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MECHANISMS AND CRITERIA FOR TRANSFER OF ASSETS AND LIABILITIES OF GOVERNMENT AND OTHER PUBLIC ENTITIES





Transition Authority

Mechanisms and Criteria for Transfer of Assets and Liabilities of Government and Other Public Entities

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LIST OF STATUTES

Civil Procedure Act, Chapter 21 Laws of Kenya

Constitution of Kenya, 2010

County Governments Act, No. 17 of 2012

Income Tax Act, Chapter 470 Laws of Kenya

Intergovernmental Relations Act, No. 2 of 2012

Local Government Act, Chapter 265 Laws of Kenya (**repealed**)

Stamp Duty Act, Chapter 480 Laws of Kenya

The Arbitration Act, 1995

The Government Proceeding Act, Chapter 40 Laws of Kenya

The Transition County Allocation of Revenue Act, 2013

The Transition to Devolved Government, Act No. 1 of 2012

ACRONYMS

ATC	-	Agricultural Training Centres
ADR	-	Alternative Dispute Resolution
ESAAG	-	East and Southern African Association of Accountants General
IAS	-	International Accounting Standards
IASB	-	International Accounting Standards Board
IFRS	-	International Financial Reporting Standards
IPSAS	-	International Public Sector Accounting Standards
IPSASB	-	International Public Sector Accounting Standards Board
IT	-	Information Technology
ITA	-	Income Tax Act, Chapter 470 Laws of Kenya
KRA	-	Kenya Revenue Authority
LAPFUND	-	Local Authorities Provident Fund
LAPTRUST	-	Local Authority Pension Trust
MTC	-	Medical Training College
NLC	-	National Land Commission
PIN	-	Personal Identification Number
PP&E	-	Property, Plant and Equipment
TA	-	The Transition Authority
TCTAL	-	The Technical Committee on the Transfer of Assets and Liabilities
NHIF	-	National Hospital Insurance Fund
NSSF	-	National Social Security Fund
AMIS	-	Asset Management Information System
CoK	-	Constitution of Kenya

EXECUTIVE SUMMARY

The Transition Authority (TA) is a statutory body established under Section 4 of the Transition to Devolved Government Act, (TDGA) 2012.

Pursuant to Section 7 (1) of the TDGA, 2012 the TA is mandated to facilitate and coordinate the transition to devolved system of government in Kenya as provided under Section 15 of the Sixth Schedule to the Constitution. Section 7 (2) (g) and (h) (ii) of the TDGA provides for the TA to develop mechanisms for transfer of assets and liabilities of Government and Other Public Entities during the transition period as well as, determine the criteria for transfer of previously shared assets and liabilities of Government and Defunct Local Authorities.

The mechanisms and criteria for transfer of public assets and liabilities contains the following; definition of public assets and liabilities; classification of public assets and liabilities; legal process for transfer and securing of various classes of assets belonging to the defunct local authorities; legal process for securing and transfer of assets and liabilities from National to County Governments; modalities for transfer and handling of court cases involving the defunct local authorities; addresses modalities for public assets identification, verification, validation, valuation and audit; procedural rules for transfer and sharing of public assets and liabilities; an institutional framework to support the transfers of public assets and liabilities, and recommendations on waiver of taxes and other fees during the transfer of assets to either level of Government during the transition period.

The mechanisms and criteria contained herein will facilitate seamless transition of resources between the National and County Governments taking into consideration the existing legal provisions.