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NO. 10 OF 2009

NATIONAL YOUTH COUNCIL ACT

[Date of assent: 31st December, 2009.]

[Date of commencement: 6th January, 2010.]

An Act of Parliament to establish the National Youth Council, to provide for its incorporation, powers and functions, and for connected purposes

[Act No. 10 of 2009, Act No. 18 of 2014.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the National Youth Council Act, 2009.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Board**” means the Youth Advisory Board established under section 16;

“**Council**” means the National Youth Council established under section 3;

“**financial year**” means the period of twelve months ending on the thirtieth June in each year;

“**Minister**” means the Minister for the time being responsible for youth affairs;

“**national youth policy**” means a policy on youth formulated by the Ministry for the time being responsible for youth affairs; and

“**youth**” means a person aged between eighteen and thirty-five years.

**PART II – ESTABLISHMENT, POWERS
AND FUNCTIONS OF THE COUNCIL**

3. Establishment of the Council

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

(2) The Council is 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 things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

4. Functions of the Council

The functions of the Council shall be to—

- (a) regulate and co-ordinate activities and initiatives relating to the youth being undertaken by youth groups, youth focused community-based organizations, non-governmental organizations, civil society movements and other organizations;
- (b) promote and popularize the national youth policy and other policies that affect the youth;
- (c) facilitate the periodic review of the national youth policy in line with other government policy statements;
- (d) mobilize resources to support and fund youth programmes and initiatives;
- (e) lobby for legislation on issues affecting the youth;
- (f) liaise with other organizations to ensure that the youth gain access to resources and services;
- (g) promote relations between youth organizations and other bodies both nationally and internationally with similar objectives or interests;
- (h) inspire and promote the spirit of unity, patriotism, volunteerism and service among the youth;
- (i) formulate operational guidelines that protect the youth against any form of abuse or manipulation;
- (j) mobilize and sensitise relevant stakeholders on the concept of community youth service;
- (k) act as a voice and bridge to ensure that the Government and other policy makers are kept informed of the views and aspirations of the youth;
- (l) promote research, collation and analysis of data on youth issues;
- (m) promote the inclusion of youth agenda in the formulation of policy by public institutions and organisations;
- (n) promote the inclusion of youths in decision-making bodies, boards, agencies and other public institutions and organisations;
- (o) promote and popularize the Youth Enterprise Development Fund and such other devolved funds targeting the youth as may be established from time to time;
- (p) perform any other function that may directly or indirectly contribute to the attainment of the foregoing.

5. Composition of the Council

(1) The Council shall consist of—

- (a) a Chairperson nominated by the Council and appointed by the Minister;
- (b) the Permanent Secretary in the Ministry for the time being responsible for youth affairs or his or her representative appointed in writing;
- (c) the Permanent Secretary in the Ministry for the time being responsible for finance or his or her representative appointed in writing;
- (d) the Attorney-General or his or her representative appointed in writing;
- (e) the Permanent Secretary in the Ministry for the time being responsible for education or his or her representative appointed in writing;

- (f) the Permanent Secretary in the Ministry for the time being responsible for internal security and provincial administration or his or her representative appointed in writing;
 - (g) eight youths elected by the youth in such manner as may be prescribed, and appointed by the Minister;
 - (h) not more than eight other youths, of whom at least three shall be of the female gender and one shall be a youth with disability, nominated by the National Youth Congress in such manner as may be prescribed and appointed by the Minister;
 - (i) the Secretary, appointed under section 10.
- (2) A person shall not be appointed as a Chairperson unless such person—
- (a) possesses at least an undergraduate degree from a recognized institution;
 - (b) has at least three years experience in youth development matters gained locally or internationally;
 - (c) has demonstrated ability to provide youth leadership and youth mobilization;
 - (d) is knowledgeable in, or has actively contributed to the promotion of, youth development agenda;
 - (e) is of high integrity, ethical and responsive to the needs and aspirations of the youth;
 - (f) is a youth as defined under this Act.
- (3) An appointment under subsection (1)(a), (g) and (h) shall be by name and notice in the *Gazette*.

6. Powers of the Council

- (1) The Council 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 Council shall have power to—
- (a) enter into contracts;
 - (b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Council is established;
 - (c) receive any gifts, grants, donations or endowments made to the Council or any other moneys in respect of the Council and make disbursements therefrom in accordance with the provisions of this Act;
 - (d) 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;
 - (e) open a banking account or banking accounts for the funds of the Council into which all moneys received by the Council shall be paid in the first instance and out of which all payments made by the Council shall be made;
 - (f) create branches from the sub-location to the national level and such other branches as it may deem necessary or desirable for the promotion of youth empowerment and development.

(2) The Council may, when it considers it necessary or desirable, create or take part in the creation of or otherwise become a member of, or associated with, corporations or other bodies or associations designed to assist or promote youth programmes and initiatives.

(3) The Council may authorize a member or an employee to exercise on its behalf such of its powers as it may from time to time specify, but the exercise of such powers shall, to the extent required by the Council, be reported within the specified time to a meeting of the Council.

7. Conduct of business and affairs of the Council

(1) The conduct and regulation of the business and affairs of the Council shall be as provided in the First Schedule.

(2) Except as provided in the First Schedule, the Council may regulate its own procedure.

8. Delegation by the Council

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

9. Remuneration of members of the Council

The members of the Council shall be paid such remuneration, fees, allowances and disbursements for expenses as may be approved by the Minister for the time being responsible for finance, on the recommendation of the Council.

10. Secretary

(1) There shall be a Secretary who shall be a youth appointed by the Council.

(2) The Secretary shall hold office for a period not exceeding five years, or until he or she attains the age of thirty-five years, whichever is the earlier, on such terms and conditions of service as the Council may, from time to time determine.

(3) The Secretary shall be an *ex officio* member of the Council but shall have no right to vote at any meeting of the Council.

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

11. Functions of the Secretary

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

(2) The Secretary shall—

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

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

12. Staff of the Council

The Council may employ such staff as may be necessary for the proper and efficient discharge of its functions under this Act, upon such terms and conditions of service as the Council may determine.

13. The common seal of the Council

(1) The common seal of the Council shall be kept in the custody of the Secretary or of such other person as the Council may direct, and shall not be used except upon the order of the Council.

(2) The common seal of the Council, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Council under this section shall be presumed to have been given.

(3) The common seal of the Council shall be authenticated by the signature of the Chairperson of the Council and the Secretary:

Provided that the Council shall, in the absence of either the Chairperson or the Secretary, in any particular matter, nominate one member of the Council to authenticate the seal of the Council on behalf of either the Chairperson or the Secretary.

14. Protection of Council from liability

(1) Liability shall not attach to the Council, or to any of its staff, or to a member of the Council for loss or damage sustained by any person as a result of any act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed or conferred by or under this Act.

(2) Any expenses incurred by any person in any suit or prosecution brought against him in any court in respect of any act which is done or purported to be done by him under the direction of the Council shall, if the court holds that such act was done in good faith, be paid out of the general funds of the Council, unless such expenses are recovered by him in such suit or prosecution.

15. Liability of the Council for damages

The provisions of section 14 shall not relieve the Council of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or by any other written law or by the failure, whether wholly or partially, of any works.

PART III – ESTABLISHMENT AND FUNCTIONS OF THE BOARD

16. Establishment of the Board

(1) There is hereby established a Board to be known as the Youth Advisory Board.

(2) The Board shall be an unincorporated body comprising of—

- (a) a Chairperson appointed by the President;
- (b) the Permanent Secretary in the Ministry for the time being responsible for youth affairs or his representative;

- (c) *deleted by Act No 18 of 2014, Sch.;*
- (d) one person each nominated by the following bodies respectively, and appointed by the Cabinet Secretary—
 - (i) the Kenya Private Sector Alliance;
 - (ii) the Kenya National Council for person with disabilities working in the youth sector;
 - (iii) Non-Governmental Organisation working in the youth sector;
 - (iv) the public universities;
 - (v) the National Agency for the Campaign Against Drug Abuse:

Provided that at least one-third of the persons appointed under paragraph (d) shall be of opposite gender and shall reflect Kenya's ethnic, cultural and religious diversity.

- (e) two persons, who shall be experts on youth affairs, appointed by the Minister.

(3) *Deleted by Act No. 18 of 2014, Sch.;*

[Act No. 18 of 2014, Sch.]

17. Functions of the Board

(1) The functions of the Board shall be to—

- (a) receive and approve the plans, reports, financial statements and the budget of the Council; and
- (b) advise the Council generally on the exercise of its powers and the performance of its functions under this Act;

(2) The Board shall have such other functions as may be conferred on it by or under this Act.

[Act No. 18 of 2014, Sch.]

18. Conduct of business of Board

(1) The business and affairs of the Board shall be conducted in accordance with the Second Schedule.

(2) Except as provided in the Second Schedule, the Board may regulate its own procedure.

(3) The members of the Board shall be paid such remuneration, fees, allowances and disbursements for expenses as may be approved by the Minister for the time being responsible for finance.

(4) The Board may invite any person to attend any of its meetings and to participate in its deliberations but such a person shall not have a vote in any decision of the Board.

PART IV – FINANCIAL PROVISIONS

19. Funds of the Council

The funds and assets of the Council shall comprise of—

- (a) such moneys as may be appropriated by Parliament for the purposes of the Council;
- (b) such moneys or assets as may accrue to or vest in the Council in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;

- (c) such gifts as may be given to the Council; and
- (d) all moneys from any other source provided, donated or lent to the Council.

20. Annual estimates

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

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

- (a) the payment of salaries, allowances and other charges in respect of the officers, agents or members of staff of the Council;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits payable to the members of staff of the Council;
- (c) the proper maintenance, repair and replacement of the equipment and other movable property of the Council; and
- (d) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem appropriate.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and, once approved, shall be submitted to the Minister for approval and, after the Minister's approval, the Council shall not increase the annual estimates without the consent of the Minister.

(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 authorisation of the Council given with prior written approval of the Minister, and the Minister for the time being responsible for finance.

21. Accounts and audit

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

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

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

(3) The accounts of the Council shall be audited and reported upon by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act, 2003 (No. 12 of 2003).

22. Investment of funds

(1) The Council may invest any of its funds in securities in which the Council may by law invest trust funds, or in any other securities which the Minister for the time being responsible for finance may, from time to time, approve.

(2) The Council may, subject to the approval of the Minister for the time being responsible for finance, place on deposit with such bank or banks as it may determine, any moneys not immediately required for its purposes.

PART V – MISCELLANEOUS

23. Establishment of branches

The Council may establish such branches or organs as it may deem necessary for the effective and proper discharge of its functions under this Act.

24. Regulations

The Minister may, on the recommendation of the Council, make regulations generally for the better carrying into effect the provisions of this Act.

FIRST SCHEDULE

[Section 7.]

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

1. Tenure of office

(1) Any member of the Council, other than an *ex officio* member shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, on such terms as may be specified in the instrument of the member's appointment, but shall be eligible for re-appointment for one further term of three years.

(2) The members of the Council shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

(3) Appointment to the Council shall be by notice in the *Gazette*.

2. Vacation of office

(1) A member of the Council, other than an *ex officio* member, may—

(a) at any time resign from office by notice in writing to the Minister;

(b) be removed from office by the Minister if the member—

- (i) has been absent from three consecutive meetings of the Council without the permission of the Chairperson;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of fraud, forgery, uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003);
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Council; or
 - (vi) fails to comply with the provisions of this Act relating to disclosure.
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3. Meetings

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

(2) Notwithstanding the provisions of sub-paragraph (1), the Chairperson or any three other members of the Council may call a special meeting at any time where it is deemed expedient for the transaction of the business of the Council, by giving not less than seven days' written notice to the members.

(3) The members of the Council shall, at the first meeting of the Council, elect from amongst their number, a vice-chairperson.

(4) Unless three-quarters of the total members of the Council otherwise agree, at least fourteen days' written notice of every meeting of the Council shall be given to every member of the Council.

(5) The quorum for the conduct of the business of the Council shall be two-thirds of the members excluding the Secretary.

(6) The Chairperson shall preside at every meeting of the Council at which he is present but, in his absence, the vice-chairperson shall preside and, in his absence, the members present shall elect one of their numbers who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of votes of the members present and, in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) Subject to sub-paragraph (5), no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.

(9) A resolution in writing or such resolutions consisting of several documents in like form, each signed by the members of the Council, shall be as valid and effectual as if it had been passed at a meeting of the Council duly convened and held.

(10) Subject to the provisions of this Schedule, the Council may determine its own procedures and the procedure for any committee of the Council and for the attendance of any other persons at its meetings and may make standing orders, *inter alia*, in respect of—

- (a) the conduct and management of the affairs of the Council;
- (b) the manner in which all payments, including cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Council shall be signed, drawn, accepted, endorsed or otherwise executed; and
- (c) the procedure for meetings and other business of the Council.

4. Disclosure of interest

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract

or other matter, or be counted in the quorum of the meeting during the consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Council may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

5. Minutes

The Council shall cause minutes of all resolutions and proceedings of meetings of the Council to be entered in books kept for that purpose.

SECOND SCHEDULE

[Section 18.]

PROVISIONS AS TO THE BOARD

1. Tenure of office

The Chairperson and members of the Board shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years on such terms and conditions as may be specified in their instrument of appointment, but shall be eligible for reappointment in the same manner as provided for under this Act for first appointments for one more term of a period not exceeding three years.

2. Mode of appointment

(1) Members of the Board shall be appointed at different times so that their respective dates of expiry of their terms of office shall fall at different times.

(2) Appointment to the Board shall be by notice in the *Gazette*.

3. Vacation of office

A member of the Board may—

- (a) at any time, by notice in writing addressed to the Minister, resign from office;
- (b) be removed from office if the member—
 - (i) has been absent from three consecutive meetings of the Board without permission of the Chairman;
 - (ii) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
 - (iii) is convicted of fraud, forgery, uttering a forged document, or for any offence under the Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003);
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months, or to a fine exceeding ten thousand shillings;
 - (v) is incapacitated by prolonged physical or mental illness; or

- (vi) is unable or unfit to discharge the functions of a member of the Board.

4. Quorum

A quorum at a meeting of the Board shall be two-thirds of the members.

5. Resolution of the Board

A resolution at a meeting of the Board shall require the affirmative votes of one half of the members present except the Chairman, who shall have a casting vote only.

6. Staff of the Board

The secretary and any other staff of the Board shall be seconded to the Board from among the staff of the Council.

7. Minutes

The Board shall cause minutes of all proceedings of the Board to be entered in books kept for that purpose.
