

**KENYA INSTITUTE FOR PUBLIC POLICY RESEARCH AND ANALYSIS (AMENDMENT)
BILL, 2018**

A Bill for

**AN ACT of Parliament to amend the Kenya Institute for Public Policy Research and Analysis Act,
and for connected purposes**

ENACTED by the Parliament of Kenya as follows—

- Short title
1. This Act may be cited as the Kenya Institute for Public Policy Research and Analysis (Amendment) Act, 2018.
- Amendment of section 2 of the principal Act
2. Section 2 of the Kenya Institute for Public Policy Research and Analysis Act in this Act referred to as “the principal Act” is amended by—
- (a) deleting the definition of the term “Minister”;
- (b) inserting the following definitions in their proper alphabetical order—
- “Cabinet Secretary” means the Cabinet Secretary responsible for national development planning;
- “government” means both the county and national levels of government;
- “the Group” means the Ad hoc Policy Advisory Group of the Institute established under section 17A;
- Insertion of a new section 2A
3. The principal Act is amended by inserting the following new section immediately after section 2—
- Guiding principles
- 2A.** In the performance of the functions and exercise of powers under this Act, the Institute shall be guided by the values and principles set out in Articles 10 and 232 of the Constitution.
- Amendment of section 5 of the principal Act.
4. Section 5 of the principal Act is amended by deleting the section and substituting therefor the following new section—
- Object and purpose of the Institute
- 5A.** The object and purpose for which the Institute is established is to—
- (a) develop human and institutional capacities by undertaking economic forecasting, policy analysis and research;

(b) contribute, through research findings, to the formulation of medium and long-term strategies for the economic and social development of Kenya in accordance with the provisions of this Act; and

(c) to act as a think tank for the government on matters for which the institute is to conduct policy research and analysis.

Amendment
of section 6
of the
principal
Act.

5. Section 6 of the principal Act is amended by deleting the section and substituting therefor the following new sections—

Functions of the
Institute

6A. The functions of the Institute shall be to—

(a) identify and undertake independent and objective programmes and analysis on macro-economic, social-economic and development;

(b) develop capacities in public policy research and analysis at national and county governments in the process of policy formulation and implementation;

(c) provide advisory and technical services on public policy to national and county governments;

(d) communicate the findings and recommendations of the Institute's programmes to the agencies of the national and county governments concerned with the implementation of public policy;

(e) serve as a point of communication and encourage the exchange between the national government, county governments, the private sector and other bodies or agencies of the national and county governments on matters relating to public policy research and analysis;

(f) carry out specific surveys on public policy issues and disseminate findings to persons it deems appropriate and to publish such findings as the Board may authorize;

(g) develop and maintain a database of research findings on public policy related issues and make these available to the government, private sector and learning institutions;

(h) undertake public policy research and analysis for the national and county governments and for clients in the private and public sectors;

(i) manage the publication and use of the Institute's research findings.

- (j) organise symposia, conferences, workshops and other meetings to promote the exchange of views on issues relating to public policy research and analysis; and
- (k) undertake any other activity which is incidental to the performance of the foregoing functions.

Powers of the Institute

6B. (1) The Institute has all powers necessary for the discharge of its functions under this Act and any other written law.

(2) Without prejudice to the generality of subsection (1), the Institute has the power to—

- (a) source and receive funding for the activities of the Institute;
- (b) gather information relevant to the functions of the Institute;
- (c) manage, control and administer its assets; and
- (d) levy fees for services provided by the Institute.

Amendment of section 7 of the principal Act.

6. Section 7 of the principal Act is amended by deleting the section and substituting therefor the following new sections—

Board of the Institute

7A. (1) There is established a Board of the Institute which consists of—

- (a) a non-executive chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the national Treasury or a representative appointed in writing by the Principal Secretary;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to planning and national development or a representative appointed in writing by the Principal Secretary;
- (d) the Attorney-General;
- (e) one representative nominated by the Council of Governors;
- (f) one representative from public universities involved in public research in Kenya;

- (g) one representative of business and private sector;
- (h) one representative of special interest groups; and
- (i) the Executive Director of the Institute.

(2) The Executive Director is an *ex officio* Board member with no voting rights.

(3) Members of the Board referred to in subsection (1) (e), (f), (g) and (h) shall be appointed by the Cabinet Secretary.

(4) In appointing the chairperson and members of the Board referred to in sub section (1) (e), (f), (g) and (h), the appointing authority shall ensure that the process is carried out in an open, competitive and transparent manner and that—

- (a) there are equal opportunities for the youth and persons with disabilities;
- (b) not more than two-thirds of the members are of the same gender; and
- (c) the composition of the Board shall reflect the regional and ethnic diversity of the people of Kenya.
- (d) there is mix of skills and competencies necessary for the achievement of the objectives of the Institute;
- (e) at least one of the persons is a financial expert in possession of a university degree in accounting and a member of the Institute of Certified Public Accountants of Kenya.

Qualifications
for appointment
as chairperson
or member

7B. (1) A person is qualified for appointment as the chairperson of the Board if that person—

- (a) holds a relevant degree from a university recognized in Kenya;
- (b) has at least ten years experience in a field that is relevant to the functions of the Institute;
- (c) has had a distinguished career in their respective field; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) A person is qualified for appointment as a Board member if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has at least five years experience in a field that is relevant to the functions of the Institute;
- (c) has had a distinguished career in their respective field; and
- (d) meets the requirements of chapter six of the Constitution.

Disqualification **7C.** (1) A person is not qualified for appointment as the chairperson or as a member if the person—

- (a) is a member of a governing body of a political party;
- (b) is an undischarged bankrupt;
- (c) has been convicted of a criminal offence and sentenced to a term of imprisonment;
- (d) has been removed from any public office for contravening the provisions of the Constitution or any other written law; or
- (e) is a member of Parliament or a county assembly.

(2) A person shall not be a member of the Board in more than one State Corporation.

Term of office **7D.** (1) The chairperson and members, other than the *ex officio* members, shall hold office on a part-time basis for a term of three years and shall be eligible for reappointment once.

(2) Where the chairperson or a member opts to apply for re-appointment under subsection (1), the re-appointment shall be considered based on the performance of the applicant.

(3) Subject to the provision on quorum, the appointment of the members shall be staggered to ensure that the respective expiry dates of their terms of office commence at different times.

Vacancy **7E.** The office of the chairperson or a member shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by notice in writing addressed to the appointing authority;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment;
- (d) is absent from three consecutive meetings of the Board without reasonable cause;
- (e) fails to comply with the provisions of this Act relating to disclosure; or
- (f) is removed from office for any of the following grounds—
 - (i) violation of the Constitution or any other written law;
 - (ii) gross misconduct or misbehaviour;
 - (iii) inability to perform functions of the office arising out of physical or mental infirmity;
 - (iv) incompetence or neglect of duty; or
 - (v) bankruptcy.

Removal from office **7F.** (1) The chairperson or a member may be removed from office by the appointing authority for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty; or
- (d) absence from three consecutive meetings of the Board without a reasonable explanation.

(2) Before the appointing authority makes a decision under subsection (1), the person shall be given an opportunity to provide a defence against any of the allegations.

Filling vacancy of **7G.** If a vacancy occurs in the membership of the Board under

section 7E or 7F, the appointing authority may, if the vacancy relates to any of the positions specified under section 7A (1) (a), (d) (e), (f) and (g), appoint a new member in accordance with the provisions of this Act.

Functions of the Board **7H.**The Board shall—

- (a) provide strategic direction to the Institute;
- (b) approve annual work plans, budget and targets of the Institute;
- (c) monitor and evaluate the performance of the Institute.
- (d) ensure long term sustainability of the Institute;
- (e) ensure effective risk management;
- (f) set terms and conditions of service of the Executive Director and staff of the Institute;
- (g) ensure the observance of high standards of professionalism, corporate governance and ethics; and
- (h) perform any other functions assigned to it under this Act.

Amendment of section 8 of the principal Act.

7. Section 8 of the principal Act is amended by deleting the section and substituting therefor the following new section—

Powers of the Board **8A.** (1) The Board shall have all powers necessary for the proper performance of the functions of the Institute under this Act.

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

- (a) supervise the Institute in such manner as best promotes the purpose for which the Institute is established;
- (b) invest any funds of the Institute not immediately required for its purposes in the manner provided in section 33(2);
- (c) associate with any other organisation so as to further the purpose for which the Institute is established;

- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements from them;
- (e) delegate any of its powers; and
- (f) undertake any activity necessary for the fulfilment of any of the functions of the Institute.

Committees of the Board **8B.** (1) The Board may establish committees for the better carrying out of its functions.

(2) The Board may co-opt persons to committees established under subsection (1) for a particular reason and such persons shall hold office for such period as the Board may determine.

(3) The persons co-opted under subsection (2) shall not be more than two.

Remuneration of Board **8C.** The members of the Board shall be paid such allowances as the Cabinet Secretary, may from time to time, determine on the recommendation of the Salaries and Remuneration Commission.

Amendment of section 12 of the principal Act.

8. Section 12 of the principal Act is amended by deleting the section and substituting therefor the following new section—

Executive Director **12A.** (1) There is established the office of the Executive Director of the Institute who shall be appointed by the Board on such terms and conditions as may be specified in the instrument of appointment.

(2) The Executive Director shall be appointed by the Cabinet Secretary in consultation with the Board.

(3) A person is qualified for appointment as the Executive Director if that person—

- (a) is a citizen of Kenya;
- (b) has a degree in social sciences or other relevant field;
- (c) has at least ten years experience in—
 - (i) quantitative economic analysis and public policy research;
 - (ii) policy formulation and policy oriented research and analysis; and

(iii) personnel and budget control; and

(d) has attended leadership course lasting not less than four weeks and been in leadership and management for at least five years;

(4) The Executive Director is the chief executive officer and the accounting officer and shall be responsible for the—

(a) implementation of the decisions of the Board;

(b) day to day management of the affairs of the Institute;

(c) organization and management of the employees; and

(d) any other function that may be assigned by the Board.

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

(6) The Executive Director holds office for a term of four years and is eligible for re-appointment for one further term of four years.

(7) The Executive Director may be removed from office by the Cabinet Secretary on the recommendation of the Board on the grounds set out under section 15.

(8) Before the Executive Director is removed under subsection (7), the Executive Director shall be given—

(a) sufficient notice of the allegations made against him or her; and

(b) an opportunity to present his or her case against the allegations, either in person or by a legal representative.

Insertion of
section 13 A

9. The principal Act is amended by inserting the following new section immediately after section 13—

Corporation Secretary **13A.** (1) There is established the office of Corporation Secretary who shall be the secretary to the Board and appointed by the Board through an open and competitive process.

(2) A person is qualified for appointment as Corporation Secretary if the person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least five years experience in any of the following fields—
 - (i) public administration;
 - (ii) business administration;
 - (iii) finance;
 - (iv) management;
 - (v) governance; or
 - (vi) law.

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- (e) has attended leadership course lasting not less than four weeks;
- (d) is a member of the Institute of Certified Public Secretaries of Kenya in good standing as provided under the Certified Public Secretaries Act; and
- (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(3) The Corporation Secretary shall—

- (a) advise the Board members on corporate governance principles and plans;
- (b) record the minutes of the Board meetings;
- (c) facilitate professional development programs for the Board;
- (d) maintain and monitor a calendar of the Institute's statutory due dates;
- (e) keep all the records of the Board in a safe place;
- (f) ensure effective information flows—
 - (i) within the Board;

(ii) from the Board to its committees;

(iii) from the committees to the Board; and

(g) perform any other function that may be assigned by the Board.

Insertion of
new Part

10. The Principal Act is amended by inserting the following new Part immediately after section 17—

**PART III—THE AD HOC POLICY ADVISORY
GROUP**

Establishment of
the Policy
Advisory Group

17A. (1) The Board may establish the Policy Advisory Group of the Institute which shall consist of—

(a) a chairperson; and

(b) not more than six persons with knowledge and expertise as the Board may consider necessary for the performance of its functions under this Act.

(3) The chairperson and members of the group shall be appointed by the Board.

(4) The chairperson and members of the group may be paid such allowances as the Board may, on the recommendation of the Salaries and Remuneration Commission, determine.

(5) For purposes of sub-section (1) the Institute shall maintain a database of persons with knowledge and expertise as the Board may consider necessary for the performance of its functions.

(6) The Advisory Group shall be part-time and may meet only at such times as the Board may determine.

Functions of the
Group

17B. (1) The Group shall be a subsidiary of the Board for purposes of integrating strategic direction in the implementation of its programmes—

(2) In the performance of its functions under subsection (1), the Group shall—

(a) advise the Board on—

(i) policy and broad strategic research

directions; and

- (ii) strategic planning, priority setting and research agenda;
- (b) conduct periodic external reviews of the programs of research;
- (c) collaborate with partners to mobilise and harness resources and best research practices; and
- (d) perform such other related functions as may be assigned to it by the Board.

Conduct of business affairs of the Group

17C. The provisions of the section 9 relating to conduct of business and affairs of the Board shall apply with necessary modifications with respect to the conduct of the business and affairs of the Group but subject thereto, the Group may regulate its own procedure.

Insertion of section 23A

11. The principal Act is amended by inserting the following new section immediately after section 23—

Annual economic report

23A. (1) The Institute shall, in consultation with the relevant stakeholders, at least three months before the beginning of the next financial year, prepare an annual report on—

- (a) a thematic area of policy relevance; and
- (b) disseminate the report to the public.

(2) The Institute shall submit the report to Cabinet Secretary who shall lay it before the relevant Parliamentary Committee as soon as is reasonably practicable after receipt of the report.

Amendment of section 24 of the principal Act.

12. Section 24 (2) of the principal Act is amended by deleting the phrase “thirty thousand” appearing immediately after the word “exceeding” and substituting therefor the phrase “five hundred thousand”.

Amendment of section 24 of the principal Act.

13. Section 28 of the principal Act is amended by deleting the section and substituting therefor the following new section—

Regulations

28A. (1) The Cabinet Secretary may make regulations generally for giving effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for the—

- (a) implementation of this Act;
- (b) general management of the Institute; and
- (c) such other matters as the Institute considers necessary.

MEMORANDUM OF OBJECTS AND REASON

The purpose of this Bill is to amend the Kenya Institute for Public Policy Research and Analysis Act with a view to aligning it to the Constitution and increasing the efficiency of the Board in the discharge of its functions and exercise of its powers. The Bill seeks to streamline the objectives and refocus the functions and powers of the Institute and the Board. It reconstitutes the Board and spells out the qualification for appointment as chairperson, members and the Chief Executive officer of the Institute. It also introduces the position of Board Secretary which office replaces the Executive Director as the Secretary to the Board. Qualifications for the Executive Director and the Board Secretary have also been set out.

The Bill also establishes the Policy Advisory Group and sets out its functions. It also requires the Institute, in consultation with the relevant stakeholders to prepare and submit the Kenya Economic Report at least three months before the beginning of each financial year. The Bill also proposes to increase the fine for illegal publication of information from thirty thousand shillings to five hundred thousand shillings

Clause 1 provides for the short title of the Bill.

Clause 2 seeks to amend section 2 of the principal Act by deleting the definite of the term “Minister” and substituting it with the term “Cabinet Secretary”. This clause also defines the term Policy Advisor Group.

Clause 3 introduces a new section to provide for guiding principles.

Clause 4 seeks to recast the object and purpose of the Bill.

Clause 5 amends the functions of the Institute and provides for its powers.

Clause 6 amends section 7 of the Act by providing for the composition of the Board, qualification and disqualification of the chairperson and members of the Board and provides for the procedure of their appointment. It also provides for vacancies, removal from office, term of office and the functions of the Board.

Clause 7 proposes to amend section 8 of the Act by recasting the powers of the Board and providing for committees of the Board.

Clause 8 contains provisions relating the appointment of the Executive Officer of the Institute.

Clause 8 provides for the establishment of the office of the Board Secretary, qualifications and terms of office.

Clause 10 introduces a new Part of the Bill to provide for the establishment, composition and functions of the Policy Advisory Group.

Clause 11 introduces a new section requiring the Institute to prepare an annual economic report on thematic area of policy relevance.

Clause 16 seeks to amend section 28 of the Act to conform with Article 94 (6) of the Constitution in relation to the power to make subsidiary legislation.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for through the estimates.

Dated.....2014

.....
[Insert] Chairperson relevant National Assembly Departmental Committee

The Sections which the Bill seeks to amend are as follows:

2. Interpretation

In this Act, unless the context otherwise requires—

“Board” means the Board of the Institute constituted under section 7;

“Executive Director” means the chief executive officer appointed under section 12;

“financial year” means the financial year of the Institute as provided for under section 19;

“Institute” means the Kenya Institute for Public Policy Research and Analysis established under section 3;

“Minister” means the Minister responsible for Planning and National Development.

5. Object and purpose of the Institute

The object and purpose for which the Institute is established is to develop human and institutional capacities which shall, by undertaking economic forecasting, policy analysis and research, contribute to the formulation of medium and long-term strategic perspective for the economic and social development

of Kenya in accordance with the provisions of this Act.

6. Functions of the Institute

The functions of the Institute shall be to—

- (a) develop capacities in public policy research and analysis and to assist the Government in the process of policy formulation and implementation;
- (b) identify and undertake independent and objective programmes of research and analysis, including macroeconomic, inter-disciplinary and sectoral studies on topics affecting public policy in areas such as human resource development, social welfare, environment and natural resources, agriculture and rural development, trade and industry, public finance, money and finance, macroeconomic and microeconomic modeling;
- (c) provide advisory and technical services on public policy issues to the Government and other agencies of the government;
- (d) communicate the findings and recommendations of the Institute's research programmes to the agencies of the Government concerned with the implementation of public policy;
- (g) develop and maintain a reservoir of research resources on public policy and related issues and make these available to the Government, the private sector and learning institutions in Kenya;
- (h) undertake public policy research and analysis for the Government and for clients in the private and public sectors;
- (i) control the publication and use of the Institute's research findings;
- (j) organise symposia, conferences, workshops and other meetings to promote the exchange of views on issues relating to public policy research and analysis;
- (k) undertake public policy research relevant to governance and its implications to development; and
- (l) undertake any other business which is incidental to the performance of any of the foregoing **7**.

7. Board of the Institute

(1) The management of the Institute shall vest in a board which shall consist of—

- (a) the Permanent Secretary in the Ministry of Finance or his representative;
- (b) the Permanent Secretary in the Ministry for the time being responsible for planning and national

development or his representative;

(c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to Trade and Industry or his representative;

(d) the Executive Director of the Institute; and

(e) nine other persons, of whom—

(i) two shall represent special interest groups; and

(ii) seven shall represent the business sector and the Universities and Research Institutes in Kenya, appointed by the Minister by virtue of their integrity, knowledge and experience in matters relating to public policy, and who have a basic understanding of the management of public finances, personnel management and social science research procedures.

(2) The President shall appoint the Chairman of the Board.

8. Powers of the Board

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

(a) enter into contracts;

(b) manage, control and administer the assets of the Institute in such manner and for such purposes as best promote the purpose for which the Institute is established; functions.

(c) receive any gifts, grants, donations or endowments made to the Institute or any other moneys in respect of the Institute and make disbursements therefrom in accordance with the provisions of this Act;

(d) enter into association with such other bodies or organisations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Institute is established;

(e) open a banking account or banking accounts for the funds of the Institute; and

(f) offer services to any person upon such terms as the Board may from time to time determine.

12. The Executive Director

- (1) There shall be an Executive Director of the Institute who shall be recommended by the Board and appointed by the Minister.
- (2) The Executive Director shall hold office for a period of not more than five years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment.
- (3) The Executive Director shall be an *ex officio* member of the Board but shall have no right to vote at any meeting of the Board.
- (4) The Executive Director shall be the chief executive officer of the Institute and shall, subject to the direction of the Board, be responsible for the day to day management of the Institute.
- (5) A person shall not be appointed Executive Director of the Institute unless that person has—
 - (a) a Doctorate degree in Social Sciences;
 - (b) experience in—
 - (i) quantitative economic analysis and public policy research; and
 - (ii) policy formulation and procedures of the Government;
 - (c) proven leadership ability in policy oriented research and analysis; and
 - (d) management experience in the areas of both personnel and budget control.

24. Request for information

- (1) The Executive Director may, in writing, request any person to furnish the Institute with such information or to produce such documents or records as he deems necessary and relevant for the performance of the functions of the Institute.
- (2) A person who—
 - (a) refuses or fails, without reasonable cause, to comply with a request under subsection (1) to furnish any information or to produce any documents or records; or
 - (b) in furnishing such information, makes a statement which he knows to be false, commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

28. Regulations

The Minister may, on the recommendation of the Board, make regulations generally for the better

carrying out of the provisions of this Act.