
THE ARCHITECTS BILL, 2023
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THE ARCHITECTS BILL, 2023

A Bill for

AN ACT of Parliament to provide for the training, registration and licensing of architects, the regulation and development of the practice of architects and for connected purposes

ENACTED by the Parliament of the Republic of Kenya as follows—

PART I – PRELIMINARY

Short title.

1. This Act may be cited as the Architects Act, 2023.

Interpretation.

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

“architect” means a person registered under section 21;

“architectural practice” means a service related to the art and science of designing buildings and structures for human habitation and use including—

- (a) planning, designing or giving advice on the design of or on the erection, construction or alteration of or addition to a building;
- (b) preparing plans, drawings, detail drawings, specifications, graphic or other representations for the design of or for the erection, construction or alteration of or addition to a building;
- (c) inspecting work and assessing the performance of work under a contract for the erection, construction or alteration of or addition to a building; or
- (d) urban planning and landscape architectural services;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to architects;

“Council” means the Council of the Institute established under section 6;

“Professional Conduct Committee” means the committee established under section 30;

“Examinations Board” means the Architects Examinations Board established under section 15;

“Executive Director” means the person appointed as the Executive Director of the Institute under section 7;

“Institute” means the Institute of Architects established under section 3;

“practicing certificate” means a practicing certificate issued by the Registration Board pursuant to section 28;

“Register” means the register kept pursuant to section 24; and

“Registration Committee” means the committee established under section 17;

PART II—THE INSTITUTE OF ARCHITECTS

Establishment of Institute.

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

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

- (a) suing and being sued;
- (b) purchasing, acquiring, holding or disposing of property;
- (c) borrowing money;
- (d) acquiring, holding and disposing of investments in other enterprises

subject to approval by the Cabinet Secretary for the time being responsible for finance; and

- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

(3) All courts, judges and other persons acting judicially shall take judicial notice of the seal of the Institute affixed to a document and shall presume that it was duly affixed.

(4) The Headquarters of the Institute shall be in Nairobi, but the Institute may establish offices at any other place in Kenya.

Membership of the
Institute.

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

(2) The members of the Institute shall comprise—

- (a) fellows, being members of the Institute recognized to have rendered outstanding services to the profession of architects;
- (b) members registered under section 21;
- (c) associate members, being persons eligible to be registered under section 21 who do not meet the requirements prescribed under subsection (1) of that section;
- (d) affiliate members, comprising those members who work in the built industry but are not architects;
- (e) corporate members, comprising both private and public institutions

and organizations and including companies, partnerships and other corporate bodies; and

(f) such other category as the Council may establish.

(3) The Council may grant a letter of conferment to a member of the Institute of irreproachable professional conduct who has rendered exemplary service to the architectural practice conferring upon him the rank and dignity of Senior Architect.

(4) Where the Council considers that a member of the Institute has fulfilled such requirements, if any, for admission into Fellowship as the Council may prescribe, the Council may invite such member to become a Fellow of the Institute.

(5) Where the Council considers that a person, not being a member of the Institute has rendered exceptional services to the Institute or the profession of architects, the Council may invite the person to become an Honorary Fellow of the Institute.

(6) The members of the Institute as specified in this section shall pay such membership fees, subscriptions and penalties as the Council may from time to time determine.

(7) The members of the Institute under subsection (2) shall be entitled to such rights of membership as the Council may prescribe.

Functions of the Institute.

5. (1) The Institute shall—

(a) establish, monitor and publish the standards of professional competence and practice amongst architects;

(b) register persons who meet the required professional and ethics standards;

- (c) hold examinations and prescribe tests of competency deemed appropriate to qualify for membership and certification;
- (d) promote research in architectural practice and related matters;
- (e) publish books, periodicals, journals and articles on architecture;
- (f) provide a platform for communication and exchange of information, knowledge and ethical standards for those persons engaged in the field of built industry;
- (g) network with local, regional and international related bodies to promote and develop progressive architectural practices;
- (h) facilitate the acquisition of knowledge by members of the Institute and ancillary service providers, including trainee architects through the promotion of high standards of education and training in architecture;
- (i) develop and facilitate adequate continuous professional development training programmes for members of the Institute;
- (j) advise the Examinations Board on matters relating to examination standards and policies;
- (k) advise the Registration Committee on matters relating to registration;
- (l) regulate the practice, competence and professional conduct of members;

- (m) promote and protect the welfare and interests of the members;
- (n) promote inter-professional collaboration with other professional bodies;
- (o) regulate and monitor architectural design competitions; and
- (p) carry out any other functions prescribed for it under any of the provisions of this Act or under any written law.

Council of the Institute.

6. (1) The management of the Institute shall vest in a Council comprising—

- (a) a chairperson who shall be an architect with at least fifteen years experience in architectural practice, elected by the members of the Institute in the manner prescribed by regulations;
- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to architecture or a representative designated in writing by the Principal Secretary;
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance or a representative designated in writing by the Principal Secretary;
- (d) the Principal Secretary of the Ministry for the time being responsible for matters relating to public works or a representative designated in writing by the Principal Secretary;
- (e) five other members who shall be practicing architects elected by architects in the manner prescribed

by regulations, at least two of whom shall possess a minimum of fifteen years post qualification experience; and

(f) the Executive Director, as an *ex officio* member of the Council.

(2) A member elected to the Institute under subsection (1)(a) and (d) shall hold office for a period of two years and shall be eligible for re-election for a further and final term of two years.

Executive Director.

7. (1) There shall be an Executive Director of the Institute who shall be competitively appointed by the Council, and whose terms and conditions of service shall be determined by the Council in the instrument of appointment.

(2) A person shall not be appointed as an Executive Director under this section unless such person—

- (a) is a registered architect;
- (b) has had at least ten years of proven experience in architectural practice; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Executive Director shall—

- (a) be the secretary to the Council;
- (b) subject to the directions of the Council, be responsible for the day-to-day management of the affairs of the Institute; and
- (c) be responsible to the Council generally for the implementation of this Act.

Staff of the Institute.

8. The Council may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the Institute and the Council under this Act, upon

such terms and conditions of service as the Council may determine.

Experts and consultants.

9. The Council may, on the advice of the Executive Director, engage on behalf of the Institute, the services of an expert or a consultant in respect of any of the functions of the Institute in which the expert or consultant has special competence.

Delegation by the Council.

10. The Council may, by resolution delegate to any committee or to any member, officer, employee or agent of the Council, the exercise of any of the powers or the performance of any of the functions or duties of the Council or the Institute under this Act or under any other written law.

Remuneration of Council members.

11. The members of the Council shall be paid such, fees, allowances and disbursements for expenses as may be determined by the Council.

Conduct of the business and affairs of the Council.

12. (1) The conduct of the business and affairs of the Council shall be as provided in the First Schedule.

(2) Except as provided in the First Schedule, the Council may regulate its own procedure.

Common seal.

13. (1) The common seal of the Institute shall be kept in the custody of the Executive Director or of such other person as the Council may direct, and shall not be used except upon the order of the Council.

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

Protection from personal liability.

14. No matter or thing done by a member of the Council or by any officer, member of staff, or agent of the Council shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Council under this Act,

render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Examinations Board.

15. (1) There is hereby established a Board to be known as the Architects Examinations Board.

(2) The Examination 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) purchasing, acquiring, holding or disposing of property;
- (c) borrowing and lending money;
- (d) acquiring, holding and disposing of investments in other enterprises; and
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

(3) The Examinations Board shall consist of—

- (a) four persons who shall be registered architects nominated by the Council, one of whom shall be a distinguished academic scholar with at least ten years of experience in the university education;
- (b) two persons nominated by the Cabinet Secretary for the time being responsible for matters relating to education, one of whom shall be from the Kenya Institute of Curriculum Development and one

from the Kenya National Examination Council;

- (c) one person nominated by the Commission for University Education; and

(3) The Chairperson shall be appointed by the Council from amongst the members of the Examinations Board under subsection (2)(a).

(4) A member appointed to the Board under subsection (2)(a) shall hold office for a period of two years and shall be eligible for reappointment for a further and final term of two years.

Functions of the
Examination Board.

16. (1) The Examination Board shall—

- (a) prescribe and regulate the syllabus of instruction for professional examinations for architects and other members of the Institute;
- (b) prepare and conduct examinations for persons seeking registration under the Act;
- (c) liaise with the Ministry of Education in the accreditation of institutions offering training in subjects examinable by the Examinations Board;
- (d) prescribe the fees and other charges payable with respect to such examinations;
- (e) issue certificates and other awards to candidates who have satisfied examination requirements;
- (f) investigate and determine cases involving indiscipline by students registered with the Examination Board;

- (g) promote recognition of its examinations locally and internationally;
- (h) remit a proportion of not less than thirty per cent of the fees collected under paragraph (d) to the Institute to support continuing architects professional development; and
- (i) perform any other function connected therewith or incidental thereto.

(2) The Examination Board may co-opt such experts as it may consider necessary in furtherance of its functions.

PART III – REGISTRATION OF ARCHITECTS

Registration Committee.

17. (1) There is hereby established a committee to be known as the Registration Committee comprising—

- (a) a chairperson appointed by the Council from amongst its members;
- (b) one person nominated by the Examinations Board; and
- (c) three persons nominated by the Council from amongst members of the Institute.

(2) The Registration Committee may co-opt such experts as it may consider necessary in furtherance of its functions.

(3) A member of the Committee shall hold office for a period of two years and shall be eligible for reappointment for a further and final term of two years.

(4) The Registration Committee shall—

- (a) receive applications for registration and grant practicing certificates in accordance with the provisions of this Act;
- (b) monitor compliance with professional quality assurance and other standards published by the Council for observance by the members of the Institute;
- (c) prescribe regulations to govern quality assurance programmes, including actions necessary to rectify deviations from standards;
- (d) where appropriate and based on the results of a quality assurance investigation recommend to the Council that a member's conduct be referred for inquiry; and
- (e) advise the Council on matters pertaining to professional and other standards necessary for the achievement of quality assurance.

(4) The Executive Director shall serve as the secretary to the Registration Committee, and may, with the consent of the person presiding at a meeting, take part in the deliberations on any matter arising at the meeting, but shall not be entitled to vote on any such matter.

Qualifications for registration.

18. (1) Subject to the provisions of this Act, a person shall be eligible for registration under this Act as a professional architect, or architectural technician if—

- (a) for a professional architect, that person—
 - (i) is a graduate architect and has obtained practical experience as prescribed under this Act;

- (ii) has passed a professional assessment examination conducted by the Board; and
 - (iii) is a full member of the Institute;
- (b) for an architectural technician, that person—
- (i) holds a diploma in architecture or architectural technology and has obtained practical experience as prescribed under this Act;
 - (ii) has passed a professional assessment examination conducted by the Board.

(2) The Council may, by notice in the *Gazette*, approve qualifications it considers sufficient to allow a person to be registered as a professional architect or an architectural technician.

Disqualification from registration.

19. A person is disqualified from being registered if the person—

- (a) is convicted by a court of competent jurisdiction in Kenya or elsewhere of any offence involving fraud;
- (b) is an undischarged bankrupt;
- (c) is certified as being of unsound mind by a medical practitioner; or
- (d) is found by the Council to be guilty of professional misconduct in accordance with this Act; and
- (e) fails to meet the requirements of Chapter Six of the Constitution.

Registration of architectural firms.

20. A person may register an architectural firm if—

- (a) the firm has a certificate of registration of a business name or certificate of incorporation;

Application for
registration.

(b) the firm has at least one partner or director who is registered as an architect, who is the majority shareholder and has a valid practicing certificate; and

(c) the person fulfils any other condition as may be stipulated by the Council.

21. (1) A person wishing to be registered as an architect or architectural technician shall apply to the Registration Committee.

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

(3) Where an application is made by a person in accordance with this section, the Registration Committee shall approve the application if it is satisfied that the applicant meets the requirements specified under section 18.

(4) The Registration Committee may approve the registration of a person in the following categories—

(a) professional architect;

(b) professional architectural technician.

(5) A person may not practice in any of the categories contemplated in subsection (4) unless he or she is registered in that category.

(6) A person who is registered in the category of candidate shall perform work in the architectural practice only under the supervision and control of a professional of a category as prescribed by the Institute.

Certificate of registration.

22. The Registration Committee shall issue to every person registered under this Act a certificate of registration in the prescribed form.

Register

23. (1) The Executive Director shall maintain a register containing—

- (a) the names of persons registered under this Act;
- (b) the names of all persons issued with a practicing certificate;
- (c) the regular business address of each registered person.
- (d) particulars of the cancellation of the registration of any person; and
- (e) such other details as the Council may direct.

(2) The Executive Director shall remove from the register—

- (a) the name of a deceased member in a manner prescribed by Council; and
- (b) any entry which has been incorrectly or fraudulently made.

(3) The Executive Director shall cause the name and address of a person whose name is removed from the register under this section, to be published in the Gazette within one month from the date of such removal.

(4) Upon the removal of a person's name from the Register, the Executive Director shall inform the person of the removal by registered mail to the person's last recorded address.

(5) Where the name of any person has been removed from the register under this Act, it shall not be reinstated except by the direction of the Council.

(6) A person whose name has been removed from the register shall cease to be registered for the purpose of this Act from the date of such removal.

Removal of names from
the Register.

24. The Registration Committee may direct that the name of a person be removed from the register where such person—

- (a) is certified to be of unsound mind;
- (b) requests that the name be removed from the register;
- (c) is convicted of an offence under this Act;
- (d) has been found guilty and his or her registration suspended or revoked after the conclusion of disciplinary proceedings;
- (f) is declared bankrupt.

Correction of Register.

25. The Executive Director shall make any necessary alteration or correction in the register in relation to any entry.

Reinstatement to the
Register.

26. Where the name of any person has been removed from the register, the Council may, either of its own motion or on the application by the person concerned made in the prescribed manner, and in either case after holding such inquiry as the Council thinks fit, direct that—

- (a) the removal of such person's name from the register be upheld; or
- (b) the name of the person be restored in the register.

Use of title.

27. A person registered under this Act shall—

- (a) by virtue of being so registered as a professional architect, be entitled to take and use the title and description of "Architect"; and
- (b) by virtue of being so registered as an architectural technician, be entitled to take and use the title and description of "architectural technician";

- (c) not take or use, or affix to or use in connection with his premises, any title or description, in addition to that of an architect or an architectural technician other than as indicated by the particulars relating to his or her qualifications entered in the register.

PART IV – PRACTISING CERTIFICATE

Application for practising certificate.

28. (1) No person shall practice as a registered architect or an architectural technician unless the person has been issued with a valid practicing certificate.

(2) A person wishing to obtain a practising certificate shall apply to the Registration Committee.

(3) An application under this section shall be in the prescribed form and shall be accompanied by the prescribed fee and a professional indemnity cover.

(4) Where an application is made by a person in accordance with this section, the Executive Director shall issue such a person a practising certificate if satisfied that the person—

- (a) is registered under this Act; and
- (b) meets such other requirements as may be prescribed.

(5) A practicing certificate issued under subsection (4) shall be valid for one year from the 1st of January to the 31st of December of that particular year and may, upon expiry, be renewed.

PART V – DISCIPLINE OF MEMBERS

Professional misconduct.

29. (1) A person registered under this Act commits an act of professional misconduct if the person—

- (a) deliberately fails to follow the standards of conduct and practice of the architectural profession set by the Council;
- (b) refuses, fails or neglects to apply established architectural principles in the course of discharging his or her professional functions;
- (c) is grossly negligent in the conduct of professional duties;
- (d) discloses confidential information acquired in the course of his or her duties to any person without the consent of his employer or client or otherwise than required by law;
- (e) engages in activities which are in conflict with those of his or her employer or client or activities which are contrary to those for which he is registered as an architect;
- (f) allows a person not licensed to practice in his or her name;
- (g) violates Chapter six of the Constitution; or
- (h) fails to do any other act which may be prescribed.

Professional Conduct Committee.

30. (1) There is established be a Committee to be known as the Professional Conduct Committee.

(2) The Committee shall consist of five members elected from amongst the members of the Institute.

(3) The Committee shall appoint one of their number to be the Chairperson.

(4) The Committee may co-opt experts as it may consider necessary for the furtherance of its functions.

(5) A member of the Committee shall hold office for a period of two years and shall be eligible for re-election for a further and final term of two years.

Reference of matters to the Professional Conduct Committee.

31. (1) Where the Council has reason to believe that a registered person has committed an act of professional misconduct it shall refer the matter to the Professional Conduct Committee which shall inquire into the matter.

(2) Notwithstanding subsection (1) the Professional Conduct Committee may, on the receipt of a complaint from any person that a registered person has committed an act of professional misconduct inquire into the matter.

Inquiry by the Professional Conduct Committee.

32. (1) The Professional Conduct Committee shall afford a member whose conduct is under inquiry an opportunity to be heard in person or through a legal representative.

(2) For the purpose of proceedings at any inquiry held by the Professional Conduct Committee, the Committee may administer oaths and may subject to any regulations made under this Act, enforce attendance of persons as witnesses and the production of books and documents.

(3) The Professional Conduct Committee may enter and inspect sites where construction, installation, erection, alteration, renovation, maintenance, processing or manufacturing works are in progress for the purpose of verifying that—

- (a) professional architectural services are undertaken by registered architects under this Act; and

- (b) standards and professional ethics and relevant health and safety aspects are observed.

(3) The Committee shall have the power to regulate its own procedure.

(4) The Professional Conduct Committee shall within forty-five days, from the date of filing a complaint hear and determine a matter referred for inquiry under section 31.

(5) Where satisfied that a member has committed an act of professional misconduct, the Committee may recommend—

- (a) that the member be formally admonished;
- (b) that the member be suspended for a period not exceeding twelve months;
- (c) the withdrawal or cancellation of the practicing certificate of the member for such period not exceeding five years;
- (d) the imposition of a fine not exceeding five million shillings; or
- (e) the removal of the member's name from the Register.

(6) Upon receipt and consideration of recommendations by the Professional Conduct Committee, the Council shall within fourteen days inform the affected member in writing of the disciplinary action taken against the member and provide reasons for the action.

(7) A person aggrieved by the decision of the Professional Conduct Committee in the exercise of its powers under this section may within thirty days from receipt of the decision of the Professional Conduct Committee appeal to the Council.

Lifting of suspension.

(8) A person aggrieved by the decision of the Council in the exercise of its powers under this section may within sixty days from the date of the decision of the Council, appeal to the High Court.

33. (1) Where a member of the Institute has been suspended from practicing, he or she may appeal to the Council for the lifting of the suspension at any time before the expiry of the suspension.

(2) Where the Council is satisfied that the suspension of a member of the Institute should be lifted, the Council shall, upon the receipt of the prescribed fee, lift the suspension and restore the member's registration and practicing certificate.

Funds of the Council.

PART VI – FINANCIAL PROVISIONS

34. (1) The funds of the Council shall consist of—

- (a) such monies or assets as may accrue to or vest in the Council in the course of the exercise of its powers or performance of its functions under this Act;
- (b) such monies as may be payable to the Council pursuant to this Act or any other written law;
- (c) donations, gifts and endowments from lawful organizations or sources;
- (d) proceeds of any investments by the Council; and
- (e) grants.

Financial year.

35. The financial year of the Council shall be the period of twelve months ending on the thirty first of December in each year.

Annual estimates.

36. (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 Council for that financial year.

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

- (a) payment of salaries, allowances and other charges in respect of the staff of the Council;
- (b) payment of pensions, gratuities and other charges in respect of former staff of the Council;
- (c) proper maintenance of the buildings and grounds of the Council;
- (d) maintenance, repair and replacement of the equipment and other property of the Council;
- (e) payment of allowances of the members of the Council and the members of the Board; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem fit.

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

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3).

Accounts and audit.

37. (1) The Council shall cause to be kept proper books and other records of accounts of its income, expenditure, assets and liabilities.

(2) Within a period of three months after the end of each financial year, the Council shall submit to the general meeting of the Institute accounts of the Council, in respect of that year, together with—

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

(b) a statement of the assets and liabilities of the Council on the last day of that financial year.

(3) The accounts of the Council shall be examined, audited and reported by an accountant or accounting firm appointed by the Institute at the general meeting.

PART VII – OFFENCES AND PENALTIES

Holding out as a registered person under this Act.

38. A person who, not to be registered under this Act, uses any title appropriate to a person so registered, or holds himself out directly or indirectly as being so registered, commits an offence and shall be liable on conviction to a fine not exceeding five million shillings, or imprisonment for a term not exceeding three years or both.

Falsification of registers or records.

39. A person who wilfully makes or causes to be made any false entry in, or falsification of, any register or record kept under this Act, or who presents or attempts to present himself or any person to be registered under this Act by making or producing or causing to be made or produced a false or fraudulent representation or declaration, either orally or in writing, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to

imprisonment for a term not exceeding two years, or to both.

General penalty.

40. A person convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

PART VIII—PROVISIONS ON DELEGATED POWERS

Regulations.

41. (1) The Council may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1) the regulations may prescribe—

- (a) the curriculum and the courses of study to be pursued by the various cadres in order to satisfy the academic requirements of any particular registration;
- (b) the experience criteria to be met by candidates for registration;
- (c) a code of ethics, rules of professional conduct and standards of practice;
- (d) the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence;
- (e) fees payable to under the Act;
- (f) forms under the Act;
- (g) procedure for removal of names from the register;
- (h) procedure for conduct of disciplinary hearings, including prescribed forms and fees;

- (i) rules for the calling, holding and conducting of meetings of the Council and of the members of the Institute;
- (j) the criteria, procedure for application and consideration for the grant of the rank of Senior Architect.

PART IX –TRANSITIONAL PROVISIONS

Transition.
Cap.525.

42. (1) There is established an interim Council that shall assume the responsibilities imposed on the Council and Registration Board by this Act as an Interim Council and Interim Registration Board until the first elections of the Council is held under this Act.

(2) The Interim Council shall comprise of the following —

- (a) the chairperson of the Joint Building and Construction Council who shall be the chairperson ;
- (b) the chairperson of the Architects chapter of the Architectural Association of Kenya;
- (c) the president of the Architectural Association of Kenya;
- (d) one person who shall be a past president of the Architectural Association of Kenya;
- (e) the chairperson of the Board of Registration of Architects and Quantity Surveyors;
- (f) one person who shall be a member of the disciplinary committee of the Board of Registration of Architects and Quantity Surveyors;
- (g) one person who shall be a member of the research committee of the

Board of Registration of Architects
and Quantity Surveyors; and

- (h) two persons who shall be architects
with at least thirty years of post-
qualification experience.

(3) Within twelve months of the
commencement of this Act, the Interim Council
shall facilitate the registration of members of the
Institute and convene the first annual general
meeting for the election of Council members.

Consequential amendments
to other Acts.

(4) Any examinations currently being
conducted by any statutory body for the purpose
of qualifying as an architect shall be transferred to
the Examinations Board within twelve months of
the commencement of this Act.

43. (1) The Acts specified in the Second
Schedule are amended in the manner specified in
that Schedule.

FIRST SCHEDULE [s. 12(1)]

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

Vacation of office.

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

- (i) dies;
- (ii) becomes subject to any of the
disqualifications referred to in
paragraph 2;
- (iii) resigns the office by writing under
his hand delivered to the
chairperson of the Council;
- (iv) is absent without the permission of
the chairperson from three or more
consecutive meetings of the
Council;
- (v) is convicted of an offence and
sentenced to imprisonment for a

term of six months or more without the option of a fine;

(vi) becomes for any reason including infirmity of body or mind, incompetent or incapable of performing the functions of the office; or

(vi) is otherwise unable to discharge his functions.

Filling of vacancy.

2. A vacancy in the office of a member under paragraph 3 shall be filled, by a person elected by the members of the Institute in the manner prescribed by the Regulations.

Vice chairperson.

3. The Council shall, at its first meeting, elect a Vice Chairperson from amongst the persons elected under section 6 (1) (e) of this Act.

Meetings.

4. (1) The Council shall meet at least four times each year.

(2) 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.

(3) 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.

(4) 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.

Quorum.

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

Voting procedure.

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

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Validity of proceedings.

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

Minutes.

8. Minutes of the proceedings at meetings of the Council shall be kept in such a manner as the Council directs.

Committees of the Council.

9. 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.

Power of the Council to regulate own procedure.

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

Disclosure of interest.

11. (1) If a member of the Council is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, 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.

SECOND SCHEDULE [s.43]

CONSEQUENTIAL AMENDMENTS

Amendment to Cap 525.

1. The Architects and Quantity Surveyors Act is amended—

(a) in the long title, by deleting the words “Architects and”;

- (b) in section 1, by deleting the word “Architects and”;
- (c) in section 2—
 - (i) by deleting the words “architects or” appearing in the definition “registered person”;
 - (ii) by deleting the words “Architects and” appearing in the definition “the Board”;
 - (iii) by deleting the words “Architects and” appearing in the definition “the Registrar”;
- (d) in section 3 by deleting the words “architect, architecture, architectural” wherever they appear in subsection (1);
- (e) in section 4—
 - (i) by deleting the words “Architects and” appearing in subsection (1);
 - (ii) by deleting the words “architects ” appearing in the opening statement to subsection (2);
- (f) in section 5—
 - (i) by deleting the words “architects and ” appearing in paragraph (f)
 - (ii) by deleting the words “architects and ” appearing in paragraph (f);
 - (iii) by deleting the words “architecture or ” appearing in paragraph (h);
 - (iv) by deleting the words “architecture and” appearing in paragraph (l)
- (g) in section 6 (1) by deleting the words “Architects and”;
- (h) repealing section 7;
- (i) in section 10 by deleting the words “architecture and”; and
- (j) repealing section 16.

MEMORANDUM OF OBJECTS AND REASONS
Statement of objects and reasons for the Bill

The object of this Bill is to provide for the training and registration of Architects and other specified categories in the architectural profession. The Bill also provides for the licensing of architects, architectural technologists and the regulation of the architectural practice.

PART II (Clause 3-16) contains provisions on the establishment of the Institute of Architects, its Council and the Examination Board.

PART III (Clauses 17-27) of the Bill contains provisions on the registration and the requisite qualifications of Architects and architectural technologists

PART IV (Clause 28) of the Bill provides for the issuance of practicing certificates to registered architects and architectural technologists.

PART V (Clauses 28-33) of the Bill contains provisions on the discipline of members of the Institute.

PART VI (Clauses 34-37) of the Bill contains financial provisions.

PART VII (Clauses 38-40) of the Bill contains provisions on offences and penalties.

PART VIII (Clause 41) of the Bill contains provisions on delegated powers.

PART IX (Clause 42) of the Bill contains transitional provisions.

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

This Bill delegates legislative powers to the Council of the Institute to make regulations for the carrying into effect of the provisions of the Bill. The Bill does not limit any fundamental rights or freedoms.

Indication of whether the Bill concerns county governments

The Bill seeks to provide for the training, and registration of Architects and other specified categories in the architectural profession. The Bill also provides for the licensing of architects, architectural technologists and the regulation of the architectural practice.

Paragraph 16 of Part 1 of the Fourth Schedule to the Constitution provides that universities, tertiary educational institutions and other institutions of

research and high learning is a function of national governments. In view of this, the Bill does not concern County Governments in terms of Article 110(1)(a) of the Constitution as it does not affect the functions and powers of County Governments recognized in the Fourth Schedule to the Constitution and is therefore not a Bill concerning county governments.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds to be provided for through the annual estimates.

Dated the....., 2023.

Wanami Wamboka
Member of Parliament.

The long title of CAP 525 which it is proposed to amend—

Act Title

Architects And Quantity Surveyors

Section 1 of Cap 525 which it is proposed to amend—

Short title

1. This Act may be cited as the Architects and Quantity Surveyors Act.

Section 2 of Cap 525 which it is proposed to amend—

Interpretation

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

"approved" means approved by the Board;

"register" means the register kept under section 6 of this Act;

"registered person" means any architect or quantity surveyor whose name has been entered into the register maintained under section 6;

"the Board" means the Board of Registration of Architects and Quantity Surveyors established by section 4 of this Act;

"the Minister" means the Minister for the time being responsible for matters relating to Public Works;

"the Registrar" means the Registrar of Architects and Quantity Surveyors appointed under section 6 of this Act.

Section of 3 Cap 525 which it is proposed to amend—

Restriction on use of titles

3.(1) Subject to the provisions of this Act, no person shall practice under any name, title or style containing any of the words or phrases "architect", "architecture", "architectural", "quantity surveyor" or "quantity surveying" unless he is registered under this Act as an architect or a quantity surveyor, as the case may be:

Provided that—

- (i) nothing in this Act shall apply to any person in the service of the Government or of the Community, or to any person who, for the purpose of preparing any particular piece of work for the Government, is exempted by the Minister from the provisions of this Act;

(ii) a member of an approved professional institution who is entitled under the constitution thereof to display after his name any affix which includes the word "Architect", "Architecture" or "Architectural" or any abbreviation thereof, may use such affix whether he is so registered or not.

(2) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

(3) Without prejudice to the powers of the Attorney-General, proceedings for an offence under this section may be instituted by any person who is authorized in that behalf, whether generally or specially, by the Board in writing.

Section 2 of Cap 525 which it is proposed to amend—

Establishment of the Board

4. (1) There is hereby established a Board of Registration of Architects and Quantity Surveyors which shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued and of acquiring, holding and alienating property movable and immovable in its corporate name.

(2) The Board shall consist of eight members who shall be architects or quantity surveyors and of whom—

(a) four, at least one of whom shall be a quantity surveyor, shall be nominated by the Minister; and

(b) four, at least one of whom shall be a quantity surveyor, shall be nominated by the Architectural Association of Kenya and approved by the Minister.

(3) The Minister shall appoint one of the members, whom he has nominated, to be the chairman of the Board.

(4) Five members of the Board shall constitute a quorum.

Section 5 of Cap 525 which it is proposed to amend—

Power of Board to make by-laws

5. The Board may from time to time, subject to the confirmation of the Minister, make by-laws for all or any of the following purposes—

- (a) for the management and duties of the Board, the holding of meetings of the Board, the issue of notices calling such meetings and the procedure to be followed at such meetings;
- (b) for the appointment and duties of the officers of the Board;
- (c) for the appointment of committees, and the powers and duties and the proceedings of such committees;
- (d) for the administration, investment and expenditure of the property and funds of the Board from whatsoever source and for whatsoever purposes received;
- (e) for a definition of unprofessional conduct and for determining the mode of inquiry into and the method of dealing with such conduct and the penalties which may be imposed upon any member found guilty of such conduct;
- (f) for the scale of fees to be charged by architects and quantity surveyors for professional advice, services rendered, and work done;
- (g) for the fees to be paid for registration under this Act;
- (h) for the holding of examinations authorised or permitted under the provisions of this Act and for the carrying into effect of any scheme or curriculum for education in architecture or quantity surveying formulated under the provisions of section 10 hereof;
- (i) for the establishment, maintenance and support of and for subscribing to charitable and public objects and institutions;
- (j) for prescribing the procedure to be followed by persons applying for registration;
- (k) for prescribing the conditions under which persons registered under this Act may practise as limited liability companies, and for requiring professional indemnity insurance in the case of unlimited companies and private firms;
- (l) for instructions and orders conducive to the maintenance and improvement of the status of architects and quantity surveyors in Kenya;

- (m)for the adoption of a common seal and the manner in which such seal may be affixed to any instrument.

Section 6 of Cap 525 which it is proposed to amend—

The Registrar and register

- 6.(1) The Minister shall appoint a person, who may be a public officer, to be the Registrar of Architects and Quantity Surveyors, who shall hold and vacate office in accordance with the terms of his appointment.
- (2)The Registrar shall keep and maintain a register in which the name of every person, being suitably qualified under this Act, shall be entered as soon as is practicable after he is accepted by the Board for registration, showing against his name such particulars as the Board may, from time to time, direct.
- (3) All changes in the particulars registered under subsection (2) of this section shall be entered in the register by the Registrar as soon as is practicable after he has received notification thereof.

Section 7 of Cap 525 which it is proposed to amend—

qualifications for registration as architect

- 7. No person shall be registered as an architect unless he—

- (a)has attained the age of twenty-one years; and

- (b)either—

- (i) has had a minimum of five years of approved training followed by at least one year of practical experience in the work of an architect to the satisfaction of the Board, and has passed a prescribed examination; or

- (ii) has been admitted as a corporate member of an approved professional institution whose qualifications for such admission are not less than those set out in subparagraph (i) of this paragraph; and
- (c) has had a minimum of one year of professional experience in Kenya to the satisfaction of the Board or has satisfied the Board that he has otherwise acquired an adequate knowledge of Kenya building contract procedures; and
- (d) has paid the prescribed registration fee.

Section 10 of Cap 525 which it is proposed to amend—

Scheme and curriculum for professional education

10. Subject to the approval of the Minister, the Board shall have the right from time to time to formulate, vary and carry into effect a scheme and curriculum for education in architecture and quantity surveying, and for this purpose may appoint committees and boards as may from time to time be thought expedient, and the Board may apply its funds in making provision for and furthering and developing any such scheme and curriculum and in providing for lectures or teaching and for the holding of examinations in accordance therewith and for granting prizes, certificates and diplomas in connection therewith, and (subject to such exemptions as may be allowed by and in accordance with the by-laws) the Board may require candidates for admission to final examination for the purpose of registration to have passed through a course of study under and in accordance with any such scheme and curriculum (including articulated pupilage for a period not exceeding five years) and to have passed such examination or examinations in relation to the subjects comprised in that course of study as shall from time to time be prescribed by or in accordance with the by-laws.

Section 16 of Cap 525 which it is proposed to amend—

Application

16. This Act shall not apply to naval architects.