

## **SPECIAL ISSUE**

*Kenya Gazette Supplement No. 2 (Senate Bills No. 2)*

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REPUBLIC OF KENYA

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# **KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2023**

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**NAIROBI, 6th January, 2023**

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## **THE KONZA TECHNOPOLIS BILL BILL, 2023**

### **A Bill for**

**AN ACT of Parliament to provide for the establishment of the Konza Technopolis; the establishment of an Authority to administer the planning, development and management of the Konza Technopolis and for connected purposes.**

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

### **PART 1—PRELIMINARY**

**1.** This Act may be cited as the Konza Technopolis Act, 2023.

Short title.

**2.** In this Act—

Interpretation.

“area” means the parcel of land known as Land Reference Number 9918/6 and such other land as the Cabinet Secretary may Gazette;

“Authority” means the Konza Technopolis Authority established under section 4;

“Board” means the Board of the Authority constituted under section 6;

“buffer zone area” means all parcels of land lying within ten kilometres from the area;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to information and communications technology;

“chief executive officer” means the chief executive officer of the Authority appointed under section 12;

“high technology” means the most advanced technology currently available in the organisation of factors of production;

“Technopolis” means the Konza Technopolis established under section 3;

“licence” means a licence issued by the Authority under section 22; and

“Konza Technopolis enterprise” means a company licensed by the Authority to conduct business in the Konza Technopolis.

## **PART II—ESTABLISHMENT OF KONZA TECHNOPOLIS AND THE AUTHORITY**

**3.** There is established over the area known as Land Reference Number 9918/6 a technopolis known as the Konza Technopolis.

Establishment of Konza Technopolis.

**4.** (1) There is established an authority known as the Konza Technopolis Authority.

Establishment of the Authority.

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

- (a) suing and being sued;
- (b) purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

**5.** (1) The Authority shall administer the planning, development and management of the Technopolis.

Functions of the Authority.

(2) Without prejudice to the generality of subsection (1), the Authority shall—

- (a) formulate a development plan for the Technopolis and review the plan at least once every ten years;
- (b) initiate the formulation of policies, strategies and plans for the development of the Technopolis in consultation with the relevant State agencies, county governments and other stakeholders;
- (c) facilitate the development of industrial, commercial, educational, residential, recreational and related facilities and infrastructure in the Technopolis;
- (d) monitor and evaluate the development and performance of any project within the Technopolis;

- (e) facilitate the construction of any works necessary for the protection and preservation of natural resources within the Technopolis;
- (f) facilitate the specialized research and development in high technology in collaboration with relevant institutions of higher learning and research institutions;
- (g) facilitate the conduct of scientific research and development in technology and innovation in Kenya in collaboration with the National Commission for Science, Technology and Innovation established under section 3 of the Science, Technology and Innovation Act and the Kenya National Innovation Agency established under section 28 of the Science, Technology and Innovation Act;
- (h) facilitate the establishment and development of industries that incorporate the use of high technology in their activities;
- (i) facilitate the economic and social development of the Technopolis;
- (j) facilitate the development and management of information and communication technology parks, industrial incubation parks, science and technology parks and related facilities within the Technopolis;
- (k) make recommendations to the Cabinet Secretary on any impediments that ought to be removed or appropriate fiscal, tax and other investment incentives that the Authority considers necessary to encourage investment in the Technopolis;
- (l) in collaboration with the relevant counties determine and regulate land use within the Technopolis and the buffer zone;
- (m) collaborate with the relevant counties to ensure that developments within the buffer zone are in line with the physical and land use development plans in the Technopolis;
- (n) keep and maintain a register of all entities carrying out activities within the Technopolis;
- (o) collaborate with other State agencies and the relevant county governments in facilitating the

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issuance of licenses to entities requiring licenses to carry out their activities within the Technopolis;

- (p) promote and market, locally and internationally, opportunities for investment in information and communications technology and industrial activities in the Technopolis; and
- (q) perform such other function as may be conferred on it by any other written law or as may be necessary for the development of information and communications technology products and services within the Technopolis.

**6.** (1) The management of the Authority shall vest in a Board which shall consist of—

- (a) a chairperson competitively recruited by the Public Service Commission and appointed by the President;
- (b) the Principal Secretary responsible for matters relating to information and communications technology or a person designated by the Principal Secretary in writing;
- (c) the Principal Secretary responsible for matters relating to finance or a person designated by the Principal Secretary in writing;
- (d) the Principal Secretary responsible for matters relating to industrialization or a person designated by the Principal Secretary in writing;
- (e) two persons of the opposite gender nominated by the Council of County Governors and appointed by the Cabinet Secretary;
- (f) one person appointed by the Cabinet Secretary; and
- (g) the chief executive officer who shall be an *ex-officio* member of the Board with no right to vote.

(2) The appointment of the chairperson of the board and members under subsection (1)(e) and (f) shall be by notice in the *Gazette*.

**7.** The chairperson and members of the Board appointed under section 6(1)(e) and (f) shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years.

Board of the Authority.

Term of office.

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- 8.** (1) A person shall be qualified for appointment as the chairperson of the Board if that person—
- (a) is a citizen of Kenya;
- (b) meets the requirements of Chapter Six of the Constitution;
- (c) holds a degree from a university recognised in Kenya;
- (d) if registered as a member of a professional body, is in good standing with that body; and
- (e) has at least fifteen years' experience in—
- (i) information and communications technology;
- (ii) development of special economic zones;
- (iii) science parks infrastructure;
- (iv) manufacturing;
- (v) industrial research and development
- (vi) finance;
- (vii) economics; or
- (viii) tax.
- (3) A person shall be qualified for appointment under section 6(1)(e) and (f) if that person—
- (a) is citizens of Kenya;
- (b) meet the requirements of Chapter Six of the Constitution;
- (c) holds a degree from a university recognised in Kenya;
- (d) if registered as a member of a professional body, is in good standing with that body; and
- (e) has at least seven years' experience in—
- (i) information and communications technology;
- (ii) development of special economic zones;
- (iii) science parks infrastructure;
- (iv) law;
- (v) manufacturing;
- (vi) industrial research and development

- (vii) finance;
- (viii) economics; or
- (ix) taxation.

**9.** (1) The office of the chairperson or a member of the Board appointed under section 6(1)(e) and (f) shall become vacant if the holder—

Vacation of office.

- (a) resigns by notice in writing addressed, in the case of the chairperson and a member appointed under section 6(1)(e) or (f), to the chairperson of the Board;
- (b) on the written recommendation of the person, or body which the person nominated or designated the member revoking the nomination or designation of that member;
- (c) is convicted of an offence and sentenced to imprisonment for a term of not less than six months;
- (d) is convicted of an offence relating to corruption, fraud or an offence under the Leadership and Integrity Act;
- (e) is, on the recommendation of the Board under subsection (2), removed from office by the Cabinet Secretary for—
  - (i) being absent, without reasonable cause, from three consecutive meetings of the Board;
  - (ii) being unable to perform the functions of the office by reason of physical or mental infirmity; or
  - (iii) failing to declare interest in any matter being considered or intended to be considered by the Board;
- (f) is adjudged bankrupt; or
- (g) dies.

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(2) Before the removal of a member under subsection (1)(f), the Board shall—

- (a) investigate the circumstances giving rise to the proposed removal;

- (b) offer the member proposed to be removed from office an opportunity to be heard; and
- (c) make a recommendation to the Cabinet Secretary on whether or not the member should be removed from office.

**10.** The Board shall have all the powers necessary for the proper performance of its functions under this Act and in particular the Board shall have the power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the Authority in such manner and for such purposes as best achieves the objectives for which the Authority is established;
- (c) receive gifts, grants, donations or endowments made to the Authority and make disbursement from the receipts in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary responsible for matters relating to finance, invest any of the funds of the Authority not immediately required for the purposes of this Act as it may determine;
- (e) establish and make contributions to a pension, superannuation or medical fund for the benefit of employees and may require such employees to contribute to the fund; and
- (f) open such bank accounts into which all monies received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made.

**11.** (1) The Board may establish such committees as it may consider necessary for the effective performance of its functions and the exercise of its powers under this Act.

Powers of the Board.

(2) The Board may co-opt any person, whose knowledge and skills are necessary for the performance of the functions of the Board, to sit in a committee established under subsection (1).

Committees of the Board.

**12.** The Board may by resolution delegate to any committee of the Board or to any member, officer, employee or agent of the Authority the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

Delegation by the Board.

**13.** There shall be paid to the members of the Board, such remuneration, fees or allowances as the Cabinet Secretary may, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the Board.

**14.** (1) There shall be a chief executive officer of the Authority who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board may, in consultation with the Salaries and Remuneration Commission, determine.

Chief executive officer.

(2) A person shall qualify for appointment as the chief executive officer of the Authority, if that person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution;
- (c) holds a degree from a university recognised in Kenya;
- (d) has at least ten years' experience in—
  - (i) information and communications technology;
  - (ii) development of special economic zones;
  - (iii) science parks infrastructure;
  - (iv) law;
  - (v) manufacturing;
  - (vi) industrial research and development
  - (vii) finance;
  - (viii) economics; or
  - (ix) tax; and
- (e) has experience in management.

(3) The chief executive officer shall serve for a term of five years and shall not be eligible for re-appointment.

**15.** The chief executive officer shall be responsible for the implementation of the policies, programmes and objectives of the Authority and shall, subject to the direction of the Board—

Functions of the chief executive officer.

- (a) be responsible for the day-to-day management of the Authority;
- (b) manage the funds, property and affairs of the Authority;
- (c) be responsible for the management of the staff of the Authority;
- (d) cause to be prepared for the approval of the Board—
  - (i) the strategic plan and annual plan of the Authority; and
  - (ii) the annual budget and audited accounts of the Authority; and
- (e) perform such other duties as may be assigned by the Board.

**16. (1)** The chief executive officer may—

Vacation of office  
of the chief  
executive officer.

- (a) at any time resign from office by a notice in writing addressed to the chairperson of the Board; or
- (b) be removed from office by the Board if the chief executive officer—
  - (i) breaches a term or condition of the employment contract;
  - (ii) is unable to perform the functions of the office by reason of a mental or physical infirmity;
  - (iii) is convicted of an offence and sentenced to imprisonment for a term exceeding one month;
  - (iv) is convicted of an offence related to corruption, fraud or an offence under the Leadership and Integrity Act;
  - (v) is adjudged bankrupt; or
  - (vi) conducts herself or himself in a manner determined by the Board to be inconsistent with this Act.

(2) Before the removal of the chief executive officer under subsection (1)(b), the Board shall —

- 
- (a) investigate the circumstances giving rise to the proposed removal;
  - (b) accord the chief executive officer an opportunity to be heard; and
  - (c) determine whether or not to remove the chief executive officer from office.

**17.** (1) There shall be a corporation secretary of the Board who shall be competitively recruited and appointed by the Board on such terms and conditions as the Board may, in consultation with the Salaries and Remuneration Commission, determine.

The corporation secretary.

(2) The corporation secretary shall be responsible for providing guidance to the Board on the duties and responsibilities of the Board and governance and shall, subject to the direction of the Board—

- (a) be the secretary to the Board;
- (b) record and keep minutes of business of the Board;
- (c) keep a register of conflict of interest; and
- (d) perform such other duties as may be assigned by the Board.

**18.** (1) The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Authority under this Act.

Staff of the Authority.

(2) The staff appointed under subsection (1) shall serve on such terms and conditions of service as the Board may, in consultation with the Salaries and Remuneration Commission, determine.

**19.** (1) The common seal of the Authority shall be kept in the custody of the chief executive officer or such other person as the Board may direct, and shall not be used except by order of the Board.

Common Seal of the Authority

(2) The affixing of the common seal of the Authority shall be authenticated by the signatures of the chairperson and the chief executive officer.

(3) Notwithstanding subsection (2), the Board shall, in the absence of the chairperson or the chief executive officer, nominate one member of the Board to authenticate

the common seal of the Authority on behalf of either the chairperson or the chief executive officer, as the case may be.

**20.** (1) All letters and instruments written or made by or on behalf of the Authority, other than those required by law to be under seal, and all decisions of the Board, shall be signed under the hand of the chairperson and the chief executive officer.

Signing authority.

(2) Notwithstanding subsection (1), the Board shall, in the absence of the chairperson or the chief executive officer, nominate one member of the Board to sign the letters and instruments on behalf of either the Chairperson or the chief executive officer, as the case may be.

**21.** (1) The business and affairs of the Board shall be conducted in accordance with the Schedule.

Conduct of business of the Board.

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

### **PART III—REGULATION OF THE TECHNOPOLIS**

**22.** (1) A person shall not undertake an activity or render a service in the Technopolis unless the person has applied for and obtained a licence from the Board.

Licence to operate within the Technopolis.

(2) The Cabinet Secretary shall, in consultation with the Board and by regulations, prescribe activities to be undertaken and services to be rendered in the Technopolis.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

**23.** (1) A person who intends undertake activities or render services within the Technopolis shall make an application to the Board for the issuance of a licence.

Application for a licence.

(2) An application for a licence under subsection (1) shall—

- (a) be made in writing and in the prescribed form;
- (b) contain such information as may be prescribed by the Board; and

(c) be submitted together with the prescribed fee and such other information as may be prescribed by the Board.

(3) The Board shall, when considering an application for a licence under subsection (1), take into account the applicant's financial and technical capacity to carry out the intended business in line with the objectives of the Authority.

(4) The Board shall consider the application and may—

- (a) issue a licence unconditionally;
- (b) issue a licence subject to such conditions as the Board may determine; or
- (c) deny the applicant a licence.

(5) The Board shall inform the applicant of its decision under subsection (3) within seven days from the date of the decision of the Board.

**24.** A licence issued under this Act shall—

Form of a licence.

- (a) be in the prescribed form;
- (b) specify the business to be carried out or service to be rendered by the Konza Technopolis enterprise;
- (c) specify the period of validity of the licence;
- (d) contain such conditions as the Board may impose for the issuance or renewal of the licence; and
- (e) contain such other information as the Board may consider necessary.

**25.** (1) The Authority may, for the effective administration of the Technopolis, issue such classes of licences as it may consider appropriate.

Classes of licences.

(2) The Cabinet Secretary shall publish in the *Gazette* the classes of licences the Authority may issue together with any additional requirements or exemptions provided that the processes and criteria set out in this Act shall not be departed from to the detriment of the Authority or an applicant.

**26.** A Konza Technopolis enterprise shall observe the following conditions in addition to those that may be imposed by the Board or specified under this Act—

- (a) provide the service or carry out the business specified in the licence;
- (b) comply with all applicable laws and the conditions for issuance of the licence;
- (c) provide the Board with information with respect to any change in its directorship or shareholding;
- (d) pay such fees as may be prescribed; and
- (e) maintain, and where required, submit to the licensing authority such information as may be necessary for the continued licensing of the enterprise.

Conditions for the issuance of a licence.

**27.** (1) A licence issued under this Act shall come into force on the date on which it is issued or on such date as may be specified on the licence.

Duration of a licence.

(2) The Board shall specify the duration of the licence in the licence issued under this Act and may prescribe different validity periods for the various classes of licences that are issued under this Act.

**28.** (1) The Board may refuse to issue a licence to an applicant where—

- (a) the applicant has submitted false or misleading information in the application;
- (b) the applicant does not meet the conditions for licensing prescribed under this Act or under any other written law; or
- (c) the application does not comply with the requirements imposed under this Act or any other applicable law.

Refusal to issue a licence.

(2) The Board shall notify the applicant of its decision within fourteen days of such refusal.

**29.** (1) An application for the renewal of a licence shall be made to the Board in the prescribed form and shall be—

Renewal of a licence.

- (a) made at least three months immediately preceding the expiry of the licence;

- (b) submitted to the Board in the manner specified in section 22; and
- (c) be considered in accordance with section 22.

(2) Where an application for the renewal of a licence is not lodged within three months immediately preceding its expiry, the Board may consider such application upon payment of such additional fee as the Cabinet Secretary may prescribe.

(3) The Board shall consider an application made under subsection (1) and may, if satisfied that the application meets the requirements of this Act, renew the licence.

**30.** (1) The Board may revoke a licence issued to a Konza Technopolis enterprise if—

- (a) the enterprise ceases to carry on the business with respect to which the licence was issued;
- (b) the enterprise has contravened any of the conditions for the issuance of the licence;
- (c) the enterprise has been amalgamated with another entity or sold or its assets or liabilities have been transferred to another entity without obtaining the approval of the Board;
- (d) the enterprise is wound up, liquidated or otherwise dissolved;
- (e) the Board is satisfied that the business of the enterprise is being conducted in a manner that is detrimental to the interest of the public or the objectives of the Authority;
- (f) the enterprise fails to comply with the provisions of this Act; or
- (g) the enterprise surrenders the licence to the relevant licensing authority together with a notice setting out a request that the licence be revoked.

(2) The Board shall not revoke a licence under subsection (1) unless it has issued a notice to the enterprise in the manner specified under section 29.

**31.** (1) The Board shall, before revoking a licence issued under this Act, issue to a Konza Technopolis enterprise a compliance notice in the prescribed form.

Revocation of a licence.

Notice of non-compliance.

(2) A compliance notice issued under subsection (1) shall—

- (a) be in writing;
- (b) notify the enterprise of the non-compliance and the steps required to be undertaken in order to comply; and
- (c) inform the enterprise of the period, which shall be at least fourteen days, within which the enterprise is required to comply with the notice.

(3) The Board may, upon request by the enterprise and where there are sufficient grounds shown by the enterprise, extend the period of compliance for such period as the Board may consider necessary to ensure compliance.

**32.** (1) A Konza Technopolis enterprise whose licence has been revoked shall not be eligible to the benefits or incentives specified under this Act.

Effect of revocation of a licence.

(2) A Konza Technopolis enterprise whose licence has been revoked shall, if—

- (a) it has a lease over private land within the Technopolis, surrender the lease and possession of the land to the lessor within ninety days;
- (b) it has leased or been allocated land by the Authority, surrender the lease and possession of the land to the Authority within ninety days; and
- (c) it has acquired interest in land within the Technopolis under section 24 of the Land Registration Act, sell or otherwise transfer the land to a person approved by the Authority within twelve months.

No. 3 of 2012

(3) A person who contravenes subsection (2) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

**33.** (1) The Board may vary the conditions upon which a licence is issued under this Act where, in the opinion of the Board, the variation is necessary for the purposes of achieving the objectives of the Authority.

Variation of conditions of a licence.

(2) The Board shall, before varying a condition of a licence issued under this Act, issue to the Konza Technopolis enterprise, a notice in writing of the intention to vary the conditions attached to the licence.

(3) A notice under subsection (2) shall—

- (a) specify the variation intended to be made with respect to the licence;
- (b) set out the reasons for such variation;
- (c) specify the time within which the variation shall take effect;
- (d) allow the enterprise or any other person to submit any representations on the variation within thirty days from the date of the notice;
- (e) specify the place from which information regarding the variation may be obtained; and
- (f) set out such further information as the licencing authority may consider necessary.

**34.** (1) A person who is aggrieved by a decision of the Board may, within fourteen days of that decision, apply to the Board for review of the decision.

Review and appeal process.

(2) An application for review shall be in such form as the Cabinet Secretary may prescribe.

(3) The Authority shall consider, determine and communicate its decision on an application for review under subsection (1) within thirty days of receipt of the application.

(4) A person who is not satisfied with the decision of the Authority under subsection (3) may, within thirty days of that decision, appeal to the High Court.

**35.** An applicant for a licence, the renewal or variation of a licence shall pay to the Authority such fees at such time and in such manner as the Cabinet Secretary may prescribe.

Licence fees.

**36.** (1) The chief executive officer shall maintain a register of licences issued by the Authority under this Act.

Register of licences.

(2) The register maintained under subsection (1) shall be in the prescribed form and shall include—

- (a) name of the Konza Technopolis enterprise;
- (b) the type of business carried out or service rendered by the enterprise;
- (c) the period of validity of the licence;
- (d) the physical address of the enterprise within the Technopolis; and
- (e) such other information as the Board may consider necessary.

(3) The chief executive officer shall cause to be published, on a website accessible to the public, an up-to-date register maintained under subsection (1).

**37.** The Authority shall put in place mechanisms to facilitate the registration and licensing of Konza Technopolis enterprises.

Licensing processes.

(2) The Authority shall collaborate with existing registration and licensing authorities to ensure—

- (a) simplicity of the process of application for registration or licensing of the enterprises;
- (b) cost effectiveness of the registration and licensing processes;
- (c) that the licensing framework is consolidated and streamlined to avoid duplication and multiple licencing procedures where a person requires multiple licences to operate;
- (d) access to information relating to registration and licensing requirements and procedures;
- (e) licence holders are able to respond to changes in the market quickly with minimum regulatory friction; and
- (f) certainty by having in place clear and consistent registration and licensing conditions.

#### **PART IV—INCENTIVES FOR INVESTMENT IN THE TECHNOPOLIS**

**38.** (1) The Authority shall develop and publish in the *Gazette* the criteria for identifying persons to carry on the business of investors in the Technopolis.

Identification of investors.

(2) The Authority shall, in formulating the criteria under subsection (1), specify —

- (a) the categories of industries for investment;
- (b) the minimum amount of resources to be invested;
- (c) the minimum number of local staff to be employed; and
- (d) the percentage of local content to be applied to the various categories of local goods, service and human resources by foreign investors.

**39.** (1) The Authority shall procure land in the Technopolis and avail it to identified investors for use in accordance with conditions set by the Authority.

Provision of land to identified investors.

(2) The Authority shall, in consultation with the Cabinet Secretary, develop and publish in the *Gazette* the criteria for the identification of investors for the lease of land under subsection (1).

**40.** The Cabinet Secretary responsible for matters relating to finance may, with the approval of Parliament, introduce fiscal measures to provide incentives for investment in the Technopolis.

Fiscal incentives.

**41.** (1) The Authority shall collaborate with existing licencing authorities to facilitate the issuance of such licences, approvals or issuance of permits to Konza Technopolis enterprises.

Non-fiscal incentives.

(2) The Board may, for purposes of subsection (1), make recommendations to the Cabinet Secretary for the grant of exemptions from any charges, fees, payments and approvals on such conditions as may be imposed by the licencing or approving authority.

**42.** (1) The Authority shall, in collaboration with the relevant national and county government agencies, develop a centralized administrative system within the Technopolis for the efficient and effective processing of applications and documentation required by entities to carry on business and render services in the Technopolis.

Development of a centralized administrative system.

(2) Without prejudice to the generality of subsection (1), applications to be processed through the system shall include—

- (a) licences and permits;
- (b) tax obligations and refunds; and

(c) entry, stay and work visas.

(3) The Authority shall, in developing the system, take into account the need to ensure -

- (a) access to information relating to the services offered through the system;
- (b) that the licensing procedures and other processes are simple;
- (c) that services offered through the system are accessible to persons applying for a licence;
- (d) cost effectiveness of obtaining approvals or making returns;
- (e) efficiency and effectiveness in the administration of the services offered through the system;
- (f) fairness and transparency in obtaining the services; and
- (g) that the licensing framework is consolidated and streamlined to avoid duplication and multiple licencing procedures where an entity requires multiple licences to carry on business or render services in the Technopolis.

**43.** (1) The Authority shall establish and maintain a micro and small enterprise support centre.

Micro and small enterprise support centre.

(2) The micro and small enterprise support centre shall provide support services to micro and small enterprises in the Technopolis including—

- (a) financial and technical assistance to start-ups;
- (b) technical assistance programs;
- (c) business training;
- (d) feasibility studies and market research; and
- (e) any other service that the Authority considers necessary to assist micro and small enterprises in the Technopolis.

## PART V—FINANCIAL PROVISIONS

**44.** The funds and assets of the Authority shall comprise of—

Funds of the Authority.

- (a) monies that may be appropriated by the National Assembly;
- (b) such monies or assets as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) such monies as may be payable to the Authority pursuant to this Act or any other written law;
- (d) such gifts as may be donated to the Authority; and
- (e) monies from any other source granted, donated or lent to the Authority.

**45.** (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 Authority for that year.

Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in Parliament.

**46.** (1) The Authority shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, cause to be prepared, signed and forwarded to the Auditor-General—

Accounts and Audit.

- (a) a balance sheet showing in detail the assets and liabilities of the Authority; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

(2) The accounts of the Authority shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act.

No. 34 of 2015.

(3) The Authority shall submit to the Auditor-General all books and accounts of the Authority, together with all

vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Authority such information and explanation as he may consider necessary for the performance of his duties.

(4) The expenses incurred in and incidental to the auditing of the accounts of the Authority shall be met by the Authority.

**47.** (1) The Authority shall, within a period of three months after the end of the financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Authority during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report thereon.

Annual report and publication.

(2) The Authority shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to the Cabinet Secretary under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports, balance sheet and statements or, if any house of Parliament is not sitting, within fourteen days of the commencement of its next sitting.

Financial year of the Authority.

**48.** The financial year of the Authority shall be the period of twelve months ending on thirtieth June of each year.

## PART VI—MISCELLANEOUS PROVISIONS

Disputes resolution.

**49.** Where a dispute arises regarding anything done or not done pursuant to this Act, the parties shall, in the first instance, make effort to resolve the dispute amicably before submitting the dispute to a court or tribunal of competent jurisdiction.

Protection from personal liability.

**50.** No matter or thing done by a member of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Board, render the

member, officer, employee or agent or any person acting on his directions personally liable to any action, claim or demand whatsoever.

**51.** The provisions of section 48 shall not relieve the Authority of the liability to pay compensation or damages to any person for an injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Board by this Act or by any other written law.

Liability of the Authority for damages.

**52.** (1) A person who commits an offence under this Act for which no penalty is provided shall be liable, on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both.

General penalty.

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed—

- (a) was a director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and shall be liable for the offence as if they had themselves committed the offence, unless proved that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

**53.** (1) The Cabinet Secretary may, upon consultation with the Authority, make Regulations—

Regulations.

- (a) prescribing anything that may be prescribed under this Act; and
- (b) generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may, upon consultation with the Authority, make Regulations to provide for—

- (a) activities to be undertaken or services to be rendered in the Technopolis;
  - (b) the process of application for licenses and related activities;
  - (c) the classes of licences issued under this Act;
  - (d) the criteria and threshold to be applied for approval of licences under this Act;
  - (e) the form of register of licences to be maintained by the chief executive officer;
  - (f) the conditions for the provision of land in the Technopolis to identified investors; and
  - (g) any fee which may be charged for anything done under this Act.
- (3) For the purpose of Article 94(6) of the Constitution

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect the provisions of this Act;
- (b) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section; and
- (c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act.

Cap. 2.  
No. 23 of 2013.

## **PART VII—TRANSITIONAL PROVISIONS**

**54.** In this Part, “Konza Technopolis Development Authority” means the Konza Technopolis Development Authority existing immediately before the commencement of this Act.

Interpretation.

**55.** Any regulations in force immediately before the commencement of this Act and applicable to the area in relation to the Konza Technopolis Development Authority shall, at the commencement of this Act, be deemed to be revoked.

Existing laws.

**56.** All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the Konza Technopolis Development Authority shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Authority.

Rights and obligations.

**57.** All property which immediately before the commencement of this Act was vested in the Konza Technopolis Development Authority shall, on the date of the coming into effect of this Act, vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Transfer of assets and liabilities.

**58.** All pending legal proceedings and claims in respect of actions and activities to which this Act applies shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced by or against the Konza Technopolis Development Authority had this Act not been enacted.

Pending proceedings and claims.

**59.** All directions, orders and authorizations given, or licenses or permits issued, or registrations made by the Konza Technopolis Development Authority, and subsisting or valid immediately before the commencement of this Act, shall be deemed to have been given, issued or made by the Authority, as the case may be, under this Act.

Previous authorizations.

**60.** (1) Upon the coming into effect of this Act, members of staff employed by the Konza Technopolis Development Authority shall—

Transfer of Staff.

- (a) be deemed to be members of staff of the Authority in their respective capacities;
- (b) retain any rights accrued or accruing to them as such staff or contributors;
- (c) be at liberty to continue to contribute to any superannuation scheme to which they were contributors;
- (d) be entitled to receive any deferred or extended leave as if they have continued to be such staff of the Authority during their service with the Konza Technopolis Development Authority;
- (e) be entitled to receive any payment, pension or gratuity as if they have continued to be such staff

of the Authority during their service with the Konza Technopolis Development Authority; and

(f) be deemed to be employees of the Authority for the purposes of any law under which those rights accrued or were accruing, under which they continue to contribute or by which that entitlement is conferred.

(2) Despite the provisions of subsection (1), the term of the members of Board of the Konza Technopolis Development Authority shall end on the expiry of ninety days from the coming into effect of this Act or the date that the Board is appointed, whichever is earlier.

**SCHEDULE****s.21****CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY**

**1.** (1) The Board shall meet at least once in every three months to conduct the business of the Board of Authority.

Meetings of the Board.

(2) The chairperson shall convene the meetings of the Board at the premises of the Authority.

(3) Despite the provisions of sub-paragraph (1), the chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board at any time where he considers it expedient for the transaction of the business of the Authority.

(4) Unless three quarters of the total number of the 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 by the Secretary.

(5) The quorum for the conduct of the business of the Board shall be four members.

(6) The chairperson shall preside at every meeting of the Board at which he is present and in her or his absence, the members of the Board present shall elect one person from their number to preside over the meeting of the Board and he or she shall have all the powers of the chairperson.

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

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings 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

Disclosure of interest.

consideration, he or she shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

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

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

## MEMORANDUM OF OBJECTS AND REASONS

### Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to establish the Konza Technopolis on Land Reference Number 9918/6 and the Konza Technopolis Authority responsible for the administration of the Konza Technopolis.

**Part I** of the Bill provide for preliminary matters. These are the short title and definition of various words used in the Bill.

**Part II** establishes the Konza Technopolis and the Konza Technopolis Authority. The Konza Technopolis Authority is a body corporate responsible for the administration of the Konza Technopolis. This Part further sets out a Board of the Konza Technopolis Authority as well as members of the Board and staff of the Authority.

**Part III** provides for the regulation of the Technopolis. For a person to undertake activities or provide services within the Technopolis, the person must first be licenced by the Board. The process for application, consideration and validity of a licence are set out under this Part. Additionally, the Part requires the Board in collaboration with other entities responsible for registration and licensing to put in place mechanisms to ensure the process is simple, cost effective and avoids duplicity.

**Part IV** provides for incentives for investors in the Technopolis. The Konza Technopolis Authority is required to publish in the Kenya *Gazette* the criteria to be applied for identifying investors. Such criteria shall include, among others, the category of industries, minimum amount to be invested and minimum number of local staff to be employed. The Board is mandated in collaboration with the Cabinet Secretary for finance and other licensing authorities at the National and county governments put in place fiscal and non-fiscal incentives such as centralised administrative for processing of registration and licensing, technical assistance as well as feasibility and market research.

**Part V** provides for the finances, annual estimates, accounts and auditing of finances of the Konza Technopolis Authority as well as reporting on the operations of the Authority to both the Cabinet Secretary and Parliament. The finances of the Authority shall include funds allocated by the National Assembly and such other monies lawfully accruing to the Authority.

**Part VI** of the Bill provides for miscellaneous provisions. These include encouragement of resolution of disputes outside court, protection

of members of the Board and staff of the authority from personal liability regarding things done in good faith, general penalty for offences committed under the Act for which no penalty has been provided, and power to make regulations by the Cabinet Secretary for the purpose of better carrying into effect the Act.

**Part VII** of the Bill provides for transitional provisions. Currently, there exists the Konza Technopolis Development Authority on Land Reference Number 9918/6, whose aim is to develop a sustainable smart city and an innovation ecosystem. The entity has a governing body, staff, has acquired property and permitted person to undertake activities within the said parcel of land. This part sets out how the Konza Technopolis Development Authority transitions to the Konza Technopolis Authority including transfer rights and obligations, assets and liabilities, pending cases, licences and permits granted as well as persons employed by the the Konza Technopolis Development Authority.

#### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

Clause 53 of the Bill confers on the Cabinet Secretary the powers to make regulations under the Act for the purposes of carrying into effect the provisions of the Act. The Bill does not limit any fundamental rights or freedoms.

#### **Statement on how the Bill concerns county governments**

The Konza Technopolis Development Authority as currently existing is a flagship project of Kenya's Vision 2030 whose aim is to transform Kenya into a newly industrialising middle-income country. Konza Technopolis Development Authority contributes to the attainment of Vision 2030 by developing a sustainable smart city and an innovation ecosystem.

As a technology city contributing to the attainment of Kenya's Vision 2030, the konza Technopolis Authority must work in partnership with both the National Government and county governments within their respective functional areas as set out in the Fourth Schedule to the Constitution. Additionally, some of the activities to be undertaken or services to be provided within the Technopolis may require registration or licencing by a county government within which the Technopolis is situated. The Bill is therefore one that concerns county governments in terms of Article 110(1)(a) of the Constitution.

**Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 21st October, 2022.

GLORIA ORWOBIA,  
*Senator.*