

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2017**

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**NAIROBI, 17th February, 2017**

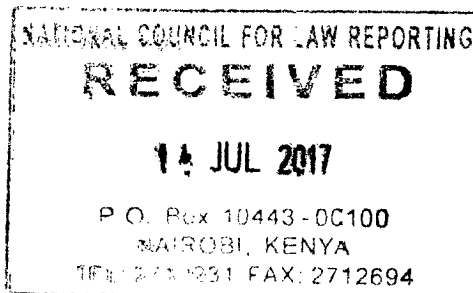
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CONTENT

Bill for Introduction into the National Assembly —

PAGE

The President's Award Bill, 2017 ..... 159





**THE PRESIDENT'S AWARD BILL, 2017**  
**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Object and purpose.

**PART II—BOARD OF TRUSTEES**

- 4—Establishment of the Board of Trustees.
- 5—Composition of the Board.
- 6—Tenure of office of Board members.
- 7—Functions of the Board.
- 8—Powers of the Board.
- 9—Chief Executive Officer of the Board.
- 10—Removal from office of the Chief Executive Officer.
- 11—Staff of the Board.
- 12—Experts and consultants.
- 13—Delegation by the Board.
- 14—Common seal.
- 15—Protection from personal liability.
- 16—Liability for damages.

**PART III—ESTABLISHMENT AND CONFERRING  
OF AWARDS**

- 17—Levels of the President's award.
- 18—Qualification for an award.
- 19—Duration for each level of the award programme.
- 20—Modification of awards.

**PART IV—FINANCIAL PROVISIONS**

- 21—Funds of the Board.
- 22—Financial year.
- 23—Annual estimates.

24—Accounts and audit.

25—Investment of funds.

26—Exemption from charges.

27—Annual report on operations of the Board.

28—Annual report relating the functions of the Board.

#### **PART V—MISCELLANEOUS PROVISIONS**

29—Acting without authority.

30—Periodic reports.

31—Making of Regulations.

#### **PART VI—SAVINGS AND TRANSITIONAL PROVISIONS**

32—Transitional and saving provisions.

## **THE PRESIDENT'S AWARD BILL, 2017**

### **A Bill for**

**AN ACT of Parliament to provide for the conferring of awards to young persons; to provide for the establishment of the President's Awards Board of Trustees and for connected purposes**

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

### **PART I—PRELIMINARY**

**1.** This Act may be cited as the President's Award Act, 2017.

Short title.

**2.** In this Act, unless the context otherwise requires—

Interpretation.

“Award programme” means the various activities undertaken by young people to qualify for an award;

“Board” means Board of Trustees of the President's Award established under section 4;

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

“International Award” means The Duke of Edinburgh's International Award;

“Participating institution” means an educational institution licensed by the Board to conduct the Award programme;

“The President's Award-Kenya” means a self-development programme designed for young persons in Kenya to equip them with positive life skills as established under section 17(1); and

“young persons” means persons between the ages of fourteen and twenty four years of age.

**3.** The object and purposes of the Act are to—

Object and purpose.

- (a) regulate the conferring of awards to young persons who voluntarily undertake to fulfill self-development activities;
- (b) establish mechanisms and procedures for the undertaking of Award programmes; and
- (c) present to young people a balanced, non-competitive programme of voluntary activities

which encourage personal discovery and growth, perseverance, responsibility to themselves and service to their community.

## **PART II—BOARD OF TRUSTEES**

4. There is established a Board of Trustees which shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

Establishment of  
the Board of  
Trustees.

- (a) suing and being sued;
- (b) purchasing, acquiring, holding or disposing of property;
- (c) entering into contracts;
- (d) raising and administering funds;
- (e) borrowing and lending money; and
- (f) doing or performing all such other acts necessary for the proper performance of its functions under this Act.

5. (1) The Board shall comprise of the following members—

Composition of  
the Board.

- (a) a chairperson appointed by the President and who shall be a person with proven knowledge and experience in matters relating to conferring of awards to young persons;
- (b) the Cabinet Secretary for the time being responsible for matters relating to education;
- (c) the Cabinet Secretary for the time being responsible for matters relating to youth; and
- (d) five persons with knowledge and at least ten years experience in matters relating to any of the following fields, appointed by the President—
  - (i) resource mobilization;
  - (ii) governance and public administration;
  - (iii) community and social development;
  - (iv) planning and devolution;
  - (v) research; and

- (vi) advocacy and communication skills;
- (e) the Chief Executive Officer who shall be the Secretary to the Board.

(2) The members of the Board shall, at the first meeting of the Board and whenever need arises, elect a vice-chairperson from amongst the members appointed under of subsection (1) (d).

(3) The Schedule shall apply in respect of the procedure of the Board.

6. The members of the Board shall hold office for a period of three years and shall be eligible for re-appointment for a further term of three years depending on satisfactory performance.

Tenure of office  
of Board  
members.

7. The Board shall have the following functions—

Functions of the  
Board.

- (a) regulate the President's Award – Kenya established under section 17(1) and its relations with the International Award;
- (b) provide quality experiential activities that impart positive life skills and ethical values to young people for a better society;
- (c) formulate policies on the President's Award and management of the Board of Trustees;
- (d) advice the President on matters relating the President's Award;
- (e) conduct research on matters relevant to the President's Award;
- (f) mobilize resources for the management and award of the President's Award;
- (g) make recommendations on the criteria for conferring of awards to young persons;
- (h) liaise with relevant government ministries, institutions and organizations in matters relating to conferring of awards to young persons;
- (i) collaborate with local and international agencies which work matters relating to the President's Award;

- (j) develop a constitution which shall provide for the functions, aims, objectives and practices of the President's Award; and
- (k) do all other things that may be necessary for the better carrying out of its functions under the Act.

**8.** The Board shall have all 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—

Powers of the Board.

- (a) control, supervise and administer the assets of the Board in such manner as best promotes the purpose for which the Board is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (d) open such banking accounts for the funds of the Board as may be necessary;
- (e) invest any funds of the Board not immediately required for its purposes in the manner provided in section 18;
- (f) perform such other functions as may be necessary for the better carrying out of the functions of the Board under this Act.

**9. (1)** The Board shall, through an open, transparent and competitive process appoint a suitably qualified person to the office of Chief Executive Officer.

Chief Executive Officer of the Board.

**(2)** A person shall be qualified for appointment as the Chief Executive Officer if the person—

- (a) is a citizen of Kenya;
- (b) holds at least a degree from a university recognized in Kenya;
- (c) has at least five years' post qualification experience in matters relating to awards to young persons;
- (d) has demonstrated competence in the performance of managerial and administrative duties for not less than five years;



(e) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be an *ex-officio* member of the Board.

(4) The Chief Executive Officer shall serve for a term of three years and shall be eligible to re-appointment for a further term of three years subject to a satisfactory assessment of performance.

10. (1) The Chief Executive Officer may be removed from office for—

Removal from office of the Chief Executive Officer

- (a) inability to perform functions of the office arising out of physical or mental infirmity;
- (b) gross misconduct or misbehavior;
- (c) incompetence; or
- (d) violation of the constitution of the President's Award - Kenya.

(2) Where the question of the removal of the Chief Executive Officer under sub-section (1) arises, the Board shall give the Chief Executive Officer the opportunity to respond in writing.

11. (1) The staff of the Board shall consists of—

Staff of the Board.

- (a) such staff appointed by the Board as is necessary for the efficient discharge of the functions of the Board under this Act and upon such terms and conditions as the Board may determine; and
- (b) such public officers as may be seconded by the Public Service to the Board.

(2) For purposes of this Act, a public officer who is seconded to the Board under subsection (1) (b), shall be deemed to be an employee of the Board and shall be required to comply with the constitution, this Act and any other written law relating to matters of ethics, leadership and anti-corruption, and any instruction, orders and directions of the Board.

(3) The Board shall, in the appointment of the staff of the Board, ensure that—

- (a) at least one-third of the staff are of either gender; and

- (b) the appointment reflects ethnic and regional diversity of the people of Kenya.

**12.** The Board may engage experts or consultants to assist in the discharge of the functions of the Board.

Experts and consultants.

**13.** The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Delegation by the Board.

**14.** (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except in the manner authorized by the Board.

Common seal.

(2) A deed, instrument, contract or other document shall be duly executed by or on behalf of the Board—

(a) where it is required to be under seal, if sealed with the common seal of the Board and authenticated by the Chairperson and Chief Executive Officer of the Board ; or

(b) where it is not required to be under seal, if executed in that behalf by the Chairperson or the Chief Executive Officer.

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

(4) A deed, instrument, contract or other document executed in accordance with sub-section (2) shall bind the Board.

**15.** 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 is done in good faith for executing the functions, powers or duties of the Board under this Act, render the member, employee or agent of the Board or a person acting on their directions personally liable to any action, claim or demand.

Protection from personal liability.

**16.** The provisions of section 15 shall not relieve the Board of liability to pay compensation or damages to a

Liability for damages.

person for an injury to the person, the person's property or the person's interests caused by the exercise of a power conferred by this Act or any other written law.

### **PART III—ESTABLISHMENT AND CONFERRING OF AWARDS**

**17.** (1) There shall be the President's Award-Kenya programme, whose object and purposes shall be in accordance with the provisions of this Act.

Establishment and levels of the President's award.

(2) The President's Award-Kenya programme consists of three attainment levels—

- (a) Bronze;
- (b) Silver; and
- (c) Gold.

(3) To provide a balanced programme of personal development for the participants, each level of the award program under subsection (1) is divided into the following four sections—

- (a) the service section which requires the participant to undertake voluntary service;
- (b) the skills section which requires the participant to undertake the acquisition of practical and vocational skills;
- (c) the physical recreation section which requires the participant to undertake sporting activity; and
- (d) the adventurous journey section which requires the participant to undertake an expedition and a camping activity.

**18.** (1) A participant shall only qualify for an award if the participant completes the four sections of the Award Programme under section 17(3).

Qualification for an award.

(2) A participant shall not qualify for a gold award unless the participant undertakes a residential project section which requires the participant to get involved with activities that include environmental conservation, civic responsibility, and construction work and disaster management.

**19.** The duration for the—

Duration for each level of the award programme.

- (a) Bronze award shall be for a minimum of six months;

- (b) Silver award shall be for a minimum of twelve months for direct entrants to this level, provided that where an entrant joins the silver award from the bronze award the duration shall be a minimum of six months;
- (c) Gold award shall be for a minimum of eighteen months for direct entrants to this level provided that where an entrant joins the gold award from the silver award the duration shall be a minimum of twelve months.

20. The International Award Foundation may recommend to the Board the modification of any of the requirements of the President's Award.

Modification of awards.

#### **PART IV — FINANCIAL PROVISIONS**

21. The funds of the Board shall comprise—

Funds of the Board.

- (a) monies that may accrue to or vest in the Board in the course of the exercise of its functions under this Act;
- (b) gifts, grants or donations as may be given to the Board;
- (c) monies that may be borrowed by the Board;
- (d) such monies as may be appropriated by Parliament;
- (e) monies from any other source provided for the Board.

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

Financial year.

23. (1) At least three months prior to the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that financial year.

Annual estimates.

(2) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved the sum provided in the estimates shall be forwarded to the Cabinet Secretary for approval.

(3) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (2) or in pursuance of

an authorization of the Board given with prior written approval of the Cabinet Secretary.

**24.** (1) The Board shall cause to be kept proper books and other records of account of the income, expenditure, assets and liabilities of the Board.

Accounts and audit.

(2) The Board shall, within three months of the end of a financial year, submit, to the Auditor-General or an auditor appointed under the Public Audit Act, 2015, the accounts of the Board in respect of that year together with a statement of the income and expenditure of the Institute during that year.

No. 34 of 2015.

(3) The accounts of the Board shall be audited and reported in accordance with the provisions of the Public Audit Act, 2015.

**25.** The Board may invest any of the funds of the Board in such manner as the Board may from time to time approve.

Investment of funds.

**26.** Subject to all other laws, the Cabinet Secretary for the time being responsible for finance may exempt the Board from such taxes, duties, fees, cess or other charges as the Cabinet Secretary may, by notice in the *Gazette*, specify.

Exemption from charges.

**27.** (1) The Board shall, within three months of the end of a financial year, prepare and submit to the Cabinet Secretary an annual report on the operations of the Board for the preceding year.

Annual report on operations of the Board.

(2) The annual report submitted under subsection (1) shall include—

- (a) the financial statements of the Board ; and
- (b) a detailed report of the activities of the Board.

(3) The Cabinet Secretary shall, within thirty days of receipt of the annual report, lay the report before the National Assembly.

**28.** (1) The Board shall submit an annual report to the President three months after the end of the year to which it relates.

Annual report relating the functions of the Board.

(2) The annual report shall contain, in respect of the year to which it relates—

- (a) the financial statements of the Board;
- (b) a description of the activities of the Board;
- (c) such other statistical information as the Board may consider appropriate relating to the Board functions;
- (d) any recommendations made by the Board to Government departments or any person and the action taken;
- (e) the impact of the exercise of any of its mandate or function;
- (f) any impediments to the achievements of the objects and functions under the Constitution, this Act or any written law; and
- (g) any other information relating to its functions that the Board considers necessary.

## **PART V—MISCELLANEOUS PROVISIONS**

**29.** (1) No person shall form, organize or work in connection with or be concerned in forming, organizing, or working in connection with, any corps or body of persons who without due authority and license granted in accordance with the constitution of the President's Award – Kenya, claim or pass themselves off as President's Award - Kenya or as otherwise connected with the Award Programme.

Acting without authority.

(2) A person who commits an offence under subsection (1) shall, upon conviction, be liable to a fine not exceeding five million shillings or a term of imprisonment not exceeding five years.

**30.** A participating institution shall make periodic reports to the Secretariat in a manner and form as may be prescribed from time to time.

Periodic reports.

**31.** The Cabinet Secretary may, on the recommendation of the Board, make Regulations for the better carrying out of any of the provisions of this Act.

Making of Regulations.

## **PART VI—SAVINGS AND TRANSITIONAL PROVISIONS**

**32.** Despite the provisions of the Act —

Transitional and saving provisions.

- (a) any orders or notices made or issued by the President's Award - Kenya shall be deemed to have been made or issued under the Act;
- (b) any function or transaction, carried out by or on behalf of the Board, civil proceedings or any other legal or other process in respect of any matter carried out before the commencement of this Act, shall be deemed to have been carried out under this Act.
- (c) any person who immediately before the commencement of this Act was serving on contract as a member of staff of President's Award -Kenya, shall at the commencement of this Act, be deemed to be an employee of the President's Award- Kenya for the unexpired period, if any, of the term;
- (d) every person who immediately before the commencement of this Act was an employee of the Government attached to President's Award - Kenya shall, remain an employee of the Government and continue with the terms of his or her secondment until such secondment is terminated or the Government recalls such seconded employee or the employee elects to return to the Government.
- (e) all property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of President's Award - Kenya, shall upon the commencement of this Act, be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the President's Award - Kenya to the same extent as they were enforceable by or against the President's Award - Kenya before the commencement of the Act.

(2) Where the transfer of any property transferred to or vested in the President's Award - Kenya under subsection (1) is required by any written law to be registered, the President's Award- Kenya shall, within three months from the commencement of this Act or within such other period as the written law may prescribe, apply

to the appropriate registering authority for the registration or the transfer and thereupon the registering authority shall, at no cost to the President's Award - Kenya or any person by way of registration fees, stamp duty or other duties—

- (a) make such entries in the appropriate register as shall give effect to the transfer;
- (b) where appropriate, issue to the President's Award - Kenya a certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and
- (c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.

### **SCHEDULE**

(s. 5 (3))

#### **PROCEDURE OF THE BOARD**

1. (1) A member appointed to the Board under paragraphs (a) and (e) of section 4 shall cease to be a member if the member—

Vacation of office.

- (a) dies;
- (b) by a notice in writing addressed to the President, resigns from office;
- (c) is removed from office under sub-paragraph (3);
- (d) is absent, without the written permission of the chairperson notified to the Board, from three consecutive meetings of the Board;
- (e) is convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months without the option of a fine; or
- (f) is incapacitated by prolonged physical or mental illness from performing the duties of the office of a member of the Board; and
- (g) is adjudged bankrupt.

(2) A member may be removed from office for misbehavior or misconduct incompatible with the functions



of the Board or that brings disrepute to the President's Award.

(3) The President shall notify every resignation, vacancy or removal of office in the Gazette

(4) Where a vacancy occurs in the membership of the Board, the President shall appoint a replacement Trustee.

(5) A Trustee appointed to fill a vacancy under this section shall serve for the unexpired term of the Trustee in respect of which the vacancy arose.

(6) Trustees and committee members shall serve as volunteers to the President's Award – Kenya and shall not be entitled to remuneration of any kind but shall be entitled to be reimbursed for expenses they incur in the conduct of business for the Presidents' Award – Kenya.

2. (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.

Meetings of the Board.

(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. Notwithstanding the provisions of paragraph 2, 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.

Special meetings.

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

Presiding at meetings.

(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 of the Board.

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

Quorum at meetings.

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

Voting.

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

7. Subject to the provisions of this Act, the Board may determine its own procedure.

Procedure at meetings.

8. Subject to section 19, 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.

Vacancies and defects in appointment.

9. 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.

10 (1) If a member of the Board is directly or indirectly interested in a 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, as soon as is practicable after the commencement of that meeting, disclose the fact.

Disclosure of interest.

(2) A member to whom subsection (1) applies shall not participate in the consideration, discussion or voting on the matter in which the member has disclosed an interest.

11. The Chief Executive Officer shall keep a record of all proceedings and meetings of the Board.

Records.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The principal object of this Bill is to anchor the existence and practice of the President's Award- Kenya in statute law. The entire legal framework does not provide any substantive and procedural essentials for the President's Award - Kenya, the result being that the practice of the President's Award - Kenya which is very crucial to this country goes about in a state of legal uncertainty.

**Part I (Clauses 1-3)** of the Bill contains preliminary provisions including the short title, interpretation and scope of the Act.

**Part II (Clauses 4-16)** of the Bill provides for the establishment of the Board of Trustees of the President's Award. The composition of the Board includes the Chairperson, Cabinet Secretaries responsible for matters relating to education and youth affairs and five other members appointed by the President.

**Part III (Clauses 17-20)** of the Bill contains the provisions relating to conferring of awards. The Part defines the attainment levels of the Award and the structure of the Award programme.

**Part IV (Clauses 21-28)** of the Bill provides for financial provisions.

**Part V (Clauses 29-31)** of the Bill contains miscellaneous provisions.

**Part VI (Clause 32)** of the Bill provides for Savings and Transitional provisions.

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

The Bill delegates legislative power to the Cabinet Secretary responsible for matters relating to education for the purpose of empowering the Cabinet Secretary to make regulations necessary for the better carrying out of the provisions of the Act. The Bill does not limit fundamental rights and freedoms.

### **Statement on whether the Bill concerns county governments**

The Bill does not contain provisions affecting the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution

### **Statement on the financial implications of the Bill**

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 4th February, 2017.

**ADEN DUALE,**  
*Leader of the Majority Party,*  
*The National Assembly.*

