

KENYA WATER TRAINING AND RESEARCH INSTITUTE BILL, 2023

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THE KENYA WATER TRAINING AND RESEARCH INSTITUTE BILL, 2023

A Bill For

AN ACT of Parliament to establish the Kenya Water Training and Research Institute; to provide for its incorporation; functions and powers; to repeal the Kenya Water Institute Act, 2001 and for connected purposes.

ENACTED by the Parliament of Kenya as follows—

PART I –PRELIMINARY

Short Title. 1. This Act may be cited as the Kenya Water Training and Research Institute Act, 2023.

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

Cap. 446. “Act” means the State Corporations Act;

 “Alumni Association” means the Alumni Association of the Institute established under section 18;

 “Board” means the Academic and Research Board of the Institute constituted under section 14;

Cap. 108. “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to water;

 “Chairperson” means Chairperson of the Council appointed under section 7;

 “Council” means the Governing Council of the Institute established under section 7;

 “certification” means the process of determining that a person or organization possesses the knowledge, skills and key competencies required of a specified organization relating to water;

 “Director-General” means the Director-General of the Institute appointed under section 12;

 “Institute” means the Kenya Water Training and Research Institute established under section 3; and

 “Student” includes both long term and short-term course trainees of the Institute.

PART II – ESTABLISHMENT AND FUNCTIONS OF THE INSTITUTE

Establishment of the Institute. 3. (1) There is established an Institute to be known as the Kenya Water Training and Research Institute.

(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, disposing and alienating movable or immovable property;
- (c) borrowing, lending and receiving money; and
- (d) subject to the provisions of this Act, of doing or performing all such acts or things including entering into contracts as may be necessary as expedient for the furtherance of the provisions of this Act as may by law be done or performed by a body corporate.

(2) The headquarters of the Institute shall be in Nairobi.

Objects of the Institute.

4. The object for the Institute shall be to provide directly or in collaboration with other institutions of higher learning, education, training, research & development, and consultancy, regulation and certification services in the water, sanitation and irrigation sectors and on a commercial basis to the public sector, the private sector and all other persons, local or foreign, who may request for such services from the Institute.

Functions of the Institute.

5. The functions of the Institute shall be—

- (a) providing education, training, human capacity building, research and development for water, sanitation and irrigation sectors;
- (b) conducting examination for award of diplomas, certificates and such other awards as may be determined by the Council or any regulatory body;
- (c) providing training programmes, seminars, workshops and producing publications aimed at maintaining standards in the water sanitation and irrigation;
- (d) conducting research, innovation and technological advancement on matters related to water, sanitation and irrigation;
- (e) creating public awareness on water, sanitation and irrigation matters;
- (f) establishing facilities and programs to promote knowledge transfer in water, sanitation and irrigation;
- (g) developing, promoting and implementing continuous water professional development programs;
- (h) identifying, assessing and certifying the non-academic practitioners in the water, sanitation and Irrigation sectors;
- (i) certifying artisans, operators and craftsmen in the water, sanitation and irrigation sector; and
- (j) Undertaking any other activities as may be expedient for the discharge of the Institute's functions.

Campuses of the Institute.

6. (1) The Cabinet Secretary may, on the advice of the Council, by Order in the *Kenya Gazette*, establish campuses of the Institute.

(2) The criteria to inform establishment of campuses shall be developed by the Council in consultation with the Cabinet Secretary.

Establishment and composition of the Council.

7. There is established a Council of the Institute and shall comprise of the following members—

- (a) a non-executive Chairperson, who shall be appointed by the President;
- (b) the Principal Secretary for the time being responsible for the National Treasury or a representative;
- (c) the Principal Secretary for the time being responsible for water or a representative;
- (d) the Principal Secretary for the time being responsible for devolution or a representative;
- (e) the Director-General of the Institute, who shall be Secretary of the Council;
- (f) five other members who shall be appointed by the Cabinet Secretary as follows—
 - (i) one representative of professional bodies, the activities of which relate to the water, sanitation and irrigation sectors;
 - (ii) one representative of a registered water service provider;
 - (iii) one representative of registered private sector community based water sanitation and irrigation programmes or a registered water users' association;
 - (iv) one representative from a public University in Kenya; and
 - (v) One representative of a registered local Non-Governmental Organization involved in activities related to the water sector, nominated by the National Council of Non-Governmental Organizations.

Qualifications for appointment of the Council.

8. (1) A person qualifies to be appointed as a member of the Council if the person—

- (a) is a holder of a bachelor's degree from a university recognized in Kenya;
- (b) has demonstrated leadership skills; and
- (c) meets the requirements of Chapter Six of the Constitution.

(2) The appointments under this section shall take into consideration youth, gender balance, and regional balance and marginalized groups and persons living with disability.

Vacancy in the membership of the Council.

9. The office of the Chairperson or a member of the Council shall become vacant if a member—

- (a) resigns by notice in writing addressed to the President in case of the Chairperson or to the Cabinet Secretary in case of a member;
- (b) has been absent from three consecutive meetings of the Council without permission from the Chairperson;
- (c) violates the Constitution or any other Law;
- (d) is guilty of gross misconduct in the performance of the member's functions or otherwise;
- (e) is unable to perform the functions of the office due to physical or mental illness;
- (f) is convicted of a criminal offence and sentenced to imprisonment for a period exceeding six months;
- (g) is adjudged bankrupt by a court of competent jurisdiction;
- (h) fails to comply with provisions of this Act relating to disclosure; and
- (i) dies

Functions of the Council

10. The functions of the Council shall be—

- (a) providing strategic advice and direction to the Institute;
- (b) formulating policies pertaining to the functions of the Institute;
- (c) collaborating with stakeholders including universities and other institutions whether within or outside Kenya as it may deem necessary and appropriate;
- (d) administering the property and funds of the Institute in such manner and for such purposes as shall best promote the interests of the Institute, provided that the Council shall not charge or dispose of the immovable property of the Institute without the approval of the Cabinet Secretary;
- (e) receiving, on behalf of the Institute, donations, endorsements, gifts, grants or other monies and making legitimate disbursements there from;
- (f) borrowing, generating and raising funds for the purposes of the Institute;

- (g) approving and submitting through the Cabinet Secretary financial estimates in respect of the Institute for consideration by the National Treasury;
- (h) performing oversight on all functions of the institute including standards in matters of training, research, innovation and consultancy in the Institute;
- (i) recruiting staff for the Institute; and
- (j) determining the fees and other charges payable to the Institute for the purposes of this Act.

Meetings of the Council.

11. (1) The Chairperson shall preside at all meetings of the Council.

(2) In the absence of the Chairperson the members present shall appoint one member from among themselves to preside at the meeting.

(3) The quorum for the conduct of business at a meeting of the Council shall be two thirds of the membership.

(4) Except as provided for in this section, the Council shall comply with section 8 of the Act governing the meetings and procedures of Boards of State Corporations.

Qualifications and appointment of the Director-General.

12. (1) There shall be a Director-General of the Institute who shall be appointed by the Cabinet Secretary upon recommendation of the Council through a competitive recruitment process.

(2) The Director-General shall hold office for a term of three years and shall be eligible for re-appointment for one further term;

(3) A person qualifies for appointment as the Director General if the person—

- (a) holds a minimum of an earned Doctorate Degree from a university recognized in Kenya;
- (b) has at least fifteen years' proven work experience, five of which must be at senior management level;
- (c) must be a member of a relevant professional body in good standing; and
- (d) meets the requirements of Chapter six of the Constitution.

Corporation secretary.

13. There shall be a Corporation Secretary who shall be appointed on such terms and conditions as the Council shall determine.

Establishment of the Board.

14. (1) There shall be a Board within the Institute which shall be responsible to the Council.

(2) The Board shall consist of—

(a) the Director-General, who shall be the Chairperson;

(b) the Directors responsible for—

(i) the Planning, Finance and Administration;

(ii) the Academic and Student Affairs;

(iii) the Research, Consultancy and Technical Services;

(iv) each campus of the Institute,

(c) the academic registrar;

(d) the heads of academic departments;

(e) the institute Librarian;

(f) the chairperson of the student association who shall, however not be entitled to attend deliberations of the Board considered to be confidential or which relate to examinations, the general discipline of students, and other related matters; and

(g) such other member as the Board may determine from time to time.

(3) The Director (Academic and Student Affairs) shall be the Secretary to the Board.

(4) The Board may constitute such committees as shall be necessary for the proper performance of its functions.

Functions of
the Board.

15. The Board shall be responsible for—

(a) setting and reviewing the content and academic standards of the Institute;

(b) the management of standards and criteria for training, certification, research, innovation, consultancy and technical services for the Institute;

(c) development and review of curricula for the courses offered in the water sector;

(d) determining entry levels for learning and development programs of the Institute;

(e) admitting, placing, assessing and certifying of water practitioners;

- (f) developing academic calendar of the Institute;
- (g) examinations and award of diplomas, certificates and other awards to students of the Institute;
- (h) appointment of external examiners;
- (i) collaboration in training and research;
- (j) policies on student affairs;
- (k) advise on academics, student affairs, research, consultancy and technical services offered by the Institute;
- (l) research and development in the water, sanitation and irrigation sectors; and
- (m) advising on such matters as the Council may refer to the Board.

Staff of the Institute.

16. The Council may, subject to approved Human resource instruments, employ staff as it considers necessary for the efficient discharge of the functions of the Institute.

Indemnity from personal liability.

17. Any member of the Council or staff of the Institute shall not be personally held liable for any act or default done in good faith in the exercise of the functions of the Institute.

Establishment of Alumni association.

18. There shall be an Alumni Association of the Institute which shall consist of the past graduates of the Institute and such other persons as may be determined by the Council.

Students association.

19. There shall be a students' association of the Institute which shall be established in accordance with the students' constitution.

PART III –FINANCIAL PROVISIONS

Funds, assets and liabilities of the Institute.

20. The funds, assets and liabilities of the Institute shall consist of—

- (a) such sums as the Cabinet Secretary may, with the consent of the National Treasury, make available for the purposes of this Act out of monies provided by Parliament;
- (b) any assets, liabilities, rights and privileges held by or on behalf of the Institute;
- (c) any sums or property which may in any manner become payable to, or vest in the Institute in respect of tuition fees or any other matter incidental to the carrying out of its functions;
- (d) fees and charges payable for the purposes of this Act;

- (e) all monies from any other source provided for or donated or lent to the Institute; and
- (f) any sums or property which may be donated to, or borrowed by the Institute.

Annual estimates.

21. (1) At least five 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 provision for all the estimated expenditure of the institute for the financial year concerned and in particular shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Institute and the members of the Council;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Institute;
- (c) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Institute;
- (d) the funding of training, research, outreach, innovation, consultancy and development of the Institute; and
- (e) the funding for infrastructure development, land acquisition and establishment of field stations and campuses.

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

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

Books and records of accounts.

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

(2) The Council shall within a period of three months after the end of each financial year, submit to the Auditor-General financial statements of the Institute.

(3) Annual accounts of the institute shall be prepared audited and reported in accordance with the provisions of the Constitution, the Public Audit Act, 2015, the Public Finance Management Act, 2012 and the International

No. 34 of 2015.
No. 18 of

2012. Public Sector Standards.

No. 18 of 2012. (4) Without prejudice to subsection (1), the Council shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Public Sector Accounting Standards Board in accordance with the Public Finance Management Act, 2012.

Annual reports. **23.** (1) The Council shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report on the operations and activities of the Institute.

(2) The financial year of the Institute shall be the period of twelve months ending on the thirtieth day of June, in each year.

PART IV - MISCELLANEOUS PROVISIONS

Common Seal. **24.** (1) The common seal of the Institute shall be kept in the custody of the Director-General or of such other person as the Council may direct, and shall not be used except upon the order of the Council.

(2) The common seal of the Institute shall be authenticated by the signature of the Director-General and the Chairperson of the Council. In the absence of the Chairperson, any other member of the Council may authenticate.

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

Protection of name. **25.**(1) No public officer performing functions relating to registration of companies and business names shall accept for such registration any name which includes the words "Water Institute" together with the word "Kenya" unless the application for the registration is accompanied by the written consent of the Council.

(2) Any person who, except with the written consent of the Council, uses the words "Water Institute" together with the word "Kenya" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession, commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or a fine not exceeding one million shillings; or to both:

Provided that nothing in this section shall be construed as preventing the *bona fide* use by any person of any title consequent to the grant to him of a certificate, diploma or any other award of the Institute.

Regulations. **26.** The Cabinet Secretary may make regulations for the better carrying out of the purposes of this Act.

PART V – TRANSITIONAL PROVISIONS

Assets and liabilities.

27. (1) On the appointed date—

- (a) all the funds, assets and other property, both movable and immovable, liabilities which immediately before such date were vested in the former Institute under the previous Act shall, by virtue of this paragraph, vest in the Institute; and
- (b) all rights, powers and liabilities which immediately before such date were vested in, imposed on or enforceable against the former Institute under the previous Act shall, by virtue of this paragraph, be vested in, imposed on or be enforceable against the Institute.

(2) Any reference to the former Institute in any written law, document shall on and after the appointed date, be construed to be a reference to the Institute.

(3) The administrative directions made by the former Institute under the previous Act or by the Cabinet Secretary which are in force immediately before the appointed date shall, on or after such date, have force as if they were directions made by the Council or the Cabinet Secretary under this Act.

(4) Any legal proceedings pending in any court of law or any other tribunal by or against the former Institute in respect of any matter shall be continued by or against the Institute under this Act.

(5) In this Part—

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

No. 11 of 2001.

“Former Institute” means the Kenya Water Institute established under the Kenya Water Institute Act, 2001.

Staff.

28. Any person who, immediately before the commencement of this Act, was an employee of the former Institute shall be deemed to be an employee of the Institute established under this Act.

Repeal of No. 11 of 2001.

29. The Kenya Water Institute Act, 2001 is repealed.

Dated the, 2023.

ALICE M. WAHOME
Cabinet Secretary for Water, Sanitation and Irrigation.

