

THE HYDROLOGISTS (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the Hydrologists Act, 2017; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited to as the Hydrologists (Amendment) Act, 2023.

Amendment
of section 2 of
No. 19 of
2017.

2. Section 2 of the Hydrologists Act, 2017, in this Act referred to as the “principal Act”, is amended by inserting the following new definitions in proper alphabetical sequence—

“degree in hydrological sciences” includes a degree in hydrology, water resources management, integrated water resources management, geography (with hydrology option), engineering hydrology, water resources engineering, water resources and environmental management, hydrology and water resources, and water science and engineering (specialization in hydrology and water resources) from a recognized institution; and

“hydrology professional” means a hydrologist, consulting hydrologist, associate hydrologist, or hydrological assistant, registered under this Act.

Amendment
of section 4 of
No. 19 of
2017.

3. Section 4 of the principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (a)—

(aa) registration and licensing of hydrology professionals.

Amendment
of section 12
of No. 19 of
2017.

4. Section 12 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

(3) A person is qualified to be appointed as the registrar if the person—

(a) is a holder of a master’s degree in hydrological sciences from a university recognized in Kenya;

(b) is a member of a professional body in good standing;

(c) has at least fifteen years proven experience in the hydrological field,

five years of which shall be in senior management level;

(d) has attended a leadership course lasting not less than four weeks from an institution recognized in Kenya; and

(e) has knowledge and experience in management and procedures of the Government in a private or government institution.

Amendment
of section 18
of No. 19 of
2017.

5. Section 18 of the principal Act is amended—

(a) by deleting subsection (1) and substituting therefor the following new subsection—

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

(a) is a holder of a bachelor's degree in hydrological sciences;

(b) is a holder of a postgraduate diploma in applied hydrology or operational hydrology, or a master's degree in any of the following disciplines from a university recognized in Kenya—

(i) hydrological sciences;

(ii) applied hydrology; or

(iii) operational hydrology;

(c) has proven experience of at least two years but not more than seven years in a hydrological field; and

(d) is a member of the Society.

(b) in subsection (2)(a), by inserting the words “or hydrological sciences” immediately after the word “hydrology”;

(c) in subsection (3), by adding the following new paragraphs immediately after paragraph (b)—

(c) is a holder of a bachelor's degree in hydrological sciences;

(d) is a holder of a postgraduate diploma in applied hydrology or

operational hydrology, or a master's degree in any of the following disciplines from a university recognized in Kenya—

- (i) hydrological sciences;
 - (ii) applied hydrology; or
 - (iii) operational hydrology, and
- (e) is a member of the Society.

(d) by inserting the following new subsection immediately after subsection (3)—

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

- (a) is a holder of a bachelor's degree;
- (b) has at least two years' proven experience in the hydrological field; and
- (c) is a member of the Society.

(e) by inserting the following new subsections immediately after subsection (4)—

(5) A hydrology professional may register a hydrology firm.

(6) The Board shall make Regulations to provide for the establishment, registration and operationalization of the firm contemplated in subsection (4).

Insertion of
new section in
No. 19 of
2017.

6. The principal Act is amended by inserting the following new sections immediately after section 21—

Certification of
hydrology
reports.

21A. (1) Where a hydrology professional has prepared a hydrology report in respect of a project, the report shall be submitted to the Board for certification before the project commences.

(2) The report submitted under subsection (1) shall be accompanied by the prescribed fee.

(3) The Board shall consider and certify the reports submitted under subsection (1) within sixty days.

(4) Where a report submitted under subsection (1) has not been certified within the prescribed period, the hydrology professional may submit the report to the project proponent and the project proponent may proceed with the project in accordance with the recommendations of the report.

Hydrology professionals may charge fees.

21B. (1) A hydrology professional who offers professional services in accordance with this Act, may charge such professional fees as shall be prescribed by Regulations.

(2) A hydrology professional who offers professional services at a fee less than the fee prescribed under subsection (1) shall be deemed to have contravened the code of conduct and professional ethics for hydrology professionals prescribed under this Act.

Insertion of new section in No. 19 of 2017.

7. The principal Act is amended by inserting the following new section immediately after section 34—

Code of practice and professional ethics.

34A. (1) The Board shall prescribe a code of practice and professional ethics for hydrology professionals.

(2) A hydrology professional who contravenes the provisions of the code of conduct and professional ethics may be liable—

(a) cancellation of the registration of the hydrology professional and removal of the hydrology professional's name from the register;

(b) suspension of the registration or annual practicing licence of the hydrology professional for a period not exceeding one year;

(c) cancellation of the annual practicing licence of the hydrology professional.

(3) The Cabinet Secretary shall prescribe in Regulations the procedure for the determination of any question regarding compliance with the code of conduct and professional ethics.

Amendment of section 18 of No. 35 of 2017.

8. Section 35 of the principal Act is amended by inserting a new paragraph immediately after paragraph (e)—

“(ee) the scale of fees that may be charged by hydrology professionals who offer professional services in accordance with this Act.”

MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to amend the Hydrologists Act, 2017 in order to provide for additional qualifications of a registrar, hydrologist, consultant hydrologists, associate hydrologist and the regulation of the profession.

Clause 1 of the Bill provides for the short title to the Bill.

Clause 2 of the Bill proposes to amend section 2 of the Hydrologists Act, 2017 to provide for the definition of “degree hydrological sciences” and “hydrology professional”.

Clause 3 of the Bill proposes to provide for an additional function of the Board to include registration and licensing of hydrology professionals.

Clause 4 of the Bill proposes to provide for the qualifications of a registrar.

Clause 5 of the Bill provides for additional requirements that a person requires to be registered as a hydrologist. It also seeks to provide for consultant hydrologist firms and associate hydrologists.

Clause 6 of the Bill proposes to provide for the certification of hydrology reports by the Board and the fees to be charged by hydrology professionals.

Clause 7 of the Bill proposes to provide for the Code of Practice and Professional Ethics.

Clause 8 of the Bill proposes to provide for scale of fees that maybe charged by hydrology professionals.

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

The Bill does not delegate legislative powers and does not limit any rights and fundamental freedoms.

Statement on how the Bill concerns county governments as set out in the Fourth Schedule to the Constitution.

The Bill does not affect the functions of County Governments as set out in the Fourth Schedule of the Constitution.

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

The enactment of the Bill shall not occasion additional public expenditure

Dated the, 2023.

HON. ALICE WAHOME
*Cabinet Secretary for Water,
Sanitation and Irrigation.*

Section 2 of no.19 of 2017 which it is proposed to amend—

In this Act, unless the context otherwise requires—

“annual licence” means a licence issued under section 20;

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

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

"Chairperson" means the chairperson of the Board appointed under section 6;

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

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

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

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

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

"Registrar" means the Registrar of the Board appointed under section 12; and

"Society" means the Hydrological Society of Kenya registered under the Societies Act (Cap. 108) and existing at the commencement of this Act.

Section 4 of no.19 of 2017 which it is proposed to amend—

(1) The functions of the Board shall be—

(a) to regulate, co-ordinate and oversee the practice of hydrology;

(b) to promote standards of professional competence and practice amongst hydrologists;

(c) to co-ordinate research, investigations and surveys in the hydrological field;

(d) to recognize institutions that furnish a sufficient guarantee of academic knowledge of and practical experience in hydrology;

(e) to demand and certify hydrological studies and reports necessary for design of hydraulic structures;

(f) to collaborate with other bodies or organizations in development of programs and facilities for advancement of hydrology and well-being of hydrologists; and

(g) to perform any other function that is incidental or consequential to its functions under this Act or any other written law.

Section 12 of no.19 of 2017 which it is proposed to amend—

- (1) The Cabinet Secretary shall appoint a public officer as the Registrar of the Board.
- (2) The Registrar shall hold and vacate office in accordance with the terms and conditions of his or her appointment.

Section 18 of no.19 of 2017 which it is proposed to amend—

- (1) A person shall, on making an application to the Board in the prescribed form and on payment of the prescribed fee, be registered as a hydrologist if he or she—
 - (a) is a holder of a degree or postgraduate diploma in hydrological sciences;
 - (b) is a member of the Society;
 - (c) has had not less than two years practical experience in the hydrological field.
- (2) A person shall, on making an application to the Board in the prescribed form and on payment of the prescribed fee, be registered as a hydrological assistant if he—
 - (a) is a holder of a diploma or an equivalent qualification in hydrology from a polytechnic or college recognized for the time being by the Board;
 - (b) has had not less than three years practical experience of such a nature as to satisfy the Board as to his competence to practise as a hydrological assistant; and
 - (c) is a member of the Society.
- (3) A person shall, on making an application to the Board in the prescribed form and on payment of the prescribed fee, be registered as a consultant hydrologist if he or she—
 - (a) has practised for at least seven years or such a period determined by the Board as a hydrologist registered under this Act; and
 - (b) has satisfied the Board as to his or her having achieved a standard of competence to enable him or her to practise as a consultant hydrologist.
- (4) The Board may require an applicant for registration to satisfy it that his or her professional and general conduct have been such as, in the opinion of the Board, to make him or her a fit and proper person to be registered under this Act and the Board may direct the Registrar to postpone the registration of an applicant until so satisfied.

Section 21 of no.19 of 2017 which it is proposed to amend—

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

- (a) engages in the public practice of hydrology or holds himself out to the public as a person entitled to do so;
 - (b) offers to perform or performs services involving the verification of hydrological data, studies and design or hydrometric installations;
 - (c) offers to perform or performs services involving hydrological studies, design and investigations and assessment of water resources potential; or
 - (d) engages in any practice, or performs or offers to perform any services, which may be prescribed.
- (2) A person employed by the national or county government or by any other person or organization, and who is entitled to remuneration from such employment Hydrologists shall not, for the purposes of this Act, be deemed to be a person who practices hydrology under subsection (1).

Section 34 of no. 19 of 2017 which it is proposed to amend—

Any person who—

- (a) fraudulently makes, or causes or permits to be made, any false or incorrect entry in the register or any copy thereof; or
 - (b) fraudulently procures or attempts to procure himself or herself or any other person to be registered; or
 - (c) knowingly and wilfully makes any statement which is false in a material particular, or which is misleading, with a view to gaining any advantage, concession or privilege under this Act, whether for himself or herself or for any other person; or
 - (d) practices or attempts to practice as a person registered under this Act without holding a current valid annual licence,
- commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Section 35 of no. 19 of 2017 which it is proposed to amend—

Subject to section 27(4), the Cabinet Secretary, may make regulations generally for the better carrying out of the provisions of this Act, and, without prejudice to the generality of the foregoing, any such regulations may provide for—

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

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

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