



REPUBLIC OF KENYA

PARLIAMENT



SENATE BILLS
(Bill No. 12 of 2024)

**THE INTERGOVERNMENTAL RELATIONS
(AMENDMENT) BILL, 2024**

(A Bill published in the Kenya Gazette Supplement No. 54 of 7th March, 2024 and passed by the Senate, with amendments, on 5th December, 2024.)

INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2024

A Bill for

AN ACT of Parliament to amend the Intergovernmental Relations Act and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Intergovernmental Relations (Amendment) Act, 2024.

Amendment
of section 2
of Cap.
265F.

2. The Intergovernmental Relations Act, in this Act referred to as “the Principal Act”, is amended in section 2 by—

(a) insert the following new definitions—

“agency” means the Intergovernmental Relations Agency established under section 11;

“Administrator” has the meaning assigned to it under the Retirement Benefits Act;

“existing scheme” means a retirement benefit pension scheme which existed prior to the setting up of county governments and meets the criteria stipulated under Section 22A of this Act;

“liabilities” means pension debts owing to a retirement benefit scheme as a result of unremitted contributions, and may include principal debt, actuarial deficits, interests or penalties and profits;

“Pension Scheme” means a retirement benefit scheme for the payment of regular or periodical payments of benefits to the members or employees when they leave employment or to the dependants of members or employees on the death of those

employees;

“scheme rules” means regulations made under section 22D providing for establishment of a pension scheme for county government employees and related purposes;

“Trustees” means the trustees of the Scheme;

“Umbrella Scheme” means a retirement benefits scheme grouping with members employed by several employers, in which employees and employer's contributions are paid into the fund established for that purpose;

(b) deleting the definition of “secretariat”; and

(c) deleting the definition of “technical committee”.

Amendment
of section
11 of Cap.
265F.

3. Section 11 of the principal Act is amended —

(a) in subsection (1) by deleting the words “Technical Committee” appearing immediately after the words “Intergovernmental Relations” and substituting therefor the word “Agency”;

(b) in subsection (2) by —

(i) deleting the words “Technical Committee” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Agency”; and

(ii) deleting paragraph (c);

(c) in subsection (3) by deleting the words “Technical Committee” appearing immediately after the word “The” and substituting therefor the words “members of the Agency”;

(d) by deleting subsection (4) and substituting therefor the following new subsection —

(4) A person shall be qualified for appointment

as a chairperson of the Agency if such person—

- (a) holds a Master's degree in law, humanities or social sciences from a university recognized in Kenya;
 - (b) meets the requirements of Chapter Six of the Constitution;
 - (c) has had a distinguished career in their respective fields; and
 - (d) has at least fifteen years working experience, ten of which should have been in a managerial position;
- (e) by deleting subsection (5) and substituting therefor the following new subsections –

(5) A person shall be qualified for appointment as a member of the Agency if such person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has knowledge and experience of at least ten years in matters relating to —
 - (i) law;
 - (ii) public administration;
 - (iii) alternative dispute resolution;
 - (iv) economics;
 - (v) finance;
 - (vi) human rights;
 - (vii) management; or
 - (viii) social sciences;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has had a distinguished career in their respective fields.

(5A) The chairperson and members of the Intergovernmental Agency shall serve on a full-time

basis and shall hold office for a single non-renewable term of six years.

- (f) in subsection (6) by deleting the words “Technical Committee” appearing immediately after the words “member of the” in the introductory phrase to and substituting therefor the word “Agency”.

Amendment
to section
12 of Cap
265F

4. Section 12 of the principal Act is amended—

- (a) by deleting the introductory clause and paragraph (a) and substituting therefor the following new paragraph –

The Agency shall –

- (a) be responsible for the day to day administration of the Summit and in particular—

(i) facilitate the activities of the Summit;
and

(ii) implement the decisions of the Summit.

- (b) by inserting the following new paragraphs immediately after paragraph (c)—

(ca) analyse the resolutions of the Summit with regard to the performance of national and county governments in the provision of services and recommend to the Summit the appropriate promotive, preventive or corrective action where necessary;

(cb) facilitate dispute resolution between the national government and county governments within the framework provided under this Act;

(cc) provide technical assistance on emerging issues in the implementation of the transfer of functions as contemplated under Article 187 of the Constitution including unbundling, costing and assignment of functions;

(cd) provide a platform for exchange of information and coordination of policies between the two levels of government;

- (ce) receive and transmit to the Summit, reports from sectoral forums, joint committees and any other intergovernmental structures or mechanisms established under this Act;
- (cf) establish and maintain a repository of information and knowledge on intergovernmental matters;
- (cg) coordinate the development of a standardized costing framework for the transferred functions in line with Article 187 of the Constitution;
- (ch) witness the execution of all relevant legal instruments pertaining to the transfer of functions;
- (ci) provide a repository for the legal instruments for transfer of functions; and
- (cj) undertake research on intergovernmental matters.

Insertion of
section 12A
of Cap
265F

5. The principal Act is amended by inserting the following new section immediately after section 12—

12A. Powers of the Agency

(1) The Agency shall have all the powers necessary for the performance of its functions under this Act and, in particular, shall have the power to, on its own motion—

- (a) gather, by such means as it considers appropriate, any relevant information including requisition of reports, records, documents or any information from any source, including any State organ, and to compel the production of such information where it considers necessary;
- (b) hold inquiries for the purposes of performing its functions under this Act;
- (c) take any measures it considers necessary to ensure compliance with the principles of cooperation between the national and county governments set out in Articles 6 and 189 of the Constitution;

- (d) issue directions with respect to intergovernmental disputes under this Act; and
- (e) summon any person to appear before it for the purposes of performing its functions under this Act.

(2) In the exercise of its powers and the discharge of its functions, the Agency—

- (a) may receive written or oral statements; and
- (b) is not bound by the strict rules of evidence.

Amendment
of section
13 of Cap
265F

6. Section 13 of the principal Act, is amended-

- (i) in subsection (1) by deleting the words “Technical Committee” appearing at the beginning of the subsection and substituting therefor the word “Agency”;
- (ii) by inserting the following new subsection immediately after subsection (1)—

(1A) The Council of Governors may establish and convene sector forums on sectoral issues of common interest among county governments.

Amendment
of section
14 of Cap
265F

7. Section 14 of the principal Act is amended in—

- (a) by deleting the words “technical committee” appearing immediately after the word “The” in the introductory phrase and substituting therefor the word “Agency”;
- (b) paragraph (a) by deleting the words “the Council” appearing immediately after the words “and to” and substituting therefor the word “Parliament”; and
- (c) paragraph (b) by deleting the words “and to the Council” appearing immediately after the words “to the summit”.

Amendment
of Section
15 of Cap
265F

8. Section 15 of the principal Act is amended in—

- (a) subsection (1) by deleting the words “Technical Committee” appearing immediately after the words “secretariat of the” and

substituting therefor the word “Agency”;

(b) subsection (2) by deleting the words “Technical Committee” appearing immediately after the words “appointed by the” and substituting therefor the word “Agency”;

(c) subsection (4) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) responsible to the Agency for the day to day administration of the affairs of the secretariat and implementation of the decisions of the Summit;

(d) in subsection (5) –

(a) by deleting the words “the Council and the Technical Committee” appearing immediately after the words “of the Summit” in paragraph (a) and substituting therefor the words “and the Agency;”;

(b) by deleting the words “the Council and the Technical Committee” appearing immediately after the words “expenses of the Summit” in paragraph (e) and substituting therefor the words “and the Agency”; and

(c) by deleting the words “the Council and the Technical Committee” appearing immediately after the words “by the Summit” in paragraph (f) and substituting therefor the words “and the Agency”.

Amendment
of Section
16 of Cap
265F

9. Section 16 of the principal Act is amended in the introductory phrase by deleting the words “Technical Committee” appearing immediately after the words “office by the” and substituting therefor the word “Agency”.

Amendment
of Section
17 of Cap
265F

10. The principal Act is amended by deleting section 17 and substituting therefor the following new section—

Staff of the
summit.

17. The Agency may employ staff as are necessary for the proper discharge of the functions of the Agency under this Act.

Amendment
of Section
18 of Cap
265F

11. The principal Act is amended in section 18 by deleting the words “Technical Committee” appearing immediately after the words “determined by the” and substituting therefor the word “Agency”.

Amendment
of section
20 of Cap.
265F.

12. The principal Act is amended in section 20(1) by inserting the following new paragraphs immediately after paragraph (i) —

- (j) coordinate the appointment of Trustees to schemes upon receipt of nomination by relevant stakeholders and appoint independent trustees in accordance with the Retirement Benefits Act;
- (k) perform such other coordination functions as may be necessary for the efficient functioning of the schemes; and
- (l) ensure the respective counties perform their responsibilities as sponsors of the scheme effectively for the best interest of their employees and in accordance with the Retirement Benefits Act.

Insertion of
a new
Section
20A of Cap
265F

13. The principal Act is amended by inserting the following new section immediately after section 20—

20A. Funding of the Council

- (1) The funds of the Council shall consist of—
 - (a) annual subscriptions by county governments;
 - (b) monies allocated annually by Parliament for the purposes of the Council; and
 - (c) such monies as may be lawfully granted or donated to the Council.

(2) The Council shall determine bi-annually the amounts to be paid by county governments as subscriptions.

Insertion of
new
sections.

14. The principal Act is amended by inserting the following new sections immediately after section 22 —

22A. Establishment of pension scheme

(1) Employees and staff of a county government shall subscribe to an existing pension scheme for officers and staff of county governments prescribed under this Act.

- (2) The pension scheme shall be one which is—
 - (a) established under irrevocable trusts or under regulations made under section 19D;
 - (b) registered under the Retirement Benefits Act prior to

the commencement of this Act;

- (c) a retirement benefit scheme which offers lifetime periodical pension;
- (d) a defined contribution (umbrella) pension scheme;
- (e) subscribed to by a majority of employees in all the county governments in Kenya as at the coming into force of this section; and
- (f) not a defined benefits pension scheme.

(3) The Scheme shall be one administered by an administrator of the scheme appointed by the Trustees.

(4) The benefits entitlement shall not be less than those provided for under a Scheme existing at the commencement of this Act.

22B. Trustees of the Scheme

(1) There shall be a Board of Trustees which shall be a body corporate registered as such under the Trustees (Perpetual Succession) Act.

(2) The Scheme shall have at least four and not more than nine trustees.

(3) The Council shall ensure that at least one of the nine trustees is an independent trustee who—

- (a) shall be sourced through a competitive recruitment process by the Council; and
- (b) possesses all relevant qualifications required of trustees under the Retirement Benefits Act.

22C. Portability of benefits

The Schemes shall have reciprocal arrangements for purposes of portability of benefits with a contributory Scheme for national government public service and any other registered pension Scheme in Kenya and compatible schemes in any foreign country.

22D. Amendment of Existing Laws and regulations

Any law or regulation on retirement benefits for counties which existed at the commencement of this Act shall within one year be amended to conform to this Act.

Insertion of
new
sections.

15. The principal Act is amended by inserting the following new sections immediately after section 23—

23A. Establishment of the Council Secretariat

(1) There shall be a secretariat to the Council which shall be headed by a chief executive officer.

(2) The chief executive officer shall be competitively recruited and appointed by the Council.

(3) A person is qualified to be appointed as the chief executive officer if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has at least ten years relevant professional experience;
- (c) has demonstrable competence in administration of not less than five years; and
- (d) satisfies the requirements of leadership and integrity provided under Chapter Six of the Constitution.

(4) The chief executive officer shall be—

- (a) the accounting officer of the secretariat;
- (b) the Secretary to the Council; and
- (c) responsible to the Council for the day to day administration of the affairs of the Secretariat.

(5) Without prejudice to the generality of the provisions of subsection (4), the chief executive officer shall be responsible for—

- (a) the implementation of decisions of the Council;
- (b) the establishment and development of an efficient administration of the Secretariat;
- (c) the organization, control and management of staff of the Secretariat;
- (d) maintaining accurate records on financial

matters and resource use;

- (e) ensuring the preparation and approval of the budget for the required funding of the operational expenses of the Council; and
- (f) performing any other duties as may be assigned by the Council.

(6) The chief executive officer shall be appointed for a single term of six years and shall not be eligible for reappointment.

23B. Removal from office of the chief executive officer

The chief executive officer may be removed from office by the Council in accordance with the terms and conditions of service, for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

23C. Staff of the Council

The Council may employ staff as are necessary for the proper discharge of its functions.

23D. Transition of Staff

The staff serving in the Council shall at the commencement of this Act be deemed to be staff of the Council as provided for under section 23C.

23E. Remuneration of staff

The Chief Executive Officer and staff of the Secretariat shall be paid such salaries, benefits and allowances for expenses as may be determined by the Council, in consultation with the Salaries and Remuneration Commission.

23F. Establishment of County Assemblies Forum

(1) There is established a County Assemblies Forum which shall consist of all the members of County Assemblies and speakers of the forty-seven county assemblies.

(2) The forum shall be managed by a National Executive Board.

(3) The members of the National Executive Board shall elect—

- (a) a chairperson who shall be a speaker of a County assembly;
- (b) a vice-chairperson;
- (c) a Secretary General who shall be a member of a County Assembly; and
- (d) six other members from amongst its members.

(4) Notwithstanding the generality of subsection under (3) members of County assemblies shall have at least 5 members in the National Executive Board.

(5) No County Assembly shall have more than two board members.

(6) The National Executive Board of the forum shall serve for a term of two years and shall be eligible for re-election for one further term.

23G. Functions of the Forum

(1) The Forum shall provide an avenue for—

- (a) consultation amongst county assemblies;
- (b) sharing of information on the performance of the County Assemblies in the execution of their functions with the objective of learning and promotion of best practice and where necessary, initiating preventive or corrective action;

- (c) facilitating disputes resolution within County Assemblies;
- (d) considering matters of common interest to County Assemblies;
- (e) facilitating capacity building for members of the forum;
- (f) representing County Assemblies in all engagements with Intergovernmental Forums; and
- (g) considering reports from other intergovernmental forums on matters affecting County Governments.

(2) The Forum may establish working groups or committees for the better carrying out of its functions.

23H. Funding of the Forum

(1) The funds of the Forum shall consist of—

- (a) mandatory annual subscriptions by County Assemblies;
- (b) monies allocated annually by Parliament for the purposes of the Forum; and
- (c) such monies as may be lawfully granted or donated to the Forum.

(2) The Board shall determine bi-annually the amounts to be paid by County Assemblies as subscriptions.

23I. Meetings of the Forum

- (1) The Forum shall meet at least once every year.
- (2) The Forum shall prescribe its own procedures.

23J. Reports by the Forum

- (1) The Forum shall submit an annual report to the Senate.
- (2) The report under subsection (1) shall be transmitted to the county assemblies within three months after the end of every financial year.

23K. Establishment of the Forum Secretariat

(1) There shall be a Secretariat of the Forum which shall be headed by a chief executive officer.

(2) The Chief Executive Officer shall be the Secretary to the Forum.

(3) The chief executive officer shall be competitively recruited and appointed by the National Executive Board.

(4) A person is qualified to be appointed as the chief executive officer if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has at least ten years relevant professional experience;
- (c) has demonstrable competence in administration of not less than five years; and
- (d) satisfies the requirements of leadership and integrity provided under Chapter Six of the Constitution.

(5) The chief executive officer shall be—

- (a) the accounting officer to the Forum;
- (b) the Secretary to the forum; and
- (c) responsible to the Forum for the day to day administration of the affairs of the Secretariat.

(6) Without prejudice to the generality of the provisions of subsection (5), the Chief Executive Officer shall be responsible for—

- (a) the implementation of decisions of the Forum;
- (b) the establishment and development of an efficient administration of the Secretariat;
- (c) the organization, control and management of staff of the Secretariat;
- (d) maintaining accurate records on financial matters and resource use;
- (e) ensuring the preparation and approval of the

budget for the required funding of the operational expenses of the Forum; and

(f) performing any other duties as may be assigned to them by the Forum.

(7) The chief executive officer shall be appointed for a term of three years and shall be eligible for reappointment once.

23L. Removal from office of the Chief Executive Officer

The chief executive officer may be removed from office by the National Executive Board in accordance with the terms and conditions of service.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

23M. Staff of the Forum

The Forum may employ staff as are necessary for the proper discharge of its functions.

23N. Remuneration of staff

The Chief Executive Officer and staff of the Forum shall be paid such salaries, benefits and allowances for expenses as may be determined by the National Executive Board, in consultation with the Salaries and Remuneration Commission.

Amendment
of Section
26 of Cap
265F

16. Section 26 of the principal Act is amended in -

- (a) subsection (4) by inserting the words “and the Senate” immediately after the words “The National Assembly”;
and
- (b) subsection (5) by deleting the words “A County

Assembly” appearing at the beginning of the subsection and substituting therefor the words “The Senate and respective county assembly”.

Amendment
of Section
33 of Cap
265F

17. Section 30 of the principal Act is amended in subsection (2) by—

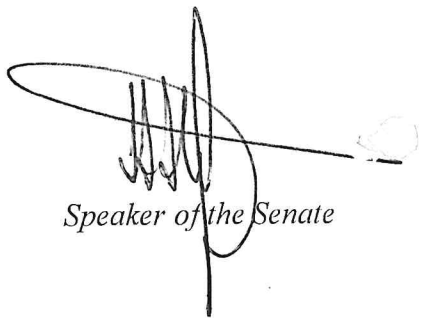
- (a) deleting the word “may” appearing immediately after the words “party to the dispute” and substituting therefor the word “shall”; and
- (b) deleting the words “Summit, the Council” and substituting therefor the word “Agency”.

Intergovernmental Relations (Amendment) Bill, 2024

I certify that this printed impression is a true copy of the Bill as passed by the Senate, with amendments, on Thursday, 5th December, 2024.


Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 161 of the Senate Standing Orders.


Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE