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### Step 3 - Surrender of Title

This provision came into effect on 27<sup>th</sup> August 2010. However no regulations were immediately enacted detailing the process by which titles would be converted, creating a lacuna in the law. Without a mechanism for conversion the status of properties owned by non-citizens became unclear. This lacuna was finally resolved on 24<sup>th</sup> November with the gazettment of the Land Regulations, 2017 (the **Regulations**).

The land owner will then be required to surrender the original title document to the NLC in exchange for a leasehold title.

### Step 4 - Issuance of a New Title

The Regulations provide that the National Land Commission (**NLC**) will undertake the process of converting applicable titles held by non-citizens. The Regulations also require the NLC to undertake this process within five years from the commencement of the Regulations (Regulation 14(1)). We are therefore expecting the process of conversion to be completed by 2022.

On receipt of the original title document from the land owner and the cadastral map and plan from the authority responsible for survey, the NLC will prepare a lease for a term of ninety-nine years.

### Step 5 - Registration of Documents

The Regulations confirm that any transfer of land from a non-citizen holding freehold land to a citizen which occurred after 27<sup>th</sup> August 2010 will be treated as transferring a leasehold interest of no more than ninety-nine years.

The NLC will then forward the original title document, the lease and the cadastral map and plan to the Chief Land Registrar for registration to reflect the reduced term of 99 years at a peppercorn rent. There is no requirement under the Regulations for the NLC to notify the landowner once the registration procedure and issuance of title is complete.

The landowner will not be required to pay fees for this process.

The following is a step by step procedural guideline provided under the Regulations for the conversion of title.

We do not yet know when NLC will commence the process of conversion of titles, but if you should receive a notice to convert your titles and require any assistance please do not hesitate to contact us.

### Step 1 - Notification of Affected Land Owners

The NLC will notify non-citizens, who own freehold titles or leasehold titles that exceed ninety nine years, of the intention to convert their title. The notification will be published in the Kenya Gazette and in at least two newspapers with nationwide circulation. In addition the NLC will inform the land owner of a date when the land will be resurveyed for the purposes of issuing new titles.

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### Introduction

The Constitution of Kenya 2010 (the **Constitution**) significantly altered non-citizens land ownership rights by limiting the interest that could be held to no more than ninety nine years. In effect this means that any interest in land held by a non-citizen that is greater than ninety nine years would be converted to a ninety nine year leasehold interest (Article 65 of the Constitution). The definition of a non-citizen also includes a body corporate not wholly owned by Kenyan citizens and a trust where the beneficiaries are non-citizen.

### Step 2 - Survey of Land

The affected land will then be re-surveyed, geo referenced and a cadastral map and plan produced by the Department of Survey. The purpose of carrying out this survey is to identify the delineation of boundaries of a parcel of land prior to issuing a new title.

