

SPECIAL ISSUE

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REPUBLIC OF KENYA

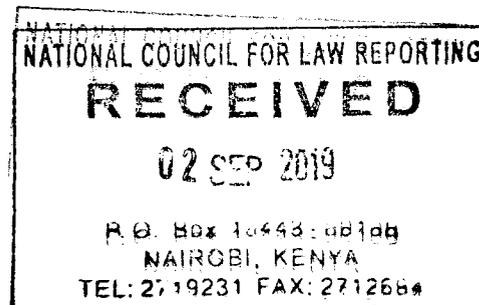
KENYA GAZETTE SUPPLEMENT

ACTS, 2019

NAIROBI, 15th August, 2019

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THE STATISTICS (AMENDMENT) ACT, 2019

No. 16 of 2019

Date of Assent: 14th August, 2019

Date of Commencement: See Section 1

AN ACT of Parliament to amend the Statistics Act

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the Statistics (Amendment) Act, 2019 and shall come into force upon publication in the *Gazette*.

Short title.

2. Section 2 of the Statistics Act, 2006, in this Act referred to as the “principal Act”, is amended—

Amendment of section 2 of No. 4 of 2006.

- (a) by deleting the definition of the word “Minister”;
- (b) by deleting the definition of the expression “national statistical system” and substituting therefor the following new definition —
 “national statistical system” includes producers, suppliers and users of official statistics working under the supervision and co-ordination of the Bureau including ministries, departments and agencies;
- (c) in the definition of the expression “population and housing census” by deleting the word “Board” and substituting therefor the word “Bureau”;
- (d) in the definition of the expression “statistical information” by inserting the word “official” immediately before the word “information”;
- (e) by inserting the following new definitions in proper alphabetical sequence —

“agency” includes individuals, institutions or groups of persons;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to statistics;

“co-ordination” includes technical advice to ensure that standards and methods are met and adherence to the code of practice in statistical production and dissemination;

“official statistics” means statistics produced by the Bureau and any other statistics designated as official by the Director-General;

“professional independence” means independence of production and dissemination of statistics from interference or influence by any individual, interest group or political authority; and

“sampling frame” includes a representative list of items that form a population from which a sample is drawn for the purpose of conducting a survey and includes individuals, households or institutions and may be a national sample survey and evaluation programme, the business register or any other frame of the Bureau.

3. The principal Act is amended by inserting the following new sections immediately after section 3—

Insertion of new sections 3A, 3B and 3C in No. 4 of 2006.

Request for legal advice.

3A. The Bureau may request for legal advice or representation from the Office of the Attorney-General.

Professional independence.

3B. The Bureau shall have professional independence and shall observe the fundamental principles relating to statistics as set out in the Fourth Schedule.

Headquarters of the Bureau.

3C. The Bureau shall have its headquarters in Nairobi but may establish any other offices in the country for the discharge of its functions.

4. Section 4 of the Principal Act is amended in subsection (2)—

Amendment of section 4 of No. 4 of 2006.

- (a) by deleting the word “promoting” appearing in paragraph (b) and substituting therefor the word “ensuring”;
- (b) by inserting the following new paragraphs immediately after paragraph (e)—
 - (f) developing and maintaining sampling frames of the Bureau;
 - (g) collaborating with and assisting the county governments or any other institutions in the production of official statistics;

- (h) providing technical advice on statistics to other state entities;
- (i) promoting co-ordination among producers, users and suppliers of official statistics by forming appropriate sector committees; and
- (j) designating statistics produced by national statistical system as official statistics on being satisfied that the necessary criteria have been followed.

5. Section 5 of the Principal Act is amended —

Amendment of section 5 of No. 4 of 2006.

(a) in subsection (1)—

- (i) by deleting the word “Permanent” wherever it appears and substituting therefor the word “Principal”;
- (ii) by deleting the word “Permanent” appearing in paragraph (c) and substituting therefor the word “Principal”; and
- (iii) by deleting the words “Co-ordinating Agency” appearing in subparagraph (d) (v) and substituting therefor the word “Council”; and

(b) in subsection (3) by inserting the words “meets the requirements of Chapter Six of the Constitution and” immediately after the words “such person”.

6. Section 6 of the principal Act is amended in subsection (1)—

Amendment of section 6 of No. 4 of 2006.

- (a) by deleting paragraph (d) and substituting therefor the following new paragraph—
- (b) promote professionalism by facilitating professional training and ensuring discipline among the staff;
- (c) by deleting the word “Minister” appearing in paragraph (f) and substituting therefor the expression “Cabinet Secretary”.

7. Section 8 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection—

Amendment of section 8 of No. 4 of 2006.

- (2) A person shall not be qualified for appointment as the Director-General unless such person—

- (a) meets the requirements of Chapter Six of the Constitution;
- (b) has a masters degree in statistics, economics, demography or mathematics from a recognised university; and
- (c) has at least ten years' experience in the management of a public or private institution.

8. The principal Act is amended by inserting the following new section immediately after section 8—

Insertion of new section 8A in No. 4 of 2006.

Corporation Secretary.

8A. (1) There shall be a Corporation Secretary 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 appointed as Corporation Secretary unless such person—

- (a) holds a degree in law from a recognized university;
- (b) is an advocate of the High Court of not less than eight years' standing;
- (c) is a registered Certified Public Secretary in good standing with the Institute of Certified Public Secretaries of Kenya; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) The Corporation Secretary shall, subject to the direction of the Board, be responsible for—

- (a) co-ordinating the preparation of Board papers and circulating to members of the Board;
- (b) taking minutes in meetings of the Board and communicating the resolutions of the Board;
- (c) ensuring safe custody of the minutes, decisions and documents of the Board;

- (d) ensuring the safe custody of the seal of the Bureau;
- (e) drafting legal documents on behalf of the Bureau;
- (f) attending court proceedings on behalf of the Bureau;
- (g) advising the Board on any legal matters; and
- (h) any other matter that the Board may direct.

9. Section 13 of the principal Act is amended by deleting the words “Minister for approval in concurrence with the Treasury” and substituting therefor the words “Cabinet Secretary for approval in concurrence with the National Treasury”.

Amendment of section 13 of No. 4 of 2006.

10. Section 17 of the principal Act is amended by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

Amendment of section 17 of No. 4 of 2006.

11. Section 19 of the principal Act is amended in subsection (3) by inserting the words “or by sending through electronic means” immediately after the word “address”.

Amendment of section 19 of No. 4 of 2006.

12. The principal Act is amended by deleting section 20 and substituting therefor the following new section—

Amendment of section 20 of No. 4 of 2006.

Power to access information.

20. (1) This provision limits the right to privacy as provided for under article 31.

(2) Any person or household having custody of, or being in charge of, any record or document 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.

13. The principal Act is amended by deleting section 21 and substituting therefor the following new section—

Amendment of
section 23 of No.
4 of 2006.

Power of entry

21. (1) This provision limits the right to privacy as provided for under article 31.

(2) 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—

- (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.

14. Section 23 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

(3) Upon request by the Board, the Cabinet Secretary may with the approval of the Cabinet, cause any official statistical data collected, analyzed and disseminated by the Bureau to be cancelled, revised or adjusted after ascertaining that the data is not accurate.

(4) The Cabinet Secretary shall within fourteen days of approval by the Cabinet, publish the official data that has been cancelled, revised or adjusted under sub-section (3), in the *Gazette*.

15. Section 24 of the principal Act is amended—

- (a) in subsection (1) by deleting the expression “one hundred thousand” and substituting therefor the expression “five hundred thousand”; and
- (b) in subsection (2) by deleting the word “one hundred thousand” and substituting therefor the expression “five hundred thousand”.

Amendment of
section 24 of No.
4 of 2006.

16. Section 26 of the principal Act is amended—

(a) by inserting the following new paragraphs immediately after paragraph (g)—

(ga) redistributes or sells material of the Bureau without written authority from the Director-General;

(gb) uses data from the Bureau for investigation of specific individuals or organizations or for any other purpose other than statistical purposes;

(gc) creates links among datasets provided by the Bureau or among data from the Bureau and other datasets with a view to identifying individuals or organizations; and

(b) by deleting the expression “one hundred thousand” and substituting therefor the expression “five hundred thousand”.

17. The principal Act is amended in section 29 by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

18. The principal Act is amended by deleting the First Schedule and substituting therefor the following new Schedule—

Amendment of section 24 of No. 4 of 2006.

Amendment of section 29 of No. 4 of 2006.

Amendment of the First Schedule to No. 4 of 2006.

FIRST SCHEDULE**(ss. 4 (2) (c), 23 (1))****MATTERS CONCERNING WHICH STATISTICAL
INFORMATION MAY BE COLLECTED, COMPILED,
ANALYSED, ABSTRACTED AND PUBLISHED**

1. Population
2. Births and deaths
3. Immigration and emigration
4. Hotels and Tourism
5. Housing
6. Real property
7. Land, topography and climate
8. Finance and Insurance
9. International Trade, and Balance of Payments
10. Capital investment
11. Savings
12. Expenditure and Consumption
13. Wholesale and retail trade, repair of motor vehicles and motorcycles
14. Manufacturing
15. Construction
16. Mining and quarrying
17. Agriculture
18. Forestry and Logging
19. Fishing
20. Producer, wholesale and retail prices of commodities
21. Employment, earnings and unemployment
22. Labour
23. Energy
24. Water and sanitation
25. Transport and Storage
27. County government

28. Community, business and personal services
29. Arts, entertainment and recreation
30. Cooperatives
31. Environment and natural resources
32. Informal sector
33. Health
34. Nutrition
35. Information and communication
36. Education and literacy
37. Governance
38. Peace and security
39. Affirmative action
40. Innovation, science and technology
41. Research and development
42. Human development indices
43. Poverty
44. Gender
45. Food security
46. Vital and other social statistics
47. Any other matter related to the above

Insertion of new
Schedule to No. 4 of
2006.

19. The Principal Act is amended by inserting the following new Schedule immediately after the Third Schedule—

FOURTH SCHEDULE**(s. 3B)****FUNDAMENTAL PRINCIPLES OF OFFICIAL STATISTICS**

- Principle 1. Official statistics provide an indispensable element in the information system of a democratic society, serving the Government, the economy and the public with data about the economic, demographic, social and environmental situation. To this end, official statistics that meet the test of practical utility should be compiled and made available on an impartial basis by the Kenya National Bureau of Statistics to honour citizens' entitlement to public information.
- Principle 2. To retain trust in official statistics, the Kenya National Bureau of Statistics shall apply strictly the professional considerations, including scientific principles and professional ethics, on the methods and procedures for the collection, processing, storage and presentation of statistical data.
- Principle 3. To facilitate a correct interpretation of the data, the Kenya National Bureau of Statistics shall present information according to scientific standards on the sources, methods and procedures of the statistics.
- Principle 4. The Kenya National Bureau of Statistics is entitled to comment on erroneous interpretation and misuse of statistics.
- Principle 5. Data for statistical purposes may be drawn from all types of sources, be they statistical surveys or administrative records. The Kenya National Bureau of Statistics shall choose the source with regard to quality, timeliness, costs and the burden on respondents.
- Principle 6. Individual data collected by the Kenya National Bureau of Statistics for statistical compilation, whether they refer to natural or legal persons, shall be strictly confidential and used exclusively for statistical purposes.
- Principle 7. The Kenya National Bureau of Statistics shall co-operate with other National statistical agencies within their countries to achieve consistency and efficiency in the National Statistical System.
- Principle 8. The Kenya National Bureau of Statistics shall apply the international concepts, classifications and methods to promote the consistency and efficiency of the National Statistical System at all official levels.