

SPECIAL ISSUE

Kenya Gazette Supplement No. 26 (National Assembly Bills No. 11)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2017

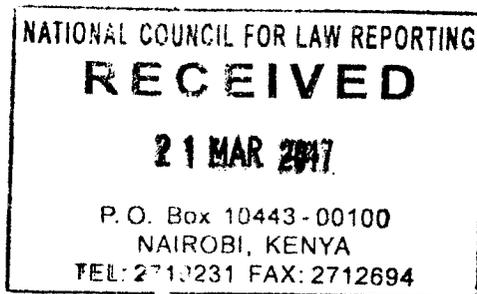
NAIROBI, 10th March, 2017

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The National Cohesion and Integration (Amendment) Bill, 2017..... 263



**THE NATIONAL COHESION AND INTEGRATION
(AMENDMENT) BILL, 2017**

A Bill for

**AN ACT of Parliament to amend the National Cohesion
and Integration Act and for connected purposes**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the National Cohesion and Integration (Amendment) Act, 2017.

Short title.

2. The National Cohesion and Integration Act, 2008, hereinafter referred to as the “principal Act” is amended by deleting section 13 and substituting therefor the following new section—

Delete and substitute section 13 of No. 12 of 2008.

Hate speech.

13. (1) A person who—

- (a) uses threatening, abusive, insulting, vilifying words or behaviour, displays any written material or disseminates any ideas based on ethnic superiority or inferiority;
- (b) uses coded language, acts or makes gestures;
- (c) publishes, posts or distributes material in the print, electronic or social media;
- (d) presents or directs the public performance of a play with gestures depicting ethnic hatred;
- (e) distributes, shows or plays a recording of visual images or provides, produces or directs a programme which—
 - (i) depicts ethnic propaganda or stereotyping; or
 - (ii) contains gestures depicting ethnic hatred; or

- (iii) is threatening, abusive, insulting or vilifies others or involves the use of threatening, abusive, insulting or vilifying words or behaviour;
- (f) wears or engages in the display of clothing, signs, flags, emblems and insignia with the intention to incite or stir up ethnic hatred or having regard to all the circumstances, ethnic hatred or social strife is likely to be stirred up, or social cohesion is likely to be disrupted, or show serious contempt for, or discrimination of or severe ridicule of, or incite acts of violence towards a person or group of persons, or towards any property of that person or group of persons, commits an offence.

(2) Any person who commits an offence under this section shall upon conviction be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

(3) In this section, “ethnic hatred” means hatred against an ethnic group.

(4) A newspaper, radio station, television station, website administrator or other media enterprise that publishes or otherwise disseminates any of the acts under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding ten million shillings.

(5) Any person convicted of an offence under this section shall not be eligible to hold any public, political or elective office for a period of five years from the date of conviction.

3. The Principal Act is amended by inserting the following new section immediately after section 18—

Insertion of new section 18A of No. 12 of 2008.

Procedure for appointment of chairperson and members.

18A. (1) Whenever there is a vacancy in the Commission the President shall, within fourteen days of the occurrence of the vacancy, by notice in the gazette declare the vacancy in the Commission and request for applications.

(2) An application under subsection (1) may be made by any qualified person and shall be forwarded to the Public Service Commission within fourteen days of the notice.

(3) The names of all applicants under subsection (2) shall be published in the Gazette and two daily newspapers with national circulation.

(4) The Public Service Commission shall within seven days of receipt of applications under subsection (3) consider the applications, interview and shortlist at least three persons qualified for appointment as chairperson and fifteen persons qualified for appointment as members of the Commission and shall forward the names of selected candidates to the President for nomination.

(5) The President shall, within twenty one days of receipt of the names forwarded under subsection (5), nominate one person for appointment as chairperson and seven persons for appointment as members of the Commission, and shall forward the names of the persons nominated to the National Assembly.

(6) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the names of the nominees under subsection (5), consider all the nominations received and may approve or reject any nomination.

(7) Where the National Assembly approves the nominees, the Speaker shall forward the names of the approved persons to the President for appointment.

(8) The President shall, within twenty one days of the receipt of the approved nominees from Parliament, by notice in the Gazette, appoint the chairperson and members approved by Parliament.

(9) Where the National Assembly rejects any nomination, the Speaker shall, within three days, communicate the decision of the National Assembly to the President to submit fresh nominations.

(10) Where a nominee is rejected by the National Assembly under subsection (9), the President shall, within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the selection panel under subsection (4).

(11) If the National Assembly rejects all or any subsequent nominee submitted by the President for approval under subsection (10), the provisions of subsections (4) and (5) shall apply.

(12) The appointments to the Commission—

- (a) shall be done in a fair, transparent and competitive manner based on merit, suitability and competence;
- (b) shall take into account the values and principles under Articles 10, 27 and 232 of the Constitution;
- (c) shall ensure that not more than two-thirds of the members are of the same gender;
- (d) shall observe the principle of regional and ethnic balance and shall have regard to the principle of fair representation for persons with disabilities.