

SPECIAL ISSUE

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REPUBLIC OF KENYA

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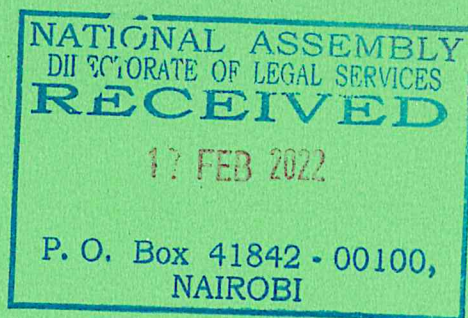
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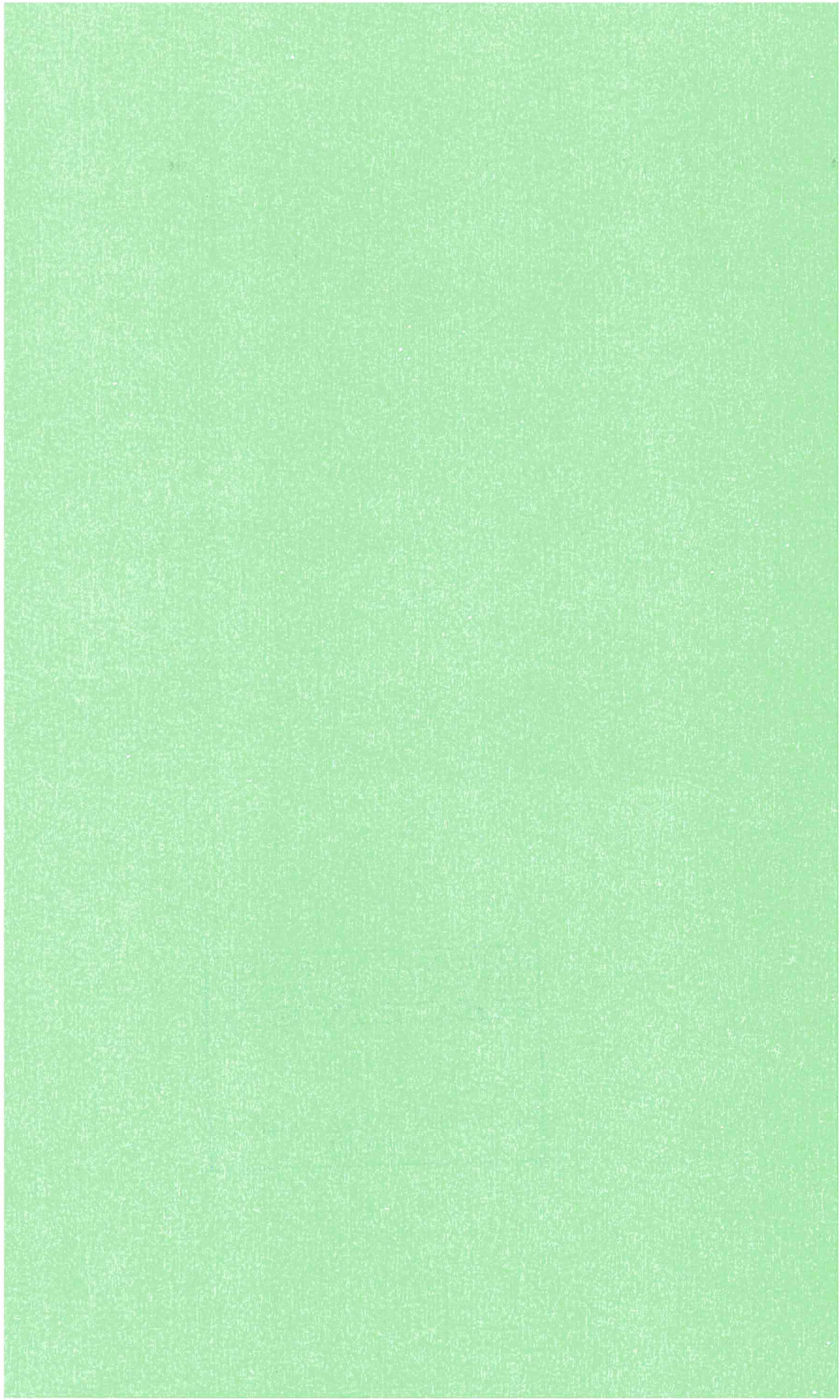
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THE MILITARY VETERANS BILL, 2022**A BILL for**

AN ACT of Parliament to establish a regulatory and institutional framework for the management of military veterans' affairs; for the provision of benefits to military veterans and military veterans' dependants; to establish the Dependants' Education Fund; to establish the Defence Forces Retirement Home; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Military Veterans Act, 2022.

Short title.

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

Interpretation.

“Advisory Committee” means the Advisory Committee on Military Veterans established by section 11;

“benefit” means any benefit contemplated in section 7;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to military veterans;

“child” means the unmarried biological or adopted child of a military veteran who has not attained eighteen years of age;

“Defence Council” means the Defence Council established under Article 241 (5) of the Constitution;

“dependant”, in relation to a military veteran, means the spouse or child of a military veteran;

“Director” means the Director of Military Veterans appointed under section 9; and

“educational institution” means a—

- (a) secondary school;
- (b) technical or vocational institution;
- (c) college or university.

3. The principal objects of this Act are to establish—

Principal objects of the Act.

- (a) a regulatory and institutional framework for the management of military veterans' affairs;
- (b) a regulatory and institutional framework for the provision of benefits to military veterans and military veterans' dependants;
- (c) the Dependants' Education Fund; and
- (d) the Defence Forces Retirement Home.

4. (1) For the purposes of this Act, the following shall be the guiding principles relating to military veterans—

Guiding principles of the Act.

- (a) the sacrifices made by military veterans during military service and their role in the protection of national boundaries, and the security and integrity of Kenya shall be honoured;
- (b) military veterans who suffer from physical or mental disability that arise from their military service shall be given special benefits; and
- (c) Government ministries, departments and agencies involved with military veterans shall co-operate with the Ministry responsible for matters relating to military veterans for the benefit of military veterans.

(2) Policies regarding military veterans shall be aimed at—

- (a) recognising and honouring military veterans;
- (b) ensuring the smooth and seamless transition of military veterans from military service to civilian life;
- (c) restoring the capability of military veterans with disabilities to the greatest extent possible;
- (d) improving the quality of life of military veterans and their dependants; and
- (e) facilitating effective access to benefits and services for military veterans.

(3) Funds relating to military veterans shall be managed in accordance with the following principles—

- (a) transparency, accountability and integrity;
- (b) prudent and responsible use of funds;
- (c) responsible financial management and clear fiscal reporting;
- (d) observance of social responsibility;
- (e) engagement in sustainable income-generating activities with value for money; and
- (f) continuous system improvement and adaptability responsiveness.

5. This Act shall not be deemed to entitle a person defined as a military veteran under this Act or that person's dependant to any benefit conferred under this Act or any other written law merely on the ground of such definition.

Act does not confer entitlements.

PART II—MILITARY VETERANS' BENEFITS

6. (1) A Kenyan citizen shall be regarded as a military veteran for the purposes of this Act if that Kenyan citizen—

Military veterans.

- (a) has served in the Kenya Defence Forces;
- (b) became a member of the Kenya Armed Forces after 1963;
- (c) served in the King's African Rifles before 1963;
- (d) has completed service in the Armed Forces or Kenya Defence Forces;
- (e) receives a pension from the Armed Forces or Kenya Defence Forces; and
- (f) has not been dishonourably discharged from military service.

(2) Despite subsection (1), a person who was discharged or retired from the Armed Forces or Kenya Defence Forces on medical grounds shall, whether or not that person receives a pension, be regarded as a military veteran:

Provided that if the person suffers from a physical or mental disability that was self-inflicted or occasioned by the use of narcotic drugs or psychotropic substances, that person shall not be considered a military veteran for the purposes of this Act.

(3) For the purposes of this section, “narcotic drugs and psychotropic substances” have the same meaning assigned to them under section 2 of the Narcotic Drugs and Psychotropic Substances (Control) Act, 1994; and

No. 4 of 1994.

7. (1) Subject to the provisions of this Act, the following benefits may be conferred on a military veteran—

Benefits.

- (a) counselling and treatment for post-traumatic stress or related conditions;
- (b) physical rehabilitation for any condition arising out of military service;
- (c) honouring and memorialising fallen military veterans;
- (d) education, training and skills development;
- (e) facilitation or advice on employment placement; and
- (f) facilitation or advice on business opportunities.

(2) Subject to the provisions of this Act, the following benefits may be conferred on a military veteran’s dependants—

- (a) counselling and treatment for post-traumatic stress or related conditions;
- (b) facilitation or assistance in education placement for children of military veterans;
- (c) facilitation or advice on employment placement; and
- (d) facilitation or advice on business opportunities.

(3) The Defence Council shall, subject to any Regulations that may be prescribed in this regard, facilitate the provisions of benefits under this section to military veterans and their dependants through the Ministry responsible for matters relating to military veterans, any other Government ministry, department or agency, or a private entity.

(4) Any Government ministry, department or agency that is responsible for the payment or provision of a benefit under this section shall co-operate with Ministry

responsible for matters relating to military veterans in respect of the payment or provision of the benefits.

(5) For the purposes of subsection (4), the Principal Secretary in the Ministry responsible for matters relating to military veterans may, in consultation with the Cabinet Secretary responsible for matters relating to finance, enter into service level agreements with a relevant Government ministry, department or agency for the facilitation of the payment or provision of benefits under this section.

PART III—ADMINISTRATION

8. The Defence Council shall—

Powers of the
Defence Council.

- (a) develop a policy on military veterans;
- (b) consider proposals by the Cabinet Secretary, the Chief of Defence Forces or the Director regarding the policy on military veterans, funding and budgeting in connection with military veterans' affairs;
- (c) commission research or studies on any issue affecting military veterans;
- (d) promote the implementation of programmes relating to military veterans' affairs under this Act; and
- (e) take such steps as may be necessary for the achievement of the objects of this Act.

9. (1) There shall be a Director of Military Veterans who shall be appointed by the Defence Council.

Director of
Military Veterans.

(2) The Director shall serve under the supervision of the Chief of Defence Forces.

(3) The Defence Council may revoke the appointment of the Director or redeploy the Director.

10. The Director shall—

Functions of the
Director.

- (a) provide administrative services and facilities to the Advisory Committee in the performance of its functions;
- (b) investigate any submission, inquiry or complaint relating to the benefits of military veterans or military veterans' dependants;

- (c) prepare a report on the findings of an investigation under paragraph (b) and share the report together with recommendations thereon with the military veteran, the military veteran's dependant, Cabinet Secretary, Chief of Defence Forces or Advisory Committee as may be appropriate; and
- (d) with respect to an investigation under paragraph (b), provide the military veteran, the military veteran's dependant, Cabinet Secretary, Chief of Defence Forces or Advisory Committee as may be appropriate with appropriate advice or assistance;
- (e) develop strategies and programmes to facilitate the progressive realisation of benefits to military veterans and military veterans' dependants under this Act;
- (f) make recommendations to the Defence Council regarding military veterans' affairs;
- (g) co-ordinate the implementation of policies relating to military veterans' affairs, report to the Chief of Defence Forces on the implementation of the policies and make recommendations thereon for consideration by the Defence Council;
- (h) identify legislative and administrative interventions required for the reduction or elimination of disparities or discrimination regarding the treatment of military veterans or military veterans' dependants;
- (i) with the approval of the Cabinet Secretary, consult any other relevant authorities, persons, organisations or institutions concerned with military veterans' affairs in order to achieve the objects of this Act;
- (j) collect, manage and update data and information from any relevant authority, person, organisation or institution concerned with military veterans' affairs;
- (k) assist military veterans or military veterans' dependants in filing applications for review to the Pensions Assessment Committee and Pensions Appeals Committee; and

- (l) perform any other functions as may be directed by the Defence Council for the achievement of the objects of this Act.

11. (1) There shall be established an advisory committee to be known as the Advisory Committee on Military Veterans.

Establishment of the Advisory Committee.

(2) The Advisory Committee shall comprise of—

- (a) a chairperson appointed by the President on the recommendation of the Defence Council; and
- (b) six other members appointed by the Defence Council.

(3) An appointment under this section shall be by name and notice in the *Gazette*.

(4) In making appointments under subsection (2) (b), the Defence Council shall ensure that—

- (a) not more than two-thirds of the members of the Advisory Council are of the same gender; and
- (b) at least one member each shall be a retired senior officer, junior officer and service member.

(5) The Director shall be the secretary to the Advisory Committee.

12. A person shall be qualified to be appointed as the chairperson or member of the Advisory Committee if that person—

Qualifications of members of the Advisory Committee.

- (a) in the case of the chairperson, is a retired general officer of the Armed Forces or Kenya Defence Forces;
- (b) in the case of a member appointed under subsection 11 (2) (b), is a military veteran;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has not acted in a manner that is prejudicial to national security since the end of his or her military service.

13. (1) Whenever a vacancy occurs in the Advisory Committee, the Defence Council shall, by notice in at least

Filling vacancies in the Advisory Committee.

two newspapers with a national circulation, invite applications from qualified persons for appointment as members of the Advisory Committee.

(2) Any person who is interested in being appointed as a member of the Advisory Committee shall apply in writing to the Principal Secretary in the Ministry responsible for matters relating to military veterans within twenty-one days from the date of the notice under subsection (1).

(3) An application under subsection (2) shall contain—

- (a) full personal and career particulars of the applicant;
- (b) the reasons and motivations for the application; and
- (c) any other particulars that may be specified in the notice under subsection (1).

(4) With regards to the appointment of the chairperson of the Advisory Committee, the Defence Council shall prepare and submit to the President a shortlist of three names within seven days from the end of the period specified in subsection (2) and the President shall appoint one of them to be the chairperson.

(5) With regards to the appointment of the members of the Advisory Council under section 11 (2) (b), the Defence Council shall appoint the successful applicant within seven days from the end of the period specified in subsection (2) and notify the successful applicant in writing.

14. (1) The chairperson and members of the Advisory Committee shall hold office on a part-time basis.

Tenure of
members of the
Advisory
Committee.

(2) The chairperson and members of the Advisory Committee shall hold office for a period not exceeding four years and shall not be eligible for re-appointment.

(3) In appointing the members of the Advisory Committee, the Defence Council shall ensure that the tenure of not more than half of the members of the Advisory Committee does not end at the same time.

15. The chairperson and members of the Advisory Committee shall be paid such remuneration and allowances

Remuneration and
allowances of the
members of the

as the Defence Council shall, on the advice of the Salaries and Remuneration Commission, determine.

Advisory
Committee.

16. (1) The President, in the case of the chairperson, or the Defence Council, in the case of any other member, may remove the chairperson or member of the Advisory Committee from office on the ground of misconduct, incapacity or incompetence.

Removal from
office.

(2) Before the chairperson or member of the Advisory Committee is removed from office, he or she shall be afforded a reasonable opportunity to make representations on the reasons why he or she should not be removed from office.

(3) Where the President intends to remove the chairperson from office or the Defence Council intends to remove a member of the Advisory Committee from office, the President or Defence Council may, as the case may be, suspend the chairperson or member from office pending his or her removal during which the chairperson or member may make representations in accordance with subsection (2).

17. (1) A vacancy may occur in the office of chairperson or member of the Advisory Committee if the holder of the office—

Vacancy.

- (a) resigns in writing to the appointing authority;
- (b) is removed from office in accordance with this Act;
- (c) dies.

(2) Where the chairperson or member intends to resign from office, he or she shall give a notice of at least three months.

(3) In the case of a resignation, the appointing authority may, for good cause, accept a shorter notice than the one specified in subsection (2).

18. The Advisory Committee shall—

Functions of the
Advisory
Committee.

- (a) advise the Defence Council on any matter relating to the policy relating to military veterans;
- (b) on its own initiative or on the request of the Cabinet Secretary or Defence Council, make

recommendations to the Defence Council, Cabinet Secretary or Director on any matter relating to military veterans or military veteran's dependants;

- (c) on the request of the Defence Council or Cabinet Secretary, conduct research on any matter relating to military veterans or military veteran's dependants; and
- (d) perform any other functions as directed by the Defence Council necessary for the achievement of the objects of this Act.

19. Within ninety days after the end of the financial year, the Advisory Committee shall submit to the Defence Council a report on its activities during the preceding year.

Reports of the
Advisory
Committee.

20. (1) The first meeting of the Advisory Committee after the commencement of this Act shall be held on such a date and time and at such a place as the Cabinet Secretary shall determine.

Meetings of the
Advisory
Committee.

(2) Each meeting of the Advisory Committee shall be held on such a date and time and at such a place as the chairperson, in consultation with the Cabinet Secretary, shall determine and not more than three months shall elapse between each meeting of the Advisory Committee.

(3) The decisions of the Advisory Committee shall be by a majority vote of the members present and voting and in case of an equality of votes, the chairperson shall cast the deciding vote in addition to his or her deliberative vote.

(4) The quorum at the meetings of the Advisory Committee shall be four members.

(5) Any member who has any personal interest in a matter before the Advisory Committee shall disclose the interest and shall not participate in the proceedings of the Advisory Committee when that matter is being considered.

(6) The Advisory Committee shall, save as otherwise provided in this Act, determine its own procedure.

PART IV—DEPENDANTS' EDUCATION FUND

21. (1) The Defence Council shall establish a fund to be known as the Dependants' Education Fund to provide scholarships for the education of the children of—

Dependants'
Education Fund.

- (a) members of the Kenya Defence Forces and military veterans; and
- (b) deceased members of the Kenya Defence Forces or deceased military veterans.

(2) The Defence Council shall prescribe Regulations for the administration of the Fund including the procedure for processing applications for scholarships from the Fund.

(3) All receipts, earnings and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund has been established.

(4) The Fund shall be established and administered in accordance with the provisions of the Public Finance Management Act, 2012. No. 18 of 2012.

PART V—DEFENCE FORCES RETIREMENT HOME

22. (1) The Defence Council shall establish a retirement home to be known as the Defence Forces Retirement Home to provide residential and related services to military veterans. Defence Forces Retirement Home.

(2) The Defence Council shall prescribe Regulations for the achievement of the objects of this section and notwithstanding the generality of the foregoing, the Regulations may provide for—

- (a) persons who shall be eligible to reside in the Defence Forces Retirement Home;
- (b) the services to be provided in the Defence Forces Retirement Home;
- (c) contributions to be made by members of the Kenya Defence Forces with respect to the Defence Forces Retirement Home; and

(d) any other relevant matter relating to the Defence Forces Retirement Home.

PART VI—REGULATIONS

23. (1) The Defence Council may make Regulations generally for the better carrying out of the provisions of this Act. Regulations.

(2) Despite the generality of subsection (1), the Regulations made under this section may provide for—

- (a) the manner of accessing any benefit provided under this Act; and
- (b) any matter required or permitted to be prescribed by or in accordance with this Act.

MEMORANDUM OF OBJECTS AND REASONS

The object of the Bill is to establish a regulatory and institutional framework for the management of military veterans' affairs; for the provision of benefits to military veterans and military veterans' dependants; to establish the Dependants' Education Fund; to establish the Defence Forces Retirement Home; and for connected purposes. The Bill consists of twenty-three clauses.

Clause 1 of the Bill contains the short title.

Clause 2 of the Bill contains definitions of key terms used in the Bill.

Clause 3 of the Bill provides for the principal objects of the Act including the management of military veterans' affairs; the provision of benefits to military veterans and military veterans' dependants; the establishment of the Dependants' Education Fund; and the establishment of the Defence Forces Retirement Home.

Clause 4 of the Bill provides for the guiding principles of the Act including principles relating to military veterans; policies relating to military veterans; and principles for the management of funds relating to military veterans.

Clause 5 of the Bill provides that the benefits conferred under the Act shall not be conferred on a person merely because that person is a military veteran as defined under the Act.

Clause 6 of the Bill provides for the meaning of "military veteran", that is, a person who has retired from military service and who had served in the Kenya Defence Forces, in the Kenya Armed Forces after 1963, or in the Kings African Rifles before 1963; receives a military pension and who was not dishonourably discharged from military service.

Clause 7 of the Bill provides for the benefits conferred under the Act to military veterans and military veterans' dependants; the role of the Defence Council in the provision of those benefits; the obligations of Government ministries, departments and agencies; and the role of the Principal Secretary in the ministry responsible for military veterans.

Clause 8 of the Bill provides for the powers of the Defence Council under the Act.

Clause 9 of the Bill establishes the office of the Director of Military Veterans and places it under the supervision of the Chief of Defence Forces. It also provides for the revocation of the appointment of the Director or the Director's redeployment by the Defence Council.

Clause 10 of the Bill provides for the functions of the Director.

Clause 11 of the Bill provides for the establishment of the Advisory Committee on Military Veterans, its membership and the appointment of its members.

Clause 12 of the Bill provides for the qualifications of the members of the Advisory Committee.

Clause 13 of the Bill provides for the procedure for the filling of vacancies in the Advisory Committee.

Clause 14 of the Bill provides for the tenure of the members of the Advisory Committee.

Clause 15 of the Bill provides for the determination of the remuneration and allowances of the members of the Advisory Committee.

Clause 16 of the Bill provides for the procedure for the removal from office of a member of the Advisory Committee.

Clause 17 of the Bill provides for the manner in which a vacancy may arise in the Advisory Committee including notice periods in case a member wishes to resign from office.

Clause 18 of the Bill provides for the functions of the Advisory Committee.

Clause 19 of the Bill provides for the reports of the Advisory Committee to the Defence Council.

Clause 20 of the Bill provides for the procedure for the convening of the meetings of the Advisory Committee and the obligation to declare conflicts of interest regarding any matter being considered by the Advisory Committee.

Clause 21 of the Bill provides for the establishment of the Dependants' Education Fund to provide scholarships for the children of members of the Kenya Defence Forces, military veterans or deceased service members or deceased veterans.

Clause 22 of the Bill provides for the establishment of the Defence Forces Retirement Home to provide residential and other services to military veterans.

Clause 23 of the Bill provides for the making of Regulations by the Cabinet Secretary for the better carrying out of the provisions of the Act.

Statement on delegation of legislative powers and limitation of rights and fundamental freedoms in the Bill of Rights

This Bill delegates legislative powers to the Cabinet Secretary but it does not limit rights and fundamental freedoms in the Bill of Rights.

Statement on whether the Bill concerns County Governments

This Bill does not concern county governments as it does not affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Statement on whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 19th January, 2022.

AMOS KIMUNYA,
Leader of the Majority Party.

