

SPECIAL ISSUE



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GAZETTE NOTICE No. 821

THE STATE CORPORATIONS ACT

(Cap. 446)

THE COMPANIES ACT

(Cap. 486)

APPOINTMENT

IN EXERCISE of the powers conferred by section 7 (3) of the State Corporations Act, I, Uhuru Kenyatta, President and Commander-in-Chief of the Kenya Defence Forces appoint—

WILLIAM LAY

to be the Chairman and Director of the East African Portland Cement Company Limited, up to 7th November, 2014 with effect from 22nd January, 2014 and revoke the appointment of Mark Kitaanyu ole Karbolo*.

Dated the 22nd January, 2014.

UHURU KENYATTA,
President.

*G.N. 8002 of 2011.

GAZETTE NOTICE No. 822

THE CONSTITUTION OF KENYA

SPECIAL SITTING OF THE ELEVENTH PARLIAMENT

REVOCATION

IN EXERCISE of the power conferred by Standing Orders No. 22 of the National Assembly, the Speaker of the National Assembly revokes Gazette Notice No. 715 of 2014.

Dated the 6th February, 2014.

JUSTIN B. N. MUTURI,
Speaker of the National Assembly.

GAZETTE NOTICE No. 823

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(No. 8 of 1999)

APPOINTMENT

IN EXERCISE of the powers conferred by section 125 (b) of the Environmental Management and Co-ordination Act, the Cabinet

Secretary for the Ministry of Environment, Water and Natural Resources re-appoints—

TOM OJIENDA (PROF.)

to be a member of the National Environment Tribunal (NET), for a period of three (3) years, with effect from the 1st January, 2014.

Dated the 3rd February, 2014.

JUDI WAKHUNGU,
Cabinet Secretary,
for Environment, Water and Natural Resources.

GAZETTE NOTICE No. 824

THE STATE CORPORATIONS ACT

(Cap. 446)

NEW KENYA CO-OPERATIVE CREAMERIES LIMITED

APPOINTMENT

IN EXERCISE of the powers conferred by section 5 (3) of the State Corporations Act, the Cabinet Secretary for Industrialization and Enterprise Development re-appoints—

KIPKIRUI LANG'AT (DR.)

to be the Managing Director of the New Kenya Co-operative Creameries Limited, for a period of one (1) year, with effect from the 15th March, 2014.

Dated the 5th February, 2014.

ADAN MOHAMED,
Cabinet Secretary,
Ministry of Industrialization and Enterprise Development.

GAZETTE NOTICE No. 825

THE TRANSITION TO DEVOLVED GOVERNMENT ACT

(No. 1 of 2012)

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THE TRANSITION TO DEVOLVED GOVERNMENT ACT, 2012

(No. 1 of 2012)

GUIDELINES FOR TRANSITION OF STAFF TO COUNTIES

Enabling law.

1. Pursuant to the provisions of section 7(2)(m) of the Transition to Devolved Government Act, 2012, it is notified for the information of the general public that the Transition Authority has made the following guidelines for the secondment of public officers to county governments.

Purpose of the guidelines.

2. The purpose of these guidelines is to provide for—
- (a) the administration of the transfer of service of seconded officers to county governments;
 - (b) the mechanisms and process for the deployment and redeployment of seconded officers between the national government and county governments, among county governments and between the county governments and the national government;
 - (c) the effective management of human resource during the transition period by the national government and county governments;
 - (d) the safeguarding of the terms and conditions of service of seconded officers;
 - (e) the collaboration and co-operation between the national government and county governments during the transition period; and
 - (f) the distribution of human resources among county governments and between the national government and county governments.

Scope

3. These guidelines shall apply to public officers who are seconded officers during the transition period.

Interpretation of terms

4. In these Guidelines, unless the context otherwise requires —

“Act” means the Transition to Devolved Government Act (No. 1 of 2012);

“deployment” means the process of posting a public officer by the Public Service Commission or any authorized person in a county government, or from one county government to another county government, or from a county government to the national government, during the transition period;

“Ministry” means the Ministry for the time being responsible for the public service;

“rationalisation” means the process of restructuring and organizing the national government and the county government structures, systems, competencies and processes by deploying public officers in accordance with the Constitution, any written law and any relevant guidelines;

“rationalisation report” means an intergovernmental human resource capacity assessment and rationalization report envisaged in Guideline 5;

“release” means the process by which a seconded officer in a county government resumes service in the national government;

“seconded officer” means an officer of the public service who is deemed to be seconded to a county government from the national government and whose secondment is pursuant to—

- (a) section 138 of the County Government Act, No. 17 of 2012; and
- (b) section 57 of the Urban Areas and Cities Act, No. 13 of 2011;

“Summit” means the National and County Government Coordinating Summit established under section 7 of the Intergovernmental Relations Act;

“transfer of service” means the transfer of pensionable service of a public officer from the Public Service Commission to a county public service;

“transition period” means the period between commencement of the Act and three years after the first elections under the Constitution.

Rationalization of the public service during transition period

5. (1) The Transition Authority shall advise the national government and county governments on the effective and efficient capacity assessment, rationalization and deployment of public officers in the national and county governments as contemplated in section 7(2)(m) of the Transition to Devolved Government Act, (No. 1 of 2012).

(2) The Summit shall guide the preparation and implementation of the policy on the capacity assessment, rationalization and deployment of seconded officers contemplated in paragraph (1) and publish an inter-governmental staff rationalization report.

(3) The Public Service Commission, the county public service boards and the county assembly service boards shall implement the rationalisation report.

(4) The Cabinet Secretary for devolution and planning shall constitute an inter-agency team consisting of representatives from—

- (a) the national government;
- (b) the county governments; and
- (c) any other relevant person, body or institution,

who shall implement the rationalisation report in addition to other functions as shall be specified in the instrument of appointment.

(5) The Summit shall consider and approve reports on the implementation of the capacity assessment and rationalisation report published by the Public Service Commission, the county public service boards, the county assembly service boards and any other relevant person, body or institution.

Seconded officers

6. (1) A seconded officer shall, during the transition period—

- (a) carry out all lawful orders and instructions of the county government; and
- (b) follow the relevant county government policies in the discharge of the function of the office or position held.

(2) The Public Service Commission shall inform in writing all authorized officers of the recommendations of the rationalization report and facilitate the process of informing the seconded officers of the effect of the recommendations of the rationalization report.

(3) All authorized officers shall, in the form provided in the Schedule, inform all seconded officers in writing of their secondment to county governments and the information shall include—

- (a) confirmation of the seconded officers’ appointment in the county government;
- (b) the date of the secondment;

- (c) the duration of the secondment;
- (d) the date when the secondment shall end;
- (e) the remuneration and other benefits of the seconded officer;
- (f) the maintenance of the pension status of the seconded officer;
- (g) the management of the career progression of the seconded officer during the period of secondment;
- (h) the management of the training and capacity building of the seconded officer during the period of secondment; and
- (i) disciplinary matters regarding the seconded officer during the period of secondment.

(4) These Guidelines does not prevent a county government from appointing a seconded officer in the county public service.

(5) These Guidelines shall not prevent a seconded officer in a county public service or a county assembly service from applying for any office or position in any county government or in the national government.

Terms and conditions of seconded officers

7. (1) The terms and conditions of service, including remuneration, allowances and pensions or other benefits, of seconded officers shall not be varied to the disadvantage of the officers.

(2) During the period of secondment, seconded officers shall continue to benefit from the housing schemes to which they had subscribed to on the date of the commencement of the County Governments Act (No. 17 of 2012).

(3) During the period of secondment, seconded officers shall continue to benefit from the medical schemes to which they had subscribed to on the date of the commencement of the County Governments Act (No. 17 of 2012).

Training and development of seconded officers

8. (1) For the purposes of the career development of seconded officers, the existing training and career development policy of the national government shall apply during the transition period.

(2) Despite paragraph (1), the national government may provide for the training of seconded officers in consultation with a county government.

(3) These guidelines shall not prevent a county government from training a seconded officer in addition to the training provided for by the national government.

(4) A seconded officer who has undergone training at the expense of the national government or of a county government shall execute a bond to serve in the county government to which that officer is serving for a period that shall be prescribed in the bond.

(5) The salary or remuneration of a seconded officer who is undergoing training shall be paid by the respective county government in which that seconded officer is serving during that period the seconded officer shall be away for training.

(6) Before a seconded officer leaves that officer's duties in order to attend training that seconded officer shall comply with the requirements of the public service regarding training and career development including obtaining relevant authorizations and clearances from the relevant authorized officers, whether at county government level or national government level.

Discipline of seconded officers.

9. (1) A County Public Service Board shall be responsible for the disciplinary control of seconded officers in the county public service as the Public Service Commission may delegate to that county public service board.

(2) Despite paragraph (1), a county public service board shall not dismiss a seconded officer from service but may recommend to the Public Service Commission the dismissal of that officer in accordance with the Public Service Commission Regulations.

(3) Where a seconded officer who does not carry out the lawful orders or instructions of the county government in which that officer is serving or does not follow that county government's policies, the county government may take any necessary action as may be provided in the Public Service Commission Regulations or in any written law.

(4) Within thirty days of the publication of these Guidelines, the Public Service Commission shall, in writing, delegate disciplinary authority over seconded officers to—

- (a) the county public service boards;
- (b) county assembly service boards; and
- (c) authorized officers of the county government.

Transfer of service and of officers

10. (1) The transfer of service of a seconded officer from the national government to a county government shall be effected —

- (a) after the county government has established a county pension scheme for its officers;
- (b) for the purpose of pensions, the declaration of the county government as a public service; and
- (c) after the relevant county service board appoints that seconded officer to that county service.

(2) Where a county government identifies a public officer whose service the county government has determined is required in the county that county government may request in writing the Ministry to temporarily second that public officer to the county government.

(3) If the national government temporarily seconds a public servant to a county government on the written request of that county government, the county government shall be responsible for the salary, remuneration and other benefits of that public officer but the pension obligations of the national government to that seconded officer shall not be transferred to the county government.

Pension

11. During the period of secondment, the pension rights of a seconded officer are protected under the scheme to which that officer subscribed on the date of the commencement of the County Governments Act.

Establishment and abolition of offices during transition period

12. (1) During the transition period and before the rationalization contemplated in Guideline 5 is finalised, a county government shall not appoint any person to perform the duties being performed by a seconded officer.

(2) A county government may redeploy a seconded officer to perform other functions in the county if those other functions may be performed by a person of the same rank and qualifications as the seconded officer.

(3) A County Public Service Board may, during the transition period, establish a new office in the county public service.

(4) In establishing a new office in the county public service in accordance with paragraph (1), a county public service board or a county assembly service board shall apply the criteria provided under sections 46 and 60 of the County Governments Act.

Redeployment and release of seconded officers during the period of secondment

13. (1) The Transition Authority, in consultation with the Public Service Commission, may facilitate the redeployment of a seconded officer from one county government to another county government during the transition period in consultation with the national government and the relevant county governments.

(2) The Transition Authority shall constitute an inter-agency committee to resolve any challenges that may arise during the redeployment of seconded officers from one county government to another county government and the committee shall consist of representatives from—

- (a) the Transition Authority;
- (b) the Council of Governors;
- (c) the National Consultative Forum of County Public Service Boards;
- (d) the Ministry;
- (e) the Public Service Commission;
- (f) any other relevant person, body or institution as may be necessary.

(3) A county government may release to the national government a seconded officer during the transition period if—

- (a) the seconded officer is among a class of seconded officers recommended for release to the national government by the rationalization report contemplated in Guideline 5;
- (b) the national government requests the county government to release the seconded officer; or
- (c) for any justifiable reason and after applying the due process as provided in any written law, public service regulations and policies.

(4) A county government that intends to release a seconded officer to the national government shall notify the Public Service Commission of the intention to release that seconded officer not less than two months before the intended date of the release.

(5) The Public Service Commission may on receiving the notice of intention to release a seconded officer from a county government —

- (a) redeploy the seconded officer; or
- (b) take any other action that is consistent with the seconded officer's terms and conditions of service.

(6) The relevant authorised officer shall, when releasing a seconded officer from a county government to the national government, ensure that the relevant procedures of the Public Service Commission regulations have been adhered to.

SCHEDULE

(g. 6 (3))

Dear _____

RE: SECONDMENT TO THE GOVERNMENT OF COUNTY

Pursuant to the provisions of the County Government Act, 2012, I hereby confirm that you have been seconded to serve in the County

Government of _____. Your secondment commenced on the 3rd March, 2013.

During your secondment—

- (a) you shall remain an employee of the National Government and your terms and conditions of service, including housing and medical benefits, shall not be altered to your disadvantage. Particularly, your period of continuous employment shall remain unbroken.
- (b) you shall continue to abide by your terms and condition of service;
- (c) you shall report and be accountable to the host county government work, performance and results;
- (d) you shall report on day-to-day matters to the head of department or supervisor at the county;
- (e) your salary shall be Ksh _____ (unless otherwise lawfully varied) and your current incremental date shall continue to apply as well as your current pension arrangement shall continue to apply during the secondment or until your service is transferred to the county government;
- (f) you shall comply with the relevant county policies and procedures; and
- (g) you shall continue working at your current duty station or as you may be deployed by the Chief Officer, County Public Service Board or County Assembly Service Board.

In addition, your career progression and development shall be managed in accordance with your current scheme of service and any other guidelines that may be applicable. The existing training and capacity-building policy shall continue to apply and shall be managed by the national government in consultation with the County Chief Officer.

Further note that, nothing prevents the county government from training you to enhance your skills and competencies. Therefore, you are eligible and may apply for any training and capacity-building facilities that may be available in the county government.

Yours Sincerely,

Principal Secretary,

Ministry of _____

Dated the 7th February, 2014.

KINUTHIA WAMWANGI,
Chairman, Transition Authority.