

HERALDRY BILL ,2021

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SCHEDULE-CONDUCT OF THE BUSINESS AND AFFAIRS OF THE
COLLEGE

HERALDRY BILL, 2021

An Act of Parliament to provide for the establishment of the College of Arms; grant of arms and heraldic representations; registration of such grants; and prohibition of misuse of arms and heraldic representations; and for connected purposes.

ENACTED by Parliament of Kenya as follows-

PART 1—PRELIMINARY

Short title and commencement 1. This Bill may be cited at the Heraldry Bill, 2021 and shall come into force on such a date as the Attorney General may, by notice in the Gazette appoint.

Interpretation 2. In this Act, unless the context otherwise requires-

“**arms**” means a single component of a coat of arms that may be used independently and it includes: a badge, crest, emblem, logo, motto, shield, supporters, seal or any other insignia apart from the specified emblem on the national flag;

“**coat of arms**” means the complete visual representation of the identity of a person or institution;

“**College**” means College of Arms established under section 3 of the Act;

“**design**” means to the design of the arms and the nature of any device thereon and any word or signs written thereon;

“**heraldry**” means the system by which coat of arms and other armorial bearings are devised, described and regulated;

“**institution**” means an organization or a public body;

“**Registrar**” means the Registrar of the College of Arms appointed under section 10 of the Act;

“**registry**” means the registry established under section 24;

“**specified emblem**” has the meaning assigned to it in the National Flag,

Cap.99

Emblems and Names Act (Cap. 99); and

“**visual arts**” means creative art whose products are to be appreciated by sight.

Objects of the Act

3. The object of this Act is to—
 - (a) Provide a framework for the registration of arms and coat of arms;
 - (b) To protect the identity of persons and institutions.

PART II —THE COLLEGE OF ARMS

**Establishment
and functions of
the College of
Arms**

4. (1) There is established a college of Arms, which shall consist of chairperson and four members appointed by the Attorney-General.
- (2) The College shall be a successor to the College of Arms existing immediately before the commencement of this Act.
- (3) The functions of the College of Arms shall be to-
- a) receive and examine applications for registration;
 - b) approve applications for grant of arms;
 - c) advice applicant on the design of arms, suspend or cancel grant of arms;
 - d) approve coat of arms
 - e) Examine, advice and determine registration of grant of arms, and
 - f) Perform such other functions as are assigned to the College under this Act.

**Powers of the
College**

5. The College shall have all the powers necessary for the performance of functions under this Act.

**Membership of
the College**

6. (1) A person shall be qualified for appointment as the Chairperson or a member of the College if that persons-
- (2) is a citizen of Kenya;

- (3) has a degree from a university recognized in Kenya in visual arts, history, history of art or any other related field, and
- (4) in the case of the chairperson, has at least ten years' experience, and, in the case of member seven years' experience in visual arts, and
- (5) meets the requirements of Chapter Six of the Constitution.

- Disqualification** 7. (1) A person shall not be qualified for appointment as the chairperson or a member of the college if the person-
- (a) is a member of a governing body of a political party;
 - (b) is an undischarged bankrupt;
 - (c) has been convicted of a criminal offence and sentenced to a term of imprisonment;
 - (d) has been removed from any public office for contravening any of the provisions of the Constitution or any other law;
 - (e) is a member of Parliament or a county assembly; or
 - (f) has not meet the legal obligations relating to tax and other statutory obligations.

- Tenure of Office** 8. The Chairperson or member of the College shall hold office for a term of three years and shall be eligible for reappointment for one further term;

**Vacancy in the
College**

9. The office of the Chairperson or member shall become vacant if the holder-

- (a) dies;
- (b) resigns from office in writing addressed to the Attorney General;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment;
- (d) in the case of a member, is absent from three consecutive meetings of the College without the permission of the Chairperson; or
- (e) is removed from office for any of the following grounds-
 - (i) violation of the Constitution or any other written law;
 - (ii) the person is adjudged bankrupt;
 - (iii) gross misconduct or misbehavior;
 - (iv) incompetence or neglect of duty; or
 - (v) inability to perform functions of the office arising out of physical or mental infirmity.

Remuneration

10. The Chairperson and members of the College shall be paid such remuneration or allowances as the Attorney General in consultation with the Salaries and Remuneration Commission may determine.

**Appointment
and
qualifications of
Registrar**

11.(1) The Attorney General shall by notice in the Gazette appoint a suitably qualified public officer to be the Registrar of the College.

(2) A person shall be qualified for appointment as the Registrar if the person-

(a) is an advocate of the High Court of Kenya;

(b) has at least ten years proven experience as a legal practitioner, five of which must have been in a senior management position; and

(c) satisfies the requirements of Chapter Six of the Constitution.

(3) The Registrar shall be responsible for the day to day management of the affairs of the College.

(4) The Registrar shall be an *ex officio* member of the College.

**Appointment of
Deputy
Registrars**

12.(1) The Attorney General may by notice in the Gazette appoint such number of Deputy Registrars as may be necessary to assist the Registrar in the performance and exercise of the Registrar's functions and powers under this Act.

(2) In performing their duties and exercising their powers, the Deputy Registrars shall be subject to the direction and supervision of the Registrar.

(3) There shall be such officers as the Attorney-General may designate to comprise the Secretariat of the College.

Functions of the Registrar **13.**(1) The functions of the Registrar shall be to-

- (a) receive applications for grant of arms;
- (b) register the grant of Arms;
- (c) maintain the Register of Arms; and
- (d) perform any other function related to the foregoing.

Powers of Registrar **14.**(1) In the performance of the functions specified under this Act, the Registrar may on the direction of the College-

- (2) effect suspension or cancellation of grant of arms;
- (3) rectify errors or omissions on grants of arms upon application by the applicant;
- (4) effect alteration of the grant of arms and coat of Arms upon application by applicant;
- (5) prohibit control or restrict the use of specified arms, specified likeness or specified name;
- (6) regulate the manner in which application may be made;
- (7) notify the deregistration of arms in the Gazette.

Refusal of registration **15.**(1) The College may refuse to register a grant of arms where-

- (a) the proposed name, special name or design is similar to another person or institution;
- (b) the design of the arms does not comply with the principles and rules of heraldry;
- (c) the applicant does not comply with the provisions of this Act or rules made hereunder.
- (d) the entity whose name has been registered no longer exists.

(2) The Registrar shall within ninety days of the refusal by the College to register a grant of arms under this section inform the person or institution of such refusal, giving reasons thereof in writing.

PART III-REGISTRATION FOR HERALDIC REPRESENTATIONS AND GRANT OF ARMS

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| Entities to Register arms | 16. All public entities at both national and county levels shall register their coats of arms in accordance with this Act. |
| Application for registration of grant of arms | <p>17.(1) Any person or institution who intends to register arms or coat of arms may apply to the College.</p> <p>(2) An application made under subsection (1) shall be accompanied by:</p> <ul style="list-style-type: none"> (a) particulars of the design of arms applied for in writing; (b) such fees as may be prescribed; |

- (c) the postal and physical address, telephone number and email address of the applicant;
- (3) The design accompanying the application should be:
 - (a) in both soft and hard copies
 - (b) rendered in colour and black and white;
 - (c) have a blazon to explain the symbolism of the chosen designs and components accompanying the drawing.
- (4) In consideration an application made under this section, the College shall take into consideration the following matter---
 - (a) the propriety of the design;
 - (b) whether it is distinctive; and
 - (c) whether the design accords with the principles of heraldry and is of sufficient artistic merit to warrant a grant of arms.
- (5) Where an application does not meet the standards set out on section (3), the College shall inform the applicant and direct that the design be adjusted to align to the principles of heraldry and resubmitted to the College within thirty days.
- (6) Where an application is returned by the College under subsection (4), the original artist shall be given first chance to adjust the application, but members may appoint another artist to make adjustments to the application.

(7) Upon approval of an application by the College, the design of the coat of arms shall be engrossed onto A1 size vellum.

(8) Where the members of the College appoint an artist for purposes of subsection (5) the costs of such artist shall be met by applicant.

Withdrawal of application 18. An applicant may withdraw the application at any time before the grant is made

Registration of grant of arms 19.(1) After making a grant of arms, the College shall direct the Registrar of arms to effect registration within seven days and issue a certificate of registration in the prescribed form.

(2) The Registrar shall forward engraved design of the arms or coat of arms to the applicant together with the certificate of registration and shall file a copy thereof in the register

(3) The Registrar shall cause all arms granted under this Act to be notified in the Gazette.

Registration of foreign arms 20.(1) Any person or institution established in a foreign country may with the consent of the College apply to the Registrar for registration of arms or for an amendment of or the deletion of any arms registered in its name.

(2) The Registrar may if satisfied that the arms are not similar to any other arms registered under this Act as to be likely to mislead, register the grant accordingly.

Cancellation or suspension of registration of arms

21.(1) The College may cancel or suspend the registration of a grant of arms where—

(2) there is reasonable cause to believe that the registration should be cancelled on the ground that there is a misuse of arms;

(3) the person or institution has willfully, despite receiving notice from the Registrar, contravened any provisions of this Act;

(4) the person or body has failed to furnish the Registrar with any of the documents required for registration under section 15 (2).

(2) Where the Registrar intends to cancel or suspend a registration under subsection (1), the Registrar shall notify the applicant in writing of such intention.

(3) The notice issued under subsection (2) shall be in writing and shall require the applicant to show cause within twenty-one days of receipt of the notice as to why the registration should not be cancelled or suspended.

(4) Where the applicant fails to show cause specified in subsection (2), the Registrar may proceed to suspend the registration of the grant of arms.

**Appeal from
order of refusal,
cancellation or
suspension**

22.(1) Any person or institution aggrieved by the refusal of the College to register its arms, or the cancellation of its registration, may appeal to the Attorney General within thirty days of such refusal, or cancellation.

(2) The Attorney General shall consider, determine and communicate his decision on the appeal within ninety days of the appeal.

(3) A person or body aggrieved by the decision of the Attorney General may appeal to the High Court within thirty days of the decision.

**Consent before
amending grant
of arms**

23. Amendments or deletion to arms registered under this Act shall not be implemented the without prior consent of the Registrar obtained upon written application by the person or institution to which the arms relate.

PART IV-REGISTRY OF ARMS AND COAT OF ARMS

Registry

24.(1) The Registrar shall establish and maintain a register of arms in such form as the Registrar may determine.

(2) The register shall contain the names and addresses of all persons to whom arms and coat of arms have been registered by the College together with a representation of the arms so registered.

Inspection of register **25.**The register shall be open for inspection by the members of the public during working hours upon payment of the prescribed fees.

PART V-OFFENCES

Misuse of arms coats of arms **26.**(1) Where arms have been registered pursuant to this Act, no person shall display or otherwise use those arms except with the consent of the grantee in writing.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings, an imprisonment of two years or to both.

Damages for misuse of registered coat of arms **27.**(1) Where arms have been registered pursuant to this Act, any person who—

(a) without the written authority of the body, person, county authority or institution in whose name, the arms have been registered, or without being a member of such body or institution, uses such name, special name or a material part thereof or any replica or reproduction thereof or any imitation which might reasonably be confused with any such name, special name or arms commits an offence;

(b) without the written authority of the body, person or institution in whose name any name or special name

has been registered or any institution or person in whose name any arms has been registered or, if such person had died, the widow of such person in the case of a family coat of arms, or without any other lawful reason, wears, uses, sells, barter or trades in any such arms' representation or a material part thereof or any replica or reproduction thereof or any imitation which might reasonably be confused with any such arms commits of an offence.

Penalty for false entries in the register

28.(1) Any person who, knowing the same to be false—

- (a) makes or causes to be made a false entry in the register;
- (b) makes or causes to be made any document falsely purporting to be a copy of an entry in the register;
- (c) produces or tenders or causes to be produced or tendered as evidence any such entry or copy thereof; or
- (d) makes any false statement or representation with the intention of deceiving the Registrar, the Secretariat or the members of the College of Arms in the execution of the provisions of this Act, commits of an offence, and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or in default of payment to

imprisonment for a period not exceeding two years.

EVIDENCE

Evidence

- 29.**(1) Any part of the register which is a copy of grants of arms shall in all legal proceedings be presumed to be true copies of such grants until the contrary is proved.
- (2) An extract from the register kept under this Act, or a copy of any part of the register, which purports to be certified under by the Registrar to be a true extract or copy of the entry in the register shall in all legal proceedings be admissible as prima facie evidence of the contents of the register.
- (3) A certificate purporting to be given under the hand of the Registrar that particular arms are registered, or that they are not registered, shall in all legal proceedings be evidence that the arms are registered, or are not registered, as the case may be, until the contrary is proved.
- (4) The Registrar shall not, in any legal proceedings to which the registrar is not a party, be compellable—
- (a) to produce any documents, the contents of which can be proved under subsection (1) of this section; or

(b) to appear as a witness to prove the matter recorded in the register, unless the court for special cause otherwise orders.

Protection from personal liability 30. No matter or thing done by a member of the College or any officer, or agent of the College shall, if the matter is done bone fide for the execution of the functions, powers or duties of the College, render the member, officer, or agent acting on his or her direction personally liable to any action, claim or demand whatsoever.

Regulations. 31. The Attorney General may make regulations under this Act for the better carrying out of the provisions of this Act.

PART IV- REPEALS AND SAVINGS

Repeal of Cap. 32.(1) The College of Arms Act is hereby repealed.

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(2) Notwithstanding subsection (1)-

(a) the chairperson and members of the former College in office immediately before the commencement of this Act shall serve out the remainder of their terms of office after which new appointments shall be made under this Act;

(b) the Registrar, Deputy Registrar and Secretariat in office immediately before the commencement of this Act shall be deemed to

be Registrar, Deputy Registrar and Secretariat respectively appointed under this Act.

(c) the application pending immediately before the commencement of this Act shall be considered by the College as if they had been filed and shall be considered under the provisions of this Act;

(d) all grants of arms and coats of arms made before the commencement of this Act shall be deemed to have been made under this Act.

(3) In this Part “former College” the College of Arms established under Section 3 of the College of Arms Act Chapter 98 of the Laws of Kenya (now repealed).

SCHEDULE

(S.4)

Meetings

- (1) The College 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.
- (2) The chairperson shall preside over all meetings of the College and in the absence of the chairperson, the members present at the meeting shall appoint among their number to act as chairperson for purposes of that meeting.
- (3) The quorum for a meeting of the College shall be three members.
- (4) The College may from time to time co-opt into its membership any person whose skills and expertise are necessary for the performance of any particular issue currently before the College.

- (5) The decisions at a meeting of the College shall be carried by a majority of the members present, but in the event of an equality of votes the chairperson or person presiding shall have a casting vote.
- (6) Subject to the provisions of this Act, the College may regulate its own procedure.