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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2020**

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**SCHEDULE: PROVISIONS RELATING TO  
MEETINGS OF THE BOARD.**

**THE GEOLOGISTS BILL, 2020**

**A Bill for**

**AN ACT of Parliament to provide for the training, registration and licensing of geologists, the regulation and development of the practice of geology; and for connected purposes**

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

**PART I— PRELIMINARY**

1. This Act may be cited as the Geologists Act, 2020. Short title.

2. In this Act,— Interpretation.

“accredited checker” means a person qualified and registered as such under section 30;

“Board” means the Geologists Board of Kenya established under section 4;

“board of management” means the board of management established under section 6 and responsible for the management of the Geologists Board of Kenya;

“Cabinet Secretary” means the Cabinet Secretary responsible for geological matters in the country;

“consulting firm” means a firm registered to practice geology under section 26;

“consulting geologist” means a person who has been registered as a consulting geologist under section 27;

“geologist” means a person who is registered as a geologist under section 25 and who holds a valid licence under this Act;

“geology means—

- (a) the science which treats of the earth in general;
- (b) investigation of the earth's crust and the rocks and other materials which compose it and inter-related processes; and
- (c) the applied science of utilizing knowledge of the earth and its constituent rocks, minerals, liquids, gases and other materials for the benefit of mankind;

“geology practice” means the performance of geological services or work such as consultation, investigation, research, evaluation, planning, geological mapping, mineral exploration, preparation of geological reports and maps, and inspection of geological work;

“geological survey” means a systematic examination of an area to determine any or all of the character, properties, relations, distribution, origin, and mode of formation of its constituent soils, rocks, mineral resources, liquids, gases and their interconnectedness with the biosphere, atmosphere and hydrosphere;

“register” means the register of geologists kept in accordance with section 33 and includes all or any particular parts thereof;

“registered geologists” means a person whose name is for the time being entered in the register;

“registered graduate geologist” means a person registered as a graduate geologist; and

“Registrar” means the Registrar of the Geologists Board of Kenya appointed under section 16.

**3.** The purpose of the Act is to —

Purpose of the Act.

- (a) provide for the administration, registration, licensing and regulation of geologists and related geo-based professionals and services in Kenya; and
- (b) provide for the regulation with respect to training, education, research qualification and remuneration in the art, craft and science of geology.

## **PART II— THE GEOLOGISTS BOARD OF KENYA**

**4.** (1) There is established a board to be known as the Geologists Board of Kenya.

Establishment of the Board.

(2) The Board 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 and disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all such other things or acts necessary for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate.

5. (1) The headquarters of the Board shall be in Headquarters.  
Nairobi.

(2) The Board may establish such other offices anywhere in Kenya as it may consider necessary for the discharge of its functions under this Act.

6. (1) The management of the Board shall vest in a Composition of the board of management.  
board comprising of —

- (a) a chairperson who shall be appointed by the Cabinet Secretary;
- (b) the Principal Secretary responsible for matters relating to geology or a representative designated in writing;
- (c) the Director appointed under section 18 of the No. 12 of 2016. Mining Act or a representative designated in writing;
- (d) the Registrar;
- (e) six persons appointed by the Cabinet Secretary of whom —
  - (i) two shall be persons of the opposite gender representing different geology disciplines, nominated by a registered society representing the interests of geologists in the country;
  - (ii) two shall be public officers of the opposite gender from different public corporations involved in matters relating to geology;
  - (iii) one shall be a representative of universities nominated by universities offering accredited geology courses in Kenya; and

(iv) one shall be a person representing the private sector nominated by a recognized association representing the private sector.

(2) The Registrar shall be an *ex officio* member and secretary to the Board and shall have no right to vote at any meeting of the Board.

(3) The persons nominated under subsection (1) (a) and (e) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(4) The designated representatives of the members referred to under subsection (1)(b) and (c) shall have authority to exercise the powers and functions of the designating authority in relation to matters before the Board.

(5) At the first meeting, the Board shall elect a vice-chairperson amongst their number and regard shall be taken to ensure that the chairperson and vice-chairperson shall be of opposite gender.

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

Functions of the Board.

- (a) set standards for geological practice in Kenya;
- (b) assess, approve or reject geology qualifications of foreign persons intending to offer professional geology services;
- (c) evaluate other geology programmes both local and foreign for accreditation by the Board;
- (d) monitor and evaluate the provision professional geology services rendered by professional geologists;
- (e) recommend for the suspension of any professional construction services works, projects, installation process or any other geological works, which are done without meeting the set out standards;
- (f) approve and accredit geology programs offered in public and private universities and other tertiary education institutions for the purposes of registration of graduate geologists;

- (g) prescribe standards for geologists in management, marketing, professional ethics, environmental issues, safety, legal matters or any other relevant field;
- (h) register and license qualified persons in accordance with this Act;
- (i) carry out inquiries on matters pertaining to registration of geologists and practice of geology;
- (j) promote the teaching of geology at all levels from primary to university and regulate its comprehensive professional development;
- (k) enter into regional and international agreements and associations with other licensing boards or boards of registration for the purpose of establishing reciprocity or comity;
- (l) conduct professional examinations for the purposes of registration under this Act; and
- (m) perform any other function assigned to it under this Act or any other written law.

**8. (1)** A person shall be qualified for appointment as the chairperson of the board of management if that person— Qualifications for appointment.

- (a) holds a degree from a university recognised in Kenya;
- (b) has knowledge and at least ten years experience in matters related to geology;
- (c) has at least five years experience at management level; and
- (d) meets the requirements of Chapter Six of the Constitution.

**(2)** A person shall be qualified for nomination and appointment under section 6 (1)(e) if such person —

- (a) has knowledge and at least five years experience in matters relating to geology;

- (b) is a registered geologist under this Act; and
- (c) meets the requirements of Chapter Six of the Constitution.

**9.** The chairperson and members of the board of management appointed under section 6(1)(e) shall hold office for a term of three years and shall be eligible for reappointment for one further term. Tenure of office.

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

**11.** The office of a member of the board of management shall become vacant if the member — Vacation of office.

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is otherwise unable or unfit to continue serving as a member of the Board;
- (c) is adjudged bankrupt;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (e) is absent, without reasonable cause, from three consecutive meetings of the Board;
- (f) resigns in writing addressed to the Cabinet Secretary;
- (g) fails to declare interest in any matter being considered or to be considered by the board; or
- (h) dies.

**12.** The board of management shall have all the powers necessary for the proper performance of its functions under this Act and in particular, the board shall have power to— Powers of the board of management.

- (a) enter into contracts;
- (b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Board is established;

- (c) determine the provisions to be made for its capital and recurrent expenditure and for the reserves of the Board;
- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (e) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Board is established;
- (f) open such bank accounts for its funds as may be necessary; and
- (g) invest any funds of the Board not immediately required for its purposes.

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

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

**14.** The board of management may by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, 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.

**15.** (1) The board of management shall conduct its affairs in accordance with the provisions of the Schedule. Conduct of business and affairs of the Board.

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

**16.** (1) There shall be a Registrar of the Board who shall be competitively recruited and appointed by the board of management on such terms and conditions as the board of management shall determine. Registrar.

(2) A person shall not be qualified for appointment as a Registrar under subsection (1) unless that person —

- (a) holds a post graduate degree from a university recognized in Kenya;
- (b) has knowledge and at least ten years' experience in the matters relating to geology;
- (c) meets the requirements of Chapter Six of the Constitution.

**17.** The Registrar shall be appointed for a term of five years and shall be eligible for re-appointment for one further term. Tenure of office of Registrar.

**18.** (1) The Registrar shall be the chief executive officer of the Board and secretary to the Board. Functions of the Registrar.

(2) In exercise of the functions of the Registrar under this Act, the Registrar shall, subject to the direction of the Board —

- (a) keep and maintain the register of persons registered in accordance with this Act;
- (b) sign, issue, renew and cancel certificates of registration and licences as may be directed by the board;
- (c) keep all documents and records including records of all assets of the Board;
- (d) prepare all documents due for gazettelement as directed by the board;
- (e) enforce decisions of the board;
- (f) keep the seal of the Board in such custody as the Board may direct;
- (g) be responsible for the day-to-day management of the board;
- (h) manage the funds, property and affairs of the Board;
- (i) be responsible for the management of the staff of the Board;
- (j) oversee and coordinate the implementation of the policies, programmes and objectives of the board;
- (k) cause to be prepared for the approval of the Board—

- (i) the strategic plan and annual plan of the Board; and
  - (ii) the annual budget and audited accounts of the Board; and
- (l) perform such other duties as may be assigned to the Registrar by the board of management.

**19.** (1) The board of management may terminate the appointment of the Registrar in accordance with the Registrar's terms and conditions of service for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify removal from office under the terms and conditions of service.

(2) Where a question of the removal of the Registrar under subsection (1) arises, the board of management shall—

- (a) inform the Registrar in writing of the reasons for the intended removal; and
- (b) give the Registrar an opportunity to be heard.

**20.** (1) There shall be a secretariat to the Board which shall comprise —

- (a) the Registrar who shall be the head of the secretariat; and
- (b) such other persons as the Board shall determine for the proper performance of the functions of the secretariat under this Act.

(2) The persons appointed under subsection (1) shall be competitively recruited and appointed by the Board and shall serve on such terms and conditions as the board may, in consultation with the Salaries and Remuneration Commission, determine.

(3) The staff appointed under subsection (1) shall possess such knowledge and experience as shall be determined by the board of management.

- 21.** The functions of the Secretariat shall be to — Functions of the Secretariat.
- (a) provide technical and administrative services to the board of management;
  - (b) implement the decisions, strategies, programmes and policies of the board of management;
  - (c) recommend proposals and offer advice to the Board for the formulation of and implementation of programmes by the board of management;
  - (d) on behalf of the board of management, establish and maintain relationships with international, national and local institutions on geology;
  - (e) make arrangements for periodical evaluation of the policies and programmes in relation to the objects and functions of the Board; and
  - (f) perform such other functions as may be assigned to it by the board of management.

**22.** (1) The common seal of the Board shall be kept in the custody of the Registrar or such other person as the Board may direct and shall not be used except upon the order of the board of management. Common seal of the Board.

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

(3) The seal of the Board shall be authenticated by the signature of the Registrar and the chairperson of the Board or in the absence of the chairperson, such other member of the board who shall be designated by the board of management for that purpose on behalf of the chairperson.

**23.** (1) No matter or thing done by a member or an officer 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 or the officer so acting, personally liable for any action, claim or demand. Protection from personal liability.

(2) Subsection (1) shall not relieve the Board from liability to pay compensation or damages to any person for



any injury to that person, or other loss caused by the exercise of any power conferred by this Act or any other written law or by the failure of any works of the Board.

### PART III— REGISTRATION AND LICENCING

**24.** A person shall be eligible for registration as a— Eligibility for registration.

- (a) professional geologist, such person —
  - (i) is registered as a graduate geologist;
  - (ii) has obtained practical experience as may be prescribed; and
  - (iii) has successfully passed professional assessment;
- (b) consulting geologist, such person —
  - (i) has practised in a specialized geology field as a professional geologist for such period as shall be prescribed by the Board; and
  - (ii) has achieved a standard of competence to enable such person to practise as a consulting geologist in that particular specialization as may be prescribed under this Act; and
- (c) graduate geologist if that person —
  - (i) holds a degree in geological sciences from a university or such other qualifications as the Board may determine; and
  - (ii) is a citizen or a permanent resident of Kenya.

**25. (1)** A person who is eligible to be registered as a professional, consulting or graduate geologist may submit to the Registrar, an application in the prescribed form. Application for registration as a professional or a consulting geologist.

(2) An applicant shall submit an application under subsection (1) together with —

- (a) certified copies of certificates and such other documents as the Board may prescribe; and
- (b) the prescribed fee.

**26. (1)** Subject to the provisions of this Act, a person may register a consulting firm if — Registration as a consulting firm.

- (a) the firm has a certificate of registration of a business name or a certificate of incorporation;
- (b) it has at least one partner or principal shareholder who is registered as a consulting geologist and who has a valid licence in a specified discipline;
- (c) at least fifty one percent of the shares in the firm are held by Kenyan citizens; and
- (d) such firm fulfils any other condition as may be stipulated by the Board.

(2) The Board may register geology consulting firms in different categories and disciplines based on a criteria as shall be established by the Board.

**27.** (1) A person who intends to register a geology consulting firm under section 26 may submit to the Registrar an application in the prescribed form.

Application for registration of a consulting firm.

(2) An applicant shall submit an application under subsection (1) together with —

- (a) such documents as the Board may prescribe;
- (b) the firm's profile of activities;
- (c) curriculum vitae of the partners or directors of the firm; and
- (d) a written commitment that the Board shall be allowed to verify the suitability of the firm for the purposes of registration.

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

**28.** (1) A foreign person or firm may be registered as a professional or consulting geologist or geology consulting firm if —

Restriction on registration of foreigners.

- (a) in the case of a natural person —
  - (i) that person possesses the necessary qualifications recognized for the practice of geology as a professional geologist in the

country where that person normally practises and that immediately before entering Kenya such person was practising as a professional geologist and holds a valid licence;

- (ii) is a resident of Kenya; and
- (iii) holds a valid working visa or permit; and

(b) in the case of a firm, —

- (i) the firm is incorporated in Kenya in accordance with the provisions of the Companies Act; and

No. 17 of 2015.

- (ii) a minimum of fifty one percent of its shares are held by a Kenyan citizen.

**29.** (1) A foreign person or firm may submit an application for temporary registration as a professional geologist if that person—

Temporary registration.

- (a) is ordinarily not resident in Kenya;
- (b) intends to be present in Kenya in the capacity of professional geologist for the express purpose of carrying out specific work; and
- (c) possesses the necessary qualifications recognized for the practice of geology as a professional geologist in the country where that person normally practises and that immediately before entering Kenya such person was practising as a professional geologist and holds a valid licence.

(2) An applicant for registration under subsection (1) shall submit an application to the Registrar in the prescribed form together with the prescribed fee.

(3) The board of management may, in considering an application, require an applicant to appear before it and produce such information as the board may consider necessary as proof of the applicant's work or employment immediately prior to entering Kenya.

(4) The registration of a person under this section shall be valid for the period or for the duration of the work as the board of management shall, subject to subsection (6), specify.

(5) Where the expertise of a person registered under this section is not available in Kenya, the board of management shall notify the applicant to provide an undertaking that such person shall with the assistance of the Board facilitate capacity building as necessary during the expert's practice in Kenya.

(6) The duration for temporary registration under this section shall not exceed one year.

**30.** (1) A person who intends to apply for registration as an accredited checker shall submit to the Registrar — Accredited checkers.

- (a) an application in the prescribed form;
- (b) the prescribed fees; and
- (c) such documents and information as the Board may prescribe.

(2) The Board may register a person as an accredited checker under this Act if such person —

- (a) is a consulting geologist registered in the relevant discipline of geology approved by the Board;
- (b) has at least fifteen years relevant practical experience in geology; and
- (c) satisfies the Board that by virtue of the person's ability, standing in the profession, special knowledge or practical experience, such is qualified to be registered as an accredited checker under the Act.

(3) A person who is registered as an accredited checker shall be responsible for the review and verification of the work carried out by a professional geologist in ensuring that the work is adequate and complies with the safety requirements prescribed by the Board.

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

**31.** (1) The Registrar shall, so far as is practicable, bring every application before the board of management for consideration at its first meeting after receiving the application. Registration by the Board.

(2) Where an applicant has complied with the provisions of this Act and has been accepted by the board of management as being eligible for registration, the Registrar shall register the person by entering the particulars of the applicant in the register.

(3) The decision of the board of management on an application for registration shall be communicated to the applicant by the Registrar in writing within twenty-one working days from the date of the decision of the Board.

(4) The Board shall, upon the entry of the name of an applicant in the register, issue to the applicant a certificate of registration affixed with the seal of the Board.

(5) The Board may issue to a person registered under this Act such classes of certification documents for such periods as it may determine.

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

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

**32.** (1) Every person whose name has been entered in the register as a professional or consulting geologist shall, for as long as their name remains in the register, be entitled to adopt and use the style and title ‘professional geologist’ or ‘consulting geologist’ after their name or such contraction as the Board may, from time to time, approve.

Effect of registration.

(2) A person referred to in subsection (1) may offer professional geology services to the public for gain or reward or by way of trade or for employment in the geology discipline or category in which such person is registered.

(3) A professional geologist or a consulting geologist shall have discretion of using the title “geologist”, abbreviated as Geol., before their name.

**33.** (1) The Registrar shall keep and maintain a <sup>Register.</sup> register of all persons or firms registered under this Act in such manner as the Board may prescribe.

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

- (a) date of entry;
- (b) address;
- (c) qualifications;
- (d) category;
- (e) geology discipline;
- (f) nationality; and
- (g) such other particulars as the Board may from time to time determine.

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

**34.** (1) The Registrar may from time to time make <sup>Alteration of the register.</sup> changes or corrections in the register and shall subject to the directions of the Board cause to be published any amendments or deletion from the register.

(2) Any changes or corrections in the entries made under this section shall be made by the Registrar as soon as it is practical after receipt of notification thereof.

**35.** (1) The Registrar shall, with the approval of the <sup>Removal of persons from the register.</sup> Board, remove from the register the name of any person who—

- (a) is a member of a firm which has ceased to practise or has been wound up by a court order;
- (b) has been convicted of an offence under this Act or any other law and sentenced to imprisonment for term of six months or more;
- (c) has had his or her name the board of management has directed that it should be removed from the register;

- (d) is adjudged bankrupt;
- (e) has failed to satisfy requirements for continuing profession development programme for the time being in force;
- (f) causes or permits or suffers any sole proprietorship, partnership or body corporate in which he is a sole proprietor, partner, director or shareholder to practise as a firm prior to its registration by the Board or after the Board has suspended or cancelled its registration;
- (g) has failed within a period of six months from the date of an inquiry sent by the Registrar by prepaid registered letter to the last known address appearing in the register against his name, to respond to the inquiry of the Registrar; or
- (h) requests that his name be removed from the register, in which case that person may be required to satisfy the Board by way of an affidavit lodged with the Registrar that criminal proceedings under this Act are not being or are not likely to be taken against him.
- (i) any person whose name has been fraudulently entered.

(2) Where the Registrar establishes that an entry has been erroneously or incorrectly entered in the register, the registrar may correct the error and notify the affected person or Firm of the changes.

**36.** (1) The Registrar shall cause to be published in the *Gazette*, in at least one newspaper of wide circulation in Kenya and in such other media including an online platform as the Board may determine not later than the 31st day of March of every year, particulars of all registered and validly licensed persons or firms and their categories of registration.

Publication of registration.

(2) A publication made under this section shall be *prima facie* evidence that a person or firm is registered under this Act and the deletion from the register of the name of any person or firm notified by such publication, or the absence of the name of any person or firm from

such publication, shall be evidence that such person or firm is not so registered.

#### **PART IV—LICENCING AND PRACTICE OF GEOLOGY**

**37.** A person shall not engage in the practice of geology unless that person has applied for and been issued with a practicing licence and has complied with the requirements of this Act. Requirement for practicing licence.

**38.** (1) A person who intends to engage in the practice of geology shall submit to the Registrar an application in the prescribed form together with— Application for licence.

- (a) proof of compliance of the applicable conditions for renewal of licence that may be prescribed by the Board;
- (b) a statutory declaration confirming that no professional complaint has been made against that applicant; and
- (c) the prescribed fee.

(2) The Board shall, within twenty-one days of receipt of the application under subsection (1) 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) with sufficient cause, refuse to issue or renew the licence.

(3) The Board shall inform the applicant of its decision under subsection (2) within seven days from the date of the decision.

(4) A licence issued under this section shall be valid for one year from the 1st of January to the 31<sup>st</sup> December.

(5) Every licence shall expire at the end of the practising year in which it was issued provided that, where the name of a geologist is removed from the register, the practising licence of that geologist shall expire forthwith.

(6) Every practising licence shall bear the date of the day on which it is issued and shall have effect from the beginning of that day.



(7) The Registrar shall enter into the register the date of issuance of a licence of every person licensed under this Act.

**39.** A licence issued under section 38 shall— Form of licence.

- (a) be in the prescribed form;
- (b) specify the nature of the business to be carried out by the applicant;
- (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.

**40.** (1) A person whose licence has not been renewed for a year or more and who wishes to have it renewed may apply to the Board. Renewal of licence.

(2) An application made under subsection (1) shall be accompanied by —

- (a) an affidavit in a prescribed form explaining the reasons for non-renewal;
- (b) licence fees for the current practising period and at the Board's discretion, any unpaid fees, including penalties as prescribed by the Board; and
- (c) proof of fulfilment of all applicable conditions for renewal of a licence.

(3) The Board shall consider an application for renewal of a licence within thirty days of the applicant lodging an application.

(4) The Board may, with sufficient cause, refuse to issue or renew a licence and shall communicate, in writing the refusal and give reasons for such refusal to the applicant within seven days of making the decision.

**41.** (1) A person shall not be entitled to recover a charge for the provision of geological services unless that person is licenced under this Act. Charging of fees by unlicensed persons.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

**42.** The Board may suspend a licence issued under this Act where — Suspension of a licence.

- (a) allegations of misconduct have been investigated and proved against a licensee;
- (b) a false declaration was made in an application for a licence; or
- (c) a licensee has contravened any provision of this Act.

**43.** The Board may cancel a licence where a licensee— Cancellation of a licence.

- (a) is convicted of an offence under this Act or any regulations under this Act; or
- (b) ceases to be qualified for the issuance of a licence under this Act.

**44.** (1) A person whose name has been removed from the register or whose licence issued under this Act has been suspended or cancelled shall not engage in the practice of geology or offer geology services or works during the duration of removal of name, suspension or cancellation of the licence. Effect of removal of name, suspension or cancellation of a licence.

(2) Subject to subsection (3), the Registrar shall notify a person whose name has been removed from the register, by registered mail sent to the address appearing in the register against his name immediately before the removal.

(3) Subsection (2) shall not apply where a person's name has been removed from the register at their request or with their consent.

(4) Where a directive has been made by the Board for the removal of the name of a person from the register or for the cancellation or suspension of a licence issued to a person under this Act, the Board may, on application in the prescribed form by the person concerned and after holding such inquiry as the Board may consider necessary—

- (a) cause the removal from the register to be confirmed and direct the surrender of the licence and certificate of registration within fourteen

- days after notification to that person by way of registered post;
- (b) cause the name of the person to be restored on the register;
  - (c) terminate the suspension of the registration;
  - (d) as the case may be, issue a new licence; or
  - (e) terminate the suspension of the existing licence—
    - (i) without a fee; or
    - (ii) on payment of such fee not exceeding the fee chargeable upon registration or issuance of a licence, as the Board may determine.

**45.** The cancellation, revocation or withdrawal of a licence under this Act shall be published in the *Gazette*, at least one newspaper of wide circulation in Kenya and in such other media including an online platform as the board of management may determine.

Publication upon cancellation, revocation or withdrawal of a licence.

**46.** A licenced geologist shall attest and authenticate by affixing their seal, certify or sign any opinion or report relating to any geological work which was prepared by the geologist or under the geologist's immediate supervision.

Authentication of documents.

#### **PART V— COMPLAINTS AND DISCIPLINE BY THE BOARD**

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

Complaints and disciplinary proceedings by the Board.

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

(3) For the purposes of proceedings in an inquiry held under this section, the Board may administer an oath, enforce attendance of a person as a witness and production of books and documents as evidence.

(4) A person who fails, when summoned by the Board, to attend as witness or to produce any books or

documents which he is required to produce, commits an offence.

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

- (a) convicted of an offence under this Act or under any other law punishable by imprisonment, the commission of which, in the opinion of the Board, has dishonoured the person in the public estimation;
- (b) found guilty of negligence or malpractice in respect of his profession; or
- (c) found guilty of impropriety or misconduct in respect of his profession,

the Board may, subject to subsection (9) —

- (i) direct the removal of such person's name from the register;
- (ii) issue a written warning or reprimand;
- (iii) cancel such person's licence; or suspend such person's licence or registration for a period not exceeding two years or impose a fine, for a natural person, not exceeding two hundred and fifty thousand shillings and, for a legal person, a fine of three million shillings.

(6) A person whose name has been removed from the register or whose licence has been cancelled or suspended shall surrender their certificate of registration or the licence to the Registrar.

(7) A person who fails to surrender the licence as required under subsection (6) commits an offence and is liable on conviction, in case of a natural person, to a fine of fifty thousand shillings or, in case of a body corporate, to a fine of one hundred and fifty thousand shillings.

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

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

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

(10) Subject to the provisions of this Act, the Board may regulate its own procedure in disciplinary proceedings.

**48.** A person who is aggrieved by a decision of the Board under this Act may, within thirty days from the date of the Board's decision, appeal against such decision to the High Court. Appeals.

**49.** The Court may, upon considering the evidence taken by the Board, the report of the Board and the memorandum of appeal, and having heard the parties, and after taking any further evidence, if it thinks fit so to do,— Powers of Court.

- (a) refer the report back to the Board with directions for its findings on any specified point; or
- (b) confirm, set aside or vary any order made by the Board or substitute therefor such order as it may think fit; and
- (c) may also make such order as to the payment by any person of costs, or otherwise in relation to the appeal, as it may consider appropriate.

#### **PART VI— FINANCIAL PROVISIONS**

**50.** (1) The Funds of the Board shall comprise— Funds of the Board.

- (a) monies appropriated by Parliament for the purposes of the Board;
- (b) donations, grants, loans or gifts made to the Board and approved by the Cabinet Secretary

for the time being responsible for matters relating to finance;

- (c) monies and revenue earned from the activities of the Board under this Act;
- (d) licence fees charged in accordance with this Act; and
- (e) such sums as may in any manner become payable to or vested in the Board either under the provisions of this Act or any other written law.

(2) There shall be paid out of the funds of the Board any expenditure incurred by the Board in the exercise of its powers or the performance of its functions under this Act.

**51.** The financial year of the Board shall be the period of twelve months ending on the 30<sup>th</sup> June in each year. Financial year.

**52.** (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 Board for that year. Annual estimates.

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

- (a) the payment of salaries, allowances and any other charges in respect of members and staff of the Board;
- (b) the payment of pensions, gratuities and other charges in respect of members and other staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the maintenance, repair and replacement of equipment and other property of the Board; and
- (e) funds to meet future or contingent liabilities in respect of retirement funds, insurance for replacement of buildings or equipment, or in respect of such matter as the board may consider necessary.

(3) The annual estimates shall be approved by the board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval upon which, the Board shall not increase the annual estimates without the consent of the Cabinet Secretary.

**53.** (1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure and the assets of the Board. Accounts and audit.

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the provisions of the Public Audit Act. No. 34 of 2015.

**54.** The Board may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any funds not immediately required for its purposes, as it may determine. Investment of funds.

#### **PART VII— OFFENCES AND PENALTIES**

**55.** (1) A person who procures or attempts to procure registration or licensing under the provisions of this Act by making or producing or causing to be made or produced any false or fraudulent representation or declaration, either orally or in writing, commits an offence and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years, or both. False registration or licensing.

(2) Where an offence under this section is committed by a body corporate, that entity shall be liable on conviction to a fine of not less than one million shillings.

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

**56.** (1) A person who is licensed as a professional geologist or consulting geologist under this Act commits an offence of professional misconduct if that person — Professional misconduct.

(a) deliberately fails to follow the standards of conduct and practice of the geology profession set by the Board;

- (b) commits gross negligence in the conduct of his or her professional duties;
- (c) allows another person to practice in their name, where that person—
  - (i) is not a holder of a licence;
  - (ii) is not in partnership with him;
  - (iii) takes advantage of a client by abusing position of trust, expertise or authority;
  - (iv) lacks regard or concern for client’s needs or rights; or
  - (v) shows incompetence or inability to render professional geological services or works;
- (d) knowingly submits a land survey, valuation or environmental impact assessment document prepared by a person who is not licensed to prepare such documents under any written law being in force.

(2) A person who commits an offence under this section shall, after due process, be deregistered, or be suspended and have their name removed from the register for such a period as the Board may determine.

**57.** A person who, being in charge of a training institution which is not recognized by the Board as an institution registered or seeking registration under this Act—

Offences by persons or training institutions.

- (a) admits into the institution under his or her charge any person for purposes of training in the geology profession;
- (b) purports to be conducting a course of training or examining persons seeking registration under this Act; or
- (c) issues any document, statement, certificate or seal implying that —
  - (i) the holder thereof has undergone a course of instruction or has passed an examination recognized by the Board; and
  - (ii) the institution under his charge is recognised by the Board as an institution for training of persons seeking registration,



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

**58.** (1) The terms “geologist” and “geologists” are protected under this Act and shall only be applied to persons or bodies fulfilling the requirements of this Act.

Prohibition for the use of the term geologist.

(2) A person who, being not registered or licensed under this Act willfully and falsely takes or uses in any way the style or form or title of “geologist” or “geologists” in describing his occupation or displays any sign, board, card or other device or uses a prescribed stamp representing or implying that such person is a geologist, commits an offence.

(3) The Board may however grant exemptions upon application to any person or group of persons for the use of the description or use of the term “geologist” or “geologists” and such exemptions shall be in accordance with any written International Convention or Treaty ratified by Kenya.

**59.** (1) A body of persons shall not carry on the business of geology unless one of its partners or directors, as the case may be, is a professional geologist.

Prohibition on provision of professional geology services by body of persons.

(2) Where a partner or director of a body specified under subsection (1) dies, that body of persons may, despite the provision of subsection (1), continue to carry on the business of geology for not more than six months as if the legal representatives were professional geologists and thereafter the body of persons shall cease to carry on the business of geology unless it can demonstrate, through legally binding documents, that it has taken on board a professional geologist as a partner or director.

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

**60.** (1) A person shall not employ or continue to employ any person to offer geology services or works if that person is not registered under this Act.

Prohibition of employment of unregistered persons.

(2) A person shall not take up or continue in any employment as a geologist or consulting geologist unless that person is registered as a geologist or consulting geologist.

(3) An employer shall not employ or engage a graduate geologist in any work or professional geology services or works unless that graduate geologist is under the supervision of a professional or consulting geologist.

(4) A person who contravenes any provision of this section commits an offence.

**61.** (1) The right of a registered or licensed person under this Act to submit plans, geological surveys, drawings, schemes, proposals, reports, design or studies to any person or authority in Kenya is restricted to the right to submit such documents only in relation to the discipline of geology in which that person including a professional geologist in geology consulting firm, is qualified as shown in the entries made in the register.

Restriction of right to submit documents.

(2) A person who is not registered as a professional geologist or firm shall not be entitled to submit geological plans, surveys, drawings, schemes, proposals, reports, designs or studies to any person or authority in Kenya.

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

**62.** A person who engages in practice of geology or charges a professional fee without a valid license under this Act commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years or to both.

Practising without license.

**63.** Any person who obstructs or hinders, or knowingly makes false misleading statement to any member, officer, servant or agent of the Board who is carrying out duties under this Act, commits an offence.

Obstruction of officers of the Board.

**64.** A person who commits an offence under this Act for which no specific penalty is provided for is liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

General penalty.

#### **PART VIII—MISCELLANEOUS PROVISIONS**

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

General provision in relation to exemptions.

- (a) enter for the purpose of or in the course of practising as geologist, into partnership with other persons not registered in accordance with this Act;
- (b) engage in other professions or trades provided that he is competent to engage in such professions or trades and also provided that he does not contravene the provisions of this Act; or
- (c) obtain registration with other professional bodies.

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

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

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

**67.** The Cabinet Secretary, in consultation with the Board, may make regulations generally for the better carrying out of the provisions of this Act. Regulations.

#### **PART IX – REPEAL AND TRANSITIONAL PROVISIONS**

**68.** The Geologists Registration Act is hereby repealed. Repeal of Cap. 365

**69.** In this Part— Interpretation.

“appointed day” means the day this Act comes into operation;

“former Board” means the Geologists Registration Board established by section 3 of the Geologists Registration Act now repealed by this Act.

**70.** All directions, orders and authorizations given, or licences issued, or registrations made by the former Board and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Board. Existing Directions, orders, licences etc. of former Board.

**71.** All rights, obligations and contracts which, immediately before the coming into operation of this Act, were vested in or imposed on the former Board shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board.

Rights and obligations.

**72.** (1) A person who, immediately before the appointed day was an officer or member of staff of the former Board, not being then under notice of dismissal or resignation shall, on the appointed day and subject to subsection (2), become an officer or member of staff of the Board determine on the same or improved terms and conditions of service.

Transfer of staff.

(2) A person who does not intend to become an officer or member of staff of the Board, shall, within a period of fourteen days from the appointed day, give notice in writing to the Board, and such person shall be deemed not to have become such an officer or member of staff under subsection (1) but to have retired from the service of the former Board on the day preceding the appointed day.

**73.** On the appointed day—

Assets and liabilities.

- (a) all funds, assets, and other property, moveable and immovable which, immediately before such day were vested in the former Board, shall, by virtue of this paragraph, vest in the Board;
- (b) all rights, powers, liabilities and duties whether arising under any written law or otherwise, which immediately before the appointed day were vested in, imposed on or enforceable by or against the former Board shall, by virtue of this paragraph, be transferred to, vested in, imposed on or enforceable by or against the Board.

**74.** On or after the appointed day, all actions, suits or legal proceedings pending by or against the former Board shall be carried on or prosecuted by or against the Board and no such action, suit or legal proceedings shall in any manner abate or be prejudicially affected by the enactment of this Act.

Legal proceedings.

**75.** Any reference to the former Board in any written law or in any contract, document or instrument of whatever nature shall, on the commencement of this Act, be read and construed as a reference to the Board.

Reference to written laws.

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**SCHEDULE** **(s. 15)**  
**PROVISIONS RELATING TO MEETINGS OF THE BOARD**

1. The board of management shall meet at least once in every two months to conduct the business of the Board.

2. The chairperson may on his or her own motion, or upon request by a member, call a special meeting of the board of management at any time, where the chairperson considers it expedient for the transaction of the business of the Board.

3. Other than a special meeting, or unless three quarters of members 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.

4. The quorum at a meeting of the Board shall be half of the members or such greater number as may be determined by the Board in respect of an important matter.

5. The chairperson shall preside at the meetings of the Board and in the absence the chairperson, the vice-chairperson or a member of the Board elected by the members present from among their number shall preside.

6. The matters of the Board shall be decided by a majority of the members present voting and in the event of equality of votes, the person presiding shall have a casting vote.

7. The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

8. At the first meeting of the Board, the members shall elect a vice-chairperson, not being an *ex-officio* member, from among its members.

9. Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for attendance of any other persons at the meetings and may make standing orders in respect thereof.

## **MEMORANDUM OF OBJECTS AND REASONS**

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

The principal object of this Bill is to repeal the Geologists Registration Act, 1993 in order to provide a framework to regulate the profession of geology in the country. Inadequacies in the operationalization of the practice of geology in Kenya through the outdated Geologists Registration Act, 1993 is what has necessitated the enactment of this Bill. The Bill is therefore an intervention that is way long overdue as a measure to improve the practice of geology.

Currently, the profession of geology contributes significantly to the implementation of specific government policies on natural resources and environmental conservation and to a larger extent climate change. The enactment of this Bill will therefore ensure the effective regulation of the geology profession.

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

Clause 67 of the Bill delegates legislative powers to the Cabinet Secretary for the purpose of giving effect to the provisions of the Act. The Bill does not limit fundamental rights and freedoms.

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

The practise of geology is widely practised in Kenya through the different public and private institutions. The Bill therefore affects the powers and functions of the county government and it is therefore a Bill that concerns counties 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**

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

Dated the 31st August, 2020.

PAUL GITHIOMI MWANGI,  
*Chairperson, Committee on  
Land, Environment and Natural Resources.*