



**THE REPUBLIC OF KENYA**

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**THE FOREIGN SERVICE ACT**

CAP. 185E

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Kenya

## Foreign Service Act

Cap. 185E

Legislation as at 31 December 2022

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# FOREIGN SERVICE ACT

## CAP. 185E

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**An Act of Parliament to provide for the establishment management, administration, accountability and functioning of a professional foreign service of the Republic of Kenya and for connected purposes**

### Part I – PRELIMINARY

#### 1. Short title

This Act may be cited as the Foreign Service Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"Academy" means the Foreign Service Academy established under [section 28](#);

"attache" means a public officer other than a foreign service officer deployed to a Kenya Mission abroad for specialized duties;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to foreign affairs;

"career diplomat" means an Officer of a rank eligible for appointment as a high commissioner, ambassador, diplomatic or consular representative;

"consular post" means any consulate-general, consulate, vice-consulate or consular agency;

"Council" means the Council of the Academy established under [section 30](#);

"dependant child" means a biological offspring or a legally adopted child who is not married-

- (a) and is under the age of twenty-two years;
- (b) is in school and is under the age of twenty-four years; or
- (c) has special needs and is wholly dependent on an officer,

"diplomatic agent" means the Head of a Mission or a member of the diplomatic staff of the mission;

"Foreign Service" means the Foreign Service established under [section 3](#).

"Government" means the Government of the Republic of Kenya;

"Headquarters" means the administrative centre of the Service in Kenya;

"Head of Mission" means an Ambassador, High Commissioner, Permanent Representative, a Consul-General or an Officer acting in that capacity;

"Honorary Consul" means an official representative of one country in the territory of another and does not include a career diplomat;

"international organization" means an intergovernmental organization;

"locally engaged staff" means staff employed on local terms in a Kenyan Mission;

"Ministry" means the Ministry responsible for matters relating to foreign affairs as designated by the President;

"Mission" means a Kenyan Embassy, High Commission, Consulate-General or a duly accredited representational office abroad or within the Republic;

"Officer" means a Foreign Service officer;

"Public Service Commission" means the Public Service Commission established under Article 233 of the Constitution;

"Republic of Kenya" or "the Republic" means any land territory within the territorial limits of the Republic of Kenya, and includes the internal waters and territorial sea of the Republic of Kenya;

"Service" means the Foreign Service of the Republic of Kenya established under [section 3](#);

"service staff" means persons recruited to offer technical and administrative support to the Service other than foreign service officers;

"special needs" means a physical or mental condition which necessitates special care for a dependant child;

"spouse" means wife or husband of an Officer as declared by the Officer and recognized under the Marriage Act (Cap. 150);

"tour of duty" means the period of time between—

- (a) when an appointed Officer reports to a Mission; and
- (b) when the Officer is recalled to Ministry Headquarters.

## **Part II – THE FOREIGN SERVICE**

### **3. Establishment of the Foreign Service**

- (1) There is hereby established a Foreign Service of the Republic of Kenya within the Ministry.
- (2) The Foreign Service shall be headed by the Cabinet Secretary.
- (3) In the performance of its functions, the Foreign Service shall be guided by the national values and principles of governance enshrined in the Constitution, international law and customs of diplomatic practice.

### **4. Composition of the Foreign Service**

- (1) The Service shall comprise officers serving at the headquarters and in Missions, who shall include—
  - (a) high commissioners, ambassadors and diplomatic and consular representatives;
  - (b) Special envoys;
  - (c) Honorary Consuls;
  - (d) foreign service officers; and
  - (e) any other officer as may be designated by any written law or by the Cabinet Secretary in writing.
- (2) The composition of the Service shall reflect the gender, regional and other diversities of the people of Kenya.

## 5. Functions of the Foreign Service

In addition to any other responsibilities designated in writing by the President to the Ministry, the Service shall –

- (a) be responsible for the development and management of Kenya's foreign policy;
- (b) conduct and coordinate the international relations and cooperation of the Republic at bilateral, regional and multilateral levels;
- (c) enhance protection of Kenya's sovereignty and territorial integrity;
- (d) enhance national, regional and international peace, security and stability;
- (e) protect, promote and project national interests globally;
- (f) establish and maintain good relations between the Republic and other countries, and international organizations;
- (g) manage the Republic's Missions;
- (h) serve and promote the legitimate interests of Kenyans living abroad;
- (i) administer diplomatic privileges and immunities;
- (j) administer all foreign representations in the Republic;
- (k) be the primary interface between the Republic and foreign states and international organizations or entities;
- (l) facilitate negotiation and conclusion of international treaties and agreements in consultation with relevant ministries;
- (m) maintain custody of ratified international treaties and agreements;
- (n) facilitate the integration of Kenya's foreign policy in national security;
- (o) coordinate, monitor and report on the implementation of the Republic's international obligations;
- (p) coordinate and provide protocol services to designated foreign and national dignitaries as prescribed;
- (q) provide consular services as prescribed;
- (r) coordinate relevant agencies in emergency evacuation of distressed Kenyans abroad; and
- (s) perform any other function as may be necessary for the discharge of its mandate as prescribed by any written law.

## 6. Powers and functions of the Cabinet Secretary

In addition to any powers or functions designated in writing by the President, the Cabinet Secretary shall –

- (a) be the principal advisor to the President on matters relating to foreign policy;
- (b) provide strategic leadership and policy guidance to the Service;
- (c) consult and advise the Public Service Commission on appropriate officers to be appointed to the Foreign Service;
- (d) ensure that the Service and Missions pursue the foreign policy objectives of the Republic, in coordination with other ministries and agencies in the Republic;
- (e) advise the Cabinet on the establishment of Missions of the Republic;

- (f) provide policy advice to the Government on matters relating to foreign policy;
- (g) establish such consultative coordination mechanisms as may be necessary for the effective implementation of this Act;
- (h) conduct and coordinate communications between the government of the Republic and governments of other countries and intergovernmental organizations and agencies;
- (i) oversee and implement directives by the President relating to the appointment or recall of high commissioners, ambassadors and diplomatic and consular representatives;
- (j) administer, manage and develop the capacity of the Service;
- (k) issue guidelines on the coordination and alignment of matters relating to foreign affairs to National and county governments;
- (l) approve the accreditation of a high commissioner, ambassador, diplomatic or consular representative to serve more than one country or jurisdiction; and
- (m) ratify international agreements on behalf of the Republic subject to approval by the National Assembly.

## **7. Functions of the Principal Secretary**

The Principal Secretary in the Ministry responsible for matters relating to foreign affairs shall be responsible to the Cabinet Secretary and shall –

- (a) provide administrative supervision to the Service;
- (b) co-ordinate the performance management of the Service;
- (c) oversee implementation of programmes;
- (d) provide foreign policy advice to the Cabinet Secretary;
- (e) be the principal accounting officer and ensure efficient utilization of funds and other public resources;
- (f) act as the point of contact for the Service;
- (g) advise the Cabinet Secretary on human resource matters; and
- (h) perform any other functions as delegated by the Cabinet Secretary.

## **Part III – MINISTRY HEADQUARTERS AND MISSIONS**

### **8. Organizational Structure**

The Cabinet Secretary shall prescribe the organizational structure of the Ministry headquarters and its overseas Missions in regulations.

### **9. Administrative Divisions of the Ministry Headquarters**

- (1) For the effective administration of this Act, the Ministry Headquarters shall establish offices for the core functions of –
  - (a) providing foreign policy advice and coordinating political diplomacy;
  - (b) coordinating protocol matters for efficient diplomatic engagement;
  - (c) providing legal advice and handling compliance matters;
  - (d) advancing economic and commercial diplomacy; and



- (e) central planning and coordination of Ministry projects.
- (2) The Ministry Headquarters may establish any other offices necessary for the discharge of its functions under this Act.

#### **10. Establishment of Missions of the Republic**

- (1) The Cabinet Secretary may recommend, and upon approval by the Cabinet, establish a Mission in accordance with the provisions of the Vienna Convention on Diplomatic Relations, 1961, the Vienna Convention on Consular Relations, 1963, and the provisions of treaties and conventions establishing intergovernmental organizations and agencies.
- (2) In recommending the establishment of a Mission and any office of the Foreign Service abroad, the Cabinet Secretary shall be guided by the Kenyan foreign policy.
- (3) The Cabinet Secretary shall, with the approval of Cabinet-
  - (a) prescribe the territorial accreditation boundaries of a Mission;
  - (b) amalgamate two or more Missions; or
  - (c) close or downgrade a Mission.

### **Part IV – MANAGEMENT OF THE SERVICE**

#### **11. Recruitment**

- (1) The Cabinet Secretary shall, in consultation with the Public Service Commission –
  - (a) determine the terms and conditions of service for members of the Service; and
  - (b) establish a Foreign Service Personnel Scheme which shall guide the criteria relating to recruitment and career progression within the Service.
- (2) A person shall not be recruited into the Service unless the person—
  - (a) is a Kenyan citizen; and
  - (b) has undertaken and passed Foreign Service Examinations administered by the Academy.
- (3) Recruitment and promotion in the Service shall be conducted through a competitive process to determine the competence, fitness and aptitude of candidates to serve in the Foreign Service.
- (4) The Public Service Commission shall, in consultation with the Cabinet Secretary, recruit—
  - (a) suitably qualified officers to execute the functions of the Foreign Service; and
  - (b) service staff to provide technical and support services to the Service.
- (5) The recruitment and appointment procedure under this Act shall comply with the values and principles of Public Service enshrined under the Constitution and the Public Service (Values and Principles) Act (Cap. 185A).

#### **12. Conditions of service for officers**

- (1) The Public Service Commission shall, in consultation with the Cabinet Secretary, prescribe the conditions of service for officers, high commissioners, ambassadors, diplomatic and consular representatives and other diplomatic personnel.

- (2) The Cabinet Secretary shall, on the advise of the Salaries and Remuneration Commission, prescribe the level of allowances and other entitlements applicable to—
  - (a) high commissioners, ambassadors and diplomatic and consular representatives; and
  - (b) staff members assigned, engaged or seconded to serve at a Mission of the Republic.

### **13. Secondment of officers to international organizations**

The Cabinet Secretary may, with the concurrence of the Public Service Commission, second officers of the Ministry to any intergovernmental organization or agency.

### **14. Deployment of officers to Missions**

- (1) The Cabinet Secretary may, with notification to the Public Service Commission, assign any officer of the Service to any Mission.
- (2) The Cabinet Secretary may extend or terminate any overseas assignment under subsection (1), and require an officer to return to headquarters.
- (3) Any officer of the Ministry assigned overseas shall, in addition to the provisions under his or her employment contract, continue to be bound by the regulations governing the public service.
- (4) The Cabinet Secretary may recall an officer assigned to serve at a Mission prior to the end of his or her term as prescribed in regulations.

### **15. Training**

- (1) The Cabinet Secretary shall ensure that all officers receive appropriate diplomatic and other training relevant to their rank under the personnel scheme.
- (2) The training and capacity building of officers shall be undertaken by the Academy and such other institutions as may be authorized by the Principal Secretary.

### **16. Secondment of an officer from another Ministry**

- (1) The Public Service Commission may, with the concurrence of the relevant Cabinet Secretary and the Cabinet Secretary, second staff from any other Ministry to any Mission.
- (2) Where a person is seconded to a Mission under subsection (1), the Cabinet Secretary and the relevant Cabinet Secretary shall agree on the employment and financial conditions that shall apply for the duration of secondment.

### **17. Locally engaged staff**

- (1) The Head of a Mission—
  - (a) shall constitute a recruitment committee comprising senior administrative staff; and
  - (b) may, on the recommendation of the committee, employ suitably qualified persons at any Mission.
- (2) The Head of the Mission shall conduct a background check before employing a person under this section.
- (3) The terms and conditions of employment of locally engaged staff shall be in accordance with the labour laws of the host country.

## **18. Privileges and immunities of Officers, spouse and children**

- (1) An Officer or an accompanying spouse or dependant child shall not during the Officer's tour of duty be deprived of any of their privileges, immunities, and children, allowances, benefits or any form of status expressly provided for in the relevant treaty or convention.
- (2) A person who abuses any privilege or immunity granted under this section shall be subjected to disciplinary action as appropriate.
- (3) A person shall not waive the privileges and immunities granted under this section without the express approval of the Cabinet Secretary.

## **19. Code of conduct**

The Cabinet Secretary shall prescribe a code of conduct to bind all officers and service staff engaged by the Ministry.

## **Part V – APPOINTMENT OF HIGH COMMISSIONERS, AMBASSADORS AND DIPLOMATIC AND CONSULAR REPRESENTATIVES**

## **20. Appointment**

- (1) The Office of a high commissioner, ambassador, diplomatic or consular representative shall be a State office for purposes of Article 260 of the Constitution.
- (2) Pursuant to Article 132(2)(e) of the Constitution, the President shall nominate and, subject to the approval of the National Assembly, appoint high commissioners, ambassadors and diplomatic or consular representatives.
- (3) A nomination under sub section (2) shall reflect—
  - (a) a fair balance between career diplomats and other appointees; and
  - (b) the gender, regional and other diversities of the people of Kenya.
- (4) A person nominated for appointment under subsection (2) shall be—
  - (a) a citizen of Kenya; and
  - (b) of a reputable character and standing.

## **21. Duties of the Head of Mission**

The Head of a Mission shall –

- (a) actively pursue the foreign policy objectives of the Republic in the host country;
  - (b) act as the personal representative of the Head of State in the host country;
  - (c) act as an official representative of the Republic at official functions in the host country;
  - (d) be responsible for the management and administration of the Mission and all members of the Foreign Service located at the Mission, including the locally engaged staff of the Mission;
  - (e) be accountable for any expenditure of the Mission and ensure that the budget of the Mission is administered in accordance with the Public Finance Management Act (Cap. 412A) and all other applicable laws and regulations.
- (2) A Mission may have more than one person designated to serve as ambassador or high commissioner.

- (3) Where a Mission has more than one ambassador or high commissioner, the ambassador or high commissioner designated as ambassador extraordinary and plenipotentiary shall be the Head of Mission.

## 22. Duration of appointment

- (1) Unless terminated earlier under [section 23](#), a high commissioner, ambassador, diplomatic or consular representative shall serve for a term of four years.
- (2) On the expiry of the term of a high commissioner, ambassador, diplomatic or consular representative the President may either—
  - (a) appoint a replacement, subject to the approval of the National Assembly; or
  - (b) re-appoint a high commissioner, ambassador, diplomatic or consular representative previously approved for appointment by the National Assembly in accordance with this Act.
- (3) The re-appointment of a high commissioner, ambassador, diplomatic or consular representative under subsection (2)(b) shall not require the approval by the National Assembly.

## 23. Termination of appointment

The President may terminate the appointment of a high commissioner, ambassador, diplomatic or consular representative before the end of his or her term.

## 24. Accreditation

A Mission, and its respective Head of Mission, may be accredited to one or more states and international organisations.

## 25. Appointment of an Honorary Consul

- (1) The President may appoint any suitable person as an Honorary Consul for the Republic.
- (2) When recommending a person for appointment under subsection (1), the Cabinet Secretary shall provide evidence that the person—
  - (a) is of independent means;
  - (b) is of high standing in his or her country;
  - (c) has relevant contacts within and beyond the government of the host country;
  - (d) is committed and has the ability to promote, pursue and articulate the interests of the Republic in the host country, in accordance with the foreign policy objectives of the Republic.
- (3) Each Honorary Consul shall report directly to—
  - (a) the Head of Mission responsible for that country; or
  - (b) where there is no Head of Mission, to the Cabinet Secretary.

## 26. Functions and responsibilities of an Honorary Consul

- (1) The functions and responsibilities of an Honorary Consul shall be to—
  - (a) actively pursue the foreign policy objectives of the Republic in the host country;
  - (b) act as an official representative of the Republic at official functions in the host country;
  - (c) report to the Head of Mission on business, training, vocational and other opportunities available to nationals of the Republic in the host country; and

- (d) perform any other function or responsibility contained in his or her instrument of appointment.
- (2) The President may, in writing, terminate the appointment of an Honorary Consul.

## **Part VI – FOREIGN POLICY OF THE REPUBLIC**

### **27. Policy to be published**

The Cabinet shall formulate the foreign policy objectives of the Republic on the recommendation of the Cabinet Secretary.

## **Part VII – THE FOREIGN SERVICE ACADEMY**

### **28. Establishment of the Academy**

- (1) There is established, under the Ministry, an Academy to be known as the Foreign Service Academy.
- (2) The Academy 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) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property in and out of Kenya;
  - (c) borrowing or receiving grants; and
  - (d) doing or causing to be done or performing all such other things or acts for the proper performance of its functions under this Act, as may be lawfully done or performed by a body corporate.

### **29. Functions of the Academy**

The Academy shall –

- (a) be the principal institution for training and capacity building of members of the Foreign Service;
- (b) undertake foreign policy consultancy, research and analysis for the Service, Government and clients in the private and public sector;
- (c) develop and conduct periodic evaluation of training programmes to ensure relevance, quality and effectiveness;
- (d) undertake continuous foreign service training and other programmes to enhance skills, capacity and professionalism of officers;
- (e) offer induction courses to all newly employed persons to help them transition into a career in the Service;
- (f) administer entry and promotional examinations within the Service;
- (g) undertake training of members of the Service before deployment for a tour of duty;
- (h) conduct examinations for the grant of such professional and academic awards as may be prescribed;
- (i) develop and maintain a repository of research resources on foreign policy and related issues;
- (j) develop linkages and collaborations with institutions of learning, professional organizations, private sector and other similar institutions across the world;

- (k) control the publication and use of research findings of the Service; and
- (l) perform all other acts necessary for the proper performance of its functions under this Act, Foreign Service which may lawfully be done or performed by a body corporate.

### 30. Composition of the Council

- (1) The Academy shall be administered by a Council comprising—
  - (a) a Chairperson appointed by the Cabinet Secretary from amongst the persons appointed under paragraph (d);
  - (b) the Principal Secretary in the Ministry responsible for matters relating to foreign affairs or a representative designated in writing;
  - (c) the Principal Secretary in the National Treasury or a representative designated in writing;
  - (d) three persons competitively recruited and appointed by the Cabinet Secretary, one of whom shall be a person who teaches diplomacy or international relations in a university recognized in Kenya;
  - (e) the Secretary of the Public Service Commission;
  - (f) the Director-General of the Kenya School of Government; and
  - (g) the Director-General, who shall be an *ex officio* member.
- (2) A person shall not be appointed to the Council under subsection (1)(d) unless such person—
  - (a) meets the requirements of Chapter Six of the Constitution;
  - (b) possesses a post graduate degree from a recognised university in—
    - (i) international relations;
    - (ii) international law;
    - (iii) international diplomacy;
    - (iv) economics;
    - (v) social sciences; or
    - (vi) a relevant field; and
  - (c) possesses experience, knowledge or expertise in matters relating to foreign and diplomatic service.
- (3) The chairperson and members of the Council appointed under subsection (1)(d) shall hold office for a term of three years from the date of appointment and shall be eligible for re-appointment for one further term.

### 31. Powers of the Council

- (1) The Council shall have all powers necessary for the proper performance of the functions of the Academy under this Act.
- (2) Without prejudice to the generality of the foregoing, the Council shall have power to—
  - (a) control, supervise and administer the assets of the Academy in such manner as best promotes the purposes for which the Academy is established;
  - (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Academy;

- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom with the approval of the Cabinet Secretary;
- (d) open such banking accounts for its funds as may be necessary with the approval of the Cabinet Secretary for the National Treasury;
- (e) invest any of its funds not immediately required for its purposes with the approval of the Cabinet Secretary and the Cabinet Secretary for the National Treasury;
- (f) undertake any activity necessary for the fulfilment of any of its functions under this Act; and
- (g) determine the content, scope and relevance of foreign service programmes.

### **32. Conduct of business and affairs of the Council**

- (1) The conduct of the business and affairs of the Council shall be as provided in the Schedule.
- (2) Except as provided in the Schedule, the Council may regulate its own procedure.

### **33. Remuneration of the Council**

The Council shall pay its members such remuneration, fees or allowances as may be determined by the Salaries and Remuneration Commission.

### **34. Director-General**

- (1) There shall be a Director-General of the Academy who shall be competitively recruited and appointed by the Council.
- (2) The Director-General shall serve for a five year term, renewable once on the basis of satisfactory performance.
- (3) A person shall qualify for appointment as Director-General if the person—
  - (a) possesses a post graduate degree from a recognised university in—
    - (i) international relations;
    - (ii) international law;
    - (iii) international diplomacy;
    - (iv) economics;
    - (v) social sciences; or
    - (vi) a relevant field; and
  - (b) has at least ten years post graduate working experience; and
  - (c) meets the requirements of Chapter Six of the Constitution.

### **35. Functions of Director-General**

The Director-General shall be —

- (a) the accounting officer of the Academy; and
- (b) responsible for—
  - (i) implementing the decisions of the Council;
  - (ii) efficient administration of the Academy;

- (iii) preparing annual reports on activities of the Academy;
- (iv) the day-to-day administration and management of the affairs of the Academy; and
- (v) the performance of such other duties as may be assigned by the Council or as may be prescribed under this Act, or any other written law.

### **36. Corporation Secretary**

- (1) There shall be a Corporation Secretary of the Academy who shall be the Secretary to the Council.
- (2) The terms and conditions of service of the Corporation Secretary shall be determined by the Council in consultation with the Salaries and Remuneration Commission.

### **37. Common seal**

- (1) The common seal of the Academy shall be kept in such custody as the Council may direct and shall not be used except on the order of the Council.
- (2) The affixing of the common seal of the Academy shall be authenticated by the signature of the Chairperson and the Director-General and any document not required by law to be made under seal and all decisions of the Council may be authenticated by the signatures of both the Chairperson and the Director-General.
- (3) Notwithstanding the provisions of subsection (2) the Council shall, in the absence of either the Chairperson or the Director-General in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or the Director-General.
- (4) The common seal of the Academy when affixed to a document and duly authenticated shall be judicially noticed and unless the contrary is proved, any necessary order or authorization by the Council under this section shall be presumed to have been duly given.

### **38. Staff of the Academy**

The Council may appoint such officers and other staff as may be necessary for the proper discharge of the functions of the Academy under this Act, upon such terms and conditions of service as it may determine upon the advice of the Salaries and Remuneration Commission.

### **39. Delegation by the Council**

The Council may, by resolution either generally or in any particular case, delegate to any committee or member of the Council or to any Officer, employee or agent of the Academy, the exercise of any of the powers or the performance of any of the functions or duties of the Academy under this Act or under any other written law.

### **40. Protection from liability**

- (1) The Council or members of staff shall not be liable for loss or damage sustained by any person as a result of any action or omission done or made in good faith and without negligence in the performance of any duty or power conferred by this Act.
- (2) Any expenses incurred by any person in any suit or prosecution brought against that person in any court in respect of any act which is done or purported to be done by that person under the direction of the Council shall, if the court holds that such act was done in good faith, be paid out of the general funds of the Council unless such expenses are recovered by him or her in such suit or prosecution.



#### **41. Funds of the Academy**

The funds of the Academy shall comprise—

- (a) such moneys as may be appropriated by the National Assembly for purposes of the Academy;
- (b) such moneys, revenue or assets as may accrue to or vest in the Academy in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (c) funds accruing from investments made by the Academy;
- (d) such gifts, grants, loans or donations, made to the Academy;
- (e) money from any other source received by the Academy in the performance of its functions under this Act; and
- (f) monies from any other sources that the Council may approve.

#### **42. Financial year**

The financial year of the Academy shall be the Financial year, period of twelve months ending on the thirtieth of June each year.

#### **43. Annual estimates**

- (1) At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Academy for that year.
- (2) The annual estimates shall make provision for all estimated expenditure of the Academy for the financial year and in particular, the estimates shall provide for -
  - (a) the payment of the allowances and other charges in respect of members of the Council;
  - (b) the payment of salaries, allowances, pensions, gratuities and other charges in respect of the staff of the Academy;
  - (c) the proper maintenance of the buildings and grounds of the Academy;
  - (d) the maintenance, repair and replacement of the equipment, machinery and other property of the Academy; and
  - (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Council may deem appropriate.
- (3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary's approval, the Council shall not increase the annual estimates of the Academy without the consent of the Cabinet Secretary.

#### **44. Accounts and audit**

- (1) The Council shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Academy.
- (2) Within a period of three months from the end of each financial year, the Council shall submit to the Auditor-General the accounts of the Academy together with—
  - (a) a statement of the income and expenditure of the Academy during that year; and
  - (b) a balance sheet of the Academy on the last day of that year.

- (3) The accounts of the Academy shall be audited and reported upon in accordance with the Public Audit Act (Cap. 412B).

## **Part VIII – MISCELLANEOUS PROVISIONS**

### **45. Administration of Act**

- (1) The Cabinet Secretary shall be responsible for the administration of this Act.
- (2) In administering this Act, the Cabinet Secretary shall, as far as it is applicable, execute its functions in a manner consistent with provisions of the—
  - (a) Privileges and Immunities Act ([Cap. 179](#));
  - (b) Income Tax Act ([Cap. 470](#));
  - (c) Public Finance Management Act (Cap. 412A);
  - (d) Treaty Making and Ratification Act (Cap. 4D);
  - (e) Public Procurement and Asset Disposal Act (Cap. 412C);
  - (f) Vienna Convention on Diplomatic Relations; and
  - (g) Vienna Convention on Consular Relations.

### **46. Costs of emergency evacuation**

The National Treasury shall, subject to the approval of the National Assembly, allocate funds from the Consolidated Fund or reimburse the Ministry for any expenses incurred in conducting the emergency evacuation of Kenyans abroad where the evacuation has been approved by the Cabinet.

### **47. Foreign exchange fluctuations**

The National Treasury shall compensate the Ministry for any loss incurred resulting from foreign exchange adjustment, from monies sent to its Missions abroad.

### **48. Diplomatic reporting, notification and communication**

- (1) Unless otherwise directed by the Cabinet Secretary —
  - (a) all diplomatic or official correspondences sent directly to the Republic's Missions shall be forwarded to or channeled through the Ministry Headquarters;
  - (b) all diplomatic or official correspondences originating from embassies within the Republic to any Ministry or agency in the Republic shall be forwarded or channeled through the Ministry Headquarters; and
  - (c) all diplomatic or official correspondences originating from domestic Ministries, agencies, or Missions and international organizations that are channeled through Ministry Headquarters shall, where appropriate, be forwarded to the relevant embassies for their information.
- (2) The Head of a Mission or his or her designate shall be the first point of contact for a Mission of the Republic.
- (3) The Principal Secretary shall be the first point of contact for the Ministry Headquarters.

## Part IX – PROVISIONS ON DELEGATED POWERS

### 49. Regulations

- (1) The Cabinet Secretary may make regulations prescribing—
  - (a) matters of procedure in relation to any application under this Act;
  - (b) conditions of employment, allowances and entitlements for overseas staff;
  - (c) procedure for administering Foreign Service examinations, including written, oral, physical, foreign language, and other examinations for appointment to the Service;
  - (d) procedure for termination or recall of officers assigned to Missions;
  - (e) the terms and conditions applicable to a special envoy;
  - (f) the provision of protocol services to designated foreign and national dignitaries;
  - (g) the provision of consular services;
  - (h) the nature, conditions and term of deployment of Officers to serve in Kenya Missions; and
  - (i) any other matter which is necessary or expedient to prescribe in order to achieve or promote the objects of this Act.
- (2) For the purposes of Article 94 (6) of the Constitution —
  - (a) the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act;
  - (b) the authority of the Cabinet Secretary to make regulations under this Act is limited to bringing into effect the provisions of this Act and to fulfil the objectives specified under this section;
  - (c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act (Cap. 2) and the Statutory Instruments Act (Cap. 2A).

## Part X – TRANSITION

### 50. Transition

- (1) A high commissioner, ambassador and diplomatic or consular representative appointed prior to the commencement of this Act shall serve the remainder of their unexpired term of office unless otherwise recalled or removed from office in accordance with the Constitution, any written law or contract of service.
- (2) The staff of the Ministry prior to the commencement of this Act shall be the staff of the Foreign Service.

## SCHEDULE [s. 32]

### PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

#### 1. Vacation of office

The office of a member of the Council shall become vacant if the member —

- (a) dies;

- (b) resigns in writing to the Chairperson or the Cabinet Secretary;
- (c) is absent without the permission of the Chairperson from three or more consecutive meetings of the Council;
- (d) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (e) is convicted of an offence which in the opinion of the Council renders him unsuitable to continue to hold office;
- (f) becomes for any reason including infirmity of body or mind, incompetent or incapable of performing the functions of the office; or
- (g) is otherwise unable to discharge his functions.

## 2. Vice-Chairperson

The Council shall, at its first meeting, elect a Vice-Chairperson from amongst the persons appointed under [section 30\(1\)\(d\)](#) of the Act.

## 3. Meetings

- (1) The Council shall meet at least four times in each year.
- (2) The Chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.
- (3) The Chairperson shall preside at all meetings of the Council, which he or she is present and in the case of his or her absence, the vice-Chairperson shall preside.
- (4) At a meeting of the Council at which neither the Chairperson or Vice-Chairperson is present, the members of the Council present shall elect one of their number to preside, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted.

## 4. Quorum

The quorum for the conduct of the business of the Council shall be four members.

## 5. Voting procedure

The decisions of the Council shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

## 6. Validity of proceedings

The validity of any proceedings of the Council shall not be affected by any vacancy among the membership thereof, or by any defect in the appointment of a member hereof.

## 7. Minutes

Minutes of the proceedings at meetings of the Council shall be kept in such a manner as the Council directs.

## 8. Committees of the Council

The Council may establish such committees as may be necessary for the performance of the functions of the Council and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

## 9. Power of the Council to regulate own procedure

Subject to the provisions of this Schedule, the Council may regulate its own procedure.

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10. Disclosure of interest

- (1) If a member of the Council is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he or she shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.
- (2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- (3) A member who does not disclose his or her interest in a contract or other matter or who benefits from non-disclosure under subparagraph (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding one year or to both.