

**SPECIAL ISSUE**

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**SENATE BILLS, 2017**

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**NAIROBI, 29th December, 2017**

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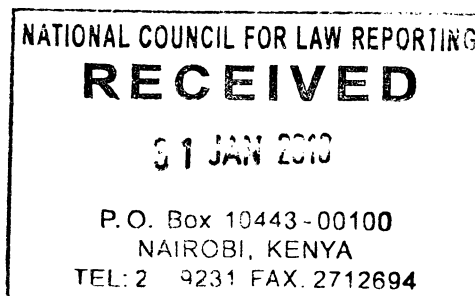
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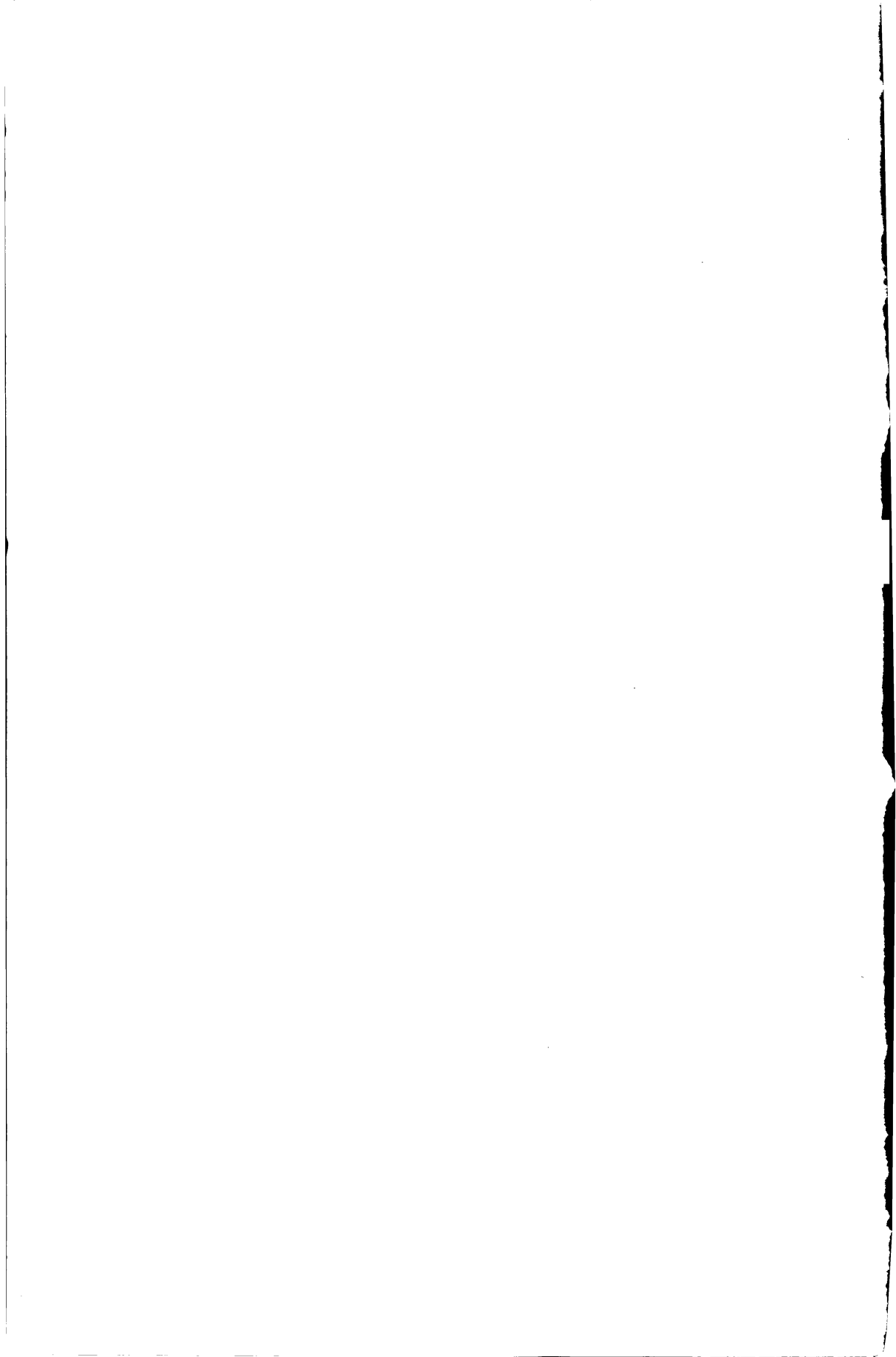
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**FOOD SECURITY BILL, 2017****A Bill for**

**AN ACT of Parliament to give effect to Article 43(1)(c) of the Constitution on the freedom from hunger and the right to adequate food of acceptable quality; Article 53(1)(c) of the Constitution on the right of every child to basic nutrition and Article 21 of the Constitution on the implementation of rights and fundamental freedoms under the Constitution; and for connected purposes.**

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

**PART I—PRELIMINARY**

1. This Act may be cited as the Food Security Act, 2017 and shall come into operation on such a date as the Cabinet Secretary may, by notice in the Gazette, appoint not being more than six months after its publication and different dates may be appointed for different provisions.

Short title.

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

Interpretation.

“access” in relation to food means the physical, economic and social access by a person or households to food through production, purchase or through programmes implemented by the State to ensure that the right of every person who is otherwise unable to procure food, is actualised;

“adequate food” means the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances and acceptable within a given culture;

“at risk persons” are food-poor persons who do not have a competent social support system and by reason of infancy, pregnancy, advanced years, infirmity or any other reason determined by the Authority from time to time cannot produce or purchase essential food items and commodities in adequate quantity and quality;

“Authority” means the Food Security Authority established under section 11;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters related to food security;

“competent social support system” refers to familial or other relationships implying legal duties;

“designated agricultural commodity” means any agricultural food commodity designated as essential for the food security of the country by the Cabinet Secretary in consultation with the Authority;

“essential foodstuffs and commodities” include maize, beans, wheat, rice, meat, milk, sugar, cooking fat or oil, paraffin and any other commodity as designated by the Cabinet Secretary in consultation with the Authority;

“eligibility criteria index” means the index formulated by the Authority in accordance with the Second Schedule and applied by the county food security committees to determine the levels of access to food by potential food poor persons and their eligibility for the food distribution programme or the food subsidy programme;

“emergency food assistance” refers to food provided to both food-poor persons and non-food-poor persons during times of severe food shortage occasioned by disasters;

“family support programme” means the initiatives put in place by the national and county governments to raise the capacity of food poor persons, households and communities to attain the capacity to access food by themselves through production or purchase;

“food distribution infrastructure” refers to the entire complement of individuals, agencies, institutions, organisations, centres and such other organs as the county food security committee will designate from time to time to implement the food distribution programme and the food subsidy programme in the county;

“food distribution programme” refers to the programme established by the Authority and the county food security committees for the benefit of at risk persons;

“food of acceptable quality” means food whose value of quality is determined as fit for consumption based on the criteria of food safety, nutrition content and standards set by the relevant certification agencies under the Kenyan law or by written law or based on international standards adopted by, or applicable to Kenya under Article 2(5) and (6) of the Constitution;

“food production” means an activity or process of producing, preparing, processing, making, preserving, packing or repackaging and or changing the form of food;

“food security” means a situation where all people, at all times have regular and permanent physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life;

“food subsidy programme” refers to the programme established by the Authority and the county food security committees for the benefit of persons with limited capability as determined by the Authority and county food security committees;

“food” means everything that originates from biological sources and water, whether processed or not, which is designated as an eatable or beverage for human consumption, including food additive materials, food raw material and other materials used in the process of preparation, processing and or the making of an eatable or beverage;

“food eligibility card” means the card issued to at risk persons and persons with limited capability by a county food security committee to authenticate their eligibility for the food distribution programme and the food subsidy programme;

“food-poor persons” means persons, including vulnerable persons, who cannot through their own or any other means produce or purchase essential food items and commodities in adequate quantity and quality for short or extended periods of time;

“freedom from hunger” means a situation where all persons have access to a level of food, capable of meeting the recommended minimum dietary requirements as the Authority may prescribe;



“malnutrition” means poor nutritional status caused by nutritional deficiency or excess;

“minimum amount of food” means the amount of food required to meet the minimum nutritional needs of an individual, according to age, sex, occupation and health status, provided in-kind, in equivalent monetary value, vouchers or other prescribed form;

“persons with limited capability” means a food poor person who in spite of having a competent social support system are unable to produce or purchase essential food items and commodities in adequate quantities and quality for short or extended periods of time;

“right to food” means the right of every person to have regular, permanent and free access, at all times, either directly or by means of financial purchases, to quantitatively and qualitatively adequate, sufficient and safe food, corresponding to his or her cultural traditions and which ensures a physical and mental, individual or collective fulfilling and dignified life free of fear of hunger or under nutrition;

“vulnerable persons” include infants, children, school going children, pregnant and nursing mothers, the elderly, internally displaced persons, people with disabilities, sick persons with chronic diseases such as HIV/AIDS, victims of conflict, rural people in precarious livelihood situations, marginalised populations in urban areas, groups at risk of social marginalisation and discrimination and any other group that may be identified from time to time.

**3. The object and purposes of this Act are—**

- (a) to provide a framework that promotes the realisation of the right to freedom from hunger and access to food of acceptable quality as a fundamental human right;
- (b) to provide a framework that promotes the elimination and prevention of discrimination of marginalized groups in the access and distribution of food;

Object and purposes.

- (c) to provide a framework that promotes food production, self sustenance and food security in relation to all persons in Kenya;
- (d) to provide a framework and mechanisms for the coordinated implementation of the national policy, programmes and plans on food security by the county governments;
- (e) to provide a mechanism for ensuring that food poor persons access food at all times in adequate quantities and quality through the implementation of State sponsored programmes.
- (f) to provide for the establishment of institutions that will advance co-operative governance and procedures for co-ordinating food security functions exercised by the State;
- (g) to provide a framework for the planning, budgeting and implementation of the national policy on food security and nutrition using a rights based approach and to ensure the participation of rights holders and the accountability of duty bearers;
- (h) to guarantee the integration of the needs of vulnerable persons in food and nutrition strategies;
- (i) to ensure that food is treated as a national strategic resource;
- (j) to ensure that emergency situations that threaten mass access to food are anticipated, mitigated and addressed with equity and speed; and
- (k) to provide for a cross-sectoral networking platform comprising all relevant ministries, agencies and actors concerned with the production, storage, and sale of food for purposes connected to ensuring access to food by all Kenyans at all times.

4. All persons under this Act shall, in the performance of their functions under this Act, be guided by the following principles in addition to the national

Guiding  
principles

values and principles set out under Article 10 of the Constitution—

- (a) universality, non-discrimination and equity in the access to adequate food;
- (b) preservation of the freedom and dignity of every human being;
- (c) accountability of duty bearers and transparency in the food sector particularly emergency food aid;
- (d) coordinated public participation in the formulation, implementation, monitoring and control of policies and plans related to food and nutrition security in every sector of government;
- (e) integrity and accountability in the determination of the food poor status of persons taking into account any other assistance they are eligible for including development funds or assistance from the government targeting specific categories of persons including women and the youth for the improvement of their general wellbeing;
- (f) empowerment and capacity building as a means of facilitating the attainment of the right to food;
- (g) targeted empowerment and capacity building initiatives for both at risk persons and persons with limited capability through the application of state sponsored programmes in order to enable those receiving assistance produce or purchase their own food in the shortest time possible;
- (h) transparency in the implementation of programmes and activities relating to food security and the allocation and utilization of public and private resources;
- (i) availability and access to timely and reliable information through the establishment of a simple, fair and accessible procedure enabling a person to seek information relevant to the enjoyment of the right to food; and

- (j) ensure that interventions are based on objective information and methods, and monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management and social audit and that that the needs of the population are taken into account.

## **PART II—THE RIGHT TO FOOD**

**5.** (1) under Article 43(1)(c) of the Constitution, every person has the right to be free from hunger and to have adequate food of an acceptable quality.

Right to food.

(2) For the enjoyment of the right to adequate food and freedom from hunger, the national and county governments shall—

- (a) respect, protect and fulfil the human right to food and guarantee mechanisms for its enforcement;
- (b) ensure the availability, accessibility, adaptability and acceptability of food for all in Kenya by making provision for access to production resources, income and support and maintaining an enabling environment in which households can attain adequate access to food and nutrition through their own efforts;
- (c) promote the production of diverse crops and foods and put in place measures including irrigation schemes, water harvesting schemes and other programmes that ensure the availability of adequate food for all;
- (d) put in place mechanisms that ensure the availability of farm inputs and implements and other mechanisms of food production in order to facilitate food production;
- (e) ensure physical access to food that meets the minimum dietary needs of persons or communities suffering from or threatened with starvation;
- (f) put in place adequate infrastructure to facilitate access and circulation of food particularly in areas affected by food insecurity;