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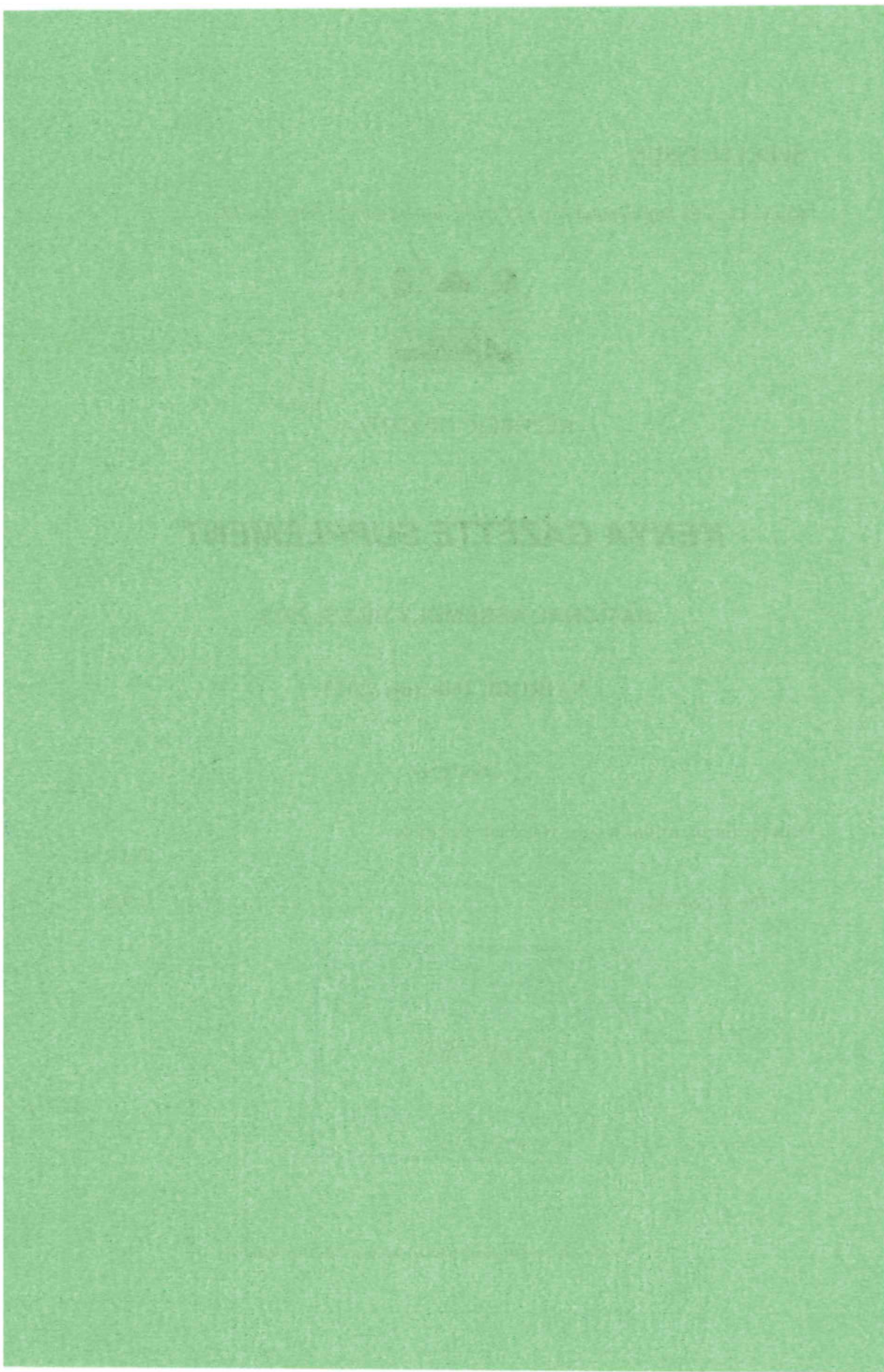
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THE METEOROLOGY BILL, 2023

A Bill for

AN ACT of Parliament to provide for the establishment of the Kenya Meteorological Service Authority, regulation, co-ordination, monitoring, management, provision and control of meteorological services and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Meteorology Act, 2023, and shall come into operation on such date as the Cabinet Secretary may, by notice in the *Gazette*, appoint.

Short title and commencement.

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

Interpretation.

“advisory services” means weather forecasts, warnings and alerts, climate projections and any other meteorological advisories;

“aeronautical meteorological services” means services provided to air navigation for safety and security reasons and comprise the following—

- (a) *en route* meteorological forecast and warning services for both international and national flights;
- (b) low-level significant weather charts for general aviation;
- (c) aerodrome meteorological information;
- (d) provision of aviation specific research and development; and
- (e) provision of significant meteorological information;

“Authority” means the Kenya Meteorological Service Authority established under section 5;

“authorized officer” means a person designated as an authorized officer under section 36;

“Board” means the Board of Directors constituted under section 9;

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

“climate” means the average weather conditions prevailing in an area over a period of at least thirty years characterized by statistics of the meteorological elements;

“climate change” means a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities in addition to natural changes in climate;

“Director-General” means the Director-General appointed under section 19;

No. 8 of 1999.

“environment” has the meaning assigned to it in section 2 of the Environment Management and Coordination Act, 1999;

“flight information region” means an airspace of defined dimensions within which flight information and alerting services are provided;

“forecasting” means predicting the future state or conditions of the atmosphere at a given time;

“land” has the meaning assigned to it under Article 260 of the Constitution;

“marine meteorology” means meteorology as applied to activities in coastal zones and ecosystems, fisheries and maritime transportation, in the oceans and inland water bodies;

“marine meteorological services” means meteorological and related oceanographic information such as warnings, forecasts, charts, expert advice, services for search and rescue and climatological data, required for safe navigation and high efficiency of operations;

“meteorology” means the science of the atmosphere and its interaction with the geosphere, biosphere, cryosphere, hydrosphere and society;

“meteorological service provider” means a person who is mandated to carry out the observation, transmission and processing of meteorological information; issuance of weather forecasts; alerts, advisories and warnings; provision of climatological and related environmental information;

“meteorological watch office” means an office designated to provide information concerning the

occurrence or expected occurrence of specified en route weather and any other phenomenon in the atmosphere that may affect the safety of aircraft operation within the Kenyan flight information region;

“meteorological consultancy services” means meteorological expert services offered by the Authority which are technical and advisory in nature;

“meteorological services” means meteorological observation, data processing and archival, data exchange, issuance of weather forecasts, alerts, advisories and warnings, provision of climatological and related environmental information, carrying out research and development in meteorology, climate projections, provision of scientific assessment for climate change and the provision of education and training in meteorology and related sciences in partnership with institutions of higher learning;

“meteorological information” means meteorological data, report, analysis, forecasts and any other statement relating to existing or expected meteorological conditions;

“meteorological data” means weather and climate measurements and observations;

“meteorological products” means processed information from meteorological data;

“premises” includes land, plants and ancillary works vested in or placed at the disposal of the Authority for the purposes of the Authority;

“private good services” means the services specified in the First Schedule;

“private weather service provider” means a person or an organization, registered by the Authority as a provider of weather services engaged in one or more of the following tasks —

- (a) meteorological data collection;
- (b) sector specific product development;
- (c) dissemination of the forecasts and products released by the Authority;

- (d) consultancy in litigation where the service provider offers expert witness services, insurance and investment services industries;
- (e) fabrication of meteorological equipment and instruments; and
- (f) meteorological related research;

“public good services” means the services specified in the Second Schedule;

“Directorate” means the Meteorology Training and Research Directorate established under section 29;

“specialised service” means meteorological service provided by the Authority as it deems necessary or on request by an identifiable person;

“weather” means the state of the atmosphere at a particular place and time as regards temperature, cloudiness, moisture, visibility, sunshine, pressure, wind, humidity, and rain; and

“weather observer” means a person who is mandated with the obligation of systematic observation, measurement, and reporting of meteorological conditions.

3. This Act shall, except where implied or expressly specified, apply to—

Application of the Act.

- (a) weather observers;
- (b) meteorological service providers;
- (c) private weather service providers;
- (d) the Directorate;
- (e) any meteorological training and research institution; and
- (f) any person, group of persons or organization whose undertakings involve or include, generally, the use of meteorological information for commercial purposes.

4. The objects of this Act shall be to—

Object of the Act.

- (a) provide for the regulation, co-ordination, monitoring, management, and provision of meteorological services; and

- (b) give effect to and ensure fulfilment of the obligations of the Government under treaties and conventions on meteorology, in particular the Convention of World Meteorological Organization, to which Kenya is a party.

PART II – THE KENYA METEOROLOGICAL SERVICE AUTHORITY

5. (1) There is established an authority to be known as the Kenya Meteorological Service Authority.

Establishment of the Kenya Meteorological Service Authority.

(2) The Authority 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) taking, purchasing or otherwise acquiring, charging and disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) undertaking or performing all other activities necessary for the proper performance of its functions under this Act that may lawfully be done or performed by a body corporate.

(3) The Authority shall be—

- (a) responsible for the provision of meteorological services in Kenya; and
- (b) the principal technical advisor to the National and County Governments on matters related to meteorology.

(4) The headquarters of the Authority shall be in Nairobi but the Authority may establish county meteorological offices.

6. The object of the Authority shall be the provision, regulation, co-ordination, monitoring, management and control of meteorological services.

Object of the Authority.

7. (1) The Authority shall carry out such functions as may be necessary to give effect to the objects of this Act.

Functions of the Authority.

(2) Despite the generality of subsection (1), the Authority shall—

- (a) develop, review and monitor the implementation of government policies in respect of meteorology and related sciences;
- (b) develop, review and operate—
 - (i) a national strategic plan for the Authority in alignment with international treaties, protocols, agreements, and conventions on meteorology; and
 - (ii) a national framework for climate services in support of the climate services information system value chain to process data, run models and produce climate products for user benefits;
- (c) establish and maintain—
 - (i) surface, upper-air and marine meteorological observation networks;
 - (ii) integrated information systems, in line with the World Meteorological Organization Information System, for the exchange of meteorological data and products; and
 - (iii) meteorological management systems for data processing, analysis, forecasting and archival;
- (d) provide aeronautical meteorological services for the safety, regularity and efficiency of international air navigation in line with Annex 3 to the Chicago Convention on International Civil Aviation;
- (e) provide timely meteorological information for search and rescue services and accident investigation;
- (f) prepare and disseminate—
 - (i) weather forecasts, as well as issue advisories, alerts and warnings of severe weather and extreme climate events for disaster risk reduction through a Multi-Hazard Early Warning System;

- (ii) marine and tsunami early warning advisories as designated by Intergovernmental Oceanographic Commission of United Nations Education, Scientific and Cultural Organization as the Indian Ocean Tsunami Watch Centre;
- (iii) agricultural meteorological services to improve productive capacity and build resilience posed by extreme events associated with climate variability and climate change;
- (g) monitor background environmental pollution at the World Meteorological Organization Global Atmosphere Watch Station on Mount Kenya and atmospheric chemical composition for greenhouse gases in the country for assessment of air quality and climate change detection and attribution;
- (h) provide public good services as set out in the Second Schedule;
- (i) provide private good services as set out in the First Schedule;
- (j) conduct and set education and training standards in meteorology, operational hydrology and related sciences in the Directorate;
- (k) in collaboration with the ministry responsible for matters related to education, set the minimum curriculum requirements for training in meteorology;
- (l) collaborate with relevant government agencies in the development, implementation and operation of national multi-hazard early warning systems;
- (m) in collaboration with Kenya Civil Aviation Authority, participate in the training and rating of air traffic controllers;
- (n) collaborate with other institutions in the observation, recording and transmission of meteorological data in line with the World Meteorological Organization Integrated Global Observing System;

- (o) conduct and co-ordinate research and development in meteorology and related environmental sciences including scientific assessments to improve operations and services and to provide updates with respect to climate change;
- (p) design, fabricate and in collaboration with the Kenya Bureau of Standards calibrate and monitor standards for meteorological instruments;
- (q) set and maintain standards and recommended practices on meteorological instruments and methods of observations;
- (r) conduct public weather services for public education, outreach programme, radio and television communication and media presentation for meteorological services;
- (s) maintain up-to-date data on weather and climate within the zone of responsibility assigned to Kenya by the World Meteorological Organization;
- (t) register weather stations for meteorological data collection;
- (u) collaborate with the public and private sector in meteorological observation, carrying out research and development and education and training;
- (v) fulfill relevant international commitments including those under the World Meteorological Organization and advance national interests by participating in the appropriate international programmes and activities; and
- (w) undertake any other function that may be required by this Act or any other written law.

8. (1) The Authority shall have all powers necessary for the proper performance of its functions under this Act.

Powers of the
Authority.

(2) Despite the generality of subsection (1), the Authority shall have power to—

- (a) subject to the approval of the Cabinet Secretary, determine and impose fees for any private good services provided by the Authority;

- (b) regulate and set standards for the provision of meteorological services;
- (c) create, develop, own, protect and exploit inventions and innovations resulting from research activities undertaken by or on behalf of the Authority; and
- (d) receive any gift, grant, donation or endowment made to it and to make legitimate disbursements in accordance with the provisions of this Act and any other written law.

PART III – MANAGEMENT OF THE AUTHORITY

9. (1) The Authority shall be managed by a board of directors to be known as the Kenya Meteorological Service Authority Board.

Composition and
appointment of
Board of
Directors.

- (2) The Board shall comprise of—
 - (a) a chairperson, appointed by the President;
 - (b) the Principal Secretary in the ministry responsible for matters relating to meteorological services or his representative;
 - (c) the Principal Secretary in the ministry responsible for matters relating to finance or his representative;
 - (d) the Principal Secretary in the ministry responsible for matters relating to transport or his representative;
 - (e) the Attorney-General or his representative;
 - (f) a representative nominated by the Council of County Governors;
 - (g) two other persons, not being public officers, with knowledge and experience in any of the following fields—
 - (i) meteorology;
 - (ii) aviation;
 - (iii) marine;
 - (iv) agriculture; or
 - (v) water resources management; and

- (h) the Director-General, who shall be an *ex-officio* member of the Board with no voting rights.

(3) The members of the Board appointed under subsection (2)(g) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

10. (1) A person shall be qualified for appointment as the chairperson of the Board if that person—

Qualifications of Board members.

- (a) is a citizen of Kenya;
- (b) meets the requirements of Chapter Six of the Constitution;
- (c) holds a degree from a university recognized in Kenya and has at least ten years' experience in the relevant field; and
- (d) does not hold a position or have such interests that are likely to place that person in a position of conflict of interest.

(2) A person shall be qualified for appointment as a member of the Board under section 9(2)(g) if that person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of Chapter Six of the Constitution;
- (c) holds a degree from a university recognized in Kenya and at least five years' experience in any of the fields specified in section 9(2)(g) and
- (d) does not hold a position or have such interests that are likely to place that person in a position of conflict of interest.

11. (1) The Chairperson and members of the Board appointed under section 9(2)(g), shall hold office for a period of three years on such terms and conditions as may be specified in the instruments of appointment and shall be eligible for reappointment for one further term of three years.

Tenure of office.

(2) The members of the Board shall be appointed at different times so that their terms of office expire at different times.

12. (1) A vacancy shall arise in the Board if a member— Vacancy.

- (a) dies;
- (b) resigns from office by notice in writing addressed to the Cabinet Secretary;
- (c) assumes a State office;
- (d) violates the Constitution or any other law;
- (e) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (f) is unable to perform the functions of the office arising out of physical or mental infirmity;
- (g) is negligent or incompetent in the performance of his or her functions;
- (h) has been absent from three consecutive meetings of the Board without the prior permission of the Chairperson, except on good cause shown; or
- (i) is adjudged bankrupt.

(2) The Chairperson or, in his absence, the Secretary to the Board shall notify the Cabinet Secretary as soon as a vacancy occurs in the membership of the Board.

13. (1) The Board shall be responsible for the general management, development and control of the undertakings and affairs of the Authority.

Functions of the Board.

(2) Without prejudice to the generality of subsection (1), the Board shall—

- (a) consider and approve the strategic plan, procurement plan and budget of the Authority;
- (b) oversee the implementation of meteorology policies;
- (c) consider and approve the Authority's staff remuneration in consultation with the relevant authorities;
- (d) ensure the financial viability and development of commercial services including revenue collection;

- (e) ensure efficient, cost effective and quality meteorological services;
- (f) approve and appoint senior management officers;
- (g) monitor the performance of the Authority;
- (h) formulate policies for the administration and management of the Directorate; and
- (i) perform any other functions that may be assigned by the Cabinet Secretary.

14. The Board shall—

Powers of the Board.

- (a) have all the powers necessary for the proper performance of its functions under this Act;
- (b) administer the assets of the Authority in such manner and for such purposes as best promotes the purposes for which the Authority is established; and
- (c) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Authority.

15. (1) The conduct of the business and affairs of the Board shall be as provided in the Third Schedule.

Meetings of the Board.

(2) Subject to the provisions of this Act, the Board may regulate its own procedure.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

16. (1) The Board may establish committees for the better carrying out of its functions.

Committees of the Board.

(2) The Board may, with the approval of the Cabinet Secretary, co-opt into the committee under subsection (1) other persons whose knowledge and skills are found necessary for the function of the Board.

17. The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board the exercise of any of the powers or the performance of any its functions or duties under this Act.

Delegation by the Board.

18. The chairperson and members of the Board shall be paid out of the funds of the Authority, such allowances or other remuneration as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.

Remuneration of members of the Board.

19. (1) There shall be a Director-General of the Authority who shall be competitively recruited and appointed by the Board on such terms and conditions of service as determined by the Board in consultation with the Salaries and Remuneration Commission.

Appointment of the Director-General.

(2) The Director-General shall hold office for a term of three years' renewable for one further term of three years, subject to performance as evaluated by the Board.

(3) A person shall be qualified for appointment as Director-General if that person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of Chapter Six of the Constitution;
- (c) has a first degree in Meteorology and a Master's degree in a related science from a university recognized in Kenya; and
- (d) has at least ten years' experience in the relevant field, of which five years shall be at a senior management position.

20. (1) The Board may remove the Director-General from office in accordance with the terms and conditions of service or if the Director-General—

Removal of the Director-General from office.

- (a) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (b) is convicted of an offence whose term of imprisonment is more than six months;
- (c) is unable to perform the functions of the office arising out of prolonged physical incapacity or mental illness;
- (d) contravenes the provisions of any law; or
- (e) fails to comply with the provisions of this Act relating to disclosure of interest.

(2) The Director-General may resign by notice in writing addressed to the Board.

21. (1) The Director-General shall—

Duties of the
Director-General.

- (a) be responsible for the day-to-day management and operations of the affairs of the Authority;
- (b) be responsible for the execution and communication of the Boards strategies, decisions and policies;
- (c) be the Permanent Representative of Kenya to the World Meteorological Organization; and
- (d) perform such other duties as may be assigned by the law and the Board.

(2) Without prejudice to subsection (1), it shall be the responsibility of the Director-General to—

- (a) implement the meteorology policy;
- (b) promote the development of meteorological services in Kenya;
- (c) promote the Directorate for the purposes of offering instructions and training in meteorology and related sciences;
- (d) determine and set priorities of the performance targets of the Authority;
- (e) facilitate succession management and provide guidance in the appointment of senior managers;
- (f) ensure that the Authority has adequate systems of internal control, both operational and financial;
- (g) facilitate capacity development in meteorology;
- (h) monitor deployment and utilization of the resources of the Authority;
- (i) prepare the annual reports, business plans and financial statements of the Authority;
- (j) implement, co-ordinate and supervise the defined activities related to the management of meteorological programs;
- (k) promote stakeholder engagement and enhance the corporate image of the Authority; and

- (1) perform such other duties as may be assigned by the Board.

22. The Director-General shall not engage in any other paid employment or hold a position or have such interests that are likely to place the Director-General in a position of conflict of interest or impose undue influence on the Authority or its employees in discharging its functions under this Act.

Conflict of interest.

23. (1) The Director-General may, in writing, generally or in any particular case, delegate to any person all or any of the powers, exercisable by the Director-General under any written law.

Delegation of powers by the Director-General.

(2) Subject to any general or special direction given or condition attached by the Director-General, a person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on that person directly by this section.

(3) A delegation under this section may be revoked and no such delegation shall prevent the exercise of any power by the Director-General.

24. (1) There shall be a Corporation Secretary of the Authority who shall be appointed by the Board following a competitive recruitment process.

Appointment of Corporation Secretary.

(2) The terms and conditions of service of the Corporation Secretary shall be determined by the Board in consultation with the Salaries and Remuneration Commission.

25. A person qualifies for appointment as the Corporation Secretary if that person—

Qualifications of corporation secretary.

- (a) holds a degree in law from a university recognized in Kenya;
- (b) has at least five years' experience as a corporation secretary or a similar governance role;
- (c) is a member in good standing of the Institute of Certified Public Secretaries of Kenya; and
- (d) meets the requirements of Chapter Six of the Constitution.

26. (1) The Corporation Secretary shall be the Secretary to the Board and shall—

Duties of the Corporation Secretary.

- (a) provide legal services and advice the Board;
- (b) provide guidance to the Board on the duties and responsibilities of the Board;
- (c) ensure Board procedures are followed and reviewed regularly, and that the Board complies with the law, rules and regulations;
- (d) maintain and update the register of conflict of interest;
- (e) assist the Board in the implementation of the code of conduct and ethics;
- (f) assist the Board in organizing Board activities, including providing information, preparing the agenda of a Board meeting, issuing notices and keeping a record of attendance of meetings;
- (g) keep in safe custody the seal of the Authority and a record of its usage;
- (h) ensure that the minutes of the Board and Board committees are promptly prepared and circulated;
- (i) keep the Board abreast of and informed on matters of governance;
- (j) coordinate the governance audit process; and
- (k) perform any other duties as may be assigned by the Director-General and the Board.

(2) In the performance of duties under this Act, the Corporation Secretary shall be accountable to the Director-General.

27. The Authority may appoint such staff as are necessary for the proper discharge of the functions of the Authority under this Act on such terms and conditions of service as the Board may determine.

Staff of the Authority.

28. (1) The affixing of the common seal of the Authority may be authenticated by the signature of the chairperson or the Director-General.

Common seal of the Authority.

(2) A document that is not required by law to be made under seal and all decisions of the Authority may be

authenticated by the signature of the chairperson or the Director-General.

(3) If both the chairperson and the Director-General are absent, the Board may nominate a member of the Board to authenticate the common seal on behalf of the chairperson or the Director-General.

(4) The seal of the Authority 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 under this section shall be presumed to have been duly given.

(5) The seal of the Authority shall be kept in the custody of the Corporation Secretary and shall not be used except on the order of the Board.

PART IV — METEOROLOGY TRAINING AND RESEARCH DIRECTORATE

29. (1) There is established a directorate of the Authority to be known as the Meteorology Training and Research Directorate which shall be the successor to the Institute for Meteorological Training and Research.

Establishment of the Meteorology Training and Research Directorate.

(2) The Directorate shall be headed by a Director who shall be accountable to the Director-General.

(3) The Directorate shall be responsible for training and research and shall be the World Meteorological Organization Regional Training Centre for the provision of certificate and diploma professional courses in meteorology, operational hydrology and related sciences.

PART V — FINANCIAL PROVISIONS

30. (1) The funds of the Authority shall comprise of—

Funds of the Authority.

(a) such monies as may be appropriated by Parliament for purposes of the Authority;

(b) charges for private goods services;

(c) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;

(d) grants and loans from the government;

- (e) grants and loans from any organization or person subject to the provisions of the Public Finance Management Act, 2012; No.18 of 2012.
- (f) interest on savings made by the Authority;
- (g) money collected under the Air Passenger Service Charge Act; and Cap 475.
- (h) all monies and fees from any other sources provided, donated or lent to the Authority.

(2) The Authority may, with the approval of the Cabinet Secretary responsible for matters relating to finance, open and operate its own bank accounts in both domestic and foreign currencies in banks approved by the Board.

31. (1) The Board shall at least three months before the commencement of each financial year cause to be prepared estimates of revenue and expenditure of the Authority for that financial year which shall be submitted to the Cabinet Secretary for approval. Annual estimates.

(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year in question and shall provide for —

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Authority;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Authority;
- (c) the proper maintenance of buildings and grounds of the Authority;
- (d) the funding of training, research and development activities of the Authority;
- (e) the payment of subscriptions under regional and international obligations;
- (f) the provision of meteorological services including Universal Service Obligations;
- (g) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Authority; and

- (h) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

(4) The annual estimates approved under subsection (3) shall not be amended without the prior consent of the Board and the Cabinet Secretary.

32. The Board may, with the approval of the Cabinet Secretary responsible for matters relating to finance, invest any of the funds of the Authority in any manner and for any purposes provided in the Public Finance Management Act, 2012.

Investment of funds.

No. 18 of 2012.

33. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets, liabilities, undertakings, funds, activities contracts, transactions and other business of the Authority.

Accounts and Audit.

(2) The Board shall within three months from the end of the financial year submit to the Auditor-General the accounts of the Authority together with—

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

(3) The accounts of the Board shall be audited in accordance with the provisions of the Public Audit Act, 2015.

No. 34 of 2015.

(4) Notwithstanding the provisions of this Act, the Auditor-General may submit to the Cabinet Secretary a special report on any matters incidental to the Auditor-General powers under this Act, and the Public Audit Act, 2015, shall apply, to any report made under this section.

No. 34 of 2015.

34. The Board shall, within three months after the end of each financial year prepare and submit to the Cabinet

Annual Report.

Secretary a report of the operations of the Authority for the immediately preceding year.

PART VI – GENERAL PROVISIONS

35. (1) The Authority shall identify suitable sites and places on which to establish meteorological observation stations.

Establishment of
observation
stations.

(2) An officer authorized under section 36(2) may, at all reasonable times, enter any land on which an observation station is established for the purpose of conducting necessary inspection, maintenance and data collection.

(3) Where a site identified under sub section (1) is on private property, the Authority shall enter into an agreement with the owner stating the manner in which the station shall be maintained and the minimum distance to be kept between the station and any other structure.

36. (1) The Director-General shall designate and appoint any person to be an authorized officer for purposes of carrying out the functions of the Authority.

Authorized
officers.

(2) In carrying out the duties of an authorised officer, the authorised officer shall have such powers as may be necessary for proper carrying out of such duties.

37. (1) The Authority shall retain the intellectual property rights on any data, meteorological, hydrological, environmental and advisory service, computer programs, inventions, discoveries and improvements, generated by the Authority in the fulfillment of its functions.

Intellectual
Property Rights.

(2) A person who obtains any data, information, advisory and meteorological services from the Authority as a private good shall not, without the written consent of the Director-General, provide the same to a third party or cause it to be distributed.

(3) A person who uses any information or material of the Authority of publication in any way including in radio, television, social media, internet or other such medium, shall acknowledge the Authority as the source or contributor of such information.

(4) Any person who contravenes provisions of this section shall be guilty of an offence and upon conviction be

liable for a fine not exceeding five million shillings or imprisonment to a term not exceeding two years, or both.

38. The Authority is not liable for any damage, loss or injury sustained or alleged to have been sustained, by any person because of such person's reliance on meteorological information provided by the Authority.

Limitation of liability.

39. (1) No matter or thing done by any member of the Board or an officer, employee or agent of the Authority shall, if the matter or thing is done in good faith in executing the functions, powers and duties of the Authority, render the member, officer, employee, agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.

Protection from personal liability.

(2) Notwithstanding sub section (1), nothing in this section shall exempt a member of the Board, officer, employee or agent of the Authority from individual responsibility for unlawful or criminal act committed by the member of the Board, officer, employee or agent of the Authority.

40. (1) The Cabinet Secretary may, in consultation with the Authority, make Regulations for the better carrying out of the provisions of this Act.

Regulations.

(2) Despite the generality of subsection (1), the Cabinet Secretary may make Regulations prescribing—

- (a) rates, fees, charges and alterations in the tariffs, levied for the services and facilities provided by the Authority under this Act;
- (b) the cost recovery for aeronautical meteorological and marine meteorological services;
- (c) the standards for setting up and operating weather observing instruments;
- (d) dissemination of meteorological information to the public;
- (e) the operation of private weather services;
- (f) procedures for application for permits, suspension and cancellation of permits under this Act;
- (g) procedures for registration of persons and entities providing meteorological services;

- (h) procedure for registration and regulation of the persons and entities listed in section 3;
- (i) procedure for issuance of permits for operating meteorological stations and for regulating standards of installation of meteorological equipment and instruments in accordance with the World Meteorological Organization standards and recommended practices; and
- (j) anything which is required to be prescribed for the better giving effect of the provisions 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; and
- (b) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.

(2) The principles and standards applicable to the delegated power referred to under this Act are those found in—

- (a) the Statutory Instruments Act, 2013;
- (b) the Interpretation and General Provisions Act;
- (c) the general rules of international law as specified under Article 2(5) of the Constitution; and
- (d) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution.

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PART VII - OFFENCES AND PENALTIES

41. A person who—

General Offences.

- (a) obstructs an authorised officer of the Authority in the exercise of the powers or duties of the authorised officer under this Act;
- (b) falsely holds themselves out to be an authorized representative of the Authority;

- (c) destroys, removes or damages a weather observation station or other equipment of the Authority;
- (d) gives or distributes meteorological information obtained from the Authority without the consent of the Authority and contrary to the provisions of this Act;
- (e) issues to the public meteorological data collected, or weather information derived from a weather station not registered by the Authority; or
- (f) issues meteorological data or weather information to the public contrary to the provisions of this Act,

commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both.

42. A person who uses an instrument or equipment that is not examined or approved by the Authority commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

Offences in relation to meteorological equipment and instruments.

43. A person who approves the occupation of land within the limits of the protected area for meteorological observations, weather forecasting activities or weather modification activities commits an offence and shall, on conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding twenty-four months or to both fine and imprisonment.

Offence relating occupation of land within protected areas.

44. A person who relocates meteorological stations, instrument or equipment without the approval of the Authority commits an offence and shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

Offence for relocation.

45. A person who uses meteorological instruments without a valid calibration certificate from the Authority and the Kenya Bureau of Standards commits an offence and shall, on conviction, be liable to a fine not exceeding

Offence for using meteorological instruments without valid calibration certificate.

five hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

46. Any person carrying out a feasibility study for construction of a development project shall use meteorological data issued by the Authority.

Use of meteorological data.

47. A person who contravenes the provisions of this Act or commits an offence for which no penalty is provided, shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding twelve months or to both fine and imprisonment.

General penalty.

PART VIII—TRANSITIONAL PROVISIONS

48. (1) Any proceedings taken by or on behalf of the Kenya Meteorological Department or pending against it or any other person immediately before the commencement of this Act may be continued by or on behalf of or against the Authority as if instituted under this Act:

Court and other proceedings.

Provided that criminal proceedings shall be regarded as pending if the person concerned had pleaded to the charge in question.

(2) Any administrative investigation or inquiry instituted before the commencement of this Act shall be continued or disposed of as if instituted under this Act.

(3) All appeals or processes which immediately before the commencement of this Act were pending, shall proceed as if instituted under this Act.

(4) A contract subsisting between the Kenya Meteorological Department and another person or entity before the commencement of this Act shall subsist between the Authority and that person or entity.

49. (1) Upon commencement of this Act, all funds, assets and other property, both movable and immovable, which immediately before such date were vested in the Kenya Meteorological Department shall, by virtue of this section, vest in the Authority, subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Transitional matters in respect of the Authority.

(2) Upon commencement of this Act, all rights, powers and liabilities which immediately before the commencement of the Act were vested in, imposed on or enforceable against the Kenya Meteorological Department shall by virtue of this subsection, be vested in, imposed on or enforceable against the Authority.

(3) Any reference in any written law or in any document or instrument to the Kenya Meteorological Department shall, on and after the commencement of this Act, be construed to be a reference to the Authority.

(4) The annual estimates of the Kenya Meteorological Department for the financial year in which this Act comes into operation shall be deemed to be the annual estimates of the Authority for the remainder of that financial year:

Provided that such estimates may be varied by the Authority in such manner as the Cabinet Secretary may approve.

(5) The administrative directions made by the Kenya Meteorological Department or by the Cabinet Secretary which were in force immediately before the commencement of this Act shall, on or after such day, have effect as if they were directions made by the Authority or the Cabinet Secretary under this Act.

50. (1) The Director of Kenya Meteorological Department shall assume the duties of the Director-General in an acting capacity for a period not exceeding six months or until the Director-General is appointed in accordance with section 19.

Transition of staff.

(2) If, at the time of the commencement of this Act, there is no substantive Director of the Kenya Meteorological Department, the Cabinet Secretary shall appoint an acting Director-General for a period of six months or until the Director-General is appointed in accordance with section 19.

(3) The technical staff who, immediately before the date of commencement of this Act, were employees of the Kenya Meteorological Department shall continue to be employees of the Authority.

(4) Despite subsection, (3) where at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the Kenya Meteorological Department pursuant to disciplinary proceedings against the employee, and the penalty has not been or remains to be served by such employee, such employee shall, on transfer to the Authority serve or continue to serve such penalty to its full term as if it had been imposed by the Authority.

(5) For the avoidance of doubt, there shall be no break or interruption in the employment of the technical staff.

(6) A person who, immediately before the commencement of this Act was a non-technical member of staff at the Kenya Meteorological Department, shall at the commencement of this Act be deemed to be seconded to the Authority provided that such a person shall within a period of one year from the commencement of this Act, exercise his or her option either to—

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(a) enter into a written service agreement with the Authority, where upon his service with the civil service shall be deemed to have been terminated; or

(b) to be redeployed in the civil service.

(7) Nothing in this Act shall affect the pension rights of any employee under the Pensions Act.

(8) In this section—

“technical staff” means Meteorologists, Meteorological technologists, Engineers and Meteorological telecommunication assistants who immediately before the commencement of this Act were members of staff in the Kenya Meteorological Department; and

“non-technical staff” means those members of staff who are not technical staff who immediately before the commencement of this Act were members of staff in the Kenya Meteorological Department.

51. (1) Upon commencement of this Act, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the

Transitional matters in respect of the former Institute.

former Institute shall, by virtue of this Act, vest in the Directorate.

(2) Upon Commencement of this Act, all rights, powers and liabilities which immediately before such day were vested in, imposed on or enforceable against the former Institute shall by virtue of this subsection, be vested in, imposed on or enforceable against the Directorate.

(3) Any reference in any written law or in any document or instrument to the former Institute shall, on and after the commencement of this Act, be construed to be a reference to the Directorate.

(4) The administrative directions made by the former Institute or by the Cabinet Secretary which were in force immediately before the commencement of this Act shall, on or after such day, have effect as if they were directions made by the Directorate or the Cabinet Secretary under this Act.

(5) Any person who was an officer or employee of the former Institute immediately before the commencement of this Act shall be deemed to be an officer or employee of the Directorate subject to such terms of service as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

(6) All certificates issued by the former Institute shall be deemed to have been issued by the Directorate.

(7) In this section, "former Institute" means the Institute for Meteorological Training and Research.

FIRST SCHEDULE

(s2, 7)

PRIVATE GOOD SERVICES

Private good services include the following—

1. Provision of specialized and value-added weather forecasting and climate information services for sports, recreation and tourism; building and construction industry; insurance; forensic meteorological services for investigations; accidents, health related pollution dispersals; crime scene weather conditions among other sectors.
2. Provision of marine meteorological services required for safety of maritime navigation in the southwestern Indian Ocean and inland water lakes.
3. Provision of aeronautical meteorological services required for aerodrome warnings.
4. Provision of meteorological services to airports for approach and landing, take-off and cruising, and en-route services.
5. Weather and climate related publications to a target market.
6. Meteorological consultancy services including, but not limited to, professional advice to the legal, financial and insurance sectors.
7. Contracted services in research and development for weather and climate-activities.
8. Provision of meteorological services to the communication and media industries.
9. Commercial meteorological services provided to State Departments, institutions and organizations.
10. Fabricating and selling of meteorological instruments and equipment as well as the servicing, standardization of instruments and equipment falling within the competence of the Authority.
11. Calibration, maintenance, repair and inter-comparison of meteorological instruments.
12. Provision of services for the renewable energy sector including hydro-power, geothermal, solar and wind energy generation and distribution.
13. Provision of meteorological training.
14. Provision of any other meteorological services that do not fall under Public Good Services.

SECOND SCHEDULE
PUBLIC GOOD SERVICES

(s2, 7)

Public good services include the following—

1. The gathering of meteorological, climatological and environmental observational data over Kenya and the Western Indian Ocean, sufficient for related analysis and to comply with the international obligations and in accordance with the World Meteorological Organization and the International Civil Aviation Organization standards and recommended practices including standards pertaining to the Joint Commission of Oceanography and Marine Meteorology, where practicable.
2. The carrying out of those international service obligations agreed under the World Meteorological Organization arrangements, including the international distribution and exchange of meteorological data as a Regional Telecommunication Hub, Regional Specialised Meteorological Centre, Regional Training Centre, Regional Instrument Centre, a centre of Excellence for the African Satellite Meteorology Education and Training, a test-bed for the World Meteorological Organization concept of operation on the World Meteorological Organization Integrated Global Observing System and the World Meteorological Organization Information System, hosting Inter-Governmental Authority for Development Climate Prediction and Application Centre and the World Meteorological Organization Office for Eastern and Southern Africa.
3. The provision of other meteorological services and the representation of Government in fulfillment of international obligations, where appropriate.
4. The provision of weather and climatic forecasting and early warning services intended for the benefit of the public, safety of life and protection of property and infrastructure including conservation of the natural environment as enshrined in the Constitution of Kenya and the World Meteorological Organization Convention.
5. The provision of weather forecasts and information to the public for individual, household or group planning.
6. The management and custody of the national climatological databank for research and for posterity.

7. The operation and maintenance of the national meteorological observation and telecommunication networks including high performance computing infrastructure necessary for the provision of Public Good Services.
8. Provision of advice to the Government regarding meteorological and climatological matters, especially advice pertaining to severe weather, extreme climate events, disaster risk reduction, pollution and climate change.
9. Research and development aimed at improving the quality of the Public Good Services.
10. Provision of meteorological support for the transport sector including search and rescue operations pertaining to aircraft accidents, disaster risk reduction, relief and rehabilitation services.
11. Provision of specialised services for farming activities.
12. Provision of maritime weather, sea bulletins, tsunami advisories, alerts and warnings for safety of life at sea and coastal regions.
13. Provision of weather and climate information through County Weather and Climate Information Centres.
14. Any other service the Cabinet Secretary may declare to be a Public Good Service.

THIRD SCHEDULE*(s.15)***CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**

1. (1) The Board shall meet not less than four times ^{Meetings.} in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The chairperson may call a special meeting of the Board at any time the chairperson deems fit for expedient transaction of the business of the Board.

(3) The notice for a meeting of the Board shall be given in writing to each member of the Board at least fourteen days before the day of the meeting.

(4) In the case of a special, or extra-ordinary meeting, a notice of less than fourteen days' notice shall be considered sufficient.

(5) Notwithstanding the provisions of subparagraph (2), the chairperson may, upon requisition in writing by at least two thirds of the members, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(6) The notice to be given under paragraph (2) and (3) shall state—

- (a) the venue and time of the meeting; and
- (b) the agenda with sufficient details of business to be discussed at the meeting.

(7) The chairperson shall preside at every meeting of the Board at which the chairperson is present but in the chairperson's absence, the members present shall elect from among themselves a chairperson who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(8) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by majority votes of those present and voting, excluding the Director-General, and in case of an equal vote, the chairperson or the person presiding shall have a casting vote.

(9) The Board may, with approval of the Cabinet Secretary, co-opt or invite any number of persons to act as advisors or consultants at any of its meetings or form such committees to perform such functions or duties of the Board as the Board shall determine.

(10) Subject to the provisions on quorum, no proceedings shall be invalid by reason only of a vacancy among the members of the Board.

(11) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board.

(12) The quorum for the meetings of the Board shall be five members. Co-opted or invited persons shall not be counted in the quorum of the meetings of the Board and shall not be eligible to vote.

2. (1) The Board may establish such committees as it deems appropriate for the performance of its functions.

Committees of the Board.

(2) A Committee established under sub-paragraph (1) shall elect a chairperson from amongst its members.

(3) The Board may where it deems appropriate, co-opt or invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subparagraph (1) shall be ratified by the Board.

3. (1) If a member of the Board is present at a meeting of the Board or any committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable before the commencement of the meeting, declare such interest.

Disclosure of Interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee otherwise directs, take part in any consideration or, discussion of, or vote on any question touching on the matter.

(3) A person who contravenes subparagraph (1) commits an offence.

(4) No member of the Board or officer, employee or agent of the Authority shall enter into a service contract or trade with the Authority.

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

4. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

Minutes.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the Bill is to put in place a legislative framework to regulate the meteorological services in Kenya and to co-ordinate and monitor meteorological services. The Bill proposes the establishment of the Kenya Meteorological Service Authority which shall be responsible for the provision, regulation, co-ordination and management of meteorological services.

Part I (Clauses 1-4) of the Bill provides for the preliminary provisions and outlines the purpose and objectives of the Bill. These include among others fulfilling Kenya's international obligations under the Convention of the World Meteorological Organization and the International Civil Aviation Organization.

Part II (Clauses 5-8) of the Bill Establishes the Kenya Meteorological Service Authority and provides for its functions and powers under clauses 7 and 8, respectively. The functions of the Authority include establishment and maintenance of surface, upper air and marine meteorological observation networks, establishment and maintenance of integrated information systems for the exchange of meteorological data and products, data processing and archival, forecasting, product dissemination including provision of aeronautical meteorological services for the safety, regularity and efficiency of international air navigation in line with Annex III to the Convention on International Civil Aviation Organization.

Part III (Clauses 9-28) of the Bill provides for the Management of the Authority by a Board of Directors appointed under clause 9. Clause 10 sets out the qualification of the Chairperson and the members of the Board. The functions of the Board include overseeing the implementation of meteorology. The Part further sets out provisions relating to tenure of office, vacancy of office, meetings of the Board, remuneration among others.

Part IV (Clause 29) of the Bill provides for the establishment of the Meteorology Training and Research Directorate. The Directorate shall be the successor of the Institute for Meteorological Training and Research (IMTR) and the designated World Meteorological Organization Regional Training Centre for the provision of Diploma, Certificate, professional Courses in meteorology, operational hydrology and related sciences.

Part V (Clauses 30-34) of the Bill provides for financial provisions including reporting mechanism, audits and accounts, investment and management of funds by the Authority.

Part VI (Clauses 35-40) of the Bill sets out the General Provisions relating to establishment of weather stations, intellectual property rights on any data, advisories, inventions, discoveries generated by the Authority, protection from personal liability of the Board of the Authority or any agent thereof.

Part VII (Clauses 41-47) of the Bill contains provisions relating to offences and penalties including use of meteorological equipment and instruments not examined or accepted by the Authority, occupation of land within the limits of the protected area for meteorological observations, relocation of stations without approval of the Authority, use of instruments or equipment without approval of the Authority, use of meteorological equipment not calibrated by the Authority and the Kenya Bureau of Standards, among others.

Part VIII (Clauses 48-51) of the Bill contains transitional provisions relating to court proceedings, assets and liabilities, contracts and staff of the Kenya Meteorological Department to the Authority and the Institute for Meteorological Training.

The Schedules detail the provisions relating to private good services, public good services and the conduct of business and the affairs of the Board.

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

The Bill confers on the Cabinet Secretary the powers to make regulations under the Act for the purposes of operationalizing the Act in order to implement the objectives. The Bill does not limit any fundamental rights or freedoms.

Indication of whether the Bill concerns County Governments

The Bill does not affect the functions of the County Governments as set out in the Fourth Schedule to the Constitution and is therefore not a Bill concerning counties. Section 18 of Part 1 of the Fourth Schedule to Constitution provides that transport and communications, is a function of the National Government 18(f) relates to marine navigation, (g) relates on civil aviation and (h) on space travel.

Further meteorology touches on the aspects specified in section 22 on protection of environment and section 24 on disaster management which are functions of the National Government.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

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

Dated the 5th July, 2023.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.



