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CONTENT

Act—	PAGE
The Hydrologists Act, 2017.....	373

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THE HYDROLOGISTS ACT

No. 19 of 2017

Date of Assent: 21st June, 2017

Date of Commencement: 7th July, 2017

ARRANGEMENT OF SECTIONS

Section

PART I — PRELIMINARY

1—Citation.

2—Interpretation.

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

3—Establishment of the Board.

4—Functions of the Board.

5—Powers of the Board.

6—Composition of the Board.

7—Conduct of business and affairs of the Board.

8—Protection from personal liability.

9—Allowances for Board members.

10—Staff of the Board.

11—Delegation by the Board.

PART III — THE REGISTRAR AND THE REGISTER

12—The Registrar.

13—Registers to be kept.

14—Publication of register and list.

15—Publication prima facie evidence of registration.

16—Inspection of register.

17—Proof of documents.

18—Qualifications for registration.

19—Temporary registration.

20—Annual licence.

No. 19

- 21—Practising as a hydrologist.
- 22—Power to remove from and correct register.
- 23—Restoration to the register.
- 24—Powers to suspend registration, etc.
- 25—Procedures at inquiry.
- 26—Disobedience of summons and refusal to give evidence.
- 27—Appeals.

PART IV — FINANCIAL PROVISIONS

- 28—Funds of the Board.
- 29—Financial year.
- 30—Annual estimates.
- 31—Accounts and audit.
- 32—Investment of funds.

PART V —GENERAL PROVISIONS

- 33—Restrictions on use of title by non-registered persons.
- 34—Dishonest practices.
- 35—Regulations.
- 36—Exemptions.
- 37—Transitional.

**SCHEDULE—PROVISIONS AS TO
CONDUCT OF BUSINESS AND
AFFAIRS OF THE BOARD.**

THE HYDROLOGISTS ACT, 2017

AN ACT of Parliament to provide for the registration of hydrologists and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Hydrologists Act, 2017. Citation.

2. In this Act, unless the context otherwise requires— Interpretation.
 “annual licence” means a licence issued under section 20;

“Board” means the Hydrologists Registration Board established by this Act;

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

“Chairperson” means the chairperson of the Board appointed under section 6;

“consultant hydrologist” means a person whose name has been entered in the register under section 18(3);

“hydrological assistant” means a person whose name has been entered in the register under section 18(2);

“hydrological sciences” includes hydrology, hydraulics or fluid dynamics or computational or applied mathematics;

“hydrologist” means a person whose name has been entered in the register under section 18 (1);

“register” means any of the registers required to be kept under section 13;

“Registrar” means the Registrar of the Board appointed under section 12; and

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

Cap. 108.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE BOARD

3. (1) There is established a board, to be known as the Hydrologists Registration Board. Establishment of the Board.

No. 19

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

4. The functions of the Board shall be—

Functions of the Board.

- (a) to regulate, co-ordinate and oversee the practice of hydrology;
- (b) to promote standards of professional competence and practice amongst hydrologists;
- (c) to co-ordinate research, investigations and surveys in the hydrological field;
- (d) to recognize institutions that furnish a sufficient guarantee of academic knowledge of and practical experience in hydrology;
- (e) to demand and certify hydrological studies and reports necessary for design of hydraulic structures;
- (f) to collaborate with other bodies or organizations in development of programs and facilities for advancement of hydrology and well-being of hydrologists; and
- (g) to perform any other function that is incidental or consequential to its functions under this Act or any other written law.

5. The Board shall—

Powers of the Board.

- (a) have all powers necessary for the proper performance of its functions under this Act;

- (b) administer its assets and funds in such manner and for such purpose as shall promote the best interest of the Board in accordance with this Act;
- (c) have power to receive gifts, donations, grants or other moneys and 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 Board may consider appropriate in furtherance of the purposes for which the Board is established.

6. (1) The Board shall consist of—

Composition of
the Board.

- (a) a Chairperson who shall be a member of the Society and appointed by the Cabinet Secretary;
- (b) the Principal Secretary for the time being responsible for matters relating to water resources;
- (c) the Principal Secretary for the time being responsible for matters relating to finance;
- (e) the Principal Secretary for the time being responsible for matters relating to roads construction;
- (f) the Attorney-General;
- (g) the Chief Hydrologist;
- (h) two other persons appointed by the Cabinet Secretary by virtue of their experience in the field of hydrology;
- (i) a representative of the National Environment Management Authority; and
- (j) the Registrar who shall be an *ex officio* member of the Board.

(2) All the members of the Board under paragraphs (b), (c), (d), (e) and (f) of subsection (1) may attend the meetings of the Board in person or designate a representative to attend on their behalf.

7. The conduct of business and affairs of the Board shall be as provided in the Schedule.

Conduct of
business and
affairs of the
Board.

8. A member of the Board shall not be personally liable for any act or omission of the Board done or omitted to be done in good faith in the course of carrying out the responsibilities and functions of, or exercising the powers conferred upon, the Board.

Protection from personal liability.

9. The Board shall pay members of the Board such remuneration, fees or allowances for expenses as it may determine after consultation with the Cabinet Secretary for the time being responsible for finance.

Allowances of Board members.

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

Staff of the Board.

11. The Board may, by resolution generally or in any particular case, delegate to any committee of the Board the exercise of any of the powers or of the performance of any of the functions or duties of the Board under this Act.

Delegation by the Board.

PART III—THE REGISTRAR AND THE REGISTER

12. (1) The Cabinet Secretary shall appoint a public officer as the Registrar of the Board.

The Registrar.

(2) The Registrar shall hold and vacate office in accordance with the terms and conditions of his or her appointment.

13. (1) The Registrar shall compile and keep in a place as may be directed by the Board the following registers—

Registers to be kept.

- (a) a register of hydrologists;
- (b) a register of hydrological assistants; and
- (c) a register of consultant hydrologists.

(2) Subject to payment of the prescribed fee, there shall be entered and maintained in the appropriate register, the name, address and date of entry of every person entitled to be registered under this Act together with his professional qualifications and such other particulars as may be prescribed by the Board.

(3) The Registrar shall keep or cause to be kept up-to-date all registers or records required to be kept under or for the purposes of this Act, subject to any directions which may from time to time be issued by the Board.

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

Publication of register and list.

(2) The Registrar shall, subject to the directions of the Board, cause to be published in the *Gazette* any amendments to or deletion from the register.

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

15. (1) A publication under section 14 shall be *prima facie* evidence that the persons named therein are registered under this Act.

Publication *prima facie* evidence of registration.

(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.

16. 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.

Inspection of register.

17. (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.

Proof of documents.

(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

No. 19

such document, unless the court for special case so orders.

18. (1) A person shall, on making an application to the Board in the prescribed form and on payment of the prescribed fee, be registered as a hydrologist if he or she—

Qualifications for registration.

- (a) is a holder of a degree or postgraduate diploma in hydrological sciences;
- (b) is a member of the Society;
- (c) has had not less than two years practical experience in the hydrological field.

(2) A person shall, on making an application to the Board in the prescribed form and on payment of the prescribed fee, be registered as a hydrological assistant if he—

- (a) is a holder of a diploma or an equivalent qualification in hydrology from a polytechnic or college recognized for the time being by the Board;
- (b) has had not less than three years practical experience of such a nature as to satisfy the Board as to his competence to practise as a hydrological assistant; and
- (c) is a member of the Society.

(3) A person shall, on making an application to the Board in the prescribed form and on payment of the prescribed fee, be registered as a consultant hydrologist if he or she—

- (a) has practised for at least seven years or such a period determined by the Board as a hydrologist registered under this Act; and
- (b) has satisfied the Board as to his or her having achieved a standard of competence to enable him or her to practise as a consultant hydrologist.

(4) The Board may require an applicant for registration to satisfy it that his or her professional and general conduct have been such as, in the opinion of the Board, to make him or her a fit and proper person to be registered under this Act and the Board may direct the

Registrar to postpone the registration of an applicant until so satisfied.

19. (1) Where a person satisfies the Board—

Temporary
registration.

- (a) that he or she is not ordinarily resident in Kenya;
- (b) that he or she is or intends to be present in Kenya for the express purpose of carrying out specific work for which he or she has been engaged; and
- (c) that he or she is, or was immediately before entering Kenya, in practice in such a capacity as to satisfy the Board of his or her fitness to serve the public as a person registered under this Act,

the Board may, if it thinks fit, direct that such person shall be registered either for a period not exceeding one year or for the duration of any specific work.

(2) An application for registration under this section shall be in the prescribed form and accompanied by a non-refundable fee of ten thousand shillings or such other fee that may be prescribed by the Cabinet Secretary under section 35(e).

(3) The Board may require an applicant to appear before it for the purpose of considering his application, and shall require every applicant to produce documentary evidence of his work or employment immediately prior to his entering Kenya.

(4) Registration of a person under this section shall continue only for the period or for the duration of the work specified by the Board and the decision of the Board as to whether or not the work has terminated shall be conclusive.

(5) A person registered under this section shall, in relation to the period or the work specified and to things done or omitted in respect thereof, be treated as registered under this Act but in relation to other matters shall be treated as not so registered.

20. (1) A person who is registered under this Act shall, if he or she intends to practice in a particular year, apply for an annual licence.

Annual licence.

(2) An application for an annual licence shall be in the prescribed form and shall be accompanied by the prescribed fees.

(3) The prescribed fee shall be as determined by the Cabinet Secretary from time to time.

(4) Any sum payable under subsection (2) shall be applied by the Board in such manner as may be prescribed by the Cabinet Secretary and any sum payable under subsection (2) shall be paid by the Board to the Treasury in such manner as the Cabinet Secretary for the time being responsible for finance shall prescribe.

(5) An annual licence shall bear the date on which it is issued and shall be effective from that date, and shall expire at the end of the licence year in which it is issued.

(6) Where the name of a person registered under this Act is removed from the register, the annual licence of that person shall expire immediately.

(7) The licence year shall be from the first day of January to the thirty first day of December in each year.

(8) The Registrar shall enter on the register a notice of the date of issue of every annual licence.

21. (1) A person practices as a hydrologist if, in consideration of remuneration or other benefits received or to be received and whether by himself or in partnership with any other person he or she—

Practice of hydrology.

- (a) engages in the public practice of hydrology or holds himself out to the public as a person entitled to do so;
- (b) offers to perform or performs services involving the verification of hydrological data, studies and design or hydrometric installations;
- (c) offers to perform or performs services involving hydrological studies, design and investigations and assessment of water resources potential; or
- (d) engages in any practice, or performs or offers to perform any services, which may be prescribed.

(2) A person employed by the national or county government or by any other person or organization, and who is entitled to remuneration from such employment shall not, for the purposes of this Act, be deemed to be a person who practices hydrology under subsection (1).

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

Power to remove from and correct register.

- (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 that his name be removed from the register, in which case such person may be required to satisfy the Board by affidavit lodged with the Registrar that no criminal proceedings or proceedings under section 24 are being or are likely to be taken against him or her;
- (c) is found by the Board to be guilty of such misconduct subject to section 24; or
- (d) fails to renew the annual licence issued by the Board enabling him or her to practise as a person registered under this Act within a period of three months from the date of expiry of the previous licence.

(2) The Registrar may without direction of the Board 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 23, a person whose name has been removed from the register shall cease from the date of such removal to be registered for the purposes of this Act.

23. (1) Where the name of any person has been removed from the register under section 22, the name of that person shall not be again entered in the register except by direction of the Board.

Restoration to the register.

(2) Where the name of any person has been removed from the register or the effect of the registration of any person has been suspended in terms of section 24(1)(b), the

No. 19

Board may, either of its own motion or on the application of the person concerned made in the prescribed manner, and in either case after holding such inquiry as the Board thinks fit, direct that—

- (a) the removal from the register be confirmed; or
- (b) the name of that person be restored to the register;
or
- (c) the suspension of the effect of the registration of that person be terminated.

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

24. (1) If a person registered under this Act is convicted of an offence under this Act, or is, after due inquiry held by the Board, found to have been guilty of an act or omission amounting to improper or disgraceful conduct in a professional respect, the Board may—

Powers to
suspend
registration, etc.

- (a) caution or censure such a person;
- (b) suspend his or her registration for a period; or
- (c) direct that his name be removed from the register.

(2) For the purposes of this section, a hydrologist who describes himself or herself as a consultant hydrologist shall be guilty of improper conduct in a professional respect if he or she can be shown to have any direct or indirect interest such as would tend to influence his or her exercise of independent professional judgment in the matters upon which he or she advises.

(3) For the purposes of this section, a hydrological assistant who describes himself or herself in any way so as to imply that he or she is, or so as to lead any person to think that he or she is, qualified for registration as a hydrologist shall be guilty of improper or disgraceful conduct in a professional respect.

25. (1) Upon any inquiry held by the Board under this Act, the person whose conduct is being inquired into shall

Procedures at
inquiry.

be entitled to appeal and to be heard in person or to be represented by an advocate.

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

- (a) administer oaths;
- (b) summon persons to attend and give evidence; and
- (c) order the production of documents.

(3) All summonses and orders issued under the hand of the Chairperson or Registrar shall be deemed to be issued by the Board.

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

(5) Subject to this section and to any Regulations made under section 35, the Board shall have power to regulate its own procedure at an inquiry held by it.

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

Cap.63.

26. (1) Any person upon whom a summons or order issued under section 25 has been served who—

Disobedience of summons and refusal to give evidence.

- (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 questions put to him or her by or with the concurrence of the Board; or
- (c) refuses or omits to produce any documents in his possession or under his control which are specified in the order,

commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings.

(2) A person giving evidence before the Board shall, in respect of any evidence given by him or any document produced by him, be entitled to all the privileges to which he would be entitled as a witness before the High Court.

27. (1) A person aggrieved by a decision of the Board—

Appeals.

- (a) to refuse to register his or her name;
- (b) to remove the name of a person registered under this Act from the register; or
- (c) to suspend the effect of or to refuse to restore his or her name to the register, may appeal to the High Court against the decision of the Board.

(2) A High Court hearing an appeal under subsection (1) may give such directions in the matter as it thinks proper, and any order of the High Court under this section shall be final.

(3) The Board may appear as respondent and be heard on any appeal against its decision and, for the purpose of enabling directions to be given as to the costs of any such appeal, the Board shall be deemed to be a party thereto, whether or not it appears at the hearing of the appeal.

(4) Until rules of court are made under the Judicature Act for such appeals, and subject to any such rules when made, the provisions of the Civil Procedure Act shall apply as if the decision or direction of the Board were a decree of a subordinate court exercising original jurisdiction.

Cap.8.

Cap.21.

PART IV—FINANCIAL PROVISIONS

28. The funds and assets of the Board shall consist of—

Funds of the Board.

- (a) such moneys or assets as may accrue to or vest in the Board in the course of the exercise of the powers or the performance of its functions under this Act;
- (b) such moneys as may be payable to the Board pursuant to this Act or any other written law;
- (c) such gifts as may be given to the Board;
- (d) such moneys as may be appropriated by Parliament for the purposes of the Board; and
- (e) all moneys from any other source provided, donated or lent to the Board.

29. The financial year of the Board shall be the period of twelve months ending on the thirtieth day of June in each year.

Financial year.

30. (1) At least three months before the commencement of each financial year, the Board shall

Annual estimates.

cause to be prepared estimates of the revenue and expenditure of the Board for that year.

(2) The annual estimates shall make provisions for all estimated expenditure of the Board for the financial year concerned, and in particular 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 Board;
- (b) proper maintenance of the buildings and grounds of the Board;
- (c) proper maintenance, repair and replacement of the equipment and other property of the Board; 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 Board may think fit.

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

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

31. (1) The Board shall cause to be kept all proper books and records of the income, expenditure, assets and liabilities of the Board.

Accounts and
audit.

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

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the assets and liabilities of the Board on the last day of the year.

No. 19

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

No. 34 of 2015.

32. The Board may invest any of the funds in securities in which the Board may by law invest funds for or in any other securities which the Treasury may from time to time approve for that purpose.

Investment of funds.

PART V—MISCELLANEOUS PROVISIONS

33. (1) Any person who—

Restrictions on use of titles by non-registered persons.

- (a) pretends to be a hydrologist or a hydrological assistant or a consultant hydrologist; or
- (b) subject to section 36, takes or uses in any way the style or title of “hydrologist” 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 a hydrologist; or
- (c) in any way holds himself or herself out to be a hydrologist of any description,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) Any person who—

- (a) being registered under this Act as a hydrological assistant in any way pretends to be or acts as if he or she was a hydrologist; or
- (b) being registered under this Act as a hydrologist or a hydrological assistant in any way pretends to be or act as if he or she was a consultant hydrologist; or
- (c) being registered under this Act, in one or more category pretends to be, or acts as if he or she was, registered in another category,

commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both.

34. Any person who—

Dishonest
practices.

- (a) fraudulently makes, or causes or permits to be made, any false or incorrect entry in the register or any copy thereof; or
- (b) fraudulently procures or attempts to procure himself or herself or any other person to be registered; or
- (c) knowingly and wilfully makes any statement which is false in a 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 current valid annual licence,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

35. Subject to section 27(4), 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, any such regulations may provide for—

Regulations.

- (a) the conduct of the business of the Board and the procedure to be followed by the Board in any inquiry under this Act;
- (b) the appointment by the Board amongst its members of sub-committees and the co-option of persons thereto;
- (c) the duties of the Registrar;
- (d) the issue of certificates of registration and annual licences;
- (e) the fees to be paid for anything which may be done under this Act;
- (f) the forms to be used under this Act;
- (g) the exemption of any persons or class of persons from all or any of the provisions of this Act,

provided they comply with such conditions as may be prescribed by the regulations; and

- (h) prescribing anything which under this Act may be prescribed.

36. The Cabinet Secretary may by regulations made under section 35 exempt certain persons, or classes of persons in particular hydrology disciplines or in particular occupations or employment, from having to comply with any or all of the provisions of this Act.

Exemptions.

37. (1) After the expiration of six months or such longer period as the Cabinet Secretary may declare by a notice in the *Gazette*, after the commencement of this Act, no person shall practice as such unless he is a holder of an annual licence that is in force.

Transitional provisions.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

SCHEDULE

(s.7)

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

1. All Board members other than *ex-officio* members shall, in addition to being fellows or ordinary members of the Society, be persons eligible for registration under this Act.

Membership of the Board.

2. Any member of the Board, other than an *ex-officio* member shall, subject to the provisions of this Schedule, hold office for a period not exceeding three years, on such terms as may be specified in the instrument of his or her appointment, but shall be eligible for re-appointment for one further term of three years.

Tenure of office.

3. A member of the Board, other than *ex-officio* member, may—

Vacation of office.

- (a) at any time resign from office by notice in writing to the Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary if the member—