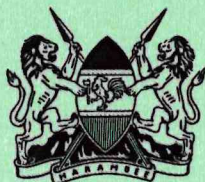


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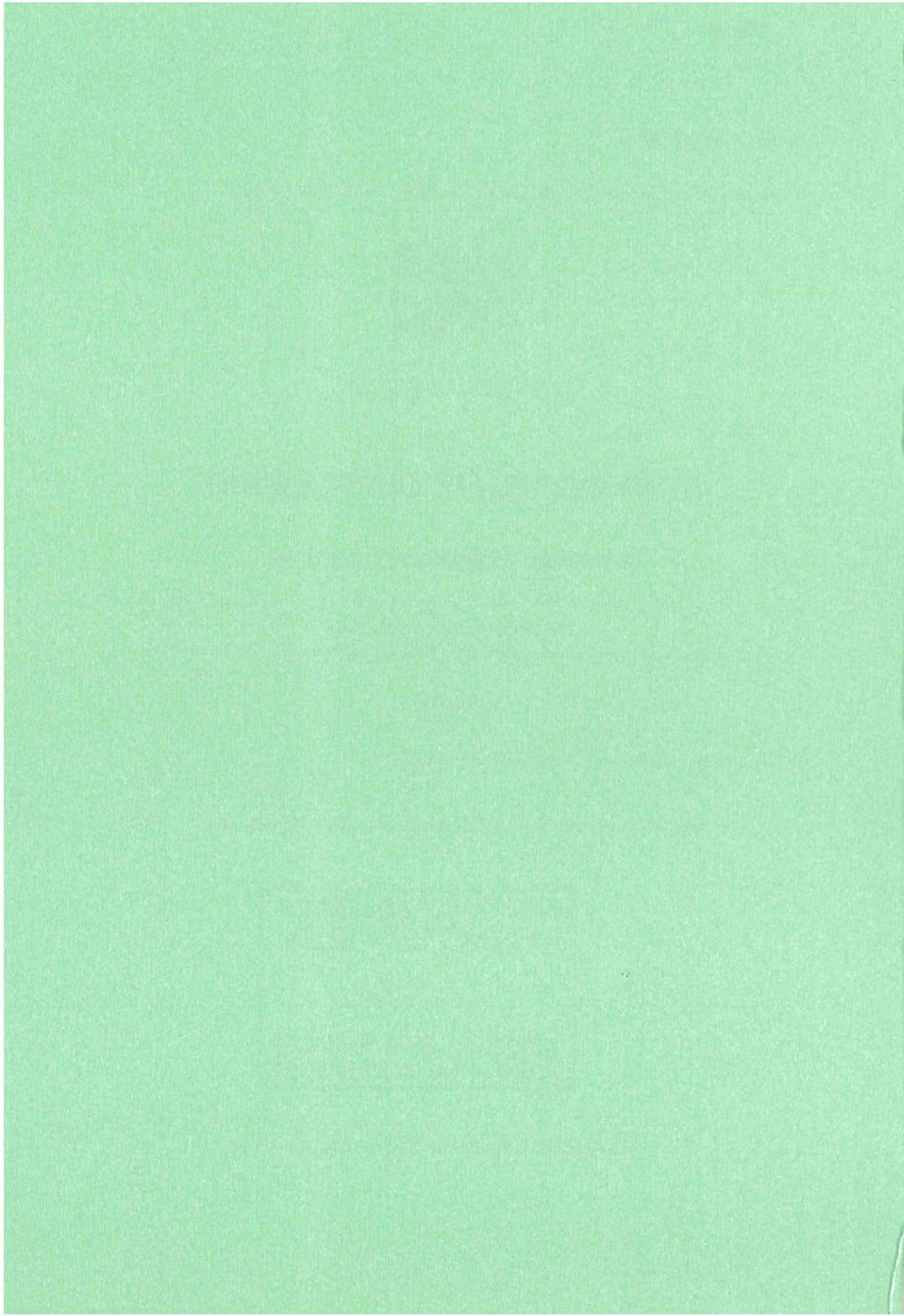
CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Kenya National Educational Assessments Council Bill, 2026 1875





**THE KENYA NATIONAL EDUCATIONAL
ASSESSMENTS COUNCIL BILL, 2026**

ARRANGEMENT OF CLAUSES

PART I—PRELIMINARY

Clauses

- 1— Short title.
- 2— Interpretation.
- 3— Objects.
- 4— Application of the Act.

**PART II—ESTABLISHMENT AND FUNCTIONS OF THE
COUNCIL**

- 5— Establishment of the Council.
- 6— Functions of the Council.
- 7— Powers of the Council.
- 8— Composition of the Council.
- 9— Qualifications of the Chairperson.
- 10— Qualifications of the Members..
- 11— Tenure of office.
- 12— Co-option.
- 13— Vacancy of Office of the Chairperson and Members of the Council.
- 14— Conduct of business and affairs of the Council.
- 15— Committees of the Council.
- 16— Delegation of functions.
- 17— Chief Executive Officer.
- 18— Qualifications of Chief Executive Officer.
- 19— Vacancy in the office of the Chief Executive Officer.
- 20— Staff of the Council.
- 21— The common seal of the Council.

PART III—ASSESSMENT AND CERTIFICATION

- 22— Registration of Assessment centres.
- 23— Hosting of assessment centres.

- 24— Mergers of assessment centres.
- 25— Establishment of distribution centres.
- 26— E-Assessment.
- 27— Registration of candidates.
- 28— Registration of candidates with special needs.
- 29— Transfer and withdrawal of candidates
- 30— Equation of foreign qualifications.
- 31— Administration of assessments.
- 32— Marking, processing and release of results.
- 33— Restriction of access of marked scripts or responses.
- 34— Issuance of Certificates and Diplomas.
- 35— Certification of results.
- 36— Recovery of Certificates in disaster situations.
- 37— Confirmation of results.
- 38— Administration of foreign assessments.
- 39— Administration of assessment in foreign jurisdiction.
- 40— Dissemination of performance reports.

PART IV—EXAMINATION MALPRACTICES, OFFENCES AND PENALTIES

- 41— Assessment malpractices.
- 42— Collusion.
- 43— Handling of assessment malpractices.
- 44— Imposition of penalty on centres for assessments irregularity.
- 45— Unauthorized possession and sharing of assessment paper, material or information.
- 46— Assessment offences.
- 47— Loss or misuse of assessment paper or material.
- 48— Damage or destruction to assessment material or facilities.
- 49— Impersonation.
- 50— Possession of offensive material.

- 51— Causing disturbances at assessments or marking centres.
- 52— Assault on officers and agents of the Council.
- 53— Presentation of forged Certificate.
- 54— Conflict of interest.
- 55— Counterfeiting of assessment reports, certificates and diplomas.
- 56— Request for information.
- 57— Improper disclosure of information.
- 58— Aiding and abetment of offence.
- 59— Offences by assessment officers.

PART V—LIMITATION OF RIGHTS AND FUNDAMENTAL FREEDOMS

- 60— Limitation on right to go on strike.
- 61— Limitation on right of access to information.

PART VI—FINANCIAL PROVISIONS

- 62— Funds of the Council.
- 63— Financial year.
- 64— Annual estimates.
- 65— Accounts and audit.
- 66— Annual reports.
- 67— Investment of funds.

PART VII—MISCELLANEOUS

- 68— Request for assistance from State organ or public entity.
- 69— Request for assistance from the Teachers Service Commission.
- 70— Oath of secrecy.
- 71— Council to keep information confidential.
- 72— Disclosure of conflict of interest.
- 73— Protection from personal liability.
- 74— Liability for damages.

75— Council not to be accredited by other bodies with regard to core functions.

76— Restriction on use of name.

77— Data protection.

78— Regulations.

PART VIII—TRANSITIONAL PROVISIONS

79— Repeal of Cap. 214A.

80— Interpretation: Part VII.

81— Transfer of assets and liabilities of former Council.

82— Reference to the former Council.

83— Proceedings of the former Council.

84— Annual Estimates of the former Council.

85— Agreements, deeds, etc., of former Council.

86— Administrative decisions of former Council.

87— Staff of former Council.

88— Member of the former Council.

89— Consequential amendments.

SCHEDULE: CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

**THE KENYA NATIONAL EDUCATIONAL
ASSESSMENTS COUNCIL BILL, 2026**

A Bill for

AN ACT of Parliament to provide for the establishment, powers and functions of the Kenya National Educational Assessments Council and the conduct of assessments; to provide for the repeal of the Kenya National Examinations Council Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Kenya National Educational Assessments Council Act. Short title.

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

“assessment” means the evaluation, measurement and documentation of the academic readiness, learning progress, skill acquisition, or educational needs of learners and includes examinations and e-assessments;

“assessment material”, whether in print or electronic form, means—

- (a) an assessment paper;
- (b) notes for the preparation of an assessment paper;
- (c) instructions for the setting up of equipment or the preparation of an instrument for an assessment;
- (d) instructions for projects, practicals, aurals, orals or practicum; or
- (e) any other document or material which is intended to form part of an assessment paper or to enable an assessment paper to be prepared but does not include assessment papers from a previous assessment or any other material which has been published in order to assist candidates in an assessment;

“assessment malpractice” means any action which contravenes the rules and regulations for the conduct of an assessment and includes assessment irregularities;

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

“candidate” means a person registered to undertake an assessment conducted by or on behalf of the Council;

“certificate” means a document issued by the Council showing results obtained by a candidate in an assessment and includes a diploma certificate;

“Chief Executive Officer” means the chief executive officer of the Council appointed under section 17;

“collusion” means an unauthorized collaboration between one candidate and at least one other candidate or other party to complete work that is then submitted for assessment that has been restricted to individual effort;

“Council” means the Kenya National Educational Assessments Council established by section 5;

“e-assessment” means the application of digital, online or computer-based assessment;

“e-assessment platform” means a system approved by the Council for the execution of an e-assessment;

“e-marking” means the process of grading or assessing student work using digital tools and technology;

“formative assessment” means an assessment used to determine a learner’s level of acquisition of skills, knowledge and attitudes during the learning process and include school-based assessment;

“offensive material” means anything capable of causing injury or temporary or permanent incapacitation of a person;

“social media” means interactive technologies that facilitate the creation, sharing and aggregation of content amongst virtual communities and networks and includes online publishing and discussion, media sharing, blogging, social networking, document and data sharing repositories, social media applications, social bookmarking and widgets;

“summative assessment” means an assessment which is used to measure a learner’s level of acquisition of skills, knowledge, attitudes and values at the end of a specific period of learning;

“Teacher Training Institution” means an institution offering training for teachers but does not include a university.

3. The objects of this Act shall be to—

Objects.

- (a) provide for the conduct and administration of assessments in basic education, teacher education and training; and
- (b) provide for the certification and accreditation of assessment centres.

4. This Act shall apply to all persons undergoing instruction and learning in basic education institutions and all persons or institutions engaged in or having an interest in the provision of basic education.

Application.

PART II – ESTABLISHMENT AND FUNCTIONS OF THE COUNCIL

5. (1) There is established a council to be known as the Kenya National Educational Assessments Council.

Establishment of the Council.

(2) The Council 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) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) 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.

(3) The Council shall be the successor to the Kenya National Examinations Council existing immediately before the commencement of this Act.

(4) The headquarters of the Council shall be in Nairobi.

(5) The Council may establish such regional offices as are necessary for the efficient and effective coordination and implementation of the mandate of the Council.

6. (1) The functions of the Council shall be to—

Functions of the Council.

- (a) set and maintain assessment standards;
- (b) conduct public academic, technical and other national assessments at basic and teacher education and training levels;
- (c) award certificates, diplomas or assessment reports to candidates who have undergone an assessment under this Act;
- (d) confirm authenticity of certificates or diplomas issued by the Council upon request by the Government, public institutions, learning institutions and employers;
- (e) equate certificates and qualifications issued by accredited foreign examining bodies with the qualifications awarded by the Council;
- (f) certify assessments results upon loss or damage of the original certificate or diplomas;
- (g) undertake research and capacity building on educational assessment;
- (h) advise, upon request, any public institution on the development and use of any system of assessment;
- (i) promote international recognition of qualifications conferred by the Council;
- (j) conduct assessments on behalf of foreign states or entities upon request by such states or entities;
- (k) advise the Government on policies that are relevant to, or have implications on, the functions of the Council or the administration of assessments in Kenya; and
- (l) perform any other function conferred by this Act or any other written law.

(2) In the performance of its functions, the Council shall have the powers to—

- (a) make rules regulating the conduct of assessments;
- (b) make rules regarding the inspection and registration of assessment and marking centres;
- (c) make rules regulating the confirmation of assessment results;
- (d) make rules regulating the certification of results upon loss or damage of the original certificates;
- (e) make rules regulating the conduct of issuance of certificates or diplomas;
- (f) withhold or cancel the results of candidates involved in assessment irregularities or malpractices;
- (g) appoint any officer responsible for education or training, including heads of education and training institutions, to assist in the administration of assessments;
- (h) make rules regulating the equation of certificates issued by accredited foreign examining bodies with the qualifications awarded by the Council;
- (i) invite such body in or outside Kenya, as the Council may consider necessary, to conduct on its behalf, academic, technical and other national assessments, or to conduct these assessments jointly with the Council and to award certificates or diplomas to successful candidates in such assessments; and
- (j) do any other thing which is necessary or convenient to be done in connection with or incidental to its functions.

7. The Council shall have all powers necessary for the proper performance of its functions under this Act and in particular, it shall have the power to—

Powers of the Council.

- (a) manage, control and administer the assets of the Council in such manner and for such purposes as best promote the purposes for which the Council is established;
- (b) open and operate a bank account subject to approval by the National Treasury;

- (c) receive any gifts, grants or donations or endowments made to the Council or any other monies in respect of the Council and make disbursements therefrom in accordance with the provisions of the law;
- (d) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate in furtherance of the purposes for which the Council is established; and
- (e) offer services to any person, institution or foreign government upon such terms as the Council may determine.

8. (1) The Council shall consist of—

Composition of
the Council.

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary responsible for matters relating to basic education or a representative designated in writing;
- (c) the Principal Secretary responsible for matters relating to finance or a representative designated in writing;
- (d) the Chief Executive Officer of the Kenya Institute of Curriculum Development or a representative designated in writing;
- (e) the Secretary to the Teachers Service Commission or a representative designated in writing;
- (f) the Director of Quality Assurance or a representative designated in writing;
- (g) three persons appointed by the Cabinet Secretary—
 - (i) one member to represent the interest of persons with disabilities;
 - (ii) one person with expertise in assessment;
 - (iii) one person with over ten years' experience in matters relating to the training of teachers; and
- (h) the Chief Executive Officer who shall be the

Secretary to the Council and an *ex-officio* member.

(2) The appointment of the Chairperson under subsection (1) (a) and the members under subsection (1) (g) shall be by notice in the *Gazette*.

9. A person shall be qualified for appointment as the chairperson of the Council under section 8(1)(a) if that person—

Qualifications of the chairperson.

- (a) holds at least a master's degree from a recognized university;
- (b) has at least fifteen years' experience in a senior position in the public service or as a practitioner in a relevant profession or industry; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

10. A person shall be qualified for appointment as a member of the Council under section 8(1)(g) if the person—

Qualifications of the members.

- (a) holds a degree from a recognized university;
- (b) has at least ten years' experience in a senior position in the public service or as a practitioner in a relevant profession or industry; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

11. The Chairperson appointed under section 8(1)(a) and members of the Council appointed under section 8(1)(g) shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years subject to satisfactory performance.

Tenure of office.

12. (1) The Council may co-opt not more than two members to the Council in order to benefit from any special skills as may be necessary for the better carrying out of the functions of the Council.

Co-option.

(2) A member co-opted under subsection (1) shall have no right to vote on any matter before the Council.

13. (1) The Chairperson appointed under section 8(1)(a) and a member of the Council appointed under section 8(1)(g) may resign from office at any time by

Vacancy of office.

notice in writing to the appointing authority.

(2) A Chairperson appointed under section 8(1)(a) and members of the Council appointed under section 8(1)(g) may be removed from office, if the Chairperson or member, as the case may be—

- (a) has been absent from three consecutive meetings of the Council without permission of the Chairperson or in the case of a Chairperson without permission of the President;
- (b) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;
- (c) is in breach of Chapter Six of the Constitution;
- (d) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors; or
- (e) is incapacitated by physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Council.

14. (1) The conduct of business and affairs of the Council shall be as set out in the Schedule.

Conduct of business and affairs.

(2) Except as provided in this Act, the Council may regulate its own procedure.

15. The Council may establish such committees as may be required for the performance of its functions.

Committees of the Council.

16. The Council may either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Council, the exercise of any of the powers or the performance of any of the functions of the Council under this Act.

Delegation of functions.

17. (1) There shall be a Chief Executive Officer of the Council who shall be competitively recruited and appointed by the Council.

Chief Executive Officer.

(2) The Chief Executive Officer shall be the Secretary to the Council and an *ex-officio* member of the Council.

(3) The Chief Executive Officer shall hold office for a period of three years on such terms and conditions of employment as the Council may determine and shall be eligible for re-appointment for one further term of three

years.

(4) The Chief Executive Officer shall—

- (a) be responsible for the day-to-day management of the Council;
- (b) be responsible for the affairs and transactions of the Council, the exercise, discharge and performance of and functions, and the general administration of the Council;
- (c) be the custodian of all records of the Council; and
- (d) undertake any other duties, as the Council may direct.

18. A person shall be qualified for appointment as the Chief Executive Officer under section 17 if the person has—

Qualifications of
Chief Executive
Officer.

- (a) a master's degree, in education or other relevant field from a university recognized in Kenya;
- (b) experience, of at least ten years, in—
 - (i) matters pertaining to education, training or research; and
 - (ii) policy formulation and procedures of government; and
- (c) proven leadership ability; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

19. (1) The Chief Executive Officer may at any time resign from office by notice in writing to the Council.

Vacancy in the
office of the Chief
Executive Officer.

(2) The Chief Executive Officer may be removed from office by the Council for—

- (a) breach of chapter six of the Constitution;
- (b) gross misconduct;
- (c) physical or mental incapacity to perform the functions of office;
- (d) incompetence; or

(e) bankruptcy.

20. The Council may appoint such officers, agents, and other staff as are necessary for the proper and efficient discharge of its functions under this Act and on such terms and conditions of service as the Council may determine.

Staff of the Council.

21. (1) The Chief Executive Officer of the Council shall be the custodian of the common seal of the Council and the seal shall not be used except upon the approval of the Council.

The common seal of the Council.

(2) The common seal of the Council, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Council under this section shall be presumed to have been duly given.

(3) The common seal of the Council shall be authenticated by the signature of the Chairperson of the Council and the Chief Executive Officer provided that the Council shall, in the absence of either the Chairperson or the Chief Executive Officer, nominate one member of the Council to authenticate the seal of the Council, in any particular matter, on behalf of either the Chairperson or the Chief Executive Officer, as the case may be.

PART III – ASSESSMENTS AND CERTIFICATION

22. (1) An assessment under this Act shall be administered at an assessment centre approved and registered by the Council.

Registration of assessment centres.

(2) An institution of learning that wishes to be registered as an assessment centre shall apply to the Council in the prescribed manner.

(3) An institution of learning that has applied to the Council for registration under subsection (2) shall be eligible for registration if the institution—

- (a) is duly registered by the Ministry responsible for matters relating to education;
- (b) has the prescribed minimum number of candidates;
- (c) has the required infrastructure, facilities, equipment and materials for administration of the relevant assessment;

- (d) is situated in an environment that is conducive for the administration of the relevant assessment; and
- (e) meets any other requirement that the Council may prescribe in regulations.

(4) The Council shall consider an application submitted under subsection (2) and inspect and assess the resources of the applicant in accordance with subsection (3), within ninety days from the date of submission of the application.

(5) Where the Council is satisfied that the application under subsection (2) meets the requirements of this Act, the Council shall approve the registration and notify the applicant in writing of the approval of registration as an assessment centre and update the applicants' details on the Council's assessment centre registration portal.

(6) Where an application under this section does not meet the requirements under subsection (3), the Council shall reject the application and notify the applicant of the decision in writing specifying the reason for the decision.

(7) An applicant whose application has been rejected under subsection (6) may, upon satisfaction of the requirements under this section, reapply to the Council.

(8) A assessment centre registered under this Act shall—

- (a) maintain the standards, specifications and conditions under which it was registered;
- (b) comply with the rules, guidelines and requirements of an assessment centre;
- (c) register at least the minimum number of candidates for an assessment as prescribed by the Council;
- (d) issue to candidates results and certificates received from the Council;
- (e) meet the financial obligations required by the Council; and
- (f) maintain any other standard prescribed by the Council.

23. (1) The Council may authorize the hosting of an

Hosting of
assessment

assessment centre for purposes of ease of administration of assessment and for security reasons. centres.

(2) In making an authorisation with regard to the hosting of an assessment centre under subsection (1), the Council shall take into account—

- (a) the minimum number of candidates required to be registered at an assessment centre;
- (b) any candidates with special needs or facing any hardship;
- (c) the distance between an assessment centre to the intended hosting centre;
- (d) the prevailing security and weather conditions; and
- (e) any other intervening factors.

24. (1) The Council may merge one assessment centre with another centre. Merger of assessment centres.

(2) A merger under subsection (1) shall be for purposes of ease of administering assessments and security.

(3) When undertaking a merger under subsection (1), the Council shall take into account—

- (a) the minimum number of candidates required to be registered at an assessment centre;
- (b) any candidates with special needs or facing any hardship;
- (c) the distance between the assessment centres proposed to be merged;
- (d) the security and weather conditions where the assessment centres intended to be merged are located; and
- (e) any other intervening factors.

25. (1) The Council shall establish distribution centres for the purposes of storing and distributing assessment materials. Distribution centres.

(2) The Council shall, in collaboration with other relevant government agencies, ensure that there is adequate security at each distribution centre.

26. (1) The Council may conduct assessments on an approved e-assessment platform. E-Assessment.

(2) The assessments conducted under subsection (1) shall be conducted at an e-assessment centre registered in the manner set out in section 21.

(3) The Council shall make regulations for the registration of e-assessment centres and the administration, processing and marking of e-assessments.

27. (1) The Council shall register candidates for purposes of an assessment under this Act. Registration of candidates.

(2) The registration of a candidate under subsection (1) shall—

(a) meet the prescribed qualifying requirements for the assessment; and

(b) where relevant, meet the prescribed minimum learning period.

(3) For purposes of registration under this section the Council shall issue a circular to the heads of assessment centres specifying the requirements and timelines for registration of candidates.

(4) Upon receipt of the circular under subsection (3) each head of an assessment centre shall enter the registration details of its candidates into an online platform provided by the Council and print out a physical copy of a nominal roll of candidates.

(5) The head of an assessment centre shall require each candidate to confirm the details in the nominal roll and countersign against their name if accurate.

(6) Where the details of the candidate are inaccurate the head of the assessment centre shall correct the details and have the same confirmed by the candidate.

(7) Where each candidate has confirmed the details of the nominal roll, the head of the assessment centre shall print out a final roll and present a signed copy of the same to the Council, with a copy to the County Director of Education.

(8) A candidate applying for registration shall—

(a) ensure that entries including names, centre details,

gender and subject or course combination are correct before signing the registration document;

- (b) ensure that the candidate's name matches the name that appears on the candidate's birth certificate, deed poll or other certificates awarded by the Council in previous assessments;
- (c) present oneself at the assessment centre for registration in the manner prescribed by the Council;
- (d) take all assessment papers registered for at the assessment centre or as directed by the Council; and
- (e) collect their result slip, certificate, diploma or assessment report within the time prescribed by the Council.

(9) The head of an assessment centre shall—

- (a) ensure that the entries of every candidate including names, centre details, gender and subject or course combinations are correctly captured before signing the registration document; and
- (b) jointly with the candidate verify the data under paragraph (a) in the prescribed form,

(10) The head of an assessment centre commits an offence if they register non-existent persons as candidates and shall be liable, on conviction, to imprisonment for a term not exceeding one year or a fine not exceeding five hundred thousand shillings or to both.

(11) The head of an assessment centre commits an offence if they fail to register a qualified candidate within the prescribed time and shall be liable, on conviction, to imprisonment for a term not exceeding one year or a fine not exceeding five hundred thousand shillings or to both.

(12) Where a candidate is less than eighteen years old, the responsibility for verification shall be extended to the head of an assessment centre and the parent or guardian.

(13) The head of an assessment centre of any basic education institution shall be responsible for ensuring that all eligible candidates are registered for assessments.

(14) A head of an assessment centre who negligently or wilfully fails to register eligible candidates for assessments in basic education level within the prescribed timelines commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding one year or a fine not exceeding two hundred thousand shillings or to both.

28. The Council shall implement mechanisms to facilitate the registration of candidates living with disabilities and have special needs for purposes of reasonable accommodation during the administration of assessments.

Registration of candidates with special needs.

29. (1) A candidate registered under an assessment centre shall be required to take the assessment at the centre where the candidate is registered or at a centre directed by the Council.

Transfer and withdrawal of candidates.

(2) Notwithstanding subsection (1), the Council may, upon review, transfer a candidate from one assessment centre to another, upon the payment of any transfer fees as may be determined by the Council.

(3) Where a candidate wishes to withdraw from an assessment, the head of an assessment centre shall submit a written notice of withdrawal to the Council through the respective Sub-County Director of education.

(4) Upon receipt of the notice under subsection (3) the Council shall withdraw the candidate and update the registration register accordingly.

30. (1) A candidate holding a foreign qualification in basic education or a foreign qualification in any course offered by the Council, shall submit his or her qualifying assessment documents to the Council for equation before registering for the relevant assessment offered by the Council.

Equation of foreign qualification.

(2) The Council shall develop guidelines on equation of foreign qualification.

(3) The Council shall be the only institution authorized to equate foreign qualifications with any assessments offered by the Council in Kenya.

31. (1) For purposes of this Act an assessment shall comprise of formative and summative assessments which

Administration of assessments.

shall be combined to determine the final score for each candidate in a ratio to be determined by the Council.

(2) The Council shall prescribe instructions and guidelines on the conduct of assessments for each assessment cycle.

(3) The instructions and guidelines under subsection (2) shall include—

- (a) the timelines under which an assessment shall be conducted;
- (b) the instructions governing the conduct of the assessment;
- (c) the methodology of undertaking the assessment;
- (d) the materials, equipment and resources necessary to facilitate the requirements of an assessment;
- (e) the administration of assessments to candidates with special needs; and
- (f) any unforeseen or hardship cases.

(4) The head of an assessment centre shall be responsible for submitting the assessments scores and marks in respect of each candidate's continuous assessment test, coursework, projects and practicum, where necessary, in accordance with the timelines set by the Council.

(5) The head of an assessment centre shall ensure, in the case of practical and project assessments—

- (a) candidates are apprised of such relevant information as specified by the guidelines;
- (b) such materials, equipment or resources as required to facilitate the conduct of the assessment are availed;
- (c) timely submission of practical and project deliverables;
- (d) documented process of practical and project development and scores; and
- (e) safe and secure custody of the evidence for reference.

(6) The Council shall, in the case of candidates and

learners with special needs, issue comparable instructions, considering the nature of the disability, to ensure the assessment is modified to accommodate the special needs of the candidate or learner.

(7) The Council shall, in the case of candidates facing hardship situations during the period of conduct of an assessment, implement such reasonable and proportionate measures, considering the nature of the hardship, to ensure the candidate is not unduly disadvantaged.

(8) The Council shall, in the event of emergent factors that might affect the conduct of the assessments, implement guidelines on mitigation of risks associated with such factors.

(9) The Council shall develop and implement assessment administration guidelines to registered candidates in their respective assessment centres.

32. (1) The Council shall, after the administration of an assessment, ensure the marking, processing and release of results of the assessment.

Marking,
processing and
release of results.

(2) The Council may implement the following methods of marking and scoring an assessment—

- (a) pen-and-paper marking;
- (b) e-marking;
- (c) electronic capture of marks;
- (d) automated marking;
- (e) optical mark recognition; and
- (f) any other marking or scoring method deemed appropriate and approved by the Council.

(3) The marking or scoring of any Council examination or assessment scripts or responses shall be carried out in—

- (a) an institution which has been approved by the Council as an assessment centre;
- (b) the Council premises as a marking or scoring centre;
- (c) on any approved e-marking platform; or

(d) any other venue approved by the Council.

(4) The Council may, upon inspection to confirm suitability, register an institution as a marking or scoring centre.

(5) The Council shall develop regulations with respect to the—

- (a) marking of assessments;
- (b) engagement of assessors and examiners;
- (c) guidelines and tools for marking and scoring formative and summative assessments including oral, aural, practical, projects, practicum or any other mode of assessments;
- (d) method and criterion of marking and scoring;
- (e) registration of marking centres; and
- (f) standards required of marking centres and e-assessment platforms.

(6) The Council shall, upon finalisation of marking and scoring of an assessment, process, approve and release the assessment results.

33. An assessment script or response shall not be accessible to any candidate, institution, teacher or any other third party.

Restriction to access of marked scripts or responses.

34. (1) Once the results of an assessment are released, the Council shall issue results slips or assessment reports to successful candidates.

Issuance of Certificates and Diplomas.

(2) The results indicated on the candidates' results slip or assessment reports shall be provisional.

(3) The Council shall issue certificates and diplomas to qualified candidates within twelve months of the release of the assessment results.

(4) Where the Council issues a certificate or diploma under subsection (3), the certificate or diploma shall not be withheld from the candidate by any person or institution.

(5) A person who contravenes the provisions of subsection (4) commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding one year or a fine not exceeding two hundred thousand shillings

or to both.

35. (1) The Council shall, upon request, certify the examination or assessments results of a person who has lost or damaged their original certificate or diploma.

Certification of results.

(2) The request for certification of assessments results under subsection (1) shall be made in the prescribed form and be accompanied by the prescribed fee.

(3) A certification of an assessment result under this section shall have the same value and significance as the lost or damaged original certificate issued by the Council.

(4) The Council may limit the number of times a person may apply for a certification of an assessment result.

36. (1) Where the Government declares an area as a national disaster area, the Council shall make arrangements to replace the certificates that have been lost, damaged or destroyed for persons affected within that declared disaster area.

Recovery of certificates in disaster situations.

(2) Notwithstanding subsection (1), the Council shall only replace the certificates of—

- (a) a person who was residing in the affected area and has been impacted by the disaster;
- (b) a person who had previously been issued with a certificate by the Council.

(3) The Council shall liaise with the relevant government agencies to establish the identity of the affected persons under this section.

(4) The replacement of certificates under this section shall be free to eligible persons after the date of a declared disaster.

(5) The section shall only apply to the replacement of certificates that were damaged or destroyed due to a declared disaster which has occurred and shall not apply to the replacement of a certificate.

37. (1) A person may apply to the Council for the confirmation of assessment results of a candidate to be sent to an institution.

Confirmation of results.

(2) An application under subsection (1) shall be in a

prescribed form and be accompanied by the prescribed fee.

(3) The following persons may apply for the confirmation of a candidate's assessment—

- (a) an institution of learning;
- (b) a prospective employer; or
- (c) a public entity.

(4) An application under subsection (1) shall indicate the candidate's full name, the name of the assessment centre that conducted the candidate's assessment, the year and or series of assessment, the applicant's identification number and be accompanied by the prescribed documentation.

(5) Upon receipt of the application under subsection (1), the Council shall process the request and issue the confirmation of results to the receiving institution.

(6) The Council shall develop rules and regulations on the requirements for confirmation of results.

(7) A user institution, body or person shall report any person who presents or is in possession of a forged certificate to the police.

(8) For purposes of recruitment or promotion in a public institution, an employer of the public institution shall submit to the Council any certificate or diploma presented by the prospective employee for the purposes of authentication.

(9) Each public institution shall ensure that any certificates presented by persons before it, that purport to originate from the Council, are verified and authenticated by the Council.

38. (1) The Council may administer a foreign assessment on behalf of a foreign assessment body.

Administration of
foreign
assessments.

(2) The Council shall conduct a foreign assessment under subsection (1) at an assessment centre approved by the relevant foreign assessment body and the Council.

39. (1) The Council may where necessary, administer an assessment in another jurisdiction.

Administration of
assessments in
foreign
jurisdictions.

(2) The Council shall develop guidelines for

assessments in other jurisdictions.

40.(1) The Council shall prepare and issue performance analysis reports to candidates and assessment.

Dissemination of performance reports.

(2) The Council shall disseminate a National Report on the national performance after release of any assessment results released pursuant to this Act.

PART IV — ASSESSMENT MALPRACTICES, OFFENCES AND PENALTIES

41.(1) A candidate shall be deemed to have committed an assessment malpractice during an assessment where he or she—

Assessment malpractices.

- (a) copies from the script of another candidate;
- (b) communicates with another candidate with the intent to assist that candidate answer an assessment question;
- (c) communicates with another candidate with the intent of seeking the assistance of that candidate in answering an assessment question;
- (d) is in possession of a book, electronic device or material in the assessment room without lawful authority;
- (e) copies from notes, an electronic device or a book without lawful authority;
- (f) receives external assistance without lawful authority;
- (g) arranges for any person to sit the assessment on his or her behalf;
- (h) has in his or her possession any offensive material in an assessment room;
- (i) causes a disturbance in the assessment room; or
- (j) commits an assault during the administration of an assessment.

(2) In the case of e-assessment, a candidate shall be deemed to have committed an assessment malpractice during an e-assessment where the candidate—

- (a) discloses the contents of an assessment paper or material to another candidate or other person

without lawful authority;

- (b) engages in any form of plagiarism or collusion;
- (c) seeks or receives unauthorized assistance from another person during the assessment;
- (d) uses unauthorized resources, materials or information or accesses other browsers on the internet for answers during the assessment;
- (e) evades or obstructs the proctoring software during the assessment;
- (f) uses a secondary electronic device without authorization;
- (g) accesses the e-assessment platform outside the designated assessment area; or
- (h) impersonates a bonafide candidate and sits the assessment on that candidate's behalf.

(3) Where the Council, upon review of the facts, determines that a candidate has committed an assessment malpractice, the Council shall disqualify the candidate from taking the entire assessment and if the candidate has already taken a paper at the assessment, the paper shall be cancelled by the Council and the candidate may be prohibited from taking an assessment offered by the Council for a period not exceeding three years immediately after the commission of the malpractice.

42. Where the Council has reasonable cause to believe a candidate has colluded with another candidate or another person to commit an assessment malpractice in the assessment, the Council shall cancel the candidate and that other candidate's paper and may prohibit the candidates from taking an assessment offered by the Council for a period not exceeding three years immediately after the commission of the collusion.

Collusion.

43.(1) The Council shall prescribe regulations governing the conduct of assessments and the handling of assessment malpractices.

Handling of
assessment
malpractices.

(2) The head of an assessment centre shall establish mechanisms to deter the commission of assessment malpractices.

(3) An authorized agent, supervisor, invigilator or Council officer monitoring the conduct of an assessment shall submit a written report to the Council on any assessment malpractice—

- (a) in an assessment room;
- (b) at an assessment centre; or
- (c) at any other place which comes to his or her attention.

(4) Any person who witnesses an assessment malpractice shall report the same to the Council, an education officer or to the police.

(5) An assessor or examiner who notices an assessment malpractice during the marking or scoring of an assessment shall submit a written report to the Council.

(6) The Council may, before making a decision on a report submitted under this section, subject the report to an investigation.

(7) The Council may withhold the assessment results of a candidate or an assessment centre suspected to have committed an assessment malpractice pending completion of investigations or any other appropriate action.

44. Where more than two-thirds of the candidates at a registered assessment centre are found to have acted contrary to the provisions of this Act, before, during or after the assessment, the Council shall prohibit the centre from organising, supervising or acting as an agent of the Council in the conduct of an assessment for a period to be determined by the Council.

Imposition of penalty on centres for assessments irregularity.

45. (1) A person who, before or during an assessment, has in his or her possession or under his or her control, any assessment paper or any part thereof, or any material or information relating to the contents of any paper or material for that assessment, without lawful excuse, commits an offence and is liable, on conviction, to imprisonment for a term not exceeding ten years or a fine not exceeding two million shillings or to both.

Unauthorized possession and sharing of assessment paper, material or information.

(2) A person who, before or during an assessment, negligently or wilfully assists or causes any candidate to

obtain or gain unauthorised possession of any assessment paper, material or information or any part thereof, commits an offence and is liable, upon conviction, to imprisonment for a term not exceeding ten years, or a fine not exceeding two million shillings, or to both.

(3) A person who, before or during an assessment, transfers, publishes, disseminates any assessment paper, material or information or any part thereof, through any means of mass communication, commits an offence and is liable, upon conviction to imprisonment for a term not exceeding five years, or a fine not exceeding five million shillings, or to both.

46. Without limiting the generality of section 44, a person who—

Assessment
offences.

- (a) before or during an assessment, gives an assessment paper or material to a candidate or another person without lawful authority;
- (b) discloses the contents of an assessment paper or material to a candidate or another person without lawful authority;
- (c) makes a change in the original answer script of a candidate without lawful authority;
- (d) replaces the original answer script of a candidate with a different script or inserts the script of a candidate who did not sit the assessment in the assessment centre;
- (e) is in possession of a mobile phone or other electronic device in the assessment area without authorization during an assessment;
- (f) fraudulently alters the results, work or marks of a candidate;
- (g) fraudulently alters the assessment number, photograph or other identification of a candidate; or
- (h) without lawful authority, alters the records of the Council with regard to an assessment or assessment results in relation to a candidate, commits an offence and shall be liable, on conviction, to imprisonment for a term not

exceeding five years or a fine not exceeding one million shillings or to both.

47. A person who, having in his or her possession or under his or her control any assessment paper, material or any information relating to the assessment, negligently or wilfully loses the assessment paper, material or information, or uses the assessment paper, material or information in a manner prejudicial to the proper and fair conduct of an assessment, commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding five years or a fine not exceeding one million shillings or to both.

Loss or misuse of assessment paper or material.

48. A person who wilfully and maliciously damages assessments material or facilities, or any evidence that could have led to a conviction under this Act, commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding five million shillings, or to both.

Damage or destruction to assessment material or facilities.

49.(1) A person who, for the purpose of an assessment—

Impersonation.

- (a) is not registered as a candidate in respect of the assessment but, with intent to impersonate, presents or attempts to present himself or herself to take the part of a registered candidate;
- (b) registers for an assessment using a false name or identity; or
- (c) falsely uses a certificate, testimonial, signature, photograph or a document of another person to represent that other person,

commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding two years or a fine not exceeding two million shillings or to both and shall, in addition to the penalty, be prohibited from taking an assessment for a period not exceeding three years immediately after the commission of the offence.

(2) A person who is registered to take part in an assessment but knowingly allows another person to take part in that assessment on his or her behalf commits an offence and shall be liable, on conviction, to imprisonment

for a term not exceeding two years or to a fine not exceeding two million shillings and may, in addition to the penalty, be prohibited from taking an assessment for a period not exceeding three years immediately after the commission of the offence.

50. A person who, at or near an assessment centre or any other place appointed for an assessment or for the processing, marking or scoring of an assessment has in his or her possession any offensive material or uses any offensive material on another person, commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding three years or a fine not exceeding five hundred thousand shillings or to both.

Possession of
offensive material.

51. A person who, at or near an assessment venue or any other place appointed for an assessment or for the processing, marking or scoring of an assessment, acts or incites any other person to act in a disorderly manner for the purpose of disrupting the conduct of the assessment or of harming, intimidating, assaulting or obstructing a candidate or any person involved in the conduct of the assessment, commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding three years or a fine not exceeding five hundred thousand shillings or to both.

Causing
disturbances at
assessment or
marking centres.

52. A person who, before, during or after an assessment conducted under this Act threatens or assaults a centre manager, supervisor, invigilator, monitoring officer or any agent authorized by the Council to perform a function at or connected with the assessment, commits an offence and shall be liable, upon conviction, to a fine not exceeding three million or a term not exceeding five years or to both.

Assault on
officers and
Agents of the
Council.

53. A person who presents—

- (a) a forged certificate, diploma, result slip, assessment reports or statement of results; or
- (b) another person's certificate or diploma, result slip, assessment reports or statement of results purporting it to be hers or his,

Presentation of
forged Certificate.

to a prospective employer or an institution of learning with

intent to gain employment or admission or any other purpose commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding two years, or a fine not exceeding one million shillings or to both.

54. (1) A person shall not—

Conflict of interest.

(a) after he or she has acquired prior knowledge of the questions set in connection with an assessment under this Act, present himself or herself as a candidate in that assessment; or

(b) for the purposes of an assessment under this Act, falsely represent himself or herself to be another person.

(2) Any person who contravenes the provisions of this section commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding one year, or a fine not exceeding five hundred thousand shillings or to both.

55. Any person who counterfeits an assessment report, certificate or diploma issued by the Council commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding ten years, or a fine not exceeding ten million shillings or to both.

Counterfeiting of assessment reports, certificates and diplomas.

56. (1) The Chief Executive Officer, or an officer authorised in that behalf by the Chief Executive Officer, may, in writing, request any person to furnish the Council with such information or to produce such documents or records as the Chief Executive Officer or authorised officer deems necessary and relevant for the performance of the functions of the Council.

Request for information.

(2) A person who—

(a) refuses or fails without reasonable cause, to comply with a request under subsection (1); or

(b) in furnishing such information, makes a statement which he or she knows to be false,

commits an offence and shall be liable, on conviction, to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

57. (1) An officer, agent or staff of the Council shall not disclose information acquired in the exercise of powers or performance of a function under this Act to an unauthorised person under this Act except—

Improper disclosure of information.

- (a) in the course of his or her duties under this Act;
- (b) by an order of court; or
- (c) with the written consent of the Council.

(2) A person who contravenes subsection (1) 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 to both.

58. A person who aids, abets, induces, incites or does an act that facilitates the commission of an offence under this Act, commits an offence and shall be liable, upon conviction, to the penalty prescribed under the respective section in relation to that offence.

Aiding and abetment of offence.

59. A member, officer, agent or staff of the Council whose omission or commission leads to an assessment irregularity commits an offence and shall be liable upon conviction, to imprisonment for a term not exceeding five years or a fine not exceeding five million shillings, or both.

Offences by assessment officers.

PART V – LIMITATION OF RIGHTS AND FUNDAMENTAL FREEDOMS

60. (1) The right to strike guaranteed under Article 41(2)(d) of the Constitution shall be limited pursuant to Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

Limitation on right to go on strike.

(2) A person engaged in the management, organization or administration of any national assessment shall not go on strike during an assessment period if going on strike would, in the opinion of the Council—

- (a) compromise the integrity of the assessment;
- (b) compromise security information associated with the assessment;
- (c) compromise the rights and fundamental freedoms of other persons engaged in the assessment; or

- (d) compromise good order in the conduct of the assessment.

61. (1) The right of access to information guaranteed under Article 35 of the Constitution shall be limited pursuant to Article 24 of the Constitution to the extent contemplated under subsection (2).

Limitation on right of access to information.

(2) The Council, being a public entity, shall be under no obligation contemplated under Article 35 of the Constitution to give information, data or script or any material, that would, in the opinion of the Council—

- (a) compromise the integrity of an assessment under this Act;
- (b) compromise the assessment process; or
- (c) compromise the right to privacy of any individual.

PART VI — FINANCIAL PROVISIONS

62. (1) The funds of the Council shall consist of—

Funds of the Council.

- (a) monies appropriated by the National Assembly for the purposes of the Council;
- (b) such monies that may accrue to or vest in the Council in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) monies payable to the Council pursuant to this Act or any other written law;
- (d) such gifts or grants made to the Council; and
- (e) such monies from any other source provided or donated to the Council.

(2) The funds of the Council and the balance at the end of each financial year shall be retained by the Council for the purposes for which the Council is established and shall, for that purpose, establish a reserve account.

63. The financial year of the Council shall be the period of twelve months commencing on the first of July each year and ending on the thirtieth day of June the following year.

Financial year.

64. (1) The Chief Executive Officer shall, at least three months before the commencement of each financial

Annual estimates.

year, prepare estimates of the revenue and expenditure of the Council for that year.

(2) The annual estimates under subsection (1) shall make provision for the estimated expenditure of the Council for the financial year concerned and, in particular, the estimates shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of members and staff of the Council;
- (b) payment of pensions, gratuities and other charges in respect of members and staff of the Council;
- (c) procurement of goods and services by the Council;
- (d) proper maintenance of the buildings and grounds of the Council;
- (e) maintenance, repair and replacement of the equipment and other property of the Council; and
- (f) 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 matters as the Council may deem appropriate.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and once approved, shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Council given with prior written approval of the Cabinet Secretary and the Cabinet Secretary responsible for matters related to finance.

65.(1) The Council shall cause to be kept proper books and records of accounts of the income, expenditure, liabilities and assets of the Council.

Accounts and
audit.

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

- (a) a statement of the comprehensive income and expenditure of the Council during that year; and

(b) the financial position of the Council on the last day of that year.

(3) The accounts of the Council shall be audited and reported upon in accordance with the Public Audit Act. Cap. 412B.

66. (1) The Council shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report on its operations and activities for the immediately preceding financial year. Annual reports.

(2) Without limiting what may be included in the annual report, the annual report shall include—

(a) the performance of the Council in the execution of its functions;

(b) the audited financial report of the Council; and

(c) such other information as the Cabinet Secretary may direct.

(3) The Cabinet Secretary shall cause the report to be laid before the National Assembly as soon as is reasonably practicable after the National Assembly next sits after the Cabinet Secretary has received the report.

67. The Council may invest any of its funds in such manner as the National Treasury may, approve for that purpose. Investment of funds.

PART VII – MISCELLANEOUS PROVISIONS

68. (1) The Council may request any State organ or public entity to provide such facilities and services of its employees as may be necessary to assist the Council in the performance of its functions or exercise of its powers under this Act. Assistance from State organ or public entity.

(2) Any misconduct by an employee of any such State organ or public entity, during the service of the Council shall be punishable by the State organ or the public entity, as the case may be.

69. (1) The Council may request the Teachers Service Commission to provide the services of persons employed or registered as teachers by the Commission as may be necessary to assist in the administration of assessments on temporary basis. Assistance from Teachers Service Commission.

(2) The Council and the Teachers Service Commission

shall develop a code of conduct to regulate the conduct of persons provided under subsection (1).

(3) Any infringement of the code of conduct by a person provided under subsection (1) shall be punishable by the Teachers Service Commission.

70. (1) The Council may require an officer, agent or staff performing the work of the Council or being engaged in the conduct of any assessment or the handling of any assessment paper or material, to take and subscribe to an oath of secrecy as may be prescribed by the Council.

Oath of secrecy.

(2) An officer, agent or staff who, takes an oath of secrecy prescribed under subsection (1), and does or omits to perform any act in contravention of the oath of secrecy, commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding five years or a fine not exceeding one million shillings or to both.

71. The Council shall keep information acquired for its purposes confidential and shall subject to the provisions of this Act or an order of court, disclose such information only to the extent it is considered necessary for the proper performance of its functions.

Council to keep information confidential.

72. (1) Where a person engaged in the conduct of an assessment or performing any work connected with an assessment is directly or indirectly interested in a private capacity in an assessment or in any assessment paper or information relating thereto or if the spouse, child or parent of such person is a candidate in the assessment, that person shall, as soon as practicable before the commencement of his or her duties in respect of the assessment, disclose such interest to the Council or its nominee and he or she shall, unless the Council otherwise directs, cease to perform such duties.

Disclosure of conflict of interest.

(2) A person who contravenes the provisions of subsection (1) shall—

- (a) if the person is an officer or member of staff of the Council, be subject to the Council's disciplinary process; or
- (b) if the person is an independent contractor, be liable to have the contract with the Council vacated.

73. No member of the Council, officer, agent or staff of the Council shall be personally liable for any act or omission done or omitted in good faith in carrying out any of the functions of the Council under this Act.

Protection from personal liability.

74. The provisions of section 72 shall not relieve the Council of the liability to pay compensation or damages to any person for any injury caused by the exercise of any power conferred by this Act.

Liability for damages.

75. The Council shall not be required to be accredited by any institution with regard to its core functions and powers to conduct, manage, administer, process, mark and certify assessments in basic education, teacher education and educational training.

Council not to be accredited by other bodies with regard to its core functions.

76. (1) Except with the written consent of the Council, no person other than the Council shall use the name, logo, trademark of the Council or any name so clearly resembling the same, as in the opinion of the Council, is likely to deceive the public in connection with any trade or business.

Restriction on use of name

(2) Any person who contravenes the provisions of subsection (1) 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 two years, or to both.

77. The Council shall ensure management of personal data is handled in accordance with the principles of data protection set out in the Data Protection Act.

Data protection.

Cap. 411C.

PROVISIONS ON DELEGATED POWERS

78. (1) The Council may make regulations generally for the better carrying into effect the provisions of this Act.

Council to make Regulations.

(2) Without limiting the generality of subsection (1), the regulations made under this Act may provide for the following—

- (a) the conduct and management of assessments, including e-assessment;
- (b) the nature and extent of assessment malpractices and the related penalties;
- (c) the determination and management of

assessments;

- (d) the equation of certificates including assessments that may be equated by the Council;
- (e) assessment fees and other charges payable to the Council; and
- (f) the amendment of names of candidates where there are changes;
- (g) any other matter which requires to be prescribed under this Act.

PART VIII – TRANSITIONAL PROVISIONS

79. The Kenya National Examinations Council Act is repealed.

Repeal.

Cap. 214A.

80. In this Part “former Council” means the Kenya National Examinations Council established under the repealed Act.

Interpretation:
Part VIII.

81. (1) On the commencement of this Act, the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former Council shall, by virtue of this section vest in the Council.

Transfer of assets
and liabilities of
former Council.

(2) All rights, powers and liabilities, which immediately before the commencement of this Act were vested in, imposed on or enforceable against the former Council shall, by virtue of this section, be vested in, imposed on or enforceable against the Council.

82. (1) Any reference in any written law or in any document or instrument to Kenya National Examinations Council shall, after the commencement of this Act, be construed to be a reference to Kenya National Educational Assessments Council.

Reference to
former Council.

(2) Any examinations for all levels of education and training that are ongoing or are scheduled to be assessed by the former Council before the commencement of this Act shall be administered and assessed by the Kenya National Educational Assessments Council until concluded.

83. Any proceedings pending immediately before the commencement of this Act to which the former Council was a party shall be continued as if the Council was a party

Proceedings of
former Council.

thereto in *lieu* of the former Council.

84. (1) The annual estimates of the former Council for the financial year in which the commencement of this Act occurs shall be deemed to be the annual estimates of the Council for the remainder of that financial year.

Annual estimates
of former Council.

(2) Any such estimates under subsection (1) may be varied by the Council in such manner as the Cabinet Secretary may approve.

85. Every agreement, deed, bond or other instrument to which the former Council was a party or which affected the former Council and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Council were a party thereto or affected thereby instead of the former Council, and as if for every reference therein to the former Council they shall be substituted in respect of anything to be done on or after the commencement of this Act.

Agreements,
deeds, etc., of
former Council.

86. The administrative decisions made by the former Council or by the Cabinet Secretary, as the case may be, which were in force immediately before the commencement of this Act shall, on or after such commencement, have force as if they were directions made by the Council or the Cabinet Secretary under this Act.

Administrative
decisions of
former Council.

87. (1) Any member of staff or officer, including the Chief Executive Officer, of the former Council immediately before the commencement of this Act shall, on the commencement of this Act become a member of staff or officer of the Council, or the Chief Executive Officer, as the case may be for their unexpired term, if any.

Staff eligible for
re-appointment.

(2) Where a member of staff or officer of the Council, or the Chief Executive Officer has served their term as contemplated under subsection (1), the member of staff, officer or the Chief Executive Officer, as the case may be, shall be eligible for re-appointment under this Act.

88. Any person who was a member of the former Council immediately before the commencement of this Act shall remain in office for the unexpired period of that person's tenure.

Member of the
former Council.

89. The Universities Act is amended—

Consequential
amendments.

- (a) in section 5(1)(g), by deleting the words “diplomas and certificates” and substituting therefor the words “postgraduate diplomas and postgraduate certificates”;
- (b) in section 5A by—
- (i) deleting the words “diplomas including postgraduate diplomas and other academic certificates” and substituting therefor the words “postgraduate diplomas and postgraduate certificates” appearing in subsection (2);
 - (ii) deleting subsection (3) and substituting therefor the following new subsection—

“(3) The Commission shall, before approving any academic programme, consult with any relevant body established by written law to regulate the profession to which the academic programme relates.”
 - (iii) inserting the following new subsections immediately after subsection (3)—

“(3A) The Cabinet Secretary shall prescribe the maximum number of students who may be enrolled in an academic programme that includes a mandatory work placement component in a public institution, for purposes of budgeting.

(3B) The Commission shall, in approving an academic programme under subsection (3A), specify the maximum number of students that may be enrolled in the programme.”
 - (iv) inserting the following new subsection immediately after subsection (5)—

“(6) A person who purports to mount an academic programme that is not approved by the Commission under this Act and by a relevant statutory body, causes enrollment by a student to such a programme, or collects any fee or charge with respect to such a

Cap. 210.

programme, commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years or both.”

(c) in section 6(1)(f) by deleting the words “one person” and substituting therefor the words “two persons”;

(d) in section 20—

(i) by deleting the words “diplomas including” appearing in subsection (1)(e)(ii);

(ii) by deleting the words “other academic” appearing in subsection (1)(e)(iii) and substituting therefor the word “postgraduate”;

(iii) by inserting the following new subsection immediately after subsection (1)—

“(1A) Despite the provisions of subsection (1)(e), a university may continue to offer diploma and certificate courses to a student undertaking a certificate or diploma course before the commencement of this Act;

(e) in section 38(3)(a), by deleting the words “diplomas, certificates” and substituting therefor the words “postgraduate diplomas, postgraduate certificates”; and

(f) in section 70(2)(h), by deleting the words “diplomas and certificates” and substituting therefor the words “postgraduate diplomas and postgraduate certificates”.

SCHEDULE (s.14(1))**CONDUCT OF BUSINESS AND AFFAIRS OF
THE COUNCIL**

1. The Council shall hold not less than four meetings in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

2. The Chairperson may at any time, and shall upon written request by a majority of the members, call a special meeting of the Council.

3. The Chairperson shall preside at every meeting of the Council at which he or she is present, but in the absence of the Chairperson the members present may elect one from among their number to preside.

4. The quorum for a meeting of the Council shall be two-thirds of the members.

5. Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of the members present, and in the case of an equality of votes the Chairperson or person presiding shall have a casting vote.

6. A member who has a direct or indirect interest in a matter being considered or to be considered by the Council shall, as soon as the relevant facts regarding the matter come to knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter.

7. The Council shall cause the minutes of all proceedings of its meetings to be recorded and kept and shall be signed by the Chairperson or the person presiding at the meeting.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons

The principal object of the Bill is to provide for the establishment, powers and functions of the Kenya National Educational Assessments Council and the conduct of assessments and to provide for the repeal of the Kenya National Examinations Council Act (Cap. 214A).

Part I (Clauses 1-4) provides for preliminary matters including interpretation of terms, objects of the Act and application of the Act.

Part II (Clauses 5-21) provides for the establishment of the Council; functions and powers of the Council; composition of the Council; qualifications of the Chairperson and members of the Council; tenure of office of the members of the Council; conduct of business and affairs of the Council; committees of the Council; the qualifications of the Chief Executive Officer of the Council; occurrence of vacancy in the office of the Chief Executive Officer; and staff of the Council.

Part III (Clauses 22-40) provides for registration; hosting and merger of Assessment Centres; E-Assessment; registration of candidates and candidates with special needs; transfer and withdrawal of candidates; equation of foreign qualifications; administration of assessments; marking, processing and release of results; certification of results; recovery of results in disaster situation; and dissemination of performance report.

Part IV (Clauses 41-59) provides for assessment malpractices including collusion; impersonation; possession of offensive material; and causing disturbances at assessments or marking centres.

Part V (Clauses 60-61) provides for limitation on the right to go on strike and right of access to information. Clause 60 provides that a person engaged in the management, organization or administration of any national assessment shall not go on strike during an assessment period if going on strike would, in the opinion of the Council compromise the integrity of the assessment under the Act; compromise security information associated with the assessment; compromise the rights and fundamental freedoms of other persons engaged in the assessment; or compromise good order in the conduct of the assessment.

Clause 61 of the Bill provides the Council shall be under no obligation contemplated under Article 35 of the Constitution to give information, data or script or any material, that would, in the opinion of the Council compromise the integrity of an assessment under the Act;

compromise the assessment process; or compromise the right to privacy of any individual.

Part VI (Clauses 62-67) sets out the financial provisions relating to the Council including funds of the Council; annual estimates; accounts and audit; annual reports; and investment of funds of the Council.

Part VII (Clauses 68-78) provides for miscellaneous provisions which include provisions on request for assistance by the Council; oath of secrecy; disclosure of conflict of interest; protection from personal liability; and power of the Council to make regulations.

Part VIII (Clauses 79-89) provides for the transitional provisions which include repeal of the Kenya National Examination Council Act; transfer of assets and liabilities of the former Council; administrative decisions of the former Council; and re-appointment staff of the former Council and for the consequential amendments

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

Clause 60 and Clause 61 of the Bill provide for limitation on the right to go on strike and the right of access to information. Clause 78 of the Bill delegates power to the Council to make regulations generally for the better carrying into effect the provisions of the Act.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution.

The enactment of this Bill may not occasion additional expenditure of public funds.

Dated the 24th July, 2026.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

