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***KENYA GAZETTE SUPPLEMENT***

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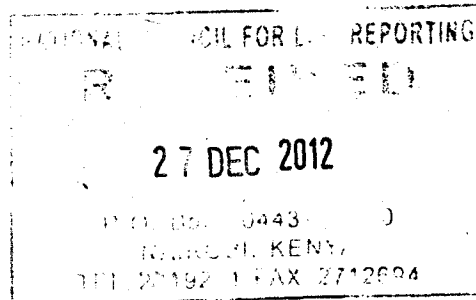
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**CONTENT**

Bill for Introduction into the National Assembly—

**The Retirement Benefits (Deputy President and Designated State  
Officers) Bill, 2012 .....6125**



**THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND  
DESIGNATED STATE OFFICERS) BILL, 2012**

**ARRANGEMENT OF CLAUSES**

*Clause*

- 1—Short title.
- 2—Interpretation.
- 3—Persons entitled to benefits.
- 4—Circumstances under which benefits may not be paid.
- 5—Pension and other benefits of entitled person.
- 6—Role of entitled person.
- 7—Spouse benefits.
- 8—Children's benefits.
- 9—Entitled person not be covered under any other Act.
- 10—Staff.
- 11—Funds for expenses.
- 12—Accounts and audit.
- 13—Official funeral.
- 14—Transitional provision.

**FIRST SCHEDULE—ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED DEPUTY-PRESIDENT, A RETIRED SPEAKER OF THE NATIONAL ASSEMBLY OR THE SENATE AND A RETIRED CHIEF JUSTICE.**

**SECONDSCHEDULE— ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED DESIGNATED STATE OFFICER**

**THE RETIREMENT BENEFITS (DEPUTY PRESIDENT, AND DESIGNATED STATE OFFICERS) BILL, 2012**

**A Bill for**

**AN ACT of Parliament to provide for the granting of pension and other retirement benefits to persons who hold the offices of the Deputy President and holders of Designated State offices upon their ceasing to hold office as such, to provide, for transitional purposes, for the benefits to accrue to persons who have served as Prime Minister, Vice-President and Deputy Prime Minister; and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Retirement Benefits (Deputy President and Designated State Officers) Act, 2012.

Interpretation.

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

“benefits” means pension and other retirement benefits conferred by this Act;

“Chief Justice” means a person appointed under Article 166 of the Constitution;

“Deputy President” means a person who holds the office of Deputy-President of Kenya in accordance with the Constitution;

“eligible child” means any child of a deceased entitled person who—

- (a) is under eighteen years of age; or
- (b) is under twenty-four years of age and is undergoing a course of full time education; or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within paragraph (a) and (b) or is incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by the Government in a hospital or similar institution;

“entitled person” means any of the persons specified in section 3;

“Designated State Officer” means a person who holds any of the offices listed below in accordance with the Constitution-

- (a) Speaker of the National Assembly;
- (b) Speaker of the Senate;
- (c) Deputy Speaker of the National Assembly;
- (d) Deputy Speaker of the Senate;

- (e) Chief Justice;
- (f) Deputy Chief Justice;
- (g) Attorney-General;
- (h) Chief of the Kenya Defence Forces.

“Prime Minister” means a person who holds the office of Prime Minister of Kenya in accordance with the Constitution;

“retired Chief Justice” means a person who, having held the office of Chief Justice, has ceased to hold office as such in the manner specified in the Constitution and does not include a person who served as Chief Justice before the commencement of this Act;

“retired Deputy Prime Minister” means a person who, having held the office of Deputy Prime Minister, has ceased to hold office as such in the manner specified in the Constitution;

“retired Deputy President” means a person who, having held the office of Deputy-President, has ceased to hold office as such in the manner specified in the Constitution;

“retired Designated State Officer” means a person who, having held the office of Designated State Officer, has ceased to hold office as such in the manner specified in the Constitution;

“retired Prime Minister” means a person who, having held the office of Prime Minister, has ceased to hold office as such in the manner specified in the Constitution;

“retired Speaker” means a person who, having held the office of Speaker of the National Assembly or Speaker of the Senate, has ceased to hold office as such in the manner specified in the Constitution and does not include a person who served as Speaker before the commencement of this Act;

**“retired Vice-President” means a person who, having held the office of Vice-President, has ceased to hold office as such in the manner specified in the Constitution and does not include a person who served as Vice-President before the commencement of this Act;**

**“Speaker” means a person who holds the office of Speaker of the National Assembly or Speaker of the Senate in accordance with the Constitution;**

**“spouse” means the wife or husband of an entitled person who dies while holding office as such, and includes in the case of an entitled person under whose religion or custom polygamy is lawful, any person to whom the entitled person is lawfully married in accordance with the tenets of that religion or custom;**

**“term” means a Parliamentary term unless otherwise defined by the instrument of appointment; and**

**“Vice-President” means a person who holds the office of Vice-President of Kenya in accordance with the Constitution.**

**3. (1) Subject to sections 5(3) and 14, the persons entitled to the benefits conferred by this Act shall be persons who at any time after the 15<sup>th</sup> January, 2008 retire as Deputy President or Designated State Officers.**

**Persons entitled to benefits.**

**4. (1) Despite the provisions of section 3, the National Assembly may, on a motion supported by the votes of not less than half of the members thereof, resolve that an entitled person, surviving spouse or children, as the case may be, shall not receive any benefits conferred by this Act, on the grounds that such person—**

**Circumstances under which benefits may not be paid.**

- (a) ceased to hold office on account of having acted in willful violation of the Constitution, or**

- (b) was guilty of gross misconduct; or
- (c) has, since ceasing to hold office—
  - (i) been convicted of an offence and sentenced to imprisonment for a term of three years or more, without the option of a fine; or
  - (ii) held office in, or actively engaged in the activities of any political party contrary to the provisions of section 6(1).

(2) Where an entitled person holds any appointive or elective post in or under the Government to which there is attached a rate of pay, other than a nominal rate, the benefits to which he is entitled shall be reduced by the amount of such pay.

Pension and other benefits of an entitled person.

5. (1) A retired Speaker of the National Assembly or the Senate, a retired Deputy-President or a retired Chief Justice shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a housing allowance equal to fifteen per cent of current monthly salary of the office holder;
- (c) a lump sum payment on retirement, calculated as a sum equal to one and half years salary paid for each term served in office;
- (d) one saloon vehicle of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (e) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable

once every four years;

- (f) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (g) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person and the entitled person's spouse;
- (h) the additional benefits set out in the First Schedule.

(2) A retired entitled person who is not a person entitled to benefits under section 5(1) shall, during his or her lifetime, be entitled to-

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person's last monthly salary while in office;
- (b) a housing allowance equal to fifteen per cent of current monthly salary of the office holder;
- (c) a lump sum payment on retirement, calculated as a sum equal to one and half years salary paid for each term served in office;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc;
- (e) a fuel allowance equal to fifteen per cent of the current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person and the entitled person's spouse.
- (g) the additional benefits set out in the Second Schedule.



(3) Despite the provisions of this section, an entitled person who serves in office for less than a term, shall not be entitled to the benefits set out in this section but shall be entitled to-

- (a) gratuity paid at the end of the entitled person's service at the rate of thirty-one per cent of the entitled person's salary while in office;
- (b) one armed security guards who shall be provided on request by the entitled person;
- (c) diplomatic passports for the entitled person and his spouse; and
- (d) access to the V.I.P. lounge at all airports within Kenya.

(4) Where an entitled person dies in service after the commencement of this Act, a lumpsum payment on death calculated as a sum equal to five times his annual salary shall become payable to his legal personal representatives.

Role of entitled person.

6.(1) An entitled person shall not hold office in any political party at any time after the expiry of six months after ceasing to hold office.

(2) An entitled person shall be expected to play a consultative and advisory role to the Government and the people of Kenya.

(3) An entitled person may be requested by the Government to perform specific official functions and shall be paid a reasonable allowance in respect of such official functions.

Spouse benefits.

7. (1) Upon the death of an entitled person who is in receipt of, or who is entitled to a pension under this Act,

the surviving spouse of the entitled person shall be entitled to fifty per cent of the pension which was payable to an entitled person.

(2) In any case where there is more than one spouse entitled to benefits under subsection (1), the benefits shall be divided equally among all such spouses.

8. A children's pension shall be payable for the benefit of an eligible child where an entitled person dies and-

Children's benefit.

(a) if there is only one child, pension at the rate of twenty-five percent of the pension entitlement of the entitled person;

(b) if there are two or more children, a pension at the rate of fifty percent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

9. (1) For the avoidance of doubt, an entitled person under this Act shall not, for the purposes of payment of a pension or provision of any other benefits, be covered under any other Act for the same period covered under this Act.

Entitled person not be covered under any other Act.

(2) Despite subsection (1), where an entitled person was a contributor under any other pension scheme, his or her contribution shall be returned to him or her with the applicable rate of interest.

10. The professional and other staff required to be provided for an entitled person under the First Schedule shall be public officers, but no person shall be appointed or posted to serve on such staff except with the concurrence of the entitled person and such staff shall, in the performance of their duties, be responsible only to the entitled person.

Staff

**SECOND SCHEDULE (s. 5(2)(g))****ADDITIONAL RETIREMENT BENEFITS FOR A  
RETIRED DEPUTY SPEAKER OF THE NATIONAL  
ASSEMBLY OR THE SENATE OR A RETIRED  
DEPUTY CHIEF JUSTICE**

- (a) one driver;
- (b) one armed security guard who shall be provided on request by the entitled person; and
- (c) diplomatic passports for the entitled person and his spouse; and,
- (d) access to the V.I.P. lounge at all airports within Kenya;

**MEMORANDUM OF OBJECTS AND REASONS**

The principal object of this Bill is to make provision for benefits which are to be provided to holders of the office of the Deputy President and Designated State offices.

**Clause 1** is the short title while clause 2 defines the various terms used in the Bill.

**Clause 3** sets out the persons who are entitled to benefits under the Bill if enacted into law, while **Clause 4** provides for circumstances in which those benefits may not be paid.

**Clauses 5**, sets out the specific benefits due to an entitled person once the person retires from office.

**Clause 6** sets out the roles to be played by entitled persons, in the affairs of the nation, once they cease to hold their respective offices.

**Clauses 7 and 8** provide for the benefits due to spouses of entitled persons and those due to their children, respectively.

**Clause 10** provides for staff who will be at the disposal of the entitled persons, while **Clause 11** provides for the furnishing of estimates of expenditure by the entitled persons to the Minister responsible for finance.

**Clause 12** provides for audit of accounts rendered if this Bill becomes law while **Clause 13** provides that entitled persons shall be accorded a official funeral on their respective deaths.

**Clause 14** provides for the transition and brings persons who have served in the offices of Prime Minister, Vice-President and Deputy Prime Minister under the cover of this legislation.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided for in the annual estimates.

Dated the 19th December, 2012.

R. N. GITHAE,  
*Minister for Finance.*