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TECHNICIANS BILL, 2015**

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**THE ENGINEERING TECHNOLOGISTS AND
TECHNICIANS BILL, 2015**

A Bill for

**AN ACT of Parliament to make provision for the
regulation, practice and standards of engineering
technologists and technicians, and for connected
purposes**

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Engineering Technologists and Technicians Act, 2015.

Short title.

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

Interpretation.

“accredited checker” means a person registered as such under section 20 of this Act;

“Board” means the Engineering Technologists and Technicians Registration Board established under section 5;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to engineering technology;

“consulting engineering technologist” means an engineering technologist registered as such under this Act;

“consulting engineering technology services” includes consultancy and advisory services relating to independent professional engineering technology works, services or goods and selling or supplying for gain or reward any plan, sketch, drawing, design, specification or other documents relating to any professional engineering technology work, service or good with a liability to be sued;

“continuing professional development” means the planned acquisition of knowledge, experience and skills necessary for the development of an engineering technologist or technician;

“engineering technology consulting firm” means an engineering technology consulting firm registered under this Act;

“engineering technician” means a person registered under this Act as such, and includes a craft person or artisan;

“engineering technologist” means a person registered under this Act as such;

“engineering technology” means the use of scientific knowledge to solve engineering problems using the creative application of scientific principles to design, construct and develop structures, machines, equipment or manufacturing processes or works utilizing them singly or in combination or to construct or operate the same with full cognizance of their design or to forecast their behaviour under specific operating conditions or aspects of intended functions, economics of operation and safety to life and property;

“licence” means an annual practicing licence issued under section 26 of this Act;

“misconduct” means a serious digression from established or recognized standards or rules of the profession or generally the occupation of engineering technology and includes a breach of such codes of ethics or conduct as may be prescribed for the profession from time to time;

“register” means the register kept in accordance with section 23 of this Act; and

“Registrar” means the person appointed as such under section 9.

PART II—THE ENGINEERING TECHNOLOGISTS AND TECHNICIANS REGISTRATION BOARD

3. (1) There is established a board to be known as the Engineering Technologists and Technicians Registration Board.

Establishment of the Board.

(2) The Board is a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging 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.

4. (1) The functions of the Board shall be to—

Functions of the Board.

- (a) issue licenses to qualified persons under the provisions of this Act;
- (b) take disciplinary measures in accordance with the provisions of this Act;
- (c) enter and inspect sites where construction, installation, erection, alteration, renovation, maintenance, processing or manufacturing works are in progress for the purpose of verifying that—
 - (i) engineering professional services and works are undertaken by registered persons under this Act;
 - (ii) standards and professional ethics and relevant health and safety aspects are observed, in line with Occupational Safety and Health Act, 2007;
- (d) assess, approve or reject engineering technology qualifications of foreign persons intending to offer engineering technology professional services or works in Kenya;
- (e) enter and inspect business premises for verification purposes or for monitoring works, services and goods rendered by professional engineering technologists;
- (f) recommend for the suspension of any engineering technology professional services, works, projects, installation process or any other engineering technology works, which are done without meeting the set out standards;
- (g) participate, as a stakeholder in formulating engineering technology programmes in public and private universities and other tertiary level educational institutions offering education in

engineering technology for the purposes of registration of engineering technologists;

- (h) set standards for engineering technologists in management, marketing, professional ethics, environmental issues, safety, legal matters or any other relevant field;
- (i) conduct professional examinations for the purposes of registration where applicable;
- (j) plan, arrange, co-ordinate and oversee the professional training and facilitate internship of engineering technologists;
- (k) collaborate with engineering technology training institutions and organizations, professional associations and other relevant bodies in matters relating to training, professional development of Engineering Technologists;
- (l) determine the fees to be charged by engineers technologists and firms for professional services rendered from time to time;
- (m) hear and determine such disputes relating to professional conduct or ethics of engineering technologists.
- (n) issue, maintain and enforce the code of ethics for engineering technologists and technicians and regulate the conduct and ethics of engineering technology profession in general;
- (o) determine disciplines of engineering technology under this Act; and
- (p) do anything incidental or conducive to the performance of any of the preceding functions.

5. (1) The Board shall consist of—

- (a) the chairperson who shall be appointed by the Cabinet Secretary from amongst the members appointed under paragraph (e);
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to engineering technology;
- (c) the chairperson of the Institution of Engineering Technologists and Technicians;

Composition of the Board.

- (d) the Registrar;
- (e) twelve persons appointed by the Cabinet Secretary of whom—
 - (i) four shall be persons representing different engineering technology disciplines, nominated by the Institution of Engineering Technologists and Technicians;
 - (ii) one shall be a public officer from the Ministry responsible for matters relating to technical education;
 - (iii) one shall be a public officer from a public corporation responsible for matters relating to engineering technology;
 - (iv) two shall be representatives of universities nominated alternately by universities offering engineering technology programmes in Kenya;
 - (v) two shall be representatives of technical training institutes nominated alternatively by member institutions offering engineering technology programmes in Kenya; and
 - (vi) one shall be from the private sector dealing with matters related to engineering technology;
 - (vii) one shall be a representative of the civil society.

(2) A person appointed as a member of the Board under this Act, other than an *ex officio* member, shall serve for a term of three years and shall be eligible for re-appointment for a further and final term of three years.

(3) A member of the Board, other than an *ex officio* member, may—

- (a) at any time resign from office by notice in writing to the chairperson;
- (b) be removed from office if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;

- (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) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (i) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Board.

6. The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

Powers of the Board.

- (a) enter into contracts;
- (b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Board is established;
- (c) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (e) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Board is established;
- (f) open such banking accounts for its funds as may be necessary;
- (g) invest any funds of the Board not immediately required for its purposes;
- (h) undertake any activity necessary for the fulfilment of any of its functions.

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

Conduct of business and affairs of the Board.

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

8. The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission.

Remuneration of Board members.

9. (1) There shall be a Registrar who shall be appointed by the Cabinet Secretary on the recommendation of the Board.

Registrar.

(2) The Registrar shall be the Chief Executive Officer and the Secretary to the Board.

(3) The Registrar shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

10. The Registrar shall---

Functions of the Registrar.

- (a) subject to the direction of the Board, be responsible for the day to day management of the affairs and staff of the Board;
- (b) maintain the Register of persons registered in accordance with this Act;
- (c) sign, issue, renew and cancel certificates of registration and licenses as may be directed by the Board;
- (d) keep all documents and records including records of all assets of the Board;
- (e) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties, and the general administration of the Board;
- (f) be the secretary of the Board.

11. The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Staff of the Board.

12. The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of

Delegation by the Board.

the functions or duties of the Board under this Act or under any other written law.

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.

Protection from
personal liability.

(2) The provisions of subsection (1) shall not relieve the Board 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.

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

Common seal.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer 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 Chief Executive Officer.

(3) Notwithstanding the provisions of subsection (2) the Board shall, in the absence of either the Chairperson or the Chief Executive Officer in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or the Chief Executive Officer.

(4) The common seal of the Board 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—PROVISIONS RELATING TO REGISTRATION

15. Subject to the provision of this Act, a person may register an engineering technology consulting firm if—

Registration of
engineering
technology
consulting firm.

- (a) the firm is a legal person duly registered or incorporated under the written law for the time being in force;

- (b) the firm has at least one partner or principal shareholder who is registered as a consulting engineering technologist and who has a valid license in a specified discipline;
- (c) at least fifty one percent of the shares in the firm are held by Kenya citizens; and
- (d) fulfills any other condition as may be stipulated by the Board.

(2) The Board may register engineering technology consulting firms in different categories and disciplines based on such criteria as the Board may establish.

16. (1) A person intending to register an engineering technology consulting firm under this Act shall apply to the Registrar in the prescribed manner.

Procedure for registration of engineering technology consulting firm.

(2) An application under subsection (1) shall—

- (a) be accompanied with—
 - (i) such documents as are necessary to prove qualification for registration and any other document that the Board may prescribe;
 - (ii) the curriculum vitae of the partners or directors of the firm;
 - (iii) with a written commitment that the Board shall be allowed to verify the suitability of the firm for the purposes of registration;
- (b) list the firm's profile of activities;
- (c) be accompanied by the prescribed fee.

(3) The Board may require the applicant to furnish such further information or evidence of eligibility for registration as it may consider necessary and may require the applicant to appear in person for an interview before it.

17. (1) For the purposes of this Act, a person shall not be deemed to engage in private practice where the person is employed by—

Private practice.

- (a) the government or any other public body; or
- (b) a state corporation; or
- (c) any person or partnership engaged in his or her profession where all fees and charges earned by

him or her ensues to the benefit of his or her employer, notwithstanding that he or she is engaged in his or her professional capacity.

(2) A person who engages in private practice contrary to the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years, or to both.

18. (1) A foreign person or body of foreigners shall not be registered as a professional engineering technologist or consulting engineering technologist, technician, or engineering technology firm unless—

Registration of
foreigners.

(a) in the case of a natural person—

(i) that person possesses the necessary qualifications recognized for the practice of engineering technology as a professional engineering technologist in the country where he or she normally practices, and that immediately before entering Kenya, he or she was practicing as a professional engineering technologist and holds a valid license; and

(ii) he or she is a resident of Kenya with a valid working permit;

(b) in the case of a firm, the firm is incorporated in Kenya and a minimum of fifty-one percent of its shares are held by a citizen or citizens of Kenya.

(2) If the conditions stipulated in subsection (1) are not fulfilled, the person or firm applying for registration may be considered for temporary registration under section 19.

19. (1) A foreign person may be considered for registration as a temporary professional engineering technologist or firm if that person satisfies the Board that—

Temporary
registration.

(a) he or she is not ordinarily resident in Kenya;

(b) he or she intends to be present in Kenya in the capacity of professional engineering technologist for the express purpose of carrying out specific work; and

(c) he or she possesses the necessary qualifications recognized for the practice and that immediately

before entering Kenya, was practicing as a professional engineer technologist and holds a valid license from his or her country of origin.

(2) An application for registration under this section shall be in the prescribed manner and shall be accompanied by the prescribed fee.

(3) The Board may require an applicant to appear before it in the process of considering his or her application and shall require every applicant to produce documentary evidence of his or her work or employment immediately prior to entering Kenya.

(4) The registration of a person under this section shall be valid for the period or for the duration of the work as the Board may specify.

(5) Where the expertise skills of a person registered under this section are not available in Kenya, the Board shall notify the applicant and the applicant shall provide an undertaking that Kenya citizens shall be trained to fill the skills gap.

(6) The Board may approve temporary registration for such period not exceeding one calendar year and may renew the registration as it may consider necessary.

20. (1) The Board may register a person as an accredited checker if—

Accredited checker.

- (a) he or she is a professional engineering technologist registered in the relevant discipline of engineering technology approved by the Board;
- (b) he or she has at least fifteen years relevant practical experience in design, construction, manufacturing or management; and
- (c) he or she satisfies the Board that by virtue of his or her ability, standing in the profession, special knowledge or practical experience, he or she is qualified to be registered under the Act.

(2) A person shall not perform functions or duties under this Act as an accredited checker, unless that person is registered by the Board under this section.

(3) A person who contravenes provisions of this section commits an offence.

21. (1) The Registrar shall, so far as is practicable, bring every application before the Board for consideration at its first meeting after receiving the application.

General provisions
as to registration.

(2) Where a person has complied with the provision of this Act and has been accepted by the Board as being eligible for registration, that person shall be registered accordingly.

(3) The decision of the Board on an application for registration shall be communicated to the applicant by the Registrar by letter sent to the address stated in the application, within twenty one working days from the date of the Board's decision.

(4) After the name of a person is entered in the register, the Board shall issue a certificate of registration to the person.

(5) The Board may issue other identification documents that are valid for a specified period to a person registered under this Act.

(6) A certificate of registration and other identification documents issued under this section shall remain the property of the Board.

(7) Where the Registrar is satisfied that a certificate of registration or any other document has been lost, mutilated or destroyed, he or she may, upon payment of a fee set by the Board, from time to time, furnish a duplicate of the certificate of registration or any other document to the person to whom the original certificate of registration or documents were issued.

22. Every person whose name has been entered in the Register as a professional engineering technologist or consulting engineering technologist shall, for as long as his or her name remains in the Register, be entitled to adopt and use the style and title "Professional Engineering Technologist" or "Consulting Engineering Technologist" after his or her name or such contraction thereof as the Board may, from time to time, approve and may, subject to section 31, offer his or her engineering technology professional services to the public for gain or reward or by way of trade or for employment in the engineering technology discipline or category in which he or she is registered.

Adoption and use of
title.

23. (1) The Registrar shall keep and maintain a register in which the name of every person entitled to have his or her name entered therein shall be entered, as soon as is practicable, after being accepted by the Board for registration. Register.

(2) The Registrar shall enter into the register the following details against the name of a person or firm whose name is entered in the register—

- (a) date of entry;
- (b) postal, physical and email address;
- (c) qualifications;
- (d) category;
- (e) engineering technology discipline in which he or she is registered;
- (f) nationality; and
- (g) such other particulars as the Board may, from time to time, direct.

(3) The register shall be kept and maintained in such a manner as the Board may prescribe, and the details of registration for each registered person on the register shall clearly indicate the discipline of engineering technology in which that person is qualified to practice and particulars or restrictions imposed by the Board, if any.

(4) Any person may inspect the register and obtain from the Registrar a copy of or an extract from the register, on payment of a prescribed fee.

24. The Registrar shall remove from the register the name of every—

Removal of name
from register.

- (a) deceased person or person found to be of unsound mind or a firm which has ceased to practice or wound up by a court order;
- (b) person convicted of an offence under this Act or any other law;
- (c) person whose name the Board directs, pursuant to section 42, that it be removed from the register;
- (d) person declared bankrupt;
- (e) person who has failed to satisfy requirements for continuing professional development programme for the time being in force;

(c) 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, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the Board given with prior written approval of the Cabinet Secretary.

35. (1) The Board shall cause to be kept proper books and records of accounts of its income, expenditure and assets.

Accounts and audit.

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

- (a) a statement of the income and expenditure of the Board during that year; and
- (b) a balance sheet of the Board on the last day of that year.

(3) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2003.

No. 12 of 2003.

36. (1) The Board may invest any of its funds in securities in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the Treasury may, from time to time, approve for that purpose.

Investment of funds.

(2) The Board may place on deposit, with such bank or banks as it may determine, any moneys not immediately required for its purposes, as it may determine.

PART VI—OFFENCES AND PENALTIES

37. A person who willingly procures or attempts to procure registration or licensing under the provisions of

Procuring
registration or
licensing through

- (c) 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

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Investment of funds.

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PART VI—OFFENCES AND PENALTIES

37. A person who willingly procures or attempts to procure registration or licensing under the provisions of

Procuring
registration or
licensing through

this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both.

fraud.

(2) The Registrar shall remove from the register the name of any person registered or licensed under this Act who is convicted of an offence under this section and cancel the license held.

38. A person who is licensed as a professional engineering technologist or consulting engineering technologist under this Act shall be guilty of professional misconduct if that person—

Professional misconduct.

- (a) deliberately fails to follow the standards of conduct and practice of engineering technology profession set by the Board;
- (b) commits gross negligence in the conduct of his or her professional duties;
- (c) allows another person to practice in his or her name, where that person—
 - (i) is not a holder of a license;
 - (ii) is not in partnership with him or her;
 - (iii) takes advantage of a client by abusing position of trust, expertise or authority;
 - (iv) lacks regard or concern for clients' needs or rights;
 - (v) shows incompetence or inability to render engineering technology professional services or works.

39. (1) A person who operates a training institution which is not recognized and accredited by the relevant Government body as an institution for training persons seeking registration under this Act or, being in charge of such institution—

Operating an unaccredited institution.

- (a) admits to the institution under his or her charge any person for purposes of training in the engineering technology profession;

this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both.

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(2) The Registrar shall remove from the register the name of any person registered or licensed under this Act who is convicted of an offence under this section and cancel the license held.

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Professional misconduct.

- (a) deliberately fails to follow the standards of conduct and practice of engineering technology profession set by the Board;
- (b) commits gross negligence in the conduct of his or her professional duties;
- (c) allows another person to practice in his or her name, where that person—
 - (i) is not a holder of a license;
 - (ii) is not in partnership with him or her;
 - (iii) takes advantage of a client by abusing position of trust, expertise or authority;
 - (iv) lacks regard or concern for clients' needs or rights;
 - (v) shows incompetence or inability to render engineering technology professional services or works.

39. (1) A person who operates a training institution which is not recognized and accredited by the relevant Government body as an institution for training persons seeking registration under this Act or, being in charge of such institution—

Operating an unaccredited institution.

- (a) admits to the institution under his or her charge any person for purposes of training in the engineering technology profession;

- (b) purports to conduct a programme of training or examining persons seeking registration under this Act;
- (c) issues any document, statement, certificate or seal implying that—
 - (i) the holder thereof has undergone a course of instruction or has passed an examination recognized by the Board; and
 - (ii) the institution under his or her charge is recognized by the relevant government body as an institution for training of person seeking registration,

commits an offence and is liable on conviction to a fine of five million shillings or to imprisonment for a term not exceeding five years, or both.

40. (1) A person who, being not registered or licensed under this Act—

Unlawful use of name.

- (a) willfully and falsely takes or uses in any way the style or form or title of “Engineering Technologist” in describing his or her occupation or his or her business or any other name, style, title, addition or description implying whether in itself or in the circumstances in which it is used, that such person or body or persons is an “Engineering Technologist”; or
- (b) displays any sign, board, card or other device or uses prescribed stamp representing or implying that he or she is an engineering technologist,

commits an offence.

(2) Any person who, prior to the coming into force of this Act, used the title or style “Engineering Technologist” in describing his or her occupation or business shall cease to use such titles unless that person becomes registered or licensed under this Act

(3) The Board may grant exemptions upon application to any person or group of persons for the use of the description or use of the term “Engineering Technologists” and such exemptions shall be in accordance with any recognised written international education accords or treaty or convention to which Kenya has ratified.

41. (1) A body of persons shall not carry on business of engineering technology unless one of its partners or directors, as the case may be, is a professional engineer technologist.

Carrying of business
by body of persons.

(2) Where a partner or director of a body of persons mentioned under subsection (1), dies, that body of persons may, despite the provision of subsection (1), continue to carry on the business of engineering technology until such time as the administration of the estate of the deceased is completed as if the legal representative of the deceased partner or director were professional engineer technologists.

PART VII—COMPLAINTS AND DISCIPLINARY PROVISIONS

42. (1) A person who, being dissatisfied with any engineering technology professional services offered, or alleging a breach of the standards of conduct specified by the Board from time to time, by a registered or licensed person under this Act, may make, in the prescribed manner, a written complaint to the Board.

Complaints to the
Board.

(2) Upon an inquiry held by the Board to determine a complaint made under subsection (1), the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or through a representative of his or her choice.

(3) For the purposes of proceedings at any inquiry held under this section, the Board may administer oaths, enforce attendance of persons as witnesses and production of books and documents as evidence.

(4) A person who fails when summoned by the Board to attend as witness or to produce any books or documents which he or she is required to produce, commits an offence.

(5) Subject to this section and rules of procedure made under this Act, the Board may regulate its own procedure in disciplinary proceedings.

(6) Where the Board is satisfied that any person registered or licensed under this Act has been—

(a) convicted of an offence under this Act or under any other law punishable by imprisonment, the commission of which, in the opinion of the Board,

has dishonoured him or her in the public estimation;

(b) guilty of negligence or malpractice in respect of his or her profession; or

(c) guilty of impropriety or misconduct in respect of his or her profession,

the Board may, subject to subsection (10)—

(i) direct the removal of such person's name from the Register;

(ii) issue a written warning or reprimand;

(iii) cancel such person's license;

(iv) suspend such person's license or registration for a period not exceeding two years or impose a fine, for a natural person, not exceeding two hundred and fifty thousand shillings and, for a legal person, a fine of three million shillings.

(7) A person whose name has been removed from the register or whose license has been cancelled or suspended under the provisions of this Act shall surrender his or her certificate of registration or the license to the Registrar.

(8) A person who fails to surrender the license as required under subsection (7) commits an offence and is liable on conviction, in case of a natural person, to a fine of fifty shillings and, in case of a legal person, to a fine of one hundred thousand shillings.

(9) The power to direct removal of a name of a person from the register or to cancel that person's license shall include the power exercisable in the same manner to direct that during such period as may be specified in the order, the registration of that person's name in the register or the license issued to the person shall not have effect.

(10) Notwithstanding any other provisions in this Act, the Board shall not remove the name of a person from the register, or cancel a license issued to that person unless—

- (a) at least two thirds of the members of the Board so decide;
- (b) the Board has given the licensee at least twenty-one days notice of its intention to cancel a license; and
- (c) it has provided the licensee with an opportunity to make representation to the Board.

43. A person aggrieved by a decision of the Board under this Act may, within thirty days from the date of the Board's decision, appeal to the High Court against that decision, and in any such appeal, the High Court may annul or vary the decision as it may consider necessary.

Appeal against the Board decision.

PART VIII—MISCELLANEOUS PROVISIONS

44. This Act shall not prohibit or render liable to prosecution any person who is registered in accordance with this Act to—

Act not to prohibit certain matters, etc.

- (a) enter for the purpose of or in the course of practicing as an engineering technologist, into partnership with other persons not registered in accordance with this Act;
- (b) engage in other professions or trades, as long as he or she is competent to engage in such professions or trades and such engagement does not contravene the provisions of this Act;
- (c) obtain registration with other professional bodies.

45. (1) In any legal proceedings, a document meant to be a copy of an entry from the register kept or published by the Registrar, and certified by the Registrar to be a true copy of the entry, shall be admissible as *prima facie* evidence of the content of the register.

Admissibility of documents.

(2) The Registrar shall not, in any legal proceedings to which he or she is not a party, be compelled to—

- (a) produce the register if its contents can be proved under this Act; or
- (b) appear as a witness to prove any entry in the register, of the matters recorded in the register, without a court order.

46. A person who commits an offence under this Act for which no specific penalty is provided for is liable on conviction to a fine of two hundred thousand shillings or to imprisonment for a term not exceeding one year, or both.

General penalty.

PART IX—PROVISIONS ON DELEGATED POWERS

47. The Cabinet Secretary may, on the recommendation of the Board, make rules generally for the better carrying into effect the provisions of this Act, and any such rules may, without prejudice to the generality of the foregoing—

Rules.

- (a) prescribe the form and method of keeping the register under this Act;
- (b) prescribe forms, methods and regulations concerning conditions for issuance of licenses;
- (c) prescribe the manner and subject matter of courses pertaining to training and continuing professional development;
- (d) prescribe the standards and conditions of professional practice for persons registered or licensed under this Act;
- (e) provide for enforcing the attendance of witnesses and the production of books and documents at an inquiry by the Board;
- (f) prescribe forms to be used in connection with this Act or fees to be charged under this Act;
- (g) provide for conditions under which a person may be registered as an accredited checker; and
- (h) prescribe anything required under this Act to be prescribed.

SCHEDULE

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

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

Meetings.

(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.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be five members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as 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.

Disclosure of
interest by Board
members.

(2) Notwithstanding subparagraph (1), if the majority of the members present are of the opinion that the experience or expertise of a member who has an interest in a matter before the Board is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(3) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(4) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Execution of
instruments.

4. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

Minutes.

MEMORANDUM OF OBJECTS AND REASONS

The objective of the Bill is to provide a legal framework on the regulation, practice and standards of engineering technologists and technicians.

Part I of the Bill contains preliminary provisions.

Part II contains provisions on the establishment, powers and functions of the Engineering Technologists and Technicians Board as the body responsible for the co-ordination and regulation of engineering technologists and technicians.

The part also sets out the functions of the Board, among which is to ensure that high standards are maintained both in training, performance and rendering of engineering technology professional services.

Part III contains provisions on registration of engineering technologists and technicians. It among other things sets out the qualifications requisite for registration to practice as an engineering technologist or technician. Although registration is open to persons who are Kenyan citizens or have permanent resident status, a window is provided for registration of foreigners in specified circumstances.

Part IV contains provisions relating to the licensing and practicing of registered engineering technologists and technicians. It makes it mandatory for a person to be licensed before such person can practice as an engineering technologist. It further lays down the requirements to be fulfilled when applying for a practicing license.

The Part further sets out the circumstances in which registration may be suspended or cancelled.

Part V contains financial provisions relating to the Board.

Part VI contains provisions relating to offences and penalties.

Part VII lays down the disciplinary procedure and the actions the Board may take against offending practitioners, including deregistration, reprimand, imposition of fine, etc. It also provides for restoration of names in the Register.

Part VIII contains miscellaneous provisions.

Part IX provides for the making of regulation by the Cabinet Secretary on recommendation of the Board.

PROVISIONS ON DELEGATED POWERS

This law when enacted will confer on a number of bodies and persons authority to make provisions having the force of law in Kenya in terms of Article 94 (6) of the Constitution of Kenya, 2010.