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SCHEDULE

**THE PROVISION OF SANITARY TOWELS BILL,
2024**

A Bill for

AN ACT of Parliament to provide for the provision of quality, free and sufficient sanitary towels in public institutions and correctional facilities; establish the inter-ministerial committee on provision of sanitary towels; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Provision of Sanitary Towels Act, 2024.

Short title.

2. In this Act—

Interpretation.

“Cabinet Secretary” means the cabinet secretary responsible for gender affairs;

“Committee” means the Inter-Ministerial Committee on Provision of Sanitary Towels established under section 4;

“county interdepartmental committee” means a county interdepartmental committee on the provision of sanitary towels established under section 13(1);

“sanitary towel” includes tampons and menstrual cups; and

“Secretariat” means the Secretariat to the Inter-Ministerial Committee on Provision of Sanitary Towels appointed or deployed pursuant to section 12.

3. This Act shall apply to all public institutions and correctional facilities.

Application.

**PART II — ADMINISTRATION AND PROVISION
OF SANITARY TOWELS**

4. (1) There is established the Inter-Ministerial Committee on Provision of Sanitary Towels.

Inter-Ministerial
Committee on
Provision of
Sanitary Towels.

(2) The Committee shall be 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 movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things 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. (1) The Committee shall comprise of—

Composition of
the Committee.

- (a) the chairperson;
- (b) the Principal Secretary responsible for gender or their representative designated in writing;
- (c) the Principal Secretary responsible for basic education or their representative designated in writing;
- (d) the Principal Secretary responsible for finance or their representative designated in writing;
- (e) the Principal Secretary responsible for correctional facilities or their representative designated in writing;
- (f) the Principal Secretary responsible for higher education or their representative designated in writing;
- (g) the Principal Secretary responsible for vocational and technical training or their representative designated in writing;
- (h) the Principal Secretary responsible for public health or their representative designated in writing;
- (i) the Attorney-General or their representative designated in writing;
- (j) the Chairperson of the National Gender and Equality Commission or their representative designated in writing;
- (k) the Director General for Health or their representative designated in writing; and

- (1) three persons, not being public officers, of whom—
 - (i) one shall be nominated by the Council of County Governors;
 - (ii) one shall be nominated by a public benefit organization concerned with matters related to gender; and
 - (iii) one shall be nominated by the umbrella body representing the largest number of organizations in the private sector.

(2) The Cabinet Secretary shall appoint the Chairperson and members of the Committee nominated under subsection (1)(1) by notice in the *Gazette*.

(3) The Chairperson and members of the Committee appointed under subsection (1)(1) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(4) The members of the Committee shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

6. (1) A person is qualified for appointment as the chairperson or a member of the Committee under section 5(1)(1) if the person—

Qualification for appointment to the Committee.

- (a) is a Kenyan citizen;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years working experience in a gender related field;
- (d) has not been an employee of a nominating entity, where applicable, in the preceding five years; and
- (e) meets the requirements of Chapter Six of the Constitution.

(2) A person shall not be appointed as a Chairperson or a member of the Committee under section 5(1)(1) if the person—

- (a) is an undischarged bankrupt;

- (b) has been convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (c) holds a public office at the time of appointment; or
- (d) has previously been removed from a public office on account of any lawful reason.

7. (1) The Committee has the powers necessary for the performance of its functions under this Act.

Powers of the Committee.

(2) In particular and without prejudice to the generality of the power conferred under subsection (1), the Committee shall have power to—

- (a) manage, control and administer the assets of the Committee in such manner and for such purposes as best promotes the purpose for which the Committee is established;
- (b) receive any gifts, grants, donations or endowments made to the Committee or any other moneys in respect of the Committee and make disbursements from them in accordance with this Act; and
- (c) approve the opening, operating and closing of bank accounts of the Committee with the approval of the National Treasury.

8. The Committee shall—

Functions of the Committee.

- (a) advise the Government on the provision of sanitary towels in all public institutions and correctional facilities;
- (b) co-ordinate the provision of sanitary towels to all public institutions and correctional facilities;
- (c) provide free, sufficient and quality sanitary towels to every woman employed by or studying in a public institution and to every woman in the custody of a correctional facility;
- (d) in consultation with county governments, provide a safe and environmentally friendly mechanism for disposal of sanitary towels;
- (e) receive and act on reports relating to provision of sanitary towels in public institutions and correctional facilities;

- (f) develop a framework to facilitate the availability and distribution of sanitary towels in all the public institutions and correctional facilities in Kenya;
- (g) develop inter-governmental agreements for joint implementation of activities for distribution of sanitary towels in all public institutions and correctional facilities;
- (h) co-operate with all other relevant institutions for efficient procurement and distribution of sanitary towels;
- (i) develop and manage a national register for all public institutions and correctional facilities that require supply of sanitary towels; and
- (j) perform any other function conferred on it by this Act or any other written law.

9. (1) The office of the chairperson or member of the Committee appointed under section 5(1)(l) shall become vacant if the holder—

Vacancy in the Committee.

- (a) dies;
- (b) resigns from office by notice, in writing, to the Cabinet Secretary;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of fine;
- (d) has been absent from three consecutive meetings of the Committee without notice to the chairperson; or
- (e) is removed in accordance with subsection (2).

(2) The chairperson or member of the Committee appointed under section 5(1)(l) may be removed from office by the Cabinet Secretary for—

- (a) violation of the Constitution or any other written law;
- (b) gross misconduct, whether in the performance of the functions of the office or otherwise;
- (c) failing to declare their interest in any matter being considered by the Committee;

- (d) physical or mental incapacity to perform the functions of the office;
- (e) incompetence; or
- (f) being adjudged bankrupt.

(3) When a vacancy arises in the office of the chairperson or member of the Committee under subsection (1) or (2), the Cabinet Secretary shall make an appointment to fill the vacancy within two months in accordance with this Act.

10. (1) The business and affairs of the Committee shall be conducted in accordance with the Schedule.

Conduct of business and affairs of the Committee.

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

11. The members of the Committee shall be paid such allowances and expenses as may be determined by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Remuneration of the members of the Committee.

12. (1) There shall be a Secretariat to the Committee which shall comprise of the Secretary to the Committee and such public officers as the Cabinet Secretary may, in consultation with the Cabinet Secretary responsible for education and with the approval of the Committee, deploy.

Secretariat to the Committee.

(2) The Secretary to the Committee shall be competitively recruited and appointed by the Committee on such terms and conditions as the Committee shall, in consultation with the Salaries and Remuneration Commission, determine.

(3) The Secretary shall the head of the Secretariat and be responsible for—

- (a) the day to day administration of the affairs of the Committee;
- (b) the implementation of the decisions of the Committee;
- (c) the efficient administration of the Secretariat;
- (d) the management of staff of the Secretariat;
- (e) the maintenance of accurate records on financial matters and resource utilisation;

- (f) the preparation of the budget for the Committee; and
- (g) the performance of any other duties as may be assigned by the Committee.

13. (1) There is established, in each county, county interdepartmental committees on provision of sanitary towels.

County interdepartmental committees on provision of sanitary towels.

(2) A county interdepartmental committee established under subsection (1) shall be comprised of—

- (a) the county executive committee member responsible for gender matters who shall be the chairperson;
- (b) the county executive committee member responsible for children welfare or their representative designated in writing
- (c) the county executive committee member responsible for education or their representative designated in writing;
- (d) the county executive committee member responsible for health their representative designated in writing;
- (e) the county commissioner or their representative designated in writing;
- (f) the gender officer in charge of the county;
- (g) a prisons officer attached within the county nominated by the Commissioner-General of Prisons;
- (h) a person nominated by, and representing, public benefits organizations operating in the respective county with knowledge in matters relating to the rights of persons with disabilities; and
- (i) a representative of the Committee who shall be the secretary.

(2) The respective county governor shall appoint members of the county interdepartmental committee nominated under subsection (1)(g) and (h) by notice in the *Gazette*.

(3) The members of the county interdepartmental committee nominated under subsection (1)(g) and (h) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

14. A county interdepartmental committee shall—

- (a) advise the respective county government on the provision of sanitary towels in all county public institutions;
- (b) provide free, sufficient and quality sanitary towels to every woman employed by or studying in the respective county public institution;
- (c) provide a safe and environmentally friendly mechanism for disposal of sanitary towels within the respective county;
- (d) assist and collaborate with the Committee in the performance the functions of the Committee in the respective county;
- (e) provide a platform for collaboration between the National government and the respective county government on provision of sanitary towels in the respective county;
- (f) make recommendations to the Committee on any matters relating to the provision of sanitary towels in the county;
- (g) provide information that may be required by the Committee on any matter concerning the provision of sanitary towels in the county; and
- (h) perform any other function conferred on it by this Act or any other written law.

Functions of county interdepartmental committees.

15. (1) A matter or thing done by a member of the Committee or any officer, staff or agent of the Committee shall not render such member, officer, staff or agent personally liable for any action, claim or demand whatsoever if the matter or thing is done in good faith for executing the functions, powers or duties of the Committee.

Protection from personal liability.

(2) Subsection (1) shall not relieve the Committee from liability to pay compensation or damages to any person for any injury suffered by them, their property or any of their

interests and arising directly or indirectly from the exercise of any power conferred under this Act or any other written law.

PART III— FINANCIAL PROVISIONS

16. The funds of the Committee shall comprise of—

Funds of the Committee.

- (a) monies appropriated by the National Assembly;
- (b) such monies as may accrue to or vest in the Committee in the course of the exercise of its powers or the performance of its functions under this Act; and
- (c) all monies from any other source provided for, donated or lent to the Committee.

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

Financial year.

18. The annual estimates of the Committee shall be prepared and approved in accordance with the Public Finance Management Act, 2012.

Annual estimates.

No. 18 of 2012.

19. (1) The Committee shall cause to be kept all proper books and records of accounts relating to the income, expenditure, assets and liabilities of the Committee.

Accounts and audit.

(2) The accounts of the Committee shall be prepared and audited in accordance with the Public Finance Management Act, 2012 and Public Audit Act, 2015.

No. 18 of 2012.

No. 34 of 2015.

20. (1) The Committee shall prepare annual reports in a format prescribed by the Public Sector Accounting Standards Board and submit the same to the National Treasury, the Controller of Budget and the Commission on Revenue Allocation.

Reports of the Committee.

(2) The Committee shall continuously and at least once every quarter monitor and report to the cabinet Secretary on its performance, with a summary of performance reported through the Committee’s annual report on the basis of a clear outcome-based performance framework developed by the National Government.

PART V – GENERAL PROVISIONS

21. (1) The Cabinet Secretary may, in consultation with the Committee and the Council of County Governors, make regulations generally for the better carrying into effect of any provisions of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary shall make Regulations to provide for—

- (a) the procedure to be followed by the Committee in exercising any powers conferred upon it by this Act; and
- (b) the procedure to be followed in the distribution of sanitary towels to public institutions under this Act.

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act; and
- (b) the authority of the Cabinet Secretary to make regulations is limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.

22. A person who rebrands or resales sanitary towels distributed by the Committee or a county interdepartmental committee commits an offence and is liable, on conviction— Offences.

- (a) for a first offence, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

23. Section 18 of the Basic Education Act is amended in subsection (1) by inserting the words “in consultation with the Inter-Ministerial Committee on Provision of Sanitary Towels established under the Provision of Sanitary Towels Act” immediately before the words “prepare and submit” appearing in paragraph (k). Amendment to Act No. 14 of 2013.

SCHEDULE

(s.10(1))

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE INTER-MINISTERIAL COMMITTEE ON
PROVISION OF SANITARY TOWELS**

- (1) The Committee shall meet at least once in every three months to conduct the business of the Committee.
- (2) The Chairperson shall preside over all meetings of the Committee and in the absence of the Chairperson, the members present at the meeting shall appoint one among their number to act as chairperson for purposes of that meeting.
- (3) The quorum for a meeting of the Committee shall be five members.
- (4) The Committee may from time to time co-opt into its membership any person whose skills and expertise are necessary for the performance of any particular issue currently before the Committee.
- (5) The decisions at a meeting of the Committee shall be made by a majority of the members present but in the event of an equality of votes, the person presiding shall have a casting vote.
- (6) Subject to the provisions of this Act, the Committee may regulate its own procedure.
- (7) The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the chairperson or the person presiding at the meeting.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The purpose of the Bill is to provide for the provision of quality, free and sufficient sanitary towels in all public institutions.

Part I of the Bill (clauses 1 to 3) contains the preliminary provisions of the Bill. It provides the title of the Bill, the definition of terms and the application of the Bill.

Part II (clauses 4-15) contains provisions on the administration and provision of sanitary towels. It provides for the establishment of the Inter-Ministerial Committee on provision of Sanitary Towels. It provides for the establishment and functions of the Committee; its powers and functions; the membership of the Committee and its administration including the appointment of the secretariat. It also provides for the establishment of county interdepartmental committees on provision of sanitary towels in each county and stipulates their functions.

Part III (clauses 16-20) contains financial provisions. It stipulates the sources of funds for the committee, the preparation and approval of annual estimates for the Committee, auditing of the accounts of the Committee and annual and regular reporting by the Committee.

Part IV (clause 21-23) of the Bill contains General provisions. It empowers the Cabinet Secretary responsible for gender affairs to make regulations for the better carrying out of the provisions of the Bill once enacted. It also creates offences for persons who rebrand or resale sanitary towels provided by the committees.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms.

Section 21 of the Bill delegates legislative powers to the Cabinet Secretary responsible for gender affairs, who is required to make regulations for the better carrying out of the provisions of the Bill once enacted.

The Bill does not limit fundamental rights or freedoms

Statement on how the Bill concerns county governments

The Bill concerns county governments in that it mandates county governments to provide sanitary towels to its employees and to students enrolled in vocational institutions under their respective control.

The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 15th February, 2024.

GLORIA ORWOBA,
Senator.