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MERU COUNTY BILLS, 2021

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THE KIMERU INSTITUTE BILL, 2021**A Bill for**

AN ACT of the County Assembly of Meru to provide a legal framework for establishment of the Kimeru Institute for the promotion and appreciation of Kimeru culture, and for matters connected therewith and incidental thereto

PART I—PRELIMINARY**Short title and commencement**

1 This Act may be cited as the Kimeru Institute Act, 2021 and shall come into operation upon publication in the Gazette

Interpretation

2 In this Act, unless the context otherwise requires—

“Ameru” means a Bantu ethnic group who inhabit or can trace their origin from the Meru Region of Kenya on the North and Eastern slopes of Mount Kenya,

“Board” means the Board of Trustees of the Institute established under section 6,

“Chairperson” means the Chairperson of the Board appointed under section 6(2)(a)

“Chief officer” means the Chief Officer for the time being responsible for culture,

“County” means Meru County,

“County Assembly” means the County Assembly of Meru,

“Department” means the county department for the time being responsible for culture,

“Executive Member” means the member of the County Executive Committee Member for the time being responsible for culture,

“Institute” means the Kimeru Institute established under section 4,

“Kimeru Culture” means traditional knowledge, heritage, language, innovations and practices relating to the Ameru people

PART II—ADMINISTRATION

Objects and purpose of the Act

- 3** The objects and purposes of this Act are to—
- (a) promote, preserve and support the diverse customs, traditions, culture, identity, music language and historic integrity of the Ameru people,
 - (b) organize visits, cultural trips and arrange social activities for those interested in Kimeru history, culture music and language,
 - (c) promote learning and writing of Kimeru Language
 - (d) promote research, publications and consultancy in all aspects of Kimeru history and culture
 - (e) collaborate with and support persons, organizations and other government agencies involved in activities for which the Institute is established,
 - (f) Organize Kimeru Cultural Festival,
 - (g) Identify, protect and promote cultural and heritage sites,
 - (h) promote cultural and socio-economic transformation of Meru County,
 - (i) prepare, print publish and distribute research papers, periodicals and documents which would assist in the realization of the goals set out by the Institute,
 - (j) organize and participate in outreach activities, conferences, demonstrations, displays, shows symposia colloquia, forums and other events, and
 - (k) do all such other things as are incidental or conducive to the attainment of the above objects or any of them

Establishment of the Institute

4 (1) There is established a corporation to be known as the Kimeru Institute which shall be a body corporate with perpetual succession and a seal and capable of—

- (a) suing and being sued in its corporate name,
- (b) taking purchasing or otherwise acquiring, holding charging or disposing of movable and immovable property,
- (c) borrowing money or making investments,
- (d) entering into contracts, and

- (e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate

Functions of the Institute

5 The functions of the Institute shall be to—

- (a) advise the Executive Member on matters relating to the promotion, respect, preservation, conservation and maintenance of Kimeru culture, and to advise on the relative priorities to be given to the implementation of specific measures,
- (b) encourage and secure the establishment of cultural centres and other institutions for the promotion of Kimeru Culture in the County,
- (c) develop a curriculum for education in respect of the Kimeru language and culture,
- (d) protect cultural workers and ensure their professional development and well-being,
- (e) establish and maintain a financially sustainable mechanism for the development, protection and promotion of cultural activities,
- (f) hold in trust for the communities in the county any cultural articles and cultural sites not owned by an individual or organization
- (g) protect cultural sites and historical monuments in the county and promote tourism in relation thereto
- (h) promote and facilitate research and recording of cultural history as well as the archiving of historical records and artefacts,
- (i) facilitate support and oversee the co-ordination of cultural activities within the County,
- (j) conduct and facilitate civic education and public discussion to stimulate awareness on pertinent issues relating to cultural articles and activities,
- (k) where necessary determine which activities amount to cultural activities in consultation with stakeholders of that cultural community,
- (l) in consultation with the relevant stakeholders and the National Government, determine the compensation royalties or other benefits to be received by communities or groups for the use of their culture, cultural goods, services, articles or cultural heritage,

- (m) develop and manage a county database of cultural activities,
- (n) promote cultural activities public entertainment and infrastructure for cultural heritage and cultural expression,
- (o) support programmes to identify, nurture and promote creative talent,
- (p) put measures to ensure the participation of the people in the development process to ensure development programmes are responsive to the peoples' needs,
- (q) provide institutional framework to promote cultural industries, and
- (r) do such other things as may be incidental or conducive to the attainment of the objectives of this Act

Board of Trustees

6 (1) The Institute shall be administered by a board to be known as the Board of Trustees of the Institute

(2) The Board shall consist of the following persons appointed by the Governor—

- (a) The Chairperson
- (b) the Chief Officer for the time being responsible for matters relating to culture or his or her designated alternate not being below the level of Director,
- (c) the Chief Officer for the time being responsible for matters relating to finance or his or her designate alternate not being below the level of Director,
- (d) a representative of the Njuri Ncheke Council of Elders,
- (e) a representative of youth
- (f) a representative of women,
- (g) one persons with experience and expertise in Kimeru culture
- (h) the County Attorney or a legal counsel within the county public service who shall be an ex officio member and
- (i) the Director General who shall be an ex officio member and Secretary to the Board

(3) The Board may co-opt not more than 2 persons with proven experience in Kimeru Culture and related matters

(4) Subject to this Act, all acts and things done in the name of, or on behalf of, the Institute, by the Board or with the authority of the Board shall be deemed to have been done by the Institute

(5) No person shall be appointed as a member of the Board unless such person meets the requirements of Chapter Six of the Constitution

Conduct of business and affairs of the Board

7 (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule

(2) Except as provided in the Schedule the Board may regulate its own procedure

Powers of the Board

8 (1) The Board shall have all powers necessary for the proper performance of its functions under this Act

(2) Without prejudice to the generality of the subsection (1) the Board shall have power to—

- (a) control, supervise and administer the assets of the Institute in such manner as best promotes the purpose for which the Institute is established,
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Institute,
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from,
- (d) open such banking accounts for the funds of the Institute as may be necessary
- (e) establish such directorates, departments and regional centres of the Institute to deal with such specific matters as may be necessary, and
- (f) undertake any activity necessary for the fulfilment of any of the functions of the Institute

Remuneration of Board Members and Staff of the Institute

9 The Board shall pay its members and staff such remuneration or allowances as it may determine upon the advice of the Meru county public service board and the Salaries and Remuneration Commission

Director General

10 (1) There shall be a Director General who shall be appointed by the Board and whose terms and conditions of service shall—

- (a) be determined by the Board upon the advice of the Salaries and Remuneration Commission,
- (b) be stated in the instrument of appointment or otherwise in writing from time to time

(2) No person shall be appointed under this section unless such person has—

- (a) a degree in matters relating to culture from a recognized university,
- (b) at least five years post qualification managerial working experience

(3) The Director General shall—

- (a) be the secretary to the Board, and
- (b) subject to the directions of the Board be responsible for the day to day management of the affairs and staff of the Institute

Staff of the Institute

11 (1) The Institute shall appoint such officers and other staff as are necessary for the proper discharge of the functions under this Act upon such terms and conditions of service as it may determine, subject to subsection (2) below

(2) The County Government may second its staff to the Institute at all levels

Delegation by the Board

12 The Board may in writing delegate to any committee or to any member officer employee or agent of the Institute the exercise of any of the powers or the performance of any of the functions or duties of the Institute under this Act or any other written law

Protection from Personal Liability

13 (1) No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done bona-fide for the purposes of executing a function, power or duty under the Act render such member officer employee, agent or servant personally liable to any action claim or demand whatsoever

(2) The provisions of subsection (1) shall not relieve the Institute of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by failure whether wholly or partially, of any works

Common Seal

14 (1) The common seal of the Institute shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board

(2) The affixing of the common seal of the Institute 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 Board may be authenticated by the signatures of both the Chairperson and the Director General

(3) Notwithstanding the provisions of subparagraph (2) the Board 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 Institute when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given

PART III—FINANCIAL PROVISIONS

Funds of the Institute

15 (1) The funds of the Institute shall comprise—

- (a) grants, gifts or donations that the Institute may receive as a result of public and private appeal from local and international donors or agencies for the purposes of carrying out its functions
- (b) such fees, monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or under any written law,
- (c) all monies from any other lawful source provided for or donated or lent to the Board, and
- (d) such sums as may be appropriated by the County Assembly for the purposes of the Institute

(2) The funds of the Institute and its balances at the close of each financial year shall not be paid into the county revenue fund, but shall be retained for the purposes for which the Institute is established

(3) The Funds under this section shall be managed in accordance with the Public Finance Management Act, 2012

Financial Year

16 The financial year of the Institute shall be the period of twelve months ending on the thirtieth of June in each year

Annual Estimates

17 (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 Institute for that year

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

- (a) the payment of the salaries, allowances and other charges in respect of members of the Board and staff of the Institute,
- (b) the payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Institute,
- (c) the proper maintenance of the buildings and grounds of the Institute,
- (d) the maintenance repair and replacement of the equipment and other property of the Institute, 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 Board may deem appropriate

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the County Executive Committee for approval and after the County Executive Committee's approval, the Board shall not increase the annual estimates without the consent of the County Executive Committee

Accounts and Audit

18 (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Institute

(2) Within a period of four months from the end of each financial year the Board shall submit to the Auditor-General or to an auditor appointed under this section, the accounts of the Institute together with—

- (a) a statement of the income and expenditure of the Institute during that year, and

(b) a balance sheet of the Institute on the last day of that year

(3) The accounts of the Institute shall be audited and reported upon in accordance with the Public Audit Act, 2015

PART V—MISCELLANEOUS PROVISIONS

General Penalty

19 A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or to both

Power to make Regulations

20 The Executive Member may make such regulations as may be necessary for the implementation of this Act

SCHEDULE

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Tenure of office

1 The Chairperson or a member of the Board other than ex officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment but shall be eligible for re-appointment for one further and final term of three years

Appointment

2 The Chairperson and Members of the Board, shall be appointed by the Governor

Vacation of office

3 A member of the Board other than an ex officio member may—

- (a) at any time resign from office by notice in writing, in the case of the Chairperson, to the Governor, and in the case of any other member to the Executive Member,
- (b) be removed from office by the Governor if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the Board,
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors
 - (iii) is convicted of an offence involving dishonesty or fraud,
 - (iv) commits an act or acts of gross misconduct,
 - (v) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings,
 - (vi) is incapacitated by prolonged physical or mental illness for a period exceeding six months—
 - (i) is found to have acted in a manner inconsistent with the aim and objectives of this Act,
 - (ii) fails to comply with the provisions of this Act relating to disclosure, or
 - (iii) is otherwise unable or unfit to discharge his or her functions as member of the Board

Vice-Chairperson

4 At the first meeting of the Board, the members shall elect a vice-Chairperson from among the members appointed under this Act

Meetings

5 (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

(2) Notwithstanding the provisions of subparagraph (1), the Chairperson may and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board

Notice of meeting

6 Other than in the case of a special meeting or unless three quarters of members agree, every member of the Board shall be given at least seven days written notice of every meeting of the Board

Quorum

7 The quorum for the conduct of business of the Board shall be half of total members including the Chairperson or the person presiding, and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote

Chairperson to preside

8 The Chairperson shall preside over all meetings of the Board in which he or she is present but in his or her absence, the Vice-Chairperson shall preside and in the absence of the Vice-Chairperson the members present shall elect one of their members who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson

Committees of the Board

9 (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine

(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members

(3) The Board may where it deems appropriate, co-opt any person to attend the deliberations of any of its committees

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board

MEMORANDUM OF OBJECTS AND REASONS

Culture and heritage are essential to the socio-economic and sustainable development of a society. Culture is a repository of knowledge which is manifested in all aspects of life as a guide to evolution of morals, attitudes, beliefs and values in a society. It gives a people their identity, which is passed on from one generation to another.

The County Government of Meru recognizes that Kimeru culture is a strong tool for unifying the Ameru people, as well as for promoting Meru County through tourism that is driven by cultural activities. Cultural activities are among the functions of County Governments set out in Part 2, Paragraph 4 of the Fourth Schedule of the Constitution of Kenya, 2010,

The purpose of this Bill is to provide a legal framework for the establishment of the Kimeru Institute for the promotion and the appreciation, protection, preservation, promotion and development of Kimeru culture.

PART I – This is the preliminary part of the Act which contains provisions including the citation and interpretation of terms used in the Bill and outlines the object and purpose of the Bill.

PART II – This part sets out administrative provisions including the establishment, functions and operation of the Kimeru Institute and its Board of Trustees.

PART III – This part sets out the financial provisions relating to the operation of the Kimeru Institute.

Part IV – This part contains miscellaneous provisions such as the power of the executive member to make Regulations under the Act.

The Schedule to the Bill contains general provisions relating to the conduct of business of the Kimeru Institute's Board of Trustees.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided for in the estimates.

Dated the 8th March, 2021

EVANS MAWIRA KAARIA,
*Chairperson, Sectoral Committee on Culture, Youth, Gender, Sports and
Community Services*