

SPECIAL ISSUE

Kenya Gazette Supplement No. 81 (National Assembly Bills No. 13)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2020

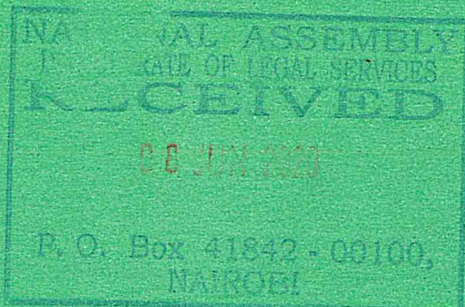
NAIROBI, 22nd May, 2020

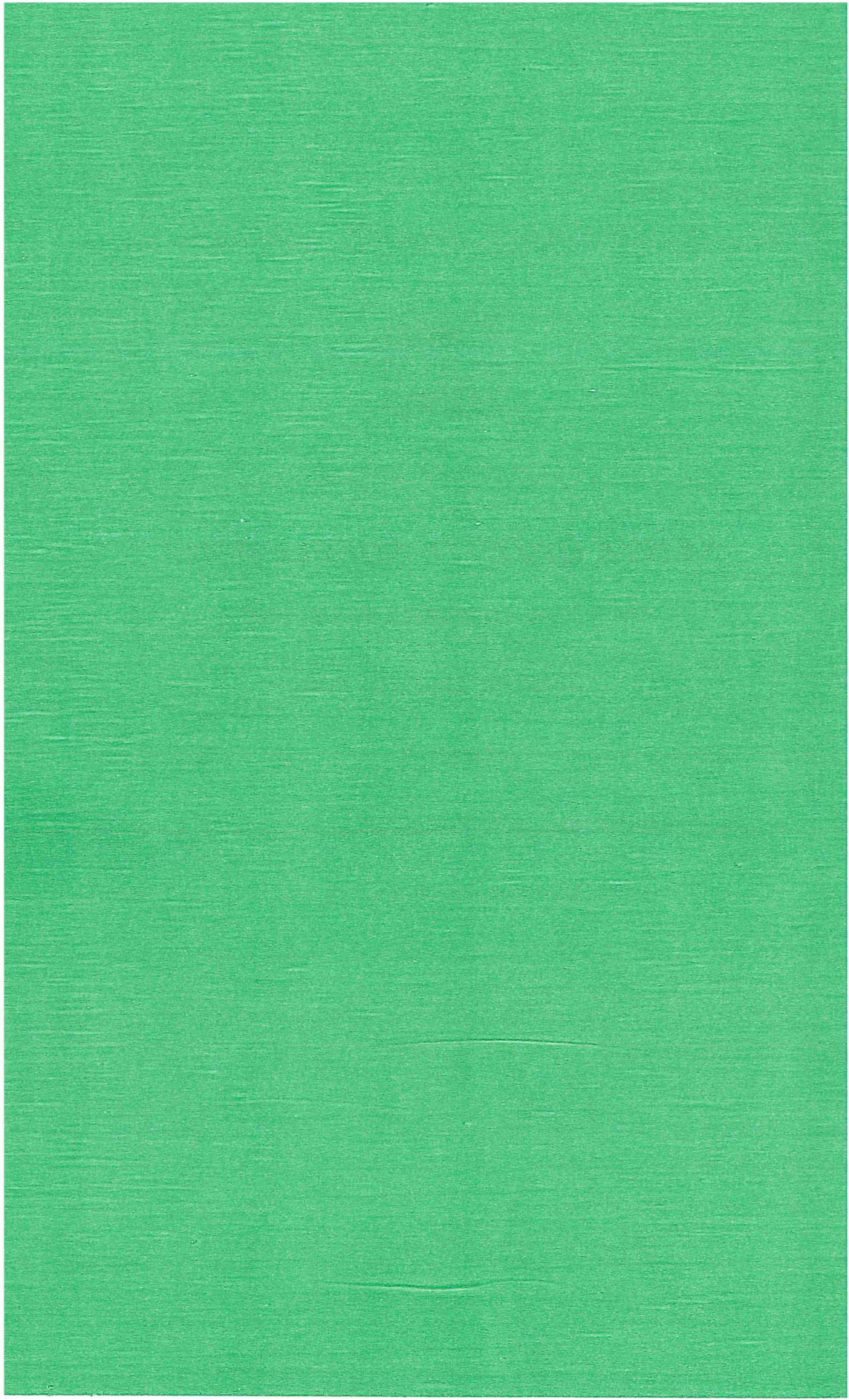
CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Poverty Eradication Authority Bill, 2020.....465





**THE POVERTY ERADICATION AUTHORITY
BILL, 2020**

ARRANGEMENT OF CLAUSES

PART I – PRELIMINARY

Clause

- 1—Short title.
- 2—Interpretation.

**PART II –ESTABLISHMENT, POWERS AND
FUNCTIONS OF THE AUTHORITY**

- 3—Objects and purpose of the Act.
- 4—Establishment of the Authority.
- 5—Functions of the Authority.
- 6—Board of the Authority.
- 7—Powers of the Authority.
- 8— Application of the Act in county government.
- 9—Conduct of business and affairs of the Authority.
- 10—Staff of the Authority.
- 11—Remuneration.
- 12—Chief Executive Officer.
- 13— The common seal of the Authority.
- 14—Protection from liability.
- 15—Liability for damages.
- 16—Committees of the Authority.
- 17—Delegation by the Authority.

PART III— FINANCIAL PROVISIONS

- 18— Funds of the Authority.
- 19— Financial year of the Authority.
- 20— Annual Estimates.
- 21— Records, Accounts and audit.
- 22— Bank account.

23—Reports.

PART IV— POLICY GUIDELINES ON POVERTY REDUCTION

24—Poverty reduction and economic growth policies.

25—Policy to address areas of need.

26—Coordination and Implementation with county governments.

PART V-POVERTY ERADICATION FUND

27—Establishment of the Fund.

28—Sources of the Fund.

29—Administration of the Fund.

30—Initial Capital.

PART VI—MISCELLANEOUS PROVISIONS

31—Regulations.

32—Transitional Provisions.

FIRST SCHEDULE— PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF THE AUTHORITY

SECOND SCHEDULE—PROVISION AS TO THE INITIAL CAPITAL OF THE FUND

THIRD SCHEDULE—TRANSITIONAL PROVISIONS

THE POVERTY ERADICATION AUTHORITY BILL, 2020

A Bill for

AN ACT of Parliament to establish the Poverty Eradication Authority; to provide for an institutional framework which ensures the participation of all Kenyans in poverty reduction and economic growth; to provide for the coordination of the national economic empowerment and poverty eradication agenda; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Poverty Eradication Authority Act, 2020. Short title.

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

"Authority" means the Poverty Eradication Authority established under section 4;

"Board" means the Poverty Eradication Board established under section 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to devolution and planning;

"Fund" means the Poverty Eradication Fund established under section 27;

"inclusive growth" means the pace and pattern where growth is sufficient to lift large numbers out of poverty and inequality and benefit the most marginalized groups;

"poverty" means the inadequacy of income and deprivation of basic needs and rights.

3. The principal of the Act to—

Object and purpose
of the Act.

(a) provide a framework that ensures inclusive economic growth and good governance in Kenya; and

(b) establish mechanisms to support a sustained long-term reduction of poverty in Kenya.

PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE AUTHORITY

4. (1) There is established an authority to be known as the Poverty Eradication Authority.

Establishment of the Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of moveable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing all other duties or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

5. The functions of the Authority shall be to—

Functions of the Authority.

- (a) Manage the Poverty Eradication Fund;
- (b) coordinate in collaboration with governmental and non-governmental actors in undertaking poverty eradication programmes throughout Kenya;
- (c) formulate a national poverty eradication plan, in collaboration with relevant stakeholders, which shall be reviewed every five years;
- (d) advise the national and county governments on poverty alleviation programmes and strategies;
- (e) foster and advocate for inclusive growth that involves the participation of those below the poverty line;
- (f) approve and track progress in poverty reduction in the short, medium and long term programmes;
- (g) coordinate national, county and international media campaigns, advocacy and publicity against poverty;
- (h) promote research on poverty reduction while fostering innovative and entrepreneurial initiatives on poverty reduction;

- (i) serve as a repository of knowledge and data on various poverty alleviation surveys, policies, programmes and strategies; and
- (j) carry out any other function as may be assigned to it by this Act.

6. (1) The management of the Authority shall be vested in a Board which shall consist of—

Board of the
Authority.

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry responsible for the finance or a representative;
- (c) the Principal Secretary of the Ministry responsible for devolution and planning or a representative;
- (d) the Principal Secretary of the Ministry responsible for labour, social security and services or a representative; and
- (e) seven other persons appointed by the Cabinet Secretary, of whom—
 - (i) four shall represent counties;
 - (ii) one shall represent research institutions;
 - (iii) one shall represent the private sector;
 - (iv) one shall represent special interest groups; and
- (g) the Chief Executive Officer of the Authority appointed under section 11 of this Act.

(2) The Cabinet Secretary shall in appointing the members of the Board under subsection (1) (f), ensure that not more than two-thirds of the members are of the same gender, and shall have regard to persons with disabilities.

(3) The Board shall elect a vice-chairperson from among the members of the Board.

(4) The chairperson and members of the Board appointed under this section, other than the *ex-officio* members, shall hold office for a period of three years and shall be eligible for re-appointment for one further and final term.

(5) A person appointed as a member of the Board, other than an ex-officio member, shall—

- (a) hold a relevant degree or its equivalent from a university recognised in Kenya;
- (b) have at least five years' experience;
- (c) fulfill requirements of Chapter Six of the Constitution; and
- (d) be appointed through a competitive recruitment process.

(6) A person appointed as the chairperson or member of the Board, other than an ex-officio member, shall cease to hold office if the person—

- (a) resigns from office as such in writing addressed to the appointing authority;
- (b) is absent from three consecutive meetings of the Board without cause;
- (c) is adjudged bankrupt;
- (d) is incapacitated by prolonged physical or mental illness;
- (e) ceases to represent the interest in respect of which he or she was appointed to the Board;
- (f) is, in the opinion of the Board and the Cabinet Secretary, unable or unfit to discharge the functions of the office; and
- (g) is convicted of a criminal offence for which the sentence is imprisonment for more than six months, without the option of a fine.

7. The Authority shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Authority shall have power to—

Powers of the Authority.

- (a) ensure the implementation of policies and decisions of the Authority;
- (b) review all poverty alleviation programmes in the country;
- (c) conduct assessments of the programmes implemented and prepare reports for

submission to the national or county government;

- (d) set periodic targets for poverty reduction for the national and county governments;
- (e) act as trustee of money and other property vested in it and use such property in a manner that promotes the purposes of the Authority; receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (f) relate with community based organisations, non-governmental organisations, international donor agencies and all other major stakeholders in order to facilitate the development of their capabilities as well as foster partnerships among them;
- (g) establish and maintain bank accounts for its funds;
- (h) invest any funds of the Authority not immediately required for its purposes;
- (i) raise money by borrowing or otherwise; and
- (j) undertake any activity necessary for the fulfillment of any of its functions.

8. Where a county government is in the process of implementing a poverty eradication and reduction programme, the county government may adopt the provisions of this Act with modifications as may be necessary under the direction of the Authority.

Application of the Act in county government.

9. (1) The conduct and regulation of the business and affairs of the Authority shall be as provided in the First Schedule.

Conduct of business and affairs of the Authority.

(2) Except as provided in the First Schedule, the Authority may regulate its own procedure.

10. (1) The staff of the Authority shall be persons serving under the Public Service Commission.

Staff.

(2) A public officer seconded to the Authority shall be deemed to be an officer of the Authority and shall be subject only to the direction and control of the Authority.

11. The Authority shall pay its members such remuneration as may be approved by the Cabinet Secretary upon the advice of the Salaries and Remuneration Commission.

Remuneration.

12. (1) There shall be a Chief Executive Officer of the Authority appointed by the Cabinet Secretary on the recommendation of the Board.

Chief Executive Officer.

(2) A person shall not be appointed as the Chief Executive Officer unless the person holds a university degree in social science or a relevant field from a university recognized in Kenya.

(3) The appointment of the Chief Executive Officer shall be for a period of five years which may be renewed once for a period not exceeding five years.

(4) The Chief Executive Officer shall —

- (a) have the power to do all duties necessary to be done for the performance of his or her functions as contemplated in this Act;
- (b) in consultation with the Board and in accordance with the policies set by the Authority provide administrative services to the Authority;
- (c) be responsible to the Board;
- (d) be the secretary to the Board; and
- (e) be the accounting officer of the Authority.

13. (1) The common seal of the Authority shall be kept in the custody of the Chief Executive Officer or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

The common seal of the Authority.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chairperson of the Board and the Chief Executive Officer.

(4) The Board shall, in the absence of either the chairperson or the Chief Executive Officer, in any

particular matter, nominate one member of the Board to authenticate the seal of the Authority on behalf of either the chairperson or the Chief Executive Officer.

14. (1) No duties done by a member of the Board or by any officer, member of staff, or agent of the Authority shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done *bona fide*, be paid out of the funds of the Authority, unless such expenses are recovered by him or her in such suit or prosecution.

15. The provisions of section 14 shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for damages.

16. For the better carrying out of its functions, the Authority may, from time to time, establish committees to undertake special assignments as may be required.

Committees of the Authority.

17. The Authority may delegate to any committee, any member, officer, or agent of the Authority, any of the powers or the performance of any of the functions or duties of the Authority under this Act.

Delegation by the Authority.

PART III—FINANCIAL PROVISIONS

18. The funds of the Authority shall consist of—

Funds of the Authority.

- (a) such sums or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under the Act.
- (b) such monies as may be provided for by Parliament; and

- (c) all sums from grants, gifts, bequests or other contributions by persons or organisations;
- (d) such sums and assets from international donor agencies; and
- (e) all other sums that may accrue to the Authority.

19. The financial year of the Authority shall be the period of twelve months ending on the thirtieth of June in every year.

Financial year of the Authority.

20. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that financial year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the of the staff of the Authority, members of the Board or agents of the Authority;
- (b) the payment of the pensions, gratuities and other charges in respect of the retirement benefits payable to the members of staff or the Authority;
- (c) funding of training, research and development of activities of the Authority;
- (d) publication and promotion of the activities of the Authority;
- (e) the proper maintenance of the buildings and grounds of the Authority;
- (f) the proper maintenance, repair and replacement of the equipment and other movable property of the Authority; and
- (g) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Authority may deem fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to

which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval and transmission to the Treasury.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary, and the Principal Secretary to the Treasury.

21. (1) The Board shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the Authority.

Records, accounts and audit.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Authority together with—

- (a) a statement of the income and expenditure of the Authority during that year; and
- (b) a balance sheet of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No.34 of 2015

22. The Board may place on deposit with such bank or banks as the Treasury may approve from time to time, any moneys not immediately required for the purposes of the Authority.

Bank account.

23. Within six months after the end of each fiscal year, the Cabinet Secretary, in consultation with the Board, shall prepare a report to National Assembly that includes the—

Reports.

- (a) reviews of the implementation of the poverty reduction and economic policy strategy for that year; and
- (b) evaluation of the progress of the policy strategy using the poverty reduction and economic growth indicators prescribed by regulation.

PART IV—POLICY GUIDELINES ON POVERTY REDUCTION

24. The Cabinet Secretary in consultation with the Authority shall—

Poverty reduction and economic growth policies.

- (a) implement short and long term policies to reduce poverty and increase economic growth;
- (b) establish poverty and economic growth indicators to be used in measuring progress of the policies; and
- (c) disseminate annual reports to the public on the progress of the policy.

25. (1) The policies adopted shall address areas which shall include but not limited to—

Policy to address areas of need.

- (a) an affordable standard of health;
 - (b) accessible and affordable adequate housing;
 - (c) acceptable quality of life, adequate food and safe water;
 - (d) quality, accessible education and training; and
 - (e) employment opportunities.
- (2) The policy shall—
- (a) recognize that certain groups face a higher risk of poverty and social exclusion; and
 - (b) ensure that programs and initiatives to reduce poverty and increase economic growth are accessible to all persons who are poor.

26. The Authority shall support county-initiated poverty alleviation and reduction policies or activities by county governments and community based organisations.

Co-ordination and implementation with county governments.

PART V—POVERTY ERADICATION FUND

27. (1) There shall be established a Fund to be known as the Poverty Eradication Fund.

Establishment of the Fund.

28. The Fund shall consist of—

Sources of the Fund.

- (a) monies appropriated by Parliament for the purposes of the Fund;
- (b) income-generated from the proceeds of the Fund;

- (c) income from investments made by the Fund;
- (d) grants, donations, bequests or other gifts made to the Fund; and
- (e) monies from any other source approved by the Cabinet Secretary.

29. (1) The Chief Executive Officer shall be the administrator of the Fund.

Administration of
the Fund.

(2) The administrator of the Fund shall-

- (a) open and operate a bank account at a bank to be approved by the Cabinet Secretary for the time being responsible for finance;
- (b) supervise and control the administration of the Fund;
- (c) consult with the Board on matters relating to the administration of the Fund;
- (d) cause to be kept proper books of accounts and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund;
- (e) prepare, sign and transmit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and submit a copy to the National Treasury and the statements shall be prepared in such a manner as the Public Sector Accounting Standards Board shall prescribe;
- (f) furnish additional information as he or she may consider to be proper and sufficient for the purpose of examination and audit by the Auditor-General in accordance with the provisions of the Public Audit Act; and
- (g) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Cabinet Secretary for gazettelement by the 21st of every fourth month.

(3) Every statement of account prepared under subsection (2) (e) shall include-

- (a) details of the balance between the assets and liabilities of the Fund; and
- (b) the financial status of the Fund as at the end of the financial year concerned.

30. The initial capital of the Fund shall be as set out in the Second Schedule. Initial capital.

PART VI—MISCELLANEOUS PROVISIONS

31. The Authority may, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance, make regulations generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations— Regulations.

- (a) prescribing indicators of poverty reduction and economic growth for the purposes of this Act;
- (b) management and administration of the Poverty Eradication Fund; and
- (c) any matter necessary to carry out the purposes of this Act.

32. The transitional provisions set out in the Third Schedule shall apply upon the commencement of this Act. Transitional provisions.

FIRST SCHEDULE (s.9)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF THE AUTHORITY

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and upon requisition in writing by at least six members shall, convene a special meeting of the Board at any time for the transaction of the business of the Council.

(3) Unless three quarters of the total members of the Board otherwise agree, at least seven days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be seven members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the Disclosure of interest
by Board members.

meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

(2) If the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Authority by any person generally or specially authorized by the Board for that purpose.

Execution of
instruments.

4. The Chief Executive Officer shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

Minutes.

SECOND SCHEDULE (s.30)

PROVISION AS TO THE INITIAL CAPITAL OF THE FUND

1. The initial capital of the Fund shall be the consolidated Funds from the former Uwezo Fund, the Youth and Women Enterprise Funds, and shall be a revolving fund to be replenished at the end of each financial year.

Initial capital of the Fund.

THIRD SCHEDULE (s.32)

TRANSITIONAL PROVISIONS

1. (1) In this Schedule-

Interpretation.

“appointed day” means the day this Act comes into operation;

“former Boards” means the Youth Enterprise Development Fund Board, the Women Enterprise Development Fund Board and the Uwezo Fund Oversight Board.

2. (1) The following subsidiary legislations are hereby revoked-

Revocation and savings provisions.

(a) The Public Finance Management (Uwezo Fund) Regulations, 2014;

L.N. 21 of 2014.

(b) The Government Financial Management (Women Enterprise Fund) Regulations, 2007;

L.N. 147 of 2007.

(c) Youth Enterprise Development Fund Order, 2007; and

L.N. 63 of 2007.

(d) The Public Finance Management (National Government Affirmative Action Fund) Regulations, 2016.

L.N. 52 of 2016.

(2) The members of the former Boards may be re-deployed to other positions within the Board, the Ministry responsible for youth and women affairs and the Ministry responsible for matters relating to finance, as the respective Cabinet Secretaries shall direct.

(3) Despite the provisions of sub-sections (1) and (2), the provisions of this part shall apply upon the commencement of this Act.

3. All rights, obligations and contracts which, immediately before coming into operation of this Act, were vested in or imposed on the former Boards shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board.

Rights and obligations.

4. (1) Every person who, immediately before the appointed day was an officer or member of staff of the former Boards, not being then under notice of dismissal or resignation shall, on the appointed day be presumed to be staff of the new Board.

Transfer of staff.

(2) The members of the new Board shall, in consultation with the Cabinet Secretary for National Treasury, undertake staff placement in the developed organizational and staff establishment structures.

(3) Any staff found not fitting in the establishment structure may be re-deployed elsewhere in the public service.

(4) The Board may make regulations with respect to pension or provident fund benefits of members of staff of the Board.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for an institutional framework that will promote and manage policies that combat poverty. The Authority shall ensure the participation of all Kenyans in economic growth, coordinating national economic empowerment and poverty reduction agenda.

PART I of the Bill provides for preliminary matters including the title of the Bill and the interpretation of terms used in the proposed Act.

PART II of the Bill provides for the establishment, composition, functions and powers of the Poverty Eradication Authority. Clause 3 makes it a body corporate while Clause 4 provides for the functions of the Authority.

Clause 5 establishes the Board that will coordinate the activities of the Board and Clause 6 provides for the powers of the Authority. Clause 7 of L. N. No. 50-54the Bill provides for the application of this Bill to county governments.

Clauses 8-16 sets out the internal composition of the Authority by providing for a Chief Executive Officer and his or her functions, the common seal, the staff of the authority and the general conduct, business affairs of the Authority.

PART III of the Bill provides for the financial provisions relating the funds of the Authority and the use of such funds by the Authority.

PART IV of the Bill sets out the general policy guidelines the Authority and the Cabinet Secretary must follow in implementing measures to eradicate poverty.

PART V provides for provisions related to the establishment and management of the Poverty Eradication Fund.

Part VI contains miscellaneous provisions. The power of the Authority to make regulations and transiting mechanism as set out in the Third Schedule of the Youth Enterprise Development Fund Board, the Women Enterprise Development Fund Board and the Uwezo Fund Oversight Board.

This Bill is a Bill affecting counties to the extent that any poverty alleviation or reduction programme addresses socio- economic inequities in access to affordable health, housing, food and safe water and education and is an ordinary Bill.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided through the estimates.

Dated the 26th April, 2020.

JOHN WALUKE KOYI,
Member of Parliament.

