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NATIONAL ASSEMBLY BILLS, 2025

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CONTENT

Bill for Introduction into the National Assembly —

PAGE

The Assumption of the Office of President and Transition of
Executive Authority Bill, 2025 1



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**THE ASSUMPTION OF THE OFFICE OF
PRESIDENT AND TRANSITION OF EXECUTIVE
AUTHORITY BILL, 2025**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objects of the Act.
- 4—Guiding principles.
- 5—Application.
- 6—Transition of executive authority.
- 7—Transition period.

**PART II—ASSUMPTION OF THE OFFICE OF
PRESIDENT AND TRANSITION OF EXECUTIVE
AUTHORITY COMMITTEE**

- 8—Establishment of the Committee.
- 9—Functions of the Committee.
- 10—Powers of the Committee.
- 11—Subcommittees of the Committee.
- 12—Convening of meetings.
- 13—Procedures of the Committee.
- 14—Establishment of the Transition Secretariat.
- 15—Transition Centre.

**PART III—ARRANGEMENTS FOR ASSUMPTION
OF OFFICE BY THE PRESIDENT-ELECT**

- 16—Security detail for the President-elect.
- 17—Security briefing.
- 18—Public officers to provide required information.

PART IV—SWEARING-IN CEREMONY

- 19—Swearing-in ceremony.

20—Taking of oath and signing of Certificate of Inauguration.

21—Handing over of instruments of power and authority.

22—Swearing-in of the Deputy President-elect.

**PART V—ARRANGEMENTS FOR THE
TRANSITION OF EXECUTIVE AUTHORITY
BEFORE THE ASSUMPTION OF OFFICE BY THE
PRESIDENT-ELECT**

23—Role of public officers during the transition period.

24—Handover reports.

**PART VI — TRANSITION OF EXECUTIVE
AUTHORITY AFTER THE ASSUMPTION OF
OFFICE BY THE PRESIDENT-ELECT**

25—Cabinet Secretaries and designated State Officers to remain in office after presidential election.

26—Accounting officers in the Executive.

PART VII—MISCELLANEOUS PROVISIONS

27—Security during the swearing-in ceremony

28—Funding of the Committee.

29—Reports of the Committee

30—Confidentiality.

31—General penalty.

32—Repeal.

**SCHEDULE—FORMAT OF HAND OVER
REPORT.**

**THE ASSUMPTION OF THE OFFICE OF
PRESIDENT AND TRANSITION OF EXECUTIVE
AUTHORITY BILL, 2025**

A Bill for

AN ACT of Parliament to provide for the procedure and ceremony for the assumption of the Office of President by the President-elect in accordance with Article 141 of the Constitution; the orderly transition of executive authority before and after a presidential election; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Assumption of the Office of President and Transition of Executive Authority Act, 2025.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“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 section 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 section 14.

3. The objects of this Act are to—
- Objects of the Act.
- (a) provide for the procedure and ceremony for the assumption of the Office of 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.
4. The Committee shall be guided by Articles 134 and 141 of the Constitution and the national values and principles of governance set out in Article 10.
- Guiding principles.
5. The provisions of this Act shall apply to—
- Application.
- (a) the assumption of the Office of President by a President-elect;
 - (b) the assumption of the Office of Deputy President by the Deputy President-elect; and
 - (c) transition arrangements during the transition period.
6. Transition of executive authority shall take place or be deemed to have taken place when—
- Transition of executive authority.
- (a) the President-elect assumes office in terms of Article 141 or 146 of the Constitution;
 - (b) the Deputy President-elect assumes office in terms of Article 148 of the Constitution;
 - (c) the Attorney-General assumes office in terms of Article 156 of the Constitution;
 - (d) a Cabinet Secretary assumes office in terms of Article 152 of the Constitution;
 - (e) a Principal Secretary assumes office in terms of Article 155 of the Constitution; and
 - (f) the Secretary to the Cabinet assumes office in terms of Article 154 of the Constitution.
7. The transition period shall be the period commencing ninety days before the first vote in a
- Transition period.

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.

PART II—ASSUMPTION OF THE OFFICE OF PRESIDENT AND TRANSITION OF EXECUTIVE AUTHORITY COMMITTEE

Establishment of
the Committee.

8. (1) There is established a committee known as the Assumption of the Office of President and Transition of Executive Authority Committee.

(2) The Committee shall be an *ad hoc* committee consisting of—

- (a) the Head of the Public Service who shall be a co-chairperson;
- (b) the Attorney-General;
- (c) the Secretary to the Cabinet;
- (d) the Principal Secretary in the State Department responsible for matters relating to registration of persons and immigration;
- (e) the Principal Secretary in the State Department responsible for matters relating to internal security;
- (f) the Principal Secretary in the State Department responsible for matters relating to defence;
- (g) the Principal Secretary in the State Department responsible for matters relating to foreign affairs;
- (h) the Principal Secretary of the State Department responsible for matters relating to finance;
- (i) the Principal Secretary in the State Department responsible for matters relating to information and communication;
- (j) the Principal Secretary in the State Department responsible for matters relating to culture;
- (k) the Chief of the Kenya Defence Forces;
- (l) the Director-General of the National Intelligence Service;

- (m) the Inspector-General of the National Police Service;
- (n) the Clerk of the National Assembly;
- (o) the Clerk of the Senate;
- (p) the Chief Registrar of the Judiciary; and
- (q) nine other persons nominated by the President-elect.

(3) The President-elect shall nominate—

- (a) a co-chairperson from amongst the persons nominated under subsection (2)(q), and that co-chairperson shall be the spokesperson of the Committee; and
- (b) 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.

(4) Each member of the Committee nominated under subsection (2)(q) shall be bound by the provisions of the Official Secrets Act as if that member was a public officer

Cap. 187.

(5) The Head of the Public Service shall convene the first meeting of the Committee upon declaration of the election of the President-elect by the Commission.

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

(7) The quorum for the conduct of the business at a meeting of the Committee shall be two-thirds of all the members of the Committee.

(8) The Attorney-General shall, by notice in the *Gazette*, appoint the persons nominated by the President-elect under subsection (2)(q).

(9) Any nomination by the President-elect under subsection (2)(q) shall not be construed as an exercise of the functions or powers of the President.

(10) The Committee shall hold office until the expiry of the transition period.

9. The functions of the Committee shall be to—

Functions of the Committee.

- (a) facilitate the assumption of the office of the President and Deputy President;

- (b) facilitate the transition of executive authority and the handing over process by an outgoing administration to an incoming administration;
- (c) 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;
- (d) oversee the provision of security briefings to the President-elect by the national security organs;
- (e) oversee the provision of briefings of the President-elect by relevant public officers;
- (f) organize for the necessary facilities and personnel for the President-elect;
- (g) facilitate communication between the outgoing President and the President-elect;
- (h) prepare the programme and organize for the swearing-in ceremony; and
- (i) oversee the smooth transition of the outgoing President and Deputy President into retirement:

Provided that this paragraph shall not apply where the Deputy President has been elected as the President-elect or the Deputy President-elect;

- (j) perform any other function necessary for the attainment of the objects of this Act or as may be assigned to it by any other written law.

10. The Committee shall have all powers necessary for the execution of its functions under this Act or any other written law.

Powers of the Committee.

11. (1) The Committee may establish subcommittees for the better carrying out of its functions under this Act.

Subcommittees of the Committee.

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

12. Save as otherwise provided in this Act, the Committee co-chairpersons shall jointly be responsible for—

Convening of meetings

- (a) determining the agenda of the Committee meetings including the time and date of the meetings; and
- (b) convening the meetings of the Committee.

13. Except as otherwise provided in this Act, the Committee may determine its own procedure.

Procedures of the Committee.

14. (1) There is established a secretariat of the Committee known as the Transition Secretariat.

Establishment of the Transition Secretariat.

2) The Head of the Public Service shall appoint the members of the Secretariat on the date of the declaration of the results of the presidential elections.

(3) 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.

(4) Without prejudice to the generality of subsection (3), the Secretariat shall include public officers from each of following offices and cadres of the public service—

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

(iii) one officer from the Office of the Head of Supply Chain Management.

(5) The Committee may 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.

(6) The Secretariat shall hold office until the expiry of the transition period.

15. The Committee shall establish a Transition Centre in the capital city which shall—

Transition Centre.

(a) serve as the transition office of the President-elect and Deputy President-elect before the assumption of office; and

(b) be the depository of any information and documents required during the transition period.

PART III—ARRANGEMENTS FOR ASSUMPTION OF OFFICE BY THE PRESIDENT-ELECT

16. (1) 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, the Inspector-General of the National Police Service shall ensure that the President-elect and Deputy President-elect are accorded adequate security.

Security detail for the President-elect

Cap..

(2) In this section, “adequate security” means security at the same status as the incumbent President and Deputy President.

17. The heads of the national security organs shall ensure that the President-elect receives security briefings.

Security briefing.

18. (1) The President-elect shall, in consultation with the Committee, carry out such preparations as may be necessary for the purpose of assuming office and the orderly transition of executive authority.

Public officers to provide required information.

(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.

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

(4) A public officer who fails to comply with the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

PART IV—SWEARING-IN CEREMONY

19. (1) 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.

Swearing-in ceremony.

(2) The Committee shall publish, by notice in the *Gazette*, the date and place for the conduct of the swearing in ceremony.

(3) The day on which the President-elect is sworn in shall be a public holiday.

20. (1) The President-elect shall, during the swearing-in ceremony, 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.

Taking of oath and signing of Certificate of Inauguration.

(2) The oath or affirmation under subsection (1) shall 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.

(3) Upon making and subscribing to the oath or affirmation under subsection (1), 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.

21. (1) Upon signing the certificate of inauguration, the outgoing President shall hand over to the President, the following instruments of power and authority—

Handing over of instruments of power and authority.

- (a) a sword; and
- (b) the Constitution.

(2) The provisions of subsection (1) shall not apply where—

(a) the outgoing President is not present during the inauguration; or

(b) the incumbent is the President-elect.

(3) The absence of the outgoing President at the inauguration shall not invalidate the assumption of the office of President by the President-elect.

22. The Deputy President-elect shall make and subscribe to the oath or affirmation of allegiance to the oath or affirmation of allegiance and the oath or affirmation for the execution of the functions of office in accordance with Article 148 of the Constitution.

Swearing-in of the Deputy President-elect.

PART V—ARRANGEMENTS FOR THE TRANSITION OF EXECUTIVE AUTHORITY BEFORE THE ASSUMPTION OF OFFICE BY THE PRESIDENT-ELECT

23.(1) Within ninety days before the date of a presidential election, no Cabinet Secretary or Principal Secretary shall make any commitment that is or is intended to be binding on the Government, unless the commitment is necessary during that period and has been duly budgeted for.

Role of public officers during the transition period.

(2) During the period commencing on the date of the first vote in a presidential election and ending when the President-elect assumes office—

(a) a Cabinet Secretary or Principal Secretary shall not—

(i) make any fresh appointments of public officers or nominate persons for appointment as public officers; or

(ii) travel outside Kenya without the prior written approval of the Head of the Public Service;

(b) an accounting officer shall not—

(a) make any changes or transfer of staff; or

(i) make or authorize any payment above fifty million shillings without the prior written approval of the National Treasury;

(c) a public officer shall not—

(i) enter into contracts on behalf of the Government;

- (ii) enter into any international obligations binding the Government; or
- (iii) undertake 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.

(3) A public officer who fails to comply with the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

24. (1) Ministries, State departments and agencies shall submit hand over reports to the Head of the Public Service by the fifteenth day of July of the year of a presidential election.

Handover reports.

(2) A handover report submitted under subsection (1) shall outline the status of the matters set out in subsection (3) as at the end of the financial year preceding the date of the presidential election.

(3) The hand over report shall contain ministerial statements on the following matters—

- (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.

(3) The Head of the Public Service shall deposit the hand over reports submitted under subsection (1) at the Transition Centre.

(4) The Transition Committee shall facilitate the review of the hand over reports by the President-elect and Deputy President-elect during the transition period.

(5) The format of the hand over report shall be as prescribed in the Schedule.

PART VI—TRANSITION OF EXECUTIVE AUTHORITY AFTER THE ASSUMPTION OF OFFICE BY THE PRESIDENT-ELECT

25. 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.

Cabinet Secretaries and designated State Officers to remain in office after presidential election.

26. (1) 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.

Accounting officers in the Executive. Cap. 412A.

PART VII—MISCELLANEOUS PROVISIONS

27. The Inspector-General of the National Police Service shall ensure the provision of adequate security during the conduct of the swearing-in ceremony.

Security during the swearing-in ceremony.

28. The Head of the Public Service shall, in the budget estimates of the Executive Office of the President for the presidential election's financial year, make provision for sufficient funds for the purposes of the Committee, Transition Secretariat and Transition Centre.

Funding of the Committee.

29. (1) The Committee shall, within ninety days after the date of the assumption of office by the President, cause to be prepared and submitted to Parliament a report on the affairs of the Committee.

Reports of the Committee

(2) The report shall contain—

- (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.

(3) The Committee shall cause the report to be published in the *Gazette* and in such other manner as the Committee may determine.

30. Subject to the law relating to access to information or any order of a court of competent jurisdiction, each member of the Committee and the staff assigned to the Committee and Secretariat shall maintain the confidentiality of information and documents relating to the work of the Committee.

Confidentiality.

31. Where a person is convicted of an offence under this Act whose penalty is not expressly provided for, that person shall be liable to a fine not exceeding ten million shillings or imprisonment for a term not exceeding seven years or both.

General penalty.

32. The Assumption of Office of President Act is repealed.

Repeal.
Cap. 6C.

SCHEDULE

(s. 24(5))

FORMAT OF THE HANDOVER REPORT

SUBJECT	DESCRIPTION		
<i>Overview of the Ministry, State Corporations and Semi-Autonomous Government Agencies overview</i>	Ministry		
	Mandate		
	State Departments and mandates		
	Ministerial Headquarters and Regional Offices		
	List of State Corporations and constitutive instruments		
<i>Legal and Policy frameworks governing or being administered by the Ministry and its state corporations</i>	Policies		
	Acts of Parliament		
	Statutory Instruments		
	International Treaties and Conventions		
<i>Key Challenges/Issues</i>			
<i>Recommendations</i>			
<i>International obligations and status</i>	Obligation	Description	Status
<i>Key Challenges/Issues</i>			
<i>Recommendations</i>			

SUBJECT	DESCRIPTION				
<i>Ongoing programmes and projects</i>	Projects	<i>Deliverable Title</i>	<i>Project Description</i>	<i>Source of Revenue</i>	<i>Status</i>
	Project Partnerships				
	Projected High Priority Projects	<i>Project Description</i>		<i>Comment</i>	
	Programmes	<i>Programme Description</i>		<i>Overview</i>	
<i>Key Challenges/Issues</i>					
<i>Recommendations</i>					
<i>Ongoing Policy and Legislative Initiatives</i>	Policy Initiatives	<i>Description</i>		<i>Status</i>	
	Legislative Initiatives	<i>Description</i>		<i>Status</i>	
	Statutory Instruments	<i>Description</i>		<i>Status</i>	
<i>Key Challenges/Issues</i>					
<i>Recommendations</i>					
<i>Human resource</i>	Staff Establishment				
	Emoluments and Achievements				
	Training and Development				
	Performance Appraisal				
	Disciplinary cases				
<i>Key Challenges/Issues</i>					
<i>Recommendations</i>					

SUBJECT	DESCRIPTION		
<i>Performance Contract and Workplans</i>	Strategic Plans (Ministerial, State Department and State Corporation level)		
	Performance Contracts		
	Work Plan		
	Performance status		
	Key Achievements over the last five years		
<i>Key Challenges/Issues</i>			
<i>Recommendations</i>			
<i>Financial matters</i>	Assets and contingent liabilities		
	Statement of financial accounts and assets		
	Pending bills		
	Audit Reports		
	Ongoing acquisitions or divestitures	<i>Description</i>	<i>Status</i>
	Bank Accounts	<i>Account Details</i>	<i>Reconciled balances</i>
<i>Key Challenges/Issues</i>			
<i>Recommendations</i>			

SUBJECT	DESCRIPTION	
<i>Legal status</i>	Court cases (including status and contingent liabilities)	
	Alternative dispute resolution (including status and contingent liabilities)	
<i>Key Challenges/Issues</i>		
<i>Recommendations</i>		
<i>Any other matter of significance to the to the Ministry</i>		

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the Assumption of the Office of the President and Transition of Executive Authority Bill, 2025, is to provide for the procedure and ceremony for the assumption of the Office of President by the President-elect in accordance with Article 141 of the Constitution; the orderly transition of executive authority before and after a presidential election; and for connected purposes.

Part I of the Bill (clauses 1 to 7) provides for the preliminary provisions. These include the short title of the Act, the interpretation of key terms used in the Act, the objects and guiding principles of the Act, and the activities to which the Act shall apply. It further provides for transitional matters generally. **Clause 6** provides that transition of executive authority shall be deemed to have been completed when the President, Deputy President, Attorney-General, Cabinet Secretaries, Principal Secretaries and the Secretary of the Cabinet assume office.

Part II of the Bill (Clauses 8 to 15) deals with the Assumption of the Office of the President and Transition of Executive Authority Committee. **Clause 8** provides for the establishment, composition, functions and powers of the Committee; **Clause 14** provides for the establishment and composition of the Secretariat of the Committee; and **Clause 15** provides for the establishment of the Transition Centre. The Bill also provides for the role of the President-elect in the nomination and appointment of members of the Committee, and the President-elect's use of the Transition Centre during the transition period between the declaration of the presidential election results and assumption of the Office of the President.

Part III of the Bill (clauses 16, 17 and 18) provides for the arrangements made for the assumption of office by the President-elect, including (**Clause 16**) the provision for adequate security for the President-elect and Deputy President-elect by the Inspector-General of the National Police Service and (**Clause 18**) the requirement for State and public officers to brief the President-elect.

Part IV of the Bill (clauses 19 to 22) provides for the swearing in ceremony. **Clause 19** provides that it shall be conducted in the capital city in accordance with Article 141 of the Constitution. It provides that the swearing in day of the President-elect shall be a public holiday. **Clause 20** provides for the taking of oath and the signing of the certificate of inauguration by the President. **Clause 20** provides for the handing over of the instruments of power and authority which includes the sword and the Constitution by the outgoing President to the President or, if the outgoing President is unable to attend the swearing in ceremony, and for the

instruments of power and authority to be handed over by the Chief Justice. **Clause 22** provides for the swearing in of the Deputy President-elect.

Part V of the Bill (clauses 23 and 24) provides for the arrangements for the transition of executive authority before the assumption of office by the President-elect including the roles of public officers during the transition period; the restriction of certain actions by State and public officers; and the express prohibition of acts and omissions designed to obstruct the smooth transition of executive authority and formation of Government in accordance with the laws of Kenya.; **(Clause 24)** provides for the requirement for hand-over reports and enlists what the hand-over reports shall contain.

Part VI of the Bill (clauses 25 and 26) provides for the arrangements for the transition of executive authority after the assumption of office by the President-elect. It expressly provides for the continuation in office of Cabinet Secretaries and other designated state officers that service cabinet pending the appointments of incoming office holders. **Clause 26** expressly provides that accounting officers in the Executive shall continue acting as such until the designation of another accounting officers by the Cabinet Secretary responsible for matters relating to finance.

Part VII of the Bill (clauses 27 to 32) deals with miscellaneous provisions. It provides, among other matters, for the funding of the Committee; the submission of reports to Parliament; and the repeal of the Assumption of Office of the President Act (Cap. 6C).

The Schedule to the Bill provides for the format of the hand-over reports provided for under Part III.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers and does not limit fundamental rights and freedoms.

Statement on whether the Bill concerns county governments

This Bill does not concern county governments in terms of Article 110(l) (a) of the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 5th February, 2025.

KIMANI ICHUNG'WAH,
Leader of Majority Party.