribed forms for processing development control applications for inter-county projects under sections 33 and 69 (2).

Part II – DEVELOPMENT CONTROL FOR INTER-COUNTY PROJECTS

4. Reservation of land for Inter-County Projects

- (1) Where public land is required for an inter-county project, the relevant ministry, department, state corporations and county governments shall apply to the Commission for reservation of such land.
- (2) The Cabinet Secretary and County Executive Committee Member may consider reserving public land for strategic national projects before, during or after the preparation of an inter-county physical land use development plan
- (3) The Commission shall register any public land reserved for a strategic national project under these regulations in accordance with the Land Registration Act (Cap. 300), and publish in the *Gazette* a list of any reserved land.
- (4) Public land reserved for a strategic national project shall not be used for any other purpose other than the purpose for which it was reserved.

- (5) Any person aggrieved by a decision to reserve public land for a strategic national project may lodge an appeal in writing against the reservation with the National Liaison Committee.

5. Preliminary conceptual application

- (1) Where two or more counties are seeking to undertake an inter-county development project, they shall submit a project proposal and preliminary plans both in paper and electronic form to the Cabinet Secretary for consideration.
- (2) The Cabinet Secretary shall within thirty days after receipt of the project proposal and preliminary plans under subregulation (1), issue an advisory or convene a meeting with the respective counties for further consultations.

6. Scope of Inter-County Project Proposal

An inter-county project proposal shall define the scope of the project and geographical area to which the project relates.

7. Notice of intention to prepare Inter-County Project proposal

- (1) The Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation in English and Kiswahili and electronic media informing the public of the intention to prepare an inter-county project proposal and request for submission of comments within thirty days.
- (2) The Joint Committee shall within thirty days upon receipt of comments sought under subregulation (1) consider the comments and may incorporate them in the inter-county project proposal.
- (3) The Joint Committee shall prepare and complete the intercounty project proposal within ninety days from the time notice of intention to prepare the inter-county project proposal is published.
- (4) The Joint Committee may on its own motion extend the period under subregulation (1) by a period not exceeding thirty days.

8. Public participation

The Joint Committee shall consult, consider the input of the National Security Council, publish and hold stakeholders' meetings during the preparation of the inter-county project proposal.

9. Notice of completion of an Inter-County proposal

- (1) Within thirty days of completion of the inter-county project proposal, the Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation, electronic media and in such other manner as may be expedient in the circumstances informing the public that—
 - (a) the complete inter-county project proposal is available at the place and time specified in the notice for inspection; and
 - (b) any interested person may within fourteen days comment on the content of the project proposal.
- (2) The Joint Committee shall within twenty-one days of the expiry of the notice period consider the submitted comments and may incorporate the comments in the inter-county project proposal.
- (3) Within seven days of making the decision under subregulation (2), the Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation and in such other manner as may be expedient in the circumstances informing the public that—
 - (a) a decision on the comments received under this regulation has been made; and

- (b) the reviewed draft inter-county project proposal is available for perusal at the place and time specified in the notice.

10. Appeals

- (1) A person dissatisfied with the decision of the Joint Committee may appeal to the National Physical and Land Use Planning Liaison Committee within fourteen days.
- (2) The National Physical and Land Use Planning Liaison committee shall hear and determine the application within sixty days of receipt of the application.
- (3) A person dissatisfied with the decision of the National Physical and Land Use Planning Liaison Committee may within fourteen days of the decision appeal to the Environment and Land Court.

11. Application for approval of Inter-County Project Proposal

- (1) The Joint Committee shall submit the inter-county project proposal to the respective County Executive Committee Member, within twenty-one days of completion of the proposal.
- (2) The respective County Executive Committee Member shall within fourteen days of receipt of the inter-county project proposal separately submit the inter-county project proposal to the respective County Executive Committees for consideration and onward submission to the respective county assemblies for approval.
- (3) The respective Governors participating in an inter-county project shall separately submit the inter-county project proposal to respective County Assemblies for approval.
- (4) The Inter-County Project Proposal shall be submitted in the following format—
 - (a) each document shall be paginated;
 - (b) documents sent in electronic form shall be in PDF format;
 - (c) all plans shall be geo-referenced; and
 - (d) digital plans shall be embedded with a digital certification by the author.

12. Approval by county assemblies

- (1) Upon presentation of the completed inter-county project proposal to the respective county assemblies, each county assembly may—
 - (a) approve it in whole;
 - (b) approve it with amendments; or
 - (c) reject it in whole.
- (2) Where a county assembly approves the proposal in whole, it shall notify the County Executive Committee Member in writing of the approval and the County Executive Committee member shall notify the Director-General of the approval in writing.
- (3) Where a county assembly approves a proposal with amendments—
 - (a) the county assembly shall notify the County Executive Committee Member in writing of the approval, specifying the amendments required to be made to the proposal;
 - (b) the County Executive Committee member shall notify the Director-General of the county assembly's approval in writing, and specify the areas that the county assembly has recommended the proposal should be amended; and

- (c) within fourteen days after receiving the notification under paragraph (b), the Director-General shall submit the recommendations of the county assembly to the Joint Committee for consideration.
- (4) Where a county assembly rejects a proposal in whole—
 - (a) the county assembly shall notify the County Executive Committee Member in writing, specifying the reasons for the rejection in the notification;
 - (b) the County Executive Committee Member shall forward the county assembly's notification under paragraph (a) to the Director-General;
 - (c) within thirty days after receiving the county assembly's notification under paragraph (b), the Director-General shall convene a meeting for the Joint Committee to consider the reasons for the county assembly's rejection of the proposal, rectify the proposal and resubmit the revised proposal to the county assembly within a period of sixty days.
- (5) The county assembly shall notify in writing the County Executive Committee Member of the decision made under subregulations (2), (3) and (4) within sixty days after the decisions have been made.

13. Notice of Approval of the Inter-County Project Proposal

Within thirty days after the approval of an Inter-County Project Proposal, the Director-General shall publish a notice in the *Gazette* and in at least two newspapers of national circulation, electronic media and in such other manner as may be expedient in the circumstances the approval of the inter-county project proposal specifying in the notice the place and time the proposal shall be available to the public for inspection.

14. Implementation of the approved Inter-County project proposal

- (1) The inter-county project proposal contemplated in section 29 (1) of the Act shall be implemented subject to the governors of the relevant counties convening to consider and adopt the inter-county project proposal at a meeting organized by the Joint Committee.
- (2) The approved inter-county project proposal shall be deposited with the respective County Director of Physical and Land Use Planning who shall submit certified copies of the inter-county proposal to the Director-General and the Commission.

Part III – COMPLIANCE

15. Monitoring

The respective County Executive Committee Member of a county participating in the implementation of an Inter-County Project shall ensure that the development permission conditions set out in the approved Inter-County Project Proposal are enforced within the respective County's jurisdiction in line with the approved Inter-County Physical and Land Use Development Plan.

16. Compliance

- (1) Every county executive committee member in respect of a county covered by an Inter-County Project shall submit a report on the implementation of the projects to the Commission and the Cabinet Secretary at least three months before the end of a financial year.

- (2) The Cabinet Secretary on his own motion or on the basis of a status report submitted under subregulation (1) may convene a consultative meeting of the Joint Committee if it comes to the notice of the Cabinet Secretary that—
 - (a) two or more counties have commenced an inter-county development project without an approved inter-county project proposal;
 - (b) the approved inter-county development project does not comply with the conditions of its approval; or
 - (c) the approved inter-county development project is incompatible with the approved National Physical and Land Use Plan.