

THE STATISTICS ACT, 2006

No. 4 of 2006

Date of Assent: 23rd August, 2006

Date of Commencement: ~~By Notice~~

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SCHEDULES

An Act of Parliament to provide for the establishment of the Kenya National Bureau of Statistics for the collection, compilation, analysis, publication and dissemination of statistical information, and the co-ordination of the national statistical system, and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

PART I – PRELIMINARY

1. This Act may be cited as the Statistics Act, 2006 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

Short title and commencement.

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

Interpretation.

“authorized officer” means a person appointed as such under section 10;

“Bureau” means the Kenya National Bureau of Statistics established under section 3;

“Board” means the Board of directors of the Bureau established under section 5;

“census” means a statistical operation in which all units of the population of interest are enumerated;

“chairman” means the Chairman of the Board of Directors;

“Director-General” means the Director-General appointed under section 8;

“Minister” means the Minister for the time being responsible for matters relating to statistics;

“national statistical system” includes producers and users of statistics working under the supervision and co-ordination of the Bureau;

“Population and Housing Census” means a population and Housing Census conducted by the Board under section 17;

“statistical information” means information collected by the Bureau, for purposes of this Act, on the matters set out in the First Schedule.

“statistics” means any quantity collected as summary of data;

PART II – ESTABLISHMENT, OBJECTIVES AND FUNCTIONS OF THE KENYA NATIONAL BUREAU OF STATISTICS

Establishment of
the Bureau.

3. (1) There is established a Bureau to be known as the Kenya National Bureau of Statistics.

(2) The Bureau 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;

- (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 be lawfully done or performed by a body corporate.

4.(1) The Bureau shall be the principal agency of the Government for collecting, analysing and disseminating statistical data in Kenya and shall be the custodian of official statistical information.

Objectives and functions of the Bureau.

(2) Without prejudice to the generality of subsection (1), the Bureau shall be responsible for -

- (a) planning, authorizing, co-ordinating and supervising all official statistical programmes undertaken within the national statistical system;
- (b) establishing standards and promoting the use of best practices and methods in the production and dissemination of statistical information across the national statistical system;
- (c) collecting, compiling, analyzing, abstracting and disseminating statistical information on the matters specified in the First Schedule;
- (d) conducting the Population and Housing Census every ten years, and such other censuses and surveys as the Board may determine; and
- (e) maintaining a comprehensive and reliable national socio-economic database.

No. 4

Establishment and
composition of the
Board.

5.(1) The management of the Bureau shall vest in a Board of Directors which shall consist of -

- (a) a chairman appointed by President;
- (b) the Permanent Secretary in the Ministry for the time being responsible for statistics;
- (c) the Permanent Secretary Ministry responsible for finance; and
- (d) five other members appointed by the Minister to represent the bodies for the time being recognized by the Government as representing –
 - (i) the private sector;
 - (ii) the non-Governmental Organizations;
 - (iii) research institutions;
 - (iv) the public universities; and
 - (v) the National Co-ordinating Agency for Population and Development.

(2) Every appointment to the Board under section 6(1) shall be by name and by notice in the Gazette and shall be for a renewable period of three years.

(3) A person shall be qualified to be appointed under this subsection (1)(d) if such person has a university degree in -

- (a) statistics;
- (b) information technology;

- (c) economics;
- (d) social sciences, or
- (e) mathematics.

in addition to knowledge and experience in the matters to which the functions of the Board relate.

6.(1) The functions of the Board shall be to -

Functions of the Board.

- (a) formulate and monitor the implementation of policies pertaining to the Bureau;
- (b) determine from, time to time, the structure and staffing levels of the Bureau;
- (c) recruit suitable staff for the Bureau upon such terms and conditions as it may determine;
- (d) promote professionalism and discipline among the staff of the Bureau by facilitating professional training;
- (e) approve the Bureau's corporate plan, annual work programmes and annual budgets; and
- (f) submit to the Minister a quarterly report on the activities of the Bureau.

(2) The Board may collaborate with such other bodies within or outside Kenya as it may consider desirable or appropriate in furtherance of the purpose for which the Bureau is established.

No. 4

Conduct of
business and
affairs of the
Board.

7. The provisions of the Second Schedule shall apply with respect to conduct of the business and affairs of the Board.

Director-General.

8. (1) There shall be a Director-General of the Bureau who shall, subject to this section, be appointed by the Board, on such terms and conditions of service as the Board may determine.

(2) A person shall not be qualified for appointment as the Director-General unless such person has an advanced degree in a relevant field as specified in section 5(3) and at least ten years experience in the management of public or private institutions.

(3) The Director-General shall be the chief executive officer of the Bureau and the secretary to the Board and the committees.

(4) In the exercise of his functions under this Act, the Director-General shall, subject to the direction of the Board -

- (a) be responsible for the day-to-day management of the Bureau;**
- (b) manage the funds and property of the Bureau;**
- (c) be responsible for the management of the staff of the Bureau;**
- (d) cause to be prepared for the approval of the Board -**
 - (i) the annual work programmes of the Bureau, and**

(ii) the annual budget, and audited accounts of the Bureau.

9. The Board may appoint such officers and staff as may be necessary for the proper and efficient discharge of the functions of the Bureau, on such terms and conditions of service as it may determine.

Staff of the Bureau.

10. The Director-General may, in writing, appoint any person as an authorized officer for the purposes of the carrying out of the provisions of this Act.

Authorized officers.

11. Every person employed by the Board under the provisions of this Act shall take the oath of secrecy prescribed in the Third Schedule, before a Magistrate, Commissioner for Oaths, or the Director-General, before commencing the duties relating to the provisions of this Act.

Oath of secrecy.

12. The funds of the Bureau shall consist of—

Funds of the Bureau.

- (a) such sums as the Minister may, with the consent of the Treasury, make available for the purposes of this Act out of monies provided by Parliament;
- (b) any sums which may be donated or granted or lent to the Bureau:

Provided that the Board shall not accept any donations to which are attached conditions of which it does not approve.

- (c) any sums which may become payable to the Bureau in respect of the sale of publications, provision of approved services or from any matter incidental to the carrying out of its functions under this Act.

Annual Estimates.

13. The Board shall, not less than four months before the commencement of any financial year, prepare and submit to the Minister for approval in concurrence with the Treasury, estimates of the Bureau's revenue and expenditure for that financial year, and once such approval has been given no expenditure shall be made for which provision has not been made in such estimates.

Annual Report.

14.(1) The Board shall, within four months after the end of each financial year, make a report to the Minister on the activities of the Bureau for that year, consisting of –

- (a) a report on the operations of the Bureau; and
- (b) such other information as the Board may deem necessary to include.

(2) The Board shall bring the contents of the report prepared in accordance with subsection (1) report to the attention of the national statistical system in such manner as it may deem appropriate.

(3) The Minister shall, upon receipt of the annual report under this section, place it before the National Assembly within a period of fourteen days of the day the National Assembly next meets after such receipt.

Accounts and
Audit.

15.(1) The Board shall keep or cause to be kept proper books of account of the Bureau.

No. 12 of
2003.

(2) The accounts of the Bureau shall be audited and reported upon in accordance with the Public Audit Act.

PART III – STATISTICAL INFORMATION

16. The Bureau shall collect any statistical information estimates or returns concerning any matter set out in the First Schedule to this Act.

Collection of information.

17. The Minister may, on the advice of the Board, by order published in the Gazette direct that a Population and Housing Census be taken for Kenya or for any part thereof or in respect of any class of inhabitants thereof, and any such directions may specify –

Power to Order Census.

- (a) the date or dates on or between which the census is to be taken;
- (b) the persons by whom the returns for the purpose of the census are to be made; and
- (c) the information to be obtained in the census.

18.(1) Any agency other than the Bureau, wishing to conduct a census or survey at national, or local level shall seek the approval of the Board.

Other censuses or surveys.

(2) The agency referred to in subsection (1) shall submit its plans to the Board three months before the intended survey, and the Board may approve or decline to approve such plans.

(3) An agency which obtains approval under subsection (2) shall upon completion of the survey, submit copies of its report to the Board.

19. (1) Where any census is being taken or any statistical information is being collected under this Act, an authorized officer may, in the manner specified in this

Supply of Information.

section, require any person to supply him with such particulars as may be prescribed or such particulars as may be required in relation to the taking of the census or the collection of the information.

(2) A person required to provide information under subsection (1) shall, to the best of his knowledge, information and belief, complete such forms, make such returns, answer such questions and give such information in such manner and within such time as may be specified by the authorized officer.

(3) An authorized officer may require any person or establishment to supply him with particulars either by interviewing the person or by leaving at or posting to his last known address a form having thereon a notice requiring the form to be completed and returned in such manner and within such time as shall be specified in the notice.

(4) Where any particulars are, by any document issued by an authorized person, required to be supplied by any person, it shall be presumed until the contrary is proved that the particulars may lawfully be required from that person in accordance with this Act.

Power to access
information.

20. Any person or establishment having the custody of, or being in charge of, any public records or documents of any local authority from which information sought in furtherance of the purposes of this Act can, in the opinion of the Director-General, be obtained, or which would aid in the completion or correction of information already obtained, shall grant the Director-General access to such records or documents for the purposes of obtaining therefrom the required information.

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21. An authorized officer may at all reasonable times without warrant, but upon production, if required, of the letter of authorization, for any purpose connected with —

Power of entry.

- (a) the collection of statistical information, enter and inspect any land, building, vehicle or vessel where persons are employed, other than a dwelling-house;
- (b) the taking of a census, enter any land or building, vehicle or vessel where persons are employed,

and in either case may make such inquiries for the collection of information, or the taking of the census, as the case may be.

22.(1) No person shall publish or show to any other person not employed in the execution of a duty under this Act any of the following -

Restriction on disclosure of information.

- (a) an individual return or part thereof made for the purposes of this Act;
- (b) an answer given to any question put for the purposes of this Act; or
- (c) a report, abstract or other document containing particulars comprised in any such return or answer so arranged as to identify such particulars with any person or undertaking ,

except with the prior written consent of the person making the return, or giving the answer, or, in the case of an undertaking, the owner, for the time being, of the undertaking.

(2) The provisions of this Act shall not affect any law relating to the disclosure of any official secret or confidential information or trade secret,

Director-General
may give
information.

23.(1) The Director-General may at the request of any person or agency and upon payment of such fee, if any, as may be prescribed by the Board, provide to that person or agency, any special information or report concerning, or carry out for that person or agency any special investigation into, any of the matters specified in the First Schedule:

Provided that the person requesting for information shall undertake in writing, to the satisfaction of the Director-General –

- (a) to use the information so obtained only for research purposes; and
- (b) not to release such information to any other person except with the prior written consent of the Director-General

(2) The Director-General may, with the approval of the Board, cause statistical data collected by the Bureau to be disseminated to the public after ascertaining its accuracy and safeguarding the confidentiality with respect to the information.

Obstruction.

24.(1) Any person who hinders or obstructs the Director-General or any authorized officer in the execution of any powers conferred under this Act, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both.

(2) Any person who wilfully fails to give any information or particular as required under this Act commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

25.(1) Nothing contained in this Act shall prevent or restrict the publication of any report, abstract or other document which would make identification of any undertaking possible merely by reason of the fact that the particulars relate to an undertaking which is the only undertaking within its particular sphere of activities, if the report, abstract or other document is so arranged as to disclose, in respect of such undertaking, only the following information —

Special reports
and investigations.

- (a) the quantity and the value of any description of the goods manufactured, produced, exported or sold;
- (b) the economic and social characteristics of employees;
- (c) the amount and extent of any investment; or
- (d) any other information which is furnished or supplied under this Act,

with respect to the publication of which no objection has been made in writing to the person furnishing the information prior to the publication of the report, abstract or other document.

(2) Nothing contained in this section shall be construed as requiring the disclosure of any information

obtained under this Act to a Ministry, department or authority for the purpose of taxation.

Offences.

26. Any person who —

- (a) makes a statement which he knows to be false or has no reason to believe to be true in any returns or estimates in response to a reasonable request for information for the purposes of this Act;
- (b) being employed in the execution of any duty under this Act, without lawful authority, publishes or communicates to any person, other than in the ordinary course of such employment, any information obtained by him in the course of his employment;
- (c) being in possession of information which might influence or affect the market value of any share or other security, interest, product or article by virtue of his employment, uses it for personal gain before it is made public;
- (d) knowingly compiles for issue any false statistics or statistical information;
- (e) possessing any information which, to his knowledge, has been disclosed in contravention of this Act, publishes or communicates such information to any person;
- (f) in the execution of any duty under this Act, fails to comply with or contravenes any terms or conditions of his oath or affirmation taken under this Act;

- (g) without lawful authority destroys, defaces or mutilates any schedule, form or other document containing particulars obtained under this Act; or
- (h) contravenes any provision of this Act in respect of which no penalty has been prescribed,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

PART IV – MISCELLANEOUS

27.(1) Subject to subsection (2), no matter or thing done by a member of the Board or any other officer, employee or agent of the Bureau shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Bureau under this Act, render the member, officer, employee or agent of the Board personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

(2) The provisions subsection (1) shall not relieve the Bureau of the liability to pay compensation or damages to any person for the injury to him or damage to his property or any of his interests caused by the exercise of any powers conferred by this Act or any other written law, or any failure, whether wholly or partially of any works.

28. No stamp duty shall be chargeable in respect of any instrument executed by or on behalf of or in favour of the Bureau which, but for this section, the Bureau would be liable to pay.

Exemption from stamp duty.

No. 4

Regulations.

29. The Board may with the approval of the Minister make regulations for the better carrying into effect of the provisions of this Act, and in particular, but without prejudice to the generality of the foregoing, may-

- (a) prescribe the particulars to be furnished in relation to any matter in respect of which statistical information may be collected under this Act;
- (b) prescribe the manner and form in which the times and places at which and the person by whom particulars shall be furnished.

Supereession.

30. Where any conflict arises between the provisions of this and any other Act with respect to the collection, analysis and dissemination of official statistics, the provisions of this Act shall prevail.

PART V – REPEAL AND TRANSITIONAL PROVISIONS

Repeal of
Cap.112.

31. The Statistics Act is repealed.

Transitional
Provisions.

32. Notwithstanding section 31-

- (a) all the funds, assets and other property, movable and immovable, which immediately before the coming into operation of this Act, were held by the Government for the Central Bureau of Statistics shall, by virtue of this subsection and without further assurance, vest in the Bureau;
- (b) every public officer having the power or duty to effect or amend any entry in a register relating to

property, or to issue or amend any certificate or other documents affecting or evidencing title to property, shall without payment of a fee or other charge and upon request by or on behalf of the Bureau, do all such things as are by law necessary to give final effect to the transfer of any property mentioned in paragraph (a) to the Bureau;

- (c) all rights, powers and duties, whether arising under any written law or otherwise which immediately before the coming into operation of this Act were vested in the Central Bureau of Statistics shall by virtue of this subsection, be transferred to, vested in, imposed on, or be enforceable by or against the Bureau;
- (d) on and after the coming into operation of this Act, all actions, suits or legal proceedings by or against the Government pending in respect of the Central Bureau of Statistics shall be carried out on or prosecuted by or against the Bureau, and no such suit, action or legal proceedings, shall abate or be affected by the coming into operation of this Act;
- (e) the annual estimates approved for the Central Bureau of Statistics in respect of the financial year in which this Act comes into operation shall be deemed to be the annual estimates of the Bureau for the remainder of the financial year, but those estimates may be varied by the Board in such manner as the Treasury may approve;
- (f) any person who is an officer or employee of the Central Bureau of Statistics immediately before the coming into operation of this Act shall be

deemed to be an officer or employee of the Bureau:

Provided that -

- (i) any officer or employee who does not wish to become an officer or employee of the Central Bureau of Statistics shall exercise his option to be employed by the Bureau or to be re-deployed in the public service, within a period of twelve months from the date of coming into operation of this Act;
- (ii) subject to sub-paragraph (i), every officer or employee of the Bureau shall enter into a written contract with the Bureau within a period of twelve months from the date of coming into operation of this Act, whereupon his service with the Government shall be deemed to have terminated without right to severance pay but without prejudice to all other remunerations and benefits payable upon such termination;
- (iii) any officer who does not exercise his option under paragraph (i) shall be deemed to have been seconded to the Bureau for another twelve months, after which he shall comply with (i) or (ii) above.

FIRST SCHEDULE

(s.4, 23)

**MATTERS CONCERNING WHICH STATISTICAL INFORMATION
MAY BE COLLECTED, COMPILED, ANALYSED, ABSTRACTED
AND PUBLISHED**

1. Population.
2. Vital occurrences and morbidity.
3. Immigration, emigration, hotels and tourism.
4. Housing.
5. Rents.
6. Real property.
7. Land tenure and the occupation and use of land.
8. Finance.
9. External finance and balance of payments.
10. Capital investment.
11. Savings.
12. Income, earnings, profits and interest.
13. Personal expenditure and consumption.
14. International and external trade.
15. Banking, insurance and finance.
16. Wholesale and retail trade including agents and brokers.
17. Manufacturing, building, construction and allied industries.
18. Mining and quarrying, including the prospecting of metallic, non-metallic, petroleum and natural gaseous products.
19. Agriculture, including animal husbandry, horticulture and allied industries.
20. Forestry and logging.
21. Hunting and fishing.
22. Stock of manufactured and unmanufactured goods.
23. Producer, Wholesale and retail prices of commodities.
24. Storage and warehousing.
25. Employment and unemployment.
26. Salaries, wages, bonuses, fees allowances and other payments.
27. Industrial disturbances and disputes.
28. Injuries, accidents and compensation.
29. Energy.
30. Water undertakings and sanitary services.
31. Transport and communications.

32. Local Government.
33. Community, business, recreation and personal services.
34. Handicrafts and rural industries.
35. Sweepstakes, lotteries, charitable and other public collections of money.
36. Hire-purchase.
37. Co-operatives.
38. Environment.
39. Informal sector.
40. Health and Nutrition.
41. Information Technology.
42. Education and literacy.

SECOND SCHEDULE

(s.8)

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

Tenure of office.

1. The Chairman or a member of the Board other than an *ex-officio* member 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, subject to a maximum of two terms of office.

Vacation of office.

2. The Chairman or a member 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, on the recommendation of the Board, if the member —
 - (i) has been absent from three consecutive meetings of the Board without the permission of the Board;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six

months or to a fine exceeding ten thousand shillings;

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

is otherwise unable or unfit to discharge his functions.

3.(1) 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.

Meetings.

(2) Notwithstanding subparagraph (1), the chairman 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.

(3) 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.

(4) The quorum for the conduct for the business of the Board shall be five members including the chairman or the person presiding.

(5) The chairman shall preside at every meeting of the Board at which he is present, but in his absence, the members present shall elect one of their number to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairman.

(6) 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 the case of an equality of votes, the chairman or the person presiding shall have a casting vote.

(7) Subject to such paragraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) 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.

Committees of
the Board.

4.(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 chairman of a committee established under subparagraph (1) from amongst its own members.

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

Disclosure of
interest.

5. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably 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 consideration of the matter.

(2) A disclosure of interest made under this paragraph 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 of one hundred thousand shillings, or to imprisonment for a term of six months, or to both.

The common
seal.

6. The affixing of the common seal of the Bureau shall be authenticated by the signature of the chairman and the Director-General and any document not required by law to be made

under seal and all decisions of the Board may be authenticated by the signatures of the chairman and the Director-General :—

Provided that the Board shall, in the absence of either the chairman or the Director-General in any particular matter, nominate one member to authenticate the seal on behalf of either the chairman or the Director-General.

Contracts and instruments.

7. 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.

THIRD SCHEDULE

(s. (12)

OATH /AFFIRMATION OF OFFICE AND SECRECY

I do solemnly swear/affirm that I shall faithfully and honestly fulfil my duties as in conformity with the requirements of the Act and regulations made thereunder, and that I shall not without due authority reveal any information acquired by virtue of my said duties, nor, until such information is made public, directly or indirectly use it for personal gain.

Sworn/Affirmed at _____

On _____

Signature of Officer _____

Before: _____

Magistrate/Commissioner for Oaths/
Director-General