

**IDENTIFICATION AND REGISTRATION OF KENYA CITIZENS
BILL, 2011**

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A Bill for

An Act of Parliament to make provision for the identification and registration of Kenya Citizens, for issuance of National Identity cards and for purposes connected therewith.

Enacted by the parliament of Kenya as follows:

PART I – PRELIMINARY

Short title 1. This Act may be cited as the Identification and Registration of Kenya Citizens Act, 2011 and shall come into operation on the date of publication in the Kenya Gazette

Application 2. This Act shall apply to all persons who are citizens of Kenya and who have attained the prescribed age of registration and issuance of National Identity cards.

Interpretation 3. In this Act, unless the context otherwise requires-

“Appeals tribunal” means the Kenya Citizens and Foreign Nationals Management Service appeals tribunal established under section 25 of the Kenya Citizens and Foreign Nationals Management Service Act

“Authorized officer” means such officer authorized by the Director to exercise the powers or perform the duties and functions in respect of which the expression is used

“Apparatus” includes seal, machinery or device and any wire or cable, together with any software and any equipment used with it for purposes of registration under this Act.

“Board” means the Board established under section 6 of the Citizens and foreign Nationals management service Act

“Citizen” means a Kenya citizen

“Director” includes the Director General and such other officers as provided in the Citizens and Foreign Nationals Management Service Act and the person appointed as such under section 4(1) of this Act

“Fingerprint or Thumbprint or palm print or toe print”; in relation to an individual, means a visible or invisible impression of a finger, thumb, palm or toe.

“National Identity card” means a card issued under section 12:

“Register” means the register established and maintained under section 6 whether manual or electronic

“Registered Person” means a person who is registered under this Act;

“Registration Document” means a document used for the purposes of registration of citizens under this Act whether prescribed or not;

“Registration Officer” means the Director and any of the persons appointed under Section 5

“Service” means the Kenya Citizens and Foreign Nationals Management Service established under the Kenya Citizens and Foreign Nationals Management Service Act

“Technical review committee” means the technical review committee established under section 23 the Kenya Citizens and Foreign Nationals Management Service Act

PART II: ADMINISTRATION

**Appointment
of Director
and functions**

4.(1) The Service shall appoint a Director to be in charge of identification and registration of Kenya citizens under this Act

(2) The Director shall subject to this Act and to such directions as may from time to time be given by the Board perform the following functions-

(a) Identify, register and issue National Identity cards to citizens of Kenya

(b) establish and maintain a citizen's register

(c) prepare and submit periodic reports on identification and registration of citizens as shall be required by the service

(d) Perform such other functions as may be necessary for the carrying into effect the provisions of this Act.

**Registration
officers**

5. (1) There shall be such registration officers as may be necessary for carrying out of the provisions of this Act.

(2) The Service shall provide each registration officer in charge of a specified administrative area with such registers and registration materials as may be necessary for the identification and registration of citizens under this Act.

(3) Every registration officer in charge of a specified administrative area shall maintain such records and other information as shall be required by the Service.

**PART III- REGISTRATION OF CITIZENS
AND THE REGISTER**

Register

6.(1) The Director shall establish, develop and maintain a register of all citizens to whom this Act applies, in which there shall be entered the following particulars:-

(i) Civil status data

- a) National Identity card Number
- b) Full names
- c) sex
- d) Date of Birth
- e) County/District/Country of Birth
- f) Mother's Name and her National Identity card Number
- g) Father's Name and his National Identity card Number
- h) Guardian's Name and National Identity card Number (where applicable)
- i) Marital Status
- j) If married, spouse(s') name(s) and National Identity card number
- k) Tribe
- l) occupation
- m) date of registration

(ii) Biometrics

- a) Photograph
- b) Finger and thumb impressions but in case of missing fingers and thumbs, palm or toe or palm and toe impressions

(iii) Home Particulars:-

- a. County
- b. District
- c. Division
- d. Location

- e. Sub-Location
- f. Village/Estate

(iv) Address:-

- a. Permanent address
- b. Current address
- c. physical address
- d. Phone Number
- e. E-mail Address

(v) Such other particulars as may be prescribed

(2) The Director shall have power to ensure, for control and regulation of the information in the register, security and necessary safeguards for protection and confidentiality of the data or information contained in the registration and database systems established, developed, and maintained, or so caused to be established, developed and maintained, under this Act including any database, data warehouse and networking infrastructure;

(3) A registration officer may in the exercise of his official duties, inspect the register and make extracts there from.

(4) No information contained in the Register shall be disclosed otherwise than as prescribed under this Act and any other written law.

Registration

7(1) Every person of full capacity who attains or has attained the prescribed age of registration and is unregistered shall be liable to registration under this Act and in the former case shall within 3 months of attaining the age, and in both cases present himself or herself before a registration officer and register by giving to the registration officer the particulars specified in section 6(1) and for that purpose shall permit his or her photo, finger and thumb or toe or palm impressions to be recorded in the manner prescribed .

(2) An application for a National Identity card shall be accompanied by:

- (a) the applicant's birth certificate and
- (b) either one of his parent's National Identity card or
- (c) in the case of a Kenya citizen by registration or naturalization, the certificate of registration or certificate of naturalization

(3) In case of any person incapacitated by illness, age, or other reason from applying for registration or for a National Identity card, it shall be the duty of the parent, guardian or other person responsible for the welfare of that person to take steps to cause the person to be registered and to be issued with a National Identity card

(4) The Director may, by notice in the Gazette or in such other manner as he or she may deem fit to bring the contents thereof to the notice of the persons affected thereby, require any person or class of persons in any particular area of Kenya to attend before a registration officer at such dates as may be specified in the notice for the purpose of registering under the provisions of this Act and any such person upon being so required shall attend and give to the registration officer the particulars specified in section (6) (1) and for the purpose shall permit his or her photo, finger thumb or palm or toe impressions to be recorded in the manner prescribed.

(5) Where the Director issues a notice in respect of any area under sub section (4) above, any unregistered person being of class of persons required to register by the notice who enters that area or who being within that area, thereafter becomes liable to registration shall present himself or herself forthwith before a registration officer, and shall register himself or herself in the manner provided under subsection (4) above.

(6) A requirement under sub section (4) above may be made notwithstanding that any person or class of persons has, prior to that requirement been registered under this

Act.

(7) Where any person required to be registered under subsection (4) above and has been, prior to that requirement, registered under this Act and issued with a National Identity card, he or she shall, on being required to do so by a registration officer so to do, forthwith surrender that National Identity card.

Where citizenship is in doubt

8. Where the citizenship of an applicant is in doubt, an enquiry shall be conducted in the prescribed manner to determine the citizenship of an applicant before registration as a citizen.

Duty of Applicant

9. It shall be the duty of an applicant to prove Kenya citizenship before being registered under this Act.

Registration of persons returning from abroad

10. (1) Any person who, by reason of his or her absence from Kenya at the time at which he or she would otherwise have been required to register under this Act, is not a registered person, shall within thirty days of his or her entry into Kenya attend before a registration officer for the purpose of being registered

(2) Any person who acquires Kenyan citizenship by registration shall within ninety days attend before a registration officer for the purpose of being registered under this Act.

Power to demand proof of information

11. A Registration Officer shall require any person who has given any information in pursuance of this Act or rules made there under to furnish such documentary or other evidence of the truth of that information as the registration officer may require before effecting registration.

PART IV- NATIONAL IDENTITY CARD

**National
Identity
card**

12. Upon registration of an applicant under this Act, a Registration officer shall process and issue a National Identity card in the prescribed manner.

**Cancellation
of the
registration
and
Revocation
of National
Identity
card**

13. (1)The Director may cancel the registration and revoke the National Identity card of any person who obtains registration through:

- I. Misrepresentation of material facts
- II. Concealment of material facts
- III. Fraudulent means
- IV. Forgery
- V. Any other justifiable cause

(2) Upon cancellation of the registration and revocation of National Identity card as provided by sub section 1 the director shall proceed to cancel all the entries in the register pertaining to the registration

(3)Before cancellation of the registration and revocation of National Identity card as provided in sub section (1) and (2) above the director shall issue notice to the holder of his intention to revoke the National Identity card and cancel the registration and unless the holder provides adequate reasons why the National Identity card should not be revoked and the registration cancelled the director shall proceed to revoke the National Identity card and cancel the registration.

(4) Any person whose citizenship has been revoked under the Constitution or any other written law shall have his registration cancelled and his National Identity card revoked.

(5)The Director may by notice in the Gazette publish the names and National Identity card numbers of the person(s) whose registration has been cancelled and

National Identity cards revoked including those who have refused, neglected or failed to surrender the National Identity cards.

**Use of
National
Identity
card**

14. A National Identity card shall be used by a citizen for purposes of identification and any other purposes as may be prescribed in the regulations.

**Duplicate
National ID
Cards**

15 (1) Any person holding a mutilated National Identity card shall report to the Registration Officer and apply for replacement of the National Identity card and pay a prescribed fee and surrender the mutilated National Identity card.

(2) Any registered person who loses his or her National Identity card shall report the loss to the nearest registration office without undue delay and shall apply for a duplicate of his or her National Identity card upon payment of the prescribed fee.

(3) Any person who finds or comes into possession of a National Identity card which does not belong to him or her shall without undue delay return it either to its owner or to the nearest registration office or the nearest police station.

**Production
and
inspection
of national
identity
card**

16 (1) Any authority to whom a person, required to be registered under this Act applies for the grant of any license, permit or other document, or for the exercise of its lawful or judicial functions, may require the applicant to produce his or her National Identity card to the satisfaction of the authority that he or she has been registered, the authority may, notwithstanding the provisions of any other law for the time being in force, defer consideration of the application until the applicant produces either his or her National Identity card.

(2) During such times and within such areas as the Cabinet Secretary may by notice in the Gazette appoint, any person authorized by the Director in writing in that behalf may require any person to whom this Act applies to produce his or her National Identity card, or, if the person fails to produce his or her National Identity card when required so to do, may require him or her to produce it within such time, to such person and such place as the person making the requirement may think fit.

(3) Any person purporting to act under subsection (2) shall, if so requested by any person from whom he or she has required the production of a National Identity card, produce, for inspection by that person, the written authority under which he or she purports to be acting.

(4) The Director or any of the persons appointed by the Service may, in the lawful exercise of his or her duties or functions under this Act, require a person to whom this Act applies to produce for inspection his/her the National Identity card and if the person fails to produce the National Identity card when required so to do, may require him or her to produce it within such time, to such person and at such place as the person making the requirement may think fit.

**Validity of
ID cards
previously
issued**

17. Every National Identity card issued under this Act, whether or not expressed to be valid up to such time as the Cabinet Secretary may by Notice in the Gazette declare and upon such declaration every person with a National Identity card so declared to be invalid shall within ninety days of the declaration present himself or herself before a registration officer to be registered in accordance with section 7(1).

Entries in the Register ; 18 (1) No person, other than a Registration Officer or other person authorized by the Director in writing in that behalf shall make any entry in, alteration to or erasure from the register.

(2) A registered person may apply for change of particulars in the Register upon such terms and conditions as may be prescribed under this Act.

(3) Where the facial features or biometrics or both the facial features and biometrics of a registered person have been permanently defaced or otherwise altered whether through accident, medical procedure or other cause the registered person shall be required to report such event to a registration officer and the registration officer may issue a replacement National Identity card and enter the particulars of the replacement in the register

(4) The Director may decline to change the particulars of a registered person appearing in the register if in his or her opinion such change will result in a change of the registered person's Identity, notwithstanding that such a change is permissible under any other written law or registration system.

Proof of exemption 19. Where any person claims that this Act does not apply to him or her, the burden of proving that fact shall lie upon that person

Evidential value of certificates 20. Any document purporting to be a certificate under the hand of the Director, or any officer appointed by the Service and certifying that any return required to be made to him or her under this Act or any rules made there under has not been made, certifying a copy or extract of any record kept by the Director under this Act or certifying that any thumb or finger impressions are the thumb or finger impressions of a person specified in a certificate shall in any proceedings for

an offence under this Act be prima facie evidence of the facts stated therein.

Review and appeal

21. (i) Any person aggrieved by a decision of a public officer made under this Act may subject to the provisions of section 23(4) of the Kenya Citizens and Foreign Nationals Management Service Act, apply to the technical review committee for a review of the decision

(ii) An appeal against a decision made by the Cabinet Secretary or by the Service under this Act may be made to the Appeals tribunal

PART V-OFFENCES

Offences and Penalties relating to Registration

22. Any person who-

- a) Fails to apply to be registered in accordance with the provisions of this act: or
- b) is in unlawful possession of or makes use of a National Identity card belonging to any other person; or
- c) falsely states that he has not previously been registered or commits any act or makes any false representation or omission with the object of deceiving a registration officer; or
- d) having previously been issued with a National Identity card under this Act, obtains or attempts to obtain another National Identity card without disclosing to the registration officer the fact of the previous issue and the loss, mutilation or destruction of any National Identity card previously issued; or
- e) not having been previously registered allows another person to use his or her fingerprints, photographs and or documents to procure registration of that other person; or

- f) without the written authority of the Director, charges fees for the delivery of lost and found National Identity cards; or
- g) unlawfully takes possession of ,withholds or detains any persons National Identity card issued to him under this Act; or
- h) has in his possession or under his control without reasonable excuse, a National Identity card that is false, improperly obtained or relating to somebody else; or
- i) Willfully obstructs or impedes a registration officer or a police officer in the exercise of any of his/ her functions under this Act; or

- j) Refuses or neglects to answer any question which he is bound by law to answer, to furnish any information, to produce any document or to attend at any place when required to do so under this Act.

Commits an offence and shall upon conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both:

Offences
relating to
Entries

23. Any person who-

- a. unlawfully makes an entry, alteration or erasure on a National Identity card or on any registration document;
or
- b. is knowingly in possession of a National Identity card containing any false entry, alteration or erasure ;
or
- c). with intent to deceive or defraud makes a false representation that he or any other person is the person to whom a National Identity card relates;
- d) recklessly gives any information, which he/she knows or believes to be false in a material particular:-

- i) in a bid to confirm the contents of an entry in register
- ii) for the purpose of obtaining for himself or herself or another person registration under the Act
- iii) For the purpose of securing the making or modification of an entry in the Register; or
- iv) In confirming(with or without changes) the contents of an entry in the Register ;or
- v) For the purpose of obtaining for himself or herself or another, registration as a Kenya Citizen and issuance of a National Identity card;

Commits an offence and shall upon conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both:

Offences
relating to
falsification
of
Documents

24. Any Person who-

- a) makes any document purporting it to be a National Identity card or any registration document : or
- b) alters a National Identity card or any registration document without authority in such a manner that if the alteration had been authorized it would have altered the effect of the National Identity card or any registration document: or
- c) introduces into a National Identity card or any registration document whilst it is being drawn up in a matter, information which if it had been authorized would have altered the effect of the National Identity card or any registration document: or
- d) without authority from the Director signs a National

Identity card or any registration document ;

Commits an offence and shall upon conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding five years or to both:

Offences relating to Tampering with Registration systems

25. Any person who, who without authority, uses, deals with or does anything or tampers with;

- a) the registration or database systems developed, established or maintained under this Act including warehouse, any apparatus involved or networking infrastructure; or
- b) the data or information contained, or housed ,or transmitted therein

Commits an offence and shall upon conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both

Offences relating to Deceptive Procurement of Registration

26. Any person who;
- i) with intent to deceive issues or prints a National Identity card or any registration document; or
 - ii) procures unlawful registration of any person either directly or indirectly under this Act; or
 - iii) knowingly or recklessly and with intent to deceive utters any document or writing made, signed or executed by another person;
 - iv) accepts any false, forged or otherwise tampered with document from any person for purposes of registration of such person under this Act, which he reasonably believes to be so;
 - iv) without lawful authority or excuse, has in his or her possession, otherwise than in the course of duty , registration forms, stamps or any registration materials;

Commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three years or to both:

Offences
Relating to
Agents

27. Any person who being an identifying agent as prescribed in the regulations, knowingly gives information that is false or misleading in any material respect regarding identification of an applicant as a Kenya citizen for purposes of this Act commits an offence and shall upon conviction, be liable to a fine of one Hundred thousand shillings or to imprisonment for a term not exceeding three years' or both.

General
Punishment
for offences
under this
Act

28. If any person contravenes any of the provisions of this Act or of any rules made there under or with any lawful demand or requirement made under this Act or under such rules, he or she commits an offence and shall upon conviction, be liable where no other penalty is specifically provided, in the case of misdemeanor to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding eighteen months or to both, and in the case of a felony he or she shall be liable to a fine of five hundred thousand shillings or to imprisonment for a term of not less than three years or to both

Trial of
offences

29. (1) Offences under this Act or under any rules made there under shall be tried by any subordinate court.

(2) A court of law shall have jurisdiction in any case brought before it under this Act against any person being at the time within its jurisdiction, whether the offence is alleged to have been committed within such area or not, or whether the person accused of the offence has his usual place of abode or residence within that area or not.

- Power to arrest 30. A registration officer or a police officer who has reasonable cause to suspect that a person has committed an offence under this Act, may, if it appears to him to be necessary to do so in order to ensure that the purposes of this Act are not defeated, arrest that person without warrant; and section 33 and 36 of the Criminal Procedure Code shall apply to that arrest as if the reference in section 33 of that Code to a police officer include a reference to a registration officer.
- Prosecution of Offences 31. A prosecution for an offence under this Act may, without prejudice to any other power in that behalf and in particular subject to the general or special directions of the Director of Public Prosecution, be instituted and conducted by any registration officer.
- Rules 32. The Cabinet Secretary may make rules for the better administration of this Act
- Repeal of cap 107 33. The Registration of persons Act is hereby repealed
- Savings and transition 34. Any register kept, registration effected, notice given, rules made or other thing done or deemed to have been done under the Registration of Persons Act (now repealed) shall be deemed to have effect and be given effect as if it had been kept, effected, issued, made or done, as the case may be, under the provisions of this Act, and this Act shall apply thereto accordingly.