SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2016

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THE NATIONAL AUTHORITY FOR THE CAMPAIGN AGAINST ALCOHOL AND DRUG ABUSE (AMENDMENT) BILL, 2016

A Bill for
AN ACT of Parliament to amend the National Authority for the Campaign Against Alcohol and Drug Abuse Act and for connected purposes

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the National Authority for the Campaign Against Alcohol and Drug Abuse (Amendment) Act, 2016.

2. The National Authority for the Campaign Against Alcohol and Drug Abuse (hereinafter referred to as the "principal Act") is amended in section 6 by —

(a) deleting paragraph (d);
(b) deleting paragraph (e);
(c) deleting paragraph (f);
(d) deleting the word "three" and substituting therefor the word "two" in paragraph (h);
(e) deleting the word "two" and substituting therefor the word "one" in paragraph (i);
(f) deleting paragraph (k);

3. The Schedule to the principal Act is amended by —
(a) deleting the word "five" and substituting therefor the word "three" in paragraph 3(4);
(b) deleting the words "half of the total" and substituting therefor the word "five" in paragraph 3(6);
MEMORANDUM OF OBJECTS AND REASONS

Statement of object and reasons

The principal purpose this Bill is to amend section 6 of the National Authority for the Campaign Against Alcohol and Drug Abuse Act, Cap. 121B in order to reconstitute the National Authority for the Campaign Against Alcohol and Drug Abuse Board in line with the Constitution and the Report on the Presidential Taskforce on Parastatal Reforms. As it is presently, the Board is composed of fifteen persons contrary to the Constitution and the Report on the Presidential Taskforce which recommends a minimum of three members and a maximum of nine members to a Board. The amendments that are proposed seek to reduce the size of the Board to nine members in accordance with the law.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

This Bill is not a Bill concerning county governments within the definition of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution.

The enactment of this Bill shall not occasion additional expenditure on the consolidated fund.

Dated the 10th August, 2016

FERDINARD WAITITU,
Member of Parliament.
Section 6 of the Act that the Bill proposes to amend—

6. Board of the Authority

(1) The management of the Authority shall vest in a Board which shall consist of—

(a) a chairperson appointed by the President with the approval of the National Assembly, who shall be a person with experience in public affairs either in judicial service, public service or the private or voluntary sector;

(b) the Principal Secretary in the Ministry for the time being responsible for national security;

(c) the Principal Secretary in the Ministry for time being responsible for finance;

(d) the Principal Secretary in the Ministry for the time being responsible for public health;

(e) the Principal Secretary in the Ministry for the time being responsible for education;

(f) the Principal Secretary in the Ministry for the time being responsible for children and youth affairs;

(g) the head of the anti-narcotic police unit or the agency for the time being responsible for enforcement of narcotic drug laws;

(h) three persons appointed by the Cabinet Secretary from among healthcare providers, researchers, policy and legal practitioners, media and communication professionals, educationists, security, safety and environmental experts, provided that no more than one person shall be appointed from one category;

(i) two persons nominated by the joint forum of religious organizations referred to in subsection (3) and appointed by the Cabinet Secretary;

(j) one person nominated by the Medical Practitioners and Dentists Board and appointed by the Cabinet Secretary;

(k) one person nominated by a most representative organization working with the youth and appointed by the Cabinet Secretary; and

(l) the Chief Executive Officer.

(2) A person shall not be appointed under subsection (1)(a), (h), (i), (j) and (k) unless such person—
(a) is of impeccable character and high moral standing in relation to drugs and chemical substances of abuse;

(b) has the capacity to inspire and achieve the objectives of the Authority.

(3) The joint forum of religious organizations referred to in subsection (1) shall consist of representatives of—

(a) the Supreme Council of Kenya Muslims;

(b) the Kenya Episcopal Conference;

(c) the National Council of Churches of Kenya;

(d) the Evangelical Alliance of Kenya; and

(e) the Hindu Council of Kenya.

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

(a) ensure proper and efficient exercise of the powers and performance of the functions of the Authority;

(b) advise the management of the Authority generally on the exercise of the powers and the performance of the functions of the Authority;

(c) approve the estimates of the revenue and expenditure of the Authority; and

(d) perform such other functions as are provided for under this Act or any other written law.

SCHEDULE to the Act that the Bill proposes to amend—

[Section 7.]

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

1. Tenure of office

The Chairperson or a member of the Board other than the ex-officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term.

2. Vacation of office

(1) A member other than an ex-officio member may—

(a) at any time resign from office by notice in writing to the Cabinet Secretary;
(b) be removed from office by the Cabinet Secretary on recommendation of the Board if the member—

(i) has been absent from three consecutive meetings of the Board without its permission;

(ii) is convicted of a criminal offence that amounts to a felony under the Laws of Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months;

(iv) is otherwise unable or unfit to discharge his functions.

3. Meetings

(1) The Board shall, at its first meeting, elect a Vice-Chairperson from amongst the persons appointed under section 6(1)(h) of the Act.

(2) The person elected under subparagraph (1) shall not be of the same gender as the chairperson of the Board.

(3) The Board 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.

(4) Notwithstanding subparagraph (3), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(5) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days’ written notice of every meeting of the Board shall be given to every member of the Board.

(6) The quorum for the conduct of the business of the Board shall be half of the total members including the Chairperson or the person presiding.

(7) The Chairperson or in his absence, the Vice-Chairperson, shall preside at every meeting of the Board but the members present shall elect one of their number to preside whenever the Chairperson and Vice-Chairperson are absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

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

(9) Subject to subparagraph (6), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(10) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

4. Committees of the Board

(1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, co-opt any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subparagraph (1) shall be ratified by the Board.

5. Disclosure of interest

(1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof 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 consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to a fine not exceeding two hundred thousand shillings.

6. Contracts and instruments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.