

SPECIAL ISSUE

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REPUBLIC OF KENYA

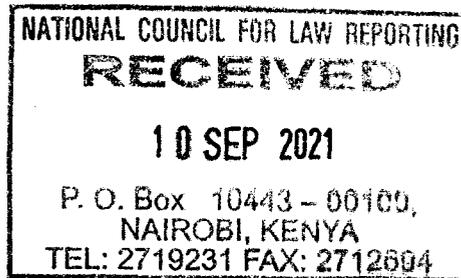
KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2021

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THE MILITARY VETERANS BILL, 2021

A Bill for

AN ACT of Parliament to make provision for the benefits and welfare of military veterans; 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, 2021. Short title.
- 2.** (1) In this Act, unless the context otherwise requires— Interpretation.
- “benefit” means any benefit contemplated in section 6;
- “Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to defence;
- “department” means the department designated by the Cabinet Secretary under section 5 to be responsible for the affairs of military veterans;
- “dependant” means such person as defined under the Law of Succession Act; and Cap. 160.
- “military veterans” means any Kenyan citizen who—
- (a) has rendered military service to the Kenya Defence Forces; or
 - (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.** The objects of the Act are to provide a framework – Objects of the Act.
- (a) for the recognition of military veterans and their sacrifices in the service in the Republic of Kenya;
 - (b) for the efficient transition of military veterans into civilian life;
 - (c) that enables military veterans to re-integrate into society and establish and build health relationships;

- (d) to facilitate the provision, to military veterans, of the relevant socio-economic support services at the National and county levels of government; and
- (e) to enable access, by military veterans, to –
 - (i) appropriate employment opportunities or the acquisition of the necessary skills that may enable them be in gainful employment throughout their working life; and
 - (ii) government services and support by military veterans.

4. Every person shall, in the implementing of this Act, be guided by the following principles –

Guiding principles.

- (a) the protection of the rights of military veterans;
- (b) the coordinated provision of benefits and services to military veterans;
- (c) the collaboration between the National and county governments in putting in place measures for the transition of military veterans into civilian life;
- (d) public participation and consultation;
- (e) non-discrimination on any grounds including sex, health status, disability or religion; and
- (f) openness, accountability and transparency;

5. (1) In determining the benefits and services that are to be accorded to a military veteran, the Cabinet Secretary and the respective county executive committee member shall take into account –

Factors in regulating the affairs of military veterans.

- (a) the sacrifices made by military veterans in the service or their role in the protection of the national boundaries;
- (b) compensation to which a military veteran may be entitled for disablement constitutes reparation and is not, despite any provision to the contrary contained in any law, a welfare benefit;
- (c) the physical or mental disability arising from military service rendered by a military veteran;
- (d) the period served in the service and whether the military veteran was discharged dishonourably;

- (e) the skills of a military veteran;
 - (f) the resources available in relation to the needs of the military veterans;
 - (g) the need to identify and remedy disparities, inequalities or unfair discrimination as regards the benefits of military veterans and their dependants; and
 - (h) cooperation and consultation to ensure the achievement of the objects of this Act.
- (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 a military veteran who has become disabled while serving in the military 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.

6. (1) The Cabinet Secretary and the county executive committee members shall put in place measures to facilitate access by military veterans and their dependants 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;

Benefits of a
military veteran.

- (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; and
- (j) such other benefit as shall be provided in any other written law or as shall be determined by the Cabinet Secretary.

(2) The benefits provided for under subsection (1)(a) and (b) shall be promptly provided to a military veteran who requires them and shall not be withheld.

(3) The benefits may be paid or provided to a military veteran by the department responsible for the affairs of military veterans, any other organ of the State or any other person as shall be determined.

(4) An organ of the State or any other person responsible for the payment or provision of a benefit to a military veteran shall cooperate with the Cabinet Secretary and the department responsible for the affairs of military veterans in respect of the payment or provision of those benefits.

(5) For purposes of subsection (4), the Cabinet Secretary may, after consultation with the Cabinet Secretary responsible for National Treasury, enter into agreements with relevant organs of the State in order to facilitate the payment or provision of benefits to military veterans.

7. The Cabinet Secretary shall compile a priority list of needs of military veterans in relation to their benefits in order to plan and structure operations for purposes of the fulfilment of those needs.

Hierarchy of needs.

8. The Cabinet Secretary shall —

- (a) co-ordinate the provision of benefits to military veterans and their dependants;

Certain powers and duties of the Cabinet Secretary.

- (b) investigate any submission, inquiry or complaint made by a military veteran or their dependant;
- (c) provide such person with appropriate advice or assistance as may be required;
- (d) develop strategies and programmes to facilitate the realisation of the benefits of military veterans and their dependants;
- (e) conduct research, investigate, evaluate and promote affairs of military veterans on an integrated basis;
- (f) review existing legislation and policies with a view to promote better provision of benefits to military veterans and their dependants;
- (g) formulate and implement programmes which seek to promote the affairs of military veterans and submit proposals and recommendations to the relevant departments of State or county executive authorities;
- (h) collaborate with public and private entities concerned with the affairs of military veterans at the National and county level of government in the implementation of this Act;
- (i) collect, analyse, keep and regularly update information relating to any aspect of benefits of military veterans;
- (j) compile a priority list of the programmes, proposals or recommendations to be implemented in the interest of military veterans and their dependants;
- (k) publish in the *Gazette* and publicize all approved programmes relating to the affairs of military veterans; and
- (l) exercise any power and perform such functions as may be prescribed in any other written law.

9. The Cabinet Secretary may, for the effective performance of the functions under this Act, designate a department or a person within the Ministry to be responsible for the affairs of military veterans.

Designation of department of affairs of military veterans.

10. (1) Except for a benefit which is medical in nature, a military veteran or a dependant of a military veteran eligible for a benefit shall make an application to the Cabinet Secretary for the payment or provision of the benefit.

Access to a benefit.

(2) The Cabinet Secretary shall, in writing and within fourteen days, notify the applicant of the decision and reasons for the decision.

(3) The Cabinet Secretary shall put in place procedures for effective and prompt access to a benefit which is medical in nature.

11. Despite the provisions of this Act, a person entitled to a benefit under section 4 may lodge a claim before a court of law for an appropriate remedy where a benefit has been denied, withheld, delayed or for any other reason.

The right to access court.

12. The Cabinet Secretary and the department responsible shall, in the performance of their functions under this Act, consult the military veterans or any other person with expertise in matters touching on military veterans.

Consultation with the military veterans.

13. The National Government or a county government may contract a military veteran or military veterans to perform a specified public function during public events including sports and public holidays on such terms as shall be agreed between the government and the military veteran.

The government may contract a military veteran.

14. Each county government may put in place such measures and policies within their functional areas to facilitate re-integration of military veterans into society.

Measures by county governments.

15. (1) The Cabinet Secretary may make regulations generally for the better carrying into effect the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may provide for—

- (a) the criteria that shall be met in order to qualify for benefits under this Act;
- (b) any matter required or permitted to be prescribed by or in terms of this Act;

(c) any matter ancillary or incidental and is necessary for the proper implementation or administration of this Act.

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

(a) 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; and

(b) 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. These benefits include compensation for physical injuries and psychological trauma, healthcare services, access to training and employment opportunities. Currently, other than pension and gratuity there, is no law which provides for such benefits.

Military veterans after rendering important services to this Nation, to a large extent, are left to fend for themselves once they leave military service. In most cases, this causes them serious social and economic problems. Their misery is compounded if they suffer health complications arising from their service in the military.

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

The Bill delegates legislative powers to the Cabinet Secretary responsible for matters relating to defence to make regulation for the better carrying into effect the provisions of the Act.

The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill seeks put in place a legal framework for the provision of welfare services including healthcare services, training and employment opportunities for persons who have left military service and their dependants. Healthcare, education, employment and the general wellbeing of the citizen of Kenya are concurrent functions of the National Government and county governments.

The Bill is therefore a Bill concerning county governments in terms of Article 110(1) (a) of the Constitution.

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

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 8th March, 2021.

JUDITH PARENO,
Senator.

