



LAWS OF KENYA



**KENYA INSTITUTE FOR PUBLIC POLICY RESEARCH
AND ANALYSIS ACT**

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AND ANALYSIS ACT**

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NO. 15 OF 2006

**KENYA INSTITUTE FOR PUBLIC POLICY RESEARCH
AND ANALYSIS ACT**

[Date of assent: 30th December, 2006.]

[Date of commencement: 1st February, 2007.]

An Act of Parliament to establish the Kenya Institute for Public Policy Research and Analysis, to provide for its incorporation, powers and functions, and for connected purposes

[L.N. 4/2007.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Kenya Institute for Public Policy Research and Analysis Act, 2006.

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.

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

3. Establishment of the Institute

(1) There is established an institute to be known as the Kenya Institute for Public Policy Research and Analysis.

(2) The Institute 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 and disposing of movable and immovable property;
- (c) borrowing money; and
- (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

(3) The Institute shall be the successor to the Institute known as the Kenya Institute of Public Policy Research and Analysis existing immediately before the commencement of this Act, and subject to this Act, all rights, obligations, assets and liabilities of that Institute existing at the commencement of this Act shall be automatically and fully transferred to the Institute and any reference to the Kenya Institute of Public Policy Research and Analysis in any contract or document shall, for all purposes, be deemed to be a reference to the Institute established under subsection (1).

(4) The provisions of the First Schedule shall apply upon the commencement of this Act.

4. Headquarters

The headquarters of the Institute shall be in Nairobi or such other place as may be determined by the Board and approved by the Minister.

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 modelling;
- (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;
- (e) serve as a point of communication and encourage the exchange of views between the Government, the private sector and other bodies or agencies of the Government on matters relating to public policy research and analysis;
- (f) collect and analyse relevant data on public policy issues and to disseminate the Institute's research findings to persons it deems appropriate to publish such research findings as the Board may authorise;

- (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 functions.

PART III – ADMINISTRATION OF THE INSTITUTE

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;

- (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.

9. Conduct of business and affairs of the Board

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

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

10. Delegation by the Board

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

11. Remuneration of members of the Board

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

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.

13. Functions of the Executive Director

(1) The Executive Director shall, in consultation with the Board, be responsible for the direction of the affairs and transactions of the Institute, the exercise, discharge and performance of its objectives, functions and duties, and the general administration of the Institute.

(2) The Executive Director shall—

- (a) be the Secretary of the Board;
- (b) plan and co-ordinate the overall research programme of the Institute;
- (c) identify emerging issues for public policy research and analysis and design appropriate work plans for carrying out such research and analysis;
- (d) establish guidelines and schedules for regular updating of economic models based on available data and research methodology;
- (e) establish procedures for effective communication and co-ordination with agencies of the Government, the Universities, other research bodies, donor agencies and the general public;
- (f) authorise the submission of tenders for the award of contracts and sign any contracts on behalf of the Institute;
- (g) prepare annual reports on the activities of the Institute;
- (h) ensure the maintenance of efficiency and discipline by all staff of the Institute;
- (i) manage the budget of the Institute to ensure that its funds are properly expended and accounted for; and
- (j) perform such other duties as the Board may, from time to time, assign.

(3) 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.

14. Staff, agents of the Institute

The Board may appoint such officers, agents and other staff of the Institute as are necessary for the proper and efficient discharge of the functions of the Institute under this Act, upon such terms and conditions of service as the Board may determine.

15. The common seal of the Institute

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

(2) The common seal of the Institute, 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 Board under this section shall be presumed to have been duly given.

(3) The common seal of the Institute shall be authenticated by the signature of the Chairman of the Board and the Executive Director:

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

16. Protection from personal liability

(1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Institute shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Institute under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(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 Institute, shall, if the court holds that such act was done *bona fide*, be paid out of the general funds of the Institute, unless such expenses are recovered by him in such suit or prosecution.

17. Liability for damages

The provisions of section 16 shall not relieve the Institute 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 any other written law or by the failure, wholly or partially, of any works.

PART IV – FINANCIAL PROVISIONS

18. Funds of the Institute

The funds and assets of the Institute shall consist of—

- (a) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act;
- (b) such monies as may be payable to the Institute pursuant to this Act or any other written law;
- (c) such gifts as may be given to the Institute;
- (d) such monies as may be appropriated by Parliament for the purposes of the Institute; and
- (e) all monies from any other source provided, donated or lent to the Institute.

19. Financial year

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

20. Annual estimates

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

(2) The annual estimates shall make provision for all estimated expenditure of the Institute 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 officers, members of staff, or agents of the Institute;
- (b) the payment of the pensions, gratuities and other charges in respect of retirement benefits payable to the members of staff of the Institute;
- (c) the proper maintenance of the buildings and grounds of the Institute;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Institute; and
- (e) 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 Board may deem fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Minister for approval.

(4) No expenditure shall be incurred for the purposes of the Institute except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the Board given with prior written approval of the Minister, and the Permanent Secretary to the Treasury.

21. Accounts and audit

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

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Controller and Auditor-General or to an auditor appointed under subsection (3), the accounts of the Institute, in respect of that year, together with—

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

(3) The accounts of the Institute shall be audited and reported upon in accordance with the provisions of the Public Audit Act (No. 12 of 2003).

22. Investment of funds

(1) The Board may invest any of the funds of the Institute in securities in which the Board may by law invest trust funds, or in any other securities which the Treasury may, from time to time, approve.

(2) The Board may place on deposit, with such bank or banks as the Treasury may approve from time to time, any monies not immediately required for the purposes of the Institute.

PART V – MISCELLANEOUS

23. Annual report

(1) The Institute shall, within three months after the end of each financial year, prepare and submit to the Minister, a report on the operations of the Institute for the immediately preceding financial year.

(2) Without limiting what may be included in the annual report, the annual report shall include—

- (a) the audited financial report of the Institute; and
- (b) such other information as the Minister may direct.

(3) The Institute shall, in consultation with the Ministries for the time being responsible for planning, national development, and finance and the Central Bank of Kenya, prepare and submit to the Minister, at least three months before the beginning of the next financial year, a report on—

- (a) the performance of the economy of Kenya during the preceding financial year; and
- (b) the economic prospects of Kenya for the next three financial years.

(4) The Minister shall lay the reports specified in subsections (1) and (3) before the National Assembly as soon as is reasonably practicable after the National Assembly next sits after the Minister has received the report.

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.

25. Board to keep information confidential

(1) The Board shall keep information acquired by it confidential and shall disclose such information only to the extent it considers necessary for the proper performance of its functions.

(2) The Board shall design ways and means of protecting the research findings of the Institute.

26. Offences, improper disclosure of information

(1) All officers, members of staff and agents of the Institute shall uphold and observe ethics.

(2) No officer, member of staff, or agent of the Institute shall disclose information acquired under this Act except—

- (a) in the course of his duties under this Act; or
- (b) with the written consent of the Board.

(3) No person who receives information in contravention of subsection (2) shall disclose or publish the information.

(4) A person who contravenes subsection (2) or (3) 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 such fine and imprisonment.

27. Exemptions

Subject to other applicable laws, the Institute shall be exempted from such taxes, duties, fees, levy, cess or other charges as the Minister for the time being responsible for Finance may by, notice in the *Gazette*, specify.

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.

FIRST SCHEDULE

[Section 3(4).]

TRANSITIONAL PROVISIONS

1. Interpretation

In this Part—

“**appointed day**” means the day appointed by the Minister as the commencement date for this Act;

“**former Institute**” means the Institute known as the Kenya Institute for Public Policy Research and Analysis existing immediately before the commencement of this Act.

2. Assets and liabilities

(1) On the appointed day, all the funds, assets and other property, both movable and immovable, which immediately before such day were vested in the former Institute shall, by virtue of this paragraph, vest in the Institute.

(2) On the appointed day, all rights, powers and liabilities, which immediately before such day were vested in, imposed on or enforceable against the former Institute shall, by virtue of this paragraph, be vested in, imposed on or enforceable against the Institute.

(3) Any reference in any written law or in any document or instrument to the former Institute shall, on and after the appointed day, be construed to be a reference to the Institute.

(4) The annual estimates of the former Institute, for the financial year in which the appointed day occurs, shall be deemed to be the annual estimates of the Institute for the remainder of that financial year:

Provided that such estimates may be varied by the Board in such manner as the Minister may approve.

(5) The administrative decisions made by the former Institute or by the Minister which are in force immediately before the appointed day shall, on or after such day, have force as if they were directions made by the Board or the Minister under this Act.

3. Staff

Any person who is an officer of the former Institute immediately before the appointed day shall be deemed to be on secondment to the Institute:

Provided that such person shall, within a period of one year from the appointed day, exercise his option either—

- (a) to enter into a written contract of service with the Institute, whereupon his service with the former Institute shall be deemed to have been terminated without right to severance pay, but without prejudice to all other remuneration and benefits payable upon such termination; or
- (b) to be redeployed by the Government.

SECOND SCHEDULE

[Section 9.]

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

1. Tenure of Office

(1) Any member of the Board, 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 their appointment, but shall be eligible for re-appointment for one further term of three years.

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

2. Vacation of Office

A member of the Board, 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 Board without the permission of the Chairman;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (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 Board;
 - (vi) accepts any office of profit under the Institute; or
 - (vii) fails to comply with the provisions of this Act relating to disclosure.

3. Meetings

(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.

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

(3) The members of the Board shall, at the first meeting of the Board, elect from amongst their number, a Vice-Chairman and an Honorary Treasurer.

(4) 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.

(5) The quorum for the conduct of the business of the Board shall be seven members excluding the Executive Director.

(6) The Chairman shall preside at every meeting of the Board at which he is present but, in his absence, the Vice-Chairman 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 Chairman.

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

(8) Subject to subparagraph (5), no proceedings of the Board 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 Board, shall be as valid and effectual as if it had been passed at a meeting of the Board duly convened and held.

(10) Subject to the provisions of this Schedule, the Board may determine its own procedures and the procedure for any committee of the Board 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 Institute;
- (b) the manner in which all payments, including cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies paid to the Institute shall be signed, drawn, accepted, endorsed or otherwise executed;
- (c) the procedure for meetings and other business of the Board;
- (d) the duties of officers, members of staff or agents of the Institute; and
- (e) the conditions of service and remuneration of officers, members of staff and agents of the Institute.

4. Disclosure of interest

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board 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 Board 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 Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.
