

THE SOCIAL PROTECTION BILL, 2024

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THE SOCIAL PROTECTION BILL, 2024

A Bill for

An Act of Parliament to give effect to Article 43 of the Constitution; to address existing gaps in the social protection sector; to provide a comprehensive framework for social protection; to make provision for and regulate the administration of social assistance; to establish the National Board for Social Protection; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART 1— PRELIMINARY

Short title

1. This Act may be cited as the Social Protection Act, 2024.

Interpretation.

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

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

“cash transfer” means regular and predictable of money provided by government or non-government organizations to individuals, families or households;

No. 29 of 2022.

“child” has the meaning assigned to it under section 2 of the Children Act, 2022;

“community-based targeting” means a State policy of contracting with community agents to identify recipients for cash or social protection benefits as well as monitor and deliver these benefits;

“complementary programmes” include interventions that promote livelihoods, foster labour and socio-economic inclusion, build resilience including adaptation and resilience to climate change, facilitate access to social services such as social protection, nutrition, education and training, social care services, coaching and mentorship and strengthen social welfare structures, and the capacity of social workers to promote people’s solidarity and community strengthening;

“complementary programmes” include interventions that promote livelihoods, socio-economic inclusion, and resilience while facilitating access to social services, with an expanded focus on adaptation and resilience to climate change;

“existing beneficiary” means a person or household that is benefitting from a social protection intervention;

“fair labour market interventions” means practices that uphold the dignity of workers, provide them with a liveable wage and protect their rights;

“financial assistance” includes social protection interventions provided as—

- (a) payment for food, shelter, clothing, fuel, utilities, household supplies and personal requirements;
- (b) payment for special needs of the kind prescribed by regulations;
- (c) payment for care in residential institutions;
- (d) payment for travel and transportation expenses;
- (e) payment for health insurance subsidies for medical care and/or insurance;
- (f) payment for funeral and burial expenses;
- (g) comfort allowances and allowances for other needs of residents of residential institutions;
- (h) payment for any other social protection services; or
- (i) production assets for income-generating activities;

“gender-responsive social protection” means introducing social protection interventions that enhance gender equality;”

“income security” means a combination of contributory and non-contributory social protection programmes to cushion all citizens against risks and contingencies they face throughout their life cycle;

“life cycle approach” means disaggregation of needs based on stages of life, acknowledging that sources of vulnerability vary for children, working-age adults, and older persons.

“older member of society” means a person who has attained the age of sixty years ;

“orphans and vulnerable children” means children under the age of seventeen with at least one deceased parent or a parent who is chronically ill, or whose main caregiver is chronically ill;

“persons with disabilities” include those who have long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder their full and effective participation in society on an equal basis with others;

“persons with severe disabilities” means persons with disabilities with high support needs;

“potential beneficiary” means a person, whether ascertained or not, who is not a beneficiary but may become a beneficiary at a future date or on the happening of a future event and whose data is entered in the Registry ;

“poverty” means a condition where a person is deprived of basic means to survive; multidimensional in nature and defined as level of income or consumption;

“poverty targeting” means a targeting mechanism that aims to identify people living in poverty;

“Registry” means the Single Registry for Social Protection established under section 44;

“right-based approach” means anchoring social protection measures, plans, policies and programmes in a system of rights and corresponding obligations established by international laws and national laws
consider:

“right-based approach” means the implementation of social protection measures predicated upon the following principles:

- (a) participation;
- (b) accountability;
- (c) non-discrimination and equality
- (d) empowerment; and
- (e) legality;

“Secretariat” means the National Social Protection Secretariat established under section 28;

“shock-responsive social protection” means social protection programmes and administrative capacity to provide social assistance to the population affected by a crisis;

“shock” means a slow or rapid onset, high-impact ecological, economic or social disturbance to a system; expand to include slow onset disturbance such as drought

“social assistance” means a protective function, mainly covering non-contributory transfer programmes aimed at preventing the poor or those vulnerable to shocks from falling into deeper poverty situations;

“social care services” means services that are provided to the most vulnerable members of society to protect them, usually based on a social work system; €

“socio-economic inclusion” means equal access opportunities and participation in economic and social life for all members of the society aiming to reduce disparity and create a more equitable and cohesive community;

“social health protection” means interventions that protect citizens against health risks and burdens throughout their life cycle, insuring all citizens against health hazards and preventing unexpected out-of-pocket health expenditures that may threaten their income security;

“social protection” means a set of policies, programmes, interventions, and legislative measures aimed at cushioning persons in Kenya against poverty, vulnerability, exclusion, risks, contingencies, and shocks throughout their life cycle and promoting the realisation of economic and social rights;

“social services” means services aimed at lessening, removing or preventing the effects of poverty and vulnerability;

“targeting” means the process of identifying and selecting specific individuals or groups eligible to receive social protection benefits based on predetermined criteria, such as socio-economic status, age, disability and health conditions.

“vulnerability” means the likelihood of suffering from current and future deteriorations in standard of living, which may result in socially unacceptable outcomes such as the state of poverty or inability to meet basic needs;

“vulnerable group” means a group of persons who face a higher likelihood of experiencing adverse impacts from external stresses, shocks or risks, and as a result, shall require protective measures to ensure their well-being;

“vulnerable person” means a person who needs special care, support or protection, including the orphaned and vulnerable children, widows or widowers, persons with disabilities, older members of society or at risk of abuse or neglect and who has been identified as such by the relevant government body; and

“youth” means a person who has attained the age of eighteen but has not attained the age of thirty-five.

Objects.

- 3.** The objects of this Act are to—
- (a) give effect to Articles 21, 43, 53, 54, 55, 56 and 57 of the Constitution;
 - (b) give effect to the State’s obligation under international laws in respect of the rights guaranteed under Article 43 of the Constitution;
 - (c) provide mechanisms for effective coordination of actors in social protection sector at the national and county levels;
 - (d) provide an institutional framework for the provision of social protection in the country.

Guiding principles.

- 4.** The guiding principles under this Act are—
- (a) equity, social justice, inclusiveness;
 - (b) integrity, transparency and accountability;
 - (c) promotion of a rights-based approach to interventions for social protection;
 - (d) gender responsive social protection;
 - (e) universal social protection;
 - (f) adequacy, availability, accessibility, timeliness, predictability, portability, affordability and sustainability of social protection interventions;
 - (g) collaboration between the National Government and the relevant stakeholders, including county governments;
 - (h) adopt and scale up evidence-informed interventions ;
 - (i) promotion of a life-cycle approach to social protection; and
 - (j) promotion of diversity, adaptability, flexibility and shock responsiveness.

PART II — SOCIAL PROTECTION

Entitlement to social protection.

- 5.** (1) Every person in Kenya is entitled to social protection.
- (2) Social protection shall include -
- (a) income security;

- (b) social assistance;
- (c) social health protection;
- (d) shock-responsiveness;
- (e) necessary complementary programmes;
- (f) fair labour market interventions; and
- (g) any other measure or intervention that the Cabinet Secretary may prescribe by Regulations.

Eligibility for Social Protection.

- 6.** A person is eligible for appropriate social protection under this Act, if the person—
- (a) is in Kenya or is a Kenyan citizen;
 - (b) applies for social protection;
 - (c) complies with any requirement prescribed in this Act; or
 - (d) complies with any additional requirements or conditions prescribed by the Cabinet Secretary in Regulations;

Rights and obligations of beneficiaries.

- 7.** (1) Existing and potential beneficiaries of social protection shall have the right to –
- (a) information on available interventions and the eligibility criteria;
 - (b) provide informed consent for the collection of their personal data;
 - (c) be treated with dignity and non-discrimination;
 - (d) be enrolled in the Register;
 - (e) accessible, available and timely social protection services;
 - (f) participate and contribute to a social protection programme;
 - (g) adequate social protection interventions; and
 - (h) have their complaints and grievances addressed expeditiously.
- (2) Existing and potential beneficiaries of social protection, caregivers or, in the case of children, their parents or guardians, shall have a duty to –
- (a) provide accurate information to the Board or any other relevant actor;
 - (b) act in good faith and use any social protection benefits extended to them responsibly;
 - (c) promptly notify the Board of any changes in their circumstances that may affect their eligibility or registration;
 - (d) cooperate with the Board or any other relevant actor;
 - (e) participate and contribute to social protection programmes; and
 - (f) comply with any conditions that may be imposed in relation to their benefits or registration status.

Provision of
income Security.

8. (1) For the provision of income security under section 5(2) (a), the National Government, in collaboration with relevant State and non-state actors, shall-

No. 45 of 2013

- (a) support the effective implementation of the National Social Security Fund Act, 2013;
- (b) establish regulatory and supervisory standards for social security;
- (c) put in place measures to promote good governance and accountability in both contributory and non-contributory social security schemes;
- (d) introduce social security benefits for persons whose income streams are interrupted by work injury, sickness, injury, maternity, and unemployment;
- (e) adopt innovative management mechanisms for social security contributions and benefits;
- (f) facilitate and enhance the portability of social security protection benefits; and
- (g) support the development and implementation of mechanisms to extend social security insurance for migrant Kenyan workers; and
- (h) put in place any other measures and introduce any interventions and programmes for the provision of social security during the life cycle of persons entitled to social security.

Provision of social
assistance.

9. For the provision of social assistance under section 5(2)(b), the National Government, in collaboration with relevant State and non-state actors, shall-

- (a) enhance and utilize gender and age disaggregated integrated systems including the Single Registry to inform the expansion of provision of Social Assistance interventions;
- (b) coordinate the design and implementation of programs and development approaches within social assistance;
- (c) strengthen and scale up existing social assistance and social care services while widening their geographical and demographic coverage;
- (d) conduct periodic reviews of instruments and strategies to reach the poor based on standards agreed upon by stakeholders;
- (e) apply evidence-based research to inform implementation of social assistance interventions;
- (f) determine the appropriate graduation and exit strategies for the different interventions; and
- (g) develop standards for use by stakeholders to assess the appropriateness of graduation and exit strategies.

Provision of social health protection.

No. 16 of 2023.

10. For the provision of social health protection under section 5(2)(c), the National Government, in collaboration with relevant State and non-state actors, shall-

- (a) support the implementation of universal health care pursuant to the National Social Health Insurance Act;
- (b) expand health insurance coverage and health service provision to poor and vulnerable groups, informal and rural workers;
- (c) develop strategies to ensure increased coverage among formal sector workers;
- (d) develop measures to strengthen the response to healthcare crises and future pandemics;
- (e) support the development of a mechanism to facilitate a post-retirement medical insurance scheme for employees;
- (f) facilitate and enhance the portability of social health protection benefits;
- (g) support the development and implementation of mechanisms to extend social health insurance for migrant Kenyan workers;
- (h) introduce a maternity benefit to cushion mothers from maternity- or pregnancy-related income loss, with a particular focus on informal economy workers;
- (i) enhance and utilize gender and age disaggregated integrated systems including the Single Registry to inform the support of provision of Social Health Protection interventions; and put in place any other measures and introduce any interventions and programme for the provision of social health protection.

Provision of Shock Responsive Social Protection.

No.4 of 2016

11. For the provision of shock-responsive social protection under section 5(2) (d), the National Government, in collaboration with relevant State and non state actors, shall-

- (a) improve emergency preparedness by strengthening relevant trigger systems and early warning early action mechanisms to inform appropriate responses to shocks pursuant to the National Drought Management Authority Act, 2016 ;
- (b) enhance and utilize gender and age disaggregated integrated systems including the Single Registry to inform the expansion of shock-responsive interventions;
- (c) strengthen linkages between emergency response mechanisms and interventions that enhance resilience and adaptive capacity at all levels in collaboration with the National Disaster Risk Management Authority;

- (d) strengthen policy and legal frameworks for gender transformative shock-responsive social protection, including humanitarian response, within the available social protection mechanisms in the country;
- (e) promote disaster risk financing;
- (f) strengthen coordination, collaboration and networking with humanitarian agencies and other relevant stakeholders in the provision of humanitarian support and implementation of inclusive shock-responsive social protection interventions; and
- (g) put in place any other measures and introduce any interventions and programmes for the provision of income security during the life cycle of persons entitled to shock responsive social protection.

Fair labour market interventions.

12. , The National Government, in collaboration with relevant State and non-state actors, shall develop and implement fair labour market interventions by -

- (a) implementing social protection interventions that enhance industrial peace;
- (b) promoting tripartite engagements to oversee and assess the effectiveness of social protection interventions;
- (c) implementing fair labour practices that prioritize the well-being and rights of employee;
- (d) ensuring that interventions are designed to facilitate decent work conditions in both formal and informal sectors; and
- (e) regularly report on the progress and outcomes of social protection interventions undertaken to promote industrial peace and fair labour practices.

Complementary Programmes.

13. The National Government shall, in collaboration with State and non-state actors, integrate relevant complementary programmes in the provision of social protection that-

- (a) promote opportunities for the improvement of livelihoods and employment and enhance social and economic inclusion of beneficiaries;
- (b) promote social protection interventions that lead to improvements in enrolment, attendance, retention, and completion of school in line with the Basic Education Act, 2013;
- (c) promote programmes that support smallholder farmers and other vulnerable groups;
- (d) promote the integration of nutrition and health care interventions within social protection programmes in line with the Health Act 2017;
- (e) promote social protection initiatives that support adaptation and

No 14 of 2013

No 21 of 2017

- No. 29 of 2022.
- resilience to shocks in consultation with the National Drought Management Authority;
- (f) promote programmes that support availability of social care services such as childcare facilities for women in formal and informal sectors in line with the Children Act, 2022;
 - (g) promote intergovernmental coordination of complementary programmes and services ;
 - (h) establish a coherent and comprehensive framework for social workers; and
 - (i) put in place any other complementary programmes for effective social protection.

Role of State and non-state actors.

- 14.** In the provision of social protection, State and non-State actors shall-
- (a) align their policies, programmes and interventions with the standards that may be determined under this Act;
 - (b) enhance and utilize gender and age disaggregated integrated systems including the Single Registry to inform the expansion of social protection interventions;
 - (c) facilitate the Single Registry by making their registries interoperable to enable the tracking of beneficiaries' coverage and needs across interventions;
 - (d) coordinate with existing agencies to avoid duplication of interventions;
 - (e) in collaboration with the Board, undertake periodic targeting of potential beneficiaries and identification of beneficiaries not sufficiently covered by existing social protection interventions;
 - (f) participate in sensitization of the public on the role of various stakeholders; and
 - (g) comply with any policies or guidelines that may be prescribed by the Cabinet Secretary in the implementation of this Act.

Role of county governments.

- 15.** In the discharge of the functions specified in Part II of the Fourth Schedule to the Constitution relating to social protection, a county government shall—
- (a) formulate and implement county-specific policies, legislation and strategies for social protection;
 - (b) be guided by the principles under section 4;
 - (c) allocate resources for social protection interventions at the county level;
 - (d) collaborate with the National Government in the provision of social protection interventions;
 - (e) comply with the norms and standards for social protection prescribed under this Act or regulations;

- No. 17 of 2012.
- (f) establish such frameworks as may be necessary for the provision of effective social protection;
 - (g) develop an interoperable county registry for social protection;
 - (h) participate in and support the intergovernmental framework under section 31; and
 - (i) develop civic education and civic participation strategies on social protection in line with the County Governments Act, 2012.

Civic education on social protection.

- 16. (1)** State and non-state actors shall develop strategies for civic education to -
- (a) enhance awareness on social protection at all levels;
 - (b) enhance effective communication on preparedness and responsiveness during emergencies;
 - (c) promote accountability and transparency mechanisms within social protection programmes;
 - (d) promote the use of the knowledge management platform for social protection; and
 - (e) guide the exchange of information among stakeholders.

PART III – GOVERNANCE FRAMEWORK

Establishment of the National Board for Social Protection.

- 17. (1)** There is established a National Board for Social Protection, which shall be a body corporate with perpetual succession and a common seal.

(2) The Board shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) entering into contracts;
- (d) receiving grants and gifts in support of social protection interventions; and
- (e) doing or performing all such 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.

Functions of the Board

18. The functions of the Board shall be to—

- (a) provide strategic direction in the implementation of social protection interventions;
- (b) advise the Cabinet Secretary on social protection policies;
- (c) identify and provide social assistance to persons in need of social assistance;
- (d) develop guidelines for implementation, monitoring and evaluation of social assistance programmes;

- (e) continuously review the status and progress of social protection interventions, including social assistance and make recommendations to the Cabinet Secretary on areas of priority;
- (f) in collaboration with relevant social protection agencies, facilitate data sharing and interoperability among different social protection information systems;
- (g) set standards and protocols for data exchange to ensure compatibility across different systems;
- (h) in collaboration with the county committees for social protection, facilitate the integration of monitoring and information systems for all the social protection programmes at the National and county levels;
- (i) enhance collaboration in the implementation of social protection interventions among government departments, agencies and other persons or institutions at the national and county levels;
- (j) promote public-private partnerships for social protection;
- (k) oversee the establishment and maintenance of the Single Register for Social Protection;
- (l) develop civic education strategies to create public awareness for social protection;
- (m) approve the design of social protection interventions;
- (n) promote a community of practice for social protection as a knowledge-sharing platform;
- (o) undertake indexation of social protection benefits;
- (p) receive reports from State and non-state actors regarding the implementation of social protection interventions;
- (q) undertake resource mobilisation for purposes of this Act; and
- (r) perform such other functions for the better implementation of this Act or any other written law.

Powers of the Board.

19. The Board shall have the power to do or perform all such things or acts necessary for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate

Delegation of powers.

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

Composition of the Board

21. (1) The Board shall consists of—

- (a) a Chairperson appointed by the President;

- (b) the Principal Secretary in the Ministry responsible for matters relating to social protection or their designated representative;
- (c) the Principal Secretary, in the Ministry responsible for matters relating to finance or their designated representative;
- (d) the Principal Secretary, in the Ministry responsible for matters relating to labour or their designated representative;
- (e) the Principal Secretary, in the Ministry responsible for matters relating to health or their designated representative;
- (f) one person nominated by the Council of County Governors;
- (g) one representative of the National Drought Management Authority;
- (h) five persons, not being public officers appointed by the Cabinet Secretary as follows-
 - (i) one representative of the civil society organisations in matters related to social protection;
 - (ii) one representative of faith-based organisations;
 - (iii) one person representing workers nominated by the most representative workers organization;
 - (iv) one person nominated by the National Council for Persons With Disabilities; and
 - (v) one representative of the private sector.

(2) A person shall be qualified for appointment as the Chairperson if the person—

- (a) is a citizen of Kenya;
- (b) possesses a postgraduate degree from a recognised university;
- (c) has at least fifteen years of experience in social protection or social security;
- (d) has at least ten years of experience in a managerial position either in the public or private sector;
- (e) meets the requirements of Chapter Six of the Constitution; and
- (f) is not serving in the public service.

(3) A person shall be qualified for appointment as a member of the Board appointed under subsection (1) (h) if the person —

- (a) is a citizen of Kenya;
- (b) possesses a degree from a recognised university;
- (c) has at least ten years experience in social protection or social security;
- (d) meets the requirements of Chapter Six of the Constitution; and
- (e) is not serving in the public service.

- (4) In appointing members of the Board, the Cabinet Secretary shall—
- (a) have regard to ethnic and regional diversity of the people of Kenya;
 - (b) ensure that not more than two-thirds of the members of the Board are of the same gender; and
 - (c) take into account the national values and principles of governance set out in Article 10 of the Constitution.
 - (d) Stagger the period of appointment to ensure continuity of membership and corporate knowledge of the Board.

(5) The Chairperson and the members of the Board appointed under subsection (1)(h) shall be appointed for a term of three years and shall be eligible for reappointment for one further term.

- (6) The office of the Chairperson or a member of the Board shall become vacant if the holder—
- (a) dies;
 - (b) resigns from office by notice in writing addressed to the appointing authority; or
 - (c) is removed from office under any of the circumstances specified in Chapter Six of the Constitution.

Board may co-opt. **22.** (1) The Board may co-opt or invite to its meeting any person with expert knowledge and experience whose assistance or advice it may require, for a specified period.

(2) A person co-opted by the Board shall not vote at any meeting of the Board or be counted as a member thereof for purposes of forming a quorum.

Committees of the Board. **23.** The Board may establish such committees as it may consider necessary for the effective discharge of its functions.

Conduct of business and affairs of the Board. **24.** (1) The Board shall conduct its affairs in accordance with the provisions of the Schedule.

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

Remuneration of members of the Board.

25. The Chairperson and members of the Board shall be paid such remuneration fees, allowances and other reimbursements as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Chief Executive Officer of the Board.

26. (1) There shall be a Chief Executive Officer of the Board who shall be competitively recruited through an open, transparent and competitive recruitment process.

(2) The Chief Executive Officer shall be—

- (a) the secretary to the Board;
- (b) the head of the secretariat ;
- (c) the accounting officer of the Board;
- (d) the custodian of all records of the Board; and
- (e) responsible for the performance of such other duties as may be assigned by the Board under this Act or any other written law.

(3) A person shall be qualified for appointment as Chief Executive Officer under subsection (1) if the person -

- (a) is a citizen of Kenya;
- (b) holds a post graduate degree in a relevant field from a university recognised in Kenya;
- (c) has knowledge and at least ten years of experience in the social protection sector;
- (d) has at least ten years experience in a leadership position at the senior management level in either the private sector or public sector; and
- (e) meets the requirements of Chapter 6 of the Constitution.

(4) The Chief Executive Officer shall hold office for a term of three years which may be renewed for one further term of three years.

(6) The Chief Executive Officer shall be responsible to the Board in the performance of their functions and duties.

(7) The Chief Executive Officer shall be an officer of the public service and shall be subject to the rules and regulations of the public service.

(8) The Chief Executive Officer may be removed from office in accordance with the terms and conditions of service, for—

- (a) gross misconduct or misbehavior;

- (b) incompetence or neglect of duty; or
- (c) gross violation of chapter six of the Constitution.

(9) Before the Chief Executive Officer is removed under subsection (1), the Chief Executive Officer shall be informed of the case against him or her in writing and shall be given reasonable time to defend himself or herself against any of the grounds cited for the intended removal.

Common seal of the Board.

27. (1) The seal of the Board shall be such device as may be determined by the Board and shall be kept in the custody of the Chief Executive Officer, and shall not be used except on the order of the Board.

(2) The affixing of the seal shall be authenticated by the chairperson and the Chief Executive Officer or any other person authorized in that behalf by a written resolution of the Board.

(3) The common seal of the Board, when affixed to a document and duly authenticated, shall be judicially and officially noticed and, unless the contrary is proved, any necessary order or authorization of the Board under this section shall be presumed to have been duly given.

Establishment of The National Social Protection Secretariat.

28. (1) There is established a secretariat to the Board to be known as the National Social Protection Secretariat.

(2) The Secretariat shall, under the Chief Executive Officer, be responsible for implementing the decisions of the Board

(3) The Board shall adhere to the requirements of Article 232 of the Constitution in the appointment of its staff.

(4) A public officer seconded to the Board shall, during the period of secondment, be deemed to be an officer of the Board, and shall be subject only to the direction and control of the Board.

Establishment of Directorates.

29. The Board shall establish such Directorates as may be necessary for the effective discharge of its functions under this Act.

Multi-Agency Committees.

30. (1) The Cabinet Secretary shall establish Multi-Agency committees at the National, County and Sub County levels.

(2) The Cabinet Secretary shall prescribe regulations and guidelines for the conduct of business of the committees.

Intergovernmental framework.

31. The Cabinet Secretary shall, in consultation with the Council of Governors and the Committee-

- (a) develop an intergovernmental framework for social protection;
- (b) develop a sectoral framework for social protection;; and
- (c) appoint such intergovernmental teams as may be necessary for coordination and efficiency in the delivery of social protection at the national and county levels.

PART IV – ELIGIBILITY AND APPLICATION FOR SOCIAL ASSISTANCE

Eligibility for social assistance

- 32.** (1) A person is eligible for appropriate social assistance under this Act, if the person—
- (a) is in Kenya or is a Kenyan citizen;
 - (b) falls within the categories of potential beneficiaries prescribed under clause 33;
 - (c) applies for social protection or is identified by the Board as a potential beneficiary under the Single Registry;
 - (d) complies with any requirement prescribed in this Act; and
 - (e) complies with any additional requirements or conditions prescribed by the Cabinet Secretary in regulations.

Potential beneficiaries.

- 33.** (1) For the purposes of this Act, potential beneficiaries shall include—
- (a) community, household and persons or individuals who are vulnerable to poverty, shocks, risks and contingencies; and
 - (b) any other vulnerable person or category of persons as may be recommended by the Board to the Cabinet Secretary and published by way of a notice in the *Gazette*.
- (2) The Cabinet Secretary shall, by regulations, prescribe -
- (a) the criteria for classifying potential beneficiaries under the categories set out under subsection (1);
 - (b) targeting criterion for the purposes of provision of social assistance;
 - (c) protocols and methodologies for targeting beneficiaries, including community-based targeting and poverty targeting;
 - (d) protocols and methodologies for the graduation of beneficiaries of social assistance to self-sufficiency;
 - (e) exit criteria for social protection interventions;
 - (f) forms, procedures and processes for applications and payments; and
 - (g) measures to prevent fraud and abuse.

Application for social assistance

- 34.** (1) A potential beneficiary or their representatives may apply to the Board for social assistance.

- (2) Where an application is made under subsection (1), the Board may—
 - (a) conduct an assessment to verify that the person is eligible;
 - (b) request additional information; or
 - (c) refer the applicant to the appropriate State and non-state actors.
- (3) If the applicant—
 - (a) qualifies for social assistance as provided for under this Act, the relevant actors shall render the appropriate social protection interventions;
 - (b) does not qualify for social assistance under this Act, the relevant actor shall, in writing, inform the applicant—
 - (i) that the applicant does not qualify for social protection;
 - (ii) of the reasons why the applicant does not qualify; and
 - (iii) of the applicant’s right of appeal under section 37.
- (4) The relevant actor shall convey its decision to the applicant within one month of the application.

Suspension or
cancellation of
social assistance.

- 35.** (1) The Board or relevant actor may suspend the provision of social assistance if it establishes that the social assistance has been —
- (a) obtained through misrepresentation, deceit, fraud or failure to disclose any material information;
 - (b) in excess of amounts permitted by the relevant guidelines and Regulations; and
 - (c) approved and granted in error.

(2) A person who knowingly furnishes untrue or misleading information in a material aspect in order to receive social assistance commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding three months or both

Termination of
social assistance.

- 36.** (1) The Board may terminate the provision of social assistance to or on behalf of a person based on specific social assistance interventions exit criteria.

(2) The Board may reinstate the provision of social assistance terminated under subsection (1) where the Board is satisfied that the reasons advanced by the applicant justify the reinstatement.

Appeals.

- 37.** (1) A person aggrieved by a decision of the Board may appeal to the Board within fourteen days from the date of the decision.

(2) In any appeal, the Board may uphold, annul or vary the decision as necessary.

(3) The Cabinet Secretary shall, through regulations, prescribe appeal procedures that are appropriate, efficient, accessible and cost-effective.

(4) For purposes of considering appeals under this section, the Board may establish an appeals committee comprising not more than five of its Members.

Refund of money paid.

38. (1) Where money is paid erroneously to a person who is not entitled under this Act, the amount of money so paid shall be refunded by the person or, if the person is deceased, by the person's estate.

(2) The Board shall recover the amounts to which a person was not entitled, as provided for under subsection (1), in accordance with this Act or any other law.

(3) The Board shall remit an amount owing by a person in terms of subsection (1) if the person satisfies the Board that the person received the amount without knowing that they were not entitled to receive the payment.

(4) Any person who, with the intention of defrauding the fund conspires or aids, abets any person to commit any offence under this Act, or uses his position to improperly enrich himself or others commits an offence under this Act and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment not exceeding five years or both, and any money or property or reward obtained fraudulently shall be forfeited to the Fund.

Lapsing of social assistance.

39. Social assistance benefits extended to a person shall lapse when –

- (a) a beneficiary dies; or
- (b) the Board determines that a beneficiary is no longer in need of the social protection.

Review of social assistance

40. The Board shall review a person's entitlement to social assistance when it has reason to believe that a change in the beneficiaries' circumstances may have occurred.

Preservation of applicant's confidential information.

41. A person may not divulge any information furnished by an applicant in respect of an application except—

- (a) to a person who requires it in order to perform a function in terms of this Act;
- (b) when required to do so by law or by an order of court; or
- (c) with the consent of the applicant.

Abuse of social assistance.

42. (1) Where, in the opinion of the Board, a beneficiary abuses their social assistance benefits, the Board may—

- (a) suspend the provision of social protection benefits for a reasonable period pending determination of the matter; or
- (b) appoint a person to receive the financial assistance on behalf of the beneficiary and to apply it, subject to any conditions that the board may determine, for the benefit of the beneficiary.

(2) For the purposes of this Act, “abuse of social assistance” means the use of social assistance in a way that negates the intended objects and purpose.

Maintaining the Real Value of Social Protection Benefits.

43. (1) The social protection benefits shall be safeguarded against devaluation resulting from inflation and economic downturn through the implementation of an indexation mechanism, as determined by regulations, possessing the following attributes-

- (a) adjustment mechanism that automatically ensures predictability and limits discretion;
- (b) reflect the consumption patterns of intended program recipients to ensure the index reflects the true cost of living changes experienced by social protection programs beneficiaries;
- (c) under normal economic conditions, the transfer amounts shall be reviewed periodically, at least annually or biannually, to accommodate changes in real value; and
- (d) in case of deflation, the transfer values shall not be reviewed.

(2) If inflation rises, the Board shall enhance the social protection benefits more frequently to maintain the purchasing power, and the following inflation-adaptive rule shall be followed:

- (a) In the case of inflation below 5%, the Board shall enhance the benefits annually;
- (b) In the case of inflation ranging between 5% and 15%, the Board shall enhance the benefits semi-annually;
- (c) In the case of inflation between 15% and 50%, the Board shall enhance the benefits quarterly; and
- (d) In the case of hyperinflation exceeding 50%, the Board shall enhance the benefits monthly.

PART V – SINGLE REGISTRY FOR SOCIAL PROTECTION

Single Registry for Social Protection.

44. (1) There is established a Single Registry for Social Protection which shall be the singular database for use in social protection interventions.

(2) The objectives of the Registry shall be to-

- (a) maintain an inventory for use by all state and non-state Social Protection interventions in the country;
- (b) provide a framework for secure and confidential sharing of information for all the relevant stakeholders;
- (c) facilitate coordination of social protection interventions at the national and county levels of government;
- (d) provide oversight mechanisms of social protection interventions;
- (e) enable verification of beneficiary details electronically against relevant registries;
- (f) support shock-responsive social protection interventions;
- (g) facilitate linkage and referral mechanisms for complementary interventions and services;
- (h) identify potential areas for social protection and facilitate evidence generation for policy-making processes and implementation; and
- (i) strengthen reporting, monitoring and evaluation of social protection interventions and knowledge management by all state and non-state actors.

Content of the Register.

45. (1) The Register shall include -

- (a) gender disaggregated data on existing and potential beneficiaries by intervention
- (b) types and levels of benefits in each intervention;
- (c) a disaggregated data on potential beneficiaries of social protection;
- (d) data on State and non-state actors in the field of social protection; and
- (e) any other relevant statistics or information relating to the matters provided for in this section.

(2) The Register shall provide the following particulars —

(a) in respect of every existing or potential beneficiary—

- (i) identification details, including identification number, name, date of birth, sex, birth certificate number and any other relevant identification number;

- (ii) contact information;
- (iii) geographical location of the person;
- (iv) the eligibility status of the person;
- (v) relevant socio-economic data of the person;
- (vi) next of kin or care giver
- (vii) household demographics and
- (viii) any other information relating to social protection that the Cabinet Secretary may prescribe.

- (b) in respect of every State and non-State actor in social protection—
 - (i) name, address, and particulars of their registration;
 - (ii) area of operation; and
 - (iii) type of service offered.

(2) If the information submitted by an applicant change, the applicant shall inform the Secretariat of the change within seven days and the board shall update the Register accordingly.

Access to
information.

46. (1) Subject to Article 35 of the Constitution, the board shall publish and publicise in accessible format any important information within its mandate affecting the nation.

(2) The Chief Executive Officer may, at the request of any person and upon payment of such fee as may be prescribed, provide that person or actor with any information including information in the Register or a report.

(3) The Chief Executive Officer shall allow a request under subsection (2) when satisfied that the person seeking access shall not disclose information obtained from the Register to the detriment of a registered beneficiary and service provider.

(4) A person requesting the information under subsection (2) shall undertake in writing to the satisfaction of the Chief Executive Officer –

- (a) to use the information only for intended purposes;
- (b) not to release the information to any other person except with the prior written consent of the Secretary.
- (c) provide comprehensive feedback as may requested by the Chief Executive Officer.

Collection,
maintenance and
updating of data.

47. (1) The Board shall keep, maintain, and regularly update the Register.

(2) For purposes of developing, maintaining and updating the Register, the Board shall collect and receive information on—

- (a) existing beneficiaries;
- (b) potential beneficiaries; and
- (c) State and non-State actors in the social protection sector.

(3) A person required to provide information under subsection (1) shall, upon providing informed consent, complete such forms, answer such questions and give such information in such manner as may be prescribed or specified by the Board.

(4) Any person having the custody of, or being in charge of, any public records or documents from which information is sought in furtherance of the purposes of this Act shall grant an authorised officer of the Board access to such records or documents to obtain the required information.

(5) Where any particulars are required to be supplied by any person or institution, until the contrary is proved, it shall be presumed that the particulars may lawfully be required from that person in accordance with this Act.

Protection of data.
No. 24 of 2019.

48. (1) Any person involved in handling information under this Act shall comply with the Data Protection Act, 2019.

(2) A member of staff of the Board may not, without the consent in writing given by, or on behalf of, the Board publish or disclose to any person otherwise than in the course of the person's duties the contents of any document, communication, or information which relates to and which has come to the person's knowledge in the course of the person's duties under this Act.

(3) The limitation on disclosure referred to under subsection (1) is not construed to prevent the disclosure of criminal activity by a member of the Board.

(4) A person with access to the Register or information relating to an applicant shall not disclose any personal information of an applicant furnished in respect of an application except—

- (a) to a person who requires it in order to perform a function in terms of this Act;

- (b) when required to do so by law or by an order of court; or
- (c) with the consent of the applicant.

(5) Any person that contravenes the provisions under this section commits an offence and is liable on conviction to a fine not exceeding three million shillings or an imprisonment term not exceeding ten years or to both.

Social Protection
Management
Information
System.

49. The Board shall integrate technology, including management information system, in the Registry to-

- (a) enable the integration and interoperability of the Registry with other information systems, including the databases of the relevant registries;
- (b) enable the decentralisation of social protection management information systems and programme registries;
- (c) establish efficient and effective grievances and case management mechanisms; and
- (d) strengthen the security and data protection in respect of the Register.

PART VI — FUNDING FOR SOCIAL PROTECTION

Sources of Funds
for Social
Protection.

50. The sources of funds for operations and functions under this Act shall be

-
- (a) monies appropriated by Parliament;
- (b) gifts, grants, donations or endowments as may be given to the Ministry for purposes of social protection;
- (c) monies that may accrue to or vest in the Ministry in the course of the exercise of
- (d) its functions under this Act;
- (e) funds appropriated for various social protection interventions; and
- (f) monies from any other source as the Cabinet Secretary may approve.

Preparation of
Estimates of
Expenditure.

51. (1) At least three months before the commencement of each financial year, the Secretary shall prepare and submit to the Cabinet Secretary estimates of the revenue and expenditure for that year.

(2) The annual estimates shall provide for the proposed expenditure of the Committee and the board in the financial year concerned, and particularly for —

- (a) the recurrent expenditure of the Committee and the board;
- (b) the implementation of interventions, programmes and activities under this Act; and

- (c) any other expenditure necessary for the performance of the function of the Committee and the board.

(3) The annual estimates shall be submitted to the Committee for approval before submission to the Cabinet Secretary.

Funding for social protection.

52. (1) The Cabinet Secretary responsible for Finance shall, pursuant to section 24 of the Public Finance Management Act, 2012, establish a Social Protection Fund to facilitate the implementation of this Act.

No. 18 of 2012

(2) Without prejudice to subsection (1), the objects and purpose of a fund under subsection (1) shall include, to –

- (a) implement interventions, programmes and activities under this Act;
- (b) enhance the financial capacity of the beneficiaries and their dependents through linkages with other government interventions;
- (c) promote the incorporation of beneficiaries into other complementary services and access to better life conditions;
- (d) facilitate the provision of psychosocial support to beneficiaries;
- (e) enable coordination, management and operationalisation of the Register for social assistance programmes for the national government;
- (f) provide a channel through which resources from development partners and other sources of funds may be received;
- (g) provide capacity and technical expertise development to improve the provision of social protection services;
- (h) Provide funding for social assistance and
- (i) facilitate the provision of any other social protection that the Cabinet Secretary may specify in consultation with the Cabinet Secretary responsible for finance.

PART VII – MISCELLANEOUS

Report to Parliament.

53. (1) Within three months after the end of each financial year, the Board shall prepare and submit, through the Cabinet Secretary, to the National Assembly and the Senate an annual report on the status of social protection in Kenya.

(2) A report under subsection (1) shall include —

- (a) a description of the activities and interventions undertaken in respect of social protection, including measures taken to-
 - (i) assist in the development of individual, family and community capacity to become self-reliant; and
 - (ii) ameliorate the circumstances of persons in extreme poverty and inequality.
 - (b) recommendations on legal and administrative measures required to address any concerns identified by the Board; and
 - (c) such other information relating to its functions that the Cabinet Secretary considers relevant.
- (3) Where any recommendation in any previous report has not been implemented, the Cabinet Secretary shall report to Parliament on the reason for non-implementation and action to be taken to implement the recommendation.
- (4) The Cabinet Secretary shall publish the report in the *Gazette* and at least one newspaper with national circulation.
- (5) The National Assembly or the Senate may at any time require the Cabinet Secretary to submit a report on any social protection matters.

Offences.

- 54.** (1) A person who—
- (a) without justification or lawful excuse, obstructs, hinders or threatens an officer acting under this Act;
 - (b) submits false or misleading information to the Board or the Secretariat;
 - (c) makes a false representation to or knowingly misleads an officer of the Secretariat acting under this Act; commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or imprisonment for a term of not exceeding six months, one year or to both.
- (2) Any person who divulges details of a beneficiary or potential beneficiary contrary to this Act commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or imprisonment for a term not exceeding six months.
- (3) Any person who commits an offence that violates data protection is liable a fine of Kenya shillings three million as per the Data Protection Act.

Protection from liability.

55. A member of the Board, employee of the National Government or of a county government or member of any entity established under this Act shall not be personally liable for any action, claim or demand if the act was done in good faith for the purpose of carrying out the provisions of this Act or any other law.

Regulations.

56. (1) The Cabinet Secretary may make regulations for the better carrying out of this Act.

(2) Without prejudice to the generality of subsection (1), the cabinet secretary may make regulations to —

- (a) prescribe requirements or conditions for the provision of social protection to eligible persons;
- (b) set uniform norms and standards for service delivery; (combine b and j)
- (c) prescribe procedures for the consideration of information and the granting of social protection;
- (d) provide for the investigation of applications in order to determine the eligibility of applicants for social protection under this Act;
- (e) prescribe the circumstances and conditions under which social protection is to be assessed, changed or revoked;
- (f) prescribe grievance and case management guidelines;
- (g) prescribe the forms to be used under this Act;
- (h) prescribe the manner in which data for eligible persons may be collected, maintained, stored, accessed, and utilised;
- (i) prescribe modalities of identifying and registering actors in social protection under this Act ;
- (j) prescribe uniform norms and standards for service delivery;
- (k) prescribe conditions or limitations subject to which any protection shall be made; and
- (l) Any other matter necessary for the proper implementation of this Act.
 - (a) the authority of the Cabinet Secretary to make regulations is limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under section 3 of this Act; and

- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, in relation to subsidiary legislation, shall apply to regulations made under this Act.

Repeal of No. 24 of 2013. **57.** The Social Assistance Act, 2013 is repealed.

Transitional Provisions.

- 58.** (1) The Enhanced Single Registry for Social Protection in the Ministry responsible for social protection shall, on the date of the commencement of this Act, be the Single Registry for Social Protection established under section 44 of this Act.
- (2) The Social Protection Secretariat in the Ministry responsible for social protection shall, on the date of the commencement of this Act, be the Secretariat established under section 28 of this Act.
- (3) Any person who, at the commencement of this Act, is a member of staff of the Social Protection Secretariat referred to in subsection (1) shall, on the coming into force of this Act, become an officer in the Secretariat established under this Act for the remainder of their term of appointment, if any, and on the same or improved terms and conditions as may be determined by the Public Service Commission upon the advice of the Salaries and Remuneration Commission.
- (4) Any such person referred to in subsection (1) who does not wish to serve in the Secretariat established under this Act may be re-deployed in the Public Service.
- (5) The members of staff who were members of staff under Human Resources and Social Assistance shall continue to be staff of the Directorate after the commencement of this Act.
- (6) Every existing beneficiary before the Commencement of this Act shall be deemed to be a beneficiary under this Act.

SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD (s. 24)

1. The Board shall hold at least four meetings in each calendar year, and not more than four months shall pass between one meeting of the Board and the next meeting.
2. (1) (a) The members of the Board shall elect a vice-chairperson-
 - (i) from among themselves;
 - (ii) at the first sitting of the Board; and
 - (iii) whenever it is necessary to fill a vacancy in the office of the vice-chairperson.
- (2) The Chairperson and vice-chairperson of the Board shall not be of the same gender.
3. The Chairperson may, at any time, and shall, within fourteen days of receipt of a written request by at least three of the members of the Board, convene a special meeting of the Board.
4. The quorum for a meeting of the Board shall be five, three of whom shall be—
 - (a) the Chairperson or Vice-Chairperson;
 - (b) the Principal Secretary in the Ministry responsible for social protection; and
 - (c) a representative of any of the sectors specified in section 17(h).
5. The decisions of the Board shall be made by a majority of the members present and voting.
6. (1) If any person is present at a meeting of the Board or any committee at which any matter which is the subject of consideration is a matter in which that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall as soon as reasonably practicable after the commencement of the meeting declare such interest and shall not, unless the Board or the Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question connected to such matter.
- (2) The disclosure of interest shall be recorded in the minutes of the meeting at which it is made.
7. No proceedings of the Board shall be invalid by reason of a vacancy in the Board.
8. All instruments made by and all decisions of the Board shall be under the hand of the Chief Executive Officer.

MEMORANDUM OF OBJECT AND REASONS

Statement of Objects and Reasons

Social protection interventions are essential for promoting poverty reduction, inclusive growth and human capital development in developing economies such as Kenya.

The Constitution of Kenya, under Article 43, recognises the right to social services and security. This Bill therefore seeks to give effect to the Bill of Rights by providing a comprehensive framework for social protection. Notably, this effort is aligned with the provisions of the Sustainable Development Goals, with a special focus on Target 1.3, which aims to *“Implement Nationally appropriate Social Protection systems and measures for all, including floors, and by 2030 achieve substantial coverage of the poor and the vulnerable”*.

This Bill also seeks to address the existing gaps in the social protection sector, provide a framework for a harmonised approach in the social protection Sector in the country and ensure efficient and effective delivery of social protection interventions.

Part I of the Bill provides for the preliminary provisions. This Part provides the objects and principles of the Bill, which are centred on a rights-based and life-cycle approach to social protection for the realisation of this entitlement to the greatest extent.

Part II of the Bill provides for Social Protection as an entitlement for all persons in line with the move towards universal social protection. It specifies the key pillars of social protection, including income security, social assistance, social health protection, shock-responsive social protection and necessary complementary programmes. This Part also provides the rights and duties of various State and non-state actors including county governments.

Part III provides for the Governance Framework for social protection. In this regard, clauses 17 to 31 establish and define the framework for governance, including the establishment of the National Board for Social Protection, and sets out their functions, membership, qualifications, and conduct of business, and intergovernmental frameworks including the establishment of county and sub-county committees for a coordinated approach to social protection at the National and County level of government.

Part IV provides for eligibility for social assistance and sets out the potential beneficiaries of social protection. Cognizant of the unique needs of each category of beneficiaries, the Bill empowers the Cabinet Secretary to make Regulations for the classification of the various categories and the attendant benefits.

The Part also provides for the application process, appeals, termination, suspension, refunds, review, preservation of confidentiality, and abuse of social protection.

Part V provides for the establishment of the Single Registry for Social Protection as a tool that consolidates programme information from different Social Protection implementers' Management Information Systems into one single database. The Part also provides for its content of the Registry, access to information, data collection, maintenance, updating, protection, and management systems.

Part VI provides for Financial Provisions. clauses 50 to 52 outline the sources of funds, preparation of expenditure estimates, and funding for social protection. The Part also empowers the Cabinet Secretary for Finance to establish a Social Protection Fund in accordance with section 24(4) of the Public Finance Management Act, 2012.

Part VII provides for Miscellaneous provisions, including delegation of legislative authority, Repeal of the Social Protection Act, 2013 and relevant transitional provisions.

The Schedule provides for the conduct of business and affairs of the Committee.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill delegates legislative powers to the cabinet secretary responsible for social protection for purposes of making Regulations and issuing various guidelines and standards to ensure the realisation of the objects of the Bill.

This Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments as certain components of social protection, such as health, agriculture and disaster management services, are devolved under Part 2 of the Fourth Schedule to the Constitution.

The Bill therefore affects the functions and powers of county governments in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the2024.

.....Sponsor.....