



LEGAL NOTICE NO. ....

**THE COUNTY GOVERNMENT (GENERAL) REGULATIONS, 2020**

**ARRANGEMENT OF REGULATIONS**

*Regulation*

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**LEGAL NOTICE NO. ....**

**THE COUNTY GOVERNMENTS ACT, 2012**  
*(No. 17 of 2012)*

**IN EXERCISE** of the powers conferred by section 135(1) of the County Governments Act, 2012, the Cabinet Secretary for Devolution and Arid and Semi-Arid Lands makes the following Regulations—

**THE COUNTY GOVERNMENTS (GENERAL)  
REGULATIONS, 2020**

**PART I - PRELIMINARY PROVISIONS**

Citation. **1.** These Regulations may be cited as the County Governments (General) Regulations, 2020.

Interpretation. **2.** In these Regulations, unless the context otherwise requires—

*No. 17 of 2012.* “Act” means the County Governments Act, 2012;

“alternative dispute resolution mechanism” includes arbitration, mediation, conciliation, and traditional dispute resolution mechanisms;

“county headquarter” means the physical location of a County Government as specified in the Third Schedule to the Act;

“intra-governmental dispute” means a dispute between organs, entities or agencies of a County Government relating to performance of a function;

“dispute resolution committee” means the dispute resolution

committee constituted under regulation 13 to resolve an intra-governmental dispute;

“notice for removal” means a notice of an intention to move a motion for the removal of the speaker of the County Assembly submitted under regulation 10;

“petition” means a petition to transfer a county headquarter as provided under regulations 4 and 5.

Scope of application.

**3. These Regulations shall apply to—**

- (a) the transfer of the headquarter of a county government from one physical location to another;
- (b) the removal of a speaker of a county assembly;
- (c) the resolution of intra-governmental disputes;
- (d) the appointment, promotion and transfer of public officers in county governments; and
- (e) the appointment of the village Council.

**PART II— TRANSFER OF A COUNTY HEADQUARTER**

Transfer of a county headquarter.

**4.(1)** A transfer of a county headquarter from its physical location to another location shall be initiated by a petition made by—

- (a) the County Executive Committee Members; or
- (b) a citizen to either the county executive pursuant to section 88 of the Act or the county Assembly

pursuant to section 15 of the Act. or

(2) The petition under paragraph (1) shall—

- (a) be made in writing; and
- (b) be accompanied by a proposal detailing the information specified under paragraph 3.

(3) The proposal for transfer of a county headquarter submitted pursuant to paragraph 2 (b) shall contain information on the regulatory and socio-economic impact of the transfer which shall include—

- (a) the proposed new location of the county headquarters;
- (b) the grounds necessitating the transfer;
- (c) the estimated costs to be incurred as a result of the transfer;
- (d) the process of undertaking the transfer;
- (e) the manner in which the transfer will aid the realisation of the objectives of the county government; and
- (f) any other relevant information.

Petition by  
the  
County  
Executive  
Committee.

**5.** (1) Where a proposal to transfer of a county headquarter is initiated by the County Executive Committee, the Governor shall constitute a Steering Committee consisting of—

- (a) the County Executive Committee Member responsible for County planning and development, who shall be the chairperson;
- (b) the County Executive Committee Member responsible for finance;
- (c) the County Attorney;
- (d) one man and one woman, who are registered voters in the county, representing the residents of the County; and
- (e) the Chief Officer responsible for County Planning, who shall be the Secretary to the Steering Committee.

(2) Within sixty days of being constituted, the Steering Committee shall prepare the Petition for the transfer in accordance with regulation 4:

(3) The Steering Committee shall conduct public participation on the petition and shall include the citizens of the County and persons likely to be affected by the transfer.

(4) In seeking the views of the citizens under paragraph (4), the Steering Committee shall—

(a) hold public hearings on the proposed transfer;

(b) invite both oral or written submissions to be made on the petition; and

(c) consult relevant stakeholders including persons

likely to be affected by the proposed transfer.

(5) Within twenty one days of undertaking the public participation on the petition, the Steering Committee shall submit the petition and prepare a final report to the County Executive Committee on the outcome and analysis of the public participation including—

- (a) the details of the citizens consulted; and
- (b) the submissions received from the relevant stakeholders including persons likely to be affected by the proposed transfer.

(6) Upon receipt of the petition and final report under paragraph (5), the County Executive Committee shall where it—

- (a) approves the petition, the Governor shall transmit it to the Clerk of the County Assembly for tabling and approval by the County Assembly in accordance with section 6A of the Act;
- (b) does not approve, the petition shall be deemed to have failed.

(7) The Steering Committee shall stand dissolved upon submission of the petition to the County Assembly.

Petition by a citizen.

**6.** (1) Where a petition to transfer a county headquarter is initiated by a citizen, the petition shall be supported by signatures of at least twenty five percent of registered voters in each of at least half of the wards in the county and shall be accompanied by the identification details of the citizens who support the petition.

(2) The citizens supporting the petition under paragraph (1), shall represent the diversity of the people in the County.

(3) In considering the petition, the County Assembly or the County Executive shall facilitate public participation including—

- (a) hold public hearings on the proposed transfer;
- (b) invite both oral and written submissions to be made on the proposal;
- (c) consult relevant stakeholders including persons likely to be affected by the proposed transfer; and
- (d) consulting experts on technical subjects.

(4) Regulation 5 shall apply, with necessary modifications, in the circumstances where a petition has been submitted to the County Executive Committee by a citizen.

(5) Without prejudice to the generality of paragraph (4), the County Executive Committee shall communicate its decision to the petitioner and shall provide justifications where the petition has failed.

Approval by  
the County  
Assembly.

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2020

7.(1) A petition by a citizen or the County Executive Committee shall be submitted to the County Assembly for consideration in accordance with the Petition to County Assemblies (Procedure) Act, 2020.

(2) In carrying out its scrutiny of a petition under the Regulations, the County Assembly shall—

- (a) be guided by the principles of devolved government; and
- (b) shall consider whether—
  - (i) the proposed location of county



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- headquarter is centrally located;
- (ii) the transfer is integrated within the county's development plan;
- (iii) the transfer will facilitate economic development of the county;
- (iv) there are provisions for monitoring and evaluation during the transfer;
- (v) there was sufficient public participation to inform the transfer; and
- (vi) any other relevant consideration.

(3) Pursuant to section 6A (3) of the Act, the county Assembly shall facilitate public participation on the petition.

(4) Where the County Assembly, by resolution, approves the transfer of the county headquarters, the Clerk of the County Assembly shall, within fourteen days of the resolution, transmit to Parliament—

- (a) a copy of the resolution approving the transfer of the county headquarter;
- (b) a report on the outcome of the public consultations conducted by the County Assembly; and
- (c) a copy of the petition presented to the County Assembly,

for their consideration and approval.

(5) Where the County Assembly, by resolution, rejects the transfer of a county headquarter, the Clerk of the County Assembly shall, within fourteen days, notify the Governor or the

citizen who petitioned for the transfer, of the resolution.

Approval by  
Parliament.

**8.** (1) In carrying out its scrutiny of the documents submitted by the County Assembly under **regulation 8**, Parliament shall—

- (a) be guided by the objects and principles of devolved governance and the national values and principles of governance;
- (b) consider whether —
  - (i) the proposed location of county headquarter is centrally located;
  - (ii) the transfer is integrated within the county's development plan;
  - (iii) the transfer is financially viable;
  - (iv) the transfer will facilitate economic development of the county;
  - (v) there are provisions for monitoring and evaluation during the transfer;
  - (vi) there was sufficient public consultations to inform the transfer; and
  - (vii) any other relevant consideration.

(2) Parliament shall, within fourteen days, notify the County Assembly of the resolution relating to the transfer of the county headquarter.

(3) The approval by Parliament under paragraph (2) may be subject to such conditions as may be determined by Parliament.

Notification  
to the  
public.

**9.** Upon approval of the transfer of a county headquarter by Parliament and the County Assembly, the Governor shall, by

notice in the *Gazette*, notify the public of—

- (a) the approved location for the county headquarters;
- (b) the expected timeframe for the transfer;
- (c) the interim directions relating to access of public services provided at the county headquarters; and
- (d) any other relevant information.

### **PART III—REMOVAL OF A SPEAKER OF A COUNTY ASSEMBLY**

Procedure for  
removal of  
a Speaker.

**10. (1)** Pursuant to section 11 of the Act, the notice for removal of the speaker of a County Assembly shall be submitted to the Clerk of the County Assembly stating—

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- (a) the name and signature of the Member of the County Assembly sponsoring the motion;
- (b) a list of names and signatures of at least one third of all the members of the County Assembly in support of the motion;
- (c) the grounds and particulars for the proposed motion for removal, which may include—
  - (i) violation of a provision of the Constitution;
  - (ii) inability to perform the functions of office due to physical or mental illness;
  - (iii) sentenced to a term of imprisonment exceeding six months without the option of a fine;
  - (iv) gross misconduct; or
  - (v) bankruptcy.

(d) a list of information, materials and evidence to relied on during the motion.

(2) Upon submission of the notice for removal under paragraph (1), a member of the County Assembly shall not withdraw their signature appended to it.

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(3) In addition to the requirements of section 11(4) of the Act, the Speaker shall be—

- (a) served in person with a copy of the notice for removal, at least seven days before the date scheduled for the Speaker's appearance;
- (b) furnished with a copy of the all the information and evidence in support of the motion;
- (c) entitled to legal representation, during the debate on the motion.

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of 2012

(4) Where a Speaker is removed from office under this regulation, a member elected in accordance with section 9(4) of the Act shall act as the Speaker of the County Assembly **until a speaker** is elected in accordance with the Act.

#### **PART IV— INTRA-GOVERNMENTAL DISPUTES**

Intra-  
Governmental  
disputes.

**11.** (1) In this part, unless the context otherwise requires—

“dispute” means an intra-governmental dispute.

(2) A dispute shall not be deemed to be an intra-governmental dispute if it—

- (a) is an inter-governmental dispute;

- (b) is subject to criminal proceedings before a court of law;
- (c) relates to the interpretation of a provision of law; or
- (d) relates to anti-corruption or money laundering.

Guiding principles to dispute resolution.

**12. (1)** A county Government shall, in resolving intra-governmental disputes, be guided by the following principles—

- (a) prompt and amicable resolution of disputes before resorting to judicial proceedings;
- (b) prudent use of public funds in the resolution of intra- governmental disputes;
- (c) upholding the Constitutional principles of national unity, good governance, transparency, integrity; and
- (d) compliance with the procedures, decisions and outcomes made through the dispute resolution processes under these Regulations.

(2) When resolving an intra-governmental dispute, the parties to a dispute shall—

- (a) undertake all necessary measures to amicably resolve the dispute; and
- (b) exhaust alternative dispute resolution mechanisms before referring the dispute to a court.

Procedure for

**13. (1)**Where a dispute arises within a County, the parties to

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of  
intra-  
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mental  
dispute.

the dispute shall constitute a dispute resolution committee to resolve the dispute.

(2) The committee shall consist of equal number of members from each of the entities where the dispute arises.

(3) The committee shall, within fourteen days of appointment, convene an initial meeting.

(4) The parties at the initial meeting convened under paragraph (3) shall—

- (a) elect a chairperson and vice-chairperson from amongst themselves;
- (b) determine the precise issues in dispute;
- (c) identify and agree on the appropriate alternative dispute resolution mechanism to be used in determining the dispute;
- (d) determine the rules of procedure of the committee;
- (e) give direction on any interim measures to be undertaken by either of the parties, pending the final determination of the dispute.

(5) The measures envisaged under paragraph 4(e) may include—

- (a) direct negotiations between parties;
- (b) consultations with either—
  - (i) a constitutional commission or an independent office;
  - (ii) the Council; or

(iii) any other person or institution as the parties may agree to consult.

(6) The committee shall, within twenty one days of its appointment, determine the dispute in the agreed manner and may, with necessary modifications, in accordance with the Intergovernmental Relations (Alternative Disputes Resolutions) Regulations, 2020.

(7) Where a dispute is determined by the committee pursuant to this regulation, the parties to the dispute shall enter into a written agreement stating—

- (a) the description of the parties;
- (b) the nature and particulars of the dispute;
- (c) the resolution of the process under this regulation.

(8) The Parties shall submit a copy of the agreement under paragraph (5) to the Governor and the Council.

(9) Where the parties fail to resolve the dispute, the dispute shall be referred to arbitration.

Referral to arbitration.

**14.**(1) Where an intra-governmental dispute is referred to arbitration in accordance with these Regulations, the dispute resolution committee shall identify and agree on an accredited arbitrator to determine the dispute.

(2) The arbitrator shall, within fourteen days of appointment, commence the arbitration proceedings.

(3) The arbitrator shall hear and determine the dispute within

thirty days of the date of commencement of the arbitration proceedings.

(4) The Arbitration Act, 1995 and the arbitration rules of the institution selected by the parties shall apply to the arbitration process provided under this regulation.

(5) Where the dispute is resolved through arbitration, the arbitrator shall, within seven days, submit the arbitral award to the Governor and the Council.

Judicial  
Proceedings.

**15.** Where all efforts of resolving the dispute under these Regulations fail, a party to the dispute, may institute judicial proceedings.

## **PART V—COUNTY PUBLIC SERVICE**

### ***County Secretary***

Responsibilities  
of the  
County  
Secretary

**16.** Pursuant to section 44(3)(a) of the Act, the County Secretary, as the head of the county public service shall be responsible for—

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2012.

(a) overall organization of the execution of government policies;

(b) delivery of the programmes of the County Government;

(c) ensuring all agencies of the County Government are adequately staffed for performance of their functions; and

(d) ensuring participation of the people in the governance of the county.



(2) In undertaking the functions under paragraph (1), the County Secretary shall uphold and adhere to the operational functions of the County Public Service Board.

***County Public Service Board***

Procedure for filing vacancy in the County Public Service Board.

**17.** (1) Where a vacancy arises in a County Public Service Board, the Governor shall within thirty days of the occurrence of the vacancy, constitute a selection panel for the purpose of selecting a suitable candidate.

(2) The selection panel constituted under paragraph (1) shall comprise of —

- (a) a representative from the Office of the Governor;
- (b) the County Executive Committee Member responsible for the Public Service;
- (c) a man and a woman representing professional associations with registered offices in the County;

(3) The panel shall elect a chairperson and a vice- chairperson from amongst its members.

(4) The Office of the County Secretary shall provide such facilities and any support required by the selection panel in the performance of its functions.

Advertising and shortlisting of candidates.

**18.** (1) The selection panel shall, within fourteen days of appointment, declare the vacancy and invite applications from qualified persons.

(2) Within fourteen days after the close of submission of applications, the selection panel shall—

- (a) consider the applications and shortlist qualified applicants; and
- (b) publish the names of the shortlisted qualified applicants in at least one daily newspaper of nationwide circulation and the County Government's public communication platforms including website; and
- (c) interview the qualified applicants.

(3) Within seven days of concluding the interviews under paragraph (2), the selection panel shall—

- (a) select three persons qualified to be appointed as chairperson;
- (b) select three persons qualified to be appointed as members of the Board for each vacancy; and
- (c) forward the names of the persons selected under paragraphs (a) and (b) to the Governor for appointment.

(4) In appointing persons as members of the Board, the panel and the Governor shall —

- (a) observe the principle of gender equity, ethnic and other diversities of the people of Kenya, and shall ensure equality of opportunity for persons with disabilities; and

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- (b) take into account the national values and

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2012

principles set out in Articles 10 and 232 of the  
Constitution.

(5) The Governor shall nominate suitable candidates and submit the names to the County Assembly in accordance with section 58(1) of the Act.

Approval by the  
County  
Assembly  
No.5 of  
2017.

**19.** The County Assembly shall consider and approve the appointment of the members of the County Public Service Board forwarded under **regulation 18** in accordance with the Public Appointments (County Assemblies Approval) Act, 2017.

Appointment of  
the  
chairperson  
and members  
of the board.  
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2020

**20.** Upon approval by the County Assembly, the Governor shall by notice in the *Gazette*, appoint the members as provided under section 58(1) of the Act.

Dissolution of  
the selection  
panel.

**21.** (1) The selection panel shall stand dissolved upon the appointment of the members of the County Public Service Board.

(2) Notwithstanding any other provision of this regulation, the Governor may, by notice in the *Gazette*, extend the period specified in respect of any matter under this Part by a period not exceeding twenty-one days.

#### ***Conditions of service***

Transfer of  
staff

**22.** (1) Where an authorized officer intends to transfer a County public officer from the department where such an officer is currently deployed to another department without a change of designation or grading, the recommendations and comments of the authorized officer concerned shall be sent to the Board, which shall

decide whether the transfer should be approved.

(2) Where an authorized officer intends to transfer an officer from the office where such officer is currently deployed to another office of different designation but of similar grading, in the same department, the authorized officers concerned shall forward their recommendations and comments to the Board, which shall decide whether the transfer should be approved.

(3) In effecting a transfer the following shall be taken into account—

- (a) whether the transfer shall lead to improved service delivery;
- (b) the interest of the children, if any, of the affected public officer; and
- (c) the transfer shall not be arbitrary.

(4) This Part shall not apply to—

- (a) the posting of officers from one station to another in their substantive capacities within departments; or
- (b) the transfer between departments of public officers in any office which is common to departments generally, which shall be effected by the authorized officers concerned in consultation, where necessary, with the County Public Service Board.

Re-  
designation.

**23.** (1) A public officer who wishes to be re-designated shall apply, in writing, to the respective authorized officer or to the

Board through the concerned authorized officer, as the case may be, for re-designation.

(2) A county public officer may be re-designated to hold or act in a public office if —

- (a) the office is vacant;
- (b) he or she meets all the qualifications;
- (c) the re-designation shall not disadvantage any public officer who is already serving in the particular cadre;
- (d) the officer has consented to such a decision; and
- (e) the decision shall not reduce the public officer's salary.

(3) A re-designation shall take effect on a date to be determined by the County Public Service Board or authorized officer.

## **PART V— APPOINTMENT OF VILLAGE COUNCIL**

Appointmen  
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memb  
er of  
village  
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**24.**(1) Where a vacancy arises in the village council, the village administrator shall declare a vacancy in any public communication platform with the widest public circulation in the county and invite applications from suitable candidates.

(2) Within twenty-one days after the close of submission of applications under paragraph (1), the village administrator shall in consultation with the County Public Service Board, —

- (a) consider the applications and shortlist qualified candidates;

- (b) interview the qualified candidates; and
- (c) nominate two suitable candidates for each vacant position.

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of  
2012

(3) The village administrator shall, within seven days' after the nominations under paragraph (4) (c), forward the names of the suitable candidates to the County Assembly for approval pursuant to section 58(1) (b) of the Act.

Approval by the  
County  
Assembly.  
No. 5 of  
2017

**25.** The County Assembly shall consider and approve the appointment of the members of the Village Council in accordance with the Public Appointments (County Assemblies Approval) Act, 2017.

PUBLIC PARTICIPATION