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THE NUTRITIONISTS AND DIETICIANS (AMENDMENT) BILL, 2017

A Bill for

AN ACT of Parliament to make amendments to the Nutritionists and Dieticians Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Nutritionists and Dieticians (Amendment) Act, 2017.

2. The Nutritionists and Dieticians Act, in this Act referred to as “principal Act” is amended by deleting the short title and substituting therefor the following new short title—

“The Nutrition and Dietetics Act”

3. The long title to the principal Act is amended by inserting the words “to regulate the trade in food and food supplements” immediately after the words “relating to nutrition and dietetics”.

4. The principal Act is amended in section 2 by—

(a) deleting the definition of the term “Council” wherever it appears and substituting therefore the following new definition—

“Council” means the Council of the Kenya Nutrition and Dietetics Institute established under section 5 of this Act;”

(b) deleting the definition of the term “consultant dietician” and substituting therefore the following new definition—

“consultant dietician” means a dietician of not less than fifteen years standing with at least a masters degree in dietetics and demonstrable experience in matters of the profession;”

(c) deleting the definition of the term “consultant nutritionist” and substituting therefore the following new definition—
“consultant nutritionist” means a nutritionist of not less than 15 years standing with at least a masters degree in nutrition and demonstrable experience in the profession;

(d) deleting the definition of the term “dietician”;

(e) deleting the definition of the term “Institute” and substituting therefore the following new definition—

“Institute” means the Kenya Nutrition and Dietetics Institute established under section 4;

(f) deleting the definition of the term “nutritionist”;

(g) deleting the definition of the term “Minister” and substituting therefor the following—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for health;

(h) deleting the term “Minister” wherever it appears and substituting therefor the term “Cabinet Secretary”;

(i) inserting the following new definitions in their proper alphabetical sequence—

“article” includes—

(a) food or food supplements and labelling or advertising materials in respect of food and food supplements; or

(b) anything used for the preparation, preservation, packaging or storing of food or food supplements;

“container” has the same meaning assigned to it under section 2 of the Food, Drugs and Chemical Substances Act;

“diet” means food or nutrients concentrates consumed by a person for purposes of nourishment;

“dietetics technician” means a person who has undergone professional training at certificate level in dietetics and is so registered by the Kenya Nutrition and Dietetics Institute;

“dietetics technologist” means a person who has undergone professional training at diploma level in
dietetics and is so registered by the Kenya Nutrition and Dietetics Institute;

“food” means substances whose constituents are one or more nutrients and includes any article manufactured, prepared, sold or represented for use as food or drink for human consumption, chewing gum, and any ingredient of such food, drink or chewing gum;

“food inspector” means a person appointed under section 6 of this Act to inspect food for purposes of examining foods to ensure the food is wholesome, clean and free from unsafe microbes or chemical contamination, natural or added deleterious substances, and decomposition during production, processing or packaging;

“food standard” means the minimum requirements that should be fulfilled by the products of food or nutrient origin that are intended for ingestion;

“food supplement standard” means the minimum requirements to be fulfilled by the products of food supplements or nutrient supplements that are intended for ingestion;

“food supplements” means products intended for ingestion that contain dietary ingredients or specific nutrients to cater for increased physiological needs of the body which are taken orally or intravenously;

“indexing” means a process of gathering information on an individual student pursuing a course in nutrition or dietetics or both for purposes of monitoring and subsequent registration with the Kenya Nutrition and Dietetics Institute upon graduation;

“insanitary conditions” has the same meaning assigned to it under section 2 of the Food, Drugs and Chemical Substances Act;

“label” has the same meaning assigned to it under section 2 of the Food, Drugs and Chemical Substances Act;
“nutrients” means substances contained in food which provide nourishment for growth or metabolism;

“nutrition technician” means a person who has undergone professional training at certificate level in nutrition and is registered with the Kenya Nutrition and Dietetics Institute;

“nutrition technologist” means a person who has undergone professional training at diploma level in nutrition and is registered with the Kenya Nutrition and Dietetics Institute;

“package” includes anything in which any food or food supplements are wholly or partly placed or packed;

“premises” includes any building or tent together with the land on which the same is situated and any adjoining land used in connection with the premises and includes any vehicle, conveyance or vessel used for purposes of manufacturing, preparing, storing, transporting, or selling food or food supplements or both;

“sell” has the same meaning assigned to it under the Food, Drugs and Chemical Substances Act;

5. The principal Act is amended by deleting section 3 and substituting therefor the following new section—

3. (1) Subject to the provisions of this Act, a person shall not practice under the name, title or style containing the words or phrases “nutritionist” or “dietician” unless the person holds a relevant certificate, diploma or degree awarded by a recognized college or university and is registered under this Act as a nutritionist or dietician.

(2) Notwithstanding any other provisions of this Act, a person registered under this Act who is not the holder of a university degree shall practice only under the supervision of a registered practitioner working in public or private practice.
(3) A person registered as a nutritionist or dietician under this Act may, upon application and payment of the prescribed fee be licensed to practice privately after working under a qualified nutritionist or dietician for one year.

6. Section 4 of the principal Act is amended by deleting the words “Kenya Nutritionists and Dieticians Institute” appearing in subsection (1) and substituting the words “Kenya Nutrition and Dietetics Institute”.

7. Section 5 of the principal Act is amended—

(a) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) The Council shall consist of—

(a) a Chairperson who shall—

(i) be competitively appointed by the Cabinet Secretary from a list of three candidates nominated by the Nutrition Association of Kenya through a competitive and transparent process;

(ii) have over fifteen years professional experience; and

(iii) be the holder of a doctorate degree in nutrition or dietetics.

(b) one nutritionist in private practice who shall be the holder of at least a bachelors degree in nutrition;

(c) one representative from the Kenya Nutrition and dietetics Institute;

(d) the Director of Medical Services in the Ministry responsible for health or a representative designated by the Director in writing;

(e) the Director of Agriculture in the Ministry responsible for agriculture or a representative designated by the Director in writing;
(f) one representative appointed by the federation of Kenya Consumer Organizations, who shall be the holder of at least a bachelors degree in a relevant discipline;

(g) one representative of faculties teaching nutrition and dietetics in universities who shall be the holder of at least a masters degree in nutrition or dietetics or an allied field;

(h) one representative of middle level colleges offering courses in nutrition or dietetics or both; and

(i) one nutritionist or dietician from a County or National referral hospital;"

(b) The members of the Council shall elect a vice chairperson from their number at the first meeting of the Council.

(c) by inserting the following new subsections immediately after subsection (4):

“(5) The chairperson of the Council shall be an executive chair and shall work on full time basis.

(6) The Chairperson and members of the Council shall satisfy the requirements of chapter six of the constitution of Kenya.

(7) The appointment of the Chairperson and members of the Council shall be guided by the values and principles of public service.”

8. The principal act is amended by inserting the following new section immediately after section 5—

5A. The conduct and regulation of the business and affairs of the Council shall be as provided in the first schedule.

9. Section 6 of the principal Act is amended by inserting the following new paragraphs immediately after paragraph (h)—

“(ha) inspect and certify all premises for preparation and sale of food and food supplements;
(hb) analyze or cause to be analyzed samples of food or food supplements to ascertain the composition;

(hc) appoint food inspectors who shall serve on such terms and conditions as the Council may determine from time to time in consultation with the Salaries and Remuneration Commission;

(hd) register all food manufacturers, wholesalers, distributors and retailers; and

(he) develop standards for various foods and food supplements."

10. The principal Act is amended by deleting section 8 and substituting therefor the following new section—

8. (1) The chairperson of the Council shall be paid such fees and other allowances as the Institute may determine from time to time in consultation with the Salaries and Remuneration Commission.

(2) The members of the Council appointed under section 5 (2) (b), (c), (d), (e), (f), (g), (h) and (i) shall draw sitting and other allowances as the Council may determine from time to time in consultation with the Salaries and Remuneration Commission.

11. The principal Act is amended in section 9 by inserting the following new subsections immediately after subsection (3)—

“(4) The Chief Executive Officer shall be an ex-officio member of the Council.”

12. The Principal Act is amended by inserting the following new section immediately after section 9—

9A. A person qualifies for appointment as Chief Executive Officer if the person—

(a) is the holder of a doctorate degree or its equivalent in nutrition or
dietetics or a relevant field awarded by a recognized university;
(b) has cumulative professional and administrative experience of at least five years; and
(c) meets the requirements of chapter six of the Constitution.

13. The principal Act is amended by deleting section 12 and substituting therefor the following—

12. (1) The Council shall establish following committees—

(a) accreditation Committee;
(b) food quality assurance Committee;
(c) registration Committee;
(d) disciplinary committee; and
(e) such other committees as the Council may determine from time to time.

14. The principal Act is amended by deleting section 13 and substituting therefor the following—

13. (1) There is established the Accreditation Committee.
(2) The functions of the Accreditation Committee shall be to—

(a) prepare syllabuses of instructions on training courses leading to accreditation examination for persons seeking registration under this Act;
(b) prepare and conduct examinations for persons seeking registration under this Act;
(c) charge appropriate examination fees in consultation with the Council of the Institute;
(d) prepare rules to be made by the Institute regarding the standard of proficiency to be gained in each examination for a diploma, degree or other award;

(e) carry out the indexing of students enrolled in various institutions and monitor their progression; and

(f) report the decisions of the committee to the Council.

13. The principal Act is amended by deleting section 14 and substituting therefor the following—

Food quality assurance committee.

14. (1) There is established the Food Quality Assurance Committee.

(2) The Food Quality Assurance Committee shall perform the general functions relating to food and food supplements under this Act.

14. The principal Act is amended by deleting section 15 and substituting therefor the following—

The registration committee.

15. (1) There is established the Registration Committee.

(2) The functions of the Registration Committee shall be to—

(a) register persons qualified to be registered under this Act;

(b) deregister members in accordance with this Act;

(c) maintain a register of all members in such manner as the council may determine from time to time;

(d) license members in accordance with the provisions of this Act; and

(e) issue certificates of search signed by the Chief Executive Officer to any person upon application and payment of the prescribed fee.
(2) The certificate of search issued by the registration committee shall be conclusive evidence of the registration status of the person against whom it is issued.

15. The principal Act is amended by deleting section 16 and substituting therefor the following—

Persons entitled to be registered.

16. A person shall be entitled to registration if the person satisfies the Council that he is of good conduct and—

(a) has successfully undergone a certificate, diploma or degree course of instruction and has passed the appropriate examinations conducted or prescribed by the Institute; and

(b) has passed the accreditation examination set by the accreditation committee of the Council under this Act;

16. The principal Act is amended by deleting section 17 and substituting therefor the following new section—

Application for registration.

17. (1) A person who is eligible to be registered under this Act shall apply to the Council in the prescribed form.

(2) Where the Council declines the application for registration, it shall do so in writing stating the grounds for declining the application.

(3) A person whose application is declined by the Council may appeal to the High Court within twenty one days of notification of the decision of the Council.

17. Section 19 of the principal Act is amended by—

(a) deleting the word "Registrar" wherever it appears and substituting therefor the words "Chief Executive Officer"; and
(b) deleting the word “immediately” appearing in subsection (3) and substituting therefore the words “at least fourteen (14) days”.

18. The principal Act is amended in section 21 by inserting the words “within twenty one days of notification of the decision.” immediately after the words “High Court” appearing in subsection (1).

19. The principal Act is amended in section 24 subsection (4) by deleting the word “record” and substituting therefor the word “register.”

20. Section 25 of the principal Act is amended—

(a) by deleting subsection (2) and substituting therefor the following new subsection—

“(2) The Committee shall consist of—

(a) a chairperson appointed by the Council who shall be an advocate of the High Court of Kenya of not less than eight years standing nominated by the Law Society of Kenya;

(b) a Vice-Chairperson who shall be an advocate of the High Court of Kenya of not less than five years standing nominated by the Law Society of Kenya; and

(c) three other members who shall be qualified nutritionists or dieticians and who shall not be members of the Council or a Committee of the Council”

(b) by inserting the following new subsections immediately after subsection (2)—

“2A. The quorum for the conduct of the business of the Committee shall be three members.

2B. Members of the Disciplinary Committee shall be paid such allowances as the Council may determine from time to time in consultation with the Salaries and Remuneration Commission.”

(c) renumbering subsection (3), (4) and (5) in proper numerical order.

21. The principal Act is amended by inserting the following new part immediately after section 26.
PART II A — Regulation of Food and Food Supplements

26A. (1) A premises used for handling food or food supplements shall be registered under this Act.

(2) A person who—

(a) operates an unregistered premises commits an offence and shall, upon conviction be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or to both.

(b) corporate persons shall, upon conviction, be liable to cancellation of their licenses for a term not exceeding one year or such other period as it may be necessary for them to comply.

26B. A person who sells any food or food supplements that—

(a) contains poisonous or harmful substances;

(b) is unwholesome or unfit for human consumption;

(c) contains in whole or in part of any filthy, putrid, disgusting, rotten, decomposed or diseased substance or foreign matter; or

(d) is adulterated,

commits an offence and shall upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or both, while corporate persons shall be liable to cancellation of their licenses for a period not exceeding two years or such other period as it may be necessary for them to comply.
26C. A person who labels, packages, treats, processes, sells or advertises any food or food supplements—

(a) in contravention of any regulations made under this Act; or

(b) in a manner that is false, misleading or deceptive as regards its character, nature, value, substance, quality, composition, merit or safety commits an offence and shall upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or both, while corporate persons shall be liable to cancellation of their licenses for a period not exceeding two years or such other period as it may be necessary for them to comply.

26D. Where a standard has been prescribed for any food or food supplements, any person who labels, packages, sells or advertises any food—

(a) which does not comply with that standard; or

(b) in such a manner that it is likely to be mistaken for food or food supplements of the prescribed standard commits an offence and shall, upon conviction be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or both, while corporate persons shall be liable to cancellation of their licenses for a term not exceeding two years or such other period as it may be necessary for them to comply.

26E. A person who sells to the prejudice of the purchaser any food or food supplements which is not of the nature, substance or quality of the article demanded
by the purchaser commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or imprisonment for a term not exceeding three years or both, while corporate persons shall be liable to cancellation of their licenses for a term not exceeding two years or such other period as it may be necessary for them to comply.

26F. A person who sells, prepares, packages, conveys, stores or displays for sale any food or food supplements under insanitary conditions commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or both, while corporate persons shall be liable to cancellation of their licenses for a term not exceeding two years or such other period as it may be necessary for them to comply.

26G. The Cabinet Secretary shall in consultation with the Council of the Institute publish regulations, guidelines and standards for the better carrying out of this part of the Act.

22. The principal Act is amended in section 27 by—

(a) deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) such fees, monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act or any other written law; and”

(b) deleting paragraph (c) and substituting therefore the following new paragraph—

“(c) such fees charged by the Committee of Accreditation as determined by the Council.”

23. The principal Act is amended by inserting the following new section immediately after section 27—
Establishment of the General Fund.

27A. (1) There is established a Fund of the institute known as the General Fund.

(2) The Fund shall vest in the Institute and shall be administered by the Council in accordance with the provisions of the Public Finance Management Act.

(3) The Fund shall consist of—

(a) all monies received as subventions, grants or donations to the Fund;

(b) monies earned or arising from any investment of the Fund;

(c) foreign aid and assistance from bilateral and multilateral agencies; and

(d) all other sums which may, in any manner become lawfully payable to, received by or vested in the Institute relating to any matter incidental to its duties and functions under this Act.”

24. The Kenya Nutrition and Dietetics Institute may charge fees to its members to meet any additional costs associated with Institute.

25. The principal Act is amended by deleting section 30 and substituting therefor the following new section—

Annual estimates.

30. (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 financial year.

(2) The annual estimates shall provide for—

(a) the payment of the salaries, allowances and other charges in respect of staff and other employees of the Institute;

(b) the payment of pensions, gratuities and other charges in respect of staff
and other employees of the Institute;

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

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

(e) the 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 Institute may deem appropriate.

26. The principal Act is amended by deleting section 33 and substituting therefor the following new section—

33. A person who, though eligible to be registered or licensed under this Act and is not so registered or licensed but practices as a nutritionist or dietician, commits an offence and is liable upon conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or both.”

27. The principal Act is amended in section 34 by deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) issues any document, statement or seal implying that the Institution under his charge is approved by the Institute as an institution for the training of persons seeking registration under this Act, commits an offence and is, upon conviction, liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or both.”

28. The written laws identified in the schedule are amended in the manner identified therein.
29. The principal Act is amended by deleting the first schedule and substituting therefor the following new First Schedule.

FIRST SCHEDULE (S.5A)

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

1. The Chairperson and every member of the Council shall hold office for a term of three years and shall be eligible for re-appointment for a further and final term of three years.

2. A chairperson, Vice Chairperson or member of the Council other than an ex-officio member may be removed from office on account of any of the following—
   (a) violation of the Constitution or any other written law;
   (b) gross misconduct;
   (c) physical or mental incapacity to perform the functions of the office;
   (d) being absent from three consecutive meetings of the Council, without the written Authority of the Chairperson;
   (e) being convicted of a criminal offence;
   (f) incompetence; or
   (g) bankruptcy.

3. The Council shall have at least four meetings in every financial year and not more than four months shall elapse between the date of one meeting and the next meeting.

4. Minutes of all minutes shall be recorded and entered in books kept for that purpose.

5. A decision of the Council shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a casting vote.

6. 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.

7. (1) The Chairperson shall preside at all meetings of the Council, which he is present and in the case of his absence, the Vice Chairperson shall preside.

(2) At a meeting of the Council at which neither the Chairperson or Vice Chairperson is present, 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 thereat.

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


10. 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.

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

12. (1) Where a member of the Council is directly or indirectly interested in any contract, proposed contract or other matter before the Council the member shall, as soon as reasonably practicable disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the 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.

SCHEDULE

Consequential Amendments

Food, Drugs and Chemical Substances Act, 2013

1. (1) This paragraph amends the Food, Drugs and Chemical Substances Act.
(2) The Act is amended by—
(a) deleting section 3;
(b) deleting section 4;
(c) deleting section 5;
(d) deleting section 6; and
(e) deleting section 7;
(3) Section 28 of the Act is amended—
(a) by deleting paragraph (a)
(b) in subsection (1) by—
   (i) deleting the word “food” appearing immediately after the words “property of any” in paragraph (a); and
   (ii) deleting the word “food” appearing immediately after the words “the analysis of” in paragraph (i).
(4) The schedule to the Act is amended by—
(a) deleting section 2;
(b) deleting section 3;
(c) deleting section 4;
(d) deleting section 5;
(e) deleting section 6;
(f) deleting section 7;
(5) The Act is amended by deleting the second schedule.

Public Health Act, 2012

2. (1) This paragraph amends the Public Health Act.
(2) The Act is amended by—
(a) deleting section 131;
(b) deleting section 132; and
(c) deleting section 133.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to make necessary amendments to the Nutritionist and Dieticians Act No. 18 of 2007. The amendments proposed in this Bill seek to align the Act to emerging developments in the profession and enhance regulatory mechanisms in the Act.

The Bill also seeks to expand the scope of nutrition and dietetics to create new offences relating to the regulation of the practice of nutrition and dietetics in the country. The Bill further proposes to enhance penalties meted out for offences under the Act to put them in conformity with modern economic developments taking into account the recent sustained inflation trends.

Clause 2 of the Bill amends the title of the principal Act to provide for a new title.

Clause 3 of the Bill amends the long title of the principal Act to provide for regulation of food and food supplements.

Clause 4 of the Bill seeks to amend section 2 of the principal Act by making provisions for the definition of several new terms as used in the Bill.

Clause 5 of the Bill proposes to repeal section 3 of the principal Act to make provisions on the restriction of the use of professional titles under the Act.

Clause 6 of the Bill seeks to make new provisions on composition of the Council.

Clause 7 of the Bill seeks to amend section 6 of the principal Act by bestowing additional powers on the Institute.

Clause 8 of the Bill seeks to repeal section 8 of the principal Act to provide for the remuneration of Council members.

Clause 9 of the Bill seeks to amend section 9 of the principal Act to make provision for an additional role of the Chief Executive Officer.

Clause 10 of the Bill seeks to repeal subsection (2) of section 9 of the principal Act to provide for appointment criteria of the Chief Executive Officer.

Clause 11 of the Bill seeks to repeal and replace section 12 of the Bill to establish committees of the Council.

Clause 12 of the Bill seeks to repeal and replace section 13 of the Bill to provide for the functions of the Accreditation Committee.

Clause 13 seeks to repeal and replace section 14 of the Bill to
provide for the functions of the food quality Assurance Committee

Clause 14 of the Bill seeks to repeal and replace section 15 of the Bill to provide for the functions of the Registration Committee.

Clause 15 seeks to repeal and replace section 16 of the Bill to make provisions relating to persons entitled to be registered.

Clause 16 seeks to repeal and replace section 17 to make provisions relating to application for registration.

Clause 17 seeks to amend section 19 of the principal Act to delete the word “Registrar” and substitute therefor the words “Chief Executive Officer”. The amendment also seeks to provide for a minimum duration within which a person whose name has been removed from the register must be notified.

Clause 18 seeks to amend section 21 of the principal Act to provide for a period within which a person aggrieved by a decision of the Board may appeal.

Clause 19 seeks to amend section 24 of the principal Act to delete the word “record” and substitute therefor the word “register”.

Clause 20 seeks to amend section 25 of the principal Act to provide for the composition and remuneration of members of the Disciplinary Committee.

Clause 21 proposes to amend part III of the principal Act by inserting a new part IIIA to provide for the regulation of food and food supplements.

Clause 22 of the Bill seeks to amend the principal Act by inserting a new paragraph to make provisions relating to the funds of the institute;

Clause 23 of the Bill seeks to amend the principal Act by inserting a new section 27A to establish the General Fund of the Institute.

Clause 24 of the Bill seeks to repeal and replace section 30 of the principal Act to provide for the annual estimates of the Institute.

Clause 25 of the Bill seeks to repeal and replace section 32 of the principal Act to provide for offences by persons eligible to be registered or licensed.

Clause 26 seeks to amend section 34 of the principal Act to make provisions relating to offences by persons in charge of training institutions.
Statement on delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill does not concern county governments in terms of Article 110 (a) of the Constitution.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 27th March, 2017.

MARY EMAASE,
Member of Parliament.
The long title of the Nutritionists and Dieticians Act which it is sought to amend

An Act of Parliament to provide for the training, registration and licensing of nutritionists and dieticians; to provide for the regulation of the standards, and practice of the profession; to ensure their effective participation in matters relating to nutrition and dietetics, and for connected purposes

Section 2 of the Nutritionists and Dieticians Act which it is sought to amend—

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

“approved” means passed as sufficient and adequate by the Council or other body legally empowered to declare persons and processes fit and proper;

“Council” means the Council of the Institute of Nutritionists and Dieticians established under section 6 of this Act;

“consultant nutritionist” means a nutritionist who works under a specific contract of service in a health facility or in private practice;

“consultant dietician” means a dietician who works under a specific contract of service in a health facility or in private practice;

“Council” means the Council of the Institute set up under section 5;

“dietician” means a person who is registered as a dietician under this Act;

“health institution” means a hospital, clinic, nursing home, or any other lawful place that offers healthcare services, whether private or public;

“Institute” means the Kenya Nutritionists and Dieticians Institute established under section 4;

“Nutrition Association of Kenya” means the association of that name registered under the Societies Act (Cap. 108);

“Kenya Coalition for Action in Nutrition” means the association of that name registered under the Societies Act;
“Minister” means the Minister responsible for Health;

“Kenya Medical Association” means the association of that name registered under the Societies Act (Cap. 108);

“medical personnel” includes a medical practitioner registered under the Medical Practitioners and Dentists Act (Cap. 253) and a nurse within the meaning of the Nurses Act (Cap. 257);

“nutritionist” means a person who is registered as a nutritionist under this Act.

Section 3 of Nutritionists and Dieticians Act which it is sought to amend

3. Subject to the provisions of this Act, no person shall practise under any name, title or style containing the words or phrases “Nutrition”, “Nutritionist”, or “Dietician”, unless that person is registered under this Act as a nutritionist or dietician, as the case may be.

Section 5 of Nutritionists and Dieticians Act which it is sought to amend

5. Establishment and composition of the Council of the Institute

(1) The Council of the Institute is hereby established.

(2) The Council shall consist of—

(a) a Chairperson elected in terms of the First Schedule, who shall be a qualified nutritionist or dietician with at least 5 years of professional experience; and

(b) four other nutritionists or dieticians, at least two of whom shall be women, elected in the manner set out in the First Schedule;

(c) the Director of Medical Services, or his representative nominated by him/her in writing;

(d) the Director of Nutrition and Dietetic Services in the Ministry of Health;

(e) the Chief Nutritionist in the Kenyatta National Hospital;

Section 6 of Nutritionists and Dieticians Act which it is sought to amend

6. The functions of the Council shall be to—
(a) determine and set a framework for the professional practice of nutritionists and dieticians;

(b) set and enforce standards of professional practice and ethics on nutrition and dietetic;

(c) approve institutions as institutions for the purpose of training persons seeking registration under this Act;

(d) enforce a programme of quality assurance for the nutrition and dietetic profession;

(e) research into and provide public education on nutrition and dietetics;

(f) maintain the competence of members by updating their knowledge through publications and the conduct of continuing professional education;

(g) provide training for nutritionists and dieticians;

(h) design programmes and methods for sensitization on suitable dietary and nutritional habits; and

(i) perform such other functions as may be necessary for the proper administration of this Act.

Section 8 of Nutritionists and Dieticians Act which it is sought to amend

8. The Institute shall pay to its Council members such remuneration, fees or allowances for expenses as it may determine with the approval of the Minister.

Section 9 of the principal Act which it is proposed to amend

9. (1) There shall be a Chief Executive Officer of the Institute who shall be appointed by the Council and whose terms and conditions of service shall be determined by the Council in the instrument of appointment.

(2) The Chief Executive Officer shall hold office for a period of five years, renewable once.

(3) The Chief Executive Officer shall, subject to the direction of the Council, be responsible for the management of the affairs of the Institute and shall be the secretary to the Council.
Section 12 of the principal Act which it is proposed to amend

12. (1) There is hereby established a Board known as the Kenya Nutrition and Dieticians Accreditation Board.

(2) The Board shall consist of—

(a) a Chairperson appointed by the Minister, who shall be a qualified nutritionist or dietician;

(b) five persons who shall be qualified nutritionists or dieticians nominated by the Council, two of whom shall be from institutions of higher learning, and appointed by the Commission for Higher Education;

(c) two persons nominated by the Minister responsible for Education, one of whom shall be from the Kenya Institute of Education, and the other from the Kenya National Examination Council;

(d) two persons nominated by the Commission for Higher Education; and

(e) two persons nominated by the Minister responsible for Health.

(3) In nominating the persons under subsection (2) (b), the Council shall have regard to gender parity.

Section 13 of the principal Act which it is proposed to amend—

13. The Accreditation Board shall generally have regard to the conduct of examinations and in particular shall—

(a) prepare syllabuses of instruction and training courses for persons seeking registration under the Act;

(b) prepare and conduct examinations for persons seeking registration under the Act;

(c) charge the appropriate examination fees in consultation with the Council of the Institute;

(d) prepare regulations to be made by the Institute regarding the standard of proficiency to be gained
in each examination for a diploma, degree
or other award; and

(e) report its decisions to the Council.

Section 14 of the principal Act which it is proposed to
repeal

14. (1) There shall be a Secretary who shall be an
officer of Accreditation Board.

(2) The Secretary shall be responsible for the day to
day affairs of the Accreditation Board and shall exercise
and perform any such functions as the Board may from
time to time determine.

Section 19 of the principal Act which it is proposed to
amend—

19. (1) The Council may at any time direct that the
name of a person be removed from the register where such
person—

(a) fails within a period of six months from the date of
an inquiry sent by the Registrar by registered post
to the address appearing in the register against
such person’s 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 Council by an affidavit
lodged with the Registrar that no criminal
proceedings under this Act have been
instituted or are likely to be instituted against him; or

(c) is found by the Council to be guilty of
professional misconduct in accordance with this
Act.

(2) The Registrar shall remove from the register any
entry which has been incorrectly or fraudulently made.

(3) Subject to the provisions of this Act, the removal
of a person’s name from the register shall be notified by the
Registrar to the person by registered mail addressed to the
address appearing in the register against his name
immediately before such removal.
(4) Where the name of any person has been removed from the register under this Act, such name shall not be reinstated except by direction of the Council.

(5) The Registrar shall from time to time update the register, removing from it the names of any deceased members and degazetting them.

Section 22 of the principal Act which it is proposed to amend—

22. (1) Any person aggrieved by a decision of the Council may appeal to the High Court.

(2) The Council may appear as respondent and be heard at any application against its decision

Section 24 of the principal Act which it is proposed to amend—

24. (1) After the expiry of twelve months from the commencement of this Act, no person shall engage in the practice of nutrition and dietetics practice unless he has been duly issued with a registration certificate and a practicing license by the Institute in accordance with this Act.

(2) A license granted under this Act shall be valid for one year.

(3) On expiry, a license may be renewed for such further period, not exceeding one year.

(4) Where a license expires and is not renewed for a period of one year, the name of the holder of the license shall be removed from the appropriate record.

Section 25 of the principal Act which it is proposed to amend—

25. (1) There is hereby established a committee to be known as the Disciplinary Committee.

(2) The Committee shall consist of—

(a) a Chairperson appointed by the Council as per the First Schedule who shall be a qualified nutritionist or dietician with at least ten years’ experience;

(b) an advocate of the High Court with at least seven years’ experience appointed by the Council;

(c) the Chairperson of the Registration Committee;
(d) two members who shall be qualified nutritionists or dieticians with at least five years’ experience elected by the Council; and

(e) the Chairperson of the Accreditation Board.

(3) The chief executive officer of the Institute shall be the Secretary of the Disciplinary Committee but shall not have voting power.

(4) The Disciplinary Committee shall receive and investigate complaints against nutritionists and dieticians in accordance with the rules and regulations under this Act.

(5) Subject to this Act the Disciplinary Committee shall regulate its own procedures.

Section 27 of the principal Act which it is proposed to amend—

27. (1) The funds of the Institute shall comprise—

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

(b) all moneys from any other source provided for, donated or lent to the Institute; and

(c) such proportion of the fees charged by the Accreditation Board under section 13(c) as the Council may determine.

Section 30 of the principal Act which it is proposed to amend—

30. Before the commencement of each financial year, the Institute shall cause to be prepared estimates of revenue and expenditure of the Institute for the financial year concerned and in particular, shall provide for—

(a) the payment of salaries, allowances and other changes in respect of the staff of the Institute;

(b) the payment of pensions, gratuity, and other changes in respect of retirement benefits which are paid out of the funds of the Institute; and

(c) the acquisition, maintenance, repair, and replacement of the equipment and other movable properties of the Institute.
Section 33 of the principal Act which it is proposed to amend—

33. Any person who, though eligible to be registered or licensed under this Act, is not so registered or licensed but practices as a nutritionist or dietician commits an offence and is 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.

Section 34 of the principal Act which it is proposed to amend—

34. Any person, being in-charge of a training institution which is not approved by the Institute as an institution for the training of persons seeking registration under this Act, who—

(a) admits to the Institution under his charge any person for the purpose of training in nutrition and dietetics;

(b) purports to be conducting courses of training or examination under this Act or regulations made thereunder;

(c) issues any document, statement, certificate or seal implying that the holder thereof has undergone a course of instruction or has passed an examination prescribed by the Institute; and

(d) issues any document, statement or seal implying that the Institution under his charge is approved by the Institute as an institution for training of persons seeking registration under this Act, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

Sub-section (2) of section 36 of the principal Act which it is proposed to repeal—

(2) Any person who markets food and nutrition supplements without analysis, certification and registration by the Council 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 both.