

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2013**

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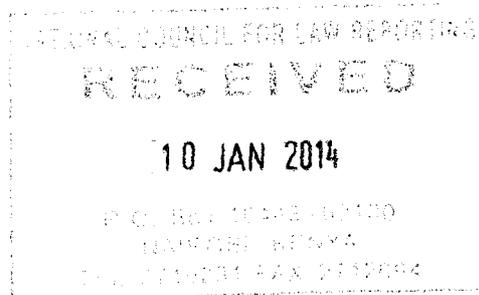
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**PROVISIONS AS TO THE CONDUCT OF  
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**THE PARLIAMENTARY SOCIETY OF KENYA  
BILL, 2013**

**A Bill for**

**AN ACT of Parliament to make provision for the establishment of the Parliamentary Society of Kenya; to provide for the participation of former members of parliament in the promotion of the ideals of parliamentary democracy; to promote networking amongst former members of Parliament; to facilitate their reintegration into professional life and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

Short title.

1. This Act may be cited as the Parliamentary Society of Kenya Act, 2013.

Interpretation

2. In this Act, unless the context otherwise requires  
“Chief Executive Officer” means the Chief Executive Officer of the Society appointed under section 12;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to planning;

“Former Member” means a person who has served as a member of the National Assembly or Senate;

“Society” means the society established under section 4

Object and purpose of this Act.

3. The object and purpose of this Act is to provide a legal framework for the participation of former members in the promotion of the ideals of parliamentary democracy, promote networking amongst former members and facilitate their reintegration into professional life.

**PART II—ESTABLISHMENT OF THE SOCIETY**

Establishment of the Society.

4. (1) There is established a Society known as the Parliamentary Society of Kenya.

(2) The Society 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) entering into contracts;
- (a) 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.

(3) There shall be a patron of the Society who shall be the immediate retired President.

5. The functions of the Society are to—

Functions of the Society.

- (a) facilitate the maintenance and promotion of the status and well being of former members of Parliament;
- (b) provide professional advise for retirement to former members of Parliament;
- (c) facilitate public participation and lobbying of interest groups on matters of general public concern;
- (d) create a data bank for the professionals of former members for purposes of appointment to various statutory institutions.
- (e) provide outreach programmes where former members of Parliament can visit and speak at universities, academies, schools and voluntary groups to give a clear idea as to how Parliament works.
- (f) develop and manage any project or enterprise that has as its object to make former members of Parliament capable of self support;
- (g) co-ordinate with other government and private institutions to ensure that former members of Parliament in need of assistance access resources and services appropriate to their needs;
- (h) engage competent professional advisors to counsel former members of Parliament in need of professional counseling;

- (i) provide assistance to former members of Parliament in need of assistance;
- (j) conduct of research in matters relating to assistance of former members of Parliament;
- (k) facilitate the provision of professional counseling services to former members of Parliament; and
- (l) facilitate re-employment or re-training to former members of Parliament;

Board of the  
Society.

**6.** (1) The Society shall be administered by a Board comprising of—

- (a) a chairperson elected by former members from amongst their number;
- (b) the Principal Secretary in the Ministry for the time being responsible for finance;
- (c) three persons elected by Former Members from amongst their number;
- (d) one psychiatrist appointed by the Cabinet Secretary;
- (e) one member of the National Assembly nominated by the Assembly;
- (f) one senator nominated by the Senate;
- (g) the Clerk of the National Assembly;
- (h) the Clerk of the Senate. and
- (i) the Chief Executive Officer who shall be an ex-officio member and secretary to the Society.

(2) In appointing the members under paragraph (d) , the Cabinet Secretary shall—

- (a) give preference to persons who are former members;
- (b) have regard to gender balance, ethnic and regional diversity of the people of Kenya; and

- (c) obtain the prior approval of Parliament before making the appointment.

(3) The chairperson of the Board and members referred to in subsection (1) (c) shall be elected by Former Members who are members of the Society in such manner as may be prescribed.

7. The members of the Board shall hold office for a period of three years and shall be eligible for re-appointment subject to a maximum of two terms:

Tenure of office of Board members.

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

Conduct of business and affairs of the Board.

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

9. (1) The Board shall have all powers necessary for the proper performance of the functions of the Society under this Act.

Powers of the Board.

(2) Without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) control, supervise and administer the assets of the Society in such manner as best promotes the purpose for which the Society is established;
- (b) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (c) levy fees for services rendered by the Society as may be determined from time to time by the Board;
- (d) open such banking accounts for the funds of the Society as may be necessary;
- (e) invest any funds of the Society not immediately required for its purposes in the manner provided in section 21: and
- (f) enter into association with such other bodies or organizations within or outside Kenya as it may

consider desirable or appropriate in furtherance or for the performance of its functions under this Act;

Remuneration of members of the Board.

**10.** The members of the Board shall be paid such remuneration as may be approved by the Cabinet Secretary upon the advice of the Salaries and Remuneration Commission.

Chief Executive Officer of the Society.

**11.** (1) There shall be a Chief Executive Officer of the Society who shall be appointed by the Board.

(2) The Chief Executive Officer shall hold office for such period and on such terms and conditions of employment as the Board may determine.

(3) The Chief Executive Officer shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Society.

(4) The Chief Executive Officer shall, subject to the direction of the Board, be responsible for the day to day management of the Society.

Staff of the Society.

**12.** The Board may employ such staff as may be necessary for the proper and efficient discharge of the functions of the Society under this Act, upon such terms and conditions of service as the Board may determine upon the advice of the Salaries and Remuneration Commission.

The common seal of the Society.

**13.** (1) The common seal of the Society 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.

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

(3) The common seal of the Society shall be authenticated by the signature of the Chairperson of the Board and the Chief Executive Officer:

(4) In the absence of either the Chairperson or the Chief Executive Officer, in any particular matter, the Board may nominate one member of the Board to authenticate the seal of the Society on behalf of either the Chairperson or the Chief Executive Officer.

14. Liability shall not attach to the Society, or to any of its staff, or to a member of the Society for loss or damage sustained by any person as a result of any act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed or conferred by or under this Act.

Protection of the Society from liability.

15. (1) Every person eligible as a former member may apply in the prescribed form to the Board for registration, and every such application shall be accompanied by the prescribed fee.

Registration of former members.

(2) Where a person has complied with the provisions of subsection (1) and has been accepted by the Board as being eligible for registration and has satisfied the Board that he has been so accepted, he shall be registered.

(3) Subject to the provisions this Act, every member of the Society shall pay the Society such annual subscription as may be prescribed from time to time:

16. The Board shall, within twelve weeks after the 31st December in each year, convene an ordinary general meeting of the Society.

Annual general meeting.

### PART III—FINANCIAL PROVISIONS

17. (1) The sources of the Society shall be—

Sources of the Society.

- (a) such monies as may be appropriated by Parliament for the purposes of the Fund;
- (b) such monies as may be payable to the Society pursuant to this Act or any other written law;
- (c) such monies or assets as may accrue to or vest in the Society in the course of the exercise of its

powers or performance of its functions under this Act;

- (d) any funds provided by bilateral or multilateral donors, for the purpose of the Society;
- (e) gifts, grants, donations or endowments as may be given to the Society;
- (f) monies from any other source provided for the Society.

Financial year.

**18.** The financial year of the Society shall be the period of twelve months ending on the thirtieth of June in each year.

Annual estimates

**19.** (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 Society for that financial year.

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

- (a) payment of allowances and other charges in respect of members of the Board;
- (b) payment of salaries, allowances and other charges in respect of the staff of the Society;
- (c) payment of pensions, gratuities and other charges in respect of staff of the Society;
- (d) proper maintenance of the assets of the Society; and
- (e) 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 Board 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 shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary's approval, the Board shall not increase the annual estimates of the Society without the consent of the Cabinet Secretary.

**20.** (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Society.

Accounts and audit.

(2) Within a period of four months from the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under this section, the accounts of the Society together with-

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

(3) The accounts of the Society shall be audited and reported upon in accordance with the Public Audit Act, 2003.

No.12 of 2003

**21.** The Board may invest any of the funds of the Society in securities, in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the Treasury may, from time to time, approve for that purpose.

Investment of funds.

#### **PART IV—PROVISIONS ON DELEGATED POWERS**

**22.** (1) The Cabinet Secretary may, on recommendation of the Society, make Regulations generally or the better carrying into effect the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may prescribe the manner in which the Society may facilitate professional counseling to former members of Parliament.

(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 to provide for the better carrying into effect of the provisions of this Act and to enable the Agency to discharge its functions more effectively;

- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect provisions of this Act and to fulfillment of the objectives specified under this section;
- (c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act (Cap 2) and the Statutory Instruments Act, 2013.

## SCHEDULE

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

Vacation of office.

**1.** A member of the Board, other than an *ex-officio* member, may—

- (a) at any time resign from office by notice in writing to the Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary if the member—
  - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;
  - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
  - (iii) is convicted of an offence involving dishonesty or fraud;
  - (iv) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
  - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board; or

Meetings.

**2.** (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.

(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 Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen 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 numbers 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.

3. The Board may establish such committees as may be necessary for the performance of the functions of the Board and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

Committees of the Board.

4. (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 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:

Disclosure of interest by Board members.

(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 to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

Execution of  
instruments.

5. 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 Board by any person generally or specially authorized by the Board for that purpose.

Minutes.

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

## **MEMORANDUM OF OBJECTS AND REASONS**

The objective of this Bill is to provide a legal framework through which former members of parliament can be reintegrated into the society. Members of Parliament play a very crucial role in advancing the interests of their constituents, their parties and also exercise oversight of state organs. There exists no legal framework which can be used to come to the rescue of members who find themselves with the prospect of having to be out of Parliament after a long stint.

Most members of parliament abandon their careers and spend most of their time in public service. It becomes quite difficult for such members to feel part and parcel of the ordinary civilian populations and their employment prospects are greatly reduced. It also becomes psychologically difficult for such members to adjust to life outside parliament and this affects such members psychologically. As a result there are stories of ex-members including their partners suffering nervous breakdown, divorce, heart attacks, alcoholism, school debts and even bankruptcy.

This Bill therefore seeks to come to the rescue of former members, some of whom have offered selfless service to the country. The Bill is aimed at ensuring that former members receive the necessary counseling which is important in ensuring that they are able to get back to ordinary life. The Bill also aims at ensuring that employment prospects of such members are not too badly diminished and in this respect the Act aims at offering consultancy service to members so as to ensure that they get into gainful employment.

The Bill establishes the Parliamentary Society of Kenya whose functions among others is to facilitate professional counseling services , provide advise on retirement, advise on re-employment or re-training and financial planning to former members of Parliament. Further the Board is empowered to provide outreach programmes where former members of Parliament can visit and speak at universities, academies, schools and voluntary groups to give their experiences, particular skills and a clear idea as to how Parliament works.

Significantly, the Bill is aimed at reversing the worrying trend where there are too many former members who cannot find their way around after losing a political seat. A great majority of retired members have a lot

to offer in the development of the nation and helping them realize how they can make a contribution is very important.

**Part I** of the Bill contains preliminary provisions.

**Part II** of the Bill sets out the administrative framework of the Bill

**Clause 3** provides for the Objects and Purpose of the Act.

**Clause 4** establishes the Former Members of Parliament Society of Kenya.

**Clause 5** provides for the functions of the Society which include facilitation of professional counseling services, re-employment and re-training and promotion of the status of well being of former members of Parliament.

**Clause 6** provides for the Board of the Society.

**Clause 7** provides for the tenure of office of Board members.

**Clause 8** provides for the conduct of the business and affairs of the Board.

**Clause 9** provides for powers of the Board.

**Clause 10** provides for the remuneration of the members of the Board.

**Clause 11** establishes the office of the Chief Executive Officer of the Society who shall be an ex-official member of the Board and responsible for the day to day management of the affairs of the Society.

**Clause 12** empowers the Board to engage such staff as may be necessary to enable the proper discharge of its functions.

**Clause 13** provides for the common seal of the Society.

**Clause 14** provides protection from personal liability for members of the Society in respect of things done in official capacity.

**Part III** of the Bill sets out the financial provisions.

**Clause 15** provides for the registration of former members.

**Clause 16** provides for the annual general meeting of the members of the Society.

**Clause 17** provides for the sources of the Society which shall consist of amongst others such sums as may be provided by Parliament.

**Clause 18** provides for the financial year of the Society which shall be the period ending on the thirtieth of June in each year.

**Clause 19** provides for the preparation of the annual estimates of the Society.

**Clause 20** provides for the keeping of accounts and the audit of the funds of the Society.

**Clause 21** sets out the manner in which the funds of the Society may be invested

**Part IV, Clause 22** of the Bill provides for the making of regulation by the Cabinet Secretary.

## **PROVISIONS ON DELEGATED POWERS**

This law when enacted will confer on a number of bodies and persons authority to make provisions having the force of law in Kenya in terms of Article 94 (6) of the Constitution of Kenya, 2010.

The Cabinet Secretary for the time being responsible for matters relating to planning for instance is given authority by section 22 of this Act to make regulations generally for the better carrying into effect the provisions of this Act. The purpose and objectives of making these regulations may prescribe the manner in which the Society may facilitate professional counseling to former members of Parliament.

### **Limits of the Delegated Authority**

The regulations made under this Act by the Cabinet Secretary will be limited to bringing into effect provisions of this Act and will therefore affect the manner and conduct of facilitating professional counseling to former members of Parliament.

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

Dated the 24th October, 2013.

ADAN KEYNAN,  
*Member of Parliament.*