



MINIMUM AND MAXIMUM LAND HOLDING ACREAGES BILL, 2015

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A Bill for

AN ACT of Parliament to give effect to Article 68 (c) (i) of the Constitution to provide for minimum and maximum land holding acreages in respect of private land and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as **Minimum and Maximum Land Holding Acreage Act, 2015**.

Interpretation

2. In this Act, unless the context otherwise requires—
“acreage” means size of land;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to land;

“cooperative farming” means an arrangement where land is held and farmed by a cooperative society registered for that purpose for the benefit of members of the cooperative society;

“land holding” includes land occupied under freehold tenure, leasehold tenure or under such other tenure system recognized under law;

“minimum land holding acreage” means the least size of land permissible to be held privately under this Act;

“maximum land holding acreage” means the largest size of land permissible to be held privately under this Act;

“private land” has the meaning assigned to it under Article 64 of the Constitution;

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

“Surplus land” means land in excess of the maximum land holding acreage.

Objects and purposes of the Act

3. The objects and purposes of this Act are to establish a legal framework and procedures for—

- (a) determining minimum and maximum land holding acreages in respect of private land;
- (b) reducing inequality and promoting equitable distribution of land;
- (c) regulating subdivision of land to ensure that land is held in economically and viable parcels;
- (d) providing for the regular review of land holdings and the reorganization of rural settlements; and
- (e) facilitating self-employment, sustainable utilization of private land and promotion of national security and economic stability.

Guiding principles

4. The holding of private land shall be governed by the following principles—

- (a) the national values and principles of governance set out under Article 10 of the Constitution;
- (b) the principles of land policy set out under Article 60 of the Constitution;
- (c) the promotion of protection of right to property pursuant to Article 40 of the Constitution; and
- (d) the recognition that all land in Kenya belongs to the people of Kenya collectively as a nation, as communities and as individuals pursuant to Article 62 of the Constitution.

Application

5. (1) This Act shall apply to all private land however held.

(2) Subject to the provisions of this Act, this Act shall not apply retrospectively.

PART II—DETERMINATION OF MINIMUM AND MAXIMUM LAND HOLDING ACREAGES

Minimum and maximum
land holding acreages

6. (1) The Minimum and maximum land holding acreages shall be as prescribed in the First Schedule.

(2) Subject to the provisions of this Part, the Cabinet Secretary may, by a notice in the Gazette, amend the Schedule.

(3) The Cabinet Secretary shall issue guidelines, consistent with this Act, on—

(a) determination of land holding among married couples and family members;

(b) determination of land holding by non-citizens;

(c) regulation of land holding for different land uses by one person; and

(d) any other matter relating to land holding.

Regular revision of the
minimum and maximum
land holding acreages

7. (1) The Cabinet Secretary shall cause a review to be undertaken of the minimum and maximum land holding acreages at intervals of not less than eight years and not more than twelve years.

(2) The review contemplated under subsection (1) shall, subject to this Act, be undertaken through a participatory process.

Procedures for
determining minimum
and maximum acreages

8. (1) Before undertaking the review contemplated under section 7, the Cabinet Secretary shall commission a scientific study to determine the economic viability of minimum and maximum acreages in respect of private land for various land zones in the country.

(2) The minimum and maximum land holding acreages shall be

determined after taking into account—

- (a) ecological zones;
- (b) demographic factors;
- (c) land use and physical planning standards;
- (d) land tenure system and economic factors;
- (e) cultural and customary practices;
- (f) infrastructure, public health and public order; and
- (g) any other factor relevant to national strategic interests.

(3) The findings of the study shall be available for the public to make observations and shall be modified based on valid representations in accordance with the principles of public participation, good governance, transparency and accountability.

(4) Within three months after the publication of the final report of the scientific study commissioned under subsection (1), the Cabinet Secretary shall table the report before Parliament for debate and adoption.

(5) Upon approval of the report by Parliament, the Cabinet Secretary shall by notice in the gazette—

- (a) amend the Schedule accordingly; and
- (b) prescribe regulations to give effect to the minimum and maximum acreages solely based on the recommendations in the report.

Land uses

9. For purposes of this Act, all private land shall be zoned as follows—

(a) agricultural land which shall be categorized into—

- (i) cash crop farming;
- (ii) food farming;

(iii) subsistence and commercial farming; and

(iv) such other category;

(b) livestock and pastoral land which shall be categorized into—

(i) pastoral farming;

(ii) beef farming;

(iii) zero-grazing dairy farming;

(iv) sheep and goat farming;

(v) poultry farming;

(vi) fisheries;

(vii) such other relevant category;

(c) urban and peri-urban land in cities, municipalities, towns and urban areas which shall be categorized into—

(i) low, medium, mixed user and high density residential areas;

(ii) light, medium and heavy industrial areas;

(iii) commercial areas;

(iv) educational, health and religious facilities; and

(v) such other land uses including special urban development projects, exclusive economic zones, industrial parks, energy development, infrastructure and public utilities.

Exemptions

10. (1) The Cabinet Secretary may, upon application by an interested private land holder, approve a land holding larger than the maximum land holding for any of the following purposes—

(a) large scale farming;

- (b) wildlife and nature conservancies;
- (c) cattle ranges in arid areas;
- (d) forestry;
- (e) educational, religious or charitable trusts;
- (f) major investment concerns; or
- (g) other land use with significant economic or social value.

(2) The Cabinet Secretary shall, within six months of the enactment of this act make regulations prescribing the conditions to be met before exempting a land holder from the provisions of this Act.

Registrar to ensure compliance.

11. (1) The Registrar shall not accept for registration any instrument of disposition that confers interest in land that has the effect of breaching the prescribed guidelines on minimum and maximum land holding acreages in respect of private land.

(2) Every sale, transfer, lease of private land or division of land into two or more parcels to be held under separate titles shall be preceded by consent from the respective sub-County Land Control Committee.

(3) Before granting consent under this Act, a sub-County Land Control Committee shall ascertain that the resultant parcels after the completion of the proposed transaction comply with the minimum and maximum prescriptions under this Act.

PART III—INSTITUTIONAL FRAMEWORK

Establishment of Sub-county Land Control Committees

12. There is established in respect of every sub-County, a Land Control Committee which shall comprise of—

- (a) the sub-County Commissioner who shall be the chairperson;
- (b) four sub-County technical officers representing the departments of—

(i) agriculture;

(ii) livestock;

(iii) survey;

(iv) physical planning;

(c) four members from different locations of the sub-County being two elders, a youth and a woman;

(d) a representative of the County Land Registrar who shall be the secretary to the Committee.

**Functions of sub-County
Land Control
Committees**

13. A sub-County Land Control Committee shall—

(a) ensure that sub-division, amalgamation or other processes resulting in change of size in land conforms with the prescribed minimum and maximum land holding acreages;

(b) giving consent to transactions requiring consent under this Act, the Land Act, the Land Registration Act and any Act where such consent may be required;

(c) promote land use practices consistent with this Act.

**Granting or refusal of
consent**

14. (1) In determining whether to grant or refuse to consent in respect of an application, the Committee shall have regard to the economic development of the land in question and the maintenance or improvement of good land use practices.

(2) No consent shall be given if—

(a) the person to whom the land is to be disposed of—

(i) is unable to put the land in the required use and development; or

(ii) has, in the opinion of the Committee, sufficient land;

- (b) in case of a corporate body, the disposal of shares is likely to transfer ownership of the body to a non-citizen;
- (c) the terms and conditions of the transaction, including the price to be paid, are unfair or disadvantageous to either party;
- (d) in the case of subdivision into two or more parcels, the division would result in lesser than the minimum prescribed land holding acreage;
- (e) in the case of land or shares to be disposed by way of sale, transfer, lease or exchange to a person who is not—

(i) a citizen of Kenya; or

(ii) a private company, cooperative society or other body corporate all of whose members are citizens of Kenya.

Effect of refusal of consent

15. Where an application for consent in a land transaction has been refused, any agreement relating to the transaction shall become void—

- (a) on expiry of the time limited for appeal under section 16;
- (b) where an appeal is entered under section 16 and dismissed, on the expiry of the time limited for further appeal under section; or
- (c) where a further appeal is entered under section 18 and dismissed on the date of that dismissal.

County Appeals Land Control Committee

16. There is established in respect of every County, the County Appeals Land Control Committee which shall comprise of—

- (a) the County Commissioner who shall be the Chairperson;
- (b) the County Executive Committee member responsible for land who shall be the Deputy Chair Person;
- (c) four senior county technical officers representing the departments of—
 - (i) agriculture;

(ii) livestock;

(iii) survey;

(iv) physical planning;

(d) two elders, being one woman and one man;

(e) The County Land Registrar who shall be the secretary to the Committee.

**Procedure of
Committees**

17. The Cabinet Secretary shall, within six months of the enactment of this Act, prescribe the procedures for the appointment and conduct of business and affairs of the sub-County Land Control Committee.

Appeals to court

18. A person aggrieved by the decision of the County Land Appeals Control Committee may, within thirty days from date of the Committee's decision appeal to the Environment and Land Court.

PART IV—REGULATION OF PRIVATE LAND USE

Land use policy

19. The Cabinet Secretary shall issue a national land use policy containing—

- (a) guidelines on use of private land and social responsibilities of private land holders;
- (b) requirements to maintain at least ten percent tree cover of every privately held land, where necessary;
- (c) livestock stocking numbers based on the land carrying capacity;
- (d) area specific guidelines on best land uses based on the recommendations of a scientific study; and
- (e) any other aspect necessary to ensure the realization of objects of this Act.

**Role of county
governments in
determination of land**

20. The county governments shall put in place measures for conforming to the principles of national land use planning and shall in particular regulate—

use

- (a) crop and animal husbandry;
- (b) fisheries;
- (c) soil and water conservation;
- (d) forestry; and
- (e) co-operative societies.

General prohibition and
offence

21. (1) A person shall not—

- (a) sub-divide land into two or more parcels to be held under separate titles without the consent of the relevant Sub-county Land Control Committee;
- (b) fence off a private land if that land lies wholly or partly within a declared animal migratory route;
- (c) maintain a tree cover of less than ten percent of the land area, except in urban areas or other zones to be determined under regulations;
- (d) keep more livestock in a free ranch than the permitted number;

(2) A person who contravenes subsection (1) commits an offence.

PART V—GENERAL PROVISIONS

Acquisition of surplus
land

22. (1) Government at either level may acquire surplus land and re-distribute it to landless persons capable of putting the land into economic use.

(2) The Cabinet Secretary shall issue guidelines on the re-distribution of such land.

(3) Whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of the Land

Act, the respective Cabinet Secretary or the county executive committee member shall submit a request for acquisition of such land to the Commission to acquire the land on its behalf.

(4) Where a person holds land in excess of the prescribed limit and such land is not put into proper use, such land shall be taxed in accordance with the provisions of any law relating to land use.

Voluntary reorganization of settlements

23. (1) Holders of land may voluntarily engage in cooperative farming by pooling their land and other resources together to enable them undertake large scale farming and sharing the earnings.

(2) In order to encourage voluntary reorganization of settlements, the Cabinet Secretary may, in consultation with the relevant government agencies put in place incentives including provision of transport, housing, energy and irrigation infrastructure.

Cooperation between national and county governments

24. The two levels of government shall cooperate in the performance of their respective functions for purposes of giving effect to this Act.

General penalty

25. A person who contravenes a provision of this Act commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding five years or both.

Savings and transition

26. (1) Unless the contrary is specifically provided in this Act, any right or interest accruing to any person before the commencement of this Act shall be deemed to be in compliance with this Act.

(2) Unless the contrary is specifically provided in this Act or the circumstances are such that the contrary must be presumed, all pending transactions in land shall, regardless of the size of the land, be continued in accordance with the law applicable to such transactions immediately prior to the commencement of this Act.

(3) Any instrument executed before the commencement of this Act where any disposition permitted under this Act is completed may be presented for

registration in the prescribed register and—

(a) the question as to whether any instrument so presented is to be registered shall be determined by the Registrar by reference to the law in force at the time of its execution; and

(b) subject to the provisions of paragraph (a), the provisions of this Act shall apply to that instrument as if it had been executed after the commencement of this Act.

Consequential
amendments

27. (1) The Land Control Act, Chapter 302 of the laws of Kenya is hereby repealed.

(2) Section 159 of the Land Act is amended by deleting the section.

Regulations

28. (1) The Cabinet Secretary may make regulations for the better carrying into effect the purposes of this Act.

(2) Without limiting the generality of subsection (1), the Cabinet Secretary may make regulations—

(a) prescribing the forms to be used in connection with this Act;

(b) prescribing procedures to be used and considerations to be taken into account in the determination of land sizes;

(c) determining the terms and conditions under which land can be sold, transferred, leased or otherwise held to meet the minimum and maximum requirements; and

(d) any other matter necessary for the better carrying into effect the provisions of this Act.

FIRST SCHEDULE

Section 6

I. Prescription of Minimum and Maximum Land Sizes for Wildlife Conservancies

Determination of the minimum viable acreages for establishing wildlife conservancies shall be based on the following considerations:

- (a) a conservancy with no connectivity to a larger ecosystem should be large enough to allow for internal migration;
- (b) carrying capacity for each area/zone will determine the minimum acreage;
- (c) wildlife dispersal area and migratory corridor need not be subdivided below 24 hectares;
- (d) land use system should be compatible with wildlife resource conservation to reduce wildlife human conflict.

In addition to the above considerations, the following attributes shall be taken into account;

(a) Conservancies and sanctuaries:

- (i) determination of size shall be benchmarked on the existing ones that were established through a scientific process.
- (ii) the species of animal kept require adequate space comparable to the natural environment requirements.

(b) Wildlife rescue centres:

- (i) animals shall be caged and kept for prescribed period of time after which they shall be released back to the wild.
- (ii) to be used as animal care and treatment centres/clinics

(c) Wildlife dispersal area and migratory corridor:

- (i) minimize human-wildlife conflict.
- (ii) facilitate free movement of animals between ecosystems.
- (iii) reduce government expenditure on compensation.

Category	Minimum (Ha)	Maximum (Ha)
Conservancies	3,001	4,000,000
Sanctuary	81	3,000
Emerging Livestock	0.05	80

Wildlife Rescue Centres	5	35
Wildlife dispersal area and migratory corridor	24	No maximum

II. Prescription of minimum and maximum Land sizes for livestock agriculture and fisheries

(a) Analysis of the Situation

Kenya has a total area of approximately 582, 646 km², comprising 98% land and 2% water. The land surface is 59,450 million ha and its production potential depends on the climate, soils and terrain. According to the World Bank 2013 population projections, Kenya's current population has increased to 44.35 million from 9.2 million at independence which translates to a 482% increase. This trend has exerted pressure on land which has remained constant, resulting in decreased land sizes available for agriculture and livestock production.

This Bill takes cognizance of this rapid population growth and rapid urbanization that will affect Kenya's development prospects including agriculture for decades to come. The demographic and geographic transformation of the country resulting from the population increase has an effect on the country's socio-economic stability. Currently there has been a drastic decline in the size of land allocated to the beneficiaries which has proliferated the issue of squatter settlements, conflicts and displacements, and landlessness. This is in complete contrast to what was the case soon after independence when allocation of land for settlement schemes was pegged on the suitability of land in terms of agricultural potential. The minimum size was 5 acres and maximum was 100 acres.

(b) Crop Production

The high potential land for crop receives consistent rainfall greater than 1200 mm per annum and either intensive crop (tea, coffee, sugarcane, maize and wheat) or livestock production (particularly dairy) is possible. The medium rainfall areas receive between 750 mm and 1000 mm annually and occupy between 30 and 35 per cent of the country's land area. Farmers keep cattle, small stock and grow drought tolerant crops. The Semi-Arid and Arid Lands receive between 200 and 750 mm of rainfall annually. These areas are home to about 30 per cent of the country's livestock and 65 percent of the wildlife.

(c) Livestock Production

The main livestock production systems in Kenya are intensive, semi intensive and extensive. Extensive production systems are mainly practiced in communal grazing and free ranging areas of rain-fed rangelands and constitute 70% of Kenya livestock resources. Intensive production systems is mainly practiced in the high rainfall areas (ACZ I – III). Semi-intensive systems are mostly practiced in semi arid lands (mixed crop/livestock farming and ranching). Pastoralism is the extensive production system of livestock mostly practiced in the rangeland environments. It takes many forms, but its principal defining features are livestock mobility and the communal management of natural resources.

(d) Dairy Production

Kenya is one of the largest producers of dairy products in sub Saharan Africa with an estimated herd of about 3.5 million improved dairy cattle, 14.1 million indigenous cattle, 270,400 dairy goats, and 2.9 million camels (2009 census). The total annual milk production in Kenya is estimated at 5.7 billion litres (2014). Dairy production supports approximately 1.8 million rural households in addition to over 700,000 jobs along the dairy value chain. Dairy production is dominated by smallholders who produce over 80% of the domestic milk majority of who sell raw milk directly to consumers.

(e) Beef Production

Kenya has an estimated population of 14 million beef cattle from which beef and beef products are produced. The beef industry is one of fastest rising economic sectors within the agricultural sector driven by growth of beef exports and the increases in population, urbanization and household income. The Kenya's average beef production is estimated at 320,000 metric tonnes per annum. About 70% of beef produced in the country is mainly based on Zebu cattle population found in the arid and semi-arid lands (ASALS) i.e. ACZ IV – VII while the rest (30%) is from culls from the dairy herd.

(f) Poultry

Kenya has an estimated poultry population of 32 million birds. Of these 70% consist of free-ranging chicken. The mean annual poultry meat production is about 21,500 metric tons currently valued at KES 4.6 billion, while egg production is 1,716 million eggs valued at KES 10.3 billion. Poultry is one of the most important enterprises in rural households' food and nutrition security. Apart from chicken which constitute 98%, other poultry species like ducks, turkeys, pigeons, ostriches, guinea fowls and quails are also increasingly becoming important mainly for their eggs and meat. A host of ornamental birds are also

kept.

Key: Agro-climatic zones:

Zone I—Humid

Zone II—Sub-Humid

Zone III—Semi-Humid

Zone IV—Semi-Humid to Semi-Humid

Zone V—Semi-Arid

Zone VI—Arid

Zone VII—Very Arid

S/No.	County	Agro-Climatic Zone (ACZ)	Percentage of land mass under this zone	Minimum	Maximum
1	Baringo	I – III	20	1	10
		IV	15	1.5	15
		V	49	2.5	25
		VI – VII			
2	Bomet	I – III	100	1	10
		IV	0	0	0
		V	0	0	0
3	Bungoma	I – III	100	1	10
		IV	0	0	0
		V	0	0	0
4	Busia	I – III	94	1	10
		IV	6	1.5	15
		V	0	0	0
5	ElgeyoMarakwet	I – III	69	1	10
		IV	17	1.5	15
		V	14	2.5	25
6	Embu	I – III	33	1	10
		IV	29	1.5	15
		V	38	2.5	25
7	Kiambu	I – III	73	1	10
		IV	17	1.5	15

		V	10	2.5	25
8	Garissa	I – III	0	0	0
		IV	0	0	0
		V	41	2.5	25
		VI – VII	59	100	1000
9	Homabay	I – III	48	1	10
		IV	16	1.5	15
		V	36	2.5	25
10	Isiolo	I – III	0	0	0
		IV	0	0	0
		V	29	2.5	25
		VII – VII	71	100	1000
11	Kajiado	I – III	1	1	10
		IV	6	1.5	15
		V – VI	93	2.5	25
		VI – VII		100	1000
12	Kakamega	I – III	100	1	10
		IV	0	0	0
		V	0	0	0
13	Kericho	I – III	97	1	10
		IV	0	0	0
		V	3	2.5	25
14	Kilifi	I – III	5	1	10
		IV	23	1.5	15
		V	68	2.5	25
15	Kirinyaga	I – III	83	1	10
		IV	16	1.5	15
		V	1	2.5	25
16	Kisii	I – III	100	1	10
		IV	0	0	0
		V	0	0	0
17	Kisumu	I – III	60	1	10
		IV	0	0	0
		V	40	2.5	25
18	Kitui	I – III	1	1	10
		IV	4	1.5	15
		V	90	2.5	25

		V-VI	5	100	1000
19	Kwale	I - III	17	1	10
		IV	13	1.5	15
		V	71	2.5	25
20	Laikipia	I - III	8	1	10
		IV	13	1.5	15
		V	80	2.5	25
21	Lamu	I - III	0	0	0
		IV	23	1.5	15
		V	77	2.5	25
22	Machakos	I - III	4	1	10
		IV	15	1.5	15
		V	81	2.5	25
23	Makueni	I - III	5	1	10
		IV	20	1.5	15
		V	75	2.5	25
24	Mandera	I - III	0	0	0
		IV	0	0	0
		V	6	2.5	25
		VI - VII	94	100	1000
25	Marshall	I - III	0	0	0
		IV	0	0	0
		V	13	2.5	25
		V-VI	87	100	1000
26	Meru	I - III	52	1	10
		IV	12	1.5	15
		V	36	2.5	25
27	Migori	I - III	70	1	10
		IV	8	1.5	15
		V - VI	22	2.5	25
28	Muranga	I - III	89	1	10
		IV	11	1.5	15
		V	0	0	0
29	Nakuru	I - III	64	1	10
		IV	16	1.5	15
		V	20	2.5	25
30	Nandi	I - III	100	1	10
		IV	0	0	0

		V	0	0	0
31	Narok	I – III	46	1	10
		IV	13	1.5	15
		V	20	2.5	25
32	Nyamira	I – III	100	1	10
		IV	0	0	0
		V	0	0	0
33	Nyandarua	I – III	89	1	10
		IV	11	1.5	15
		V	0	0	0
34	Nyeri	I – III	75	1	10
		IV	22	1.5	15
		V	3	2.5	25
35	Siaya	I – III	76	1	10
		IV	24	1.5	15
		V	0	0	0
36	Siaya	I – III	76	1	10
		IV	24	1.5	15
		V	0	0	0
37	TaitaTaveta	I – III	1	1	10
		IV	2	1.5	15
		V	80	2.5	25
38	Tana River	I – III	0	0	0
		IV	3	1.5	15
		V	33	2.5	25
		V-VI	64	100	1000
39	Tharaka Nithi	I – III	34	1	10
		IV	34	1.5	15
		V	32	2.5	25
40	Trans-Nzoia	I – III	100	1	10
		IV	0	0	0
		V	0	0	0
41	Turkana	I – III	0	0	0
		IV	0	0	0
		V	34	2.5	25
		V-VI	66	100	1000
42	Uasin-gishu	I – III	100	1	10
		IV	0	0	0

		V	0	0	0
43	Vihiga	I – III	100	1	10
		IV	0	0	0
		V – VI	0	0	0
44	West Pokot	I – III	24	1	10
		IV	33	1.5	15
		V	44	2.5	25
45	Wajir	I – III	0	0	0
		IV	0	0	0
		V	2	2.5	25
		V-VI	98	100	1000

III. Prescription of minimum and maximum land sizes for urban and peri-urban land users

(a) Determinants for Minimum Land Sizes for Urban and Peri Urban Areas

- (i) Land use
- (ii) Type of activity/development
- (iii) Infrastructure and service provision
- (iv) Income and population density (the principle of equity)
- (v) Terrain
- (vi) Public health provisions
- (vii) Market forces
- (viii) Political influence
- (ix) Public policies
- (x) Public participation

(b) Prevailing standards and guidelines for classification of urban areas

- (i) Population threshold
- (ii) Integrated development plan
- (iii) Sufficient revenue generation
- (iv) Demonstrable good system and records of prudent management
- (v) Essential service delivery
- (vi) Citizen participation
- (vii) Infrastructure facilities
- (viii) Waste disposal system

(c) Considerations

The minimum landholding in urban and peri-urban areas shall ensure:

- (i) Habitable conditions
- (ii) Promote optimal productivity
- (iii) Reduce environmental degradation
- (iv) Promote compatibility
- (v) Enhance sustainability
- (vi) Promote accessibility and connectivity
- (vii) Mitigate pollution and provide for waste disposal.

The maximum land holding shall:

- (i) Promote optimal productivity
- (ii) Promote environmental conservation
- (iii) Enhance security
- (iv) Promote compatibility of land use
- (v) Reduce cost of service provision

Deliberate measures to encourage vertical development and common proprietorship to be undertaken through incentives and tax rebate among others.

IV. Prescriptions for Residential Land User

(i) Cities

Table 1: Minimum and Maximum Land Holding for Cities

Land User- Residential	Minimum (HA)	Maximum (HA)
Low Density	0.1	2
Medium Density	0.05	
Mixed Use	0.05	
High Density	0.02	

(ii) Municipalities

Table 2: Minimum and Maximum Land Holding for Municipalities

Land User- Residential	Minimum (Ha)	Maximum (Ha)
Low Density	0.2	2
Medium Density	0.1	
Mixed Use		
High Density	0.04	

(iii) Towns

Table 3: Minimum and Maximum Land Holding for Towns

Land User- Residential	Minimum (Ha)	Maximum (Ha)
Low density	0.2	2
Medium density	0.1	
Mixed user		
High density	0.04	

(iv) Market Centres

Mixed use development with minimum of 0.025 Ha

Plots shall be serviced by 6m lane for services

(v) Commercial

The minimum commercial plot sizes shall be 0.05Ha for all categories of urban areas.

(vi) Industrial

Table 4: Minimum and Maximum Land Holding for Industrial Land User

Land User- Industrial	Minimum (Ha)	Maximum (Ha)
Light	0.01	40
Medium	0.05	
Heavy	2	
Industrial Park	2	

(vii) Educational

To apply in all urban areas

Table 5: Minimum and Maximum Land Holding for Educational Land User

Land User- Educational	Minimum (Ha)	Maximum (Ha)
University	0.1	40

Colleges	0.1	10
Secondary	Day	0.2
	Boarding	0.4
Primary	Day	0.2
	Boarding	0.3
Nursery	0.15	0.2
Day care	0.04	0.2

(viii) Health Facilities

Table 6: Minimum and Maximum Land Holding for Health Facilities

Land User- Health Facilities	Minimum(Ha)
Referral Hospital	20
Hospital	10
Nursing Home	0.4
Veterinary Clinic	0.1
Funeral homes	2

(ix) Recreational Facilities

Table 7I: Minimum and Maximum Land Holding for Recreation Facilities

Land User	Minimum (Ha)	Maximum (Ha)
Social halls and Community Centre	0.25	2
Swimming pool	0.1	

(x) Religious Facilities

The minimum land size for a religious facility shall be 0.1 Ha.

(xi) Cemeteries and crematoriums

Cemeteries	10	20
Crematorium	5	10

V. Prescription of Minimum and Maximum Land Holding Acreages for Transport and Infrastructure

(a) Sea Ports and Harbours

Land User	Minimum (Ha)	Maximum (Ha)
Sea Port	176	361,900
Lake Port	44	1,000
Special Harbours (Fish landing sites)	1	10
Water Front Recreational Facilities	0.2	2.5

(b) Airports

Type	Runway (m)	Minimum(Ha)	Maximum (Ha)
Airport - International	5,500	3,600	78,000
Airstrip	1200	-	-
Helipad	-	0.0225	0.1089

(c) Parking

	Type of vehicle	Minimum (Ha)	Maximum (Ha)
1.	Car and garage	0.1	5
2.	Trucks and trailers	1.0	5

(d) Energy

Category	Minimum (Ha)	Maximum (Ha)
Geothermal	4,500	7800
Thermal	3.5	1600

Hydro	6,166	63200
Wind	5.2 Ha per 1 mW	30
Solar	0.045 Ha per mW	0.4 Ha Per mW

(e) Filling and service stations

	Type of station	Minimum (Ha)	Maximum (Ha)
1.	Filling station	0.1	0.2
2.	Service station	0.2	1
3.	Petrol stations with extended retail shop facilities	0.21	1.05

(f) Termini

	Terminus	Minimum (Ha)	Maximum (Ha)
1.	Bus and Matatu	0.5	23
2.	Railway	1.35	19

(g) Cross border posts

Land User	Minimum (ha)	Maximum (ha)
One Stop Border Post	8.09	25

Warehousing and Markets

(h) Warehouses

Type of Warehouses	Minimum(Ha)	Maximum (Ha)
Private	0.36	10

(i) Retail trade

Category	Minimum(Ha)	Maximum (Ha)
Small retail shops	0.07	0.1
Large single retail shop	0.5	1

(j) Wholesale trade

CATEGORY	Minimum(Ha)	Maximum (Ha)
Integrated Development	0.002	0.005
Individual plot	0.004	0.1

(k) Open air market

Category	Minimum(Ha)	Maximum (Ha)
Open air market	1	10

VI. Prescription of Minimum and Maximum Land Sizes for Public Utilities (Sanitation and Waste Management)

(a) Liquid waste

Facility	Minimum(Ha)	Maximum(Ha)
Water Treatment plant	0.4	4
Sewage treatment plant	0.8	450

(b) Solid waste

Facility		Minimum(Ha)	Maximum (Ha)
Landfills	Landfill	0.1	40

	Buffer	30 m	100 m
Incinerators	Incinerator	0.05	0.5
	Buffer	30 m	300 m
Transfer stations		0.02	0.2
E-Waste Management Center		0.1	10

(c) Waste bins

No. of Dwelling Units	Minimum number of bins	Maximum number of bins
1-50	1	2
50-100	2	3
>100	3	-

VII. Prescription for minimum and maximum land requirements for Social and Cultural amenities

(a) Social and cultural amenities

Land User	Minimum (Ha)	Maximum (Ha)
Cultural Centres	0.5	30.0
Daytime Hospice	0.1	2.0
Fulltime Hospice	0.2	5.0
Refugee camps	214.0	466.0
Cemeteries	10	20
Crematorium	5	10

VIII. Prescription for the Minimum and Maximum Landholding for Industrial Parks, Special Economic Zones and ICT Infrastructure

(a) Industrial Parks/Industrial Estates

Land User	Type of Industry	Minimum (Ha)	Maximum (Ha)
Light industrial Parks	Cottage, Food, Furniture, Wood Processing, home appliances, Printing	100	500
Medium Industrial Parks	Medicine, Steel Processing and Ceramics, Telecommunication, Computer Lighting, Electronics Assembly	200	2500
High Industrial Parks	Transport and Transportation equipment, Automobile Assembly, Petroleum Equipment and Refinery, Cement	200	5000

Lot sizes on each should not be less than 5 Ha.

(b) Special Economic Zones

Land User	Minimum (Ha)	Maximum (Ha)
Special Economic Zone	5	27000

(c) ICT facilities

Land User	Minimum (Ha)	Maximum(Ha)
BTS towers	0.045	0.5
Transmitter Stations (including earth receiving stations)	0.2	10

The holdings especially for the BTS are on stand-alone bases.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the minimum and maximum land holding acreages in order to give effect to Article 68 (a) (i) of the Constitution.

The Bill sets out the objects and purpose for the proposed law which include determining the minimum and maximum land holding acreages based on ecological zones, reducing inequality and promoting equitable distribution of land, regulating subdivision of land and facilitating self-employment, sustainable utilization of private land and promotion of national security and economic stability.

The guiding principles include the recognition of the relevant constitutional principles including those contained in Articles 10, 60, 40 and 62.

The Bill provides that the minimum and maximum land holding acreages shall be determined as provided under the schedule. These limits shall be regularly reviewed taking into consideration ecological, demographic and cultural factors among others.

The Bill proposes that the country would be zoned into agricultural land, livestock and pastoral land and urban and peri-urban land. It provides exemptions to the ceiling provisions for large scale farming, wildlife conservancies, forestry and other major investments.

The proposed institutional framework includes the establishment of Sub-county Land Control Committee and County Land Appeals Committees for purposes of giving consent before subdivision or transfer of land.

The Bill also makes provisions for the regulation of private land use by both levels of government. Finally the Bill makes provisions for the acquisition of surplus land and voluntary reorganization of settlements to allow for cooperative farming.

The structure of the Bill is as follows:

Part I-Preliminary (Sections 1-5) This Part provides for the short title, interpretation, objects and purpose as well as the guiding principles of the Bill.

Part II-Determination of minimum and maximum land holding acreages (Sections 6-11) provides for a schedule to contain land sizes and provides for the procedure and manner for the regular revision of the schedule.

Part III— Institutional framework (Sections 12-18). This Part provides for the Sub-county Land

Control Committees, their composition and functions. It also provides for the County appeals land control committee to hear appeals from the Sub-county Land Control Committees.

Part IV—Regulation of private land use (Sections 19-21) This Part provides the issuance of a national land use policy guidelines by the Cabinet Secretary and the role of county governments in regulating land use.

Part V—General Provisions (Sections 23-28) This final Part provides for the acquisition of surplus land, cooperative farming, cooperation between the two levels of government and saving and transitional provisions. This Part also makes proposals for consequential amendments.

The power of the Cabinet Secretary to make Regulations under the Act is provided for under this Part.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for in the annual estimates.

Dated.....2015

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[Fred Matiang'i, PhD
Ag. Cabinet Secretary
Ministry of Land, Housing & Urban Development]