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PRESIDENT'S AWARD ACT

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NO. 30 OF 2017

PRESIDENT'S AWARD ACT

[Date of assent: 21st July, 2017.]

[Date of commencement: 16th August, 2017.]

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

[Act No. 30 of 2017.]

PART I – PRELIMINARY

1. Short title

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

2. Interpretation

In this Act, unless the context otherwise requires—

"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;

"Participant" means a person who has attained the age of fourteen years but has not attained the age of twenty-five years and who is taking part in the Award programme;

"Participating institution" means an educational institution or any other 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. Object and purpose

The object and purposes of the Act are to—

- (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. Establishment of the Board of Trustees

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—

- (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. Composition of the Board

(1) The Board shall comprise the following members—

- (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 or a representative designated in writing by the Cabinet Secretary;
- (c) the Cabinet Secretary for the time being responsible for matters relating to youth or a representative designated in writing by the Cabinet Secretary;
- (d) the Principal Secretary to the National Treasury or a representative designated in writing by the Principal Secretary;
- (e) five persons appointed by the Cabinet Secretary; and
- (f) the Chief Executive Officer who shall be the Secretary to the Board.

(2) A person shall qualify for appointment as the Chairperson or a member of the Board under subsection 1 (e), if that person—

- (a) holds a degree from a University recognized in Kenya;
- (b) in the case of a member appointed under subsection (1) (e), has at least five years experience in matters relating to resource mobilization, governance and public administration, community and social development, planning and devolution, advocacy and communication skills or research; and
- (c) has a proven record of personal integrity, competency and accountability.

(3) In appointing persons as members of the Board, the appointing authority shall ensure that—

- (a) not more than two thirds of the members are of one gender;
- (b) at least one member represents persons with disabilities;
- (c) at least one member represents the youth; and
- (d) the appointments reflect ethnic and regional diversity of the people of Kenya.

(4) 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 subsection (1) (e).

(5) The office of the Chairperson or a member of the Board shall become vacant if the Chairperson or member—

- (a) dies;
- (b) resigns from office by way of a notice in writing addressed to the President in the case of the Chairperson or to the Cabinet Secretary in the case of a member of the Board;
- (c) is absent, without the permission of the Chairperson, from three consecutive meetings of the Board;
- (d) is convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (e) is incapacitated, unable or unfit to discharge his functions as a member of the Board; or
- (f) is adjudged bankrupt.

(6) The Chairperson or a member of the Board may be removed from office on the ground of gross misconduct or behavior that is incompatible with the functions of the Board or that brings disrepute to the President's Award- Kenya.

(7) Where there is a vacancy in the Board, the appointing authority shall, subject to the provisions of this Act and within three months of such vacancy, appoint another person to fill the vacancy for the remaining period of the term of office of the person in whose place he or she was appointed.

(8) 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 incurred in the conduct of the business of the President's Award-Kenya.

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

6. Tenure of office of Board members

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.

7. Functions of the Board

The Board shall have the following functions—

- (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-Kenya and management of the Board of Trustees;
- (d) advice the President on matters relating to the President's Award-Kenya;
- (e) conduct research on matters relevant to the President's Award-Kenya;

- (f) mobilize resources for the management and award of the President's Award-Kenya;
- (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 on matters relating to the President's Award-Kenya; and
- (j) do all other things that may be necessary for the better carrying out of its functions under the Act.

8. Powers of the Board

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—

- (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 31;
- (f) perform such other functions as may be necessary for the better carrying out of the functions of the Board under this Act.

9. Chief Executive Officer of the Board

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

(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. Removal from office of the Chief Executive Officer

- (1) The Chief Executive Officer may be removed from office for—
- (a) inability to perform functions of the office arising out of physical or mental infirmity;
 - (b) gross misconduct or misbehavior;
 - (c) incompetence;
 - (d) violation of the Constitution of Kenya, this Act or Regulations made under this Act; or
 - (e) bankruptcy.

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

11. Staff of the Board

- (1) The staff of the Board shall consist of—
- (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. Experts and consultants

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

13. Delegation by the Board

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.

14. Common seal

(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.

(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 subsection (2) shall bind the Board.

15. Protection from personal liability

A member, officer, agent or employee of the Board shall not be personally liable for any omission or act done in good faith in the course of carrying out any of the functions of the Board under this Act.

16. Liability for damages

The provisions of section 15 shall not relieve the Board of liability to pay compensation or damages to a 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. Establishment and levels of the President's award

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

(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. Qualification for an award

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

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

19. Duration for each level of the award programme

The duration for the—

- (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. Modification of awards

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

PART IV — ACCREDITATION AND LICENSING
OF PARTICIPATING INSTITUTIONS

21. Requirement for licensing of participating institutions

A person or institution shall not purport, claim or pass himself or itself as working in connection with the Award programme without authority and license granted by the Board in accordance with this Act.

22. Application for licensing

(1) An institution that intends to conduct the Award programme in such capacity as the Board may prescribe shall submit an application for accreditation and licensing to the Board in the prescribed form.

(2) An applicant under subsection (1) shall, together with the application, submit —

- (a) a certificate of registration or in the case of a company, a copy of the memorandum and articles of association of the company;
- (b) duly completed and signed application forms in the prescribed form;
- (c) supporting documents as prescribed by the Board, where applicable;
- (d) the prescribed fees; and
- (e) any other document that may be required by the Board.

23. Accreditation of existing participating institutions

Where an institution accredited and licensed as a participating institution immediately before the commencement of this Act intends to continue as participating institution, such institution shall apply for re-accreditation in the prescribed manner.

24. Accreditation and licensing

Where the Board is satisfied that an applicant meets the requirements for accreditation, it shall accredit and licence the institution under specified terms and conditions and issue a certificate to the institution.

25. Rules on licensing

(1) The Board may prescribe rules for the purpose of licensing of participating institutions.

(2) Without prejudice to the generality of subsection (1) the rules may provide for—

- (a) any forms required to be submitted to the Board;
- (b) supporting documents to be submitted by an applicant;
- (c) the criteria to be used in determining whether an applicant qualifies to be accredited and licensed;
- (d) terms and conditions of a licence; and
- (e) any other matter that requires to be prescribed under this Part.

26. Appeal from decision of the Board

(1) A person who is aggrieved by the decision of the Board under this Part may, within thirty days of being notified of the decision, appeal to the Cabinet Secretary.

(2) The appeal shall be in the prescribed Form.

PART V — FINANCIAL PROVISIONS

27. Funds of the Board

The funds of the Board shall comprise—

- (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.

28. Financial year

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

29. Annual estimates

(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.

(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.

30. Accounts and audit

(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.

(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, (No. 34 of 2015), the accounts of the Board in respect of that year together with a statement of the income and expenditure of the Board during that year.

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

31. Investment of funds

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

32. Exemption from charges

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.

33. Annual report on operations of the Board

(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.

(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.

34. Annual report relating the functions of the Board

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

(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's 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 VI — MISCELLANEOUS PROVISIONS

35. Acting without authority

(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 this Act claim or pass themselves off as the President's Award-Kenya or as otherwise connected with the Award Programme.

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

36. Periodic reports

A participating institution shall make periodic reports to the Board in such manner and form as may be prescribed.

37. Making of Regulations

(1) The Board may, make Regulations for the better carrying out of any of the provisions of this Act.

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

- (a) the requirements for registration of a participant;
- (b) the specific activities that a participant can undertake within each of the four sections of a level of the award program;
- (c) the minimum entry age requirements of participants at each level of the award program;
- (d) the criteria to be used by the Board in assessment and determination of a qualifying participant;
- (e) the implementation mechanisms to be adopted by the Board including the evaluation criteria to be adopted and the qualifications for evaluators;
- (f) the licensing rules and procedure;
- (g) rules to be observed by participants and participating institutions;
- (h) forms required to be prescribed under this Act;
- (i) fees payable to the Board; and
- (j) any other matter that requires to be prescribed under this Act.

PART VII — SAVINGS AND TRANSITIONAL PROVISIONS

38. Transitional and saving provisions

(1) Despite the provisions of the Act—

- (a) any orders or notices made or issued by the President's Award - Kenya before the commencement of this Act shall be deemed to have been made or issued under this Act;
- (b) any function or transaction, carried out by or on behalf of the President's Award-Kenya, 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;

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- (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 office that had seconded him or her;
 - (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

[Section 5 (9).]

PROCEDURE OF THE BOARD

1. Meetings of the Board

(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.

2. Special meetings

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.

3. 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 of the Board.

4. Quorum at meetings

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

5. Voting

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

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

6. Procedure at meetings

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

7. Vacancies and defects in appointment

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.

8. Committees of the Board

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.

9. Disclosure of interest

(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.

(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.

10. Records

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