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KENYA HEROES ACT

NO. 5 OF 2014

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KENYA HEROES ACT
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NO. 5 OF 2014

KENYA HEROES ACT

[Date of assent: 29th April, 2014.]

[Date of commencement: By Notice.]

An Act of Parliament to provide for the recognition of heroes; to establish criteria for the identification, selection and honouring of national heroes; to provide for the categories of heroes; to provide for the establishment of the National Heroes Council and for connected purposes

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Kenya Heroes Act, 2014 and shall come into operation on such date as the Cabinet Secretary may, by notice in the *Gazette*, appoint.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Cabinet Secretary**” means the Cabinet Secretary for the time being responsible for matters relating to national heritage;

“**child**” in relation to a hero means a child of a hero or a child to whom the hero is a guardian within the meaning of the Children Act (Cap. 141);

“**child hero**” means a hero who is below the age of eighteen years;

“**Committee**” means the State Corporations Advisory Committee established under the State Corporations Act (Cap. 446);

“**Council**” means the National Heroes Council established section 4;

“**dependant**”, in relation to a hero, means—

- (a) a child, including a step child or an adopted child;
- (b) a widow or widower; or
- (c) any person not referred to in paragraph (a) or (b) who was wholly or partly maintained by the hero at the time of the hero’s death;

“**Director**” means the director appointed under section 12;

“**Fund**” means National Heroes Assistance Fund established under section 21;

“**hero**” means a person declared a hero under the provisions of Part IV of this Act;

“**immediate family**” in the case of a hero means mother, father, wife, child, widow or widower;

“**national hero**” means a hero recognized at the national level;

“**member**” means a member of the Council;

“**registered dependant**” means any person who has been registered as a dependant under section 27; and

“**State assistance**” means any assistance accorded to a hero or dependant under section 27.

3. Objects and purposes of Act

(1) The object and purpose of this Act is to provide a legal framework for the recognition and honour of national heroes.

(2) A person shall be considered a hero for purposes of this Act where the person has positively contributed selflessly and sacrificed for the country in any of the functional areas set out in the First Schedule.

PART II – THE NATIONAL HEROES COUNCIL

4. Establishment of the Council

(1) There is established a Council to be known as the National Heroes Council.

(2) The Council 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; and
- (c) doing or performing all such other acts or things as may be necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The Council shall consist of not more than thirteen members, who shall comprise—

- (a) a chairperson, who shall be appointed by the Cabinet Secretary;
- (b) the Principal Secretary in the Ministry responsible for matters relating to heroes or a designated representative;
- (c) the Principal Secretary in the Ministry responsible for matters relating to finance or a designated representative;
- (d) the Attorney-General or a designated representative; and
- (e) six other members qualified in terms of section 8 appointed by the Cabinet Secretary.

(5) The Council may, from time to time, hire as consultants such suitably qualified persons as it may require in specific cases.

(6) Not more than two-thirds of the members of the Council shall be of the same gender.

5. Functions of the Council

The functions of the Council shall be to—

- (a) formulate and implement policy relating to national heroes;
- (b) identify and recommend national heroes;
- (c) establish and oversee the management of the national heroes' square;
- (d) oversee the design and creation of appropriate commemorative items for purposes of honouring national heroes;
- (e) administer State assistance to national heroes where necessary;
- (f) have custody and oversee the management of properties and institutions relating to heroes;
- (g) enforce sanctions and penalties in respect of disgraced national heroes; and
- (h) oversee the keeping and maintenance of registers in which shall be entered the names of every national hero and the names of any dependant of any such hero;
- (i) carry out or cause to be carried out periodic studies, research and evaluations of the national honours system and other systems in other jurisdictions; and
- (j) conduct and facilitate civic education in order to stimulate public discussion and awareness on pertinent issues relating to national heroes; and
- (k) do such other things as may be incidental or conducive to the attainment of the objects for which it is established.

6. Powers of the Council

(1) Subject to this Act, the Council shall have all the powers necessary and expedient for the performance of its functions.

(2) Without prejudice to the generality of subsection (1), the Council shall have power to—

- (a) manage, control and administer the assets of the Council in such manner and for such purposes as best promote the purposes for which it is established;
- (b) receive any gifts, grants, donations or endowments made to the Council or any other monies in respect of the Council and make disbursements therefrom in accordance with the provisions of this Act;
- (c) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Council;
- (d) open a banking account or banking accounts for the funds of the Council; and
- (e) invest any monies of the Council not immediately required for the purposes of this Act in such manner as it may deem appropriate.

7. Values and principles

In the exercise of its functions, the Council shall have regard to the following national values and principles of governance—

- (a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people;
- (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized;
- (c) good governance, integrity, transparency and accountability;
- (d) sustainable development.

8. Qualifications for appointment as member

(1) A person shall be qualified for appointment as a member of the Council under section 4(3)(e) if such person—

- (a) is a citizen of Kenya;
- (b) holds a relevant University degree from a university recognised in Kenya and has at least five years' working experience in matters relating to—
 - (i) religious and spiritual affairs;
 - (ii) culture;
 - (iii) education;
 - (iv) public affairs;
 - (v) security, law and order;
 - (vi) sports;
 - (vii) human rights; or
 - (viii) environment;
- (c) is of sound mind; and
- (d) is of good character and integrity.

(2) A person shall not be qualified for appointment as a member of the Council if such person is—

- (a) an undischarged bankrupt; or
- (b) a serving public officer within the meaning of the Public Officer Ethics Act, 2003 (Cap. 183);
- (c) in violation of Chapter Six of the Constitution.

9. Diversity

In appointing persons under section 8 the appointing authority shall have regard to Kenya's socio-economic, geographical, gender and ethnic diversity and special interest groups.

10. Oath of office

(1) A member of the Council and the Director shall each, before entering upon their office, make and subscribe to the oath or affirmation prescribed in the Second Schedule before the Chief Justice.

(2) Every oath or affirmation made and subscribed to under this section shall be deposited with the Director and with the Chief Justice.

11. Third Schedule to apply

The Third Schedule shall have effect with respect to the conduct of the affairs of the Council but subject thereto the Council shall regulate its own procedure.

12. Director

(1) There shall be a Director of the Council who shall be appointed by the Council, through an open and competitive process, on such terms and conditions as the Cabinet Secretary may, in consultation with the Committee, approve.

(2) The Director shall be the head of the Council's Secretariat and shall be the chief executive and Secretary to the Council.

(3) The Director shall be responsible to the Council for—

- (a) the day-to-day administration of the affairs of the Council;
- (b) the co-ordination of the Council's studies, research and evaluation;
- (c) the recording of the proceedings of the meetings of the council;
- (d) custody of all records and documents of the Council;
- (e) collection and verification of data on proposed national heroes;
- (f) documentation of nominations of national heroes to the Council;
- (g) fund-raising and the management of funds and resources;
- (h) management of information; and
- (i) management of heroes' squares and other monuments to national heroes.

13. Qualifications of Director

A person shall be qualified for appointment as the Director if such person—

- (a) holds at least Master's degree from a university recognised in Kenya in any field relevant to the position applied for; and
- (b) has knowledge and at least seven years' experience in matters relating to the management of public institutions.

14. Other staff

The Council may employ such other officers and staff as it may deem necessary for the discharge of its functions under this Act.

15. Delegation of functions

(1) The Council may establish and assign functions to such committees as it may consider necessary for the better carrying out of its functions under this Act.

(2) The committees established under subsection (1) may from time to time hire experts to assist in carrying out work in their area of expertise.

16. Administration of system in the Counties

The County Executive Committees established under Article 183 of the Constitution shall be responsible for the administration of the heroes' honours system in their respective counties in accordance with the provisions of this Act.

PART III – FINANCIAL PROVISIONS**17. Funds of the Council**

(1) The funds of the Council shall consist of—

- (a) such monies as may be provided by Parliament;
- (b) such monies or assets as may accrue to or vest in the Council in the course of the exercise of its powers and the performance of its functions under this Act; and
- (c) all monies from any other source provided for or donated or lent to the Council.

(2) There shall be paid out of the funds of the Council all sums required to defray the expenditure incurred by the Council in the exercise of its powers and the performance of its functions under this Act.

(3) The Council shall not accept any grant, gift, donation or request made on the condition that the Council performs any function or discharges any duty or obligation other than duties under this Act.

18. Financial year

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

19. Annual estimates

(1) At least five months before the commencement of each financial year, the Council shall cause to be prepared the estimates of the revenue and expenditure of the Council for that year.

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

- (a) the payment of salaries, allowances and other charges in respect of the staff and the members of the Council;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Council; and
- (c) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Council.

(3) The annual estimates shall be approved by the Council at least two months before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Council given with prior written approval of the Cabinet Secretary and the Principal Secretary to the Treasury.

20. Accounts and audit

(1) The Council shall cause to be kept proper books and records of account of its income, expenditure and assets.

(2) The accounts of the Council shall be audited and reported upon in accordance with the Public Audit Act, 2003 (Cap. 412B).

21. Establishment of the National Heroes' Fund

(1) There is established a fund to be known as the National Heroes Fund.

(2) The Fund shall consist of—

- (a) such monies as may be specifically designated to it by the Council out of its own funds;
- (b) such monies as may be received by the Council for the Fund in the form of donations, endowments, grants or bequests from any source; and
- (c) income from investment made by the trustees appointed under subsection (4); and
- (d) such other monies as may, by or under any other law, be payable into the Fund.

(3) The income from the Fund shall be used for the benefit of national heroes who are in need of financial assistance and their dependants.

(4) The Fund shall subject to this Act, be administered by a Board of Trustees who shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(5) The trustees shall develop and apply principles governing the grant of monies from the Fund and for achieving the object of the Fund.

PART IV – IDENTIFICATION AND DECLARATION OF HEROES

22. Call for nominations and selection

(1) The Council may, from time to time, by notice published in the print and electronic media, call for proposals for nomination of suitable persons to be recommended for declaration as heroes.

(2) A nomination under this section may be made by a member of the public, an organization, a group of persons or an institution.

(3) Nominations received under this section shall be referred to the appropriate committee of the Council for vetting before being considered by the full Council.

(4) The Council shall on receipt of the names of the nominees forwarded under subsection (3), apply the criteria set out in the First Schedule to determine whether the proposed nominee qualifies for designation as a hero under this Act.

23. Public Consultation

(1) The Council shall, by notice in at least two newspapers of national circulation, publish the names of all persons proposed to be declared as national heroes under this Act.

(2) A notice under subsection (1) shall—

- (a) specify the names of the persons proposed to be so declared;
- (b) set out a brief summary of the achievements for which such declaration is proposed to be made; and
- (c) invite objections and representations from members of the public who are of the opinion that the proposed honour is not deserved.

(3) The Council shall consider all objections received pursuant to subsection (2)(c) and draw up a final list of names of the persons confirmed as qualified to be declared as heroes, which it shall forward to the President for such declaration.

(4) The names of all persons declared as heroes shall be notified by the President by notice in the *Gazette*.

24. Investiture

(1) All heroes under this Act shall be invested with that honour by the President at a public ceremony.

(2) The investiture of heroes shall take place during Mashujaa Day, celebrated on the twentieth October in each year, and the person so invested shall be awarded the certificate set out in the Fourth Schedule.

(3) The honours proposed by this Act may be awarded during the lifetime of the hero or posthumously.

25. Forms of recognition and honour of national heroes

(1) A person declared a hero under this Act shall be entitled to the following privileges, among others—

- (a) invitations to national and community functions as a state guest;
- (b) having cultural festivals, concerts, exhibitions and sports events organized in their honour;
- (c) having towns, institutions, open parks in urban areas, roads, streets, estates, stamps and notable landmarks named after the hero;
- (d) the award of medals, insignia, commendations, certificates and such other commemorative as may be determined by the Council from time to time;
- (e) the issuance of such postage stamps, scarves, mementoes, utensils, apparel and artefacts as may be determined by the Council from time to time;
- (f) the publication of books depicting their respective roles in the country's history or the social life of the society, which shall be part of the educational curriculum; or

- (g) being accorded financial assistance from the Fund where their economic circumstances warrant such assistance.

(2) Without prejudice to the provisions of subsection (1), the Government may, from time to time, accord national heroes who are in need of assistance—

- (a) the highest attainable standard of health care services, including reproductive health care;
- (b) accessible and adequate housing and reasonable standards of sanitation;
- (c) adequate food of acceptable quality;
- (d) clean and safe water in adequate quantities;
- (e) social security;
- (f) free education for their dependants of school-going age up to tertiary level;
- (g) free transport to public functions to which they are invited within the country; and
- (h) employment opportunities for their dependants who have relevant qualifications.

(4) The Council shall establish and maintain a Heroes' Register which shall be available to the public at the Heroes' Squares established under section 27.

(5) Notwithstanding the place of burial of a hero, the Council may whenever it considers it necessary or appropriate, build and maintain symbolic tombs, monuments and statues in honour of such hero and may preserve plaques, material culture, photographs, memoirs and histories of the hero at the Heroes' Square.

26. Establishment of Heroes' Squares

The Council may establish and maintain Heroes' Squares, in such places as it may deem appropriate.

27. Registration and assistance of dependants

(1) A person may apply to the Council in the prescribed manner either individually or jointly with others—

- (a) to be registered as a dependant of a hero; and
- (b) to be considered for State assistance.

(2) Upon receipt and consideration of an application under subsection (1) the Council shall, within sixty days, either—

- (a) register the applicant as a dependant of the national hero on his own or together with other persons; or
- (b) decline to register the applicant and notify him of the decision in writing.

(3) Where the Council registers a person as a dependant of a hero, the registered dependant shall be eligible for assistance out of the Fund where such assistance is deemed appropriate by the Council, taking account of the economic circumstances of that person.

(4) In determining the nature of assistance to be granted under subsection (3), the Council shall have regard to—

- (a) the relationship of the applicant to the hero;
- (b) the number of other registered dependants of the hero to be supported by the applicant;
- (c) the resources available for meeting the reasonable needs of the applicant and any other registered dependant of the hero to be supported by the applicant; and
- (d) whether the applicant or any other registered dependant of the hero supported by the applicant is in gainful employment or has any income-generating activity.

(5) The period over which assistance may be given to a dependant of a national hero shall be determined in the following manner—

- (a) where the registered dependant is a child, the assistance shall be given until the child attains the age of eighteen years, or for such longer period as the Council may determine;
- (b) where the registered dependant is a widow or widower, the assistance shall be given for life or for such shorter period as the Council may determine.

(6) The assistance given under this section to a dependant who is a widow or widower of a hero shall cease upon remarriage.

28. Appeals by dependants

(1) A dependant who is aggrieved by the decision of the Council under this Part may appeal to the Cabinet Secretary within thirty days of the communication of the decision of the Council.

(2) The Cabinet Secretary may within sixty days of the receipt of an appeal under subsection (1)—

- (a) confirm the decision of the Council; or
- (b) remit the matter to the Council for further consideration together with any appropriate recommendation.

(3) The decision of the Council under this section—

- (a) in the first instance where no appeal is made; or
- (b) upon reconsideration of a matter on the direction of the Cabinet Secretary under subsection (2)(b),
shall be final.

29. Withdrawal of honours

(1) The Council may, on its own motion or upon receipt of allegations of misconduct by a hero from any person or institution, appoint a committee of its members to investigate the allegations and make a report to it within a specified period.

- (2) The committee shall conduct its investigations within the time specified, and, during the course of the investigations—
- (a) may adduce evidence from the complainants or from any other person to prove the allegations; and
 - (b) shall accord the person against whom the allegations are made a chance to be heard in his own defence.
- (3) Upon receipt and consideration of the report of the committee under this section, the Council may—
- (a) caution or censure the person; or
 - (b) withdraw all the privileges attaching to the declaration of a hero under this Act and order the removal of the name of such person from the Heroes Register.
- (4) For the purposes of this section ‘**misconduct**’ includes—
- (a) conviction by a court of law of a cognisable offence and sentence to a term of imprisonment; or
 - (b) any form of conduct that is in violation of Chapter Six of the Constitution.

30. Regulations

The Council may, in consultation with the Cabinet Secretary, make regulations to prescribe—

- (a) the categories and classes of honours to be bestowed under this Act;
- (b) the privileges attaching to each honour specified under paragraph (a);
- (c) the procedure for the ceremony of investiture of honours; and
- (d) the symbols to signify investiture of honours;
- (e) the criteria for identification, selection and declaration of heroes.

FIRST SCHEDULE

[Sections 3, 22(4).]

CRITERIA FOR IDENTIFICATION, SELECTION AND DECLARATION OF HEROES

NO.	FUNCTIONAL AREAS	QUALITIES
1	LIBERATION STRUGGLE	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Courage • Selflessness

FIRST SCHEDULE—continued

NO.	FUNCTIONAL AREAS	QUALITIES
		<ul style="list-style-type: none"> • Perseverance • Decisiveness • Optimism
2	SPIRITUAL LEADERSHIP	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Spirituality • Humility • Prophetic • Charisma • Honesty
3	INDIGENOUS KNOWLEDGE	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Expertise • Talent • Innovativeness • Honesty • Reliability
4	CULTURAL VALUES AND PRACTICES	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Honesty • Inspirational • Selflessness • Discipline
5	ARTS	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Talent • Creativity • Persistence • Inspirational

FIRST SCHEDULE—continued

NO.	FUNCTIONAL AREAS	QUALITIES
6	SPORTS	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Competitiveness • Discipline • Inspirational • Perseverance • Optimism
7	SCHOLARSHIP PROFESSIONALISM, RESEARCH	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Expertise • Talent • Innovativeness • Patience • Inspirational • Discipline • Discovery
8	PEACE MAKING	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Expertise • Inspirational • Charisma • Reliability
9	STATESMANSHIP	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Courage • Optimism • Selflessness • Charisma • Nationalism

FIRST SCHEDULE—continued

NO.	FUNCTIONAL AREAS	QUALITIES
10	ENTREPRENEURSHIP AND INDUSTRY	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Patience • Reliability • Courage • Talents • Innovation
11	PHILANTHROPY	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Selflessness • Courage • Kindness • Discipline
12	HUMAN RIGHTS	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Courage • Optimism • Patience • Reliability • Courage • Talent • Innovation
13	NATIONAL COHESION AND INTEGRATION	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Courage • Optimism • Patience • Reliability • Courage • Talent • Innovation

FIRST SCHEDULE—continued

NO.	FUNCTIONAL AREAS	QUALITIES
14	ENVIRONMENTAL CONSERVATION	<ul style="list-style-type: none"> • Patriotism • Vision • Integrity • Commitment • Courage • Optimism • Patience • Reliability • Courage • Talent • Innovation

SECOND SCHEDULE

[Section 10(2).]

OATH/ AFFIRMATION OF OFFICE OF THE CHAIRPERSON/
A MEMBER/THE DIRECTOR

I,, having been appointed the chairperson/a member/ the director of the Kenya Heroes Council under the Kenya Heroes Act, do solemnly swear/solemnly declare and affirm that I will faithfully and fully, impartially and to the best of my ability discharge the trust and perform, the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice, and to the end that in the exercise of the functions and powers as such member I shall not be influenced by any person or authority.

(So help me God).

.....
Chairperson/Member/Director

.....
Chief Justice

THIRD SCHEDULE

[Section 11.]

CONDUCT OF THE AFFAIRS OF THE COUNCIL

1. A member of the Council may—

- (a) resign his office by notice in writing addressed to the Cabinet-Secretary; or
- (b) be removed by the Cabinet-Secretary by notice in writing if the member—
 - (i) is subject to a vote calling for his removal by a two-thirds majority of all members of the Council;
 - (ii) has been absent from three consecutive meetings of the Council without justifiable grounds;
 - (iii) is so incapacitated by prolonged physical or mental illness as to be unable to attend to and perform his duties;
 - (iv) is an undischarged bankrupt;
 - (v) is convicted by a Court of an offence punishable by term of imprisonment; or
 - (vi) is otherwise unable or unfit to discharge his functions.

2. Where the office of a member becomes vacant, the office shall be filled in the same manner as that of a new appointment under this Act.

3. The Council shall meet not less than four times in every year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

4. A meeting of the Council shall be held on such date and at such times as the Council may decide, or in the absence of such a decision, if the chairman decides that a meeting is necessary, on a date and time determined by chairman.

5. Unless otherwise decided by a two-thirds majority of the members of the Council, at least fourteen days' written notice of every meeting of the Council shall be given to the members of the Council.

6. The quorum for a meeting of the Council shall be seven members.

7. The Chairman, or in his absence, the vice-chairman, shall preside at every meeting of the Council.

8. In the absence of both the chairman and vice-chairman, the members present may choose one of their member to preside at the meeting.

9. A decision of the majority of the members of the Council present at any meeting of the Council shall be deemed to be the decision of the Council, and in the case of an equality of votes, the chairman, vice-chairman or other person presiding shall have a second and casting vote.

10. No act, decision or proceedings of the Council shall be invalid on account of a vacancy in the membership thereof or on account of the appointment of a member of the Council being defective.

FOURTH SCHEDULE

[Section 25(2).]

CERTIFICATE OF DECLARATION OF HERO

THIS IS TO CERTIFY THAT
HAS BEEN DULY RECOGNIZED FOR HIS/HER REMARKABLE: WORK IN
KENYA IN THE FIELD OF AND BY THE
POWER CONFERRED UPON ME BY THE CONSTITUTION OF KENYA AND BY
THE KENYA HEROES ACT, HEREBY CONFER HIM/HER WITH THE STATUS
OF A NATIONAL HERO.

Dated the

.....
PRESIDENT
