



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

ACTS, 2003

NAIROBI, 9th January, 2004

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KENYA GAZETTE SUPPLEMENT

ACTS, 2003

ENACTED BY PARLIAMENT OF KENYA

2003

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**THE NATIONAL COMMISSION ON GENDER AND
DEVELOPMENT ACT, 2003**

No. 13 of 2003

Date of Assent: 31st December, 2003

Date of Commencement: 9th January, 2004

ARRANGEMENT OF SECTIONS

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SCHEDULE

AN ACT of Parliament to establish the National Commission on Gender and Development; to provide for the management, powers, functions and duties of the Commission, and for connected purposes

ENACTED by the Parliament of Kenya as follows-

Short title.

1. This Act may be cited as the National Commission on Gender and Development Act, 2003.

Interpretation.

2. In this Act, unless the context otherwise requires -

“Commission” means the National Commission on Gender and Development established by section 3;

“development issues” includes issues relating to development in socio-cultural, political and economic sectors;

“Director” means the Director of the Commission appointed under section 11;

“financial year” has the meaning assigned to it in section 19;

“gender” means the differences between women, men, boys and girls -

(a) within the same household; or

(b) within and between cultures and institutions,

which are socially and cultural constructed and change over time;

“gender mainstreaming” means the equitable distribution of resources, opportunities and benefits of the mainstream development process through the integration of equality concerns in the formulation and analysis of policies, programmes and projects in order to ensure that they impact positively on both men and women in bridging gender disparities;

“Minister” means the Minister for the time being responsible for gender issues.

3.(1) There is established a Commission to be known as the National Commission on Gender and Development.

Establishment
of the
Commission

(2) The Commission 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 or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing all other things or acts for the furtherance of the provisions of this Act which may lawfully be done or performed by a body corporate.

4. The Headquarters of the Commission shall be in Nairobi.

Headquarters.

5.(1) The Commission shall consist of –

Composition
of the Commission.

- (a) one person eminently qualified in gender issues appointed by the

Minister, who shall be the chairperson;

- (b) the Permanent Secretary in the Ministry for the time being responsible for gender issues;
- (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to education;
- (d) the Permanent Secretary in the Ministry for the time being responsible for matters relating to health;
- (e) the Permanent Secretary in the Ministry for the time being responsible for matters relating to finance;
- (f) the Permanent Secretary in the Ministry for the time being responsible for matters relating to planning and national development;
- (g) the Permanent Secretary in the Ministry for the time being responsible for matters relating to labour;
- (h) the Permanent Secretary in the Ministry for the time being responsible for matters relating to agriculture;

- (i) the Attorney-General or a representative of the Attorney-General;
- (j) nine other persons appointed by the Minister, of whom –
 - (i) three shall be women nominated by the National Council of Women of Kenya, who shall be representative of the various sectors, professions and provinces;
 - (ii) two shall be women nominated by the National Council for Non-Governmental Organisations;
 - (iii) one shall be nominated from the disability movement in such manner as the Minister may, by notice in the Gazette, prescribe;
 - (iv) one shall be nominated by the private sector in such manner as the Minister may, by notice in the Gazette, prescribe;
 - (v) one shall be nominated by the pastoralist community and conversant with the concerns of that community.

(2) It shall be the duty of the Minister to ensure that the persons appointed under subsection 1(j) include -

- (a) a gender specialist;
- (b) an economist;
- (c) a social scientist;
- (d) a member of the Law Society of Kenya; and
- (e) a person from the pastoralist community.

(3) The chairperson and the members of the Commission appointed under paragraph (g) of subsection (1) shall, subject to the provisions of this Act, hold office for such period, not exceeding three years and on such terms and conditions of service as may be specified in the instrument of appointment, but shall be eligible for re-appointment.

(4) A member appointed under paragraph (g) of subsection (1) may-

- (a) at any time resign office as such by notice in writing addressed to the chairperson;
- (b) be removed from office by the Minister if such member –
 - (i) has been absent from three consecutive meetings of the Commission without the permission of the chairperson; or
 - (ii) is incapacitated by prolonged physical or mental illness; or

- (iii) is otherwise unable or unfit to discharge the functions of office under this Act.

(5) An *ex officio* member of the Commission may, from time to time, depute an officer not below the rank of Deputy Secretary to attend meetings of the Commission in the place of such member, and the officer so deputed shall, at such meetings, have all the powers of the principal.

6.(1) The object and purpose for which the Commission is established is to co-ordinate, implement and facilitate gender mainstreaming in national development and to advise the Government on all aspects thereof.

Functions of the
Commission.

(2) Without prejudice to the generality of subsection (1), the Commission shall -

- (a) participate in the formulation of national development policies;
- (b) in liaison with the Ministry for the time being responsible for matters relating to gender, exercise general supervision over the implementation of the national policy on gender and development;
- (c) initiate, lobby for and advocate for legal reforms on issues affecting women, and to formulate laws, practices and policies that eliminate all forms of discrimination against women and all institutions, practices and customs that are detrimental to their dignity;

- (d) institute proposals and advise on the establishment and strengthening of institutional mechanisms which promote gender equity and equality in all spheres of life, and, in particular, access to and benefits in education, healthcare, nutrition, shelter, employment and control of economic and national resources;
- (e) determine strategic priorities in all the socio-economic, political and development policies of the Government and advise on their implementation;
- (f) plan, supervise and co-ordinate education programmes to create public awareness and support for gender issues;
- (g) evaluate aid policies to determine their impact on women in Kenya;
- (h) conduct and co-ordinate research activities on gender issues;
- (i) carry out investigations on gender-based rights and violations and forward recommendations to the relevant authorities; and
- (j) receive and evaluate annual reports on progress made by Government Ministries and other sectors on gender mainstreaming and women's empowerment.

Powers of the
Commission.

7. The Commission shall have all the powers necessary or expedient for the proper performance of its functions under this Act, and, in particular but

without prejudice to the generality of the foregoing, the Commission shall have power to-

- (a) control, supervise and administer the assets of the Commission in such manner and for such purposes as best promote the purpose for which the Commission is established;
- (b) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (c) enter into association with such other bodies or organizations within or outside Kenya as the Commission may consider desirable or appropriate and in furtherance of the purpose for which the Commission is established;
- (d) open a banking account or banking accounts for the funds of the Commission;
- (e) invest the funds of the Commission not currently required for its purposes in the manner provided in section 18.

8. The conduct and regulation of the business and affairs of the Commission shall be as provided in the Schedule but subject thereto, the Commission shall regulate its own procedure.

Conduct of
business and
affairs of the
Commission.

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

Delegation by
the Commission.

Remuneration of
Commission
members.

10. The Commission, in consultation with the Minister, shall pay members of the Commission such remuneration, fees or allowances for expenses as it may determine.

Director and
Deputy-Director.

11.(1) There shall be a Director of the Commission who shall be appointed by the Minister.

(2) Subject to this Act, the day-to-day management of the Commission shall vest in the Director.

(3) Subject to the directions of the Commission, the Director may –

- (a) allocate functions to employees of the Commission;
- (b) plan the Commission's programmes;
- (c) approve recurrent expenditure within such limits as the Commission may determine;
- (d) approve any alteration in the establishment of the Commission other than an alteration involving a major reorganization or a substantial reduction in the number of employees.

(4) There shall be a Deputy-Director who shall be a gender specialist appointed by the Commission, on such terms and conditions of service as the Commission may determine.

(5) The Director and Deputy Director shall be of opposite gender.

(6) The Deputy Director shall, under the general direction of the Director, perform such duties as may be assigned from time to time.

12.(1) The Commission may appoint such officers or servants as are necessary for the proper discharge of the functions of the Commission under this Act, upon such terms and conditions of service as the Commission may determine.

Staff of the
Commission

(2) The principle of gender balance shall guide all staff appointments.

(3) At no time shall more than two-thirds of the Commission be of the same gender.

13. The Commission may create such departments, units, or divisions of the Commission and appoint thereto such staff, on such terms and conditions of service, as the Commission may determine.

Departments,
units or divisions
of the Commission.

14.(1) The common seal of the Commission shall be kept in such custody as the Commission may direct and shall not be used except on the order of the Commission.

The common
seal of
the Commission.

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

15. No matter or thing done by a member of the Commission or any officer, employee or agent of

Protection from
personal liability.

the Commission shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Commission, render the member, officer, employee or agent, or any person acting under the directions of the Commission or of any such member, officer, or employee, personally liable to any action, claim or demand whatsoever.

Liability of
the Commission
for damages.

16. The provisions of this Act shall not relieve the Commission of the liability to pay compensation or damages to any person for any personal or proprietary interest sustained by the person as a result of the exercise of any power conferred by this Act or by the failure, whether wholly or partially, of any works.

Funds of the
Commission.

17. The funds of the Commission shall consist of –

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

Investment
of funds.

18.(1) The Commission may invest any of its funds in securities in which for the time being trustees may by law invest trust funds or in any other securities which the Treasury may, from time to time, approve.

(2) The Commission may place on deposit with such bank or banks or financial institutions as it may

determine, any moneys not immediately required for the purposes of the Commission.

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

Financial year.

20.(1) Before the commencement of each financial year, the Commission shall cause to be prepared estimates of the revenue and expenditure of the Commission for that year.

Annual estimates.

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

- (a) the payment of the salaries, allowances and other charges in respect of the staff of the Commission;
- (b) the payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Commission;
- (c) the maintenance of the buildings and grounds of the Commission;
- (d) the funding of training, research and development activities of the Commission;
- (e) the proper maintenance, repair and replacement of any installation and of the equipment and other movable property of the Commission;
- (f) the creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of

buildings or installations or equipment and in respect of such other matters as the Commission may think fit.

(3) The annual estimates shall be approved by the Commission before the commencement of the financial year to which they relate and shall be submitted to the Minister for approval and after the Minister has given approval, the Commission shall not increase any sum provided in the estimates without the consent of the Minister.

(4) No expenditure shall be incurred for the purposes of the Commission except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Commission given with the prior approval of the Minister.

Accounts and audit.

21. (1) The Commission shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Commission.

(2) The annual accounts of the Commission shall be prepared, audited and reported upon in accordance with the Exchequer and Audit Act.

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Annual report.

22.(1) The Commission shall, within four months after the end of each financial year, make a report to the Minister on the activities of the Commission during the financial year.

(2) The Minister shall, upon receipt of the report under subsection (1), table it before the National Assembly within fourteen days of the day the Assembly next sits after the report is received.

Regulations.

23. The Minister, may, after consultation with the Commission, make regulations generally for the better carrying into effect of any of the provisions of this Act.

SCHEDULE

(s.8)

MEETINGS AND PROCEDURE OF THE COMMISSION

1. The Commission 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. A meeting of the Commission shall be held on such date and at such time as the Commission shall decide or, in the absence of such decision or on any occasion on which the chairperson in consultation with the secretary shall decide that a meeting is necessary, on a date and at a time determined by the chairperson.

3. The chairperson shall, on the application of at least nine members, convene a special meeting of the Commission.

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

5. The quorum for the conduct of business at a meeting of the Commission shall be thirteen members.

6. The chairperson shall preside at every meeting of the Commission at which present, and in the absence of the chairperson the members present shall elect one of their number 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 Commission 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 paragraph 5, no proceedings of the Commission shall be invalid by reason only of a vacancy among the members thereof.

9. The common seal of the Commission shall be authenticated by the signature of the chairperson and the secretary and any document required by law to be made under seal and all decisions of the Commission may be authenticated by the chairperson and the secretary:

Provided that the Commission shall, in the absence of either the chairperson or the secretary, in any particular case or for any particular matter, nominate one member to authenticate the seal of the Commission on behalf of either the chairperson or the secretary.

10. All instruments made by and decisions of the Commission not required to be under seal may be authenticated by the chairperson and the secretary.

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

12. Except as provided by this Schedule, the Commission may regulate its own proceedings.