



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE SOCIAL ASSISTANCE ACT**

CHAPTER 258A

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**CHAPTER 258A**

**SOCIAL ASSISTANCE ACT**

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**CHAPTER 258A**

**SOCIAL ASSISTANCE ACT**

*[Date of assent: 14th January, 2013.]*

*[Date of commencement: 25th January, 2013.]*

**An Act of Parliament to give effect to Article 43(1)(e) of the Constitution; to establish the National Social Assistance Authority; to provide for the rendering of social assistance to persons in need and for connected purposes**

[Act No. 24 of 2013.]

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Social Assistance Act.

**2. Interpretation**

In this Act, unless the context otherwise requires—

"Authority" means the National Social Assistance Authority established under section 3;

"beneficiary" means a person receiving social assistance from the State;

"Board" means the Board of Management established under section 5 of this Act;

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

"child" means a person under the age of eighteen years;

"Director" means a person appointed as such under section 8;

"financial assistance" means a type of social assistance provided as—

- (a) payment for food, shelter, clothing, fuel, utilities, household supplies and personal requirements;
- (b) payment for special needs of the kind prescribed by the regulations;
- (c) payment for care in residential institutions;
- (d) payment for travel and transportation expenses;
- (e) payment for funeral and burial expenses;
- (f) payment for health care services; and
- (g) comfort allowances and allowances for other needs of residents of residential institutions.

"older person" means a person contemplated in section 21;

"orphans and vulnerable children" means children as described under section 20;

"residential institution" means an institution approved in accordance with Regulations that provide for living accommodation and temporary or continuing care for persons in need;

"social assistance" means assistance provided in accordance with this Act to persons in need and other persons and includes financial assistance and social services;

"social services" means services having as their object the lessening, removal or prevention of the causes or effects of poverty, child neglect or dependence on public assistance and, without limiting the generality of the foregoing, includes

- (a) rehabilitation services;
- (b) counseling services;
- (c) adoption services;
- (d) day care services;
- (e) community development services;
- (f) consulting, research and evaluation services with respect to social programmes;
- (g) provision of income assistance or indigent relief; and
- (h) administrative, secretarial and clerical services, including staff training, relating to the provision of any of the foregoing services.

"youth" means the collectivity of all individuals in the Republic who have attained the age of eighteen years but have not attained the age of thirty-five years.

## PART II – ESTABLISHMENT OF THE NATIONAL SOCIAL ASSISTANCE AUTHORITY

### 3. Establishment of the Authority

(1) There is established an Authority to be known as the National Social Assistance Authority.

(2) The Authority 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) taking, purchasing or otherwise acquiring, holding charging or disposing of movable and immovable property;
- (c) borrowing money; and
- (d) doing or performing all such other acts or things necessary for the proper performance of its functions under this Act.

(3) The Authority may establish such branches or organs as it may deem necessary for the effective and proper discharge of its function under this Act.

### 4. Functions of the Authority

The functions of the Authority shall be to—

- (a) identify and provide social assistance to persons in need of social assistance;
- (b) plan, develop, operate and manage any project or enterprise that has as its object to render recipients of social assistance capable of self support;
- (c) make grants to any organization, group or body of citizens for the purpose of providing assistance to persons in need or likely to become in need;

- (d) construct or acquire, maintain and operate residential institutions for people in need of social assistance;
- (e) sponsor, develop or operate community development services;
- (f) enter into agreements with agencies or other persons for the provision of social services;
- (g) approve residential institutions for the purposes of this Act;
- (h) advise the Cabinet Secretary on the national policy to be adopted with regard to provision of social assistance ;
- (i) formulate and enforce standards for the conduct of social assistance programmes;
- (j) maintain and promote the status, well being, rights, safety and security of persons in need of social assistance;
- (k) develop, maintain and operate a national social assistance information management system;
- (l) facilitate the periodic review of the national social assistance policy in line with other government policy statements;
- (m) mobilize resources to support and fund social assistance programmes and initiatives;
- (n) coordinate with other social assistance organizations to ensure that persons in need of social assistance access to resources and services appropriate to their needs;
- (o) coordinate and harmonize social assistance programmes;
- (p) inspire and promote the spirit of protecting persons in need of social assistance;
- (q) develop mechanisms to facilitate citizen participation in social assistance programmes;
- (r) formulate operational guidelines that protect persons in need against any form of abuse or manipulation;
- (s) work with other agencies to roll out and popularise social assistance programmes;
- (t) establish cost-effective, predictable and sustainable interventions that benefit the persons in need of social assistance;
- (u) develop guidelines for implementation, monitoring and evaluation of social assistance programmes; and
- (v) perform such other functions as may be necessary for the better carrying out of the functions of the Authority under this Act.

## **5. Board of the Authority**

(1) The management of the Authority shall vest in a board to be known as the Board of Management which shall comprise of—

- (a) a chairperson appointed, through a competitive process, by the Cabinet Secretary with the approval of Parliament;
- (b) the Principal Secretary in the Ministry for the time being responsible for social services or a representative designated by the Principal Secretary;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance or a representative designated by the Principal Secretary;

- (d) the Principal Secretary in the Ministry for the time being responsible for health or a representative designated by the Principal Secretary;
- (e) the Director of the Authority who shall also be the secretary to the Board;
- (f) seven persons appointed by the Cabinet Secretary by notice in the *Gazette* who shall be persons with knowledge and experience in matters related to social assistance and of whom—
  - (i) two shall represent the National Council of Children Services;
  - (ii) one shall represent the National Council of Non-governmental Organizations;
  - (iii) one shall represent the Kenya National Human Rights and Equality Commission;
  - (iv) one shall represent the National Council for Persons with Disabilities; and
  - (v) one shall represent the Law Society of Kenya; and
  - (vi) one shall represent the National Gender and Equality Commission.

(2) A person shall be qualified for appointment as a chairperson if the person—

- (a) possesses at least an undergraduate degree in social studies from a recognized institution;
- (b) has at least ten years experience in the development of social assistance programmes or projects;
- (c) has demonstrated ability to provide leadership; and
- (d) is knowledgeable in, or has actively contributed to the promotion of development agenda of the poor and vulnerable persons.

(3) In appointing persons as members of the Authority, the Cabinet Secretary shall—

- (a) have regard to ethnic and regional diversity of the people of Kenya;
- (b) ensure that not more than two-thirds of the members of the Authority are of the same gender; and
- (c) take into account the national values set out in Article 10 of the Constitution.

## **6. Tenure of office**

A member appointed to the Board under paragraph (a) and (f) of section 5(1) shall hold office for a period of three years and shall be eligible for re-appointment for a further and final term of three years.

## **7. Conduct of business and affairs of the Board**

The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule.

## **8. Powers of the Board**

The Board shall have all the powers necessary for the proper performance of its functions under this Act and, in particular but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) formulate the policies of the Authority;



- (b) carry out the objects and functions of the Authority;
- (c) provide overall directions on effective coordination of operations of the Authority;
- (d) administer the property and funds of the Authority in such a manner and for such purposes as will, in the opinion of the Board, promote the functions of the Authority;
- (e) receive on behalf of the Authority gifts, grants, donations or endowments;
- (f) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which it is established;
- (g) open a bank account or bank accounts for the funds of the Authority into which all moneys received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made; and
- (h) do anything incidental or conducive to the performance of any of the preceding functions.

#### **9. Director to the Authority**

(1) There shall be a Director of the Authority who shall be competitively recruited and appointed by the Board.

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

(3) The Director shall be an *ex officio* member of the Board but shall not have the right to vote at a meeting of the Board.

(4) The Director shall be the chief executive officer of the Board and shall, subject to the direction of the Authority, be responsible for the day to day management of the Authority.

(5) The term of office of the Director shall be four years but may be renewed for one further term of not more than four years.

#### **10. Functions of the Director**

(1) The Director shall, in consultation with the Authority, be responsible for the direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its objectives, functions and duties.

(2) The Director shall—

- (a) ensure the maintenance of efficiency and discipline by the staff of the Authority;
- (b) manage the budget of the Authority to ensure that its funds are properly expended and accounted for; and
- (c) perform such other duties as the Authority may, from time to time, assign.

(3) The Director shall submit to the Board for approval, not later than three months before the commencement of each financial year, a programme of activities of the Authority in respect of that financial year.

**11. Staff of the Authority**

The Board may appoint such officers, agents and other staff as are necessary for the efficient discharge of its functions under this Act and upon such terms and conditions as the Board may determine.

**12. Experts and consultants**

The Board may engage consultants and experts, as it considers appropriate, to assist in the discharge of the functions of the Authority.

**13. Delegation by the Board**

The Board may, by resolution either generally or in any particular case, delegate to any committee of the Authority or to any officer, member of staff or agent of the Authority, the exercise of any of the powers or the performance of any of the functions or duties of the Authority under this Act.

**14. Remuneration of members of the Board**

The members of the Board shall be paid such remuneration, fees, allowances and disbursements for expenses as may be approved by the Board upon the advice of the Salaries and Remuneration Commission.

**15. Protection from personal liability**

(1) A matter or thing done by a member of the Board or by an employee or agent of the Board shall not, if the matter or thing was done in good faith for executing the function, powers or duties of the Board under this Act, render such member, employee or agent of the Board or a person acting on their directions personally liable to any action, claim or demand.

(2) The provisions of subsection (1) shall not relieve the Authority of liability to pay compensation or damages to a person, the person's property or the person's interests caused by the exercise of a power conferred by this Act or any other law.

**16. Common seal**

(1) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) Affixing of the common seal of the Authority shall be authenticated by the signature of the Chairperson and the Director and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson and the Director.

(3) Notwithstanding the provisions of subsection (2), the Board shall, in the absence of either the Director or the Chief Executive Officer in any particular matter, nominate one member to authenticate the seal of the Authority on behalf of either the Chairperson or the Director.

(4) A deed, instrument, contract or other document executed in accordance with subsection (2) shall bind the Authority.

**PART III – SOCIAL ASSISTANCE****17. Social assistance to persons in need**

(1) The Authority shall, in accordance with this Act, provide social assistance to persons in need.

(2) The Cabinet Secretary shall, in consultation with the Authority determine and *Gazette* the categories from which persons with need are to be drawn.

(3) Notwithstanding subsection (2) persons in need shall include—

- (a) orphans and vulnerable children;
- (b) poor elderly persons;
- (c) unemployed persons;
- (d) persons disabled by acute chronic illnesses;
- (e) widows and widowers;
- (f) persons with disabilities; and
- (g) any other persons as may from time to time be determined by the Cabinet Secretary, in consultation with the Board.

(4) To qualify for social assistance a person must meet the criteria set out in this Part.

#### **18. Types of social assistance**

Social assistance may be provided to an applicant in the form of—

- (a) emergency assistance for a period not exceeding one month;
  - (b) short term assistance for a period of less than four consecutive months;
  - (c) long term assistance for a period of four or more consecutive months;
- or

special assistance as may be prescribed under Regulations.

#### **19. Eligibility for social assistance**

A person is entitled to social assistance if the person—

- (a) is a person in need as provided for under section 17 of this Act;
- (b) is a Kenyan citizen,

and complies with any requirement prescribed in Regulations by the Cabinet Secretary in consultation with the Authority.

#### **20. Orphans and vulnerable children**

A child qualifies for social assistance if that child—

- (a) is an orphan with no parents either biological or adoptive and is not under the care of a guardian who provides the basic needs of the child;
- (b) is under the care of a person who suffers a serious long-term ailment or disability which renders the person unable to care for the child;
- (c) has been abandoned by the parent or parents of the child and is not under the care of a guardian who provides the basic needs of the child or;
- (d) is under the care of parents or guardians who are unable to provide for the child's basic needs.

#### **21. Older persons**

A person qualifies for social assistance as an elderly person if the person—

- (a) has attained the age of 65; and
- (b) has been neglected or abandoned without any ascertainable means of support; or

lives or begs on the street for a living.

**22. Unemployed persons**

(1) A person qualifies for social assistance as an unemployed person if—

- (a) the person is a youth;
- (b) there is proof that the person has no source of income; and
- (c) the failure to have a source of income is not due to negligence or lack of industry by the person.

(2) The Authority shall review the assistance granted to unemployed persons under subsection (1) every six months to ascertain whether the person is still eligible for social assistance.

**23. Persons with disabilities**

A person with disability shall be eligible for social assistance under this Act if—

- (a) the person suffers from severe mental or physical disability;
- (b) the person's disability renders them incapable of catering for their basic needs; and

there is no known source of income or support for the person.

**24. Social assistance programmes**

The Cabinet Secretary shall in consultation with the Authority, provide programmes that are intended to—

- (a) assist in the development of individual, family and community capacity to become self-sufficient;
- (b) increase the ability of persons in need to assume greater responsibility for themselves;
- (c) lessen dependence by the people on public financial assistance;
- (d) provide support services to allow persons who may otherwise be in need to avoid dependence on public financial assistance; and
- (e) lessen, remove or prevent the causes and effects of poverty.

**25. Application for social assistance**

(1) A person may apply to the Authority for social assistance, in the prescribed manner and form.

(2) Where an application is made by a person in accordance with subsection (1), the Authority may conduct an investigation to verify that the person is eligible and the Authority may request additional information.

(3) If the applicant—

- (a) qualifies for social assistance as provided for under this Act, the Authority shall render the relevant social assistance;
- (b) does not qualify for social assistance in terms of this Act, the Authority shall in writing, inform the applicant—
  - (i) that the applicant does not qualify for social assistance in terms of this Act;
  - (ii) of the reasons why the applicant does not qualify; and
  - (iii) of the applicant's right of appeal as specified under section 26 of this Act.

(4) The Authority shall convey its decision to the applicant within one month from the time the application under subsection (2) is received by the Authority.

## **26. Appeals**

A person, who is aggrieved by a decision of the Authority under this Act, may within thirty days from the date of the Authority's decision, appeal to the Magistrates Court and in any appeal the Magistrates Court may annul or vary the decision as it may consider necessary.

## **27. Abuse of social assistance**

If in the opinion of the Cabinet Secretary a beneficiary abuses their social assistance the Cabinet Secretary may—

- (a) suspend payment of social assistance; or
- (b) appoint a person to receive social assistance on behalf of the beneficiary and to apply it, subject to the prescribed conditions and any other conditions that the Cabinet Secretary may determine, for the benefit of the beneficiary.

## **28. Termination of social assistance to persons who are absent from Kenya**

(1) The Authority may terminate payment of social assistance to or on behalf of a person who is absent from Kenya, for a continuous period of six months or longer.

(2) The Authority may reinstate the provision of social assistance suspended under subsection (1) where the Authority is satisfied that the reasons advanced by the applicant justify the reinstatement.

## **29. Suspension or cancellation of social assistance**

The Authority may suspend or cancel social assistance if the social assistance was—

- (a) obtained through misrepresentation, deceit, fraud or failure to disclose any material information;
- (b) in excess of amounts permitted by this Act and Regulations made pursuant to this Act; and
- (c) approved and granted in error.

## **30. Refund to the government**

(1) If the Authority pays money erroneously to a person who is not entitled under this Act, the amount of money so paid is an amount due to the state and shall be payable to the state by the person or, if the person is deceased, by the estate of the person.

(2) The Authority shall recover the amounts to which a person was not entitled, as provided for under subsection (1), in accordance with this Act or any other law.

(3) The Authority shall remit an amount owing by a person in terms of subsection (1) if the person satisfies the Authority that the person received the amount without knowing that they were not entitled to receive the payment.

## **31. Preservation of personal information of applicant**

(1) A person may not divulge any information furnished by an applicant in respect of an application except—

- (a) to a person who requires it in order to perform a function in terms of this Act;

- (b) when required to do so by law or by an order of court; or
- (c) with the consent of the applicant.

(2) If the information submitted by an applicant changes, the applicant shall inform the Authority of the change as soon as possible.

### **32. Lapsing of social assistance**

Social assistance lapses—

- (a) when the beneficiary dies; or
- (b) when a beneficiary is admitted to a residential institution.

### **33. Review of social assistance**

The Authority shall review social assistance at any time where it has reason to believe that a change in the beneficiaries' circumstances may have occurred.

## **PART IV – FINANCIAL PROVISIONS**

### **34. Establishment of the Fund**

There is established a Fund to be known as the National Social Assistance Fund which shall be administered by the Board.

### **35. Sources of the Fund**

(1) The sources of the Fund shall be—

- (a) any funds provided by bilateral or multilateral donors, for the purpose of the Fund;
- (b) monies that may accrue to or vest in the Authority in the course of the exercise of its functions under this Act;
- (c) gifts, grants, donations or endowments as may be given to the Authority;
- (d) monies that may be borrowed by the Authority for the discharge of the functions of the Authority;
- (e) fees for services rendered to any designated institution in terms of a service agreement; and
- (f) monies from any other source provided for the Authority.

(2) The Fund shall be applied to the following purposes—

- (a) general administration expenses of the Authority and the Board which in each financial year shall not exceed three per cent of the monies in the Fund and the annual budget of which shall be approved by the Cabinet Secretary;
- (b) provide assistance to persons in need of social assistance;
- (c) conduct of research in matters relating to social assistance;
- (d) any other purpose that would enhance the development and promotion of social assistance that may be approved by the Board.

(3) The Cabinet Secretary shall, in consultation with the Board, make regulations to govern the administration of the fund, including the proportion of funds to be applied to each purpose under subsection (2).

(4) The Cabinet Secretary shall cause a draft of the Regulations proposed to be made in exercise of the power under subsection (3) to be laid before the National Assembly for approval before gazettment.

**36. Financial Year**

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

**37. Annual Estimates**

At least three months before the commencement of each financial year, the Authority shall cause to be prepared estimates of revenue and expenditure of the Authority for that year.

**38. Accounts and Audit**

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

(2) Within a period of three months after the end of each financial year, the Authority shall submit to the Auditor General, the accounts of the Authority in respect of that year together with—

- (a) a statement of income and expenditure during the year and
- (b) a statement of the assets and liabilities of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

**39. Investments of Funds**

(1) The Board may invest any of the funds of the Authority in such manner as the Board may from time to time approve.

(2) The Board may place on deposit, with such bank or banks as it may determine, any monies not immediately required for the purpose of the Authority.

**PART V – MISCELLANEOUS PROVISIONS****40. Giving false information**

(1) A person commits an offence if the person knowingly—

- (a) makes a false or misleading statement in any application or report under this Act or makes an application or report that by reason of non disclosure of facts is false or misleading;
- (b) provides any person employed in the administration or enforcement of this Act with any statement or information that is false in any material part;
- (c) cashes a cheque for assistance to which the person is not entitled;
- (d) fails to report that the circumstances which caused the person to qualify for assistance have changed;
- (e) communicates or allows to be communicated to any person privileged information or allows a person to inspect or have access to a statement or other writing containing any such information; or
- (f) persistently refuses or neglects to maintain any other person for whose maintenance the person is liable.

(2) A person who is convicted of an offence under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one year, or both.

**41. General Penalty**

A person who is found guilty of an offence under this Act for which no penalty is expressly provided shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

**42. Regulations**

The Cabinet Secretary may make Regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality of the forgoing, the Cabinet Secretary, may make Regulations—

- (a) prescribing procedures for the consideration of information and the granting of social assistance;
- (b) providing for the investigation of applications in order to determine the eligibility of applicants;
- (c) in respect of financial resources and the manner in which they are considered in determining eligibility for social assistance;
- (d) in respect of kinds and amounts of social assistance that may be granted to an applicant and the manner and time in which such assistance may be given;
- (e) prescribing the circumstances and conditions under which social assistance is required to be assessed, changed or revoked;
- (f) on the income and assets of an applicant to be taken into account in determining the amount of social assistance;
- (g) describing the forms to be used under this Act;
- (h) prescribing the approval of residential institutions and the granting of social assistance to the residents of those residential institutions;
- (i) in respect of the recovery of overpayment of social assistance and repayments of monies granted or paid under this Act;
- (j) on any condition or limitations subject to which any assistance shall be made;
- (k) on the postponement of any payment of social assistance pending any relevant inquiry; and
- (l) on any matter which it is necessary to prescribe for the effective carrying out or furtherance of the provisions or objects of this Act.

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**SCHEDULE**

[s. 7]

**PROVISIONS AS TO THE CONDUCT OF  
BUSINESS AND AFFAIRS OF THE AUTHORITY****1. Vacation of office**

(1) A member appointed to the Authority under paragraph (a) and (f) of section 5(1) shall cease to be a member if the member—

- (a) serves the Cabinet Secretary with written notice of resignation;
- (b) is absent without the written permission of the Chairperson notified to the Authority, from three consecutive meetings of the Authority;



- (c) is convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months with or without the option of a fine; or
- (d) is incapacitated by prolonged physical or mental illness from performing the duties of the office of a member of the Authority.

## **2. Meeting of the Council**

(1) The Board shall hold such number of meetings at such places and at such times as the Board shall consider necessary for the proper discharge of its functions.

(2) Notwithstanding subparagraph (1) the Board shall meet not less than four times in each financial year.

(3) At least fourteen days notice shall be given prior to any meeting of the Board.

## **3. Special meetings**

The Chairperson or any three members may call a special meeting whenever it is expedient for the transaction of the business of the Board by giving not less than seven days notice to the members.

## **4. Presiding at meetings**

(1) The Chairperson shall preside at all meetings of the Board.

(2) In the absence of the Chairperson at a meeting, the vice-Chairperson shall preside at that meeting of the Board.

(3) In the absence of the Chairperson and the vice-Chairperson at a meeting, the members present shall elect a member to preside at that meeting off the Board.

## **5. Quorum**

The quorum for the conduct of business at meeting of the Board shall be a majority of the members of the Board.

## **6. Voting**

(1) A decision on any matter before the Board shall be by a majority of votes of the members present and voting.

(2) In the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

## **7. Vacancies and defects in appointment**

Proceedings of the Board shall not be invalid by reason only of a vacancy in the membership of the Board or by reason of a defect in the appointment of a member.

## **8. Minutes**

(1) Minutes of the proceedings at meetings of the Board shall be kept in such a manner as the Cabinet Secretary shall direct.

(2) The minutes of the meetings of the Authority shall be available to the Cabinet Secretary or to a person nominated by the Cabinet Secretary, on the request of the Cabinet Secretary.

## **9. Committees of the Authority**

The Board may establish such committees as may be necessary for the performance of the functions of the Authority.

## **10. Power of the Board to regulate its own procedure**

Subject to the provisions of this Schedule, the Board shall regulate its own procedure.

**11. Code of conduct**

Within six months of the commencement of this Act, the Board shall establish a code of conduct, applicable to all members of staff of the Authority and justifiable for purposes of disciplinary proceedings, to ensure—

- (a) compliance with applicable law;
- (b) the effective, efficient and economical use of the Authority's resources;
- (c) the effective, efficient and economical use of funds designated for payment to beneficiaries of social protection;
- (d) the promotion and assistance of the human dignity of beneficiaries of social protection;
- (e) the promotion and maintenance of a high standard of professional ethics;
- (f) the prevention of conflicts of interest; and
- (g) the assistance of confidential information held by the Authority.

**12. Conflict of Interest**

(1) A member or employee of the Board shall be considered to have a conflict of interest for the purpose of this Act if the member or employee acquires any pecuniary or other interest that could conflict with the proper performance of the members or employees duties as a member or employee of the Board.

(2) If at any time a member or employee of the Board has a conflict of interest in relation to any matter before the Board for consideration or determination or any matter the Board could reasonably expect might come before it for consideration or determination the member or employee shall immediately disclose the conflict of interest to the other members of the Board and refrain from taking part, or any further part, in the consideration or determination of the matter.

(3) Where the Board becomes aware that a member or employee has a conflict of interest in relation to any matter before the Board, the Board shall direct the member or employee to refrain from taking part, or taking any further part in the consideration or determination the matter.

(4) If a Chairperson has a conflict of interest the member shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Cabinet Secretary in writing.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or employee or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in paragraph (5), the member shall vacate office as a member of the Board unless the member has eliminate the conflict to the satisfaction of the Board within thirty days of the declaration of the conflict of interest.

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(7) The Board shall report to the Cabinet Secretary any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Authority.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) The Board shall cause minutes of all resolution and proceedings of meetings of the Board to be entered in books kept for that purpose.

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