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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION - 2025

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

REPORT ON: -

THE ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2025) SPONSORED BY THE LEADER OF MAJORITY PARTY, HON. KIMANI ICHUNG'WAH, M.P

THE NATIONAL ASSEMBLY
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TABLED BY: HON. GABRIEL TONGOYO, MP CHAIRPERSON
CLERK-AT THE-TABLE: VIVIAN WAMBUI

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CHAIRPERSON'S FOREWORD

The Assumption of the Office of President and Transition of Executive Authority Bill, 2025, (National Assembly Bill No. 1 of 2025), sponsored by the Leader of Majority Party, Hon. Kimani Ichung'wah, MP was read a First Time on 20th February, 2025 and committed to the Departmental Committee on Administration and Internal Security for consideration and reporting to the House, pursuant to Standing Order 127(1)

The Bill proposes to repeal the current Assumption of the Office of the President Act, which was assented to on 27th August, 2012 and commenced on 9th March, 2013. The Bill proposes to expand the scope of the law on transition in the offices of Cabinet Secretaries, the Attorney General, Principal Secretaries and the Secretary to the Cabinet.

Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), advertisements for request for submission of memoranda were placed in the print media on 25th February, 2025 inviting interested members of the public to submit views on the Bill. The Committee received submissions from the State Department for Parliamentary Affairs, the Ministry of Interior and National Administration, the Office of the Deputy President, the Office of the Attorney General and the Office of the Inspector General of the National Police Service. All submissions were considered by the Committee.

The Committee, having considered the Assumption of the Office of President and Transition of Executive Authority Bill (National Assembly Bill No. 1 of 2025) clause by clause and taking into consideration views and recommendations of the stakeholders pursuant to Standing Order 127(3A), made observations contained in Part Four of this report and recommended that the House **REJECTS** the Bill.

Acknowledgement

The Committee is thankful to the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings.

On behalf of the Committee, and pursuant to Standing Order 127(4), it is my pleasant duty to table the Report of the Departmental Committee on Administration and Internal Security on its consideration of the Assumption of the Office of President and Transition of Executive Authority Bill (National Assembly Bill No. 1 of 2025).

HON. GABRIEL TONGOYO, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL SECURITY

PART I

1.0 PREFACE

1.1 Mandate of the Committee

1. The Departmental Committee on Administration and Internal Security is constituted pursuant to the National Assembly Standing Order 216(1) which mandates Departmental Committees to-

    a. *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*

    b. *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*

    (ba) on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;

    c. *study and review all legislation referred to it;*

    d. *study, assess and analyze the relative success of the Ministries and departments by the results obtained as compared with their stated objectives;*

    e. *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*

    f. *vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*

    (fa) examine treaties, agreements and conventions;

    g. *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*

    h. *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*

    i. *examine any questions raised by Members on a matter within its mandate.*

1.2 Subjects of the Committee

2. In executing its mandate, the Committee is mandated to consider the following subjects:

    a. Home affairs, internal security – including police services and coast guard services;
    b. Public administration; and
    c. Immigration and citizenship.

1.3 Committee Membership

3. The Committee comprises of the following Members: -

Hon. Gabriel Tongoyo, CBS, MP
Chairperson
Narok West Constituency

Hon. Col. (Rtd.) Dido Rasso, MBS, MP
Vice Chairperson
Saku Constituency

Hon. Kaluma Peter, CBS, MP
Homa Bay Town Constituency

Hon. Aduma Owuor, MP
Nyakach Constituency

Hon. Fred C. Kapondi, MP
Elgon Constituency

Hon. Liza Chepkorir Chelule, MP
Nakuru County

Hon. Sarah Paulata Korere, MP
Laikipia North Constituency

Hon. Oku Kaunya, MP
Teso North Constituency

Hon. Mburu Kahangara, MP
Lari Constituency

Hon. Peter Masara, MP
Suna West Constituency

Hon Protus Ewesit Akujah, MP
Loima Constituency

Hon. Rozaah Akinyi Buyu, MP
Kisumu West Constituency

Hon. Caroline Ng'elechi, MP
Elgeyo-Marakwet County

Hon. Francis Sigei, EBS, MP
Sotik Constituency

Hon. Hussein Weytan, MP
Mandera East Constituency,

1.5 Committee Secretariat

4. The Committee Secretariat consists of the following:

Mr. John Mugoma -
Clerk Assistant I
Head of Secretariat

Ms. Grace Wahu
Clerk Assistant II

Mr. Edison Odhiambo
Fiscal Analyst I

Ms. Delvin Onyancha
Research Officer II

Ms. Judith Kanyoko
Legal Counsel II

Mr. Rodgers Kilungya
Audio Officer

Mr. Gideon Kipkogei
Clerk Assistant II

Ms. Clarah Kimeli
Principal Legal Counsel I

Mr. Benson Kimanzi
Serjeant at Arms

Ms. Ivy Maritim
Media Relations Officer III

PART II

2.0 THE PROPOSED ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2025)

2.1 Analysis of the Bill

5. **The following is the analysis of the Bill: -**

6. **Clause 1 o**f the Bill provides for the short title of the Bill as "the Assumption of the Office of President and Transition of Executive Authority Act, 2025".

7. **Clause 2** provides for interpretation of the terms used in the Bill. Certificate of inauguration" means a certificate signed by the President upon being sworn in; "Commission" means the Independent Electoral and Boundaries Commission established under Article 88 of the Constitution; "Committee" means the Assumption of the Office of President and Transition of Executive Authority Committee established under clause 8; "facilities" include an office, furniture, office machines and equipment, a house and a vehicle; "national security organs" means the institutions set out in Article 239(1) of the Constitution; "President-elect" means the person elected as President under Articles 138(4) or 138(7) of the Constitution but who has not assumed office under Article 141(3) of the Constitution; "public officer" has the meaning assigned to it under Article 260 of the Constitution; and "Secretariat" means the secretariat of the Committee established under clause 14.

8. **Clause 3** of the Bill provides for the objects of the Act. These are to provide for the procedure and ceremony for the assumption of the office of President by the President-elect; promote the orderly transfer of the executive authority from the outgoing to the incoming administration; and ensure public officers take appropriate lawful steps to facilitate orderly transition of the executive authority.

9. **Clause 4** provides for the guiding principles which are to guide the assumption of the office of President and Transition of Executive Authority Committee. These are Articles 134 and 141 of the Constitution and the national values and principles of governance set out in Article 10.

10. **Clause 5** provides for the application of the provision of the Act. The Bill proposes that the Act shall apply to the assumption of the Office of President by a President-elect; the assumption of the Office of Deputy President by the Deputy President-elect; and transition arrangements during the transition period.

11. **Clause 6** provides for six instances when transition of executive authority shall take place or be deemed to have taken place. These are when the President-elect assumes office in terms of

Article 141 or 146 of the Constitution, when the Deputy President-elect assumes office in terms of Article 148 of the Constitution, when the Attorney-General assumes office in terms of Article 156 of the Constitution, when a Cabinet Secretary assumes office in terms of Article 152 of the Constitution, when a Principal Secretary assumes office in terms of Article 155 of the Constitution; and when the Secretary to the Cabinet assumes office in terms of Article 154 of the Constitution.

12. **Clause 7** sets out the transition period as the period commencing **ninety days before the first vote in a presidential election** and ending **ninety days after a President-elect assumes office** or when the **Committee presents its report to Parliament under section 29, whichever comes earlier.**

13. **Clause 8** provides for the establishment of the Assumption of the Office of President and Transition of Executive Authority Committee. It establishes the Committee as an ad hoc committee consisting of twenty-five members as follows—

(i) the Head of the Public Service who shall be a co- chairperson;
(ii) the Attorney-General;
(iii) the Secretary to the Cabinet;
(iv) the Principal Secretary in the State Department responsible for matters relating to registration of persons and immigration;
(v) the Principal Secretary in the State Department responsible for matters relating to internal security;
(vi) the Principal Secretary in the State Department responsible for matters relating to defence;
(vii) the Principal Secretary in the State Department responsible for matters relating to foreign affairs;
(viii) the Principal Secretary of the State Department responsible for matters relating to finance;
(ix) the Principal Secretary in the State Department responsible for matters relating to information and communication;
(x) the Principal Secretary in the State Department responsible for matters relating to culture;
(xi) the Chief of the Kenya Defence Forces;
(xii) the Director-General of the National Intelligence Service;
(xiii) the Inspector-General of the National Police Service;
(xiv) the Clerk of the National Assembly;
(xv) the Clerk of the Senate;
(xvi) the Chief Registrar of the Judiciary; and
(xvii) nine other persons nominated by the President-elect.

14. The Bill further requires the President-elect to nominate a co-chairperson from amongst the nine persons nominated by him/ her and that that co-chairperson be the spokesperson of the Committee. It also requires the President-elect to nominate a public officer of at least the rank of Secretary or its equivalent in the public service, to be the Secretary to the Committee and

head of the Secretariat. It further provides that each of the nine members of the Committee nominated by the President-elect shall be bound by the provisions of the Official Secrets Act as if that member was a public officer.

15. The Bill mandates the Head of the Public Service to convene the first meeting of the Committee upon declaration of the election of the President-elect by the Independent Electoral and Boundaries Commission. It provides that a vacancy in the membership of the Committee shall not affect the decisions of the Committee and sets the quorum for the conduct of the business at a meeting of the Committee at two-thirds of all the members of the Committee.

16. The Bill requires the Attorney-General, to appoint the persons nominated by the President-elect by notice in the *Gazette* but provides that any nomination by the President-elect of the nine members shall not be construed as an exercise of the functions or powers of the President. The Committee shall hold office until the expiry of the transition period.

17. **Clause 9** provides for the functions of the Committee which are to facilitate the assumption of the office of the President and Deputy President, facilitate the transition of executive authority and the handing over process by an outgoing administration to an incoming administration, oversee the provision of adequate security to the President-elect and Deputy President-elect upon the declaration of the results of the presidential election by the Commission, oversee the provision of security briefings to the President-elect by the national security organs and to oversee the provision of briefings of the President-elect by relevant public officers.

18. The Committee's mandate is also to organize for the necessary facilities and personnel for the President-elect, facilitate communication between the outgoing President and the President-elect, prepare the programme and organize for the swearing-in ceremony and oversee the smooth transition of the outgoing President and Deputy President into retirement. The function of overseeing the transition of the outgoing President and Deputy President however, does not apply where the Deputy President has been elected as the President-elect or the Deputy President-elect. The Committee is also mandated to perform any other function necessary for the attainment of the objects of the Act or as may be assigned to it by any other written law.

19. **Clause 10** provides for the powers of the Committee and grants the Committee all powers necessary for the execution of its functions under the Act or any other written law.

20. **Clause 11** provides for subcommittees of the Committee. It permits the Committee to establish subcommittees for the better carrying out of its functions under the Act. It also permits the Committee to co-opt into the membership of an established subcommittee persons whose knowledge and skills are necessary for the performance of the functions of the Committee.

21. **Clause 12** provides for the convening of meetings. Save as otherwise provided in the Act, the Committee co-chairpersons are jointly be responsible for determining the agenda of the

Committee meetings including the time and date of the meetings and convening the meetings of the Committee.

22. **Clause 13** provides for the Procedures of the Committee and permits the Committee to determine its own procedure except as otherwise provided in the Act.

23. **Clause 14** provides for the establishment of the Transition Secretariat, which is the secretariat of the Committee. It requires the Head of the Public Service to appoint the members of the Secretariat on the date of the declaration of the results of the presidential elections. The Secretariat shall consist of such number of public officers as determined by the Committee as may be necessary for the efficient discharge of the mandate of the Committee. That notwithstanding, the Secretariat shall include public officers from each of following offices and cadres of the public service—

    (i) one person from the Office of the Head of Public Service;
    (ii) one person from the Cabinet Office;
    (iii) one national government administrative officer;
    (iv) one state counsel from the Office of the Attorney-General;
    (v) three security officers as follows—
        (a) one officer from the Kenya Defence Forces;
        (b) one police officer from the National Police Service; and
        (c) one intelligence officer from the National Intelligence Service; and
    (vi) three persons from the National Treasury as follows—
        (a) one officer from the Public Debt Management Office;
        (b) one officer from the Office of the Accountant-General; and
        (c) one officer from the Office of the Head of Supply Chain Management.

24. The Bill further permits the Committee to co-opt not more than six other public officers into the Secretariat in order to benefit from any special skills as may be necessary for the better carrying out of the functions of the Secretariat. The Secretariat shall hold office until the expiry of the transition period.

25. **Clause 15** provides for the Transition Centre to be established in the capital city which shall serve as the transition office of the President-elect and Deputy President-elect before the assumption of office and be the depository of any information and documents required during the transition period.

26. **Clause 16** provides for the security detail for the President-elect. It requires the Inspector-General of the National Police Service to ensure that the President-elect and Deputy President-elect are accorded adequate security upon the declaration of the final results of a presidential election by the Commission under Article 138 of the Constitution and section 39 of the Elections Act. In this case "adequate security" means security at the same status as the incumbent President and Deputy President.

27. **Clause 17** provides for security briefing and requires that the heads of the national security organs ensure that the President-elect receives security briefings.

28. **Clause 18** Provides for the requirement for public officers to provide required information. It requires the President-elect, in consultation with the Committee, to carry out such preparations as may be necessary for the purpose of assuming office and the orderly transition of executive authority. It permits the President-elect, in carrying out such preparations to request in writing for information from a public officer as the President-elect may consider necessary. It further mandates a public officer from whom information is requested to provide the information within a reasonable time. It makes non-compliance by a public officer an offence, with a penalty of a fine not exceeding one million shillings or imprisonment for a term not exceeding two years, or to both, upon conviction.

29. **Clause 19** provides for the swearing-in ceremony. It provides that the swearing-in of the President-elect shall be conducted in a public ceremony held in the capital city in accordance with Article 141 of the Constitution. It requires the Committee to publish, by notice in the Gazette, the date and place for the conduct of the swearing in ceremony and designates the day on which the President-elect is sworn in shall be a public holiday.

30. **Clause 20** provides for the taking of oath and signing of Certificate of Inauguration. It requires that the President-elect during the swearing -in ceremony, to make and subscribe to the oath or affirmation of allegiance and the oath or affirmation for the execution of the functions of office in accordance with Article 141 of the Constitution. The oath or affirmation is to be administered to the President-elect by the Chief Registrar before the Chief Justice or, in the absence of the Chief Justice, the Deputy Chief Justice, not earlier than 10:00 a.m. and not later than 2:00 p.m, provided that the Deputy Chief Justice shall undertake the task only in circumstances where the Chief Justice is incapacitated. Upon making and subscribing to the oath or affirmation the Bill provides that the President shall sign a Certificate of Inauguration in the presence of the Chief Justice or, in the absence of the Chief Justice, the Deputy Chief Justice.

31. **Clause 21 provides for handing over of instruments of power and authority.** It provides that upon signing the certificate of inauguration, the outgoing President shall hand over to the President instruments of power and authority being a sword and the Constitution. This however does not apply where the outgoing President is not present during the inauguration; or the incumbent is the President-elect. It further provides that the absence of the outgoing President at the inauguration shall not invalidate the assumption of the office of President by the President-elect.

32. **Clause 22** provides for the swearing-in of the Deputy President-elect. The Deputy President-elect shall make and subscribe to the oath or affirmation of allegiance to the oath or affirmation of allegiance *(sic)* and the oath or affirmation for the execution of the functions of office in accordance with Article 148 of the Constitution.

33. **Clause 23** sets out the role of public officers during the transition period. It prohibits a Cabinet Secretary or Principal Secretary from making any commitment that is or is intended to be binding on the Government within ninety days before the date of a presidential election, unless the commitment is necessary during that period and has been duly budgeted for. It prohibits a Cabinet Secretary or Principal Secretary from making any fresh appointments of public officers, nominating persons for appointment as public officers; or traveling outside Kenya without the prior written approval of the Head of the Public Service, during the period commencing on the date of the first vote in a presidential election and ending when the President-elect assumes office.

34. It further prohibits an accounting officer from making any changes or transfer of staff or making or authorizing any payment above fifty million shillings without the prior written approval of the National Treasury during the period commencing on the date of the first vote in a presidential election and ending when the President-elect assumes office. During the same period, it also prohibits a public officer from entering into contracts on behalf of the Government, entering into any international obligations binding the Government or undertaking any act of commission or omission whose intention or effect would be to disrupt the orderly transition of executive authority or otherwise aid in the disruption of the formation of Government. It makes non-compliance with this clause by a public officer with a penalty of a fine not exceeding ten million shillings or imprisonment for a term not exceeding ten years, or to both upon conviction.

35. **Clause 24** provides for handover reports. It requires ministries, state departments and agencies to submit hand over reports to the Head of the Public Service by the fifteenth day of July of the year of a presidential election. A handover report submitted shall outline the status of the matters listed below as at the end of the financial year preceding the date of the presidential election. The hand over report shall contain ministerial statements on—

(a) the Ministry's and the Ministry's State departments' mandate;
(b) the Ministry's state corporations, semi-autonomous agencies and their mandates;
(c) a report on all international obligations and their status;
(d) a complete list of all bank accounts and reconciled balances;
(e) legal and policy frameworks governing or being administered by the ministry and its state corporations;
(f) ongoing programmes and projects, contemplated high priority programmes and projects, values and completion rates;
(g) human resource matters including staff establishments, emoluments and achievements, training and development, performance appraisals and ongoing disciplinary matters;
(h) planning matters including performance contracts, work plans and accompanying performance status reports;
(i) financial matters including assets and contingent liabilities statement, statements of financial accounts and assets, pending bills, ongoing acquisitions, procurements and disposal of assets;

(j) legal matters including ongoing court cases and alternative dispute resolution processes and related contingent liabilities; and
(k) such other information as a Cabinet Secretary or head of a State department or agency may deem necessary to facilitate the orderly transition of executive authority.

36. The Bill then requires that the Head of the Public Service deposit the hand over reports submitted at the Transition Centre and the Transition Committee to facilitate the review of the hand over reports by the President-elect and Deputy President-elect during the transition period. The format of the hand over report is prescribed in the Schedule.

37. **Clause 25** provides that Subject to section 24, the Attorney-General, or any Cabinet Secretary, Principal Secretary or the Secretary to the Cabinet who was in office immediately before the swearing-in of the President-elect may remain in office until his or her successor assumes office.

38. **Clause 26** relates to accounting officers in the executive and provides that any person designated as an accounting officer within the Executive under section 67 of the Public Finance Management Act, shall continue to hold office until another accounting officer is designated in his or her place.

39. **Clause 27** provides for security during the swearing-in ceremony. It requires the Inspector-General of the National Police Service to ensure the provision of adequate security during the conduct of the swearing-in ceremony.

40. **Clause 28** provides for funding of the Committee. It mandates the Head of the Public Service to make provision for sufficient funds for the purposes of the Committee, Transition Secretariat and Transition Centre in the budget estimates of the Executive Office of the President for the presidential election's financial year.

41. **Clause 29** provides for the reports of the Committee. It requires the Committee to cause to be prepared and submitted to Parliament a report on the affairs of the Committee within ninety days after the date of the assumption of office by the President. The Contents of the report are—

(a) the financial statements of the Committee;
(b) a description of the activities of the Committee;
(c) such other statistical information as the Committee considers appropriate to its mandate; and
(d) any other information relating to its functions that the Committee considers necessary.

42. The Bill further requires the Committee to cause the report to be published in the Gazette and in such other manner as the Committee may determine.

43. **Clause 30** provides for confidentiality. It requires each member of the Committee and the staff assigned to the Committee and Secretariat to maintain the confidentiality of information and documents relating to the work of the Committee, subject to the law relating to access to information or any order of a court of competent jurisdiction.

44. **Clause 31** provides for General penalty for an offence under the Act whose penalty is not expressly provided for. It sets the penalty upon conviction as a fine not exceeding ten million shillings or imprisonment for a term not exceeding seven years or both.

45. **Clause 32** provides for the repeal of the Assumption of Office of President Act (Cap. 6C).

46. The Schedule provides for the format of the handover report under Clause 24(5).

2.2 Comparative Analysis of the Bill and the Current Act

47. The Assumption of the Office of the President is currently governed by Article 141 of the Constitution and the Assumption of Office of the President Act (Cap. 6C). While the Bill retains aspects of the Act, it also introduces new aspects as analysed below:

48. The short title of the Bill includes both the assumption of the office of the President and transition of the executive authority. This is due to the expanded scope of the law to include transition in the entire executive. On interpretation of terms used, the Bill introduces new terms including "national security organs" and "secretariat" which are not defined in the current Act.

49. The Bill makes a new provision on the objects of the Act and introduces the aspect of transition of executive authority as well as requiring public officers to take appropriate lawful steps to facilitate orderly transition in executive authority. While it retains the guiding principles as Article 10 and 141 of the Constitution, the Bill introduces the aspect that the Committee is to be guided by Article 134 on exercise of presidential powers during temporary incumbency.

50. On application of the Act, the Bill introduces a broader application to transition arrangements during the transition period. The Bill provides specifically for when transition takes place or is deemed to have taken place. It expands from the current Act which only provides for the assumption of Office of the President- elect and Deputy President- elect, to include the Attorney General, Cabinet secretaries, Principal secretaries and secretary to the Cabinet. The Bill also introduces the aspect of a transition period commencing ninety days before the first vote in a presidential election and ending ninety days after a President-elect assumes office or when the Committee presents its report to Parliament under Clause 29, whichever comes earlier.

51. The Bill proposes to change the name of the Committee from Assumption of the Office of President Committee to Assumption of the Office of President and Transition of Executive Authority Committee but maintains it as an ad-hoc committee. It proposes the membership of the Committee as twenty-five members consisting of sixteen public officers and nine persons nominated by the President-elect. This is an increase from the current Act in which the Committee has twenty-three members comprising of seventeen public officers and six persons nominated by the President- elect. The Bill introduces new members i.e. the Head of Public

Service and 3 additional persons nominated by the president-elect, but does away with the Principal Secretary in the Ministry responsible for matters relating to the Cabinet Office and the person in charge of State House affairs.

52. The Bill also changes the chairmanship from the Secretary to the Cabinet to the Head of Public Service. It amends the leadership structure and introduces a co-chairman of the Committee from among the nine persons to be nominated by the President -elect, and proposes the co-chairman as the spokesperson of the Committee.

53. While the Act automatically designates the Principal Secretary in the Ministry responsible for matters relating to the Cabinet Office as Secretary to the Committee, the Bill requires the President-elect to appoint a public officer (of at least the rank of Secretary in the Public Service) to serve as Secretary to the Committee. The Bill provides that each member of the Committee nominated by the President-elect shall be bound by the provisions of the Official Secrets Act as if that member was a public officer and requires the Attorney General to gazette the persons nominated by the President-elect.

54. On the function of the Committee, the Bill expands the mandate of the Committee to include the facilitation of the transition of executive authority and the handing over process by an outgoing administration to an incoming administration and overseeing the smooth transition of the outgoing President and Deputy President into retirement. It however places the responsibility of convening of meetings on the co-chairpersons. Under the current Act, the six committee members nominated by the President elect may cause the chairperson to call for a meeting to consider important matters of an urgent nature regarding the assumption of office by the President-elect.

55. The Bill includes a new provision on the establishment of a transition secretariat. The members of the secretariat are to be appointed by the Head of Public Service on the date of the declaration of the results. The Secretariat shall consist of such number of public officers as determined by the Committee as may be necessary for the efficient discharge of the mandate of the Committee. The secretariat includes ten substantive members drawn from the Office of the Head of Public Service, Cabinet Office, a national government administrative officer, the office of the Attorney General, Kenya Defence Forces, National Police Service, National Intelligence Service and Treasury and permits the Committee to co-opt not more than six other public officers into the Secretariat in order to benefit from any special skills. It also provides for the term of office of the secretariat which is until the expiry of the transition period.

56. The Bill also has a new provision on establishment of a transition centre in the capital city to serve as a transition office for the President-elect and the Deputy president- elect and also to be a depository of any information and documents required during the transition period.

57. The Bill places the mandate of ensuring the security of the President-elect and Deputy-President-elect on the Inspector General of the National Police Service. This is a departure from the current Act, which places the responsibility of ensuring the provision of security for the President and Deputy President-elect on the Committee. The Bill defines, "adequate security" as security at the same status as the incumbent President and Deputy President.

58. While, the current Act mandates the Committee with ensuring that the President elect receives security briefings from the respective national security organs, the Bill directly mandates the national security organs with ensuring that the president elect receives security briefing.

59. The Bill also seeks to introduce a new provision that states that the handing over instruments of power shall not apply where the outgoing president is not present during the inauguration and that the absence of the outgoing president at the inauguration will not invalidate the assumption of office by the elected president.

60. The Bill seeks to limit the commitments made by Cabinet Secretaries and principal secretaries during the 90 days before a presidential election only to necessary commitments that have been budgeted for. It prohibits certain actions by Cabinet secretaries, Principal secretaries, accounting officers and public officers during the period commencing on the date of the first vote in a presidential election and ending when the President-elect assumes office and makes not-compliance by a Public officer an offence with a penalty of a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

61. The Bill also makes a new provision on hand over time limit for Ministries, state departments and agencies. The hand over reports are to be submitted to the Head of Public Service by the 15th Day of July of a presidential election and shall contain ministerial statements on the status of specific matters as at the end of the financial year preceding the date of the Presidential election. It introduces the requirement for the Head of the Public Service to deposit the hand over reports at the Transition Centre and for the Transition Committee to facilitate the review of the hand over reports by the President-elect and Deputy President-elect during the transition period. It also prescribes the format of the hand over reporting the Schedule.

62. Another new provision is the retention of holders of the office of the Attorney General or any Cabinet Secretary or Principal Secretary or the Secretary to the Cabinet until their successor assumes office and provides for the retention of accounting officers appointed under the PFM Act until a new one is designated.

63. The Bill also introduces the aspect of funding of the Committee. It requires the Head of the Public Service to, make provision for sufficient funds for the purposes of the Committee, Transition Secretariat and Transition Centre in the budget estimates of the Executive Office of the President for the presidential election's financial year. The Bill also proposes to increase the period for handing over its report to Parliament by the committee from a month after swearing

in to ninety days after the date of assuming office by the president but maintains the contents of the report. The report is to be published in the Gazette.

64. The Bill replaces management of records with a general requirement for confidentiality of information by members of the Committee, staff and secretariat of the Committee, subject to the law relating to access to information or order of the Court. It also seeks to introduce a general penalty of a fine not exceeding ten million shillings or imprisonment for a term not exceeding seven years for a person convicted of an offence under the act.

65. The provisions of the Act retained in the Bill include the requirement that two-thirds of the members must be present for the Committee to transact business and that a vacancy in the membership of the Committee does not affect its decisions. The Bill also retains the provisions on powers of the Committee ad subcommittees of the Committee. On the procedures of the committee, the Bill retains the provision that the Committee may determine its own procedure. It retains the duty of public officers to provide required information within a reasonable time, where such information is requested by the President elect. It also retains the failure to provide such information an offence with a penalty of one million shillings or imprisonment for a term not exceeding two years or both.

66. Lasts, the Bill retains the provisions of the Act relating to the swearing in ceremony and the taking of oath, signing of the certificate of inauguration, swearing in of the Deputy-President-elect and security during the swearing in ceremony.

PART III

3.0 CONSIDERATION OF THE PROPOSED ASSUMPTION OF THE OFFICE OF THE PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2025)

3.1 The Legal Provision on Public Participation

67. Article 118 (1) (b) of the Constitution of Kenya provides as follows—

> *"Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees."*

68. Standing Order 127(3) provides that—

> *"The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism, including—*
>
> *(a) inviting submission of memoranda;*
> *(b) holding public hearings;*
> *(c) consulting relevant stakeholders in a sector; and*
> *(d) consulting experts on technical subjects.*

69. Standing Order127(3A) further provides that—

> *"The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House."*

70. Pursuant to the aforementioned provisions of the Constitution and Standing Orders, on public participation, the Committee through local daily newspapers on 25th February, 2025 published an advertisement inviting the public to submit memoranda on the Bill. The advertisement is annexed to this report as **Annexure 3.**

71. Further, vide a letter dated 20th March, 2025, the Committee invited relevant stakeholders, to make submissions on the Bill. The meeting was held on 28th March, 2025 in Pavillion Conference Room, Ground floor, Hilton Garden Inn Hotel, Machakos. Stakeholder submissions are annexed as **Annexure 4.**

3.2 Submissions on the Bill

72. The Committee received submissions through oral presentations and written memoranda from the following:

(a) The State Department for Parliamentary Affairs;

(b) State Department for Internal Security and National Administration, Ministry of Interior and National Administration;
(c) The Office of the Attorney General;
(d) The Office of the Deputy President;
(e) The Office of the Inspector- General of the National Police Service;
(f) The Office of the Chief Registrar of the Judiciary; and
(g) The Kenya Law Reform Commission.

3.2.1. Submissions by the State Department for Parliamentary Affairs

73. The State Department for Parliamentary Affairs proposed that the House approves the Bill. They submitted that the Bill had been necessitated by inherent gaps in the current law, which impeded the ability to support orderly transition of executive authority. They submitted that beyond Article 141 there is need for a law that expressly provides for additional aspects of the transition of executive authority. They noted that the Bill is a necessity as a key measure of maturity of a political system was seamless transition of power and that a smooth transfer of power only complements outcomes of a free and fair election.

74. The State Department submitted that the Bill assimilates current assumption of the Assumption of the Office of President Act (Cap. 6) and includes other provisions that address identified gaps. They highlighted the key aspects of the Bill as—

(a) stiffer penalties for acts and omissions designed to obstruct smooth transition of executive authority and formation of Government;
(b) security for the president-elect and deputy President elect at the same status of the incumbent president and deputy president
(c) exclusion of the handover of instruments of power and authority in the event of non-attendance by outgoing president;
(d) continuity of office of the cabinet secretaries and principal secretaries upon assumption of office of the president elect;
(e) restructuring of the Assumption of the Office of the President Committee to increase the President-elect's nominees from the current six to nine; and to introduce a co-chair of the Committee, the Co-chair being one of the President-elect's nominees.
(f) The provision of an Assumption of Office Secretariat. The Secretariat shall serve the Assumption of Office Committee and addresses administrative hiccups experienced when identifying persons to offer Secretariat services to the Assumption of Office Committee.
(g) Transition Centre to house the operations of the Assumption of Office Committee, and the President-elect pending assumption of office. This addresses the current lacuna where this office space depends on the administrative good will of the incumbent administration

(h) Obligation on MDAs to prepare hand-over reports in readiness for the outcome of the general elections. This addresses the current situation where hand-over reports depend on the administrative good will of the incumbent administration.

(i) The restriction on the incumbent administration from making certain budgetary commitments, appointments to office and personnel reorganizations during the transition period.

(j) Definition of a transition period as the period commencing Ninety (90) days before the first vote in a presidential election and ending ninety (90) days after the President-elect assumes office, with the expectation that a period of ninety (90) days after a Presidential election is adequate to get Cabinet Secretaries, Principal Secretaries, the AG and the Secretary to the Cabinet to assume office.

3.2.2. Submission from the State Department for Internal Security and National Administration

75. The Ministry of Interior and National Administration, represented by Jacob Narengo, Secretary Internal Security, appeared before the Committee on 28th March, 2025.The Ministry supported the enactment of the Bill. They submitted that the Bill if enacted into law will ensure that—

(a) there is orderly and dignified transfer of power from the outgoing President and incoming President-elect

(b) there are clear procedures for transferring executive authority from the outgoing to the incoming administration

(c) a Committee exists for the assumption of the office of the President and the transition of executive authority

(d) the Committee has a secretariat

(e) there is a Transition Centre to serve as the transition office of the President-elect and Deputy President-elect before the assumption of office. This too was missing on the Act.

(f) the roles of public officers during the transition period are clearly defined and penal sanctions are provided for those who will fail to comply with the arrangements for the assumption of the office by the President-elect.

(g) the Bill if enacted into law will provide a clear procedure and ceremony for the assumption of the office of the President by the President-elect. It will also ensure the orderly transition of executive authority before and after a presidential election and hence they fully support it.

3.2.3. Submissions by the Office of the Attorney General

76. The Office of the Attorney General, represented by Ms. Mary Kitegi, appeared before the Committee on 28th March, 2025 and informed the Committee that the Bill does not raise constitutional or legal issues.

Committee observations

77. The committee observed that—

(i) **Save for amendments intended to extend the application of the law to the assumption of office by the Attorney-General (Article 156), Cabinet Secretaries (Article 152), Principal Secretaries (Article 155), and the Secretary to the Cabinet (Article 154), the existing Assumption of the Office of President Act sufficiently provides for the transfer of power, security arrangements for the President-elect, the functions of the Assumption of Office Committee, and the obligations of public officers.**

(ii) **Targeted amendments to the existing Act would adequately address any identified gaps without necessitating enactment of a new legislation.**

(iii) **The proposed period of ninety days before the first vote in a Presidential election as proposed in the Bill is an invalid period to be considered a transition period because there is a President and government in place and continues to exercise its constitutional mandate subject to Article 134 of the Constitution.**

3.2.4. Submission by the Office of the Inspector General of National Police

78. The Inspector General, Mr. Douglas Kanja, appeared before the Committee on 28th March, 2025. The Office of the Inspector General proposed that Clause 4 on Guiding Principles be placed under Part II of the Bill that establishes the Committee for the reason that the Clause as currently placed, under Part I is misplaced. The office also proposed inclusion of the words "…. *of the Constitution*" immediately after the word "Article 10" under this Clause so as to read as hereunder noting that the words have been omitted making the statement incomplete.

79. The Office of the Inspector General also proposed the deletion of the word "Co-chairperson" and replacement with "Chairperson" so as to retain one chairperson. They noted that the word "co-chairperson" as currently used connotes that the Head of the Public Service will be sharing the responsibility of leading the Committee together with other persons. It was their view that Committee should be headed by a sole Chairperson as expressed in the Assumption of the President Act (Cap. 6C) for proper co-ordination. They further proposed the inclusion in clauses 9(a) and 21 (1) of the word "elect" which they submitted had been omitted.

Committee observations

80. The Committee observed that—

(i) **Guiding principles fall within the preliminary provisions a law;**

(ii) **The aspect of co-chairmanship was intended to strike a balance between the interest of the incumbent and the president-elect; and**

(iii) **The Committee facilitates the assumption to the Office of the President and Deputy President and the President-elect becomes president upon signing the**

certificate of inauguration and the non-inclusion of the word "elect" is not an omission.

3.2.5. The Office of the Deputy President

81. The office of the Deputy President proposed amendment of clause 9(f) to include that in the transition process, the committee should organize for the necessary facilities and personnel for both the president-elect as well as the *Deputy President- elect* for the reason that that this will ensure smooth transition for both the President- elect as well as the Deputy President- elect.
82. They also proposed amendment of Clause 18(2) to state that the committee, in carrying out its function of preparing for the assumption of office of the executive authority, shall request in writing for information from a public officer as the committee may think fit as opposed to the current proposal that seeks the request of the President-elect. They submitted that this will entrench institution working to the Committee and ensure civil servants promote a seamless transition of authority
83. They also proposed amendment of clause 18(3) to provide that a 14-day period be inserted to give clarity to the period that a public officer should avail the information as requested under Section 18(2). They submitted that this would give clarity on the expected timelines for receipt of response while avoiding ambiguity.

Committee observations

84. The Committee observed that—
    (i) **Section 6 of the current Assumption of the Office of the President Act adequately provides for the functions of the Assumption of Office Committee, including coordinating the necessary arrangements for the swearing-in ceremony, security, and briefings for the President-elect. Any additional functions for the Committee may be addressed through amendments to section 6 of the current Act.**

3.2.6 The Office of the Chief Registrar of the Judiciary

85. The Office of the Chief Registrar of the Judiciary proposed that clause 14 be amended to include an officer from the Office of the Office Chief Registrar be included in the Transition Secretariat. They noted that this was due to the central role the Judiciary in the Assumption of Office of the President and Deputy President.

86. On Clause 23, Office of the Chief Registrar of the Judiciary proposed that Clause 23(2)(b) should not apply to the Judiciary and the Judicial Service Commission given the provisions of the Constitution on the independence of the Judiciary. They proposed the Judicial Service Commission; the leadership of the Judiciary and the Chief Registrar should retain the latitude to make changes or transfer staff in light of the constitutional mandate of the JSC. They submitted that the JSC is an apolitical institution whose functions should not be disrupted during an election. They noted that the Judiciary has a central role in the electoral dispute

resolution which may require changes to staff, the entering of contracts and the making of payments necessary to ensure that the Judiciary performs its Electoral Disputes Resolution mandate.

Committee Observations

87. The Committee observed that—

(i) **Limitations on expenditure for money already appropriated by Parliament through an appropriation Act may affect spending on critical functions such as security, healthcare and disaster management during the transition period.**

3.2.7 Submissions by the Kenya Law Reform Commission

88. The Kenya Law Reform Commission observed that the current Assumption of the Office of President Act lacks some structural and procedural clarification essential for ensuring a seamless transition. They noted key innovations in the Bill as the establishment of institutional structure, comprehensive transition framework, establishment of a transition secretariat and centre and penalties for non-compliance.

89. On Clause 2, the Commission proposed that the term "executive authority" be defined as *"the power conferred upon the President by the Constitution to execute and enforce laws, direct government operations, and manage the affairs of the Republic and includes—*

(a) the implementation of national policies and legislation as provided under Article 131 and 132 of the Constitution;

(b) the appointment and dismissal of public officers in accordance with Articles 152, 154, 155, and 156 the Constitution;

(c) the representation of Kenya in international relations, including the negotiation and ratification of treaties;

(d) the oversight and command of national security organs as provided under Article 131(2)(e) of the Constitution; and

(e) any other function conferred upon the President by the Constitution and national laws"

90. On Clause 6, the Commission proposed that the clause be harmonized with clause 7 to ensure a clear and constitutionally compliant transition process. They noted that clause 6 stipulates that transition of executive authority is deemed to have taken place when President, Deputy President have assumed office and after the appointment of Cabinet Secretaries, Secretary to the Cabinet, Principal Secretaries and the Attorney General, which implies that the transition period remains ongoing until all the appointments are concluded. The Commission noted that this creates a potential conflict with clause 7 which defines the transition period as ending 90 days after the President's inauguration. They noted that if appointments are delayed beyond the 90-day window, the transition period would effectively extend past the statutory time limit leading to inconsistency and ambiguity.

91. On Clause 7, the Commission noted that it introduced a pre-election transition period, which effectively imposes limitations on the incumbent President's authority during the pre-election

phase. The Commission therefore proposed that the transition period commence after the declaration of the election results to maintain constitutional integrity and ensure a clear delineation of executive authority.

92. On Clause 8, the Commission proposed an amendment to align the nomination process of the Committee Members with the formal declaration of the President elect rather than before election. They observed that timing of the President-elect's nomination of nine members creates a functional gap in the pre-election transition phase until the President-elect is declared thereby creating a delay in initiating the transition activities that could lead to inefficiencies in implementing logistical operations.

93. They further proposed amendment of section 8(10) to ensure that the Committee's tenure ends immediately after the swearing in of the new President reflecting the constitutional requirement that executive authority transfers instantly upon the swearing in ceremony. They noted that the transfer of executive authority is complete upon the swearing in of the new president and the Committee's continued existence after the President-elect is sworn in is unnecessary.

94. On Clause 14, the Commission noted that it does not explicitly state the functions of the Transition secretariat and proposed that is essential to explicitly define the secretariat's role, emphasizing its administrative support to the Committee without overlapping duties. They further proposed that the that the Secretariat's term should logically conclude upon the swearing in of the President-elect marking the official end of the transition. They further noted that the relationship between the Transition Secretariat and the Assumption of the Office Committee is not explicitly articulated. They therefore proposed clarifying whether the secretariat operates as a substructure of the Committee to enhance operational clarity and ensure there is no functional duplication.

95. The Commission proposed the deletion of clause 15 on the transition centre whose functions they submitted appear to overlap with those already managed by the Transition Committee and Secretariat which could lead to administrative duplication. They noted further than the centre's role as a repository for documents requires clearer definition to avoid confusion and ensure effective coordination. They thus proposed that the functions of the centre should be integrated into the existing structures and operations to cease once the President is sworn in.

96. The Commission proposed the deletion of Clause 17 since Clause 9(d) provides for the security briefing of the President elect through the Committee. The Commission proposed that the Committee should remain the sole intermediary for security briefings since allowing the President elect to directly receive briefings from the heads of security agencies could be seen as prematurely exercising executive authority over national security matters, which remains vested in the sitting President under Article 142 and 131 of the Constitution.

97. On Clause 18, the Commission proposed harmonization with Article 131, 132, 141(2) and 142 of the Constitution to ensure that the information sharing occurs through the Transition Centre

and the Committee instead of granting the President-elect direct authority over public officers, noting that under Article 131 and 132 of the Constitution vests executive authority in the sitting President until the swearing in. Additionally, they submitted that the imposition of penalties creates ambiguity since the Bill does not specify the scope of information that must be provided potentially leading to a c conflict with existing laws on official secrecy and national security.

98. The Commission proposed the harmonization of Clause 23 with Article 131, 132, 141(2) and 142 of the Constitution. They noted that Article 142(1) affirms that the President's term continues until the President -elect is sworn in and that imposing restrictions on public officers before election could prematurely limit the exercise of constitutional executive functions. They noted further that limiting the ability of Cabinet Secretaries and Principal Secretaries risks creating a governance vacuum particularly in case of urgent decisions. They noted that blanket restrictions under clause 23(2) fails to account for emergencies, essential government operations or international obligations. The Commission thus proposed that the Bill make a distinction between routine government functions which must continue and actions that could compromise the transition process.

99. On Clause 24, the Commission proposed that it would be more practical for the handover reports to be submitted directly to the Committee rather than to a separate administrative entity, to avoid unnecessary bureaucratic layers. They noted further that the Bill did not provide for enforcement mechanisms to ensure compliance by public officers where handover reports are incomplete or delayed as well as providing fir clearer guidelines on the minimum content of the handover reports to standardize the process and prevent omissions.

100. On Clause 25, the Commission proposed that the Clause be redrafted to strengthen clarity and operational certainty and that the provision should state that officials "shall remain in office" until their successors assume office and provide clear guidance their scope of authority during the transition period to comply with the Constitution and maintain effective governance.

101. On clause 27, the Commission proposed that the provisions on security arrangements during swearing in ceremony would be better placed under Part IV which deals with the swearing-in process.

102. Generally, the Commission noted that the current Act provides an established legal foundation for the transfer of executive authority and that there is no compelling justification for the repeal of the Assumption of the Office of President Act (Cap 6C)

Committee Observations

103. The Committee observed that—

(i) **The pre-election transition period effectively imposes limitations on the incumbent President's authority during the pre-election phase and is an invalid period to be**

considered a transition period because there is a President and government in place; and

(ii) The scope and application of the law on assumption of office after a general election should be limited to the provisions of Article 141 of the Constitution.

PART IV

4.0 COMMITTEE OBSERVATIONS

104. Upon consideration of the Bill, the Committee observed the following—

(a) The provisions of a law enacted pursuant to a Constitutional provision should not exceed the scope of the enabling Constitutional provision. Article 141(4) of the Constitution guides the scope of the law on assumption of office to the President and does not extend to the Attorney General, Cabinet Secretaries, Principal Secretaries and the Secretary to the Cabinet as proposed in the Bill.

(b) The Attorney General, Cabinet Secretaries, Principal Secretaries and the Secretary to the Cabinet are appointive positions which can only be filled after assumption of office of the President;

(c) There exist procedures in the Constitution and statute for appointment, removal and replacement of Attorney General, Cabinet Secretaries, Principal Secretaries and the Secretary to the Cabinet.

(d) Limitations on expenditure during the Transition period, for money already appropriated by Parliament through an Appropriation Act may affect spending on critical functions such as security, healthcare and disaster management during the transition period.

(e) The Assumption of the Office of President Act (Cap. 6C) is an elaborate and comprehensive law that adequately provides for the assumption of the Office of President. Accordingly, a new legislation is unnecessary and amendments to the existing law ought to have been proposed to cure any gaps noted during implementation of the current Act.

PART V

5.0 COMMITTEE RECOMMENDATIONS

105. The Committee, having considered and taken into account the views and recommendations of the public including relevant stakeholders, recommends that the House **REJECTS** the *Assumption of Office of the President and Transition of Executive Authority Bill (National Assembly Bill No.1 of 2025).*

SIGN..... DATE 05/08/2025.....

HON. GABRIEL TONGOYO, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL SECURITY

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 06 AUG 2025 DAY. WED
TABLED BY: HON. GABRIEL TONGOYO, MP CHAIRPERSON
CLERK-AT-THE-TABLE: VIVIAN WAMBUI

MINUTES OF THE 64TH SITTING OF THE DEPARTMENTAL, COMMITEEE ON ADMINISTRATION AND INTERNAL SECURITY HELD ON THURSDAY, 31ST JULY, 2025 IN COMMITTEE ROOM 17, 3RD FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS AT 10.00 AM.

PRESENT

1. **Hon. Gabriel Koshal Tongoyo, CBS, MP - Chairperson**
2. Hon. Kaluma George Peter, **CBS**, MP
3. Hon. Aduma Owuor, MP
4. Hon. Liza Chepkorir Chelule, MP
5. Hon. Mburu Kahangara, MP
6. Hon. Peter F. Masara, MP
7. Hon. Protus Ewesit Akujah, MP
8. Hon. Oku Kaunya, MP
9. Hon. Rozah Akinyi Buyu, MP
10. Hon. Amb. Francis Kipyegon Sigei, **EBS**, MP
11. Hon. Caroline Jeptoo Ng'elechei, MP
12. Hon. Hussein Weytan Mohammed, MP

ABSENT WITH APOLOGY

1. **Hon. Col (Rtd) Dido Rasso, MBS, MP - Vice Chairperson**
2. Hon. Fred C. Kapondi , MP
3. Hon. Sarah Paulata Korere, MP

IN-ATTENDACE

COMMITTEE SECRETARIAT

1. Mr. John Mugoma - Clerk Assistant I
2. Ms. Clarah Kimeli - Principal Legal Counsel I
3. Mr. Gideon Kipkoech - Clerk Assistant II
4. Ms. Delvin Onyancha - Research Officer II
5. Mr. Rodgers Kilungya - Audio Officer
6. Ms. Esther Mbatha - Public Communication Officer
7. Mr. Reinhard Juma - Committee Intern
8. Ms. Libbie Kiragu - Media Relation Intern

AG E N D A

1. Prayers
2. Preliminaries and adoption of the agenda.
3. Confirmation of previous Minutes
4. **Consideration and Adoption of the Report on the Assumption of Office of the President and Transition Authority Bill, 2025.**
5. Any other Business
6. Adjournment and date of the next sitting

MIN./NO./DC-AIS/2025/316: PRELIMINARIES & ADOPTION OF AGENDA

The Chairperson, Hon. Gabriel Koshal Tongoyo, CBS, MP called the meeting to order at 10.12 a. m and said a prayer. The agenda of the meeting was adopted having been proposed by Hon. Mburu Kahangara, MP and seconded by Hon. Caroline Jeptoo Ng'elechei, MP.

The Chairperson informed the meeting that the main agenda was for the Committee to consider the rescission of the report on the *Assumption of the Office of the President and Transition of Executive Authority Bill, 2025* which was previously adopted on 1st April, 2025.

MIN./NO./DC-AIS/2025/317: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The confirmation of Minutes was deferred to the next meeting.

MIN./NO./DC-AIS/2025/318:CONSIDERATION AND ADOPTION OF THE REPORT ON THE RESCISSION OF THE PREVIOUSLY ADOPTED REPORT ON THE ASSUMPTION OF OFFICE OF THE PRESIDENT AND TRANSITION AUTHORITY BILL,2025.

The Committee considered and adopted the report on the Assumption of the Office of President and Transition of Executive Authority Bill, 2025 and made the following observations and recommendations having been proposed by the **Hon. Rozah Akinyi Buyu, MP** and seconded by **Hon. Mburu Kahangara, MP.**

A. COMMITTEE OBSERVATIONS

(a) Upon consideration of the Bill, the Committee observed the following—

(a) The provisions of a law enacted pursuant to a Constitutional provision should not exceed the scope of the enabling Constitutional provision. Article 141(4) of the Constitution guides the scope of the law on assumption of office to the President and does not extend to the Attorney General, Cabinet Secretaries, Principal Secretaries and the Secretary to the Cabinet as proposed in the Bill.

(b) The Attorney General, Cabinet Secretaries, Principal Secretaries and the Secretary to the Cabinet are appointive positions which can only be filled after assumption of office of the President;

(c) There exist procedures in the Constitution and statute for appointment, removal and replacement of Attorney General, Cabinet Secretaries, Principal Secretaries and the Secretary to the Cabinet.

(d) Limitations on expenditure during the Transition period, for money already appropriated by Parliament through an Appropriation Act may affect spending on critical functions such as security, healthcare and disaster management during the transition period.

(e) The Assumption of the Office of President Act (Cap. 6C) is an elaborate and comprehensive law that adequately provides for the assumption of the Office of President. Accordingly, a new legislation is unnecessary and amendments to the existing law ought to have been proposed to cure any gaps noted during implementation of the current Act.

B. COMMITTEE RECOMMENDATIONS

The Committee, having considered the views and recommendations of the public including relevant stakeholders, recommended that the House **rejects** the Assumption of Office of the President and Transition of Executive Authority Bill (National Assembly Bill No.1 of 2025).

MIN./NO./DC-AIS/2025/319: ANY OTHER BUSINESS

There was no other business.

MIN./NO./DC-AIS/2025/320: ADJOURNMENT

There being no other business, the meeting was adjourned at 10.55 a.m. The next meeting will held be on notice.

SIGNED _____ **DATE** 05/08/2025

HON. GABRIEL TONGOYO, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON ADMINISTRATION & INTERNAL SECURITY

THE NATIONAL ASSEMBLY
13TH PARLIAMENT – FOURTH SESSION-2025
COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

REPORT ADOPTION LIST OF THE

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY ON THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL, 2025 SPONSORED BY HON.KIMANI ICHUNG'WAH, EGH, MP, LEADER OF MAJORITY.

We, the undersigned Members of the Departmental Committee on Administration and Internal Security do hereby append our signatures to adopt this Report

Date: 31/07/2025

No.	MEMBER	SIGNATURE
1.	**Hon. Gabriel Koshal Tongoyo, CBS, MP - Chairperson**	
2.	**Hon. Col (Rtd) Dido Rasso, MBS, MP - Vice Chairperson**	
3.	Hon. Kaluma George Peter, **CBS** , MP	
4.	Hon. Fred C. Kapondi , MP	
5.	Hon. Aduma Owuor, MP	
6.	Hon. Sarah Paulata Korere, MP	
7.	Hon. Liza Chepkorir Chelule, MP	
8.	Hon. Mburu Kahangara, MP	
9.	Hon.(Dr.) Peter Francis Masara , MP	
10.	Hon.(Prof.) Protus Ewesit Akujah, MP	
11.	Hon. Oku Kaunya, MP	
12.	Hon. Rozaah Akinyi Buyu, MP	
13.	Hon. Amb. Francis Kipyegon Sigei, **EBS**, MP	
14.	Hon. Caroline Jeptoo Ng'elechei, MP	
15.	Hon. Hussein Weytan Mohammed, MP	

THE JUDICIARY

OFFICE OF THE CHIEF REGISTRAR OF THE JUDICIARY

Our Ref: JUD/CRJ/23.2
Your Ref: NA/DDC/AIS/2025/034

Date: 28 March 2025

Samuel Njoroge, CBS
Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
P. O. Box 41842- 00100
NAIROBI

COMMENTS ON THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT & TRANSITION OF EXECUTIVE AUTHORITY BILL, 2025

We acknowledge receipt of your letter Ref: NA/DDC/AIS/2025/034 dated 20th March 2025 on the above subject.

We have reviewed the contents of the Assumption of The Office of The President & Transition of Executive Authority Bill, 2025 and have the pleasure to transmit herewith the Judiciary's comments on the Bill.

We thank you for the opportunity to submit these comments and hope that the Departmental Committee on Administration and Internal Security will find them useful in its deliberations.

Yours sincerely,

HON WINFRIDAH B. MOKAYA, CBS
CHIEF REGISTRAR OF THE JUDICIARY
wbm/ko

Copy To: Chief Justice & President,
Supreme Court of Kenya
Supreme Court Building
NAIROBI

COMMENTS FROM THE JUDICIARY ON THE ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL, 2025

CLAUSE	COMMENTS & PROPOSALS
14 – Establishment of the Transition Secretariat.	Considering the central role of the Judiciary in the assumption of office of the President and Deputy President, we propose that an officer from the Office of the Chief Registrar of the Judiciary be included in the membership of the Transition Secretariat.
23 – Role of public officers during the transition period	We note that Clause 23(2)(b) bans all accounting officers (including the Chief Registrar of the Judiciary & Secretary to the Judicial Service Commission) from doing any of the following acts during the period from the first vote in a presidential election to the assumption of office of the President: a. Make any changes or transfer of staff; b. Make or authorize payment above 50 million without authorization from the National Treasury; We also note that Clause 23(2)(c) bans public officers (including public officers working in the Judiciary and the Judicial Service Commission) from entering any contracts on behalf of the Government during the transition. We are of the view that these clauses should not apply with respect to the Judiciary given the provisions of the Constitution on judicial independence. The JSC, the leadership of the Judiciary and the Chief Registrar of the Judiciary should retain the latitude to make changes or transfer staff in light of the Constitutional mandate of the JSC. The Judiciary is an apolitical institution whose functions should not be disrupted during an election. Notably, the Judiciary has a central role in electoral dispute resolution which may require changes to staff, the entering of contracts and the making of payments necessary to ensure the Judiciary performs its EDR mandate.

HON WINFRIDAH B. MOKAYA, CBS
CHIEF REGISTRAR OF THE JUDICIARY

REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

Our Ref: AG/LDD/522/1/24 26th March 2025

Mr. Samuel Njoroge
Clerk of the National Assembly
Clerk's Chambers, Parliament Buildings
P. O. Box 41842-00100
NAIROBI

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY ON THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL, (NATIONAL ASSEMBLY BILL NO. 1 OF 2025)

Reference is made to your letter dated 20th March 2025 and referenced NA/DDC/AIS/2025/034 through which you requested this Office to submit a memorandum on the Assumption of the Office of the President and Transition of Executive Authority Bill, 2025.

We have scrutinized the Assumption of Office of the President and Transition of Executive Authority Bill, 2025. The Bill does not raise constitutional or legal issues.

We thank you and assure you of our continued support.

HON. SHADRACK J. MOSE, CBS
SOLICITOR-GENERAL

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STATE DEPARTMENT FOR PARLIAMENTARY AFFAIRS SUBMISSIONS TO THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY

ON

THE ASSUMPTION OF OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 1 OF 2025)

Pursuant to invitation letter Ref. NA/DDC/AIS/2025/034 dated 20th March, 2025

26th March, 2025

THE ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL, 2025 (NATIONAL ASSEMBLY BILL NO. 1 OF 2025)

1. BACKGROUND AND CONTEXT

1.1. The country has so far witnessed transitions of three administrations under the Constitution of Kenya, 2010.

1.2. Upon assuming office, the Fifth Administration reviewed the current law on the Assumption of the Office of President, which was signed into law in August, 2012, and noted various inherent gaps that impeded its ability to support an orderly transition of executive authority.

1.3. It has been noted that beyond the Assumption of Office ceremony under Article 141 of the Constitution, there is need for a law that expressly provides for other additional aspects of the transition of executive authority from an outgoing Administration to the incoming one.

1.4. This law is an absolute necessity because one of the key measures of the maturity of a political system is the smooth, orderly and seamless transition of power from an outgoing Administration to an incoming one. This is irrespective of whether or not the outgoing and incoming Administrations are of the same or different political persuasions.

1.5. A smooth transfer of power not only complements the outcomes of a free and fair election but also serves to further strengthen the

democratic society envisioned in our Constitution.

1.6. This led to the conceptualization and development of **the Assumption of the Office of the President and Transition of Executive Authority Bill, 2025** which is now before the National Assembly.

1.7. This Bill largely assimilates the current Assumption of the Office of President Act (Cap 6C) and includes other provisions that plug various identified transition gaps both before and after assumption of the office of President.

2. HIGHLIGHTS

Some of key aspects of what the Bill introduces include –

a) Stiffer penalties for acts and omissions designed to obstruct the smooth transition of executive authority and formation of Government in accordance with the laws of Kenya: The Bill provides for fine not exceeding *ten million shillings or imprisonment for a term not exceeding ten years or both.*

b) Security for the President-elect and the Deputy President-elect at the same status as that of incumbent President and Deputy President.

c) Exclusion of the hand-over of instruments of power and authority in the event of non-attendance by the outgoing President.

d) Continuity in office for Cabinet Secretaries and Principal Secretaries upon assumption of office of the President-elect. The Cabinet Secretaries and Principal Secretaries of the Outgoing Administration shall remain in office until the Cabinet Secretaries and Principal Secretaries of the incoming Administration are appointed into

office.

e) Restructuring of the Assumption of the Office of the President Committee to increase the President-elect's nominees from the current six to nine; and to introduce a co-chair of the Committee, the Co-chair being one of the President-elect's nominees.

f) The provision of an Assumption of Office Secretariat. The Secretariat shall serve the Assumption of Office Committee and addresses administrative hiccups experienced when identifying persons to offer Secretariat services to the Assumption of Office Committee.

g) Transition Centre to house the operations of the Assumption of Office Committee, and the President-elect pending assumption of office. This addresses the current lacuna where this office space depends on the administrative good will of the incumbent administration.

h) Obligation on MDAs to prepare hand-over reports in readiness for the outcome of the general elections. This addresses the current situation where hand-over reports depend on the administrative good will of the incumbent administration.

i) The restriction on the incumbent administration from making certain budgetary commitments, appointments to office and personnel reorganizations during the transition period.

j) Definition of a transition period (Clause 7): the period commencing Ninety (90) days before the first vote in a presidential election and ending ninety (90) days after the President-elect assumes office. It is the expectation that a period of ninety (90) days after a Presidential election is adequate to get Cabinet Secretaries, Principal Secretaries, the AG and the Secretary to the Cabinet

assume office.

3. CONCLUSION

This Bill marks a significant milestone in strengthening Kenya's democratic institutions by codifying a structured, transparent and orderly transfer of executive authority. At its core, the Bill is a selfless act of governance designed not for political advantage but for posterity. It provides clarity on the transition process, safeguards against administrative disruptions, and ensures that no future administration, regardless of political alignment, faces uncertainty during the assumption of office.

Given its fundamental role in strengthening institutional stability, we trust that Parliament will appreciate its transformative impact and accord it the urgency it merits.

In light of its significance, the State Department seeks the Departmental Committee support in –

a) recommending that the House approves the Bill.

b) Prioritizing the Bill's consideration by the House.

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CPA Dr. Aurelia C. Rono, CBS
PRINCIPAL SECRETARY

OFFICE OF THE INSPECTOR GENERAL
NATIONAL POLICE SERVICE
NAIROBI – KENYA

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NAIROBI

NPS/IG/SEC/2/6/13/8/VOL.XXV/93 **28th March, 2025**

The National Assembly,
Office of the Clerk,
Main Parliament Building,
P.O Box 41842--00100,
NAIROBI

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY ON THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL, (NATIONAL ASSEMBLY BILL NO.1 OF 2025)

Reference is made to the above in subject and to your letter Ref No.NA/DDC/AIS/2025/034 dated 20th March,2025 requesting for submissions of views on the Assumption of the Office of President and Transition of Executive Authority Bill. (National Assembly Bill, No.1 of 2025)

Upon perusal of the Bill, the Inspector General of the National Police notes that the provisions are well articulated and in order. The Inspector General's role is provision of security in general and ensuring that there is maintenance of law and order during the transition. This role will be explained in finer details in the operation order that shall be the key point of reference during the event.

However, there are areas of concern which we have addressed in the attached commentary template.

Kindly for your information and further necessary action.

MERCY SHIRESI
For: **INSPECTOR GENERAL**
NATIONAL POLICE SERVICE

NATIONAL POLICE SERVICE

COMMENTS/SUBMISSIONS ON THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT AND TRANSITION OF THE EXECUTIVE AUTHORITY BILL, (NATIONAL ASSEMBLY BILL, NO.1 OF 2025)

	CLAUSE	SUBMISSION /COMMENT(S)	RATIONALE/JUSTIFICATION
		PART 1-PRELIMINARY	
1.	**4.** Guiding Principles	1. Transfer this clause and place it as appropriate under Part II-of the bill that establishes the Committee for the Assumption of the Office of the President and Transition of the Executive Authority Committee. 2. Add the words "…of the Constitution" immediately after the word "Article 10" under this clause so as to read as hereunder; (4) the Committee shall be guided by Articles 134 and 141 of the constitution and national values and principles of governance set out in Article 10 of the Constitution.	▪ The clause as currently placed under Part 1 -Preliminary is misplaced. ▪ The words had been omitted making the statement incomplete.
		PART II: ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY COMMITTEE	
2.	Clause 8(2) (a) -.	Delete the word "Co—chairperson" appearing under this clause and replace therefor the word "chairperson" so as to read as hereunder; (2). The Committee shall be an ad hoc committee consisting of – (a) the Head of the Public Service who shall be the chairperson.	The word-"Co-chairperson" as currently used connotes that the Head of the Public Service will be sharing the responsibility of leading the Committee together with other persons. For proper coordination the Committee should be headed by a sole Chairperson as expressed in the Assumption of the President Act (Cap.6C)

3.	9 (a) Functions of the Committee.	Include the word "...elect..." immediately after the words "…Deputy President..." so as to read as hereunder; 9. The function of the Committee shall be to- (a) facilitate the assumption of the office of the President and deputy President-elect;	The word had been omitted.
PART IV: SWEARING IN CEREMONY			
4.	**Clause 21 (1) -** Handling Over of Power and Authority.	Include the word "...elect..." immediately after the words "…the president..." so as to read as hereunder; 21.(1) Upon signing the certificate of inauguration, the outgoing President shall hand over to the President- elect the following instrument of power and authority-	The word had been omitted.

Republic of Kenya
MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION

SUBMISSION ON THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 1 OF 2025)

Honourable Chair, we thank this Committee i.e. Departmental Committee on Administration and Internal Security for organising public participation on the said Bill and granting us this opportunity to present our views on it.

All over the world, elections play an important role in democracies and their outcomes must be respected. Winners in elections, particularly presidential elections, ought to assume office in a dignified and orderly manner and losers should play their roles in ensuring smooth transition.

We therefore laud the framers and mover of this Bill which is geared towards achieving smooth assumption of office by the President-elect and Deputy President- elect and orderly transition of executive authority before and after a presidential election.

THE BILL

Honourable Chair, the object of the Bill is to:

a) provide for the procedure and ceremony for assumption of the Office of the President by the President-elect;
b) promote the orderly transfer of the executive authority from the outgoing to the incoming administration; and
c) ensure public officers take appropriate lawful steps to facilitate orderly transition of the executive authority.

SALIENT FEATURES OF THE BILL

Honourable Chair, the following are the salient features of the Bill:

Preliminaries (Part I)

This part sets out the objects of the Bill, guiding principles and transition of executive authority. The guiding principles are those set out in Article 10 (national Values), 134 (presidential powers during temporary incumbency) and 141 (assumption of the office of the president).

The transition of executive authority is deemed to take place when the President-elect, Deputy President-elect, Attorney-General, Cabinet Secretary, Principal Secretary and Secretary to the Cabinet assume office. The transition period commences 90 days from the first vote in a presidential election and ends 90 days after a Presidential-elect assumes office or when the Assumption of the Office of the President and Transition of Executive Authority Committee presents its report to Parliament, whichever comes earlier.

Assumption of the Office of the President and Transition of Executive Authority Committee (Part II)

This is an *ad hoc* committee composed of Head of Public Service, Attorney General, Secretary to the Cabinet, 7 Principal Secretaries, Chief of Kenya Defence Forces, Director-General of the National Intelligence Service, Inspector –General of National Police Service, Clerk of the National Assembly, Clerk of the Senate, Chief Registrar of the Judiciary and 9 persons nominated by the President-elect.

The functions of the Committee are to:

a) facilitate the assumption of the office of the President and Deputy President;
b) facilitate the transition of executive authority and handover from the outgoing administration to incoming administration;
c) oversee provision of adequate security to the President-elect and Deputy President-elect;
d) oversee the provision of security briefings to the President-elect;

e) organize for the necessary facilities and personnel for the President-elect;
f) facilitate communication between the outgoing President and the President-elect;
g) prepare the programme and organize for the swearing-in ceremony; and
h) oversee the smooth transition of the outgoing President and Deputy President into retirement.

Arrangement for Assumption of the Office by the President-elect (Part III)

Upon the declaration of the final results of a presidential election, the President and Deputy President-elect are to be accorded adequate security, receive security briefing and public officers are to provide to them required information.

Swearing-in ceremony (Part IV)

This part sets out where the swearing-in ceremony is to be conducted, taking of oaths and handing over of instruments of power and authority.

Arrangements for the Transition of Executive Authority before the Assumption of Office by the President-elect (Part V)

Here, the role of public officers during the transition period is set out. For example, before the President-elect assumes office, a Cabinet Secretary or a Principal Secretary is not to make fresh appointment or travel outside the country without the approval of the Head of Public Service. MDAs are to handover their reports to the Head of the Public Service by the 15th day of July of the year of a Presidential election.

Transition of the Executive Authority after the Assumption of Office by the President-elect (Part VI)

In this part, the Attorney General, Cabinet Secretaries, Principal Secretaries and Secretary to the Cabinet may remain in office until their successors assume office. Accounting officers within the executive are to hold office until other accounting officers are designated in their places.

Importance of the Bill

Honourable Chair, the Bill if enacted into law will ensure that:

a) There is orderly and dignified transfer of power from the outgoing President and incoming President-elect.
b) There are clear procedures for transferring executive authority from the outgoing to the incoming administration.
c) A Committee exist for the assumption of the office of the President and the transition of executive authority.
d) The Committee has a Secretariat.
e) There is a Transition Centre to serve as the transition office of the President-elect and Deputy President-elect before the assumption of office. This too, was missing in the Act.
f) The roles of public officers during the transition period are clearly defined and penal sanctions are provided for those who will fail to comply with the arrangements for the assumption of the Office by the President-elect.

Conclusion

The Bill if enacted into law will provide a clear procedure and ceremony for the assumption of the office of the President by the President-elect. It will also ensure the orderly transition of executive authority before and after a presidential election and hence we fully support it.

Thank you, **Honourable Chair.**

Dr. Raymond Omollo, PhD

Principal Secretary for Interior and

National Administration

26th MARCH 2025

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Ref. No.: ODP.ADM/1/73 VOL.I

26th March, 2025

Samuel Njoroge, CBS
Clerk of The National Assembly
Parliament of Kenya
NAIROBI

RE: SUBMISSION OF MEMORANDA ON THE ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY BILL, 2025

Reference is made to the above captioned subject matter.

We are in receipt of your letter dated 20th March 2025 requesting for submission of memoranda for the above captioned Bill to the Departmental Committee.

Enclosed please find our written submission of the Memoranda for your consideration. Further we confirm attendance for the submission of the oral presentations slated for Friday, 28th March, 2025. Our Office Mr. **Henry Mwaura, Head Legal Department** will represent the office

We thank you for your continued collaboration and cooperation.

Moses N. Mbaruku, MBS.
PRINCIPAL ADMINISTRATIVE SECRETARY

Encls.

MEMORANDUM TO NATIONAL ASSEMBLY ON THE ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION AUTHORITY BILL 2025

CLAUSE	PROVISION	PROPOSED AMENDMENT	RATIONALE
9 (f)	Organise for the necessary facilities and personnel for the President-elect.	Organise for the necessary facilities and personnel for the President-elect and Deputy President-elect.	To ensure smooth transition for both the President-elect and Deputy President-elect.
18 (2)	The President-elect may, in carrying out preparations under subsection (1), request in writing for information from a public officer as the President-elect may consider necessary.	The Committee may, in carrying out preparations under subsection (1), request in writing for information from a public officer as the Committee may consider necessary.	To entrench institution working to the Committee and ensure civil servants promote a seamless transition of authority.
18 (3)	A public officer from whom information is requested under subsection (2) shall provide information within a reasonable time.	A public officer from whom information is requested under subsection (2) shall provide information within fourteen days upon receipt of the request.	To give clarity on the expected timelines for receipt of response, avoid ambiguity and clarity.