LEGAL NOTICE NO. 47

THE TRANSITION TO DEVOLVED GOVERNMENT ACT
(No. 1 of 2012)

IN EXERCISE of the powers conferred by section 36 of the Transition to Devolved Government Act, 2012, the Transition Authority makes the following Regulations:

THE TRANSITION TO DEVOLVED GOVERNMENT (ASSUMPTION OF OFFICE OF COUNTY GOVERNOR) REGULATIONS, 2013

1. These Regulations may be cited as the Transition to Devolved Government (Assumption of Office of County Governor) Regulations, 2013.

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

“certificate of inauguration” means a certificate signed by the governor upon being sworn in;

“Commission” means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution;

“Committee” means the Assumption of the Office of County Governor Committee established under regulation 5 of these Regulations;

“county deputy governor-elect” means a candidate declared elected as a county deputy governor and who has not assumed office;

“county governor-elect” means a candidate declared elected as a county governor under Article 180 of the Constitution and who has not assumed office; and

“Public officer” has the meaning assigned to it under Article 260 of the Constitution.

3. The provisions of these Regulations shall apply—

(a) to the assumption of office of the county governor by the county governor-elect; and

(b) to the assumption of office of the county deputy governor by the county deputy governor-elect.

4. In performance of its functions and exercise of its powers under these Regulations, the Committee shall act in accordance with the values and principles set out in Article 10 of the Constitution.

5. (1) There is established a committee to be known as the Assumption of the Office of County Governor Committee.

(2) The Committee shall be an ad-hoc committee and shall
consist of—

(a) the County Commissioner, who shall be the chairperson;
(b) the interim County Secretary;
(c) the Director, Gender and Social Services;
(d) the transitional county finance officer;
(e) an officer designated by the Judiciary;
(f) an officer designated by the Director-General of the National Intelligence Service;
(g) the head of National Police Service at county level;
(h) a representative of non-state actors;
(i) a representative of the governor-elect nominated by governor-elect;
(j) the Transition County Co-ordinator who shall be the secretary to the Committee and responsible for taking minutes and keeping the records of the Committee.

(3) Except for the first election under the Constitution, the chairperson of the Committee shall convene the first meeting of the Committee at least fourteen days before the date of the elections.

(4) The quorum for the conduct of the business at a meeting of the Committee shall be half of all the members of the Committee.

(5) A vacancy in the membership of the Committee shall not affect the decisions of the Committee.

5. (1) The functions of the Committee shall be to—

(a) facilitate the handing over process by the outgoing county governor to the county governor-elect, except for the first elections under the Constitution;
(b) organise for the security of the county governor-elect;
(c) organise for the necessary facilities and personnel for the county governor-elect;
(d) co-ordinate the briefings of the county Governor-elect by relevant public officers;
(e) facilitate communication between the outgoing county governor and the county governor-elect except for the first elections under the Constitution;
(f) prepare the programme and organise for the swearing-in-ceremony; and
(g) carry out any other activity necessary for the performance of its functions under these Regulations and perform any other function assigned to it under these Regulations or any other
written law.

(2) The Committee shall have all powers necessary for the execution of its functions under the law.

6. (1) The Committee may from time to time, establish sub-committees for the better carrying out of its functions under these Regulations.

(2) The Committee may co-opt into the membership of a sub-committee established under subsection (1), persons whose knowledge and skills are considered necessary for the execution of the functions of the Committee.

7. Except as otherwise provided in these Regulations, the Committee may determine its own procedure.

8. (1) Upon the announcement of the final results of a gubernatorial election by the Commission, the Committee shall ensure that the county governor-elect and county deputy governor-elect are accorded adequate security.

(2) Despite subparagraph (1), the National Police Service shall ensure the provision of adequate security during the conduct of the swearing-in-ceremony.

9. (1) The county governor-elect shall, in consultation with the Committee, carry out such preparations as may be necessary for the purpose of assuming office.

(2) The county governor-elect may, in carrying out preparations under subparagraph (1), request for information from a public officer in the county as the county governor-elect may consider necessary.

(3) A public officer from whom information is requested under subparagraph (2) shall provide the information within a reasonable time.

10. (1) The swearing-in of the county governor-elect shall be conducted in a public ceremony within the respective county.

(2) The Transition Authority shall announce and publicize the date, venue and time of swearing-in of all county governor-elect countrywide.

11. (1) The county governor-elect shall be sworn in on the first Wednesday following the tenth day after the date of the gazettement of the final results of the gubernatorial election.

(2) The county governor-elect shall, during the swearing-in-ceremony, take and subscribe to the oath or affirmation of allegiance as set out in the First Schedule to the County Government Act, 2012.

(3) The oath or affirmation shall be administered to the county governor-elect by a judge of the High Court not earlier than 10.00 am and not later than 2.00 pm.

(4) Upon taking or subscribing to the oath or affirmation, the county governor-elect shall sign a certificate of inauguration.
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(5) If there is a court order stopping the swearing in of the county governor-elect, the county governor-elect shall only be sworn in following the completion of the court process.

12. The county deputy governor-elect shall take and subscribe to the oath or affirmation as set out in the First Schedule to the County Government Act, 2012.

13. The county governor shall, upon the swearing in of the county deputy governor-elect, give an inauguration speech.

14. The Committee shall, within a period of two months from the date of the swearing-in of the county governor-elect, cause to be prepared a report on the affairs of the Committee.

15. The Committee shall publish and publicize all important information within its mandate affecting the county.

16. (1) Any person may, in public interest, request for information from the Committee and the request for that information—

(a) shall be addressed to the chairperson or such other person as the Committee may for that purpose designate;

(b) may be subject to the payment of a reasonable fee in instances where the Committee incurs an expense in providing the information; and

(c) may be subject to confidentiality requirements of the Committee.

(2) Subject to Article 35 of the Constitution, the Committee may decline to give information to an applicant where—

(a) the disclosure of such information is undesirable in public interest;

(b) the information requested is at a deliberative stage by the Committee;

(c) the applicant fails to pay the prescribed fee; or

(d) the applicant fails to satisfy confidentiality requirements by the Commission.

(3) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this regulation.

(4) Every member and staff assigned to the Committee shall sign a confidentiality agreement.

17. The day-to-day functioning of the county before and during the assumption of office by the county governor-elect shall be subject to the constitutional provisions regarding transition and succession of institutions, offices, assets and liabilities.
18. The Committee shall last for a period of three months from the date of its establishment.

Dated the 1st March, 2013.

KINUTHIA WAMWANGI,
Chairman.