



 THE NATIONAL ASSEMBLY
 PAPERS LAID
 DATE: 11 MAR 2026
 Tabled by: CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION
 CLERK AT THE TABLE: OBIERO
 DAY: WED



Approved for Tabling
Benjiro
11/03/2026

REPUBLIC OF KENYA
 THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

COMMITTEE ON DELEGATED LEGISLATION

REPORT
 ON



THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTION FUND) REGULATIONS,
 2025 (LEGAL NOTICE NO. 169 OF 2025)

MARCH 2026

The Directorate of Audit, Appropriations
 & Genera-Purpose Committees
 The National Assembly
 Parliament Buildings



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ABBREVIATIONS AND ACCRONYMS

AG	Attorney General
CBS	Chief of the Order of the Burning Spear
CEO	Chief Executive Officer
DLS	Directorate of Legislative and Procedural Services
EGH	Elder of the Order of the Golden Heart
EBS	Elder of the Order of the Burning Spear
GoK	Government of Kenya
LN	Legal Notice
MDA	Ministry, Department and Agency
MP	Member of Parliament
OAG	Office of the Auditor-General
ODM	Orange Democratic Movement
UDM	United Democratic Movement
UDA	United Democratic Alliance
UPA	United Progressive Alliance
UPIA	United Party of Independent Alliance
WDM–Kenya	Wiper Democratic Movement–Kenya

CHAIRPERSON'S FORWARD

The Public Finance Management (Public Prosecution Fund) Regulations, 2025 were made vide *LN. No. 169 of 2025* pursuant to powers conferred on the Cabinet Secretary for the National Treasury and Planning under section 24(4) of the Public Finance Management Act (*Cap. 412A*), hence, is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act (*Cap. 2A*).

The Regulations were published in the Gazette on 28th October 2025 and received by the Clerk of the National Assembly on 6th November 2025. They were subsequently tabled before the House on 11th November 2025, within the statutory timelines prescribed under section 11(1) of the Statutory Instruments Act (*Cap. 2A*) and committed to the Committee on Delegated Legislation for consideration.

The primary purpose of these Regulations is to provide a legal framework for the administration, management, and oversight of the Public Prosecution Fund.

Pursuant to section 16 of the Statutory Instruments Act (*Cap. 2A*), which requires the Committee to confer with the regulation-making authorities before making its decision, the Committee held a meeting with the National Treasury and Economic Planning on Thursday, 5th March, 2026, to deliberate on the Regulations.

Having examined the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (*LN. No. 169 of 2025*) against the Constitution, the Statutory Instruments Act (*Cap. 2A*), the Public Finance Management Act (*Cap. 214A*), and the Interpretation and General Provisions Act (*Cap. 2*), the Committee resolved to recommend that the House **Committee recommends that the House APPROVES the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) in accordance with section 24(4) the Public Finance Management Act (Cap. 412A).**

I sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate. I also wish to thank the Committee Membership and the Secretariat for their diligence in considering these Regulations.

On behalf of the Members of the Committee on Delegated Legislation and pursuant to Standing Order 210, it is my pleasure and duty to present to the

House the Committee's **Report on the Consideration of the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025).**



HON. CHEPKONG'A KIPRONO SAMUEL, CBS, MP.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established under **Standing Order No. 210** of the National Assembly Standing Orders and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider, in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. The Committee is mandated to consider, in respect of any statutory instrument, whether it:
 - a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which, in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the Courts;
 - f) gives retrospective effect to any of the provisions in respect to which the Constitution or the Act does not expressly give any such power;
 - g) involves expenditure from the Consolidated Fund or other public revenues;
 - h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
 - j) appears to have had an unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;

- l) makes rights, liberties or obligations unduly dependent on insufficiently defined administrative powers;
- m) inappropriately delegates legislative powers;
- n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) appears for any reason to infringe on the rule of law;
- p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
- q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises –

Chairperson

Hon. Chepkong'a Kiprono Samuel, CBS, M.P.

Ainabkoi Constituency

UDA

Vice-Chairperson

Hon. Githinji Robert Gichimu, M.P.

Gichugu Constituency

UDA

Committee Members

Hon. Mbui Robert, CBS, M.P

Kathiani Constituency

WDM-Kenya

**Hon. (Maj) (Rtd) Dekow Barrow
Mohamed, M.P**

Garrisa Township Constituency

UDA

**Hon. Julius Lekakeny Ole Sunkuli,
EGH, EBS, M.P.**

Kilgoris Constituency

KANU

Hon. Kamene Joyce, M.P

Machakos County

WDM-Kenya

**Hon. Dr. Onchoke, Mamwacha
Charles, M.P.**
Bonchari Constituency
UPA

**Hon. Dr. Kimaiyo, Gideon Kipkoech,
M.P.**
Keiyo South Constituency
UDA

Hon. Waithaka, John Machua, M.P.
Kiambu Constituency
UDA

Hon. Chebor, Paul Kibet, M. P
Rongai Constituency
UDA

Hon. Yakub Adow Kuno, M. P
Bura Constituency
UPIA

**Hon. (Maj) (Rtd) Abdullahi, Bashir
Sheikh, M.P.**
Mandera North Constituency
UDM

Hon. Mwirigi John Paul, M.P.
Igembe South Constituency
UDA

Hon. Odoyo, Jared Okello, M.P.
Nyando Constituency
ODM

Hon. Chepkorir Linet, M.P.
Bomet County
UDA

Hon. Munyoro Joseph Kamau, M.P
Kigumo Constituency
UDA

Hon. Oluoch, Anthony Tom M.P.
Mathare Constituency
ODM

Hon. Lenguris Pauline, M.P.
Samburu County
UDA

Hon. Omondi, Moses Okoth.
Ugunja Constituency
ODM

Hon Mnyazi Amina Laura, MP.
Malindi Constituency
ODM

Hon. Mugabe Innocent Maino, M.P.
Likuyani Constituency
ODM

1.3 Committee Secretariat

4. The Secretariat facilitating the Committee comprises –

(1) Ms. Wanjiru Mwaura Principal Clerk I (Team Leader)

(2.) Mr. Dima Dima Deputy Director-DLS

a. Mr. Brian Langwech Clerk Assistant III

b. Mr. Grace Odedere Clerk Assistant III

c. Ms. Peter Barasa Legal Counsel II

d. Ms. Angela Musau Legal Counsel II

e. Mr. Noah Chemweno Serjeant at Arms

f. Mr. Daniel Psirmoi Media Relations Officer

2.0 CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTION FUND) REGULATIONS, 2025 (L.N. NO. 169 OF 2025)

2.1 Introduction

5. The Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) were made pursuant to the powers conferred on the Cabinet Secretary for the National Treasury and Planning under section 24(4) of the Public Finance Management Act (Cap. 412A) hence, is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act (Cap. 2A).
6. The Regulations were published in the Gazette on 28th October 2025, received by the Clerk of the National Assembly on 6th November 2025, and tabled before the House on 11th November 2025, within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act. They were subsequently transmitted to the Committee on Delegated Legislation for consideration.
7. Pursuant to section 16 of the Statutory Instruments Act Cap 2A, which requires the Committee to confer with the regulation-making authorities before making its decision, the Committee held a meeting with the National Treasury and Economic Planning on Thursday, 13th November, 2025, to deliberate on the Regulations.

2.2 Object and Purpose of the Regulations

8. The purpose of this Statutory Instrument is to establish a Fund to be known the Public Prosecutions Fund whose objects and purpose shall be provide funds to support the Office of the Director of Public Prosecutions, and to in particular; -
 - (a) support and facilitate the tracing, forfeiture, or recovery of assets;
 - (b) support and facilitate other government agencies collaborating assisting the Office in tracing, forfeiture, or recovery of assets;
 - (c) facilitates the preservation of assets in the custody of the investigating agency;
 - (d) supports the development and operationalization of a centralized management and information system; and
 - (e) support mechanisms and measures to enhance the efficiency and effectiveness of the Office.

2.3 Policy Context and Rationale for the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025)

9. The Office of the Director of Public Prosecutions (ODPP) is Kenya's national prosecuting authority, established under Article 157 of the Constitution of Kenya, 2010 and is given effect by the Office of the Director of Public Prosecutions Act, 2013. The mandate of the ODPP is to institute and undertake prosecution of criminal matters, in all courts other than court-martial, and all other aspects incidental thereto.
10. In exercising prosecutorial authority, the ODPP shall have due regard to the public interest, interests of the administration of justice, and the need to prevent and avoid abuse of the legal process. In doing so, the ODPP prevents and avoids abuse of the legal process. The ODPP strives to provide quality, impartial, and timely prosecution services in a manner that is professional, efficient, and fair.
11. The ODPP faces several challenges, including new and emerging crime trends and technological advancement in science, information, and communication. In addition, the complexity in the administration of justice arising from constitutional imperatives, new laws, human rights considerations, and diversity in criminal activity and international circumstances needs to be taken into account.
12. The Public Prosecution Fund will receive these proceeds of crime and use them to support the criminal justice system in Kenya.

2.4 Summary of the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025)

13. The Regulations are in six (6) parts: Part I contains the preliminary provisions; Part II contains the provisions on the establishment of the Fund; Part III contains the provisions on the Public Prosecution Fund Advisory Board; and Part IV contains provisions on administration of the fund; Part V contains financial provisions; Part VI contains general provisions.
14. **Regulations 1, 2, and 3** are preliminary provisions that include the citation, interpretation, and objective of the regulations.
15. **Regulation 4** establishes the Fund.

16. **Regulation 5** provides for the initial capital of the Fund which shall be two billion shillings appropriated by the National Assembly in the 2026/2027 financial year.
17. **Regulation 6** of the regulations provides for the purpose of the fund.
18. **Regulation 7** provides for the sources of the Fund.
19. **Regulation 8** provides for payments out of the Fund.
20. **Regulation 9** provides for the retention of funds.
21. **Regulation 10** establishes the Public Prosecutions Fund Advisory Board.
22. **Regulation 11** provides for the committees of the board.
23. **Regulation 12** provides that the Board may co-opt any person, not being a member of the Board, to a committee of the Board to provide such expertise as Board may require in the circumstances.
24. **Regulation 13** provides for the meetings of the board.
25. **Regulation 14** provides for the quorum at a meeting of the Board.
26. **Regulation 15** provides for the functions of the Board.
27. **Regulation 16** provides for the Chief Executive Officer of the Fund.
28. **Regulation 17** provides for the administration of the fund.
29. **Regulation 18** provides for the secretariat of the fund.
30. **Regulation 19** provides for the financial year.
31. **Regulation 20** requires the Administrator of the Fund shall cause bank accounts in the name of the Fund to be maintained for the Fund in a bank regulated by the Central Bank of Kenya.
32. **Regulation 21** requires that the administrator of the Fund shall ensure that the bank accounts of the Fund are not overdrawn.
33. **Regulation 22** provides for expenditure and commitments of the Fund.
34. **Regulation 23** provides for withdrawal from the fund.
35. **Regulation 24** provides investment of surplus funds.
36. **Regulation 25** provides for annual estimates.
37. **Regulation 26** contains provisions on annual report.

38. **Regulation 27** contains provisions on records of the fund.
39. **Regulation 28** contains provisions on financial and Procurement Regulations.
40. **Regulation 29** contains provisions on administrative expenses.
41. **Regulation 30** contains provisions on the review of the performance of the Fund.
42. **Regulation 31** provides for the winding up of the fund.

2.5 Scrutiny of the Instrument

43. The Committee examined the Public Finance Management (Public Prosecution Fund) Regulations 2025 (LN. No. 169 of 2025) against the Constitution, the Interpretation and General Provisions Act (Cap 2), the Public Finance Management Act (Cap. 412A) and the Statutory Instruments Act (Cap. 2A).
44. The scrutiny was undertaken following the tabling of the Regulations before the House on 11th November, 2025 and their subsequent referral to the Committee on Delegated Legislation. The Committee held a meeting with the National Treasury and Economic Planning on Thursday, 13th November, 2025, at Room 21, 5th Floor, Bunge Tower, Parliament Buildings, to deliberate on the Regulations.

3.0 COMMITTEE OBSERVATIONS

45. Having examined the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) against the Constitution, the Public Finance Management Act (Cap. 412A) and the Statutory Instruments Act (Cap. 2A), the Interpretation and General Provisions Act (Cap. 2), the Committee observed **THAT—**

3.1 Statutory Timelines

46. The Regulations were published in the gazette on 28th October, 2025 vide Legal Notice No. 169 of 2025, submitted to the Clerk of the National Assembly on 6th November, 2025 and laid on the table of the House on 11th November, 2025, being within the requisite statutory timelines under section 11(1) of the Statutory Instruments Act (Cap. 2A).

3.2 Consultations/Public Participation

47. Articles 10 and 118 of the Constitution and section 5 of the Statutory Instruments Act require that the regulation-making authority conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the regulations.

48. The Task force responsible for the preparation and development of the Regulations held targeted consultations with key stakeholders, and their input was taken into account before the finalization of these Regulations. The Taskforce comprised of the National Treasury and the Office of the Director of Public Prosecutions.

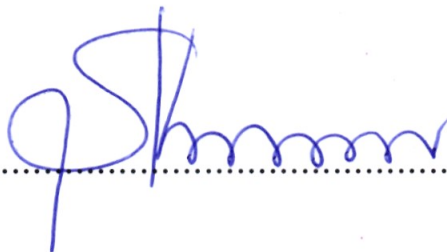
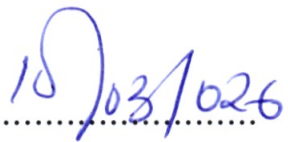
49. In line with the provisions of Section 5 of the Statutory Instruments Act, 2013, the National Treasury, together with the Office of the Director of Public Prosecutions, undertook public participation before publication of these Regulations. The mode of public participation included the invitation of key stakeholders via an advertisement posted on the National Treasury website and published in the My Gov section of Nation and Standard Newspapers on 8th October 2024. Written responses/submissions on the Regulations were sent to ps@treasury.go.ke and jona.wala@treasury.go.ke.

3.3 Regulatory Impact Statement

50. The National Treasury and Economic Planning prepared an impact assessment for the statutory instrument in line with Part II of the Statutory Instruments Act (Cap. 2A).

4.0 COMMITTEE RECOMMENDATION

51. Having examined the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) in accordance with the Constitution, the Statutory Instruments Act (Cap. 2A), the Public Finance Management Act (Cap. 412A), the Interpretation and General Provisions Act (Cap. 2), the **Committee recommends that the House APPROVES the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) in accordance with section 24(4) the Public Finance Management Act (Cap. 412A).**

Signed  Date 

**THE HON. CHEPKONG'A SAMUEL KIPRONO, CBS, MP
(CHAIRPERSON)
COMMITTEE ON DELEGATED LEGISLATION**

ANNEXURES

1. Minutes
2. Draft Regulations
3. Explanatory Memorandum
4. Regulatory Impact Statement
5. Correspondences
6. Adoption List

SPECIAL ISSUE

Kenya Gazette Supplement No. 181

1987

28th October, 2025

(Legislative Supplement No. 90)

LEGAL NOTICE NO. 169

THE PUBLIC FINANCE MANAGEMENT ACT

(Cap. 412A)

THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS, 2025

ARRANGEMENT OF REGULATIONS

Regulation.

- 1—Citation.
- 2—Interpretation.
- 3—Object of the Regulations.

PART II—THE PUBLIC PROSECUTIONS FUND


- 4—Establishment of the Fund.
- 5—Capital of the Fund.
- 6—Purpose of the Fund.
- 7—Sources of funds.
- 8—Payments out of the Fund.
- 9—Retention of funds.

PART III—THE PUBLIC PROSECUTIONS FUND ADVISORY BOARD

- 10—Establishment of the Board.
- 11—Committees of the Board.
- 12—Board may co-opt.
- 13—Meetings of the Board.
- 14—Quorum.
- 15—Functions of the Board.

PART IV—ADMINISTRATION OF THE FUND

- 16—Chief Executive Officer.
- 17—Administrator of the Fund.
- 18—Secretariat of the Fund.

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 11 NOV 2025	
DAY: TUE	
FILED BY:	Hon. Naomi Wago Deputy Majority Whip
CLERK-AT THE-TABLE:	Mado Miriam

PART V—FINANCIAL PROVISIONS

- 19—Financial year.
- 20—Bank accounts of the Fund.
- 21—Overdrawn accounts.
- 22—Expenditure and commitments of the Fund.
- 23—Withdrawals from the Fund.
- 24—Investment of surplus funds.
- 25—Annual estimates.
- 26—Annual reports.
- 27—Records of the Fund.
- 28—Financial and Procurement Regulations.

PART VI—GENERAL PROVISIONS

- 29—Administrative expenses.
- 30—Review of the performance of the Fund.
- 31—Winding up of the Fund.

THE PUBLIC FINANCE MANAGEMENT ACT

(Cap. 412A)

IN EXERCISE of the powers conferred by section 24(4) of the Public Finance Management Act, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations —

THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS, 2025

1. These Regulations may be cited as the Public Finance Management (Public Prosecutions Fund) Regulations, 2025. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
 - “Act” means the Public Finance Management Act; Cap. 412A.
 - “Administrator of the Fund” means the person designated as such under regulation 17(1);
 - “Board” means the Public Prosecution Advisory Board established in accordance with regulation 8;
 - “Cabinet Secretary” has the meaning assigned to it under section 2 of the Act;
 - “deferred prosecution” means amnesty granted by the Office of the Director of Public Prosecutions to an accused person in exchange for the accused person agreeing to fulfill certain requirements set by the Office through deferred prosecution agreements;
 - “deferred prosecutions agreement” means an agreement between the Office and an accused person for the Office to forgo the criminal prosecution of the accused person in favour of out of court penalties, compensations and compliance programmes;
 - “Director” means the Director of Public Prosecutions appointed in accordance with Article 157(2) of the Constitution and section 8 of the Office of the Director of Public Prosecutions Act; Cap. 6B.
 - “Fund” means the Public Prosecutions Fund established in accordance with section 24(4) of the Public Finance Management Act;
 - “Office” means the Office of the Director of Public Prosecutions established under Article 157(1) of the Constitution;
 - “plea agreement” has the meaning assigned to it under section 2 of the Criminal Procedure Code; and Cap. 75.
 - “preservation of assets” means the process of securing assets for purposes of future prosecution or forfeiture.
3. The object of these Regulations shall be to provide a legal framework for the administration and management of the Fund. Object of the Regulations.

PART II—THE PUBLIC PROSECUTIONS FUND

4. There is established a Fund to be known as the Public Prosecutions Fund. Establishment of the Fund.
5. The initial capital of the Fund shall be two billion shillings appropriated by the National Assembly in the 2026/2027 financial year. Capital of the Fund.
6. The purpose of the Fund shall be to— Purpose of the Fund.
- (a) support and facilitate investigative agencies in tracing, forfeiture or recovery of assets in the prosecution process;
 - (b) support and facilitate other government agencies collaborating or assisting the Office in tracing, forfeiture or recovery of assets;
 - (c) facilitate the preservation of assets in custody of the investigating agency;
 - (d) support the development and operationalization of an integrated case management and information system;
 - (e) support mechanisms and measures to enhance the efficiency and effectiveness of the investigative agencies and the Office;
 - (f) facilitate the management of witnesses and support victims of crimes;
 - (g) support restorative and restitution justice processes for witnesses and victims of crimes;
 - (h) support international co-operation and mutual legal assistance in criminal matters;
 - (i) facilitate multi-agency approach in investigations and prosecutions;
 - (j) facilitate technical assistance for Kenyan and international experts in complex cases;
 - (k) facilitate partnerships, collaboration and the establishment of professional networks with other investigative and prosecution agencies; and
 - (l) facilitate training and capacity building for officers in the criminal justice sector and the Office.
7. The Fund shall consist of— Sources of funds.
- (a) moneys appropriated by the National Assembly;
 - (b) grants and donations;
 - (c) moneys from deferred prosecutions;
 - (d) moneys from proceeds of plea agreements;
 - (e) moneys from proceeds of preservation orders arising from criminal proceedings;

- (f) moneys from incidental compensation and restitution orders arising from criminal proceedings; and
- (g) interest generated from the investments of the Fund.

8. (1) There shall be paid out of the Fund amount of money in respect of expenses incurred in pursuance of the objects and purposes for which the Fund is established.

Payments out of the Fund.

(2) The payments out of the Fund shall only be on the basis of annual work programs and cost estimates which shall be prepared by the Administrator of the Fund at the beginning of the financial year to which they relate.

(3) A revision of the approved annual work plan and of any cost estimates shall be submitted to the Board for advice before the revised annual work plan is implemented.

9. The earnings or accruals to the Fund shall be retained in the Fund and shall be spent only for the purposes for which the Fund is established.

Retention of funds.

PART III—THE PUBLIC PROSECUTIONS FUND ADVISORY BOARD

10. (1) There is established a Board to be known as the Public Prosecutions Fund Advisory Board.

Establishment of the Board.

(2) The Board shall consist of—

- (a) the Director of Public Prosecutions, who shall be the chairperson;
- (b) the Solicitor-General or their representative appointed in writing;
- (c) the Principal Secretary for the time being responsible for matters relating to Finance or their representative appointed in writing;
- (d) the Inspector-General or their representative appointed in writing;
- (e) the Director of Witness Protection Agency;
- (f) the Deputy Director of Public Prosecutions; and
- (g) the Secretary of Prosecution Services.

11. The Board may establish such committees of its members as may be necessary to help in the discharge of its functions.

Committees of the Board.

12. The Board may co-opt any person, not being a member of the Board, to a committee of the Board to provide such expertise as may be required in the circumstances.

Board may co-opt.

13. The Board shall meet at least four times in each year and not more than three months shall elapse between one meeting of the Board and the next meeting.

Meetings of the Board.

14. The quorum at a meeting of the Board shall be five members.

Quorum.

15. The functions of the Board shall be to—
- Functions of the Board.
- (a) oversee the administration of the Fund;
 - (b) consider, review and approve estimates of revenues and expenditure of the Fund and recommend them to the Cabinet Secretary for approval;
 - (c) approve policies to guide administration of the Fund;
 - (d) approve opening and closing of bank accounts of the Fund in accordance with the Act;
 - (e) consider, review and approve the quarterly financial and non-financial reports of the Fund prepared in accordance with the Act;
 - (f) consider, review and approve the annual financial and non-financial statements of the Fund prepared in accordance with the Act in the format prescribed by Public Sector Accounting Standards Board for submission to the Auditor-General with a copy to the National Treasury, Commission on Revenue Allocation and Controller of Budget;
 - (g) consider, review and approve the investment policies for the investment of surplus funds;
 - (h) advise the Administrator of the Fund on proper administration of the Fund;
 - (i) approve policies for safeguarding assets of the Fund;
 - (j) facilitate and develop sectoral linkages to the Fund; and
 - (k) advise the Cabinet Secretary on the funding requirements of the Fund.

PART IV—ADMINISTRATION OF THE FUND

16. (1) There shall be a Chief Executive Officer of the Fund who shall be competitively appointed by the Cabinet Secretary upon recommendation by the Board.

Chief Executive Officer.

(2) Where a substantive Chief Executive Officer has not been appointed, the Cabinet Secretary shall, upon communication in writing from the Chairperson of the Board, designate a public officer to act as the Chief Executive Officer.

(3) A person shall qualify for appointment as a Chief Executive Officer, if such person—

- (a) holds a degree in either accounting, finance, economics or any other relevant field from a university recognized in Kenya;
- (b) has at least ten years' knowledge and experience in a relevant field of which five years shall be in a position of senior management; and
- (c) meets the requirements of Chapter Six of the Constitution.

(4) A person shall not qualify for appointment as a Chief Executive Officer, if the person—

- (a) is a member of Parliament or County Assembly;
- (b) is a member of a governing body of a political party;
- (c) is an undischarged bankrupt;
- (d) has been convicted of a felony; or
- (e) has been removed from public office for contravening the provisions of the Constitution or any other law.

(5) A person appointed as a Chief Executive Officer shall hold office—

- (a) for a term of three years renewable for a further term of three years; and
- (b) on such terms and conditions as may be determined by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

17. (1) The Chief Executive Officer appointed under regulation 17 (1) shall be the Administrator of the Fund.

Administrator of
the Fund.

(2) The Administrator of the Fund shall—

- (a) develop predictable, transparent and accountable financial and internal control systems for the Fund;
- (b) prepare estimates of annual revenue and expenditure of the Fund and submit them to the Board for advice before adoption;
- (c) establish proper systems of control and oversight in accordance with the provisions of the Act;
- (d) consult the Board on matters relating to the administration of the Fund;
- (e) prepare non-financial performance report of the Fund and submit it to the Board for adoption;
- (f) be the custodian of the property, assets and equipment of the Fund;
- (g) keep or cause to be kept proper books of accounts and other books and records relating to the Fund; and
- (h) prepare, sign, and transmit to the Auditor-General in respect of each financial year and within three months after the end of the financial year, a statement of account relating to the Fund in such form as the Public Sector Accounting Standards Board prescribes.

(3) The Administrator of the Fund shall comply with the ordinary government budget cycle in the preparation of the estimates for the Fund.

(4) Upon approval by the Board, the Administrator of the Fund shall submit estimates of revenue and expenditure to the Cabinet Secretary by the thirty first January of each financial year for approval.

18. (1) There shall be a secretariat to support the functions of the Administrator of the Fund.

Secretariat of the Fund.

(2) The Director shall designate such officers in the Office to be the staff of the secretariat upon request in writing by the Administrator of the Fund.

(3) The Administrator of the Fund shall assign duties to the staff of the secretariat in respect of the administration and management of the Fund.

PART V—FINANCIAL PROVISIONS

19. The financial year of the Fund shall be the period of twelve months commencing on the first of July in each year and ending on the thirtieth June.

Financial year.

20. (1) The Administrator of the Fund shall cause bank accounts in the name of the Fund to be maintained for the Fund in a bank regulated by the Central Bank of Kenya in accordance with the Act.

Bank accounts of the Fund.

(2) All amount of money payable to the Fund shall be paid into the bank accounts of the Fund.

(3) The Fund's bank accounts shall be operated by the Administrator of the Fund and four other persons nominated by the Board.

(4) The Fund's bank accounts shall be submitted to the Auditor-General within three months after the end of each financial year in accordance with the Act and Public Audit Act.

Cap. 412B.

21. The Administrator of the Fund shall ensure that the bank accounts of the Fund are not overdrawn.

Overdrawn accounts.

22. The Administrator of the Fund shall ensure that in any financial year, the expenditure and commitments of the Fund shall not exceed the annual income of the Fund together with any surplus income brought forward from the previous year.

Expenditure and commitments of the Fund.

23. (1) Withdrawal from the Fund shall only be for the purposes of promoting the objects for which the Fund is established.

Withdrawals from the Fund.

(2) The records of expenditure relating to the Fund shall be kept and maintained in accordance with the Act and Regulations made thereunder.

24. The Board may, with the approval of the Cabinet Secretary, invest any surplus funds of the Fund in Government securities.

Investment of surplus funds.

25. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.

Annual estimates.

(2) The annual estimates shall make provision for the estimated revenues and expenditures of the Fund for the financial year and, in particular, the estimates shall provide for—

- (a) revenues projected to be received by the Fund from the sources of funds provided for under these Regulations;
- (b) moneys for the administrative expenses of the Fund;
- (c) the payment of personnel emoluments and other charges in respect of the staff of the Fund and members of the Board, where applicable; and
- (d) the maintenance of the assets, equipment, and properties of the Fund.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

26. The Administrator of the Fund shall prepare annual financial and non-financial reports in accordance with the format prescribed by the Public Sector Accounting Standards Board and submit them to the Board for consideration and advice.

Annual reports.

27. (1) The Administrator of the Fund shall cause to be kept all proper books and records of account of the income, expenditure, assets, liabilities, equipment and properties of the Fund.

Records of the Fund.

(2) Within three months from the end of each financial year, the Administrator of the Fund shall submit to the Board the accounts of the Fund together with—

- (a) a statement of the income and expenditure of the Fund during the financial year; and
- (b) a statement of the assets and liabilities of the Fund on the last day of that financial year.

(3) The financial statements prepared under sub-regulation (2) shall be prepared in accordance with the format prescribed by the Public Sector Accounting Standards Board.

28. The Fund shall be governed by all relevant financial and procurement laws and Regulations as applicable.

Financial and Procurement Regulations.

PART VI—GENERAL PROVISIONS

29. The administrative expenses of the Fund shall not exceed three per cent of the approved budget of each financial year.

Administrative expenses.

30. (1) The Board shall, at the end of three years from the date of the commencement of these Regulations, and thereafter, every three years, cause a review to be undertaken on the performance of the Fund.

Review of the performance of the Fund.

(2) The review under sub-regulation (1) shall be for the purposes of determining whether the Fund has met the objectives for which the Fund was established.

(3) The report on the review of the Fund shall be submitted to the Cabinet Secretary for consideration and further guidance.

31. (1) The winding up of the Fund shall be in accordance with the provisions of the Public Finance Management (National Government) Regulations, 2015.

Winding up of the Fund.
L.N. 34/2015.

- (2) On winding up of the Fund —
- (a) the Administrator of the Fund shall pay any amount remaining in the Fund into the National Exchequer Account for the credit of the national government;
 - (b) the Cabinet Secretary shall pay any deficit in the Fund from the funds of the national government in the National Exchequer Account with the approval of the National Assembly; and
 - (c) assets other than cash of the Fund shall be transferred to the Office of the Director of Public Prosecutions.
- (3) The Cabinet Secretary shall submit a final statement of accounts to the National Assembly and to the Auditor-General for audit within six months from the date of the decision to wind up the Fund.

Made on the 15th September, 2025.

JOHN MBADI NG'ONGO,
*Cabinet Secretary for the
National Treasury and Economic Planning.*

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM FOR THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS, 2024

PART I

Name of instrument: Public Finance Management (Public Prosecutions Fund) Regulations, 2024.

Name of Parent Act: The Public Finance Management Act (*No. 18 of 2012*).

Enacted Pursuant to: Section 24(4) of the Public Finance Management Act, 2012

Name of Ministry: The National Treasury & Economic Planning/ Office of Director of Public Prosecutions

Gazetted on: To be advised by the Hon. Attorney-General

Tabled on: To be advised by the Clerk National Assembly

PART II

1. Purpose of the Statutory Instrument

The purpose of this Statutory Instrument is to establish a Fund to be known as the **Public Prosecutions Fund** whose objects and purpose shall be to provide funds to support the Office of Director of Public Prosecutions, and in particular: -

- a. support and facilitate the tracing, forfeiture, or recovery of assets;
- b. support and facilitate other government agencies collaborating or assisting the Office in tracing, forfeiture, or recovery of assets;
- c. facilitates the preservation of assets in the custody of the investigating agency;

d. supports the development and operationalization of a centralized case management and information system;

e. support mechanisms and measures to enhance the efficiency and effectiveness of the Office.

2. Legislative Context

The National Assembly delegated the duty to establish national public funds to the Cabinet Secretary responsible for finance with the approval of the National Assembly. This is provided for under Section 24 (4) of the Public Finance Management Act, 2012.

The Regulations are therefore developed within the meaning of Section 24 (4) of the Public Finance Management Act 2012 and the procedure for public participation provided under the Statutory Instrument Act, 2013.

3. Policy Background

3.2 The Office of the Director of Public Prosecutions (ODPP) is Kenya's national prosecuting authority, established under Article 157 of the Constitution of Kenya, 2010 and is given effect by the Office of the Director of Public Prosecutions Act, 2013. The mandate of the ODPP is to institute and undertake prosecution of criminal matters, in all courts other than court-martial, and all other aspects incidental thereto.

3.3 In exercising prosecutorial authority, the ODPP shall have due regard to the public interest, interests of the administration of justice, and the need to prevent and avoid abuse of the legal process. In doing so, the ODPP prevents and avoids abuse of the legal process. The ODPP strives to provide quality, impartial, and timely prosecution services in a manner that is professional, efficient, and fair.

3.4 The ODPP faces several challenges, including new and emerging crime trends and technological advancement in science, information, and communication. In addition, the complexity in the administration of justice arising from constitutional imperatives, new laws, human rights considerations, and diversity in criminal

activity and international circumstances needs to be taken into account.

- 3.5 Towards this end, the ODPP has deployed several measures in the fight against graft and other transnational organized and complex crimes. The ODPP is not only determined to prosecute suspects but also to **recover stolen funds** and **proceeds of crime** for the benefit of the Kenyan people. The proceeds of crime that have been unlawfully acquired will be traced, recovered, confiscated, and restored through plea bargaining, diversion, deferred agreements, compensation, and restitution.
- 3.6 The said Public Prosecution Fund, will receive these **proceeds of crime** and use them for supporting the criminal justice system in Kenya and in particular the objectives highlighted in paragraph 1 above.

4. Guidance

The National Treasury and Economic Planning and Office of the Director of Public Prosecutions shall sensitize the National Assembly, the general public, and various stakeholders on the objectives of the Public Prosecutions Fund.

5. Stakeholder Consultations

The Task force responsible for the preparation and development of the Regulations held targeted consultations with key stakeholders and their input was taken into account before the finalization of these Regulations.

These included The National Treasury and Economic Planning, the Office of the Inspector General of Police, the Office of the Director of Public Prosecutions, and the Office of the Attorney-General and Department of Justice.

In line with the provisions of Section 5 of the Statutory Instruments Act, 2013, the National Treasury together with the Office of the Director of Public Prosecutions, undertook public participation before publication of these Regulations.

The mode of public participation included the invitation of key stakeholders via an advertisement posted on the National Treasury website and published in the **My Gov** section of Nation and Standard Newspapers on 8th October 2024. Written responses/submissions on the Regulations were sent to ps@treasury.go.ke and jona.wala@treasury.go.ke

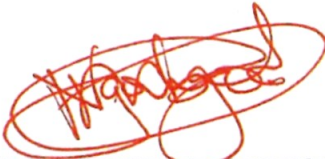
6. Review

The National Treasury shall monitor the application of the Regulations. This shall be done through the quarterly and annual reports prepared by the Fund and forwarded to the National Treasury.

7. Contact

The contact person shall be the Cabinet Secretary or Principal Secretary, The National Treasury & Economic Planning.

Made on the.....8/10/2024.



HON. CPA JOHN MBADI NG'ONGO, EGH
Cabinet Secretary for the National Treasury & Economic Planning



REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

THE REGULATORY IMPACT STATEMENT

IN THE MATTER OF PUBLIC PARTICIPATION ON:

THE DRAFT LEGAL NOTICE ON THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS, 2024 BY THE OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE NATIONAL TREASURY AND ECONOMIC PLANNING.

- 1. The objectives of and reasons for the proposed Legal Notice are mainly to provide funds to support the Office, and in particular:**
 - a. support and facilitate the tracing, forfeiture, or recovery of assets;
 - b. support and facilitate other government agencies collaborating or assisting the Office in tracing, forfeiture, or recovery of assets;
 - c. facilitate the preservation of assets in the custody of the investigating agency;
 - d. support the development and operationalization of a centralized case management and information system;
 - e. support mechanisms and measures to enhance the efficiency and effectiveness of the Office;
 - f. support restorative and restitution justice processes;
 - g. support international cooperation and mutual legal assistance;
 - h. facilitate witness expenses;
 - i. facilitate the collection, retrieval, preparation, production, and provision of documentary evidence, electronic, forensic, and related evidence;
 - j. facilitate multi-agency approach in investigations and prosecutions that are initiated or undertaken by the Office;
 - k. facilitate technical assistance for Kenyan and international experts in complex and high-profile cases;
 - l. facilitate partnerships, collaboration, and the establishment of professional networks with other prosecution agencies in Kenya and internationally;
 - m. facilitate service of process in remote and inaccessible areas;

- n. facilitate C; and
- o. facilitate any other expense approved by the Administrator of the Fund that promotes the objects for which the Fund was established.

2. The effect of the proposed gazettelement of the Legal Notice includes the following: -

- a. Development and operationalization of a centralized case management and information system;
- b. Enhanced the efficiency and effectiveness of the Office;
- c. Expansion of services in remote and inaccessible areas;
- d. Provision of technical assistance for Kenyan and international experts in complex and high-profile cases;
- e. Enhanced collection, retrieval, preparation, production, and provision of documentary evidence, electronic, forensic, and related evidence

3. Assessment of costs and benefits of the proposed Public Prosecutions Fund

- a. The seed capital for the Fund will be appropriated by the National Assembly. The Office of the Director of Public Prosecutions will provide office space and allocate vehicles for operationalizing the Fund. Other sources of funds will be from recovery/forfeiture from proceeds of crime.

The benefits include: -

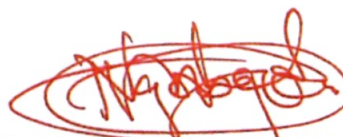
- a. Establishment of a multi-agency approach in investigations and prosecutions that are initiated or undertaken by the Office;
- b. Establishment of partnerships, collaboration, and the establishment of professional networks with other prosecution agencies in Kenya and internationally;
- c. Development and operationalization of a centralized case management and information system;
- d. preservation of assets in the custody of the investigating agency.

4. Other matters

Overall, the net impact of the proposed Legal Notice on Public Prosecutions Fund by the Office of the Director of Public Prosecutions is positive. It is recommended that the proposed Regulations be adopted.

5. Draft copy of the proposed statutory instrument

Draft copies of the proposed Legal Notice can be downloaded from the National Treasury website www.treasury.go.ke.



**HON. CPA JOHN MBADING'ONGO, EGH,
CABINET SECRETARY/NATIONAL TREASURY AND ECONOMIC PLANNING**

**MEETING BETWEEN THE NATIONAL ASSEMBLY DELEGATED
COMMITTEE ON LEGISLATION AND MULTI-AGENCY TASKFORCE
TO DEVELOP PUBLIC FINANCE MANAGEMENT (PUBLIC
PROSECUTION FUND) REGULATIONS, 2025**

MEMBERS PRESENT:

- | | |
|--------------------------|-----------------------------------|
| 1. FCPA John Mbadi | - Cabinet Secretary |
| 2. Renson Mulele Ingonga | - Director of Public Prosecutions |
| 3. CPA Jona Wala | - Chairperson |
| 4. Mosomi Atandi | - Member |
| 5. Irene Maina | - Member |
| 6. Vincent Monda | - Member |
| 7. Faith Pesa | - Member |
| 8. Mohamed Dubow | - Joint Secretary |
| 9. Irene Koskei | - Joint Secretary |

COMMITTEE MEMBERS PRESENT

- | | |
|--------------------------------|--------------------|
| 1. Hon. Samuel Chepkonga | - Chairperson |
| 2. Hon. Robert Githinji | - Vice Chairperson |
| 3. Hon. John Paul Mwirigi | - Member |
| 4. Hon. John Waithaka | - Member |
| 5. Hon. Paul Kibet | - Member |
| 6. Hon. Robert Mbui | - Member |
| 7. Hon. Nicholas Mwale | - Member |
| 8. Hon. Anthony Oluoch | - Member |
| 9. Hon. Innocent Mugabe | - Member |
| 10. Hon. (Dr.) Charles Onchoke | - Member |

BACKGROUND

An Multi-Agency Taskforce comprising of officers drawn from the National Treasury, Office of the Inspector General, Office of the Director of Public Prosecutions and the Office of the Attorney General and Department of Justice appointed vide memo Ref: AG.3/146Vol.2(30) dated 26th February 2024 (folio 30) to develop Public Finance Management (the Public Prosecutions Fund) Regulations, 2025. In compliance with the law, the draft regulations were subjected to public participation and the team received comments from stakeholders. Upon consideration and incorporation of the views and comments from the public participation, the team developed final draft of the regulations and requested for a meeting with the delegated committee on legislation to deliberate on the same. The committee scheduled a meeting with the taskforce led by the Cabinet Secretary for the National Treasury and Economic Planning and the Director of Public Prosecutions.

MEETING DELIBERATION AND RECOMMENDATIONS

REG.	ISSUES/ COMMENTS	PROPOSED RECOMMENDATION
(2)	Definition of Deferred Prosecutions Agreement	The Regulations have been revised to include the definition of deferred prosecutions agreement.
(5)	The initial capital of the Fund shall be two billion shillings appropriated by the National Assembly in the 2025/2026 financial year.	Allocation of funds for the 2025/2026 year has lapsed and the Regulations should be amended to reflect the next financial year.
10(1)(b)	the Attorney- General or their representative appointed in writing;	The Attorney-general is a member of the Cabinet, hence the AG cannot be a member of a committee chaired by the DPP. The Solicitor-General should be the member of the Committee
10(1)(d)	the Director of Criminal Investigation or their representative appointed in writing;	The Inspector General is the head of the NPS and the DCI reports to the IG. The IG is the right person to be a member of the Advisory Board and may nominate the DCI to be their representative.
7 (g)	Investment of the Fund	This should be amended to read as “interest generated from the investments of the Fund.”

WAY FORWARD

The Multi-Agency Taskforce made an undertaking to incorporate the recommendations issued by the Delegated Committee Legislation and forward the regulations to the Attorney General for publication.

CONCLUSION

The Multi-Agency Taskforce and Delegated Committee Legislation concurred that these regulations are critical to the Criminal Justice Sector and key in enhancing the realization of the prosecutorial mandate.

MINUTES OF THE 5TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON THURSDAY, 5TH MARCH, 2026 IN COMMITTEE ROOM 21, 5TH FLOOR, BUNGE TOWER AT 10.00 A.M

PRESENT

1. The Hon. Samuel Kiprono Chepkong'a, CBS, M.P. - Chairperson
2. The Hon. Robert Gichimu Githinji, M.P. - Vice-Chairperson
3. The Hon. Robert Mbui, CBS, M.P
4. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.
5. The Hon. Omondi, Moses Okoth, M.P
6. The Hon. Pauline Lenguris, M.P.
7. The Hon. Joseph Kamau Munyoro, M.P.
8. The Hon. Jared Okello Odoyo, M.P
9. The Hon. (Dr.) Mamwacha Onchoke Charles, M.P
10. The Hon. (Dr) Kimaiyo, Gideon Kipkoech, M.P.

APOLOGIES

1. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P
2. The Hon. Mwirigi, John Paul, M.P
3. The Hon. Maj. (Rtd) Dekow Barrow Mohamed, M.P
4. The Hon. Kamene Joyce, M.P.
5. The Hon. Anthony Oluoch, M.P.
6. The Hon. Waithaka John Machua, M.P.
7. The Hon. Yakub Adow Kuno, M.P.
8. The Hon. Chepkorir, Linet, M.P
9. The Hon. Laura Amina Mnyazi, M.P.
10. The Hon. Paul Chebor, M.P.
11. The Hon. Innocent Mugabe, M.P.

IN ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|----------------------------------|
| 1. Ms. Wanjiru Mwaura | - | Principal Clerk Assistant I, HOD |
| 2. Mr. Wilson Dima Dima | - | Deputy Director, DLS |
| 3. Mr. Brian Langwech | - | Clerk Assistant III |
| 4. Ms. Grace Odedere | - | Clerk Assistant III |
| 5. Ms. Angela Musau | - | Legal Counsel II |
| 6. Ms. Elsy Jerop | - | Legal Counsel II |
| 7. Mr. Rodgers Kilungya | - | Hansard Officer II |
| 8. Mr. Daniel Psirmoi | - | Media Relations Officer |

THE NATIONAL TREASURY AND ECONOMIC PLANNING

1. Mr. Renson Ingona	-	DPP,ODPP
2. Dr. Jonah Wala	-	Director Accounting, TNT
3. Ms. Faith Pesa	-	DSCS, TNT
4. Mr. Alloys Kemo	-	Ag. SPP, ODPP
5. Mr. Vincent Monda	-	Ag. DDPP, ODPP
6. Ms. Jane Chege	-	CFO, ODPP
7. Mr. Amugo Alenga	-	Deputy Director, ODPP
8. Ms. Irene Koskei	-	Accountant, TNT
9. Mr. Arnold Murima	-	SRO, ODPP
10. Mr. Muhamed Ali	-	Accountant, TNT

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Matters arising
6. **Meeting with the Cabinet Secretary, Ministry of Defence regarding the Military Veterans (General) Regulations, 2025**
7. **Meeting with the Cabinet Secretary, the National Treasury and Economic Planning regarding the Public Finance Management (Public Prosecution Fund) Regulations, 2025**
8. **Consideration of the Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and other Public Officers) Regulations, 2025**
9. Any Other Business; and
10. Adjournment.

MIN. DAA&GPC/CDL/028/2026: PRELIMINARIES

The Chairperson called the meeting to order at 10.15 a.m., after which he said a word of prayer. He then welcomed all to the meeting followed by a round of introductions.

MIN. DAA&GPC/CDL/029/2026: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted, having been proposed by the Hon. Pauline Lenguris, M.P and seconded by the Hon. Joseph Kamau Munyoro, M.P.

MIN. DAA&GPC/CDL/030/2026: CONFIRMATION OF MINUTES

The Minutes of the 4th Sitting held on Tuesday, 3rd March, 2026 were confirmed as an accurate record of the proceedings having been proposed by the Hon. Joseph Kamau Munyoro, M.P. and seconded by the Hon. Pauline Lenguris, M.P

MIN. DAA&GPC/CDL/031/2026: MEETING WITH THE CABINET SECRETARY, MINISTRY OF DEFENCE REGARDING THE MILITARY VETERANS (GENERAL) REGULATIONS, 2025

The Cabinet Secretary, Ministry of Defence was expected to appear before the Committee and brief it on the Military Veterans (General) Regulations, 2025. However, the Committee was notified vide Letter Ref: **MOD/16/12A** that due to exigencies of duty, the Cabinet Secretary was unable to attend the meeting and requested that the meeting be rescheduled to Tuesday, 24th March, 2026.

The Committee considered and acceded to the request and resolved to invite the Cabinet Secretary to appear on a later date.

MIN. DAA&GPC/CDL/032/2026: MEETING WITH THE CABINET SECRETARY, THE NATIONAL TREASURY AND ECONOMIC PLANNING REGARDING THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTION FUND) REGULATIONS, 2025

The Director of Public Prosecutions and the Director of Accounting, for the National Treasury and Economic Planning, representing the Cabinet Secretary for the National Treasury and Economic planning appeared before the Committee and briefed it on the Public Finance Management (Public Prosecution Fund) Regulations, 2025 as follows—

1. **Regulations 1, 2, and 3** are preliminary provisions that include the citation, interpretation, and objective of the regulations.
2. **Regulation 4** establishes the Fund.
3. **Regulation 5** provides for the initial capital of the Fund which shall be two billion shillings appropriated by the National Assembly in the 2026/2027 financial year.
4. **Regulation 6** of the regulations provides for the purpose of the fund.
5. **Regulation 7** provides for the sources of the Fund.
6. **Regulation 8** provides for payments out of the Fund.
7. **Regulation 9** provides for the retention of funds.
8. **Regulation 10** establishes the Public Prosecutions Fund Advisory Board.
9. **Regulation 11** provides for the committees of the board.

10. **Regulation 12** provides that the Board may co-opt any person, not being a member of the Board, to a committee of the Board to provide such expertise as Board may require in the circumstances.
11. **Regulation 13** provides for the meetings of the board.
12. **Regulation 14** provides for the quorum at a meeting of the Board.
13. **Regulation 15** provides for the functions of the Board.
14. **Regulation 16** provides for the Chief Executive Officer of the Fund.
15. **Regulation 17** provides for the administration of the fund.
16. **Regulation 18** provides for the secretariat of the fund.
17. **Regulation 19** provides for the financial year.
18. **Regulation 20** requires the Administrator of the Fund shall cause bank accounts in the name of the Fund to be maintained for the Fund in a bank regulated by the Central Bank of Kenya.
19. **Regulation 21** requires that the administrator of the Fund shall ensure that the bank accounts of the Fund are not overdrawn.
20. **Regulation 22** provides for expenditure and commitments of the Fund.
21. **Regulation 23** provides for withdrawal from the fund.
22. **Regulation 24** provides investment of surplus funds.
23. **Regulation 25** provides for annual estimates.
24. **Regulation 26** contains provisions on annual report.
25. **Regulation 27** contains provisions on records of the fund.
26. **Regulation 28** contains provisions on financial and Procurement Regulations.
27. **Regulation 29** contains provisions on administrative expenses.
28. **Regulation 30** contains provisions on the review of the performance of the Fund.
29. **Regulation 31** provides for the winding up of the fund.
30. Upon deliberations, the committee made the following observations;
 - i. The Regulations were published in the gazette on 28th October, 2025 vide Legal Notice No. 169 of 2025, submitted to the Clerk of the National Assembly on 6th November, 2025 and laid on the table of the House on 11th November, 2025, being within the requisite statutory timelines under section 11(1) of the Statutory Instruments Act (Cap. 2A).
 - ii. Legal Notice 169 of 2025 is a statutory instrument and has the force of law within the meaning of section 2 of the Statutory Instruments Act, Cap 2A.
 - iii. The Legal Notice No.169 of 2025 is accompanied by a detailed Explanatory Memorandum as required under section 5A of the Statutory Instruments Act, Cap 2A.
 - iv. There is attached evidence of consultation with stakeholders, as required under section 5 of the Statutory Instruments Act, Cap 2A.

- v. The regulatory impact statement has been attached as required by section 6 of the Statutory Instruments Act.
 - vi. The Committee also noted that Regulations Making Authority had incorporated all the Comments raised by Members during Pre-Publication scrutiny engagement.
31. **In view of the findings above, the Committee resolved to recommend that the House APPROVES the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) in accordance with section 24(4) the Public Finance Management Act (Cap. 412A) having been proposed by the Hon. Pauline Lenguris, M.P., and seconded by the Hon. Omondi, Moses Okoth, M.P.**

MIN. DAA&GPC/CDL/033/2026: CONSIDERATION OF THE REPORT ON THE DRAFT SALARIES AND REMUNERATION COMMISSION (REMUNERATION AND BENEFITS OF STATE AND OTHER PUBLIC OFFICERS) REGULATIONS, 2025

1. The Committee took note of the report on Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and other Public Officers) Regulations, 2025 that was pending before the Committee.
2. The *Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and Other Public Officers) Regulations, 2024* was submitted to the Clerk of the National Assembly on 24th May, 2024. The Draft Regulations were subsequently tabled before the House on 25th June, 2024 and referred to the Committee on Delegated Legislation for scrutiny in accordance with the provisions of the Constitution, the Interpretation and General Provisions Act (Cap. 2), the Statutory Instruments Act (Cap. 2A), and the National Assembly Standing Orders.
3. In its initial deliberations, the Committee, in its *Report on the Consideration of the Draft Salaries and Remuneration Commission (Remuneration and Benefits of State and Other Public Officers) Regulations, 2022*, expressed concern regarding inadequate public participation, particularly with respect to consultation with the Teachers Service Commission (TSC), Parliamentary service Commission, the Public Service Commission (PSC), and the Judicial Service Commission (JSC). The Committee thus *recommended to the House NOT to approve the publication of the Draft SRC (Remuneration and Benefits of State and Other Public officers) Regulations 2022*.
4. Upon resubmission of the Draft Regulations in 2024, accompanied by a detailed Explanatory Memorandum and relevant stakeholder memoranda, the Committee undertook a fresh scrutiny process. In compliance with section 16 of the Statutory Instruments Act (Cap. 4A), the Committee held a pre-publication scrutiny meeting with SRC on 11th April, 2025. During this session and subsequent considerations, the

Committee examined the legislative framework, the scope of the proposed regulations, and the extent of stakeholder consultations.

5. SRC demonstrated that it had undertaken extensive stakeholder engagement between 28th February and 4th March, 2022, and on 10th March, 2022, including sensitization sessions involving MDAs, State Corporations Advisory Committee, Constitutional Commissions and Independent Offices, county governments, the Council of Governors, Intergovernmental Relations Technical Committee (IGRTC), LSK, Association of Professional Societies in East Africa, Office of the Attorney General and Department of Justice, Kenya Law Reform Commission, the Federation of Kenya Employers (FKE), and COTU. Moreover, the Commission published calls for public input through newspaper advertisements and received written submissions from TSC, Parliamentary Service Commission, PSC, and JSC, thereby satisfying the requirements under Article 10 and section 5 of the Statutory Instruments Act.
6. **In view of the above, the Committee expressed the need for more time to deliberate of the draft Report before making a resolution on the same.**

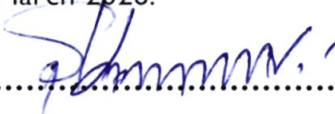
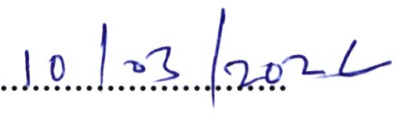
MIN. DAA&GPC/CDL/034/2026: ANY OTHER BUSINESS

National Police Service Commission (Recruitment and Appointment) Regulations, 2025

The Committee was briefed on the Regulations captioned above, including a summary of the judgment in the case of Mwau v Inspector General, National Police Service & 3 others; National Security Council & another (Interested Parties) [2025] KEELRC 2951 (KLR). The Employment and Labour Relations Court (ELRC) declared Legal Notice No. 159 of September 19, 2025, unconstitutional for infringing Articles 2(4), 238(2)(d), 239(1)(c), 240(3), and 245(4)(c) of the Constitution. This ruling effectively prevented the National Police Service from recruiting, training, employing, assigning, promoting, suspending, or dismissing members, including a permanent stay on the advertisement issued on 19th September, 2025. The Committee noted that no appeal had been lodged against the ELRC judgment. The Committee further noted that the Regulations had been overridden by the court's decision. The Secretariat was instructed to prepare a letter to the National Police Service Commission.

MIN. DAA&GPC/CDL/035/2026: ADJOURNMENT

The meeting was adjourned at ten minutes to one o'clock. The next meeting will be held on Tuesday, 10th March 2026.

SIGNED:.....DATE..........

**THE HON. SAMUEL CHEPKONG'A, CBS, M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION**

MINUTES OF THE 20TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON WEDNESDAY, 16TH JULY, 2025, IN COMMITTEE ROOM 21, 5TH FLOOR, BUNGE TOWER, AT 10.00 A.M

PRESENT

1. The Hon. Samuel Kiprono Chepkong'a, CBS, M.P. - Chairperson
2. The Hon. Robert Gichimu Githinji, M.P. - Vice-Chairperson
3. The Hon. Robert Mbui, CBS, M.P
4. The Hon. John Paul Mwirigi, M.P.
5. The Hon. Waithaka, John Machua, M.P.
6. The Hon. Anthony Oluoch, M.P.
7. The Hon. Anthony Oluoch, M.P.
8. The Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P.
9. The Hon. (Dr.) Charles Mamwacha Onchoke, M.P
10. The Hon. Innocent Mugabe, M.P.
11. The Hon. Joseph Kamau Munyoro, M.P

APOLOGIES

1. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P
2. The Hon. Nicholas S. Tindi Mwale, M.P.
3. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.
4. The Hon. Joyce Kamene, M.P.
5. The Hon. Jared Okello Odoyo, M.P.
6. The Hon. Pauline Lenguris, M.P.
7. The Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P.
8. The Hon. Paul Chebor, M.P.
9. The Hon. Linet Chepkorir M.P.
10. The Hon. Laura Amina Mnyazi, M.P.
11. The Hon. Yakub Adow Kuno, M.P.

IN ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|------------------------|
| 1. Ms. Esther Nginyo | - | Senior Clerk Assistant |
| 2. Mr. Wilson Dima Dima | - | Deputy Director, DLS |
| 3. Mr. Brian Langwech | - | Clerk Assistant III |
| 4. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 5. Mr. Valerian Pascal | - | Hansard Officer |
| 6. Ms. Rahab Chepkilim | - | Audio Officer |
| 7. Mr. Daniel Psirmoi | - | Media Relations III |
| 8. Mr. Tonny Odhiambo | - | Attachee |
| 9. Mr. Newton Kimathi | - | Pupil |

THE NATIONAL TREASURY AND ECONOMIC PLANNING

- | | | |
|-------------------------------|---|--|
| 1. Hon. FCPA John Mbadi , EGH | - | Cabinet Secretary, TNT |
| 2. Dr. Jane Imbunya | - | Principal Secretary, Public Service |
| 3. Mr. Renson Ingona | - | DPP, ODPP |
| 4. Mr. Ugas Sheikh Mohamed | - | Chairperson, Capital Markets Authority |

5. Mr. Jonah Aiyabei	-	CEO, PSSS
6. Mr. Wyckliffe Shamiah	-	Chief Executive Office, CMA
7. Dr. Jonah Wala	-	Director Accounting, TNT
8. Ms. Faith Pesa	-	DSCS, TNT
9. Mr. Alloys Kemo	-	Ag. SPP, ODPP
10. Mr. Vincent Monda	-	Ag. DDPP, ODPP
11. Mr. David Ochiel	-	DHRM, SDPS
12. Mr. Yussuf Ibrahim	-	DHRM, SDPS
13. Ms. Faith Jully	-	PA, CS, TNT
14. Mr. Jairus Muaka	-	Senior Manager, Policy and Regulatory
15. Mr. Daniel Warutera	-	DAM, CMA
16. Ms. Evelyn Mbithi	-	Senior Manager, Market Supervision
17. Ms. Dorine Mbaye	-	Ass Dir. FS, TNT
18. Mr. Isaac Ngige	-	PLO, SDPS
19. Ms. Angela Kiptoo	-	CS, PSSS
20. Ms. Irene Wanjiru	-	COS, ODPP
21. Ms. Jane Chege	-	CFO, ODPP
22. Mr. Anthony Kiarahu	-	DDLS, RBA
23. Ms. Irene Koskei	-	Accountant, TNT

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Matters arising
6. **Meeting with the Cabinet Secretary, National Treasury and Economic Planning regarding the following Regulations-**
 - i. **The Capital Markets (Derivatives Market) (Amendment) Regulations, 2025,**
 - ii. **The Central Depositories (Regulation of Central Depositories) (Amendment) Rules, 2025,**
 - iii. **The Public Finance Management (Public Officers Medical Fund) Regulations, 2024,**
 - iv. **The Draft Public Finance Management (Public Prosecutions Fund) Regulations, 2025, and**
 - v. **The Public Service Superannuation Scheme (PSSS) Regulations, 2025**
7. Any Other Business; and
8. Adjournment.

MIN. DAA&GPC/CDL/100/2025

PRELIMINARIES

The Chairperson called the Meeting to order at 10.16 a.m. after which, he said a word of prayer. He then welcomed all to the meeting followed by a round of introduction.

MIN. DAA&GPC/CDL/101/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by the Hon. Joseph Kamau Munyoro, M.P and seconded by the Hon. Robert Gichimu Githinji, M.P

MIN. DAA&GPC/CDL/102/2025**CONFIRMATION OF MINUTES**

The Minutes of the 19th Sitting held on Thursday, 3rd July, 2025, were confirmed as an accurate record of the proceedings having been proposed by the Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P. and seconded by the Hon. (Dr.) Charles Mamwacha Onchoke, M.P.

MIN. DAA&GPC/CDL/103/2025**MATTERS ARISING**

Arising from MIN. DAA&GPC/CDL/098/2025 the Committee took note that the three stakeholders who had been invited on 15th July, 2025 to brief the Committee on the Code of Conduct for the Media Practice, 2025 had sent their request for rescheduling of the meeting to 21st July 2025. The Committee acceded to the request and resolved to further invite them to appear before it on Tuesday, 22nd July, 2025

MIN. DAA&GPC/CDL/104/2025**BRIEFING ON REGULATIONS UNDER THE NATIONAL TREASURY AND ECONOMIC PLANNING**

Hon. FCPA. John Mbadi Ng'ongo, EGH, Cabinet Secretary, National Treasury and Economic Planning presented an overview of the regulations and thereafter requested Mr. Wyckliffe Shamiah, Chief Executive Office, Capital Market Authority who made a detailed presentation on the subject as follows;

I. THE CENTRAL DEPOSITORIES (REGULATION OF CENTRAL DEPOSITORIES) (AMENDMENT) RULES, 2025,

1. **Rule 1** of the Rules provide for the Citation of the Rules as the Central Depositories (Regulation of Central Depositories) (Amendment) Rules, 2025.
2. **Rule 2** of the Rules provides for amendment of the Second Schedule to the Central Depositories (Regulation of Central Depositories) Rules by revising the structure of the deposit levy charged to issuers, introducing a transaction-based levy structure set at Ksh. 150 per transaction on counter, with safeguards including a minimum annual levy of Ksh. 50,000 and a maximum cap of Ksh. 5,000,000, payable on a quarterly basis.
3. Upon deliberation, the Committee examined the Central Depositories (Regulation of Central Depositories) (Amendment) Rules, 2025 in line with the Constitution, the Interpretation and General Provisions Act (*Cap. 2*), the Central Depositories Act (*Cap 485C*), and the Statutory Instruments Act (*Cap. 2A*) and observe that-
 - i. The Rules were submitted to Parliament within the statutory timelines contemplated under Section 11(1) of the Statutory Instruments Act (*Cap.2A*).
 - ii. The Rules were made pursuant to Section 65 of the Central Depositories Act (*Cap 485 C*), which is the enabling section that empowers the Capital Markets Authority to make the Rules.
 - iii. There is attached to the Rules, a detailed explanatory memorandum which provides for the justification for making the Rules. The memorandum states that the rationale behind the amendment is to align the levy framework with transaction activity while maintaining a fair contribution structure across issuers. This structure therefore aims

to promote equity by ensuring that the deposit levy better reflects the actual usage of the depository services, thus supporting growth and operational efficiency in the capital markets infrastructure.

- iv. The explanatory memorandum submitted indicates that the Capital Markets Authority subjected the Rules to public participation and sought for comments from the public on 10th July, 2023. The Authority sought for comments through stakeholder consultations held on 17th August, 2023 and a focused engagement session with issuers and market infrastructure institutions which took place on 6th September 2023. The memorandum states the various stakeholders who gave an input on the Rules and gives evidence of the consultation and its outcomes.
- v. The explanatory memorandum provides for the impact of the Rules on the private sector which is expected to benefit from a more proportionate levy structure that aligns fees with actual transactions and likely to encourage listing and market participation. It further provides for the impact on the public sector since the revised levy structure will strengthen the financial sustainability of central depositories while reinforcing regulatory fairness, thus improving the integrity of the capital markets.
- vi. The memorandum provides for the monitoring and review of the Rules undertaken by the Capital Markets Authority's Directorate of Market Infrastructure and Product Development which will oversee implementation and compliance with the revised levy structure and continuous review undertaken through quarterly supervisory filings, and adjustments which may be proposed where market conditions so require.
- vii. The regulatory impact statement has been attached as required by section 6 of the Statutory Instruments Act.
- viii. In view of the findings above, the Committee resolved to **Approve** the Central Depositories (Regulation of Central Depositories) (Amendment) Rules, 2025 having been proposed by the Hon. (Dr.) Charles Mamwacha Onchoke, M.P, and seconded by the Hon. Joseph Kamau Munyoro, M.P

II. THE CAPITAL MARKETS (DERIVATIVES MARKET) (AMENDMENT) REGULATIONS, 2025

1. The Regulations seeks to amends **Regulation 15** of the Capital Market (Derivatives Market) Regulation, 2015, by deleting **sub-regulation 4** and substituting therefor the following new sub-regulation-
 - (4) A derivative exchange shall submit to the Authority a liquid net worth certificate within thirty days at the end of each quarter.
2. By adding the following new sub- Regulation immediately after **sub-regulation 4**
 - (5) A derivative exchange shall, at least once each year, to submit to the Authority an audited liquid net worth Certificate from the auditor within ninety days after the end of each year.
3. The Regulation seeks to amend the Capital Markets (Derivative Markets) Regulation 2015 in order to ease the cost doing business of a derivative exchange by removing the requirement to submit an audited liquid net worth certificate quarterly.

4. Upon deliberation, the Committee analyzed Legal Notice No 110 of 2025 against the Statutory Instruments Act, Cap 2A, and made the following observations that;
- i. Legal Notice 37 of 2025 is a statutory instrument and has the force of law within the meaning of section 2 of the Statutory Instruments Act, Cap 2A to the extent that it is made pursuant to the powers conferred under section 12(1) of the of the Capital Markets Act, Cap 485A.
 - ii. The Regulations was Gazetted as Legal Notice 37 of 2025, on 4th of April, 2025. It was received by the Clerk of the National Assembly on 24th April, 2025 and tabled on the 29th April, 2025, hence within the Statutory timelines contemplated under section 11 (1) of the Statutory Instruments Act, Cap 2A that requires a Cabinet Secretary to transmit a copy of a statutory instrument within seven sitting days after publication.
 - iii. The Legal Notice No.37 of 2025 is accompanied by a detailed Explanatory Memorandum as required under section 5A of the Statutory Instruments Act, Cap 2A.
 - iv. There is attached evidence of consultation with stakeholders, as required under section 5 of the Statutory Instruments Act, Cap 2A. As per the explanatory memorandum, the Capital Markets Authority held a roundtable meeting stakeholders on 28th September, 2023, where the Regulations were discussed and approved by stakeholders. Attached to the explanatory is a list of stakeholders who participated in the roundtable meeting.
 - v. The regulatory impact statement has been attached as required by section 6 of the Statutory Instruments Act
 - vi. In view of the findings above, the Committee resolved to **Approve** the Central Depositories (Regulation of Central Depositories) (Amendment) Rules, 2025 having been proposed by the Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P, and seconded by the Hon. Innocent Mugabe, M.P

III. THE PUBLIC FINANCE MANAGEMENT (PUBLIC OFFICERS MEDICAL FUND) REGULATIONS, 2024

The Cabinet Secretary, National Treasury and Economic Planning highlighted a brief overview of the regulations and thereafter invited Dr. Jonah Wala to make a detailed presentation as follows;

1. **Regulations 1 and 2** are preliminary provisions which include the citation and interpretation while regulation 3 provides for the objects of the Regulations.
2. **Regulation 4** establishes the Fund while **Regulation 5** provides for the purpose of the Fund.
3. **Regulation 6** provides for the sources of the Funds.
4. **Regulation 7** provides for the initial capital of the Fund which shall be the amount appropriated by the National Assembly in the Financial year 2024/2025
5. **Regulation 8** provides for the payments out of the Fund.
6. **Regulation 9** provides for retention of funds.
7. **Regulation 10** provides for the Board of the Fund.
8. **Regulation 11** establishes the committee which shall advise the Board on administration and management of the Fund and outlines the composition of the committee.
9. **Regulation 12** provides for the Administrator of the Fund who shall be the Chief

Executive Officer of the Social Health Authority.

10. **Regulation 13** provides for the secretariat of the Fund.
11. **Regulation 14** provides for contracting.
12. **Regulation 15** provides that the financial year of the Fund shall be the period of twelve months commencing on the first July in each year and ending on the thirtieth of June.
13. **Regulation 16** provides for Bank accounts of the Fund.
14. **Regulation 17** provides for overdrawn accounts.
15. **Regulation 18** provides for expenditure and commitments of the Fund.
16. **Regulation 19** provides for the withdrawal from the Fund
17. **Regulation 20** provides for the annual estimates
18. **Regulation 21 and 22** provides for the annual reports and records of the Fund
19. **Regulation 23** provides for the Financial and procurement regulation
20. **Regulation 24** provides for administrative expenses
21. **Regulation 24 and 26** provides for the review of the performance of the fund and winding up of the Fund
22. Upon deliberation, the Committee made the following observations that;
 - i. The Committee sought to know why the regulations limit their application to the Public Service Commission, yet exclude the Parliamentary Service Commission and the Judicial Service Commission, notwithstanding that staff of both Commissions are also contributories to SHA.
 - ii. The Committee sought to know why there is a need for an enhanced medical cover for the Public Service Commission if SHA is functioning effectively.
 - iii. Further, the Committee sought clarification on whether the proposed Regulations would result in additional deductions from the pay slips of employees in the public service.
 - iv. The Committee sought to know why the proposed Regulations are necessary, considering that the National Hospital Insurance Fund (NHIF) had been providing enhanced medical cover to the Public Service Commission without the need for a separate regulatory framework.
 - v. The Committee sought to know how the National Assembly will appropriate money to the Fund.
 - vi. The provision amounts to a revision of the terms and conditions of service for civil servants by conferring additional benefits through a statutory instrument.
 - vii. Regulation 8(2) does not put a cap on payments from the Fund for administrative expenses. The provision is too loose and susceptible to abuse, and should be amended to include a ceiling – preferably set at 3% to ensure accountability and safeguard the Fund’s resources.
 - viii. Under regulation 10 (d), avoid ambiguity by choosing a specific agency like DCI instead of using the word “or”
 - ix. The Committee should not be overly bloated, in order to minimise costs, and should comprise an even number of members to ensure balanced decision-making.
 - x. SHA, being the service provider under the Regulations, should not have representatives serving in the advisory committee as provided for under Regulation 11(1)(b), to avoid potential conflict of interest and to safeguard the independence of the advisory body.
 - xi. Regulation 11(2)(1) inappropriately delegates legislative mandate to the Cabinet Secretary, which is inconsistent with the Constitutional and the Statutory Instruments Act.

- xii. In view of the concerns raised above, the Committee resolved to defer its consideration to the next sitting.

IV. THE PUBLIC SERVICE SUPERANNUATION SCHEME (PSSS) REGULATIONS, 2025

1. **PART I** provides for the preliminary provisions. This Part provides for the interpretation of terms used in the Regulations thereby enhancing clarity in the Regulations.
2. **PART II** provides for the obligations of the employer, the members and the Board regarding the scheme. The section requires employers to ensure employees are enrolled in the scheme, members to ensure their deductions are in order, and the Board to ensure proper management of the Scheme.
3. **PART III** provides for general meetings. This part sets out the mandate of the Board concerning Annual General Meetings and Special General Meetings
4. **PART IV** provides for contributions, savings, and payments. This part provides for Additional Voluntary Contributions to the scheme by members, the setting up and access of a Retirement Savings Account for each member, withdrawal from the Retirement Savings Account, transfer of benefits by a member who leaves employment before attaining retirement age to a scheme registered under the Retirement Benefits Act, deferment of benefits by a member who leaves employment of the public service, procedures undertaken on retirement upon attaining mandatory retirement age, procedures where there is early retirement, payment of Retirement Benefits, benefits from the Scheme upon death in service, the benefits under life insurance and retirement benefits accrued before the commencement of the Act.
5. **PART V** provides for the miscellaneous provisions. This part provides for the dispute resolution mechanisms under the Regulations.
6. Upon deliberation, the Committee analyzed Legal Notice No 110 of 2025 against the Statutory Instruments Act, *Cap 2A*, and made the following observations that;
 - i. Legal Notice No. 110 of 2025 is a statutory instrument and has the force of law within the meaning of section 2 of the Statutory Instruments Act, *Cap 2A* to the extent that it is a Regulation made pursuant to the powers conferred under section 55 of the of Public Service Superannuation Scheme Act, *Cap 189A*.
 - ii. The Regulations were published in the Gazette as Legal Notice No. 110 of 2025 on 13th June, 2025. It was received on 23rd June, 2025 hence is within the statutory timelines contemplated under the Statutory Instruments Act.
 - iii. The Legal Notice No.110 of 2025 is accompanied by a detailed Explanatory Memorandum.
 - iv. There is evidence of sufficient public participation attached to Legal Notice 110 of 2025.
 - v. Regulatory Impact Statement is also attached as evidence that a regulatory impact statement has been prepared.
 - vi. The Committee took note of the fact that the regulation making body had incorporated all the comments that were raised by members during Pre-publication scrutiny.

- vii. In view of the findings above, the Committee resolved to **Approve** the Public Service Superannuation Scheme (PSSS) Regulations, 2025 (Legal Notice No. 110 of 2025), having been proposed by the Hon. Robert Mbui, CBS, M.P., and seconded by the Hon. Joseph Kamau Munyoro, M.P

V. THE DRAFT PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS, 2025

Mr Renson Ingonga, Director of Public Prosecutions briefed the Committee on the Draft Public Finance Management (Public Prosecutions Fund) Regulations, 2025 as follows;

1. **Regulation 1 and 2** provides the citation of the Regulations and the interpretation of various terms as used in the Regulations.
2. **Regulation 3** provides for the objects of the regulations, which is to provide a framework for the administration and management of the fund.
3. **Regulations 4 and 5** provide for the establishment and the capital of the fund.
4. **Regulation 6** provides for the purpose the fund seeks to achieve while being administered.
5. **Regulation 7** provides for the sources of fund. This shall include moneys appropriated by the National Assembly, grants and donation, money from deferred prosecution, money from proceeds of plea-bargaining agreement, money from incidental compensation and restitution orders arising from criminal proceedings amongst others.
6. **Regulation 8** provides for payments out of the fund which shall be in respect of the expenses incurred in pursuance of the objects and purpose for which the fund is established.
7. **Regulation 9** provides for the retention of the fund. That the earnings or accruals to the fund shall be retained in the fund and spent only for the purpose for which the fund is established.
8. **Regulations 10 and 11** provide for the establishment of the board and the committees of the board, respectively.
9. **Regulation 12** provides that the board may co-opt any person not being a member of the board, to a committee of the board to provide such expertise as may be required in the circumstance.
10. **Regulations 13 and 14** provide for the meetings of the board and quorum to be achieved at a meeting of the board. That quorum at a meeting of the board shall be five members.
11. **Regulation 15** provides that the except as provided for under these regulations, the board may regulate its procedure.
12. **Regulation 16** provides for the functions of the Board.
13. **Regulations 17 and 18** provide for the appointment and functions of the Chief Executive Officer who shall be the administrator of the fund.
14. **Regulation 19** provides for the secretariat to support the functions of administration of the fund.
15. **Regulation 20** provides for the financial year which shall be 12 months commencing first July of each year to thirtieth June.

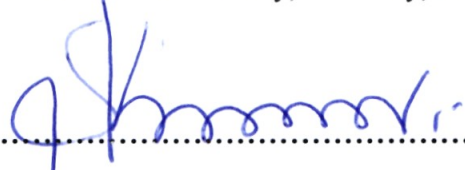
16. **Regulation 21** provides for the Bank accounts of the fund which shall be in the name of the fund and maintained in a bank regulated by the Central Bank of Kenya in accordance with the Act.
17. **Regulations 22** provides that the administrator of the fund shall ensure that the Bank accounts of the fund are not overdrawn.
18. **Regulations 23 and 24** provide for the expenditure and commitments of the fund and withdrawal from the fund.
19. **Regulations 25 and 26** provide for investment of surplus funds and annual estimates.
20. **Regulations 27 and 28** provide for annual reports and records of the funds.
21. **Regulations 29** provides that the fund shall be governed by all relevant financial and procurement laws and regulations as applicable.
22. **Regulations 30, 31 and 32** provide for the general provisions which includes, administrative expenses, review of performance of the fund and winding up of the fund.
23. Upon deliberation, the Committee made the following observations that;
 - i. "Deferred prosecution" should be defined as per the relevant Act. The inclusion of the phrase "fulfil certain requirements set by the Office" in the definition of "deferred prosecution" is not specific and may be abused.
 - ii. "Plea bargaining agreement" should be defined as per the relevant Act. The inclusion of the phrase "some concessions" in the definition of "plea bargaining agreement" is ambiguous and amounts to an inappropriate delegation of legislative mandate
 - iii. Under regulation 6, the phrase "support and facilitate" should be clearly defined to avoid ambiguity and ensure clarity in its interpretation and application
 - iv. The Assets Recovery Agency is already established under Section 53 of the Proceeds of Crime and Anti-Money Laundering Act, Cap. 59A, with the mandate to implement Parts VII to XII of the said Act.
 - v. Regulation 6(m) inappropriately delegates legislative mandate, contrary to the Statutory Instruments Act.
 - vi. The reference to moneys appropriated by the National Assembly as part of the Funds under Clause 7(a) should not be construed to create an additional budget line.
 - vii. Clause 7(g) should refer specifically to the investment of the surplus of the Funds, rather than broadly stating "investments of the Funds," as the Office of the Director of Public Prosecutions is not an entity engaged in investment activities.
 - viii. Clause 7(h) inappropriately delegates to the Cabinet Secretary the power to determine other sources of funding, contrary to the Statutory Instruments Act.
 - ix. The reference to the "Attorney-General" in Clause 10(2)(b) should be substituted with the "Solicitor-General" to reflect the appropriate office bearer for the intended function.
 - x. The reference to the "Inspector-General" in Clause 10(2)(d) should be substituted with the "Director of Criminal Investigations" to ensure alignment with the appropriate office responsible for the specified function.

- xi. The phrase “related to finance” should be inserted immediately after the phrase “or any other relevant field” appearing in Clause 17(3)(a), to provide greater clarity and specificity regarding the qualifications required.
- xii. The Committee was satisfied with the draft regulations and recommended its publication upon incorporating the comments raised above.

MIN. DAA&GPC/CDL/105/2023

ADJOURNMENT

There being no other business, the meeting was adjourned at Two Minutes past Two O'clock.
The next meeting will be held on Tuesday, 22nd July, 2025

SIGNED: 

THE HON. SAMUEL CHEPKONGA, CBS, M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION

DATE: 22/07/2025



THE NATIONAL TREASURY & ECONOMIC PLANNING

REPUBLIC OF KENYA

PUBLIC NOTICE

DRAFT PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS, 2024

The Office of the Director of Public Prosecutions (ODPP) was established under Article 157 of the Constitution of Kenya, 2010 and is given effect by the Office of the Director of Public Prosecutions Act, 2013. The mandate of the DPP is to institute and undertake prosecution of criminal matters, in all courts other than court-martial, and all other aspects incidental thereto.

The ODPP has deployed several measures in the fight against graft and other transnational organized and complex crimes. The ODPP is not only determined to prosecute suspects but also to recover stolen funds and proceeds of crime for the benefit of the Kenyan people. The proceeds of crime that have been unlawfully acquired will be seized, recovered, confiscated, and restored through plea bargaining, diversion, deferred agreements, compensation, and restitution.

The ODPP has now proposed the establishment of a Fund to be called the Public Prosecutions Fund, which will receive these proceeds of crime and use them for supporting the criminal justice system in Kenya and in particular the objectives highlighted in the paragraph below.

The Public Prosecutions Fund will have the objective of supporting and facilitating the tracing, forfeiture or recovery of assets, supporting and facilitating other government agencies collaborating or assisting the Office in tracing, forfeiture or recovery of assets, facilitating the preservation of assets in the custody of the investigating agency, supporting the development and operationalization of a centralized case management and information system among other related activities.

Accordingly, an Inter-Agency Taskforce composed of officers drawn from the Office of the Director of Public Prosecution, Office of the Attorney General & Department of Justice, Office of the Inspector General and the National Treasury has now finalized preparing the draft Public Finance Management (Public Prosecution Fund) Regulations, 2024.

The Public Finance Management (Public Prosecutions Fund) Regulations, 2024 have been posted to the National Treasury website <http://www.treasury.go.ke>.

Now, pursuant to Section 4 (a) and 5 (3) (a) and (b) of the Statutory Instruments Act, 2013, the National Treasury Economic Planning invites members of the public to submit any comments, inputs or memoranda they may have on the said draft Public Finance Management (Public Prosecution Fund) Regulations, 2024 in the format provided on the website.

All comments, inputs or memoranda thereof from the general public may be forwarded to the Principal Secretary, National Treasury, P. O. Box 30007-00100, Nairobi or hand-delivered to the Office of the Principal Secretary, National Treasury Building, Nairobi, or emailed to ps@treasury.go.ke and copied to jona.wala@treasury.go.ke to be received by **22nd October, 2024 at 5.00 p.m.** The comments inputs or memoranda from the general public received will be considered public record and may be shared with the legislative arm of the Government. Comments are most helpful if they indicate the specific regulation or group of regulations to which they relate, contain a clear rationale and where applicable provide a suggestion for alternative wording. Comments must be submitted in English (see format for Template for Comments). The Regulations may be modified in light of comments received before being published in the final form.

There shall be in-person meetings for public consultations on the above Public Finance Management (Public Prosecution Fund) Regulations, 2024 as per the schedule below: -

	Stakeholder	Dates for meeting	Time for meeting
1.	Office of the Director of Public Prosecutions	23rd October, 2024	10.00 am
2.	Witness Protection Agency	23rd October, 2024	10.00 am
3.	Asset Recovery Agency	23rd October, 2024	10.00 am
4.	Office of the Inspector General	23rd October, 2024	10.00 am
5.	Office of Attorney General and Department of Justice	23rd October, 2024	10.00 am
6.	Members of the Public	23rd October, 2024	10.00 am

The invitation letters for the meetings shall be hand-delivered to the registered stakeholders before the date of the meeting. The venue of the meeting will be at **The National Treasury 5th floor AGDs Board room** as indicated in the invitation letter.

on. CPA John Mbadi Ng'ongo, EGH
MINISTER/CABINET SECRETARY/NATIONAL TREASURY AND ECONOMIC PLANNING



**ATTENDANCE LIST FOR THE MULTI-AGENCY TASKFORCE MEETING ON THE PUBLIC FINANCE
MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS 2024
VENUE: 5TH FLOOR BOARDROOM**










DATE: 23RD OCTOBER, 2024

NO	NAME	MINISTRY/STATE DEPARTMENT/ ORGANIZATION	TEL. NO.	EMAIL	SIGN.
1.	W/ADA	NI	0720179681	W/ADA@treasury.gov.k	
2.	K. A. Tamui	WPA	0722758479	tamui@wpa.gov.k	
3.	Ben Mura	EACC	0722732225	benmura@eacc.gov.k	
4.	David K. To	EACC	0717677773	dto@eacc.gov.k	
5.	M. K. K. K.	MPA	0720658874	mkk@mpa.gov.k	
6.	Abdullah K. K.	NPS-DCI	0734688067	ak@nps.gov.k	
7.	FREDRICK K. K.	NPS	0724787042	fk@nps.gov.k	
8.	Vincent Monda	ODPP	0722851354	vincentmonda2016@gmail.com	
9.	Irene K. K.	ODPP	0722223577	ik@odpp.gov.k	
10.	MUSOMI ARANDA	ODPP	0723566148	musomi@odpp.gov.k	

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**ATTENDANCE LIST FOR THE MULTI-AGENCY TASKFORCE MEETING ON THE PUBLIC FINANCE
MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS 2024
VENUE: 5TH FLOOR BOARDROOM**

DATE: 23RD OCTOBER, 2024

NO	NAME	MINISTRY/STATE DEPARTMENT/ ORGANIZATION	TEL. NO.	EMAIL	SIGN.
1.	Nicholas Mutea	ARA	07298912	nmutua@ara.go.ke	
2.	ANDREW O. OGIENGO	ARA	0733928321	gackki@ara.go.ke	
3.	John M. Mwangi	ARA	0777875430	johnm@ara.go.ke	
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10.					



REPUBLIC OF KENYA

NAME OF THE REGULATIONS: PUBLIC FINANCIAL MANAGEMENT (PUBLIC PROSECUTIONS FUND) REGULATIONS, 2024

INSTITUTION:

DATE:

S/No	Regulation No.	Provisions of the Regulations*	Proposed Amendment**	Rationale for Amendment Recommendation
1.	8	Inclusion of civil society representative	8(2)(g)	No representation of civil society on the board.
2.				
3.				

*Provide text on the exact wording of the provision in the regulations paragraph or sub-paragraph

** provide the exact wording of how the proposed amendment to the regulations paragraph or sub-paragraph is proposed to be read.

(1)

**PUBLIC PARTICIPATION/STAKEHOLDERS COMMENTS
AND TASK FORCE RESOLUTIONS ON THE PUBLIC
FINANCE MANAGEMENT (PUBLIC PROSECUTION FUND)
REGULATIONS, 2025**

REG.	ISSUES/ COMMENTS	PROPOSED RECOMMENDATION
1. WITNESS PROTECTION AGENCY		
	<p>Add the following 7 seven clauses as purposes of the Fund:</p> <p>1. <i>“Support in the management, integration, and inter/national resettlement of protected witness.”</i></p>	<p>Agreed, Section 4 (f) of the Regulation was amended to read “facilitate the management of witnesses and support victims of crimes”.</p>
	<p>2. <i>“Support technical assistance to witnesses and protected persons in Courts.”</i></p>	<p>Agreed, Section 4 (f) of the Regulation was amended to read “facilitate the management of witnesses and support victims of crimes”.</p>
	<p>3. <i>“Support training and sensitization of justice sector stakeholders in the administration of justice.”</i></p>	<p>Agreed, Section 4 (i) of the Regulation was amended to read “facilitate training and capacity building for officers in the criminal justice sector and the Office”.</p>
	<p>4. <i>“Maintain an emergency reserve/contingency funding in urgent Witness Protection cases for</i></p>	<p>Agreed, Section 4 (f) of the Regulation was amended to read</p>

REG.	ISSUES/ COMMENTS	PROPOSED RECOMMENDATION
	<i>immediate protection to prosecution witnesses facing imminent threats.</i>	“facilitate the management of witnesses and support victims of crimes”.
	5. <i>“Support the special needs of child witnesses, particularly for psychological and welfare support.”</i>	Agreed, Section 4 (f) of the Regulation was amended to read “facilitate the management of witnesses and support victims of crimes”.
	6. <i>“Assist in the development, innovation, and implementation of technology-driven witness protection measures, including virtual hearings and digital security measures and strategies,”</i>	Agreed, Section 4 (f) of the Regulation was amended to read “facilitate the management of witnesses and support victims of crimes”.
	7. <i>“Support program for witnesses who face economic hardship as a result of their cooperation with the prosecution.”</i>	Agreed, Section 4 (f) of the Regulation was amended to read “facilitate the management of witnesses and support victims of crimes”.
8(2)	Add Director WPA to the Board <i>‘e. The Director/Chief Executive Witness Protection Agency’</i>	Agreed, the Regulation has been amended to include the Director of Witness Protection Agency in the Public Prosecutions Fund Advisory Board. Refer to Reg. 9 2(a).
2. ASSETS RECOVERY AGENCY		

REG.	ISSUES/ COMMENTS	PROPOSED RECOMMENDATION
	<p>1. Contradiction with Section 109 of the Proceeds of Crime and Anti-Money Laundering Act, 2009 (POCAML A)</p> <p>Section 110 of POCAML A provides that Finances for the Fund shall consist of the following;</p> <p><i>v. “Any money or property recovered under the Anti-Corruption and Economic Crimes Act, 2003 (No.12 of 2003), or under any other Act other than money or property recovered on behalf of any public body or person”</i></p> <p>Findings: The intended sources of the Prosecution Fund from the recovery of criminal proceeds are in direct conflict with the above-quoted provisions of POCAML A and Proceeds of Crime and Anti-Money Laundering (Criminal Assets Recovery Fund) Regulations,2023.</p>	<p>Not agreeable, having the same source of funding does not cause illegality and there is no express provision to this effect negating funding of any other fund from this source.</p>
	<p>2. Contradiction with the mandate of the Assets Recovery Agency</p> <p>The Cabinet Secretary for the National and Economic Planning gazetted the Proceeds of Crime and Anti-Money Laundering (Criminal Assets Recovery Fund) Regulations,2023 on 5th October 2023 outlining the administration of the</p>	<p>Not agreeable, the purpose of the Fund under Regulation 4 is to support the criminal justice sector in the country not for operational purposes. It is the administrative cost of the Fund and not ODPP administration.</p>

REG.	ISSUES/ COMMENTS	PROPOSED RECOMMENDATION
	<p>Fund which comprises properties recovered from criminal proceeds.</p> <p>The Public Finance Management (Public Prosecutions Fund) Regulations, 2024, therefore, duplicates and contradicts the Proceeds of Crime and Anti-Money Laundering (Criminal Assets Recovery Fund) Regulations, 2023 as to how the proceeds of crime will be utilized.</p>	
	<p>3. Contradiction with the mandate of the Assets Recovery Agency</p> <p>The Office of the Director of Public Prosecutions (ODPP) was established under Article 157 of the Constitution of Kenya, in 2010. The mandate of the ODPP is to institute and undertake prosecution of criminal matters, in all courts other than court-martial.</p>	<p>Not agreeable, the mandate of ODPP is provided under Article 157 of the Constitution and the Office of the Director of Public Prosecutions Act (Cap.6B). This Fund was established under Section 24 (4) of the Public Finance Management Act (PFMA) which establishes the creation and operationalization of any fund in the country.</p> <p>The Assets Recovery Agency deals with the civil recovery of assets while the Fund will deal with criminal recovery of assets.</p>

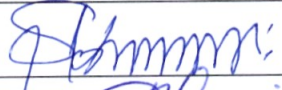
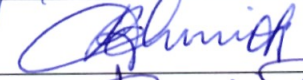
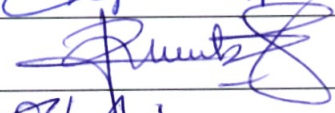
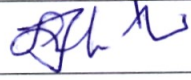
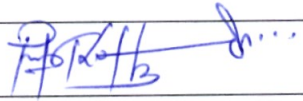

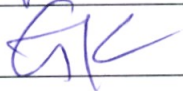
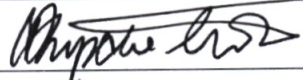

REG.	ISSUES/ COMMENTS	PROPOSED RECOMMENDATION
	<p>4. Section 45(1) of the ODPP Act, 2013 establishes the Prosecution Fund with the following objects;</p> <ul style="list-style-type: none"> a) Enhancement of the operational capacity of the Office. b) The welfare of the personnel of the Office; and c) Any activity approved by the office. <p>Further, Section 45(2) provides the sources of finance for the Fund as: -</p> <ul style="list-style-type: none"> (a) Allocations by National Assembly; (b) Grants and donations; and (c) Any other source as may be approved from time to time by the Director. <p>Therefore, the above objects and sources of the Fund as contained in the ODPP Act, 2013 contradict those listed in the published Public Notice and by extension in the Regulations.</p>	<p>This Regulation is anchored under Section 24 of the Public Finance Management Act (PFMA) and not in Section 45 of the ODPP Act.</p> <p>The intention is to repeal section 45 of the ODPP Act and anchor the Fund under the PFM Act.</p>
	<p>5. Criminal forfeiture usually requires a conviction. Once the defendant is convicted of the crime, a civil application is instituted to forfeit the government the criminal property. The ODPP's core constitutional mandate is not to prosecute criminals and not to entertain civil suits since there are existing institutions to undertake</p>	<p>Not agreeable, Section 4 (d) of the Judiciary Fund Act includes "money accruing to or received by the Judiciary from any other source" as a source of funds.</p>

REG.	ISSUES/ COMMENTS	PROPOSED RECOMMENDATION
	<p>that function as this may likely blur the office's core mandate.</p> <p>Alternatively, once the defendant is convicted of the crime, a forfeiture can be ordered by the court as part of the criminal sentence. Such forfeited property goes to the Judiciary pursuant to Section 4(d) of the Judiciary Fund Act and not the ODPP.</p>	
	<p>6. The published Public Notice states that among the purposes of the Prosecution Fund is to support and facilitate the tracing, forfeiture of recovery, or recovery of assets. However, this begs for the following salient questions: -</p> <p>(i) These functions relate to investigation, not prosecution. How then do we create a Prosecutions Fund for the benefit of investigation?</p>	<p>The purpose of the Fund is to “facilitate investigation and prosecution of all criminal proceedings” as stated in Reg. 4 (a).</p>
	<p>(ii) Worse still, how will investigations benefit from this Fund when none is included in the proposed Prosecutions Advisory Board – ARA, DCI, KWS, EACC, KRA, etc., who are the key investigative agencies as far as assets tracing is concerned?</p>	<p>Not agreeable, Reg 4 (i) states “facilitate multi-agency approach in investigations and prosecutions” as one of the purposes of the Fund.</p>


COMMITTEE ON DELEGATED LEGISLATION ADOPTION LIST

DATE: 05/03/2026 VENUE: 5TH FLOOR BUNGE TOWER STARTING TIME: 10:00AM
ENDING TIME:

AGENDA: CONSIDERATION OF THE REPORT ON THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTIONS) REGULATIONS, 2025

	NAME	SIGNATURE
1.	The Hon. Chepkong'a Kiprono Samuel, CBS, M.P, Chairperson	
2.	The Hon. Githinji, Robert Gichumi, M.P. Vice-Chairperson	
3.	The Hon. Mbui, Robert, CBS, M.P.	
4.	The Hon. Sunkuli Julius Lekakeny, EGH, EBS, MP	
5.	The Hon. Maj. (Rtd) Abdullahi Bashir Sheikh, M.P.	
6.	The Hon. Mwirigi, John Paul, M.P.	
7.	The Hon. Kamene, Joyce, M.P.	
8.	The Hon. Omondi, Moses Okoth M.P.	
9.	The Hon. Odoyo, Jared Okello, M.P.	
10.	The Hon. Anthony, Oluoch, M.P.	
11.	The Hon. Maj. (Rtd.) Dekow Barrow Mohamed, M.P.	
12.	The Hon. Munyoro, Joseph Kamau, M.P.	
13.	The Hon. (Dr.) Kimaiyo, Gideon Kipkoech, M.P.	
14.	The Hon. Waithaka, John Machua, M.P.	
15.	The Hon. Chepkorir, Linet, M.P.	
16.	The Hon. Chebor, Paul, M.P.	
17.	The Hon. Lenguris, Pauline, M.P.	
18.	The Hon. (Dr.) Mamwacha Onchoke Charles, M.P.	
19.	The Hon. Yakub, Adow Kuno, M.P.	
20.	The Hon. Mnyazi, Amina Laura, M.P.	

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21.	The Hon. Mugabe, Innocent Maino, M.P.	
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