

THE ACTUARIES BILL, 2020
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THE ACTUARIES BILL, 2020

A Bill for

AN ACT of Parliament to provide for the training, registration and licensing of actuaries; the regulation of standards of practice and professional conduct of actuaries; the development of the actuarial profession and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Actuaries Act, 2020 and shall come into force on such date as the Cabinet Secretary may, by notice in the Gazette, appoint.

Interpretation.

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

“actuary” means a person registered under section 22 or 23 ;

“Council” means the Council of the Institute established under section 9;

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

“chairperson” means the chairperson of the Council appointed under section 10 (2);

“firm” means a sole proprietorship or partnership established by members in practice;

“Institute” means the Institute of Actuaries of Kenya established under section 3;

“practising licence” means a licence issued under section 34;

"register" means the register required to be kept under section 26;

“Registrar” means the Registrar of the Institute appointed under section 17; and

“Society” means The Actuarial Society of Kenya registered under the Societies Act and existing at the commencement of this Act.

**PART II—THE INSTITUTE OF ACTUARIES OF
KENYA**

Establishment of the Institute.

3. (1) There is established an institute to be known as the Institute of Actuaries of Kenya.

(2) The Institute 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) entering into contracts;

(d) borrowing or lending money; and

(e) doing or performing all other things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.

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(3) The Institute shall be the successor of the Actuarial Society of Kenya registered under the Societies Act and existing at the commencement of this Act.

Membership of the Institute.

4. (1) Each person who is registered under this Act is a member of the Institute.

(2) The members of the Institute shall be divided into the following classes—

(a) fellows, comprising those members who qualify for registration under section 21(1) and are registered as such under section 22, each of whom shall be titled “Fellow of the Institute of Actuaries of Kenya” (designatory letters FIA(K));

(b) associate members comprising those members who qualify for registration under section 21(2) and are registered as such under section 22, each of whom shall be titled “Associate of the Institute of Actuaries of Kenya” (designatory letters AIA(K));

(c) student members comprising those members who qualify for registration under section 21(3) and are registered as such under section 22;and

(d) affiliate members comprising those members who are registered as such under section 23.

Honorary fellows.

5. (1) Where the Council considers that a person has rendered special services to the Institute or the actuarial profession, the Council may invite such a person to become an honorary fellow of the Institute.

(2) An Honorary fellow shall not be a member of the Institute.

Membership fees.

6. The members of the Institute as specified in section 4 shall pay such fees and subscriptions as the Council may from time to time prescribe.

Voting rights.

7. (1) Fellows and associate members shall have the right to vote at any election or meeting of the Institute.

(2) Student members and affiliate members shall not vote at any election or meeting of the Institute.

Functions of the Institute.

8. The functions of the Institute shall be to—

(a) register and license actuaries;

(b) develop standards of practice and professional conduct for actuaries;

(c) liaise with and advise the relevant regulatory bodies on the approval and accreditation of actuarial courses or programmes in universities and other tertiary level educational institutions offering actuarial courses;

(d) plan, co-ordinate and oversee continuous professional training and development of actuaries;

(e) co-ordinate research, investigations and surveys in the actuarial field;

(f) recognise professional bodies for purposes of registration of actuaries under this Act;

- (g) collaborate with other bodies or organizations in the development of programmes and facilities for the advancement of and well-being of actuaries; and
- (h) perform any other function that is incidental or consequential to its functions under this Act or any other written law.

The Council.

9. (1) The Institute shall be governed by a council to be known as the Council of the Institute.

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

Composition of the Council.

10. (1) The Council shall consist of—

- (a) the Principal Secretary responsible for matters relating to finance or a person designated by him;
- (b) the Chief Executive Officer of the Insurance Regulatory Authority or a person designated by him;
- (c) the Chief Executive Officer of the Retirement Benefits Authority or a person designated by him; and
- (d) six members elected by members of the Institute.

(2) The members of the Council shall elect a chairperson from amongst the six persons elected in accordance with paragraph (d) of sub section (1).

(3) A person shall not be eligible for election as a member of the Council unless that person is a fellow or associate of the Institute

(4) A person shall not be eligible for election as the chairperson unless that person is a fellow of the Institute.

(5) The Cabinet Secretary shall prescribe the manner in which the members elected under subsection (1) (d) shall be elected.

(6) The members elected under subsection (1) (d) shall hold office for a term of two years and shall be eligible for re-election in subsequent terms.

(7) Despite subsection (5), an elected member of the Council who has served two consecutive terms shall not be eligible for re-election immediately upon completion of the second term but shall be eligible for re-election in other elections held thereafter.

Powers of the Council.

11. The Council shall—

- (a) have all powers necessary for the proper performance of its functions under this Act;
- (b) administer the assets and funds of the Institute in such manner and for such purpose as shall promote the best interest of the Institute in accordance with this Act;
- (c) have power to receive gifts, donations, grants, money or equipment and make legitimate disbursements therefrom; and
- (d) have power to enter into associations with such other persons, bodies or organizations within or outside Kenya as the Council may consider appropriate in furtherance of the purposes for which the Institute is established.

Committees of the Council.

12. The Council may establish such committees as are necessary for the performance of the functions of the Institute and may, subject to the provisions of this Act, delegate powers conferred on it to such committees.

Conduct of business and affairs of the Council.

13. The conduct of business and affairs of the Council shall be as provided in the First Schedule.

Protection from personal liability.

14. A member of the Council shall not be personally liable for any act or omission of the Council done or omitted to be done in good faith in the course of performing the functions of or exercising the powers conferred upon the Council.

Delegation by the Council.

15. The Council may, by resolution, generally or in any particular case, delegate to any committee or employee of the Institute the exercise of any of the powers or the performance of any of the functions of the Council under this Act.

Remuneration of Council members.

16. The Council shall pay its members remuneration as it may determine upon approval of the Salaries and Remuneration Commission.

The Registrar.

17. (1) There shall be a Registrar of the Institute who shall be appointed by the Council through an open, transparent and competitive recruitment process.

(2) The Registrar shall—

(a) be the chief executive officer of the Institute and shall, subject to the direction of the Council, be responsible for the day to day management of the affairs and staff of the Institute;

(b) be the secretary to and an ex-officio member of the Council but shall have no right to vote at any meetings of the Council; and

(c) perform such duties as are prescribed under this Act.

(3) The terms and conditions of service of the Registrar shall be determined by the Council in the instrument of appointment or otherwise in writing from time to time.

(4) A person shall not be appointed as a Registrar unless such person—

(a) is a fellow, associate or student member of the Institute; and

(b) meets the requirements of Chapter Six of the Constitution.

Staff of the Institute.

18. The Institute may appoint such staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as it may, in consultation with the Salaries and Remuneration Commission, determine.

The common seal.

19. (1) The common seal of the Institute shall be kept in the custody of the Registrar and shall not be used except upon the order of the Council.

(2) The affixing of the common seal of the Institute shall be authenticated by the signature of the chairperson and the Registrar and any document not required by law to be made under seal and all decisions of the Council may be authenticated by the signatures of both the chairperson and the Registrar.

(3) Notwithstanding the provisions of subsection (2), the Council shall, in the absence of either the chairperson or the Registrar in a particular matter, nominate one member to authenticate the seal on behalf of either the chairperson or the Registrar.

(4) The common seal of the Institute shall, when affixed to a document and duly authenticated, 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.

Meetings of the Institute.

20. The conduct and regulation of the meetings of the Institute shall be as provided in the Second Schedule.

PART III—REGISTRATION AND LICENSING OF ACTUARIES

Qualifications for registration.

21. (1) A person is eligible for registration under this Act as a fellow if the person —

(a) is a fellow of a professional body that is approved by the Council; and

(b) has at least one year continuous post fellowship experience in Kenya.

(2) A person is eligible for registration under this Act as an associate actuary if the person is an associate of a professional body that is approved by the Council; or

(3) A person is eligible for registration under this Act as a student actuary if the person—

(a) holds a bachelor's degree in actuarial science, a post graduate qualification in actuarial science or a

degree in a field of study related to actuarial science;
or

(b) is pursuing a course of study for professional actuarial examinations administered by a professional body approved by the Council.

Registration of actuaries.

22. (1) A person who is eligible to be registered under section 21 may apply in the prescribed form to the Council for registration.

(2) An application under subsection (1) shall be accompanied by the prescribed fee and such documents as are necessary to prove qualification for registration.

(3) Where an application is made by a person in accordance with this section, the Council shall approve the application if it is satisfied that the person meets the requirements specified in section 21.

(4) Upon approval by the Council, the Registrar shall register every qualified person by entering his name, address, professional qualifications and such other particulars as the Council may prescribe in the appropriate register kept for that purpose pursuant to section 26.

(5) The Registrar shall issue to every person registered under this Act a certificate of registration in the prescribed form.

Affiliate members.

23. (1) A person may be registered as an affiliate member if that person satisfies the Council that—

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

(b) he intends to be present in Kenya in the capacity of an actuary for the express purpose of carrying out a specific actuarial assignment; and

(c) he possesses—

(i) the necessary qualifications recognised for actuarial practice as an actuary in the country

where he ordinarily practises and that immediately before entering Kenya, he was practising as a professional actuary and holds a valid licence from his country of origin;

(ii) any of the qualifications specified in section 21 (1) or (2).

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

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

(4) The registration of a person under this section shall be valid for the duration of the actuarial assignment specified by the Council.

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

(6) Subject to subsection (4), the Board may approve temporary registration for such period not exceeding one calendar year.

Restrictions on areas of actuarial practice.

24. (1) Where in any written law any reference is made to an appointed actuary, such reference shall be deemed to refer to only a fellow of the Institute.

(2) Where in any written law any reference is made to an actuarial function holder, such reference shall be deemed to refer to a fellow or associate of the Institute.

Effect of registration.

25. A person whose name is entered in the Register may, subject to section 24, and for as long as his name remains in the Register, offer professional actuarial services to the public for gain or reward or by way of trade or for employment in the actuarial profession.

Register.

26. (1) The Registrar shall keep and maintain a register of actuaries registered under this Act.

(2) The Register shall show the following details against the name of a person whose name is entered in the Register—

(a) the date of entry;

(b) address;

(c) qualifications;

(d) the class of membership;

(e) nationality; and

(e) such other particulars as may be prescribed by the Council.

Publication of register and list.

27. (1) The Registrar shall cause to be published in the Gazette and in the official website of the Institute, as soon as may be practicable after registration, the name, address, qualifications and class of membership of every person registered under this Act.

(2) The Registrar shall, subject to the directions of the Council, cause to be published in the Gazette and in the official website of the Institute any amendments to or deletion from the register.

(3) The Registrar shall cause to be published in the Gazette and in the official website of the Institute, at the beginning of each practising year, a list containing the names, addresses, qualifications, nationality and class of membership of all persons remaining on the register at the close of the previous year.

Publication prima facie evidence of registration.

28. (1) A publication under section 27 shall be prima facie evidence that the persons named therein are registered under this Act.

(2) The deletion from the register of the name of any person notified by such publication or the absence of the name of any person from such publication, shall be prima facie evidence that such person is not so registered.

Alteration of the Register.

29. (1) The Council may at any time direct the Registrar to remove from the register, the name of a person who—

- (a) fails, within a period of six months from the date of an inquiry sent by the Registrar by prepaid registered letter to the address appearing in the register against his name, to notify the Registrar of his current address;
- (b) requests, in writing, that his name be removed from the register, in which case such person may be required to satisfy the Council by an affidavit lodged with the Registrar that no criminal proceedings under this Act or proceedings under section 40 are pending or are likely to be taken against that person;
- (c) has his qualification withdrawn or cancelled by the professional body through which it was acquired or by which it was awarded;
- (d) is found by the Disciplinary Committee to be guilty of professional misconduct subject to section 40; or
- (e) fails to renew the practising licence within a period of three months from the date of expiry of the previous licence.

(2) The Registrar may without direction of the Council remove from the register—

- (a) the name of a registered person who dies; or
- (b) any entry which was incorrectly or fraudulently made.

(3) Except where no address is provided or where a person dies, the Registrar shall notify the person whose name is removed from the register of such removal by registered post.

(4) Subject to section 30, a person whose name is removed from the register shall cease from the date of such removal to be registered for the purposes of this Act.

(5) A person whose name is removed from the register shall not be entitled to a refund of any fees, subscriptions

or payments made to the Institute pursuant to his membership of the Institute.

Restoration to the Register.

30. (1) Where the name of any person is removed from the register under section 29, the name of that person shall not be re-entered in the register except by direction of the Council.

(2) Where the name of any person is removed from the register or the registration of any person is suspended in accordance with section 41 (1), the Council may, either of its own motion or on the application of the person concerned in the prescribed manner, and in either case after holding such inquiry as the Council thinks fit, direct that—

(a) the removal from the register be confirmed;

(b) the name of that person be restored to the register;
or

(c) the suspension of the registration of that person be terminated, either unconditionally or upon such terms and conditions as the Council may deem fit.

(3) Any direction given by the Council under subsection (2) may include provision for the date upon which restoration to the register or the termination of suspension of registration shall take effect and for the payment by the person concerned of such fee, not exceeding the fee payable on application for registration, as the Council may determine.

Inspection of register.

31. Any person may, during normal office hours and on payment of the prescribed fee, inspect the register or any document or entry in the register and may obtain from the Registrar a copy of, or an extract from, the register or any such document.

Proof of documents.

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

- (2) No process for compelling the production of the register or any document kept by the Registrar shall issue from any court except with the leave of that court, and any such process which is so issued shall bear a statement that it was issued with the leave of the court.
- (3) The Registrar shall not, in any legal proceedings to which he is not a party, be compelled to—
 - (a) produce the register or any document if its contents can be proved under subsection (1); or
 - (b) appear as a witness to prove any entry in the register, the matters recorded in the register or any such document, unless the court for special case so orders.

Registration of actuarial firms.

- 33.** (1) Subject to the provisions of this Act, a person may register an actuarial firm if—
- (a) the firm has a certificate of registration of a business name;
 - (b) the firm has at least one partner who is a fellow of the Institute and who has a valid practising licence; and
 - (c) the person fulfils any other condition as may be prescribed by the Council.

Practising licence.

- 34.** (1) A fellow or an associate registered under this Act shall not engage in actuarial work unless that person has been issued with a practising licence.
- (2). An application for a practising licence shall be made in the prescribed form and shall be accompanied by—
- (a) evidence of compliance with continuing professional development requirements, approved by the Institute;
 - (b) the prescribed fee; and
 - (c) any other requirements that may be prescribed by regulations.

- (4) The Registrar shall within fourteen days of the receipt of the application issue to the applicant a practising licence, if satisfied that—
- (a) the applicant meets the requirements in subsection (2);
 - (b) the applicant's name is in the Register; and
 - (c) the applicant is not for the time being suspended from practice.
- (5) A practising licence issued under subsection (3) shall—
- (a) bear the date on which it is issued and shall be effective from that date;
 - (b) expire at the end of the practising year in which it was issued; and
 - (c) upon expiry be renewed.
- (6) The practising year shall be from the first of January to the thirty first of December.
- (7) The Registrar shall enter into the register the date of issuance of a licence of every person licensed under this section.
- (8) Despite subsection (4) (b), if the name of a person registered under this Act is removed from the register, the practising licence of that person shall expire immediately.
- (8) A person who contravenes subsection (1) commits an offence.

Cancellation of practising licence.

- 35.** The Council may cancel a practising licence issued under this Act if—
- (a) the licensee is convicted of an offence under this Act;
 - (b) the licensee is found guilty of professional misconduct;

(c) a false declaration was made in the application for the licence; or

(d) the licensee ceases to be qualified for the issue of a licence under this Act.

Effect of removal of name from register or cancellation of a licence.

36. A person who is suspended, whose name is removed from the Register or whose licence is cancelled under this Act shall—

(a) surrender the certificate of registration or practising licence to the Registrar; and

(b) not engage in actuarial practice during the duration of the suspension, removal of name or cancellation of the practising licence.

Publication of suspension, removal or cancellation.

37. The Council shall publish in the Gazette and in the official website of the Institute the suspension of an actuary, removal of an actuary from the register or cancellation of a practising licence under this Act.

PART IV—DISCIPLINE

Professional misconduct.

38. A person who is registered under this Act commits professional misconduct if that person—

(a) contravenes the code of conduct and practice of the actuarial profession;

(b) fails to declare to a client a conflict of interest in relation to any particular matter or acts in a matter notwithstanding the presence of an undisclosed conflict of interest;

(c) discloses information acquired in the course of his professional engagement to any person other than his client so engaging him, without the consent of such client, or otherwise than as required by any law for the time being in force;

(d) allows another person to practise in his name, where that person—

(i) is not a holder of a licence; and

(ii) is not in partnership with him; or

(e) takes advantage of a client by abusing his position of trust, expertise or authority.

Disciplinary Committee.

39. (1) There shall be a committee to be known as the Disciplinary Committee.

(2) The Disciplinary Committee shall receive, hear and adjudicate complaints against actuaries.

(3) The Disciplinary Committee shall consist of —

(a) a chairperson elected by members of the Institute; and

(b) four members of the Institute elected by members of the Institute; and

(4) The chairperson of the Committee shall be a fellow of the Institute.

(5) Members of the Council shall not be eligible for appointment to the Disciplinary Committee.

(6) The chairperson and the members of the Disciplinary Committee shall hold office for a term of two years and shall be eligible for re-appointment for a further and final term of two years.

(7) The quorum for a meeting of the Committee shall be three members.

(8) The Registrar of the Institute shall be the Secretary of the Disciplinary Committee but shall not have the right to vote.

Disciplinary proceedings.

40. (1) A person who is dissatisfied with any actuarial services offered or alleges a breach of the code of conduct and practise by an actuary may make, in the prescribed manner, a written complaint to the Disciplinary Committee.

(2) The Disciplinary Committee may engage investigators or other experts for the purposes of investigating a complaint presented to the Committee.

(3) Upon any inquiry held by the Committee under this Act, the person whose conduct is being inquired into shall be entitled to be heard in person or to be represented by an advocate.

(4) For the purposes of proceedings at any inquiry held by it, the Committee shall have power to—

(a) administer oaths;

(b) summon persons to attend and give evidence; and

(c) order the production of documents as evidence.

(5) A person who gives evidence before the Committee is, in respect of any evidence given by him or any document produced by him, entitled to all the privileges to which he would be entitled as a witness before the High Court.

(6) The Registrar shall record or cause to be recorded a summary of all evidence given at an inquiry held by the Disciplinary Committee.

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(7) Subject to this section and to any Regulations made under section 52, the Disciplinary Committee shall have power to regulate its own procedure at an inquiry held by it.

(8) For the purposes of Chapter XI of the Penal Code, an inquiry held by the Council shall be deemed to be a judicial proceeding.

Disciplinary action.

41. (1) If a person registered under this Act is, after due inquiry held by the Disciplinary Committee, found guilty of professional misconduct, the Committee may—

(a) issue a written warning or reprimand;

(b) require that person to undergo, at his expense, such further education, training or practice under a qualified actuary for a period not exceeding two years, as the Committee may determine;

(c) impose a fine not exceeding one million shillings;

(d) suspend the person from practice for a period not exceeding two years;

(e) expel the person from the Institute and have his name removed from the register; or

(f) a combination of any of the penalties in paragraph (a) to (e).

(2) The Disciplinary Committee may order any person upon whom any penalty is imposed under subsection (1) to pay such reasonable costs as the Committee may have incurred in connection with the investigation or hearing of any matter referred to the Committee.

Disobedience of summons or orders.

42. A person upon whom a summons or order issued under section 40(3) has been served who—

(a) without sufficient cause does not attend at the time and place mentioned therein;

(b) refuses without sufficient cause to answer fully and satisfactorily to the best of his or her knowledge and belief all the questions put to him or her by or with the concurrence of the Council; or

(c) refuses or omits to produce any documents in that person's possession or under that person's control which are specified in the order,
commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings.

Appeals.

43. (1) A person who is aggrieved by a decision made by the Council or the Disciplinary Committee under this Act may, within thirty days from the date of that decision appeal to the High Court.

(2) The High Court may give such directions in the matter as it thinks proper, and any order of the High Court under this section shall be final.

PART V—FINANCIAL PROVISIONS

Funds of the Institute.

44. The funds of the Institute shall consist of—

(a) such money, fees or subscriptions as may be payable to the Institute pursuant to this Act or any other written law;

(b) such money as may accrue to or vest in the Institute in the course of the performance of its functions or the exercise of its powers under this Act;

(c) such gifts, grants or donations as may be given to the Institute; and

(d) money from any other source provided or lent to the Institute.

Financial year.

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

Annual estimates.

46. (1) At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Institute for that year.

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

(a) payment of salaries, allowances, pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Institute;

(b) proper maintenance of the buildings and grounds of the Institute;

(c) proper maintenance, repair and replacement of the equipment and other property of the Institute; and

(d) 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 think fit.

(3) The annual estimates shall be approved by the Council before commencement of the financial year to which they relate.

(4) Expenditure shall not be incurred for the purposes of the Institute except in accordance with the annual estimates approved under subsection (3) or pursuant to an authorization of the Council.

Accounts and audit.

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

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

(a) a statement of income and expenditure during that year; and

(b) a statement of the assets and liabilities of the Institute on the last day of the year.

No. 34 of 2015.

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

Investment of funds.

48. The Council may, subject to the approval of the Cabinet Secretary, invest any funds not immediately required for the purposes of the Institute, as it may determine.

PART VI—MISCELLANEOUS PROVISIONS

Indemnity requirements.

49. (1) After the expiry of six months from the commencement of this Act months or such longer period as the Cabinet Secretary may declare by a notice in the Gazette, a person shall not carry on business as an actuary unless there is in force, in relation to his business, a guarantee bond or a policy of insurance entered into or issued by an insurance company guaranteeing that compensation shall be payable to persons suffering monetary loss through the professional negligence of the person so practicing.

(2) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Restrictions on use of titles by non-registered persons.

50. (1) A person who—

(a) pretends to be an actuary;

(b) takes or uses in any way the style or title of "actuary" in describing his or her occupation or business or any other name, style, title, addition or description implying whether in itself or in the circumstances in which it is used, that such person is an actuary; or

(c) in any way holds himself or herself out to be an actuary of any description,

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.

(2) A person who—

(a) being registered under this Act as an associate actuary in any way pretends to be or acts as if he or she is a fellow actuary;

(b) being registered under this Act as a student actuary in any way pretends to be or act as if he or she is a fellow actuary or an associate actuary; or

(c) being registered under this Act, in one or more category pretends to be, or acts as if he or she is, registered in another category,

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.

Dishonest practices.

51. (1) A person who—

(a) fraudulently makes, or causes or permits to be made, any false or incorrect entry in the register or any copy thereof;

(b) fraudulently procures or attempts to procure himself or herself or any other person to be registered;

(c) knowingly and wilfully makes any statement which is false in any material particular, or which is misleading, with a view to gaining any advantage, concession or privilege under this Act, whether for himself or herself or for any other person; or

- (d) practices or attempts to practice as a person registered under this Act without holding a valid practising licence,

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.

Undercutting.

52. (1) An actuary shall not charge or accept, otherwise than in part payment, any fee or other consideration in respect of professional business which is less than the remuneration prescribed by regulations under this Act.

(2) An actuary who contravenes subsection (1) commits an offence.

Regulations.

53. The Cabinet Secretary, may make regulations generally for the better carrying out of the provisions of this Act, and, without prejudice to the generality of the foregoing, such regulations may provide for—

- (a) the procedure to be followed by the Disciplinary Committee in disciplinary proceedings or any inquiry made under this Act;
- (b) the procedure for election of those members of the Council or Disciplinary Committee who are required to be elected;
- (c) the fees to be paid for anything which may be done under this Act;
- (d) the code of practice and professional conduct of persons registered or licensed under this Act;
- (e) the remuneration of actuaries in respect of all professional work;
- (f) the recognition of professional bodies for purposes of registration under this Act;
- (g) indemnity of clients against loss or damage arising from the negligence of an actuary registered under this Act;
- (h) the forms to be used under this Act;

- (i) the eligibility criteria and procedure for the conferment of honorary membership;
- (j) the exemption of any persons or class of persons from all or any of the provisions of this Act;
- (k) the continuous professional development of persons registered under this Act; and
- (l) prescribing anything required to be prescribed under this Act.

General penalty.

54. Any person convicted of an offence under the Act for which no penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings.

PART VII– TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

Transitional provisions.

55. (1) In this section—

(a) “former Society” means the Actuarial Society of Kenya registered under the Societies Act and existing before the commencement of this Act; and

(b) “appointed day” means the day appointed by the Cabinet Secretary as the commencement date for this Act;

(2) After the expiry of twelve months or such longer period as the Cabinet Secretary may declare by a notice in the Gazette after the commencement of this Act, a person shall not undertake actuarial work unless he is registered under this Act and is a holder of a valid practising licence.

(3) The governing organ of the Actuarial Society of Kenya existing before the enactment of this Act shall assume the responsibilities imposed on the Council by this Act as an interim Council until the first elections are held under this Act.

(4) The chairperson elected at the last annual general meeting of the former Society shall continue to act as

chairperson of the Council until the first elections are held under this Act.

(5) The interim Council shall facilitate the registration of members of the Institute and the convening of the first annual general meeting at which Council members shall be elected.

(6) The first annual general meeting of the Institute shall be convened by the interim Council within a period of twelve months of the commencement of this Act.

(7) On the appointed day, all the funds, assets and other property, both movable and immovable, which immediately before that date were vested in the former Society shall vest in the Institute.

(8) All debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the former Society immediately before the appointed day, for or in connection with the purpose of the Society, shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Institute.

(9) All suits and other legal proceedings instituted or which could have been instituted by or against the former Society immediately before the appointed day may be continued or may be instituted by or against the Institute.

(7) Any reference in any contract, document or instrument to the former Society shall, on and after the appointed day, be construed to be a reference to the Institute.

(8) Any person who, at the commencement of this Act, is a member of staff of a former Society shall, on the appointed day, become a member of staff of the Institute on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary.

Amendment of Cap. 194

56. The Asian Officers’ Family Pensions Act is amended in section 2 by deleting the definition of the word “actuary” and substituting therefor the following new definition—

“actuary” has the meaning assigned to it in the Actuaries Act.

Amendment of Cap. 196.

57. The Parliamentary Pensions Act. is amended—

(1) in section 2 by deleting the definition of the words “approved actuary” and substituting therefor the following new definition—

“ approved actuary” has the meaning assigned to it in the Actuaries Act .

Amendment of Cap 487.

58. The Insurance Act is amended in section 2 by deleting the definition of the word “actuary” and substituting therefor the following new definition—

“actuary” has the meaning assigned to it in the Actuaries Act.

Amendment of Act No. 3 of 1997.

59. The Retirement Benefits Act is amended in section 2 by deleting the definition of “actuary” and substituting therefor the following new definition—

“actuary” has the meaning assigned to it in the Actuaries Act.

Amendment of Act No. 8 of 2012.

60. The Public Service Superannuation Scheme Act is amended in section 2 by deleting the definition of the word “actuary” and substituting therefor the following new definition—

“actuary” has the meaning assigned to it in the Actuaries Act.

Amendment of Act No. 45 of 2013.

61. The National Social Security Fund Act is amended in section 2 by deleting the definition of the word “actuary” and substituting therefor the following new definition—

“actuary” has the meaning assigned to it in the Actuaries Act.

FIRST SCHEDULE

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

1. Tenure of office

- (1) The elected members of the Council shall hold office for a term of two years and shall be eligible for re-election in subsequent terms.
- (2) Despite subsection (1), an elected member of the Council who has served two consecutive terms shall not be eligible for re-election immediately upon completion of the second term but shall be eligible for re-election in other elections held thereafter.

2. Disqualification of appointment

A person shall not be qualified for appointment as a member of the Council if—

- (a) he is adjudged bankrupt; or
- (b) his name has been removed from the register or his registration or licence has been suspended or cancelled under this Act.

3. Vacation of office

An office of a member of the Council shall become vacant if the member—

- (a) dies;
- (b) becomes subject to any of the disqualifications referred to in paragraph 2;
- (c) resigns the office by writing under his hand delivered to the chairperson of the Council;
- (d) is absent without the permission of the chairperson from three or more consecutive meetings of the Council;
- (e) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (g) becomes for any reason, including infirmity of body or mind, incompetent or incapable of performing the functions of the office; or
- (h) is otherwise unable to discharge his functions.

4. Meetings of the Council

The Council shall meet at least four times in each year.

5. Special meetings

The Chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

6. Chairperson to preside

The Chairperson shall preside at all meetings of the Council, which he is present and in the case of his absence, the members of the Council present shall elect one of their number to preside, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted at that meeting.

7. Quorum

The quorum for the conduct of the business of the Council shall be five members.

8. Voting procedure

The decisions of the Council shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

9. Validity of proceedings

The validity of any proceedings of the Council shall not be affected by any vacancy among the membership thereof, or by any defect in the appointment of a member thereof.

10. Minutes

Minutes of the proceedings at meetings of the Council shall be kept in such a manner as the Council directs, and, on the written request of the Cabinet Secretary, shall be made available to him or any person nominated by him.

11. Committees of the Council

The Council may establish such committees as may be necessary for the performance of the functions of the Council and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

12. Power of the Council to regulate own procedure

Subject to the provisions of this Schedule, the Council shall regulate its own procedure.

13. Disclosure of interest

(1) If a member of the Council is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement of the meeting, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract, proposed contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

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

SECOND SCHEDULE

MEETINGS OF THE INSTITUTE

1. Annual general meeting.

(1) The Council shall, convene an annual general meeting of the Institute not later than six months after the end of each financial year at such venue as may be determined by the Council.

(2) The Council shall present to the Annual General Meeting a full report of the activities of the Institute in the immediately preceding year.

2. Special general meeting.

(1) A special general meeting shall be convened at any time—

(a) if requested for by at least five percent of the members of the Institute; or

(b) by the Council on its own motion.

(2) The person requesting for or convening a special general meeting under subparagraph (1) shall issue a thirty-day notice and such notice shall—

(a) be in writing;

(b) be signed by the members specified in subsection (1);

(c) specify the object of the proposed meeting;

(d) be submitted to the Registrar of the Institute.

(3) The Council shall, within fourteen days of receiving a requisition submitted under subsection (2), convene a special general meeting of the Institute.

(4) If the Council fails, within fourteen days after the requisition, to convene a general meeting in accordance with the requisition and specifying that it shall be held within thirty days, the members may themselves convene that general meeting to be held at any time within two months after such requisition.

3. Convening of meetings.

(1) A meeting of the Institute shall be convened by the Council by giving to every member of the Institute a written notice—

(a) stating the place and time of the meeting; and

(b) indicating the business which it is proposed to transact at the meeting, which shall include, among other matters, the presentation of the following—

(i) a report by the Council covering the past financial year;

(ii) financial statements and the auditor's report thereon; and

(iii) election of the Chairperson and Council members.

(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the Institute by posting the notice to the address of the member last known to the Institute, or by handing the notice to the member in person.

(3) The validity of any proceedings of the Institute shall not be affected by any failure to comply with the requirement of sub-paragraph (2) of this paragraph unless it is proved that the failure to comply in relation to any member was a deliberate failure.

4. Procedure at meetings.

(1) The Chairperson shall preside at all meetings of the Institute at which he is present.

(2) At a meeting of the Institute at which the Chairman is not present, the members of the Council present shall elect one of their members to preside.

(3) Subject to this paragraph, the quorum at a meeting of the Institute shall be fifty percent of the members entitled to vote.

(4) Where a general meeting of the Institute is convened—

(a) otherwise than pursuant to paragraph 4(b) of this Schedule, and a quorum is not present when the meeting proceeds to business, the meeting shall stand adjourned until the same day on the following week, at the same time and place, and if a quorum is not present at or within fifteen minutes after that time, the members present shall constitute a quorum; or

(b) pursuant to paragraph 4(b) of this Schedule, and a quorum is not present when the meeting proceeds to business the meeting shall be dissolved.

- (5) No business shall be transacted at a meeting of the Institute unless—
 - (a) the business is indicated in the notice of the meeting as business which it is proposed to transact; or
 - (b) in the case of business not so indicated, the meeting decides to transact the business and the person presiding at the meeting agrees to the transaction of the business.
- (6) The Chairperson or the person presiding at a meeting shall cause proper minutes of the proceedings meeting to be recorded.
- (7) The Chairperson or the person presiding at a meeting of the Institute may adjourn the meeting from time to time and from place to place, with the consent of the meeting.

5. Voting at meetings.

- (1) Questions arising at a meeting shall be determined by a majority of the members of the Institute voting on the question.
- (2) Voting on any question shall be by a show of hands or such other procedure as may be prescribed in regulations.
- (3) Where a ballot is held, voting may be either done personally or by written proxy.
- (4) An instrument appointing a proxy shall be in writing and shall be deposited with the Registrar not less than forty-eight hours before the meeting of the Institute at which it is to be used.
- (5) A proxy to be used in any ballot at any meeting may be used at the meeting or, if the meeting is adjourned, in any ballot when the meeting is resumed after the adjournment but the holding of a proxy shall not be counted towards the quorum at any stage of any meeting.
- (6) The person presiding at a meeting of the Institute has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.
- (7) A declaration by the person presiding at a meeting of the Institute that a resolution has or has not been carried and an entry to that effect in the minutes of the meeting is evidence of that fact.