

**THE NATIONAL ACCORD AND
RECONCILIATION ACT**

No. 4 of 2008

Date of Assent: 20th March, 2008

Date of Commencement: 20th March, 2008

ARRANGEMENT OF SECTIONS

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**SCHEDULE – AGREEMENT ON THE PRINCIPLES OF
PARTNERSHIP OF THE COALITION GOVERNMENT**

THE NATIONAL ACCORD AND RECONCILIATION ACT, 2008

AN ACT of Parliament to give effect to the Agreement on the Principles of Partnership of the Coalition Government, to foster national accord and reconciliation, to provide for the formation of a coalition Government and the establishment of the offices of Prime Minister, Deputy Prime Ministers and Ministers of the Government of Kenya, their functions and various matters connected with and incidental to the foregoing

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the National Accord and Reconciliation Act, 2008.

Commencement.

2. This Act shall come into force upon its publication in the Kenya Gazette, which shall not be later than fourteen days from the date of assent.

Appointment of
Prime Minister
and Deputy
Prime Ministers.

3. (1) There shall be a Prime Minister of the Government of Kenya and two Deputy Prime Ministers, who shall be appointed by the President in accordance with this section.

(2) The person to be appointed as Prime Minister shall be an elected member of the National Assembly who is the parliamentary leader of—

- (a) the political party that has the largest number of members in the National Assembly; or
- (b) a coalition of political parties in the event that the leader of the political party that has the largest number of members in the National Assembly

does not command the majority in the National Assembly.

(3) Each member of the coalition shall nominate one person from the elected members of the National Assembly to be appointed a Deputy Prime Minister.

4. (1) The Prime Minister—

- (a) shall have authority to co-ordinate and supervise the execution of the functions and affairs of the Government, including those of Ministries;
- (b) may assign any of the co-ordination responsibilities of his office to the Deputy Prime Ministers, as well as one of them to deputise for him;
- (c) shall perform such other duties as may be assigned to him by the President or under any written law.

Functions of the Prime Minister, etc.

(2) In the formation of the coalition Government, the persons to be appointed as Ministers and Assistant Ministers from the political parties that are partners in the coalition other than the President's party shall be nominated by the parliamentary leader of the party in the coalition and thereafter there shall be full consultation with the President on the appointment of all Ministers.

(3) The composition of the coalition Government shall at all times reflect the relative parliamentary strength of the respective parties and shall at all times take into account the principle of portfolio balance.

(4) The office of the Prime Minister and the Deputy Prime Minister shall become vacant only if—

- (a) the holder of the office dies, resigns

or ceases to be a member of the National Assembly otherwise than by reason of the dissolution of Parliament;

- (b) the National Assembly passes a resolution which is supported by a majority of all the members of the National Assembly, excluding the *ex-officio* members, and of which not less than seven days notice has been given, declaring that the National Assembly has no confidence in the Prime Minister or Deputy Prime Minister, as the case may be; or
- (c) the coalition is dissolved.

(5) The removal of any Minister nominated by a parliamentary party of the coalition shall be made only after prior consultation and concurrence in writing with the leader of that party.

The Cabinet.

5. The Cabinet shall consist of the President, the Vice-President, the Prime Minister, the two Deputy Prime Ministers and the other Ministers.

Dissolution of coalition.

6. The coalition shall stand dissolved if—

- (a) the Tenth Parliament is dissolved;
- (b) the coalition parties agree in writing; or
- (c) one coalition partner withdraws from the coalition by a resolution of the highest decision-making organ of that party in writing.

7. The Prime Minister and Deputy Prime Ministers shall be entitled to such salaries, allowances, benefits, privileges and emoluments as may be approved by Parliament from time to time.

Salary and allowances.

8. This Act shall cease to apply upon dissolution of the tenth Parliament, if the coalition is dissolved, or a new Constitution is enacted, whichever is earlier.

Act to cease to apply.

9. In this Act, the Agreement on the Principles of Partnership of the Coalition Government means the Agreement set out in the Schedule.

Interpretation.

SCHEDULE

(s. 9)

ACTING TOGETHER FOR KENYA

AGREEMENT ON THE PRINCIPLES OF PARTNERSHIP OF THE COALITION GOVERNMENT

Preamble:

The crisis triggered by the 2007 disputed presidential elections has brought to the surface deep-seated and long-standing divisions within Kenyan society. If left unaddressed, these divisions threaten the very existence of Kenya as a unified country. The Kenyan people are now looking to their leaders to ensure that their country will not be lost.

Given the current situation, neither side can realistically govern the country without the other. There must be real power-sharing to move the country forward and begin the healing and reconciliation process.

With this agreement, we are stepping forward together, as political leaders, to overcome the current crisis and to set the country on a new path. As partners in a coalition

government, we commit ourselves to work together in good faith as true partners, through constant consultation and willingness to compromise.

This agreement is designed to create an environment conducive to such a partnership and to build mutual trust and confidence. It is not about creating positions that reward individuals. It seeks to enable Kenya's political leaders to look beyond partisan considerations with a view to promoting the greater interests of the nation as a whole. It provides the means to implement a coherent and far-reaching reform agenda, to address the fundamental root causes of recurrent conflict, and to create a better, more secure, more prosperous Kenya for all.

To resolve the political crisis, and in the spirit of coalition and partnership, we have agreed to enact the National Accord and Reconciliation Act, 2008, whose provisions have been agreed upon in their entirety by the parties hereto and a draft copy thereof is appended hereto.

Its key points are:

- There will be a Prime Minister of the Government of Kenya, with authority to co-ordinate and supervise the execution of the functions and affairs of the Government of Kenya.
- The Prime Minister will be an elected member of the National Assembly and the parliamentary leader of the largest party in the National Assembly, or of a coalition, if the largest party does not command a majority.
- Each member of the coalition shall nominate one person from the National Assembly to be appointed a Deputy Prime Minister.
- The Cabinet will consist of the President, the Vice-President, the Prime Minister, the two Deputy

Prime Ministers and the other Ministers. The removal of any Minister of the coalition will be subject to consultation and concurrence in writing by the leaders.

- The Prime Minister and Deputy Prime Ministers can only be removed if the National Assembly passes a motion of no confidence with a majority vote.
- The composition of the coalition government will at all times take into account the principle of portfolio balance and will reflect their relative parliamentary strength.
- The coalition will be dissolved if the Tenth Parliament is dissolved; or if the parties agree in writing; or if one coalition partner withdraws from the coalition.
- The National Accord and Reconciliation Act shall be entrenched in the Constitution.

Having agreed on the critical issues above, we will now take this process to Parliament. It will be convened at the earliest moment to enact these agreements. This will be in the form of an Act of Parliament and the necessary amendment to the Constitution.

We believe by these steps we can together in the spirit of partnership bring peace and prosperity back to the people of Kenya who so richly deserve it.

Agreed this date 28 February, 2008.

H.E. President Mwai Kibaki
Government/Party of National Unity

Hon. Raila Odinga
Orange Democratic Movement

Witnessed By:

H.E. President Jakaya Kikwete
President of the United Republic of
Tanzania and Chairman of the African Union

H.E. Kofi A. Annan
Chairman of the Panel of
Eminent African Personalities