

SPECIAL ISSUE

Kenya Gazette Supplement No. 254 (National Assembly Bills No. 80)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2023

NAIROBI, 15th December, 2023

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THE SOCIAL ASSISTANCE (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the Social Assistance Act and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Social Assistance (Amendment) Act, 2023.

Short title.

2. Section 4 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (f)—

Amendment of section 4 of No. 24 of 2013.

“ (fa) collaborate with county governments to provide social services to the elderly persons in all counties;”

3. Section 17 of the principal Act is amended in subsection (3) by inserting the following new paragraph immediately after paragraph (c) —

Amendment of section 17 of 24 of 2013.

“(ca) persons earning low wages;”

4. The principal Act is amended in section 22 by inserting the following new section immediately after section 22—

Insertion of new section 22A into No. 24 of 2013.

Persons earning low wages.

22A. (1) A person earning a low wage qualifies for social assistance if —

(a) there is proof the person earns a low wage; and

(b) the failure to have a high source of income is not due to negligence or lack of industry by the person.

(2) The Authority shall review the social assistance granted to a person earning low wages under subsection (1), every six months to ascertain whether the person is still eligible for social assistance.

(3) The Cabinet Secretary in consultation with the Authority shall develop a scheme to give effect to this section.

(4) For the purposes of this section “a person earning low wage” means “a person who is employed but cannot meet their basic necessities of life.”

5. Section 24 of the principal Act is amended by —

Amendment of
section 22 of No.
24 of 2013

(a) renumbering section 24 as section 24(1); and

(b) inserting the following subsections immediately after sub-section (1)

—

(2) The Cabinet Secretary in consultation with the Authority shall regularly review the intervals of payments and the amount of social assistance payable to all eligible persons to reflect the change in the cost of living.

(3) For purposes of this section “cost of living” means the cost of purchasing goods and services as measured by the changes in consumer price index as provided by the Kenya National Bureau of Statistics periodically.

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MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The principal object of the Bill is to amend the Social Assistance Act, No. 24 of 2013 to require the Social Assistance Authority to collaborate with County Governments in the provision of social assistance to elderly persons in terms of shelter and health care services.

The Bill addresses the need for periodic review of the financial assistance offered to elderly persons under social assistance services to factor in inflation and the rising cost of living to ensure that elderly members of Kenyan society are able to live dignified lives regardless of their age.

Clause 2 of the Bill, proposes to amend section 4 of the principal Act to require the Social Assistance Authority to collaborate with the County Governments to provide social services to elderly persons in all counties.

Clause 3 of the Bill proposes to amend section 17 of the principal Act to include persons earning low wages as persons in need for purposes of getting social assistance.

Clause 4 of the Bill, proposes to amend section 22 of the principal Act to insert a new section 22A to expand the categories of the people eligible to get social assistance to include people earning low wages. The new section defines “persons earning low wages” for purposes of social assistance and provides a review of the list every six months to determine the eligibility of the persons to continue getting social assistance under the category of “persons earning low wages.”

Clause 5 of the Bill, proposes to amend section 24 of the principal Act to require the Cabinet Secretary in consultation with the Authority to regularly review the interval of payments and the amounts payable under social assistance to persons in need to reflect the change in the cost of living.

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

The Bill does not contain any provisions limiting any fundamental rights or freedom.

Indication of whether the Bill concerns County Governments

The Bill seeks to amend the Social Assistance Act, No. 24 of 2013 to require the Social Assistance Authority to collaborate with County governments in the provision of social assistance to elderly persons in terms of shelter and health care services.

Paragraph 2 (a) and (c) of Part 2 of the Fourth Schedule to the Constitution provides that county health services including the promotion of primary health care and provision of county health facility is a function of county governments.

In view of this, the Bill does concern county governments in terms of Article 110(1)(a) of the Constitution as it does affect the functions and powers of county governments recognized in the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 16th November, 2023

PETER FRANCIS MASARA,
Member of Parliament.

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Section 4 of No. 24 of 2013 which it is proposed to amend—

4. Functions of the Authority

4. (1) The functions of the Authority shall be to—
- (a) identify and provide social assistance to persons in need of social assistance;
 - (b) plan, develop, operate and manage any project or enterprise that has as its object to render recipients of social assistance capable of self support;
 - (c) make grants to any organization, group or body of citizens for the purpose of providing assistance to persons in need or likely to become in need;
 - (d) construct or acquire, maintain and operate residential institutions for people in need of social assistance;
 - (e) sponsor, develop or operate community development services;
 - (f) enter into agreements with agencies or other persons for the provision of social services;
 - (g) approve residential institutions for the purposes of this Act;
 - (h) advise the Minister on the national policy to be adopted with regard to provision of social assistance;
 - (i) formulate and enforce standards for the conduct of social assistance programmes;
 - (j) maintain and promote the status, wellbeing, rights, safety and security of persons in need of social assistance;
 - (k) develop, maintain and operate a national social assistance information management system;
 - (l) facilitate the periodic review of the national social assistance policy in line with other government policy statements;
 - (m) mobilize resources to support and fund social assistance programmes and initiatives;
 - (n) coordinate with other social assistance organizations to ensure that persons in need of social assistance access to resources and services appropriate to their needs;
 - (o) coordinate and harmonize social assistance programmes;
 - (p) inspire and promote the spirit of protecting persons in need of social assistance;

- (q) develop mechanisms to facilitate citizen participation in social assistance programmes;
- (r) formulate operational guidelines that protect persons in need against any form of abuse or manipulation;
- (s) work with other agencies to roll out and popularise social assistance programmes;
- (t) establish cost-effective, predictable and sustainable interventions that benefit the persons in need of social assistance;
- (u) develop guidelines for implementation, monitoring and evaluation of social assistance programmes; and
- (v) perform such other functions as may be necessary for the better carrying out of the functions of the Authority under this Act.

Section 17 of No. 24 of 2013 which it is proposed to amend—

Social assistance to persons in need

17. (1) The Authority shall, in accordance with this Act, provide social assistance to persons in need.

(2) The Minister shall, in consultation with the Authority determine and Gazette the categories from which persons with need are to be drawn.

(3) Notwithstanding subsection (2) persons in need shall include—

- (a) orphans and vulnerable children;
- (b) poor elderly persons;
- (c) unemployed persons;
- (d) Persons disabled by acute chronic illnesses;
- (e) widows and widowers;
- (f) persons with disabilities; and
- (g) any other persons as may from time to time be determined by the Minister, in consultation with the Board.

(4) To qualify for social assistance a person must meet the criteria set out in this Part.

Section 22 of No. 24 of 2013 which it is proposed to amend—

Unemployed persons

22. (1) A person qualifies for social assistance as an unemployed person if—

Section 4 of No. 24 of 2013 which it is proposed to amend—

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4. (1) The functions of the Authority shall be to—

- (a) identify and provide social assistance to persons in need of social assistance;
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- (c) make grants to any organization, group or body of citizens for the purpose of providing assistance to persons in need or likely to become in need;
- (d) construct or acquire, maintain and operate residential institutions for people in need of social assistance;
- (e) sponsor, develop or operate community development services;
- (f) enter into agreements with agencies or other persons for the provision of social services;
- (g) approve residential institutions for the purposes of this Act;
- (h) advise the Minister on the national policy to be adopted with regard to provision of social assistance;
- (i) formulate and enforce standards for the conduct of social assistance programmes;
- (j) maintain and promote the status, wellbeing, rights, safety and security of persons in need of social assistance;
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- (o) coordinate and harmonize social assistance programmes;
- (p) inspire and promote the spirit of protecting persons in need of social assistance;

- (q) develop mechanisms to facilitate citizen participation in social assistance programmes;
- (r) formulate operational guidelines that protect persons in need against any form of abuse or manipulation;
- (s) work with other agencies to roll out and popularise social assistance programmes;
- (t) establish cost-effective, predictable and sustainable interventions that benefit the persons in need of social assistance;
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(4) To qualify for social assistance a person must meet the criteria set out in this Part.

Section 22 of No. 24 of 2013 which it is proposed to amend—

Unemployed persons

22. (1) A person qualifies for social assistance as an unemployed person if—

- (a) the person is a youth;
- (b) there is proof that the person has no source of income; and
- (c) the failure to have a source of income is not due to negligence or lack of industry by the person.

(2) The Authority shall review the assistance granted to unemployed persons under subsection (1) every six months to ascertain whether the person is still eligible for social assistance.

Section 24 of No. 24 of 2013 which it is proposed to amend—

Social assistance programmes

24. The Minister shall in consultation with the Authority, provide programmes that are intended to—

- (a) assist in the development of individual, family and community capacity to become self-sufficient;
- (b) increase the ability of persons in need to assume greater responsibility for themselves;
- (c) lessen dependence by the people on public financial assistance;
- (d) provide support services to allow persons who may otherwise be in need to avoid dependence on public financial assistance; and
- (e) lessen, remove or prevent the causes and effects of poverty.

- (c) the person is a youth;
 - (d) there is proof that the person has no source of income; and
 - (e) the failure to have a source of income is due to negligence or lack of industry by the person.
- (2) The Authority shall review the assistance granted to unemployed persons under subsection (1) every six months to ascertain whether the person is still eligible for social assistance.
- Section 24 of Act 24 of 2003, which is proposed to read:
- Social assistance programmes**
24. The Minister shall be responsible with the Authority, provide programmes that are intended to—
- (a) assist in the development of individual, family and community capacity to become self-sufficient;
 - (b) increase the skills of persons in need to assume greater responsibility for themselves;
 - (c) lessen dependence by the people on public financial assistance;
 - (d) provide support services to allow persons who may otherwise be in need to avoid dependency on public financial assistance; and
 - (e) lessen, remove or avert in the future the causes and effects of poverty.

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