

SPECIAL ISSUE

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REPUBLIC OF KENYA

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NATIONAL ASSEMBLY BILLS, 2022

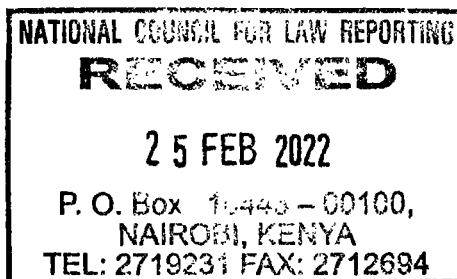
NAIROBI, 21st January, 2022

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THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL, 2022

A Bill for

AN ACT of Parliament to amend the National Cohesion and Integration Act, 2008 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, 2022.

Short title.

2. Section 2 of the National Cohesion and Integration Act, 2008¹ (in this Act referred to as “the principal Act”) is amended—

Amendment of
section 2 of No 12
of 2008.

- (a) in the definition of “Commission” by deleting the word “by” and substituting therefor the word “under”;
- (b) in the definition of “ethnic group” by inserting the words “ancestry, social or cultural experience, language or dialect” immediately after the words “or national origins”;
- (c) in the definition of “ethnic relations” by inserting the word “social” immediately after the word “tribal”;
- (d) by deleting the definition of “Minister”;
- (e) by inserting the following new definitions in proper alphabetical sequence —

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to cohesion, integration, peace-building and conflict management;

“public officer” has the meaning assigned to it under Article 260 of the Constitution; and

“Public Service Commission” means the Public Service Commission established under Article 233 of the Constitution.

3. Section 3 of the Principal Act is amended—

Amendment of
section 3 of No 12
of 2008.

- (a) in subsection (1)—

- (i) by inserting the words “directly or indirectly” immediately after the word “person” in the opening statement;
- (ii) by inserting the words “or she” immediately after the word “he” wherever it appears in paragraph (a);
- (iii) by inserting the words “or she” immediately after the word “he” wherever it appears in paragraph (b);
- (b) in subsection (2) by deleting the word “he” wherever it appears and substituting therefor the words “the person”.

4. Section 4 of the Principal Act is amended by deleting the opening statement and substituting therefor the following new opening statement—

Amendment of
section 4 of No. 12
of 2008.

“A person discriminates against another person by way of victimization in any circumstances relevant for the purposes of this Act if the person treats the person victimized less favourably than he or she treats or would treat other persons, and does so by reason that the person victimized has—”

5. Section 6 of the Principal Act is amended in subsection (1) by—

Amendment of
section 6 of No. 12
of 2008.

- (a) deleting the word “he” appearing immediately after the word “grounds” in the opening statement and substituting with the words “the person”;
- (b) deleting the word “him” appearing immediately after the words “environment for” in paragraph (b) and substituting therefor the words “that other person”.

6. Section 7 of the Principal Act is amended —

Amendment of
section 7 of No. 12
of 2008

- (a) in subsection (1) by inserting the words “and shall afford adequate and equal opportunities for appointment, training and advancement at all levels of public service to members of all ethnic groups” immediately after the word “staff”;
- (b) by deleting subsection (3) and substituting therefor the following new subsection—

“(3) An employer or potential employer or his or her representatives or assigns, in relation to employment at an establishment, shall not discriminate against another person—

- (a) in the arrangements made for the purpose of determining who should be offered that employment;
 - (b) in the terms he or she offers the employment; or
 - (c) by refusing or deliberately omitting to offer that other person employment.”
- (c) by deleting subsection (4) and substituting therefor the following new subsection—

“(4) An employer shall not discriminate against his or her employee—

- (a) in the terms of employment afforded to the employee;
 - (b) in the way he or she affords the employee access to opportunities for promotion, transfer or training or to any other benefits, facilities or services, or by refusing or deliberately omitting to afford the employee access to them; or
 - (c) by dismissing the employee, or subjecting the employee to any other detriment.”
- (d) by deleting subsection (5) and substituting therefor the following new subsection—

“(5) An employer, his or her representatives or assigns shall not subject to harassment a person whom he or she employs or who has applied to him or her for employment.”

- (e) by deleting subsection (6).

7. Section 9 of the Principal Act is amended —

- (a) by deleting the word “of” appearing in the marginal note;
- (b) by deleting subsection (1) and substituting therefor the following new subsection—

Amendment of
section 9 of No. 12
of 2008.

“(1) An official, member, employee, assign or representative of a registered organisation shall not discriminate against a person who is not a member of the organisation—

- (a) in the terms in which it is prepared to admit the person to membership; or
- (b) by refusing or deliberately omitting to accept the person’s application for membership.
- (c) by deleting subsection (2) and substituting therefor the following new subsection—

(2) A membership organization shall not discriminate against a person who is a member of the organization on grounds of—

- (a) ethnicity; or
- (b) in the way it affords the member access to any benefits, facilities or services, or by refusing or deliberately omitting to afford the member access to them; or
- (c) by depriving the member of membership, or varying the terms on which he or she is a member; or
- (d) by subjecting the member to any other detriment.
- (d) by deleting subsection (3) and substituting therefor with the following new subsection—

“(3) It is unlawful for a membership organisation to subject to harassment a person who is a member of the organisation or a person applying to be a member of the organisation on the ground of ethnicity”.

- (e) by inserting the following new subsection immediately after subsection (4)—

“(4A) Any person who contravenes this section commits an offence and shall be liable, upon conviction, to a fine not exceeding one million shillings or to a term of imprisonment not exceeding one year, or to both”.