

SPECIAL ISSUE

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**  
**ACTS, 2013**

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CONTENT

Act—	PAGE
The National Government Co-ordination Act, 2013.....	1

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**, THE NATIONAL GOVERNMENT CO-ORDINATION ACT,  
2013**

No. 1 of 2013

Date of Assent: 14th January, 2013

Date of Commencement: See Section 1

## ARRANGEMENT OF SECTIONS

### PART I—PRELIMINARY

#### Section

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Object of the Act.
- 4—Guiding principles.
- 5—Accessibility of national government services.
- 6—Powers of the President and governor remain unaffected.

### PART II—NATIONAL GOVERNMENT CO-ORDINATION FRAMEWORK

- 7—Powers of the President in co-ordination of national government functions.
- 8— Office of the President.
- 9— The Cabinet.
- 10—Individual and collective responsibility of the Cabinet Secretaries.
- 11—Cabinet office.
- 12—Principal Secretaries.
- 13—Powers of the President to establish committees.
- 14—Service delivery co-ordination units.

### PART III—APPOINTMENT, ROLES AND RESPONSIBILITIES OF NATIONAL GOVERNMENT ADMINISTRATIVE OFFICERS

- 15 Recruitment and appointment of the national government administrative officers.
- 16—Powers of national government administrative officer.
- 17—Functions of national government administrative officer.

18—Scheme of service for the national government administrative officers.

PART IV - COLLABORATION AND DISPUTE RESOLUTION  
BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS ON ISSUES  
OF APPARENT CONCURRENT MANDATES

19 —Constitution of mediation team.

PART V—GENERAL PROVISIONS

20 —Savings and transfer of staff.

21 —Transfer of assets etc.

22 —Protection from personal liability.

23 —Regulations.

24 —Amendment to No. 17 of 2012.

25 —Repeal of N0. 3 of 2009.

**THE NATIONAL GOVERNMENT CO-  
ORDINATION ACT, 2013**

AN ACT of Parliament to establish an administrative and institutional framework for co-ordination of national government functions at the national and county levels of governance; to give effect to Articles 131(1) (b) and 132 (3) (b) of the Constitution and for connected purposes ENACTED by the Parliament of Kenya, as follows—PART I—PRELIMINARY

1. This Act may be cited as the National Government Co-ordination Act, 2013 and shall come into force upon the announcement of the results of the first general elections under the Constitution.

Short title and commencement.

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

Interpretation.

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to the co-ordination of national government functions;

"county" means any one of the counties into which the territory of Kenya is divided as specified in the First Schedule to the Constitution;

"national government administrative officer" means an officer recruited and appointed as such under section 15;

"national government function" means a function assigned by the Constitution, this Act or any other law to the executive arm of government;

"Principal Secretary" means a Principal Secretary appointed under Article 155 of the Constitution.

(2) Despite subsection (1), until after the first general elections under the Constitution, references in this

No. 1

Act to the expression "Cabinet Secretary" shall be construed to mean "Minister".

Object of the Act.

3. The object of this Act is to—

- (a) facilitate the exercise of executive authority pursuant to Articles 131(1)(b) and 132 (3) (b) and (c) of the Constitution;
- (b) provide for the effective co-ordination and administration of the national government functions prescribed in the Constitution, this Act or any other written law; and
- (c) provide for the establishment of an administrative and institutional framework at the national, county and decentralised units to ensure access to national government services in all parts of the Republic.

Guiding principles.

4. In fulfilling its mandate, the national government shall act in accordance with the national values and principles of the Constitution in particular, those set out in Articles 10, 189, 201(d) and 232.

6. Nothing in this Act shall be construed to—

remains  
of the President

- (a) limit the powers of the President under Articles 131(1) (b) and 132 (3) (b) and (4) (a) of the Constitution;
- (b) affect the co-ordination of county government functions as provided for under the Constitution or any other written law; or
- (c) limit the powers of the county governor as conferred under the Constitution or any other written law.

Accessibility of  
national government  
service.

5. The national government shall ensure reasonable access to its services in all parts of the Republic, so far as

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 it is  
 appropriate to do  
 so having regard to  
 the nature of the  
 service pursuant  
 to Article 6(3) of  
 the Constitution.

PART  
 II—  
 NATIONAL  
 GOVERNMENT  
 CO-  
 ORDINATION  
 FRAMEWORK

7.(  
 1)  
 Pursuant to  
 Articles 131  
 (1)(b)  
 and 132  
 (3) (b) of

National Government Co-ordination  
 the Constitution, the President may, for purposes of directing and coordinating the functions of the national government departments—

- (a) assign, through the respective Cabinet Secretary the responsibility of discharging any function of the national executive to any person in accordance with the Constitution, this Act or any other written law; and
- (b) require a person, to whom responsibility is assigned under paragraph (a) to prepare and submit a report on any matter.

(2) Without prejudice to subsection (1), the President shall use the following framework for the coordination of the national executive functions— (a) the Office of the President;

- (b) the Cabinet;
- (c) the Cabinet office; and
- (d) the co-ordination committees as may be necessary.

8. (1) Pursuant to Article 132(3)(b) of the Constitution, the President shall be responsible for the coordination of functions of Ministries, State and government departments.

(2) For purposes of co-ordination of national government functions under the Constitution, this Act or any other written law, the Office of the President shall have such number of National Government Administrative Officers as shall be necessary for the

National Government Co-ordination

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Powers of the  
President in co-  
ordination of national  
government  
functions.

The Office of the President.

effective and efficient co-ordination of national  
government functions.

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National Government Co-ordination

The Cabinet.

9. (1) Pursuant to Articles 153 of the Constitution, the Cabinet shall coordinate the functions of the national government at the national level.

(2) The Cabinet Secretaries shall be accountable individually and collectively, to the President for the exercise of their powers and the performance of their functions.

(3) A Cabinet Secretary shall be responsible for policy formulation and guidance and, where required, implementation of the policy in respect of the respective Ministry, State departments or agencies under him or her.

(4) A Cabinet secretary shall be the link between the State department and the President or Parliament as the case may be.

Individual and  
collective  
responsibility of the  
Cabinet Secretaries.

10. (1) Each Cabinet Secretary shall be

responsible for the functions assigned to him or her by the President, the Constitution, this Act, or any other written law.

(2) Collective responsibility of the Cabinet referred to under Article 153 (2) of the Constitution means that all decisions of the Cabinet are binding on all Cabinet Secretaries.

Cabinet office.

11. (1) The Cabinet office referred to under Article 154(3)(a) of the Constitution shall be headed by the Secretary to the Cabinet.

(2) In the discharge of the functions of the Cabinet, the Cabinet office shall offer secretariat and support services to the Cabinet.

(3) The Public Service Commission shall recruit and appoint such number of public officers as the



Secretary to the Cabinet may require for the effective and efficient discharge of the functions of the office.

(4) The Cabinet office shall perform such other functions as may be assigned to it by the President or the Cabinet.

12. (1) Pursuant to Article 155(2) of the Principal Secretaries. Constitution, each Principal Secretary shall be responsible for the administration of a State department.

(2) Pursuant to Article 155 (3) of the Constitution, the President may appoint such number of Principal Secretaries as may be necessary for the effective discharge of the national government functions.

13. (1) The President shall establish such committees Powers of the President of Principal Secretaries and such other committees or to establish

Committees.

mechanisms as may be necessary for the effective coordination of the national government functions under the Constitution, this Act or any other written law.

(2) The President, through the Cabinet Secretary, may decentralize, to the extent necessary the mechanisms or committees referred to under subsection (1).

(3) The Cabinet Secretary may, with the approval of the President, make regulations to give effect to this section.

(4) The President may assign such functions, as he or she considers necessary to the committees established under this section.

(5) The committees established under this section shall have all the necessary powers for the proper performance of their functions under this Act or any other written law.

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## National Government Co-ordination

14. (1) The Cabinet Secretary may, with the approval of the Service delivery coordination units of the President and by a notice in the Gazette, establish national government service delivery co-ordination units.

No. 1

(2) In establishing the national government service delivery co-ordination units, the Cabinet Secretary shall accord and respect the county government decentralised units established under section 48 of the County Government Act, 2012.

(3) Where a county government has not decentralised its units pursuant to section 48(1)(e) of the County Government Act, 2012, the national government may, where necessary, establish its own service delivery co-ordination units for purposes of co-ordination of national government functions.

(4) For purposes of this section, the locations and sub-locations in existence immediately before the commencement of this Act shall continue to exist as national government service delivery units.

(5) The national government service delivery coordination units established under this section shall be headed by national government administrative officers appointed under section 15.

**PART III—APPOINTMENT, ROLES AND  
RESPONSIBILITIES  
OF NATIONAL GOVERNMENT ADMINISTRATIVE  
OFFICERS**

Recruitment and 15. (1) In accordance with the national government appointment of the national government functions under the Constitution, this Act or any other administrative written law, the Public Service Commission shall, in officers.

consultation with the Cabinet Secretary, recruit and appoint national government administrative officers to coordinate national government functions and to perform

National Government Co-ordination 2013  
 such other functions as may be assigned to them under this  
 Act or any other law.

(2) Pursuant to subsection (1), the Public Service  
 Commission shall appoint—

- (a) a county commissioner in respect of every county;
- (b) a deputy county commissioner in respect of every sub-county;
- (c) an assistant county commissioner in respect of every ward;
- (d) a chief in respect of every location;
- (e) an assistant chief in respect of every sublocation; and
- (f) any other national government administrative officer in respect of a service delivery unit established under section 14.

16. Subject to the Constitution, this Act or any other Powers of a national written law, a national government administrative officer appointed under this Act shall have all the powers necessary for the proper performance of the functions under this Act or any other written law.

17. Subject to the Constitution, this Act or any other Functions of national written law, a national government administrative officer appointed under section 15, shall be responsible for the co-ordination of national government functions as set out in the Constitution, this Act and any other written law at the county level and other decentralised units as far as may be necessary.

18. The Cabinet Secretary shall, on the Scheme of service for recommendation of the Public Service Commission, administrative officers. prescribe a scheme of service for national government administrative officers.

**PART IV—COLLABORATION AND DISPUTE  
 RESOLUTION BETWEEN THE NATIONAL AND**

2013 National Government Co-ordination  
 COUNTY GOVERNMENTS ON ISSUES OF APPARENT  
 CONCURRENT MANDATE

19.(1) Where a dispute arises as to the mandate or Constitution of powers of any of the officers, or roles of respective mediation team. officers of the county governments and those of the national Government, a mediation team shall be constituted to deal with the dispute.

No 2 of  
 2012.

under subsection

(1) shall consist of two eminent persons appointed by the Governor and two eminent persons appointed by the Cabinet Secretary for the time being responsible for national government co-ordination.

Savings  
 and  
 transfer  
 of staff.

(3) The mediation team shall be guided by the constitutional principles and the respective constitutional mandates of each respective government.

(4) The mediation team shall undertake and finalize its task within a period of fourteen days.

(5) Should the mediation team fail to resolve the dispute within the stipulated time, the matter may be referred to the Summit under the Inter-Governmental Relations Act, 2012 for resolution.

Transfer  
 of assets  
 etc.

PART V—MISCELLANEOUS PROVISIONS

20. (1) Subject to this Act, a public officer who immediately before the commencement of this Act was serving as a chief, assistant chief or an administrative officer shall be deemed to be a national government administrative officer appointed under this Act.

(2) Subject to this Act, a person who immediately before the commencement of this Act was serving as an employee of the system of government known as provincial administration shall be redeployed in the public service.

Protectio  
 n from  
 personal  
 liability.

(2) The  
 mediation  
 team  
 constituted

21. All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into •by or on behalf of the system of administration commonly known as the provincial administration, shall upon the commencement of this Act,

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commonly known as provincial administration before the commencement of the Act.

22. Nothing done by a public officer appointed under this Act shall, if done in good faith for the purpose of executing the functions of the office, render such officer personally liable for any action, claim or demand.

23. The Cabinet Secretary may with the approval of the President, make regulations for the better carrying into effect of the purposes of this Act.

24. Section 138 of the County Government Act, 2012 is amended by inserting the following new subsection immediately after subsection (7) —

"(7) The provisions of subsection (1) shall not apply to a public officer serving in a county government and performing national government functions under the Constitution or any written law.

25. The Offices of Minister Act, 2009 is repealed.

No. 1

Regulations.

Amendment to Act No. 17 of 2012.

Repeal of No. 3 of 2009