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THE KENYA ACCREDITATION SERVICE BILL, 2018

A Bill for

AN ACT of Parliament to establish an accreditation system; establish the Kenya Accreditation Service; recognise the Service as the sole national accreditation body; and for connected matters

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kenya Accreditation Service Act, 2018.

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

“accreditation” means, in relation to a Conformity Assessment Body, an attestation by the Service that the conformity assessment body is competent to carry out specific conformity assessment tasks;

“accredited body” means an organisation or a facility that has been accredited by the Service;

“accreditation certificate” means a document or set of documents that states that accreditation has been granted to the conformity assessment body named in the documents, the conditions under which the accreditation has been granted and the scope of the accreditation;

“accreditation committee” means the accreditation committee established under section 9;

“accreditation mark” means the mark issued by the Service to be used by an accredited body to indicate that body’s accreditation status;

“assessment” means the process undertaken by the Service to evaluate the competence of a conformity assessment body based on particular standards or other normative documents for a defined scope of accreditation;

“Board” means the Board of Directors of the Service established under section 7;

“conformity assessment” means demonstration that specified requirements relating to a product, process, system, person or body have been fulfilled;
“conformity assessment body” means an organisation or a facility that carries out conformity assessment services including testing, calibration, inspection, certification of management systems, certification of persons, certification of products or processes, or registration;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters related to accreditation;

“Chief Executive Officer” means the Chief Executive Officer of the Service appointed under section 13;

“scope of accreditation” means the specific conformity assessment services that may be offered by a conformity assessment body for which accreditation has been granted by the Service; and

“Service” means the Kenya Accreditation Service established under section 4.

3. The objects of this Act shall be to—

(a) establish the Service;

(b) recognise the Service as the sole body responsible for carrying out the accreditation of conformity assessment bodies;

(c) establish an internationally recognised accreditation system;

(d) promote accreditation for the facilitation of trade and the enhancement of health, safety, environmental protection, economic performance and transformation of Kenya; and

(e) promote the competence and equivalence of accredited bodies.

PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE SERVICE

4. (1) There shall be established a service to be known as the Kenya Accreditation Service.

(2) The Service shall be the successor to the Kenya Accreditation Service established in accordance with the Kenya Accreditation Service Order, 2009.

(3) The Service shall be a body corporate, with perpetual succession and a common seal and shall, in its
corporate name, be capable of—

(a) entering into contracts;
(b) suing and being sued;
(c) taking, purchasing or otherwise acquiring, holding, or disposing of movable and immovable property;
(d) borrowing and lending money;
(e) charging fees for its services; and
(f) doing or performing all acts necessary for the proper execution of its functions under this Act which may lawfully be done by a body corporate.

5. The headquarters of the Service shall be in Nairobi.

6. The functions of the Service shall be—

(a) to accredit conformity assessment bodies;
(b) to promote accreditation in Kenya;
(c) to promote the competence and equivalence of accredited bodies;
(d) to promote recognition of accredited bodies by users of conformity assessments;
(e) to establish and nurture relations and cooperation with regional and international accreditation bodies, persons, associations and organizations that the Service may consider desirable or appropriate in furtherance of the objectives of this Act;
(f) to participate in the formulation and monitoring of national, regional and international guidelines and standards to facilitate the accreditation process;
(g) to raise public awareness on the importance and purpose of accreditation through stakeholder engagements and training;
(h) to initiate, negotiate, conclude and maintain international mutual recognition agreements relating to accreditation;
(i) to support the Government in activities on mutual recognition agreements relating to accreditation;
(j) to co-ordinate in liaison with regulators in respect of any matter related to accreditation;

(k) to obtain and maintain membership to national, regional or international organizations that may assist the Service to achieve its objects and actively participate in such organizations;

(l) to promote recognition and protect the use of the Service’s logo and marks;

(m) to promote and protect regional and international arrangement marks;

(n) to establish appropriate specialist technical committees;

(o) to develop, regulate and review the criteria or requirements for accreditation of conformity assessment bodies;

(p) to formulate and implement national guidelines and standards to facilitate the accreditation process;

(q) to assess conformity assessment bodies for competence and advise for designation by regulatory authorities;

(r) to compel accredited bodies to take appropriate actions related to their conformity assessments;

(s) to establish and maintain a register of accreditation status of all conformity assessment bodies in the prescribed manner;

(t) to design and issue accreditation certificates to accredited conformity assessment bodies in the prescribed manner;

(u) to publish in the Gazette and on its website all conformity assessment bodies that have been accredited at least quarterly in the prescribed manner;

(v) to promote use of accreditation marks on certificates issued by conformity assessment bodies; and

(w) to perform any other function necessary for the achievement of the objectives of this Act.
PART III—THE BOARD AND THE MANAGEMENT OF THE SERVICE

7. (1) The management of the Service shall vest in a Board of Directors which shall consist of—

(a) a non-executive chairperson appointed by the President on the recommendation of the Cabinet Secretary;
(b) the Principal Secretary in the ministry for the time being responsible for matters related to accreditation or a designated representative;
(c) the Principal Secretary in the ministry for the time being responsible for matters related to finance or a designated representative;
(d) six other members appointed by the Cabinet Secretary being—
   (i) one representative of consumer organisations;
   (ii) one expert in health and safety;
   (iii) one registered engineer;
   (iv) one expert in laboratory practice;
   (v) one expert in environmental science; and
   (vi) one who shall be an expert in trade or manufacturing; and
(e) the Chief Executive Officer, who shall be an ex officio member.

(2) The office of a member of the Board may fall vacant if—

(a) the member resigns in writing—
   (i) in the case of the chairperson, to the President; or
   (ii) in the case of any other member, other than an ex officio member, to the Cabinet Secretary;
(b) the member dies;
(c) the member is adjudged bankrupt;
(d) the member is convicted of an offence and is sentenced to a term of imprisonment for a period of at least six months without an option of fine;
(c) the member has been absent from three consecutive meetings of the Board without reasonable cause; or

(f) the member is incapacitated by mental or physical illness and is unable to discharge the functions of the office.

(3) The chairperson shall preside at every meeting of the Board and where the chairperson is absent, the members present shall appoint one from their number to preside at that meeting.

(4) The quorum for the meetings of the Board shall be five members.

(5) The conduct of the business of the Board shall be as provided for in the First Schedule and, except as provided in the First Schedule, the Board shall regulate its own procedure.

(6) The members of the Board shall be appointed by notice in the Gazette and shall serve for a term of three years which may be renewed for one further term of three years.

8. (1) The Board may establish committees, including specialist technical committees, to deal with any matter that may arise out of or be connected with any of the functions of the Board.

(2) The Board may co-opt any person to a committee established by the Board.

(3) Where the Board establishes a committee under this section, it shall determine the composition of the committee and the rules and procedures that shall be adopted by the committee.

9. (1) There is established a committee to be known as the Accreditation Committee.

(2) The Accreditation Committee shall consist of not less than five members who shall be drawn from specialist technical committees and appointed by the Chief Executive Officer.

(3) The appointment of the Accreditation Committee shall be in the manner prescribed by Regulations.

(4) The conduct of the business of the Accreditation
Committee shall be as provided for in the Second Schedule and, except as provided in the Second Schedule, the Accreditation Committee shall regulate its own procedure.

10. (1) The Accreditation Committee shall grant, renew, extend, suspend or withdraw accreditation to a conformity assessment body.

(2) In the performance of its functions, the Accreditation Committee shall be objective, independent and impartial.

(3) The Accreditation Committee may withdraw an accreditation from a conformity assessment body, without having first suspended the accreditation, if—

(a) the accreditation was obtained by fraud;

(b) the conformity assessment body becomes insolvent, goes into liquidation or is ordered to be wound up by a court of competent jurisdiction;

(c) there has been a complete breakdown of the conformity assessment body’s management system or the conformity assessment body’s competence.

(4) The Accreditation Committee may delegate to the Chief Executive Office the function of—

(a) suspending or withdrawing the accreditation of a conformity assessment body in the case of a breach of administrative procedures; or

(b) the renewal of the accreditation of a conformity assessment body.

11. (1) There is established a committee to be known as the Appeals Committee which shall hear and determine appeals relating to decisions of the Accreditation Committee.

(2) The Appeals Committee shall be an ad hoc committee consisting of three persons appointed by the Chief Executive Officer to hear and determine an appeal relating to a decision of the Accreditation Committee.

(3) The members of an Appeals Committee shall be experts in matters related to the accreditation of conformity assessment bodies.
(4) A member of the Appeals Committee shall not be or have been a person who participated in the making of the decision of the Accreditation Committee that is being appealed against.

12. (1) The conduct of the business and affairs of an Appeals Committee shall be as set out in the Third Schedule to this Act.

(2) Except as provided in the Third Schedule, an Appeals Committee shall regulate its own procedure.

13. (1) There shall be a Chief Executive Officer of the Service appointed by the Cabinet Secretary on the recommendation of the Board.

(2) A person qualifies to be appointed as the Chief Executive Officer if that person—

(a) has a post-graduate degree in—

(i) science;

(ii) information technology; or

(iii) business administration;

(b) has at least ten years' relevant professional experience of which five shall have been in a senior management position;

(c) satisfies the requirements of Chapter Six of the Constitution;

(d) does not hold a public office; and

(e) is otherwise not disqualified by any other written law.

(3) The Chief Executive Officer shall hold office for a term of three years and may be eligible for re-appointment to one further term of three years.

(4) The Chief Executive Officer shall, subject to the general directions of the Board, be responsible for the day to day management of the Service, the exercise of its powers and the discharge and performance of its functions.

(5) The Cabinet Secretary, on the written recommendation of the Board and for reasonable cause, may revoke the appointment of the Chief Executive Officer at any time.

(6) Where the Board recommends the revocation of
the appointment of the Chief Executive officer, the recommendation shall be valid if it is supported by at least two-thirds of the members of the Board.

14. (1) The Service may appoint such other staff as it considers necessary for the exercise of its powers and discharge of its functions.

(2) The Staff of the Service shall be appointed on such terms and conditions as shall be determined by the Board on the recommendations of the Salaries and Remuneration Commission.

15. (1) Any person who is or who has been involved in the performance of any function of the Service, the Accreditation Committee or the Appeals Committee, shall not disclose any information in the performance of that function except—

(a) to a person authorised to have that information for the performance of a function under this Act

(b) where that person is authorised under this Act to disclose that information;

(c) where that person discloses that information in accordance with a provision of any written law or an order of a court of competent jurisdiction; or

(d) where the information is disclosed by or on the authority of the Cabinet Secretary, the Board or the Chief Executive Officer.

(2) A member of the Board, or an officer or agent of the Service shall, in the performance of any function or exercise of any power under this Act, preserve the confidentiality of any matter coming to the knowledge of that member, officer or agent.

(3) A member of the Board, or an officer or agent of the Service shall not, without any reasonable cause—

(a) disclose any confidential information to any person; or

(b) permit an unauthorised person to gain access to any information in the possession, custody or control of the Service.

(4) Any person who contravenes the provisions of this section commits an offence.
16. No matter or thing done or omitted to be done by a member of the Board, an officer or agent of the Service, if the matter or thing is done or omitted in good faith in the execution of the powers and the performance of the functions of the Service, shall render the member, officer or agent, or any other person’s action on the member’s, officer’s or agent’s direction, personally liable to any action, claim or demand whatsoever.

17. (1) The common seal of the Service shall be kept in the custody of the Chief Executive Officer and shall not be affixed to any instrument or document except as the Chief Executive Officer may authorise.

(2) The common seal of the Service shall be authenticated by the signature of the Chief Executive Officer.

PART IV—ACCREDITATION

18. (1) A conformity assessment body that seeks to be accredited shall apply to the Service for accreditation in the prescribed manner.

(2) The Service shall receive an application for accreditation and—

(a) evaluate the application in accordance with this Act and any relevant national, regional or international standards;

(b) progress an approved application to assessment or inform the conformity assessment body, in writing, that the application has not been progressed to assessment and give its reasons for not progressing the application; and

(c) recommend for the granting, retention, renewal, suspension or withdrawal of accreditation to the conformity assessment body.

(3) Where the Accreditation Committee grants accreditation to a conformity assessment body, the Service shall notify the conformity assessment body within fourteen days and issue the conformity assessment body with an accreditation certificate and impose on the conformity assessment body such conditions as may be necessary.
(1) Where the Accreditation Committee decides a conformity assessment body accreditation, the Service shall notify the body within fourteen days of the decision.

(5) The Service may establish guidelines or criteria for accreditation in accordance with the provisions of this Act, and any matter necessary or proper for the proper administration of this Act including—

(a) the different categories of accreditation;

(b) the fees applicable to different categories of accreditation;

(c) the fees applicable for training or other projects undertaken by the Service;

(d) the proper use of the logo and any accreditation mark of the Service; and

(e) the proper use of regional or international marks of accreditation.

19. (1) An accreditation certificate issued under this Act shall be valid for the period prescribed in the certificate.

(2) An accreditation certificate shall be sealed with the common seal of the Service and shall be authenticated by the signature of the Chief Executive Officer.

(3) The accreditation certificate shall remain the property of the Service and shall be surrendered to the Service whenever required to do so by the Service.

(4) The Service may impose such reasonable conditions as it deems fit before issuing conformity assessment body with an accreditation certificate.

20. (1) A conformity assessment body that has been issued with an accreditation certificate shall comply at all times with the provisions of this Act and any conditions that may have been imposed by the Accreditation Committee on the conformity assessment body.

(2) A conformity assessment body that has been issued with an accreditation certificate who misuses its accreditation status including the misrepresentation of date of accreditation or misuses an accreditation mark commits an offence.
21. (1) The Service, on the recommendation of the accreditation committee, may suspend an accredited conformity assessment body from offering accreditation services for the period specified in the notice of suspension or until such earlier time as the Service may determine:

Provided that a suspension shall not last for a period exceeding six months.

(2) The Service, on the recommendation of the accreditation committee, may suspend an accredited conformity assessment body from offering accreditation services where conformity assessment body —

(a) has contravened or failed to comply with the conditions imposed by the Service;
(b) has failed to comply with the directions of the Service;
(c) has provided false or misleading information to the Service;
(d) is no longer a fit or proper to hold an accreditation certificate;
(e) has contravened any of the provisions of this Act; or
(f) has failed to pay any prescribed fee under this Act.

(3) Where a certificate of accreditation is suspended on account of non-payment of accreditation prescribed fee, the suspension shall be imposed by the Service without reference to the accreditation committee and shall be lifted if the fee is paid within thirty days of the notice of suspension being issued to the holder of the certificate.

(4) A certificate of accreditation shall be withdrawn by the Service where the conformity assessment body has been suspended for non-payment of the prescribed fee and fails to pay the fee within the period specified in subsection (3).

(5) The Service may suspend or withdraw an accreditation certificate without referring the suspension or withdrawal to the Accreditation Committee upon the request of a holder of the certificate.

(6) Where the Service has suspended or withdrawn an accreditation certificate, it shall, within fourteen days of the
suspension or withdrawal, publish on its website the status of the accreditation of the conformity assessment body as suspended or withdrawn.

22. The Service shall pay, out of the funds of the Service, the chairperson and members of the Board, members of the Accreditation Committee and members of the Appeals Committees such allowances as the Salaries and Remuneration Commission may recommend.

23. (1) A conformity assessment body that is aggrieved by a decision of the Accreditation Committee may, by notice in writing to the Chief Executive Officer and upon the payment of the prescribe fee, file an appeal with the Chief Executive Officer against the decision within twenty one days of being notified of the decision.

(2) A notice of appeal under this section shall set out the grounds of the appeal.

(3) Within fourteen days of receiving a notice of appeal, the Chief Executive Officer shall appoint an Appeals Committee to hear and determine the appeal.

(4) Within seven days of being appointed by the Chief Executive Officer, the Appeals Committee shall serve the Accreditation Committee with a copy of the notice of appeal.

(5) Where the Accreditation Committee has been served with a notice of appeal by an Appeals Committee, the Accreditation Committee shall file its response within seven days.

24. (1) The Appeals Committee shall consider the notice of appeal and the response of the Accreditation Committee before making an award.

(2) An award of the Appeals Committee may—

(a) confirm the decision of the Accreditation Committee;

(b) direct the Service to conduct a re-assessment of the conformity assessment body; or

(c) give some other direction or order including an order as to costs.

(3) Where an appeal has been filed against a decision of the Accreditation Committee and the Accreditation Committee has been served with a copy of the notice of
appeal, the decision of the Accreditation Committee shall stand until the appeal has been heard and determined by the Appeals Committee.

(4) The Appeals Committee may direct the taxing of costs in accordance with a prescribed scale under this Act.

(5) Where the Appeals Committee grants a party costs, that party may apply to the Appeals Committee for a certificate of costs.

(6) A party to an appeal who has been issued with a certificate of costs under this section may file the certificate in the High Court and it shall be deemed to be a decree of the High Court and executed as such.

25. (1) A party who is aggrieved by an award of the Appeals Committee may, within thirty days of being notified of the award, appeal against the award to the High Court.

(2) An award of the Appeals Committee shall not be enforced where an appeal against the award has been made to the High Court.

(3) The High Court may, after hearing an appeal under this section—

(a) confirm the award;
(b) revise the award;
(c) remit the proceedings of the appeal to the Appeals Committee and direct that the Appeals Committee shall revise the award as the court may deem fit and proper; or
(d) make any other order as it may consider just, including an order on costs.

PART V—FINANCIAL PROVISIONS.

26. (1) There is established a fund of the Service to be known as the General Fund.

(2) The Fund shall be the successor of the General Fund established under the Kenya Accreditation Service Order, 2009.

(3) The Fund shall vest in the Service.

(4) The Fund shall consist of such monies as—
(a) were held by the former Fund;
(b) may accrue or vest to the Service in the exercise of its powers or the performance of its functions under this Act;
(c) may be prescribed as fees or charges payable to the Service under the Act;
(d) may be received as grants, gifts or donations;
(e) may be appropriated for the purposes of the Service, and
(f) may be borrowed or raised by the Service for the purpose of meeting any of its obligations or discharging any of its duties.

(5) The Service may invest any of its funds not immediately required for its purposes
(a) as the Service may be directed by the Cabinet Secretary for the National Treasury; or
(b) in such manner as may be approved by the Cabinet Secretary.

27. The financial year of the Service shall be the period of twelve months ending on the 30th June.

28. (1) The Board shall, before the commencement of each financial year, cause to be prepared and shall approve the estimates of the revenues and expenditures of the Service for that financial year.

(2) The estimates of revenues and expenditures of the Service shall, in particular, provide for:
(a) payment of salaries, allowances and other charges in respect of the staff of the Service;
(b) payment of pensions, gratuities, and other retirement benefits which shall be payable out of the funds of the Service;
(c) training, research, investor education and securities industry development activities of the Service;
(d) acquisition, maintenance, repair and replacement of equipment, and other movable and immovable property of the Service;
(e) provision for provident fund and superannuation benefits;
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(e) creation of reserve funds to meet the future or contingent liabilities of the Service; and

(f) expenditure incurred by the Service in the exercise of its powers and the performance of its functions.

(3) The Service shall submit the estimates of revenues and expenditures of the Service to the Cabinet Secretary for approval.

29. (1) The Board of the Service shall cause to be kept proper books of account of the income, expenditure, assets, liabilities and financial transactions of the Service.

(2) The Board shall submit to the Auditor-General, within three months of the end of the financial year, the financial statements of the Service.

(3) The Auditor-General shall audit the financial statements of the Service in accordance with the provisions of the Public Audit Act, 2003.

30. No duty shall be chargeable under the Stamp Duty Act in respect of any instrument executed by or on behalf of the Service for which the Service would ordinarily be liable to pay.

31. A person commits an offence if that person contravenes any provision of this Act and, where convicted of an offence under this Act, shall be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred thousand shillings or to both.

PART VI—PROVISIONS ON DELEGATED POWERS

32. (1) The Cabinet Secretary may make regulations for better carrying into effect the provisions of this Act and without prejudice to the generality of the foregoing, for all or any of the following purposes—

(a) the scope of activity for which the Service may grant accreditation;

(b) the functions of accredited conformity assessment bodies; and

(c) any other matter necessary for the proper administration of this Act.
(2) For the purposes of Article 94(6) of the Constitution—

(a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act;

(b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfillment of the objectives specified under this section;

(c) the principles and standards applicable to the delegated power are those found in—

(i) the Statutory Instruments Act, 2013;

(ii) the Interpretation and General Provisions Act,

(iii) the general rules of international law as specified under Article 2(5) of the Constitution; and

(iv) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution.

PART VII—REPEAL AND TRANSITIONAL PROVISIONS

33. (1) The members of the Board of Directors of the Service appointed under the Kenya Accreditation Service Order, 2009, hereinafter referred to as the "former Service", shall continue to hold office as members of the Board under this Act until the expiry of the remainder of their terms of office.

(3) Any Regulation made or other instrument issued under the Kenya Accreditation Service Order, 2009, shall continue to have effect as if the Regulation or instrument were made or issued under this Act.

(4) All the property, assets, rights, liabilities, obligations or agreements vested in, acquired, incurred or entered into by or on behalf of the former Service, shall be considered to have been vested in, acquired, incurred or entered into by the Service under this Act.

(5) All persons who, before the commencement of this Act, were employees of the former Service shall, at the
commencement of this Act, be considered to be the staff of the Service under this Act.

(6) Any waiver, exemption or no objection granted or any enforcement action taken against any person under the Kenya Accreditation Service Order, 2009, shall continue to have effect as if that waiver, exemption or no objection granted or any enforcement action taken against any person was given or imposed under this Act.

(7) Any accreditation certificate granted under the Kenya Accreditation Service Order, 2009, shall continue to be valid under this Act until the expiry of its validity period.

PART VIII—CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD.

34. (1) Where a member is directly or indirectly interested in any matter before the Board and is present at a meeting of the Board at which the matter shall be considered, deliberated or voted on, that member shall, at that meeting as soon as is practicable after the meeting has commenced, but before any deliberations have occurred, disclose that interest and shall not take part in the consideration, deliberations or votes on the matter and shall not be counted in the quorum of the meeting during the consideration, deliberation or vote on that matter.

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

Disclosure of interest.
FIRST SCHEDULE

PROCEDURE FOR MEETINGS OF THE BOARD OF DIRECTORS.

1. The Board shall meet not less than four times in every year and not more than four months shall elapse between the date of one meeting of the Board and the date of the next meeting.

2. Despite the provisions of paragraph 1, the chairperson shall, upon a written request of at least five members of the Board, convene a special meeting of the Board for the transaction of the Business of the Board.

3. Unless three-quarters of the members of the Board otherwise agree, the chairperson shall give a notice of fourteen days of every meeting of the Board.

4. No meeting of the Board may be held at any place except the registered office of the Service:

Provided that the Board may, in writing, authorise a meeting of the Board to be held at a place that is not a registered office of the Service.

5. The chairperson shall preside at every meeting of the Board at which the chairperson is present:

Provided that in the absence of the chairperson the members present shall select one of their number to preside at that meeting.

6. A decision on any matter before the Board shall be made unanimously but where a unanimous decision cannot be made, the members present shall decide the matter by a majority vote and in case of a tied vote the chairperson or the person selected to act as the chairperson shall cast the deciding vote.

7. The Board shall maintain written minutes of each meeting.
SECOND SCHEDULE

PROCEEDINGS BEFORE THE ACCREDITATION COMMITTEE.

1. The Accreditation Committee shall meet at least four times in every year.

2. The Service shall, at the commencement of each year, publish a calendar of events setting out the dates and times of the meetings and related activities of the Accreditation Committee:

   Provided that the Secretary shall give a five days’ notice incorporating the agenda of the Accreditation Committee meeting.

3. A special meeting of the Accreditation Committee may be held on a date and at a time as the Accreditation Committee may determine or as the Secretary in consultation with the Accreditation Committee may determine in the interests of necessity.

4. No meeting of the Accreditation Committee may be held at any place except the registered office of the Service:

   Provided that the Secretary may, in writing, authorise a meeting of the Accreditation Committee to be held at a place that is not a registered office of the Service.

5. At each meeting of an Accreditation Committee, the members present shall select one of their own to be the chairperson.

6. A decision on any matter before the Accreditation Committee shall be made by consensus, but where consensus cannot be reached, the members present shall decide the matter by a majority vote and in case of a tied vote the chairperson shall have a casting vote.

7. Each Accreditation Committee shall maintain written minutes of its meetings and the minutes of the Accreditation Committee shall be kept in the custody of the Secretary.

8. The Secretary of the Accreditation Committee may, in consultation with the members of the Accreditation Committee through electronic means of communication, take necessary action on any matter that, because of the circumstances, cannot be considered at a meeting of the Accreditation Committee.
THIRD SCHEDULE

PROCEEDINGS BEFORE THE APPEALS COMMITTEE.

1. An Appeals Committee may, to avoid delay or unnecessary expense or for any other justifiable reason, receive evidence by affidavit and may specify the period within which it may hear evidence in person from witnesses.

2. An Appeals Committee, when making an award under the Act, may consider any evidence which it considers relevant to the matter before it:

Provided that the evidence shall not otherwise be inadmissible under the Evidence Act.

3. A party to an appeal before the Appeals Committee may be represented by an Advocate or any other suitable person as permitted by the committee.

4. All summonses, notices or other documents issued under the hand of the chairperson of the Appeals Committee shall be deemed to have been issued by the committee.

5. The Appeals Committee shall sit at a place and at a time that it may appoint.

6. The proceedings of the Appeals Committee shall be open to the public except where the committee, for good cause, otherwise directs.

7. The quorum of an Appeals Committee shall be the chairperson and two other members.

8. (1) Where a member is directly or indirectly interested in any appeal before the Appeals Committee and is present at a meeting of the Appeals Committee at which the appeal shall be determined, that member shall, at that meeting as soon as is practicable after the meeting has commenced, but before any deliberations have occurred, disclose that interest and shall not take part in the determination of the appeal and shall not be counted in the quorum of the meeting during the determination of that appeal.

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

9. Where the Appeals Committee has made an award, it shall notify the parties in writing within seven days the making of the award.
MEMORANDUM OF OBJECTS AND REASONS

The object of the Bill is to establish the Kenya National Accreditation Service and an internationally recognised and effective accreditation system. The Bill shall establish the Service as the sole recognised body for accreditation body in Kenya. The Bill shall also repeal the Kenya Accreditation Service Order, 2009, which was made under the State Corporations Act (Cap. 446 of the Laws of Kenya).

The Bill is divided into seven parts, three Schedules and runs to 34 clauses.

Part I of the Bill deals with preliminary matters. Section 3 sets out the objectives of the Bill which shall be to establish an internationally recognised accreditation system; to promote accreditation for the facilitation of trade and the enhancement of health, safety, environmental protection, economic performance and transformation of Kenya; and to promote the competence of accredited bodies.

Part II of the Bill deals with the establishment of the Kenya National Accreditation Service.

Part III deals with the composition of Board of the Service, the conduct and affairs of the business of the Board, the establishment of the Accreditation Committee and the Appeals Committee, the procedures and proceedings before the committees, the appointment of the Chief Executive Officer of the Service, the appointment of the staff of the Service, the confidentiality of matters dealt with by the Service, the protection from personal liability of the members of the Board, the Chief Executive and the staff of the Service or any other person authorised to act on behalf of the Service, and the common seal of the Service.

Part IV deals with the process of applying for accreditation and related matters including accreditation certificates, suspension or revocation of accreditation, how matters shall be referred to the Appeals Committee, the awards of the Appeals Committee and further appeals against the awards of the Appeals Committee.

Part V deals with the financial provisions in relation to the Service including the funds of the Service, the financial year and financial estimates of the Service, accounting for and auditing of the books of account of the Service, and exemption from stamp duty of certain transactions by the Service. The Bill also provides for the making of Regulations by the Cabinet Secretary for the better implementation of the act as well as a general penalty under the Act.

Part VI deals with the regulation making authority of the Cabinet Secretary.
Part VII deals with the repeal of the Kenya Accreditation Service Order, 2009, and transitional matters related to the repeal of that Order.

Part VIII deals with the conduct of business and affairs of the Board including conflict of interest of members of the Board and the procedure at meetings of the Board.

The First Schedule deals with the procedure at the meetings of the Board.

The Second Schedule deals with proceedings before the Accreditation Committee.

The Third Schedule deals with proceedings before the Appeals Committee.

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

The Bill gives powers to the responsible Cabinet Secretary to make regulations; however, it does not limit fundamental rights and freedoms.

Statement on whether the Bill does not concern county governments

The Bill does not concern county governments in terms of Articles 110(1)(a) of the Constitution.

Statements on whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill is a money Bill for the purposes of Article 114 of the Constitution. The enactment of this Bill will occasion additional expenditure of public funds as it seeks to set an Authority.

Dated the 19th May, 2018.

ADEN DUALE,
Majority Leader, National Assembly.