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*Kenya Gazette Supplement No. 146 (National Assembly Bills No. 37)*



REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2017**

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**NAIROBI, 27th September, 2017**

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2017

Kenya Gazette Supplement No. 145 (Special Assembly Bill No. 14)



REPUBLIC OF KENYA

# KENYA GAZETTE SUPPLEMENT

## NATIONAL ASSEMBLY BILLS, 2017

### PARLIAMENT 71st Session, 2017

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**THE STATUTE LAW (MISCELLANEOUS  
AMENDMENTS) (NO. 2) BILL, 2017**

**A Bill for**

**AN ACT of Parliament to make minor amendments to  
statute law**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Statute Law (Miscellaneous Amendments) (No. 2) Act, 2017. Short title.

2. The several laws specified in the first column of the Schedule are amended, in the provisions specified in the second column thereof, in the manner respectively specified in the third column. Amendment of written laws.

**SCHEDULE**

(s. 2)

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Betting, Lotteries and Gaming Act (Cap. 131).	s.2	Delete the definition of the expression “Permanent Secretary” and substitute therefor the following new definition—  “Permanent Secretary” means the Principal Secretary in the Ministry for the time being responsible for betting, lotteries and gaming.  Insert the following new definition in proper alphabetical sequence—  “Minister” means the Cabinet Secretary for the time being responsible for matters relating to betting, lotteries and gaming.
	s.3 (2A)	Insert the words “for one further term” at the end thereof.
	s.3(10)	Delete and substitute therefor the following new subsection—  (10) All permits and licences issued under this Act and all communications from the Board shall be under the hand of the Chairman or of the Director of



Betting and Gaming appointed by the Public Service Commission on authorization by the Minister or the Permanent Secretary.

s.5(3) Delete the expression “local authority” appearing in paragraph (ii) of the proviso and substitute therefor the expression “county government”.

(4) Insert the word “hundred” immediately after the word “five”.

s.6(1) Delete the expression “forty thousand” and substitute therefor the expression “twenty million”.

s.53(1) Delete the expression “five thousand” and “six months” and substitute therefor the expressions “two million” and “two years” respectively.

s.54(2) Delete the expression “one shilling” appearing in paragraph (b) and substitute therefor the expression “fifty thousand”.

s.55(1) Delete the expressions “three thousand” and “three months” and substitute therefor the expressions “one hundred thousand” and “one year” respectively.

The Pensions Act (Cap.189) s.2 Insert the following new definition in proper alphabetical sequence—

“Minister” means the Cabinet Secretary responsible for matters relating to finance.

s.5(3) Delete the word “five” and substitute therefor the word “ten”.

The Dairy Industry Act (Cap. 336) s.3 Insert the words “goat or camel whether in liquid, solid or any other form” immediately after the word “cow” appearing in the definition of “milk”.

Insert the word “imports” immediately after the word “manufactures” appearing in the definition of “producer”.



s.19 Delete paragraph (e) and substitute therefor a new paragraph as follows—

- (e) the manner of collection of the dairy regulatory levy referred to in section 23A.

Insert the following new paragraphs immediately after paragraph (v)—

- (w) prescribing the requirements for the licensing of milk dispensers and other dispensers of other dairy produce;
- (x) prescribing the manner of handling, storage, dispensing and the general management dairy produce.

s.20 Insert the following new paragraphs immediately after paragraph (e)—

- (f) punishment for a fine not exceeding three million shillings or a term of imprisonment not exceeding three years or both;

new Insert the following new section immediately after section 23—

Dairy regulatory levy.

**23A.** (1) There shall be payable to the Board by every producer a dairy regulatory levy at the rate of one per centum of ex-factory price per kilogram of marketed processed milk and milk products.

(2) Despite subsection (1), a county government may, pursuant to Article 209(3) (c), impose a cess, payable to the county government on any milk or milk product produced within the county.

s.31 Insert the words “or an import” immediately after the word “produces” appearing in the definition of “primary producer”.



s.33 Delete the words “two thousand shillings” and substitute therefor the words “one million shillings or imprisonment for a term not exceeding one year or to both”

The Clinical Officers (Training, Registration and Licensing) Act, 1988 (No. 9 of 1988).

s.3 Delete the word “Minister” wherever it occurs and substitute therefor the words “Cabinet Secretary”.

Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”

s.7(4) Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”

s.13(6)

s.16 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”

s.17 Delete the word “Minister” and substitute therefor the words “Cabinet Secretary”.

The Kenya Roads Board Act, 1999 (No.7 of 1999).

s.12(2) Delete subsection (2) and substitute therefor the following new subsection—

(2) A person shall be qualified for appointment as the Executive Director if that person—

(a) holds a Master’s degree in finance, accounting, law or engineering from a university recognised in Kenya;

(b) has knowledge and at least ten years’ experience in a relevant field;

(c) has served in a senior management position for a period of at least five years; and

(d) satisfies the requirements of Chapter Six of the Constitution.

The Employment Act, 2007 (No. 11 of 2007)

s.10(3) Insert the following new paragraph immediately after paragraph (e)—

(ea) deployment and redeployment of the employee, and the reassignment and redesignation of the job title or grading.



The Alcoholic Drinks Control Act (No. 4 of 2010) s.2 Delete the definition of the word “magistrate” and substitute therefor the following new definition—  
 “magistrate” shall have the meaning assigned to it under the Magistrate Courts Act, 2015.

The Kenya Institute of Curriculum Development Act, 2013. (No. 4 of 2013). s.5 Delete subsection (2) and substitute therefor the following new subsection—

(2) The Council shall consist of—

(a) a chairperson who shall be appointed by the President;

(b) the Principal Secretary in the ministry responsible for matters relating to education and training or a representative designated by the Principal Secretary;

(c) the Principal Secretary responsible for Treasury or a representative designated by the Principal Secretary;

(d) one person to represent the Kenya National Examinations Council;

(e) one person to represent the Teachers Service Commission;

(f) the following members appointed by the Cabinet Secretary—

(i) one person to represent public universities;

(ii) one person from the private sector;

(iii) one person nominated by the Kenya Primary Schools Head Teachers Association;

(iv) one person nominated by Kenya Secondary Schools Head Teachers Association;

(g) the Director who shall be an *ex officio* member.



Delete subsection (3).

s.7 Insert the words “if the chairperson or the member” immediately after the word “vacant” in subsection (1).

Delete the words “if the member” appearing immediately before the word “resigns” in paragraph (a).

Delete subsection (2).

s.8 Delete.

First  
Schedule. Delete.

The Crops Act, 2013 s.2 Insert the following new definition in proper alphabetical sequence—

(No. 16 of 2013) “Board of Trustees” means the board trustees of the Fund;

“Fund” means the commodities fund established under section 9 of the Act.

s.9 Insert the following new subsections immediately after subsection (3)—

(4) The Board of Trustees shall comprise of—

- (a) a non-executive chairperson;
- (b) the Principal Secretary in the Ministry responsible for matters relating to agriculture or a designated representative;
- (c) the Principal Secretary in the Ministry responsible for matters relating to finance or a designated representative;
- (d) the Principal Secretary in the Ministry responsible for matters relating to Cooperatives or a designated representative;
- (e) three persons appointed by virtue of their knowledge and experience in matters relating to human



resource management, accounting and auditing respectively;

- (f) one person appointed by virtue of knowledge and experience in matters relating to agriculture, co-operative or law;
- (g) the Director-General of the Authority or a designated representative; and
- (h) the Managing Trustee appointed under section 9A who shall be an *ex-officio* member and Secretary of the Board of Trustees.

(5) The members of the Board of Trustees appointed under paragraph (e) and (f) shall serve for a term of three years and shall be eligible for reappointment for one further term.

New Insert the following new section immediately after section 9—

Managing Trustee of Fund.

9A. (1) The Board of Trustee shall appoint a Managing Trustee of the Fund through a competitive process, who shall serve on terms and conditions to be specified in the instrument of appointment.

(2) The Board of Trustees shall conduct its affairs in accordance with regulations prescribed by the Cabinet Secretary and subject to the law relating to trustees.

s.10(2) Delete the word (“Authority” and substitute therefor the expression “Cabinet Secretary”.

The Technical and Vocational Education and Training Act, 2013 (No. 29 of 2013)

s. 2 Insert the words “other than an institution established under any other law and which is not expressly subjected to this Act” immediately after the word “institution” appearing in the definition of the expression “public institution”.



s.52 Insert the words “unless otherwise provided by any other statute” immediately before the word “admission”.

s.58 Insert the following new subsection immediately after subsection (3)–

(4) For the avoidance of doubt, this Act shall not apply to institutions established under statutes other than the Education Act (repealed).

s.168 Insert the words “and the Attorney-General” immediately after the expression “procuring entity”.

The Public Procurement and Asset Disposal Act, 2015 (No. 33 of 2015)

s.2 Delete the words “youth” from the definition of word “Authority”.

National Employment Authority Act, 2016 (No. 3 of 2016)

s.4 Delete paragraph (a) and substitute therefor the following new paragraph–

(a) the national and county governments.

s.8 Delete paragraph (m) and substitute therefor the following new paragraph–

(m) co-ordinate the implementation of policies and programmes on employment.

New Insert the following new section immediately after section 8–

Kenyan migrant workers.

**8A.** In addition to the functions specified under section 8, the Authority shall–

(a) advise the Cabinet Secretary on all matters concerning labour migration;

(b) co-ordinate the various labour migration



- activities to ensure protection of Kenyan migrants workers and promote their welfare;
- (c) register and maintain an integrated data of all Kenyan migrant workers;
- (d) approve pre-departure training programmes and ensure that Kenyan migrants undergo the relevant pre-departure preparation before leaving to work outside Kenya;
- (e) undertake research and collect and disseminate information on labour migration;
- (f) ensure that Kenyan migrant workers who are in distress are assisted and returned to Kenya when necessary;
- (g) develop and implement programmes to ensure that Kenyan migrant workers returning to Kenya are reintegrated in society;
- (h) ensure the proper administration and management of the migrant workers' welfare fund established under section 41;
- (i) provide legal and other necessary assistance



for Kenyan migrant workers who are in distress;

(j) formulate programmes to enable Kenyan migrant workers enter into technical jobs, better wage employment, entrepreneurial development and investment of savings; and

(k) ensure the establishment of safe houses for Kenyan migrant workers in distress in destination countries.

s.17(2) Insert the expression “Master’s” in paragraph (a) immediately before the word “degree”.

Delete the words “five” and “two” appearing in paragraph (c) and substitute therefor the words “ten” and “five” respectively.

Delete paragraph (d).

Delete and substitute therefor the following new sub-section—

s.28(1) (1) Whenever a vacancy arises in a public or State office at the national government or county government, the concerned State office, public office or national government or county government shall convey details of the vacancy to the Authority.

s.30(1) Delete the word “youth” and substitute therefor the word “persons”.

(3) Delete the word “youth” and substitute therefor the word “persons”.



- (3) Insert the words “county entity” immediately after the words “State entity”.
  - s.33(1) Delete the expression “private companies” and substitute therefor the expression “prospective employers”.
  - (3) Delete the word “youth are not denied” and substitute therefor the words “no person is denied”.
  - s.37(1) Delete the words “the State shall through the Authority” and substitute therefor the words “The Authority shall”.
  - (2) Delete the words “State” and substitute therefor the word “the Authority”.
  - s.42(2) Delete the word “youth” appearing in paragraph (a) and substitute therefor the word “persons”.
- Delete the word “youth” and substitute therefor the word “persons”.



## **MEMORANDUM OF OBJECTS AND REASONS**

The Statute Law (Miscellaneous Amendments) Bill, 2017 is in keeping with the practice of making minor amendments which do not merit the publication of separate Bills and consolidating them into one Bill.

The Bill has proposals for amendments of the following statutes:

### **The Betting, Lotteries and Gaming Act (Cap. 131)**

The Bill proposes to amend the Act to harmonise the terms applied therein with the Constitution. It is also proposed to clarify the role of the Chairman of the Board and the Director of Betting vis-à-vis the Board. It also seeks to limit the periods of Board membership to two terms of three years. Other proposals are to raise the fees and fines payable under the Act.

### **The Pensions Act (Cap.189)**

The Bill proposes to amend the Pensions Act to insert a new definition of the term Minister.

### **The Dairy Industry Act (Cap.336)**

The Bill proposes to amend the Dairy Industry Act to enlarge the definition of milk to include goat and camel milk. It also seeks to enhance penalties under the Act as well as allow for regulations on the standards, manner of installation and operation of milk dispensers.

### **The Clinical Officers (Training, Registration and Licensing) Act, 1988 (No. 9 of 1988)**

The Bill proposes to amend the Clinical Officers (Training, Registration and Licensing) Act, 1988 to make consequential changes to the terminologies arising out of the enactment of the Constitution of Kenya 2010.

### **The Kenya Roads Board Act No.7 of 1999**

The Bill proposes to amend the Kenya Roads Board Act in order to prescribe the qualifications for an Executive Director of the Kenya Roads Board.

### **The Employment Act, 2007 (No. 11 of 2007)**

The Bill proposes to amend the Employment Act to confer powers of deployment and redeployment of employees and assignment of job titles and grading on the employer.



**The Alcoholic Drinks Control Act, 2010 (No. 4 of 2010)**

The Bill proposes to amend the Alcoholic Drinks Control Act, 2010 to align the definition of the word “Magistrate” with that obtaining under the Magistrate Courts Act, 2015.

**The Kenya Institute of Curriculum Development Act, 2013 (No. 4 of 2013).**

The Bill seeks to amend the Kenya Institute of Curriculum Development Act to among other things reconstitute the governing Council of the Kenya Institute of Curriculum Development.

**The Crops Act, 2013 (No. 16 of 2013)**

The Bill proposes to amend the Crops Act, 2013 to provide details on the establishment of the Commodities Fund Board of Trustees.

**The Technical and Vocational Education and Training Act, 2013 (No. 29 of 2013)**

The Bill proposes to amend the TVET 2013 Act to exclude institutions established under individual Acts of Parliament from the mandate of the Kenya Universities and Colleges Central Placement System.

**The Public Procurement and Asset Disposal Act, 2015 (No. 33 of 2015)**

The Bill proposes to amend the Act to require the Secretary of the Review Board to notify the Attorney-General whenever a request for a review is filed.

**The National Employment Authority Act, 2016 (No. 3 of 2016)**

The Bill proposes to amend the National Employment Authority Act 2016 to expand the mandate of the Authority.

It also proposes to confer the Authority with certain recruitment functions in relation to Kenyan migrant workers, including registration of agencies, pre-training programmes, welfare and provision of legal and other assistance to such workers when they are in distress.

This Bill is a Bill concerning county government and its enactment may occasion some additional expenditure of public funds, which shall be provided for in the estimates.

Dated the 11th September, 2017.

ADEN DUALE,  
*Leader of the Majority Party.*



## **Sections to be amended**

*Section 2 of Cap. 131 which it is proposed to amend—*

### **Interpretation**

2. “Permanent Secretary” means the Permanent Secretary of the Ministry for the time being responsible for Betting, Lotteries and Gaming;

*Section 3 (10) of Cap. 131 which it is proposed to delete—*

### **Establishment of Board**

3. (10) All permits and licences issued under this Act and all communications from the Board shall be under the hand of the chairman or of some person duly authorized by the chairman, notification of that authorization being published in the Gazette under the hand of the chairman.

*Section 3 (2A) of Cap. 131 which it is proposed to amend—*

### **Establishment of Board**

3. (2A) The members referred to in paragraphs (a) and (e) of subsection (1) shall hold office for a period of three years from the date of their appointment, but shall be eligible for re-appointment.

*Section 5 of Cap. 131 which it is proposed to amend—*

### **Application for licences and permits**

5. (3) After making investigations and considering any information or declaration as may have been required in terms of subsection (?), the Board may either grant, renew or vary a licence or permit or refuse a licence or permit or renewal or variation thereof without reason given:

Provided that—

- (i) no licence or permit shall be issued under this Act unless and until the Board has satisfied itself that the applicant is a fit and proper person to hold the licence or permit and that the premises, if any, in respect of which the application is made are suitable for the purpose;
- (ii) no licence shall be issued under this Act unless the Board has sent a copy of the application for the licence to the local authority within whose area of jurisdiction the applicant proposes to conduct his business and has given the local authority reasonable opportunity to object to, or make recommendations with respect to, the application.

(4) A person who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit shall



be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

*Section 6(1) of Cap. 131 which it is proposed to amend—*

#### **Applicant to furnish Board with security**

6. (1) Whenever a licence is issued under this Act the Board shall impose as a condition thereof a requirement that the applicant shall furnish the Board with security by means of a deposit, or such other security as the Board may approve, of a sum not exceeding forty thousand shillings and that security shall be refunded or cancelled on the expiration or cancellation of the licence in respect of which it has been deposited or given unless it is forfeited under section 64.

*Section 53(1) of Cap. 131 which it is proposed to amend—*

#### **Gaming machines**

53. (1) A person who—

- (a) uses or permits the use of an unauthorized gaming machine; or
- (b) knowingly allows premises to be used for the purpose of gaming by means of an unauthorized gaming machine; or
- (c) knowing or having reasonable cause to suspect that premises would be used for gaming by means of an unauthorized gaming machine—
  - (i) caused or allowed the machine to be placed on the premises; or
  - (ii) let the premises, or otherwise made the premises available, to a person by whom an offence in connection with the machine was committed,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both.

*Section 54 (2) of Cap. 131 which it is proposed to amend—*

#### **Board may authorize use of gaming machine**

54. (2) A permit issued under this section shall be subject to such conditions as the Board may impose and to the following conditions—

- (a) not more than two gaming machines are made available for play in any one building or, where different parts of a building are occupied by two or more different persons, in the part or parts of the building occupied by any one of those persons; and



- (b) the stake hazarded in order to play the game once does not exceed one shilling; and
- (c) all stakes hazarded are applied either in the payment of winnings to a player of the game or for purposes other than private gain; and
- (d) the premises on which the gaming machine is used are not wholly or mainly used by persons under the age of eighteen years.

*Section 55(1) of Cap. 131 which it is proposed to amend—*

### **Gaming in public place an offence**

**55. (1)** Subject to this Act, a person who takes part in gaming in a street or other place to which, whether on payment or otherwise, the public have or may have access, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

*Section 5 (3) of Cap. 189 which it is proposed to amend—*

### **Pensions as of right**

**5. (3)** Where an officer has completed five years of pensionable service, the benefits accruing to the officer under this Act shall vest in that officer and shall become payable in such manner and at such times as may be determined under this Act.

*Section 3 of Cap 336 which it is proposed to amend—*

3. In this Act, except where the context otherwise requires—

“Board” means the Kenya Dairy Board established by section 4;

“butterfat” means the natural and complete fat which is present in milk;

“Central Agricultural Board” means the Board established by section 35 of the Agriculture Act (Cap. 318);

“consumer” means a person who buys dairy produce for his own use and not for resale;

“dairy produce” means milk, cream, butter, ghee, cheese and any other product or by-product of milk;

“distributor” means a person who buys dairy produce for the purpose of resale;

“ghee” means pure clarified butterfat containing no preservative or colouring matter and no fats or oils other than butterfat;

“milk” means milk from a cow;



“Non-Scheduled Areas” means all areas of land in Kenya not for the time being comprised in the Scheduled Areas;

“package” includes cask, keg, crate, can, box, case, wrapper, tin, bottle, carton and every other receptacle or covering used for the packing of dairy produce;

“producer” means a person who produces, processes, manufactures, prepares or treats dairy produce for sale;

“registered producer” means a person registered under Part V;

“retailer” means a producer who sells dairy produce directly to consumers or a person who purchases dairy produce from a distributor for resale to consumers;

“Scheduled Areas” means the areas of land specified in the Schedule;

“sell” includes offer, advertise, keep, expose, transmit, convey, deliver, or prepare for sale and any exchange or disposal for consideration.

*Section 20 of Cap 336 which it is proposed to amend—*

## **20. Power to make regulations**

The Minister may, on the advice of the Board, make regulations generally for the better carrying out of the purposes and provisions of this Act, and, without prejudice to the generality of the foregoing, may make regulations with regard to dairy produce—

- (a) prescribing grades for any form of dairy produce, and minimum standards to which dairy produce shall conform, whether as a condition of importation or of exportation or of sale within Kenya;
- (b) fixing the price to be paid for any grade or type of dairy produce to producers, distributors or retailers, with power to fix different prices on a basis of quota or for different seasons or circumstances;
- (c) prescribing the manner of handling, transporting and storing of dairy produce intended for the use of or consumption by any person other than the producer thereof;
- (d) regulating and controlling the manufacture of any form of dairy produce;
- (e) imposing a levy or cess, payable to the Board, on any form of dairy produce, or imposing different rates as between different forms of produce, or as between produce for export and produce for consumption in Kenya;



- (f) prescribing the terms and form in which contracts for the sale of milk by producers, other than producers who sell direct to consumers, shall be made, and making provision for the Board to be joined as an additional party to any such contract;
- (g) providing for the creation and administration by the Board of schemes for the pooling of dairy produce by producers in such area or areas as may be prescribed and for the distribution to producers of the proceeds of sale of such dairy produce after payment to the Board, therefrom, of such sums as may be prescribed;
- (h) controlling the sale, purchase and delivery by any person of dairy produce in such area as may be prescribed;

Provided that no distributor or retailer shall be compelled to buy dairy produce from a producer or distributor unless the Board guarantees a regular and sufficient supply of the dairy produce;

- (i) prescribing the areas within which retailers may sell dairy produce to consumers;
- (j) requiring the registration and licensing, in such manner and upon payment of such fees as may be prescribed, of distributors of dairy produce;
- (k) requiring the giving of such security to the Board as the Board may specify a licensed distributor or retailer in respect of payment for dairy produce which a producer or distributor is directed by the Board to sell to the distributor or retailer;
- (l) prescribing fees or charges for services rendered under this Act by the Board or its officers, servants or agents;
- (m) prescribing the manner in which delegates to represent registered producers for the purposes of section 21 may be selected;
- (n) requiring returns, reports and estimates to be furnished to the Board by producers, distributors and retailers;
- (o) prescribing the forms of application, and of licences, marks, registers and all other documents to be used for the purpose of this Act;
- (p) prescribing the manner of marking articles intended for use in connection with dairy produce, including wrappers or packages intended to contain dairy produce;
- (q) prescribing the qualifications, powers and duties of inspectors and other persons appointed to exercise powers and perform duties under this Act;



- (r) for the examination, inspection, analysis and testing of dairy produce or any article used in connection with dairy produce, prescribing charges in respect thereof, and the conditions upon and the manner in which samples of such produce may be taken, whether compulsorily or otherwise;
- (s) authorising the opening by prescribed persons or officers, for the purpose of inspection, of any package which contains or is reasonably thought to contain dairy produce;
- (t) prescribing the books, accounts, vouchers and records to be kept by persons carrying on business in dairy produce;
- (u) authorising the examination and inspection by prescribed persons or officers of all books and documents relating to the production, manufacture, distribution or sale of any dairy produce;
- (v) making different provisions with respect to different cases or classes of case, different areas, seasons or circumstances, and for different purposes of this Act and may impose conditions and restrictions and make exceptions.

*Section 31 of Cap. 336 which it is proposed to amend—*

31. In this Part, “primary producer” means a person who produces milk for sale, but does not include persons employed by him for that purpose.

*Section 33 of Cap. 336 which it is proposed to amend—*

33. After the appropriate period of one month referred to in section 32 has elapsed, a primary producer to whom this Part applies who carries on business as such without being registered in accordance with this Part, or who willfully neglects to supply the particulars prescribed by that section, or who knowingly or recklessly supplies any such particulars which are materially false, shall be guilty of an offence and liable to a fine not exceeding two thousand shillings

*Section 30 (8) of No. 21 of 2001 which it is proposed to amend—*

(8) The claims of compensation under this section shall be made through an organisation representative of performers.

*Section 25 of No. 8 of 2002) which it is proposed to amend—*

- (1) A permit shall be required for any of the following purposes—
  - (a) any use of water from a water resource, except as provided by section 26;
  - (b) the drainage of any swamp or other land;



- (c) the discharge of a pollutant into any water resource;
- (d) any purpose, to be carried out in or in relation to a water resource, which is prescribed by rules made under this Act to be a purpose for which a permit is required.

(2) Nothing in this section applies to the purposes of a state scheme under this Part.

*Section 56 of No. 8 of 2002 which it is proposed to amend—*

No person shall, within the limits of supply of a licensee—

- (a) provide water services to more than twenty households; or
- (b) supply—
  - (i) more than twenty-five thousand litres of water a day for domestic purposes; or
  - (ii) more than one hundred thousand litres of water a day for any purpose,

except under the authority of a licence.

(2) A person who provides water services in contravention of this section shall be guilty of an offence.

(3) Nothing in this section prohibits—

- (a) the provision of water services by a person to his employees; or
- (b) the provision of water services on the premises of any hospital, factory, school, hotel, brewery, research station or institution to the occupants thereof, in cases where the source of supply of the water is lawfully under its control, or where the water is supplied to it in bulk by a licensee.

### **Interpretation**

2. “magistrate” means a magistrate above the rank of resident magistrate;

*Section 10 (2) of No. 29 of 2013 which it is proposed to amend—*

### **Application of the Fund**

10. (2) The Authority shall, from time to time, make rules for the better management of the Fund in the best interest of farmers.

*Section 5 (3) of No. 4 of 2013 which it is proposed to amend—*

5. (3) The chairperson and members of the Council shall be appointed in accordance with the procedure set out in the First Schedule.



*Section 7 of No. 4 of 2013 which it is proposed to amend—*

7. (1) The office of the chairperson or a member of the Council, other than an ex officio member, shall become vacant—

(a) if the member resigns by giving notice in writing to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the Cabinet Secretary, as the case may be;

(2) Where the office of the chairperson or a member of the Council becomes vacant, the Cabinet Secretary may appoint another person to replace the person vacating office following the procedure specified in section 8.

*Section 8 of No. 4 of 2013 which it is proposed to amend—*

8. Where a vacancy occurs in the membership of the Council, the Cabinet Secretary shall, within fourteen days of notification of the vacancy, convene a selection panel for purpose of selecting a suitable person to fill the vacancy.

*First Schedule of No. 4 of 2013 which it is proposed to amend—*

PROCEDURE OF APPOINTMENT OF CHAIRPERSON OR MEMBER  
OF THE COUNCIL

(1) The Cabinet Secretary shall, within fourteen days after the commencement of this Act and whenever it becomes necessary to appoint new members of the Council, as contemplated under section 8, request the Public Service Commission to constitute a selection panel comprising—

- (a) one representative of the Ministry responsible for education;
- (b) one representative of the Public Service Commission;
- (c) three persons with proven business experience who meet the requirements of Chapter Six of the Constitution.

(2) The Public Service Commission shall—

- (a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among themselves; and
- (b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

(3) Subject to this Act, the selection panel shall, within seven days of convening, by advertisement in the media, invite applications from persons who qualify for nomination and appointment for the position of chairperson and members.



(4) The selection panel shall—

- (a) consider the applications received under subsection (3) to determine their compliance with the provisions of the Constitution and this Act;
- (b) short list the applicants;
- (c) publish the names of the short listed applicants and the qualified applicants in the media;
- (d) conduct interviews of the short listed persons;
- (e) shortlist three qualified applicants for the position of chairperson;
- (f) shortlist double the number of required members qualified applicants for the position of the members; and
- (g) forward the names of the qualified persons to the Cabinet Secretary.

(5) The Cabinet Secretary shall, within fourteen days of receipt of the names forwarded under subsection (4)(g), appoint the chairperson and members of the Council from among the successful applicants.

(6) In nominating and appointing persons as chairperson and members of the Council, the selection panel and the Cabinet Secretary shall ensure that the Board reflects the regional and ethnic diversity of the people of Kenya and that not more than two-thirds of the members are of the same gender.

(7) The selection panel may, subject to this section, determine its own procedure for the conduct of meetings and business affairs.

(8) The selection panel shall stand dissolved upon the appointment of the chairperson and members under paragraph (6).

(9) Despite the foregoing provisions, the Cabinet Secretary may, by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.

*Section 2 of No. 29 of 2013 which it is proposed to amend—*

### **Interpretation**

2. “institution” means an institution that promotes or offers technical and vocational education and training ;



*Section 52 of No. 29 of 2013 which it is proposed to amend—*

### **Placement of students into technical and vocation education institutions**

52. Admission of students into technical and vocation education institutions shall be conducted by the Service established under the law relating to universities.

*Section 2 of No. 15 of 2015 which it is proposed to amend—*

### **Interpretation**

2. “Registrar-General” means the Registrar-General appointed under section 17.

*Section 4 (1) of No. 15 of 2015 which it is proposed to delete—*

### **Functions of the Service.**

4. (1) The Service shall, under the general supervision of the Cabinet Secretary, be responsible for the implementation of policies, laws and other matters relating to the registration of companies, partnerships and firms, individuals and corporations carrying on business under a business name, bankruptcy, societies, hire purchase, trade unions, chattels transfers, adoptions, coat of arms, books and newspapers, the National flag, emblems and names.

*Section 5(2) of No. 15 of 2015 which it is proposed to amend—*

### **The Board of the Service**

5. (2) The Board shall consist of—

- (a) a chairperson;
- (b) the Solicitor-General or his representative;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to trade;
- (d) the Principal Secretary in the National Treasury;
- (e) four other members; and
- (f) the Registrar-General who shall be an ex officio member and secretary to the Board.

*Section 17 of No. 15 of 2015 which it is proposed to delete—*

### **17. Registrar-General**

The Cabinet Secretary shall appoint a Registrar-General on the recommendation of the Board and on the terms and conditions specified in the instrument of appointment.



*Section 18 of No. 15 of 2015 which it is proposed to amend—*

**Appointment of Registrar-General**

**18.** (1) A person is qualified for appointment as the Registrar-General if the person —

- (a) is qualified as an advocate of the High Court of Kenya;
- (b) has at least ten years' experience in public affairs and management; and
- (c) meets the requirements of Chapter Six of the Constitution.

*Section 19 of No. 15 of 2015 which it is proposed to amend—*

**Removal of Registrar-General**

**19.** (2) The Board shall, before removing the Registrar-General under subsection (1)—

- (a) inform the Registrar-General in writing of the reasons for the intended removal; and
- (b) give the Registrar-General an opportunity to be heard in accordance with the principle of fair administrative action prescribed under Article 47 of the Constitution.

*Section 20 (1) of No. 15 of 2015 which it is proposed to amend—*

**Appointment of staff**

**20.** (1) The Service may appoint such Registrars and other staff as may be necessary for the proper discharge of its functions under this Act, on such terms and conditions of service as the Board may determine.

*Section 21 of No. 15 of 2015 which it is proposed to amend—*

**Delegation powers of Registrar-General**

**21.** The Registrar-General may, with the approval of the Board, delegate in writing any of his or her functions under this Act or any other written law to any other officer or member of staff on the terms specified in the instrument of delegation.

*Section 27(2) of No. 15 of 2015 which it is proposed to amend—*

**Investments of funds.**

**27.** (2) The Board may place on deposit with such bank or banks as it may determine, any money not immediately required for the purposes of the Board.



*Section 28(3) of No. 15 of 2015 which it is proposed to amend—*

**Annual reports**

**28.** (3) The annual report shall contain, in respect of the year to which it relates —

- (a) the financial statements of the Service;
- (b) a description of the activities of the Service;
- (c) such other statistical information as the Board may consider appropriate relating to the functions of the Service;
- (d) the impact of the exercise of the mandate or functions of the Service;
- (e) the progress and the welfare of the members of the Service, including matters relating to housing, insurance, safety equipment and the conditions of service;
- (f) the gender, regional and ethnic diversity in the Service; and
- (g) any other information relating to the functions of the Service that the Board considers necessary

*Section 31 of No. 15 of 2015 which it is proposed to delete—*

**Transfer of staff**

**31.** The staff of the Department of the Registrar-General employed by the Government immediately before the commencement of this Act, shall be the staff of the Service.

*Section 32 of No. 15 of 2015 which it is proposed to amend—*

**Transfer of assets and liabilities**

**32.** All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the Department of the Registrar-General for the purposes of giving effect to the relevant laws, shall, on the date of commencement of this Act, vest in the Service subject to all interests, liabilities, charges, obligations and trusts affecting that property.

*Paragraph 1(6) of the Schedule to No. 15 of 2015 which it is proposed to amend—*

**Meeting of Board**

**1.** (6) The chairperson shall preside at every meeting of the Board at which he or she is present and in the absence of the chairperson at a meeting, the vice-chairperson, shall preside and in the absence of both the



chairperson and the vice-chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

*Section 2 of No. 3 of 2016 which it is proposed to amend—*

### **Interpretation**

2. “Authority” means the National Youth Employment Authority” established by section 6;

*Section 4 of No. 3 of 2016 which it is proposed to amend—*

### **Application of the Act**

4. This Act applies to—

- (a) the national government;
- (b) the private sector; and
- (c) the informal sector.

*Section 8 of No. 3 of 2016 which it is proposed to amend—*

### **Functions of the Authority**

8. The functions of the Authority shall be to—

- (a) advise on formulation of employment policies and strategies for national and county governments;
- (b) advise both the national and county governments on any policy matter concerning employment;
- (c) develop methodologies for employment measurement, management and promotion;
- (d) conduct periodic surveys on labour market skills requirements and advice training institutions and job seekers appropriately to ensure that training and skills match the job market requirements;
- (e) monitor implementation of employment policies and programmes;
- (f) facilitate cooperation with the national government, the private sector, the informal sector and foreign governments and institutions to promote and increase access to employment;
- (g) facilitate, continuous training and other activities of Kenyans to improve of their chances of employment and work skills;
- (h) register persons seeking employment;



- (i) maintain an integrated and up-to-date database of all persons seeking employment;
- (j) facilitate the employment and placement of job seekers in formal and informal or any other form of employment, locally and internationally;

*Section 17(2) of No. 3 of 2016 which it is proposed to amend—*

#### **Director-General**

**17.** (2) A person shall be qualified to be appointed as a Director-General if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) meets the requirements of Chapter Six of the Constitution;
- (c) has at least five years experience, two of which shall be in a management level; and
- (d) has not attained the age of thirty-five years at the time of appointment.

*Section 30 of No. 3 of 2016 which it is proposed to amend—*

#### **Applications**

**30.** (1) A youth registered under this Act may apply directly to a prospective employer.

(3) A State entity, public office or State office may request for data of qualified youth from the Authority for purposes of considering them for employment.

*Section 33 of No. 3 of 2016 which it is proposed to amend—*

#### **Authority to undertake due diligence**

**33.** (1) The Authority shall, on its own motion, or using other state machineries, undertake due diligence on private companies seeking its services under this Act.

(2) The Authority shall not partner with any prospective employer where the Authority or any national security organ has, upon due diligence, established possible employment malpractices or violation of laws of Kenya.

(3) Notwithstanding subsection (1) and (2), the Authority shall take necessary measures to ensure that the youth are not denied access to employment unreasonably.



*Section 37 of No. 3 of 2016 which it is proposed to amend—*

### **Encouragement to employ Kenyans**

**37.** (1) The State shall, through the Authority, encourage private and public institutions to employ Kenyans in all positions, including positions of leadership and management.

(2) The State shall come up with incentives to reward any private institution that employs Kenyans within six months of completion of their certificate or undergraduate studies, and who do not possess more than five years work experience.

(3) The Government shall take affirmative action measures and actions designed to promote the employment of Kenyans in management and other levels of employment regardless of their years of experience.

*Section 42 (2) of No. 3 of 2016 which it is proposed to amend—*

### **Annual reports**

**42.** (2) The report referred to under subsection (1) shall include—

- (a) number of youth registered in the period under review;
- (b) number of youth who have secured employment during the period under review;
- (c) any impediment encountered in the discharge of the functions of the Authority;
- (d) any policy matters that the Authority may require to be addressed by the Cabinet Secretary, national or county governments;
- (e) any other matter pertinent to the discharge of its functions under this Act.







