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THE MILITARY VETERANS BILL, 2013

Bill for

AN ACT of Parliament to make provision for the benefits and welfare of military veterans; to provide for the establishment of the Department of Military Veterans and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Military Veterans Act, 2013.

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

"Advisory Council" means the Advisory Council on Military Veterans established by section 9;

"Appeals Board" means the Military Veterans Appeals Board established by section 19;

"benefit" means any benefit contemplated in section 4;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to defence;

"Department" means the Department of Military Veterans Affairs established by section 5;

"dependant," in relation to a military veteran, means any person who is dependent on that military veteran for support and maintenance;

"Director-General" means the Director-General of the Department;

"length of service" means the period of time served in the military; and
“military veteran” means any Kenyan citizen who—

(a) has rendered military service to the Kenya Defence Forces;

(b) served in the King’s African Rifles before 1963; or

(c) became a member of the Kenya Armed Forces after 1963; and

(d) has completed his service in the Kenya Defence Forces and has not been dishonourably discharged;

3. (1) For the purposes of this Act, the following are the fundamental principles relating to military veterans—

(a) sacrifices made by military veterans in the service of or for their country or their role in the protection of the national boundaries and security integrity of Kenya deserve to be honoured;

(b) compensation to which military veterans may be entitled for disablement constitutes reparation and is not, despite any provision to the contrary contained in any law, a welfare benefit;

(c) special consideration shall be given to benefit and relieve military veterans who suffer from physical or mental disability arising from military service rendered by them;

(d) disparities, inequalities or unfair discrimination as regards the benefits of military veterans and their dependants shall be identified and, where possible, remedied; and

(e) all organs of state or governmental entities involved with military veterans’ affairs shall cooperate with the Department to ensure the
achievement of the objects of this Act and, within their available resources, take reasonable legislative and other measures to achieve the progressive realisation thereof.

(2) Any policy regarding the affairs of military veterans shall be aimed at—

(a) recognising and honouring military veterans in life and remembering them in death for their sacrifices on behalf of the nation;

(b) ensuring a smooth and seamless transition for military veterans from active 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 of their dependants;

(e) providing a comprehensive delivery system of benefits and services for military veterans;

(f) ensuring that military veterans as a resource enhance the national work force and contribute to the prosperity and development of the country; and

(g) contributing toward reconciliation and nation building.

4. (1) A military veteran and his or her dependants shall be entitled to the following benefits—

(a) compensation for disabling injuries, psychological trauma or a terminal disease resulting from his or her participation in military activities;
(b) dedicated counselling and treatment for post-traumatic stress disorder or related conditions;

(c) honouring and memorialising of fallen military veterans;

(d) education, training and skills development;

(e) facilitation of employment placement;

(f) facilitation of or advice on business opportunities;

(g) pension;

(h) access to health care;

(i) housing.

(2) The Cabinet Secretary shall, subject to available resources and any regulation that may be prescribed in this regard, ensure that benefits are paid or provided to military veterans, either through the Department or through other organs of state.

(3) All organs of state that are responsible for the payment or provision of benefits to military veterans shall cooperate with the Cabinet Secretary and the Department in respect of the payment or provisioning of those benefits.

(4) For purposes of subsection (3), the Cabinet Secretary may, after consultation with the Cabinet Secretary responsible for national treasury, enter into service level agreements with relevant organs of state in order to facilitate the payment or provisioning of benefits to military veterans.

5. There is established a department to be known as the Department of Military Veterans Affairs in the Ministry for the time being responsible for defence.
6. (1) The Director-General shall, as soon as possible after the commencement of this Act and in consultation with the Cabinet Secretary, compile a priority list of needs of military veterans in relation to their benefits in order to plan and structure operations of the Department around the fulfilment of those needs.

(2) The priority list contemplated in subsection (1) may relate to any need of military veterans, but shall at least prioritise the needs in so far as the benefits referred to in section 4 are concerned.

7. The Department shall have the power to—

(a) provide the required administrative services and infrastructure to the Advisory Council and the Appeals Board;

(b) investigate any—

(i) submission, inquiry or complaint received from any individual military veteran or his or her dependant; or

(ii) submission, inquiry or complaint relating to military veterans' benefits or those of their dependants submitted to the Department by the Cabinet Secretary or the Advisory Council;

(c) provide—

(i) the Cabinet Secretary, the Advisory Council or any individual contemplated in paragraph (b) with a full report and recommendations; and

(ii) such individual with appropriate advice or assistance as may be required;

(d) develop strategies and programmes in order to facilitate the progressive realisation of the socio-economic rights of military veterans and their dependants;
(e) review, develop and coordinate policy regarding military veterans’ affairs;

(f) report to the Cabinet Secretary on the monitoring of the execution of approved military veterans’ policies by departments of state and County executive authorities, and the rendering of inputs for required corrective action;

(g) research, define, investigate, evaluate and promote military veterans’ affairs on an integrated basis;

(h) identify legislative or administrative disparities, inequalities or unfair discrimination regarding the benefits and the needs of military veterans and their dependants in order to rectify such disparities, inequalities or unfair discrimination;

(i) review existing legislation with a view to making new policy and promoting a consolidation of such legislation in order to provide for an integrated regulation of affairs of military veterans and their dependants;

(j) formulate programmes which seek to promote the affairs of military veterans and submit proposals and recommendations to the relevant departments of state and County executive authorities;

(k) consult other government departments and county executive authorities, and all other persons, organisations or institutions who or which are concerned with military veterans’ affairs, with a view to achieving the objects of this Act;

(l) collect and keep data and information regarding state-controlled and privately administered
schemes or programmes dealing with any aspect of the affairs of military veterans;

(m) collect data and information regarding all existing benefits of military veterans and their dependants, and establish a data base on military veterans and military veterans’ affairs, which shall be updated regularly;

(n) compile data of ascertained disparities, inequalities or unfair discrimination regarding the benefits and needs of military veterans and their dependants which require rectification on a group or individual basis, whether by legislative provision or otherwise;

(o) compile a priority list of the programmes, proposals or recommendations, to be dealt with in the interest of military veterans and their dependants;

(p) submit programmes which seek to promote the affairs of military veterans to the Cabinet Secretary—

(i) for submission to the Cabinet for approval; or

(ii) for his or her approval; and

(iii) shall publish all approved programmes in the Gazette for public notification, whereupon such programmes become binding on all persons and bodies to which they refer and shall be implemented according to their terms;

(q) forward proposals or recommendations in connection with any aspect of affairs relating to military veterans and their dependants to the Cabinet Secretary or the Advisory Council, or any other person or body, for purposes of obtaining advice, guidance, direction or endorsement;
(r) through the Director-General, enter into a memorandum of understanding or conclude a service level agreement with any organ of state which is concerned with military veterans’ affairs or which administers any law relating to benefits of a military veteran in order to achieve the objects of this Act; and

(s) exercise any power and perform any duty that may be prescribed.

8. (1) The Director General shall be recruited through an open and competitive process.

(2) The Advisory Council shall interview, shortlist and recommend to the Cabinet Secretary three nominees for appointment to the position of Director-General.

(3) Upon receipt of the three nominees, the Cabinet Secretary shall appoint one of the nominees as the Director-General.

(4) A person shall not be appointed as the Director-General unless such person—

(a) is a Kenyan citizen;

(b) is a military veteran;

(c) fulfils the requirement of Chapter Six of the Constitution;

(d) holds a degree from a recognised institution of higher learning;

(e) served for not less than ten years in human resources management, command, or finance administration appointments.

9. There is established an Advisory Council on Military Veterans.
10. (1) The Advisory Council is responsible to the Cabinet Secretary and shall—

(a) perform the functions provided for in this Act;

(b) advise the Cabinet Secretary on any matter relating to the policy applicable to military veterans; and

(c) on its own initiative or at the request of the Cabinet Secretary, or of the Director-General, make recommendations to the Cabinet Secretary or the Director-General, as the case may be, and furnish advice on all matters pertaining to military veterans and their dependants.

(2) The Advisory Council shall, within ninety days after the end of every financial year, submit a report to the Cabinet Secretary on its activities, and the Cabinet Secretary shall cause the report to be tabled it in Parliament.

11. The Advisory Council shall consist of

(a) a chairperson and members appointed in terms of section 12(1); and

(b) the Director-General or an employee of the Department delegated by the Director-General.

12. (1) The Cabinet Secretary shall appoint not more than ten persons to serve on the Advisory Council.

(2) The members of the Advisory Council shall be appointed from persons who—

(a) are military veterans; and

(b) have relevant knowledge, experience or expertise that would enable the Advisory Council to perform its functions effectively and efficiently.

(3) The members referred to in subsection (1) shall be appointed from persons nominated in accordance with the procedure set out in section 13.
13. (1) The Director-General shall, by notice in at least two newspapers with national circulation, invite applications for appointment as members of the Advisory Council.

(2) An application under subsection (1) shall be in writing and shall be submitted to the Director-General within a period of twenty-one days from the date of publication of the notice contemplated in subsection (1) and shall contain—

(a) full personal and career particulars of the applicant;

(b) full reasons and motivation for appointment; and

(c) such other particulars as may be set out in the notice.

(3) The Director-General shall forward a list of qualified nominees together with his or her recommendations thereon to the Cabinet Secretary.

(4) The Cabinet Secretary shall, by notice in the Gazette, appoint members of the Advisory Council from the list of nominees submitted to him or her by the Director-General.

(5) The first meeting of the Advisory Council shall be chaired by the Cabinet Secretary and at this meeting, the Advisory Council shall elect its chairperson and vice-chairperson from among its members, through a secret ballot.

14. The members of the Advisory Council shall be paid such remuneration and allowances as may be determined by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

15. (1) The members of the Advisory Council shall serve on a part-time basis.
(2) The members of the Advisory Council serve for a period not exceeding five years but shall be eligible for reappointment for a further and final term not exceeding five years.

16. (1) The Cabinet Secretary may remove a member of the Advisory Council from office only on the ground of misconduct, incapacity or incompetence.

(2) A decision to remove a member of the Advisory Council from office shall be based on a finding of an independent tribunal appointed by the Cabinet Secretary.

(3) The Cabinet Secretary may suspend a member of the Advisory Council from office pending the finding of the tribunal referred to in subsection (2).

17. (1) The Chairperson of the Advisory Council may resign by giving written notice of three months to the Cabinet Secretary but the Cabinet Secretary may, after consultation with the Director-General, accept a shorter notice period.

(2) Other members of the Advisory Council may resign by giving written notice of three months to the Chairperson but the Chairperson may accept a shorter notice period.

18. (1) The first meeting of the Advisory Council shall be held on such a date, time and place as the Cabinet Secretary may determine.

(2) All subsequent meetings shall be held on such dates, times and places as the Chairperson may determine in consultation with the Advisory Council.

(3) The Advisory Council shall determine the rules of procedure for the conduct of business at its meetings.

(4) A decision of the majority of the members of the Advisory Council present and forming a quorum at a meeting is binding on the Advisory Council.
(5) The quorum for any meeting of the Advisory Council is fifty per cent of the total members of the Advisory Council plus one.

(6) In the event of an equality of votes the Chairperson has a casting vote in addition to his or her deliberative vote.

(7) A member who has a personal or financial interest in any matter before the Advisory Council shall disclose that interest and withdraw from the proceedings of the Advisory Council when that matter is considered.

19. There is established a board to be known as the Military Veterans Appeals Board.

20. (1) The Appeals Board shall—

(a) consider any Appeal lodged with it by a military veteran against any decision taken by an official in terms of this Act which adversely affects the rights of that military veteran;

(b) consider any question of law relating to military veterans referred to it by the Cabinet Secretary or the Director-General; and

(c) advise the Cabinet Secretary or Director-General regarding any legal matter relating to military veterans which the Cabinet Secretary or the Director-General refers to it.

(2) The Appeals Board may—

(a) confirm, set aside or vary a decision contemplated in subsection (1) (a);

(b) substitute any other decision for the decision; or

(c) provide the required legal advice.
(3) The Appeals Board may for the purposes of subsection (1)—

(a) summon any person who, in its opinion, may be able to give information, or who it believes has in his or her possession or custody or under his or her control, any document which has any bearing upon the matter under consideration, to appear before it at a time and place specified in the summons to be questioned or to produce that document, and retain for examination any document so produced;

(b) administer an oath to or accept an affirmation from any person called as a witness; and

(c) call any person present at the proceedings as a witness and interrogate such person and require such person to produce any document in his or her possession or custody or under his or her control, and such a person is entitled to legal representation at his or her own expense.

(4) The Appeals Board shall determine its own procedure.

(5) The decision of a majority of the members of the Appeals Board constitutes a decision of the Appeals Board.

(6) A decision of the Appeals Board shall be in writing, and copies thereof shall be made available to persons involved in the matter.

21. (1) The Appeals Board shall consist of at least three persons appointed by the Cabinet Secretary.

(2) The Cabinet Secretary shall appoint as members of the Appeals Board competent persons who have relevant knowledge, experience or expertise that would enable the Appeals Board to perform its functions effectively and efficiently.
(3) At least one of the members of the Appeals Board shall be an advocate with at least ten years' experience in the practice of law.

(4) The Cabinet Secretary shall designate one of the members of the Appeals Board as chairperson.

(5) A member of the Appeals Board—

(a) holds office for a period not exceeding five years;

(b) may be appointed either on a full-time or a part-time basis;

(c) is appointed according to the terms and conditions determined by the Cabinet Secretary; and

(d) is eligible for reappointment at the end of his or her term of office, but may not serve for more than two terms consecutively.

22. (1) A person shall not be appointed as or remain a member of the Appeals Board if the person—

(a) is a military veteran;

(b) is an un-rehabilitated insolvent; or

(c) has been convicted of an offence committed, and sentenced to imprisonment without the option of a fine.

23. Sections 14, 15, 16 and 17 shall apply mutatis mutandis to the Appeals Board.

24. (1) The Cabinet Secretary may, in consultation with the Advisory Council, make regulations generally for the better carrying into effect the provisions of this Act.
(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for—

the criteria that shall be met in order to qualify for benefits under this Act;

any matter required or permitted to be prescribed by or in terms of this Act;

any matter ancillary or incidental to the administration or procedures of the Advisory Council or the Appeals Board;

generally, any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

For the purposes of Article 94(6) of the ion—

the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;

the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013
MEMORANDUM OF OBJECTS AND REASONS

The objective of this Bill is to provide for the welfare and benefits of military veterans and their dependants. Currently, there is no law which provide for such benefits, and military veterans, after rendering vital service to this nation, are left to fend for themselves once they leave military service. In most cases, this causes them serious problems socially and economically, and their misery is compounded if they suffer health complications arising from their service in the military.

The Bill provides for the establishment of a Department of Military Veterans whose sole responsibility will be to cater for the welfare of military veterans. Similarly, the Bill provides for the establishment of an Advisory Council whose role is to advise on policy and other matters relating to military veterans.

The enactment of this Bill shall not occasion additional expenditure of public funds.

The Bill delegates the power to make regulations to the Cabinet Secretary and the Advisory Council.

This Bill does not concern county governments and neither does it affect the powers and functions of county governments as set out in Part 2 of the Fourth Schedule to the Constitution.

Dated the 24th October, 2013.

ADAN KEYNAN,
Member of Parliament.