

(Legislative Supplement No. 12)

LEGAL NOTICE NO. 22

THE STATE CORPORATIONS ACT

(Cap. 446)

IN EXERCISE of the powers conferred by section 3 (1) of the State Corporations Act, I, Uhuru Kenyatta, President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces, make the following Order:—

THE KENYA SPACE AGENCY ORDER, 2017

PART I—PRELIMINARY

1. This Order may be cited as the Kenya Space Agency Order, 2017.

Citation

2. In this Order—

Interpretation.
Cap. 446

“Act” means the State Corporations Act;

“Agency” means the Kenya Space Agency established under paragraph 3;

“Board” means the Board of the Agency appointed under paragraph 6;

“Director-General” means the person appointed under paragraph 11;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for Defence;

“Committee” means the State Corporations Advisory Committee;

“member” means a person appointed to the Board under paragraph 6(1)(i).

PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF
KENYA SPACE AGENCY

3. (1) There is hereby established a state corporation to be known as the Kenya Space Agency.

Establishment of the
Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal and 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) receiving, investing, borrowing and lending money; and

- (d) doing or performing any such other thing or act, including entering into such contracts as may be necessary or expedient, for the furtherance of the provision of this Order which may lawfully be done by a body corporate

(3) The Agency shall be the successor to the National Space Secretariat existing immediately before the commencement of this Order, and upon such commencement and subject to this Order, all rights, duties, assets and liabilities held by Government on account of that Secretariat shall be automatically and fully transferred to the Agency, and any reference to the National Space Secretariat in any contract or document shall, for all purposes, be deemed to be a reference to the Agency.

(4) The headquarters of the Agency shall be in Nairobi, but the Agency may establish branches at any place in Kenya.

(5) The Cabinet Secretary shall have ministerial responsibility with respect to the Agency.

4. The functions of the Agency shall be to—

Functions of the Agency.

- (a) co-ordinate and regulate space related activities in the country;
- (b) implement the Kenya space policy and any related programmes;
- (c) recommend and advise the Government on the development of relevant legislation to facilitate the successful implementation of Kenya space programme;
- (d) advise the government on the legislative and other measures necessary for the implementation of the relevant Conventions, Treaties and Agreements that Kenya is a party;
- (e) recommend national space policies, strategies and programmes;
- (f) promote capacity building in space science and technology and its applications;
- (g) establish centres of excellence in space science;
- (h) enter into mutually beneficial bilateral and multilateral agreements with persons, agencies, governments or bodies in furtherance of its mandate;
- (i) identify, prepare and facilitate the implementation of inventions and innovations in space technologies;
- (j) provide leadership in coordinating and supporting research in space science and technology;
- (k) liaise with the relevant institutions and Government agencies to ensure funding and implementation of space programmes;

- (l) promote awareness and appreciation at all levels of Kenyan society on the relevance and benefits of space science and technology; and
- (m) perform such other functions as the Cabinet Secretary may, from time to time, assign the Agency.

5. (1) In the performance of its functions the Agency shall have powers—

Powers of the Agency.

- (a) to establish advisory space committees from time to time to assist in any specified duties in carrying out its function;
- (b) to manage, control and administer the assets of the Agency in such manner and for such purposes as best promote the purpose for which the Agency is established;
- (c) to determine the provisions to be made for capital and recurrent expenditure and for reserves of the Agency;
- (d) to enter into association with any persons, agencies, governments or bodies within or outside Kenya as the Agency may consider appropriate and in furtherance of the purpose for which the Agency is established;
- (e) to receive any gift, grant, donation or endowments made to the Agency or any other moneys in respect of the Agency and make legitimate disbursements there from in accordance with the provisions of this Order;
- (f) to open and maintain a bank account for the funds of the Agency; and
- (g) to offer its services to any person, organisation or institution upon such terms as the Agency may from time to time determine.

6. (1) The Agency shall be managed by a Board which shall consist of—

The Board.

- (a) Chairperson, who shall be a person with demonstrated knowledge and experience in defence, security, agriculture, mining, environmental management or space science, appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for Defence;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance;
- (d) the Principal Secretary in the Ministry for the time being responsible for Science and Technology;
- (e) the Principal Secretary in the Ministry for the time being responsible for Information, Communication and Technology;
- (f) the Principal Secretary in the Ministry for the time being responsible for Environment;

- (g) the Chief of the Defence Forces or his representative;
- (h) the Attorney-General or his representative;
- (i) three persons, not being public officers or employees or directors of any public company, appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters relating to defence, security, agriculture, mining, environmental management or space activities; and
- (j) the Director General, who shall be the Secretary to the Board.

(2) The appointment of members under paragraph 6(1) (a) and (i) shall be by name and by notice in the Kenya Gazette.

(3) The Cabinet Secretary shall ensure that the principle of gender parity is observed in making appointments under this Order.

(4) The Chairperson and members of the Agency appointed under paragraph 6(1) (a) and (i) shall serve for a term of three years and shall be eligible for re-appointment for one further term.

7. (1) The Board shall meet at least four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings of the Board.

(2) The Chairperson shall preside over all meetings of the Board and in the absence of the Chairperson, the other members present at the meeting shall appoint one of the members to act as Chairperson for the purpose of that meeting.

(3) The quorum for a meeting shall be two thirds of the members of the Board.

(4) The Board may from time to time co-opt into its membership any person whose skills and experience are necessary for the performance of the functions of the Board to assist in any specified matter on need basis.

(5) A person co-opted under subparagraph (3) shall not have powers to vote on any matter before the Board.

(6) Subject to the provisions of this Order, the Board may regulate its own procedure.

8. The Agency shall pay such remuneration, fees, allowances and such other reimbursement to members of the Board as may be approved by the Committee.

Remuneration.

9. (1) The office of a member of the Board, other than an *ex officio* member, shall become vacant—

Vacancy in office.

- (a) if the member resigns by giving notice in writing, in the case of the Chairperson, to the President, and in the case of any other member, to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the President or the Cabinet Secretary, as the case may be;

- (b) if the member—
- (i) is declared bankrupt or enters into a composition or scheme of arrangement for the benefit his creditors;
 - (ii) is convicted of a criminal offence and sentenced to a term of imprisonment;
 - (iii) is incapacitated by reason of infirmity of body or mind;
 - (iv) is absent from three consecutive meetings of the Board without the leave of the Chairperson; or
 - (v) is removed from the Board by the President or the Cabinet Secretary, as the case may be, where the member is found to be otherwise unable or unfit to discharge the duties of a member of the Board;
- (c) upon the death of the member.

(2) Where the office of the Chairperson or a member of the Board becomes vacant under this paragraph, the President or the Cabinet Secretary, as the case may be, may appoint another person as a replacement of the person vacating office in accordance with this Order.

10. (1) The Board may appoint such professional, technical and administrative staff as may be necessary for the proper discharge of its functions under this Order, and upon such terms and conditions of service as the Agency may determine.

Staff of the Agency

(2) The staff appointed under subparagraph (1) shall serve on such terms and conditions as the Board, in consultation with the Salaries and Remuneration Commission may determine.

(3) The Public Service Commission may, upon request by the Board second to the Agency such number of public officers as may be necessary for the proper performance of the functions of the Agency.

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

(5) The Board shall prescribe a Code of Conduct for members of the Board and the staff of the Agency.

11. (1) There shall be a Director-General who shall be the Chief Executive Officer of the Agency, who shall be appointed by the Board on such terms and conditions as may be specified in the instrument of appointment.

Director-General.

(2) A person shall be qualified to be appointed as the Director-General if the person—

- (a) is a citizen of Kenya;
- (b) possesses a post-graduate degree from a university recognised in Kenya;
- (c) has at least fifteen years demonstrable knowledge and experience in matters related to space science;

- (d) has at least ten years management experience at a senior level in the public or private sector; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be responsible to the Board for the day-to-day management of the affairs of the Agency.

PART III— FINANCIAL PROVISIONS

12. The financial year of the Agency shall be the period of twelve months ending on the thirtieth June in the next year.

Financial year.

13. The funds of the Agency shall consist of—

Sources of funds.

- (a) funds provided by the National Assembly;
- (b) such monies as may accrue to the Agency in the performance of its functions under this Order;
- (c) such monies from any other source granted, donated or lent to the Agency.

14. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Agency for that financial year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Agency for the financial year concerned, and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the Board members and staff of the Agency;
- (b) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Agency; and
- (c) proper maintenance, repair and replacement of the equipment and other movable property of the Agency.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) Expenditure shall not be incurred for the purpose of the Agency except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of an authorization of the Board given with the prior approval of the Cabinet Secretary.

15. The Board may invest any of the funds of the Agency which are not immediately required for its purposes for the time being trustees may by law invest trust funds, or in such other securities as the National Treasury may from time to time approve for the purpose.

Investment of Funds.

16. The Board may place on deposit with such banks as it may determine any moneys not immediately required for the purposes of the Agency.

Bank Accounts.

17. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Agency.

Accounts and Audit
No. 34 of 2015

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Agency together with—

- (a) a statement of income and expenditure during that year; and
 - (b) a statement of the assets and liabilities of the Agency on the last day of the financial year.
- (3) The accounts of the Agency shall be audited in accordance with the Public Audit Act.

(4) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Agency to the Board and to the Cabinet Secretary.

(5) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Agency's accounts or records when it appears to him desirable and the Auditor-General shall carry out such an inspection at least once every six months.

18. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Agency for the immediately preceding year.

Annual Report

(2) The Agency shall, every twelve months, prepare and publish a report to the public intended to—

- (a) inform the public about space, science and technology related programmes undertaken, including future programmes, by the Agency; and
 - (b) encourage the public to contribute to the achievement of the objectives of those programmes
- (3) Subject to Article 35 of the Constitution, the Agency may decline to give information to an applicant where—
- (a) the request is considered unreasonable in the circumstances;
 - (b) the information requested is at a deliberative stage within the Agency;
 - (c) the prescribed fee is not paid; or
 - (d) the applicant fails to satisfy any confidentiality requirements required by the Agency.

(4) Every member of the Board and member of staff of the Agency shall sign a confidentiality agreement.

PART IV—MISCELLANEOUS PROVISIONS

19. No matter or anything done by the Chairperson or any other member of the Agency or any officer, employee or agent of the Agency shall, if the matter or thing is done in good faith for the purpose of executing any provisions of this Order, render the Chairperson, member, officer, employee or agent or any person acting under the directions of those persons, personally liable to any action, claim or demand.

Protection from personal liability

20. The provisions of this Order shall not relieve the Agency of the liability to pay compensation or damages to any person for any injury to him or his property or any of his or her interests caused by the exercise of any of the power conferred by this Order or by failure, whether wholly or partially, of any action.

Liability for Damages.

21. The Board may, by resolution, either generally or in any particular case, delegate to a Committee of the Agency or to any member of the Board, officer or agent of the Agency the exercise of any of the powers or the performance of any of the function or duties the Agency is authorized by this Order to exercise or perform

Delegation of duties by the Board.

22. All the documents of the Agency shall be under the hand of the Chairperson.

Signification of documents.

23. (1) Subject to this Order, the common seal of the Agency shall be kept in such custody as the Board may direct and shall not be used except in the manner authorized by the Board.

Common seal.

(2) All deeds, instruments, contracts or other documents shall be deemed to be duly executed by or on behalf of the Board—

(a) where they are required to be under seal, if sealed with the common seal of the Board and authenticated by the signature of the Chairperson and the Secretary; and

(b) where they are not required to be under seal, if executed in that behalf by the Chairperson or the Secretary.

24. Subject to this Order, any person who is an employee of the National Space Secretariat immediately before the commencement of this Order shall upon such commencement be deemed to be an employee of the Agency.

Transitional Provision.

Made on the 24th February, 2017.

UHURU KENYATTA,
President.