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PARLIAMENT

NATIONAL ASSEMBLY BILLS
(Bill No. 61 of 2022)

THE ASSISTED REPRODUCTIVE TECHNOLOGY BILL, 2022

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**THE ASSISTED REPRODUCTIVE TECHNOLOGY
BILL, 2022**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Application of the Act.
- 4—Objects of the Act.

**PART II—THE ASSISTED REPRODUCTIVE
TECHNOLOGY COMMITTEE**

- 5—Assisted Reproductive Technology Committee.
- 6—Functions of the Council.
- 7—Obligations of the Cabinet Secretary.
- 8—Obligations of County Governments.

PART III—PROHIBITED ACTIVITIES

- 9—Use of embryo.
- 10—Consent of parties.
- 11—Posthumous use without informed consent.
- 12—Circumstances for undertaking assisted reproductive technology.
- 13—Circumstances under which assisted reproductive technology is precluded.
- 14—Use of embryo in a woman.
- 15—Gametes obtained from a child.
- 16—Restrictions on the use of embryos.
- 17—Use of gametes.
- 18—Number of times one can donate gametes or embryos or be a surrogate.

19—Donation of gametes or embryos.

20—Disposal of gametes.

**PART IV—RIGHTS OF PARENTS, SURROGATE
MOTHERS, DONORS AND CHILDREN**

21—Posthumous reproduction.

22—Right to assisted reproductive technology.

23—Consent to assisted reproductive technology service.

24—Duties of an assisted reproductive technology expert.

25—Pre-implantation diagnosis and testing.

26—Rights to accrue to a child.

27—Surrogate motherhood.

28—Intended parents.

29—Leave related to surrogacy.

30—Surrogacy agreements.

31—Surrogacy agreements by third parties.

32—Commercialisation of surrogacy.

33—Termination of surrogacy agreements.

34—Obligations under surrogacy agreement.

35—Prohibition of sex selection.

36—Restriction on sale of human gametes, zygotes and embryos.

37—Prohibition on certain publications.

PART V—ACCESS TO INFORMATION

38—Assisted reproductive technology register.

39—Provision of information by the Council.

40—Minor not to be given information.

41—Information from the Council.

42—Restriction on disclosure of information.

PART VI—LICENSING

43—Licence.

- 44—Requirement for licence.
- 45—Application for licence.
- 46—Inspection of premises before license is issued.
- 47—General conditions for licences.
- 48—Conditions for storage of gametes and embryos.
- 49—Grant of licence.
- 50—Responsibility of a supervisor.
- 51—Revocation of licence.
- 52—Application to the Cabinet Secretary for review.
- 53—Appeal to the High Court.
- 54—Temporary suspension of a licence.

PART VII—MISCELLANEOUS PROVISIONS

- 55—Offences.
- 56—General penalty.
- 57—Transitional provisions.

**PART VIII—PROVISIONS ON DELEGATED
POWERS**

- 58—Regulations.

SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE
COMMITTEE

**THE ASSISTED REPRODUCTIVE
TECHNOLOGY BILL, 2022**

A Bill for

AN ACT of Parliament to provide for the regulation of assisted reproductive technology; to prohibit certain practices in connection with assisted reproductive technology; to make provision in relation to children born of assisted reproductive technology processes and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Assisted Reproductive Technology Act, 2022. Short title.

2. In this Act, except where the context otherwise requires— Interpretation.

“abandoned child” means a child born out of a surrogacy procedure who has been deserted by his or her intended parents and the surrogate and declared as such by the court after due process;

“abandonment” means failure to continue to pay for cryopreservation storage of gametes or embryos;

“altruistic surrogacy” means the surrogacy in which no charges, expenses, fees, remuneration or monetary incentive of whatever nature, except the medical expenses or the insurance coverage for the surrogate mother, are given to the surrogate mother or her dependents or her representative;

“assisted reproductive technology” means all techniques that attempt to obtain a pregnancy by handling the sperm or the oocyte outside the human body and transferring the gamete or the embryo into the reproductive system of a woman;

“assisted reproductive technology expert” means an obstetrician or gynaecologist that has sub-specialised in reproductive endocrinology and fertility medicine;

“assisted reproductive technology services” includes the diagnostic and screening, endoscopic surgery, intra-uterine insemination, in-vitro fertilisation,

intracytoplasmic sperm injection, cryo-preservation, pre-implantation genetic screening, pre-implantation genetic diagnosis, onco-fertility, gamete and embryo donation, or surrogacy provided to infertile and sub-fertile man or woman;

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

“child” means an individual who has not attained the age of eighteen years;

“clinic” means a health facility licensed under this Act for the purpose of conducting assisted reproduction procedures;

“commercial surrogacy” means the commercialisation of surrogacy services or procedures or its component services or component procedures including the selling or buying of human embryo or trading in the sale or purchase of human embryo or gametes or hiring, selling or buying or trading the services of surrogate motherhood by way of giving payment, reward, benefit, fees, remuneration or monetary incentive in cash or in kind, to the surrogate mother or her dependents or her representative, except the medical expenses or the insurance coverage for the surrogate mother;

“Council” means the Kenya Medical Practitioners and Dentists Council established under section 3 of the Medical Practitioners and Dentists Act;

Cap. 253.

“couple” means a male and a female who are married or are cohabiting under the laws of Kenya;

“court” means the High Court of Kenya;

“cryo bank” means a facility for the collection and storage of gametes and embryos and the supply of gametes to the assisted reproductive technology clinics or their patients;

“cryo-preservation” means the assisted reproductive technology of freezing and storing of gametes, zygotes, embryos, ovarian and testicular tissues;

“diagnosis” means the process of testing and screening to ascertain the proper functioning of the reproductive systems and its processes at the beginning of

the assisted reproductive technology process;

“donation” means a process in assisted reproductive technology of voluntarily giving gametes for purposes of procreation;

“egg” means a live human ovum;

“embryo” means a cell or group of cells containing a diploid complement of chromosomes or group of such cells, not a gamete or gametes, that has the potential to develop into a live born human being if transferred into the body of a person under conditions in which gestation may be reasonably expected to occur;

“embryologist” means a specialist who deals with the development, storage and transfer of embryos, and gametes and assists in the process of fertilisation in the laboratory;

“endoscopic surgery” means a surgery in assisted reproductive technology involving techniques that limit the size of incisions performed with one or more small incisions instead of large incisions;

“father” means a male intended parent;

“foetus” means a developing human offspring after the embryonic stage prior to birth;

“gamete” means a mature sperm from a man or a mature egg from a woman capable of fusing with a gamete of the opposite sex to produce an embryo;

“gamete donor” means a person who voluntarily gives his or her gametes for the purpose of fertilisation in an assisted reproductive technology process;

“gestational surrogacy” means the process where a woman who did not provide or donate an egg carries a pregnancy for the intended parents or couple;

“infertile or sub-fertile client” means a man and woman whether a couple or parties to a marriage who are not able to procreate naturally;

“infertility” means the inability to conceive after one year of unprotected coitus or other proven medical condition preventing a couple from conception;

“intended parent” means a woman or couple who

enters into a surrogacy arrangement seeking assistance in procreation through the help of a surrogate mother or donor;

“intracytoplasmic sperm injection” means an assisted reproductive technology process whereby a single healthy sperm is injected directly into the cytoplasm of a female egg outside the body;

“in-vitro fertilisation” means an assisted reproductive technology process where fertilisation takes place outside the body;

“mother” means a female intended parent;

“oocyte” means naturally ovulating egg in the female genetic tract;

“ovum” means a single cell released from either of the female reproductive organs that is capable of developing into a new organism when fertilised with a sperm cell;

“parent” has the meaning assigned to it under section 2 of the Children Act; Cap. 141.

“pre-implantation genetic diagnosis” means a process in assisted reproductive technology which involves assessment of the embryo for pre-existing hereditary diseases before the transfer of the embryo to a woman’s womb;

“pre-implantation genetic testing” means all techniques used to identify genetic defects and aneuploidy in embryos created through in-vitro fertilisation before transfer;

“pre-implantation screening” means a process in assisted reproductive technology to determine the viability or euploidy of an embryo before transferring to the woman’s womb;

“procreation” means the process of conceiving and delivering a baby including through assisted reproductive technology;

“sperm” means a mature male human gamete;

“supervisor” means the person responsible for activities authorised under the licence issued under this

Act;

“surrogacy” means a practice whereby a woman bears and gives birth to a child for an intended parent or couple;

“surrogacy agreement” means an agreement between a surrogate and an intended parent or couple that the surrogate is to undergo an assisted reproduction procedure for purposes of having a child born as a result of such a procedure for the intended parent or couple;

“surrogate mother” means a woman who has agreed to carry a pregnancy to term for another woman or couple;

“treatment services” means medical, surgical or obstetric services provided to the public or a section of the public for the purpose of assisting women to get pregnant and to carry the pregnancies to term; and

“zygote” means a diploid cell resulting from the fusion of two haploid gametes.

3. This Act applies to a medically assisted reproductive process whether or not the process is completed outside the human body.

Application of the Act.

4. The objects of this Act are to—

Objects of the Act.

- (a) provide a framework for assisted reproductive technology services for every person;
- (b) create an enabling environment for the reduction of infertility and sub-fertility in Kenya;
- (c) ensure access to quality and comprehensive assisted reproductive technology services in line with Article 43(1)(a) of the Constitution;
- (d) ensure the best interest of children;
- (e) facilitate the registration of children born out of gestational surrogacy arrangements;
- (f) promote research into the incidence, causes and prevention of infertility;
- (g) provide a framework for surrogacy arrangements;
- (h) permit altruistic surrogacy;

- (i) prohibit commercial surrogacy; and
- (j) establish an Assisted Reproductive Technology Committee.

PART II—THE ASSISTED REPRODUCTIVE TECHNOLOGY COMMITTEE

5. (1) The Council shall establish a Committee to be known as the Assisted Reproductive Technology Committee.

Assisted Reproductive Technology Committee.

(2) The Committee shall conduct its business and affairs in accordance with the provisions of the Schedule.

6. The functions of the Council shall be to—

Functions of the Council.

- (a) develop standards, regulations and guidelines on assisted reproductive technology;
- (b) advise the Cabinet Secretary on matters relating to the treatment and care of persons undergoing assisted reproductive technology and to advise on the relative priorities to be given to the implementation of specific measures in regard to assisted reproductive technology;
- (c) promote research on the conduct, control and treatment of assisted reproductive technology;
- (d) develop programs for awareness creation on the methods of assisted reproductive technology treatment;
- (e) prescribe minimum requirements for the physical infrastructure for assisted reproductive technology clinics;
- (f) prescribe, in consultation with the relevant government agency, the minimum educational requirements for assisted reproductive technology experts and embryologists;
- (g) in consultation with the relevant government agency, inspect and accredit the facilities for the training of experts and embryologists to ensure compliance with set standards;
- (h) maintain and make available to the public a register of information on all the licenced

assisted reproductive technology facilities in Kenya;

- (i) maintain and make available to the public a register of information on all the licenced assisted reproductive technology experts and embryologists;
- (j) grant, vary, suspend and revoke licenses;
- (k) keep under review information about embryos and any subsequent development of embryos;
- (l) provide advice and information to persons receiving assisted reproductive technology treatment including persons providing gametes or embryos under this Act;
- (m) disseminate information to the public on reproductive health that may relate or affect assisted reproductive technology;
- (n) establish and maintain a confidential national database on persons receiving assisted reproductive technology treatment services or providing gametes or embryos for use; and
- (o) perform such other functions as may be necessary for the better carrying out of the functions of the Council under this Act.

7. The Cabinet Secretary shall—

Obligations of the
Cabinet Secretary.

- (a) put in place the necessary mechanisms and infrastructure to ensure access to the highest attainable standard and quality of cost-effective assisted reproductive technology services;
- (b) provide adequate resources necessary to ensure access to the highest attainable standard and quality of cost-effective assisted reproductive technology services;
- (c) provide regulations to ensure assisted reproduction health services are covered by every health insurance provider including the Social Health Authority; and
- (d) collaborate with the county governments in

expanding and strengthening the access and delivery of assisted reproductive health services in counties.

8. Each County Government shall—

Obligations of
County
Governments.

- (a) allocate in the county budget, the funds necessary for the provision of quality, cost-effective assisted reproductive technology services in the county health systems;
- (b) procure equipment, medicine and medical supplies required to cater for assisted reproductive health care services in the respective counties;
- (c) carry out sensitisation programmes related to assisted reproductive technology; and
- (d) establish linkages and networks with local and international development partners to mobilise and source for funding to promote the delivery of quality and cost-effective assisted reproductive technology services in the county.

PART III — PROHIBITED ACTIVITIES

9. A person shall not create, keep or use an embryo at any stage of development, either from fertilisation or conception until a transfer to a woman except as provided under this Act.

Use of embryo.

10.(1) No person shall make use of any human reproductive material for the purpose of creating an embryo unless the donor of the material has given written informed consent.

Consent of parties.

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

11.(1) No person shall remove a human reproductive material from the body of a donor after the death of the donor for the purpose of assisted reproductive technology unless the donor of the material had given a written informed consent.

Posthumous use
without informed
consent.

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

12. A person qualifies to undertake assisted reproductive technology, where it is certified by an assisted reproductive technology expert that the person requires assisted reproductive technology on medical or health grounds.

Circumstances for undertaking assisted reproductive technology.

13.(1) A person shall not undertake assisted reproductive technology for—

Circumstances under which assisted reproductive technology is precluded.

- (a) any purpose other than human procreation;
- (b) experimental purposes aimed at modifying the human race; or
- (c) speculative and commercial purposes.

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

14.(1) A person shall not for purposes of assisted reproductive technology place in a woman –

Use of embryo in a woman.

- (a) an embryo other than a human embryo;
- (b) a gamete other than a human gamete; or
- (c) a gamete or embryo other than that consented to by the woman.

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

15.(1) A person shall not obtain a sperm or ovum from a child or use any sperm or ovum obtained from a child except for medical reasons and future human procreation by the child and with the informed consent of the child, parent or legal guardian of the child.

Gametes obtained from a child.

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

16.(1) A person shall not—

Restrictions on the use of embryos.

- (a) keep or use an embryo other than a human embryo;
- (b) place a human embryo in any animal;
- (c) transfer an embryo in a woman other than a human embryo;
- (d) keep or use a human embryo in circumstances prohibited under this Act or as prescribed by Regulations;
- (e) replace any part of a human embryo with another part from a cell of any person or embryo or any subsequent development of an embryo except where such replacement is for purposes of solving a medical problem; or
- (f) undertake any form of human cloning.

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

17.(1) A person shall not—

Use of gametes.

- (a) store or use any gametes save as provided under this Act;
- (b) in the course of providing assisted reproductive technology treatment services to a woman, use the sperm of any man without his informed consent;
- (c) in the course of providing assisted reproductive treatment services to a woman, use the egg of another woman without her informed consent;
- (d) mix human gametes with the live gametes of an

animal;

- (e) transfer sperms or embryo into a womb except in pursuance of a license as provided for under this Act; or
- (f) in the course of providing assisted reproductive treatment services to any woman, use the sperm of any man without the woman's informed consent.

(2) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

18. (1) A person shall not donate their gametes or embryos more than ten times.

Number of times one can donate gametes or embryos or be a surrogate.

(2) A person shall not perform a treatment procedure using gametes or an embryo produced by a donor if such procedure may result in more than ten children who are genetic siblings.

(3) A surrogate mother shall not enter into a surrogacy agreement more than three times in her lifetime and shall be required to wait for two years between each birth to be eligible for another surrogacy agreement.

19. (1) A cryo bank shall obtain—

Donation of gametes or embryos.

- (a) male gametes from males between twenty-one years of age and thirty-five years of age;
- (b) oocytes from females between twenty-three years of age and thirty-five years of age.

(2) An assisted reproductive clinic under this Act shall examine donors for diseases as may be prescribed by the Council.

20. (1) The Council may, under such conditions as may be prescribed, permit—

Disposal of gametes.

- (a) disposal of gametes after ten years of preservation;
- (b) donation of gametes to other couples pursuing

- assistive reproductive technology; or
- (c) the conduct of research on stem cells and zygotes that are not more than fourteen days old on a written application and where—
 - (i) the applicant undertakes to document the research for record purposes; and
 - (ii) prior consent is obtained from the donor of the stem cells or zygotes.

(2) A person who contravenes this provision is guilty of an offence and is liable on conviction, to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

PART IV—RIGHTS OF PARENTS, SURROGATE MOTHERS, DONORS AND CHILDREN

21.(1) Where the sperm of a man, or any embryo the creation of which was brought about with the sperm of the man was used after the death of the man, the man shall not be treated as the father of the child unless—

Posthumous reproduction.

- (a) the mother was married to the man at the time of the death of the man; and
- (b) there was informed consent in writing by the man.

(2) Where the ovum of a woman or an embryo, the creation of which resulted from the ovum of that woman, was used after the death of that woman, that woman shall not be treated as the mother of the child born out of that ovum or embryo unless the—

- (a) father was married to the woman at the time of the death of the woman; or
- (b) woman had given informed consent in writing.

22.(1) Every person has the right to access the highest standard and quality of attainable and cost-effective assisted reproductive technology services.

Right to assisted reproductive technology.

(2) Assisted reproductive technology services shall be provided by qualified experts licensed by the Council.

(3) An assisted reproductive technology expert shall,

before providing assisted reproductive technology service—

- (a) provide information necessary to assist in the making of an informed decision to all parties concerned, and in particular, information concerning—
 - (i) the various assisted reproductive technology methods available;
 - (ii) the chances of success for various assisted reproductive technology methods;
 - (iii) the advantages, disadvantages and risks of the various assisted reproductive technology methods;
 - (iv) the cost of treatment for different assisted reproductive technology methods; and
 - (v) the right of a child born through assisted reproductive technology to parental care and protection, which includes equal responsibility of the mother and father to provide for the child, whether they are married to each other or not;
- (b) advise the parties on the need for professional counselling and have them undergo the same on the implications of the various methods; and
- (c) ensure promotion and preservation of the health, safety and dignity of the parties seeking assisted reproductive technology services.

23. (1) An assisted reproductive technology expert shall obtain prior informed and written consent from the parties before providing any assisted reproductive technology service under the Act or any other law.

Consent to assisted reproductive technology service.

(2) The consent under subsection (1) shall make express provisions on —

- (a) the ownership of gametes;
- (b) the number of gametes to be implanted; and
- (c) what should be done with the gametes in case of—

- (i) the death of any of the parties seeking assisted reproductive technology services;
- (ii) incapacity of any of the parties seeking assisted reproductive technology services;
- (iii) abandonment of the gametes;
- (iv) dispute;
- (v) divorce; or
- (vi) separation.

(3) The assisted reproductive technology clinics and assisted reproductive technology banks shall not cryo preserve any human gametes without specific instructions and consent in writing from all the parties seeking assisted reproductive technology in respect of what should be done with the gametes in case of the circumstances set out in subsection 2(c).

(4) The consent of any of the parties obtained under this section may be withdrawn at any time prior to the process of transfer of the gametes into the woman's uterus.

24. (1) An assisted reproductive technology expert shall ensure—

- (a) confidentiality is maintained throughout the entire process of provision of assisted reproductive technology services;
- (b) the donor has been screened for all diseases and conditions that may endanger the health of the parents, the surrogate or the child; and
- (c) all parties are aware and understand the rights of the child born through the assisted reproductive technology process.

(2) An assisted reproductive technology expert, shall, before receiving gamete or embryo donation, collect the following information from the donor—

- (a) a passport size photo;
- (b) physical characteristics;

Duties of an assisted reproductive technology expert.

- (c) ethnic origin;
- (d) family history;
- (e) medical history;
- (f) interests and hobbies; and
- (g) professional qualifications and skills.

(3) The information obtained under subsection (2) shall be held by the licensed facility, and shall not be disclosed in any way that may identify the receiver and donor.

25. A donor shall undergo a pre-implantation diagnosis or testing for purposes of screening the human embryo or gamete for known, pre-existing, heritable or genetic diseases.

Pre-implantation diagnosis and testing.

26. (1) A child born out of assisted reproductive technology under this Act shall have the same legal rights under the Constitution or any other written law as that of a child born through natural conception.

Rights to accrue to a child.

(2) Where a married couple obtains a divorce after the creation of an embryo, both partners reserve the right to withdraw consent of the implantation of the embryo which has been created by their sperm or ovum.

27. (1) A woman who—

- (a) has attained the age of twenty-five years;
- (b) is below the age of forty-five years;
- (c) has given birth to at least one child;
- (d) understands the rights and obligations accruing under a surrogacy agreement; and
- (e) has undergone comprehensive mental and physical health assessments

Surrogate motherhood.

may consent to a process of assisted reproduction for purposes of surrogate motherhood.

(2) The surrogate mother under subsection (1) shall carry the foetus on behalf of intended parents and shall relinquish all parental rights at birth over the child.

(3) Where the surrogate mother or intended parents has no genetic connection with the child, the surrogate mother shall subject to a court order relinquish all parental

rights and responsibilities at birth over the child to the intended parents.

28. An intended parent may use assisted reproductive technology where the intended parent—

Intended parents.

- (a) is a Kenyan;
- (b) has attained the age of twenty-five years; and
- (c) is below the age of fifty-five years.

29. (1) A surrogate mother under this Act shall be entitled to three months lochia leave.

Leave related to surrogacy.

(2) An intended mother under this Act shall be entitled to three months maternity leave.

(3) An intended father under this Act shall be entitled to two weeks paternity leave.

30.(1) Intended parents intending to enter into a surrogacy agreement with any woman shall sign a surrogacy agreement in a prescribed form before the process is undertaken.

Surrogacy agreements.

(2) A person may enter into a surrogacy agreement under subsection (1) only if—

- (a) the person has the capacity to enter into the agreement under this Act and any other relevant written law in Kenya; and
- (b) understands the rights and obligations that may arise or accrue under this Act and the agreement.

(3) A surrogacy agreement under subsection (1) is valid only—

- (a) if the agreement is in writing and signed by all the parties;
- (b) if the agreement is entered into within the Republic of Kenya;
- (c) if the agreement includes provisions for the contact, care, upbringing and general welfare of the child that is born, including the position of the child in the event of—
 - (i) death of the commissioning parent, or if a couple or parties to a marriage, death of one of the commissioning parents before

the birth of the child; or

- (ii) separation or divorce of the commissioning parents who were a couple or parties to a marriage, before the birth of the child;
- (d) where the commissioning parent or commissioning parents agree to meet the prenatal regimen and birth expenses of the surrogate mother;
- (e) where signatures to the surrogacy agreement are witnessed by a minimum two witness from each of the parties to the agreement;
- (f) where there are separate and independent advocates of the High Court of Kenya representing the parties to the agreement;
- (g) where legal fees are paid by the commissioning parent, commissioning parents or parties to marriage;
- (h) where the surrogate appoints a next of kin and provides the identity information of the appointed next of kin; and
- (i) where the intended parents appoint a guardian and provides the identity information of the appointed guardian.

(4) The surrogacy agreement shall indicate the names of the parents of the child to be born through assisted reproductive process.

(5) The Council shall carry out pre-approval checks and shall satisfy itself that the—

- (a) surrogate and the intended parent or parents have undergone appropriate medical assessments including an assessment on the health of the surrogate, pre-implantation genetic testing or diagnosis;
- (b) surrogate and the intended parent or parents have received appropriate counselling and legal advice about the implications of signing the surrogacy agreement and that a report by a counsellor reveals the positive welfare of a child who may be born as a result of an

assisted reproduction procedure and the positive welfare of other children who may be affected by any such birth; and

- (c) intended parents have taken out an appropriate insurance policy to cover the surrogate becoming ill, with protection under the policy starting no later than the day on which the first assisted reproduction procedure is to be carried out under the surrogacy agreement and ending five years after the surrogate has given birth.

(6) A person may apply to the High Court for any necessary orders on matters relating to—

- (a) the validity of a surrogacy agreement; or
- (b) a dispute relating to parentage of a child born as a result of an assisted reproduction procedure.

(7) Where there is a dispute as to the parentage of a child born out of assisted reproductive process, the aggrieved party may apply to Court within sixty days of the birth of the child for determination of the parentage of the child.

(8) The intended parents shall not give any monetary or other benefits to the surrogate mother other than for expenses reasonably incurred as a consequence of surrogacy.

(9) A surrogacy agreement may indicate the terms of the agreement including terms prohibiting the surrogate from—

- (a) partaking alcohol;
- (b) smoking;
- (c) using unprescribed drugs; or
- (d) engaging in dangerous activity that may affect the health or life of a child conceived through assisted reproduction technology.

(10) The terms of the agreement under subsection (9) shall not be overly tasking or prejudicial to the surrogate.

(11) The Cabinet Secretary shall make regulations for the better carrying out of the provisions of subsection (9).

31. (1) No person shall on a commercial basis engage in acts in Kenya or knowingly cause another person to engage in acts on a commercial basis including—

Surrogacy agreements by third parties.

- (a) initiating or taking part in any negotiations with the intention of the making of a surrogacy arrangement;
- (b) offering or agreeing to negotiate the making of a surrogacy arrangement; or
- (c) compiling any information with the intent of using such information in making or negotiating the making of surrogacy arrangements.

(2) For the purposes of this section, a person engages in an act on commercial basis where—

- (a) any payment is at any time received by himself or another in respect of that act; or
- (b) the person engages in that act with the purpose of any payment being received by himself or another in respect of making, negotiating or facilitating the making of any surrogacy arrangement.

32. (1) No person, organisation, surrogacy clinic, laboratory or clinical establishment of any kind shall—

Commercialisation of surrogacy.

- (a) undertake commercial surrogacy, provide commercial surrogacy or its related component procedures or services in any form or run a racket or an organised group to empanel or select surrogate mothers or use individual brokers or intermediaries to arrange for surrogate mothers and for surrogacy procedures at such clinics, laboratories or at any other place;
- (b) issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated, any advertisement in any manner regarding commercial surrogacy by

- any means, scientific or otherwise;
- (c) abandon or disown or exploit or cause to be abandoned, disowned or exploited in any form, the child or children born through surrogacy;
 - (d) exploit or cause to be exploited the surrogate mother or the child born through surrogacy in any manner whatsoever;
 - (e) sell human embryo or gametes for the purpose of surrogacy and run an agency, a racket or an organisation for selling, purchasing or trading in human embryos or gametes for the purpose of surrogacy;
 - (f) import or assist in the importation in any manner of human embryos or human gametes for surrogacy or for surrogacy procedures; or
 - (g) conduct education in commercial surrogacy.

(2) A person who contravenes subsection (1) commits an offence and shall on conviction be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

(3) For the purposes of this section, the term “advertisement” includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media, in electronic or print form.

(4) A registered medical practitioner, fertility expert, embryologist or a person who owns a fertility clinic or is employed by a fertility clinic, centre or laboratory and renders his or her professional or technical services to or at such a clinic or centre or laboratory including on honorary basis or otherwise, and who contravenes any of the provisions of this section, commits an offence and shall on conviction, be liable to pay a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or to both.

33.(1) A surrogacy agreement may be terminated—

- (a) automatically, following the termination of

Termination of
surrogacy
agreements.

pregnancy in accordance with the Constitution;

- (b) before the transfer of a fertilised embryo in the surrogate mother's womb; or
- (c) where a dispute arises between intended parents, and before the fertilised embryo is implanted in the surrogate mother.

(2) Parties shall not terminate the agreement after the transfer of the embryo or embryos into the womb of the surrogate mother.

34.(1) The intended parent or parents under the surrogacy agreement shall, where the child is genetically connected to them or subject to a court order, be the legal parent or parents of the child and not discriminate against the child.

Obligations under
surrogacy
agreement.

(2) In the event of multiple pregnancies arising out of a surrogacy agreement or where a child born out of a surrogacy agreement has congenital abnormalities, all the children born out of the pregnancy shall be the children of the intended parent or intended parents and the rights and obligations for all parties shall vest as if the pregnancy had borne only one child or normal child.

(3) Where a child is born out of a surrogacy arrangement and—

- (a) where the creation of an embryo was brought about with a sperm and an egg of a couple, or where the couple or intended parent is genetically connected to the child, the couple or intended parent shall be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate; or
- (b) where the creation of an embryo was brought about with the gametes other than the gamete of a couple or the intended parent or where the couple or intended parent is not genetically connected to the child, the couple or intended parent shall only be the parents of the child and shall be listed as the parents in the birth notification and in the birth certificate following a court order.

(4) The surrogate mother may claim from the intended parent or intended parents the following —

- (a) compensation directly relating to the process of in-vitro fertilisation, pregnancy, ante-natal, birth, post-natal care and post- delivery complications;
- (b) loss of earnings by the surrogate mother as a result of the surrogacy; and
- (c) insurance to cover the surrogate mother for any acts that may lead to death or disability of the surrogate mother as a result of the surrogacy.

(5) The surrogate mother shall—

- (a) not terminate the pregnancy except under the provisions of the Constitution;
- (b) hand over the child to the intended parent or intended parents immediately upon the birth of the child;
- (c) have no rights or obligation regarding the child;
- (d) not contact the child, whether directly or by use of proxy, unless provided for in the agreement; and
- (e) be entitled to psychological support during and after the pregnancy, provided by the intended parent or intended parents.

(6) A child born as a result of a surrogacy agreement shall not be considered a dependant of the surrogate under the Law of Succession Act.

(7) A person shall not accept consideration for arranging for the services of a surrogate mother, make such an arrangement for consideration or advertise the arranging of such services.

Cap. 160.

(8) The intended parent or couple shall not abandon a child born out of an assisted reproductive technology or surrogacy procedure.

(9) A person who contravenes subsection (8) 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 five years, or to both.

35. A person shall not do any act, at any stage of an assisted reproductive process, to determine the sex of the child to be born through the process of assisted reproductive technology.

Prohibition of sex selection.

36. A person shall not sell, transfer or use gametes, zygotes and embryos, or any part thereof or information related thereto, directly or indirectly to any party within and outside Kenya except in the case of transfer of own gametes and embryos for personal use.

Restriction on sale of human gametes, zygotes and embryos.

37. (1) A person shall not publish, or cause to be published, an advertisement or notice to the effect that a person—

Prohibition on certain publications.

(a) is or may be willing to enter into a surrogacy arrangement;

(b) is seeking another person who is or may be willing to enter into a surrogacy arrangement, to act as a surrogate mother or to arrange a surrogacy arrangement;

(c) is or may be willing to accept any benefit under a surrogacy arrangement for himself or herself; or

(d) is or may be willing to accept any benefit under a surrogacy arrangement for another person that is intended or likely to counsel or procure a person to agree to act as a surrogate.

(2) A person who contravenes this section commits an offence and shall on conviction, be liable to pay a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding one year, or to both, and to a fine not exceeding ten million shillings in the case of a body corporate.

PART V—ACCESS TO INFORMATION

38. (1) The Council shall keep and maintain a register containing particulars on—

Assisted reproductive technology register.

(a) the assisted reproductive treatment services provided to persons;

(b) the keeping or use of gametes of persons or of

an embryo taken from any particular woman;

- (c) persons who undergo assisted reproduction process;
- (d) donors of embryos and gametes;
- (e) persons conceived in consequence of assisted reproduction treatment services; and
- (f) the destruction or disposal by a registered assisted reproductive technology provider of any gametes or an embryo formed outside the body of a woman.

(2) The Council shall ensure that all information contained in the register is protected and maintained in a confidential manner in accordance with the relevant data protection and privacy laws.

(3) The Council shall maintain all records, charts, forms, reports, consent letters and agreements.

(4) All the documents under this Act shall be preserved for a period of twenty-five years or such longer period as may be prescribed:

provided that where any criminal or other proceedings are instituted against any surrogacy clinic, the records and all other documents of such clinic shall be preserved until the final disposal of such proceedings.

(5) All records under subsection (3) and (4) shall, at all reasonable times, be made available for inspection to the appropriate authority or to any other person authorised by the appropriate authority.

39. (1) A person who has attained the age of eighteen may by notice to the Council require the Council to—

- (a) avail information on whether the applicant was conceived by means of assisted reproduction; and
- (b) state whether or not the information contained in the register shows that the applicant, and a person specified in the request as a person whom the applicant proposes to marry would or might be relatives.

Provision of information by the Council.

(2) The Council shall comply with the request of the applicant made under subsection (1) if—

- (a) the information contained in the register shows that the person was, or may have been, born in consequence of assisted reproduction treatment services, and
- (b) the person has been given an opportunity to receive counseling in regard to the implications of compliance with the request.

(3) The Council shall not give information regarding the identity of a person whose gametes have been used or from whom an embryo has been taken if a person to whom a license applied was provided with the information at a time when the Council was not required to give the information.

40. (1) The Council shall not avail information to a person below the age of eighteen years unless the information is necessary for a medical procedure relating to the minor.

Minor not to be given information.

(2) Where a minor seeks such information, the minor may, through a legal guardian, give notice to the Council requesting the Council to give the information and the Council shall give the information, if—

- (a) the information contained in the register shows that the minor was, or may have been, born in consequence of assisted reproduction process; and
- (b) the minor has been given an opportunity to receive counseling on the implications of compliance with the request.

41. (1) Where a government agency makes a claim to the Council seeking to verify whether a man is or is not the father of a child, the Council shall comply with the request made by the government agency unless it appears to the Council that there is not sufficient reason to seek for that information.

Information from the Council.

(2) Where the government agency is aggrieved by the decision of the Council, the agency may appeal to the Court for determination of the matter.

42. (1) A person who is or has been a member or employee of the Council shall not disclose any information which the person holds or has held as a member or employee of the Council.

Restriction on disclosure of information.

(2) The information specified under subsection (1) is—

- (a) information contained in the register kept pursuant to section 38 of this Act; and
- (b) any other information obtained by any member or employee of the Council on terms or circumstances requiring it to be held in confidence.

(3) Subsection (1) does not apply to disclosure of information specified under subsection (2) (a) made—

- (a) to a person as a member or employee of the Council;
- (b) to a person to whom a license applies for the purposes of the functions under this Act;
- (c) with the consent of a person or persons whose confidence would otherwise be protected;
- (d) in pursuance of an order of a court under this Act; or
- (e) to any government agency in pursuance of a request under section 41 of this Act.

(4) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

PART VI—LICENSING

43. The Council shall, in accordance with this Act issue, vary, revoke or renew a licence in relation to activities under this Act.

Licence.

44.(1) No person shall carry out assisted reproduction unless the person is issued with a valid licence under this Act.

Requirement for licence.

(2) A person who contravenes the provisions of this

section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

45. (1) An application for a licence under this section shall be made to the Council in duplicate, signed by the applicant, specifying his name and place of business.

Application for licence.

(2) Every application under this section shall be accompanied by the prescribed fee.

(3) Where an application is made by a person in accordance with this section, the Council shall issue the person a license to carry out assisted reproduction, if satisfied that the person meets such other requirement as may be prescribed, and if not satisfied, shall refuse the application.

46.(1) The Council shall, before considering an application authorising a person to undertake assisted reproductive technology on premises, arrange for the premises where assisted reproduction process is to be carried on to be inspected, and a report made regarding the inspection.

Inspection of premises before license is issued.

(2) Subject to subsection (1), the Council shall inspect at least once in each calendar year, any premises where assisted reproduction process is to be carried and a report made on the inspection.

47. (1) The Council may, in accordance with this Act, attach conditions to a license.

General conditions for licences.

(2) The conditions specified under subsection (1) are that—

- (a) the activities authorised by the license shall be carried on only on the premises to which the license relates and under the supervision of the person responsible;
- (b) any authorised member or employee of the Council, shall upon identification be permitted, at all reasonable times to enter premises to which the license relates and inspect the premises including the inspection of any equipment, records and observing any activity;

- (c) proper records shall be maintained in such form as the Council may direct;
- (d) no money or other benefit shall be given or received in respect of any supply of gametes or embryos;
- (e) where gametes or embryos are supplied to a person to whom another license applies, the person shall be provided with information as may be specified by the Council; and
- (f) the Council shall be provided with copies or extracts from the records or information, in such form and at such intervals as it may specify.

(3) Every licensee shall keep and provide information to the Council and any government bodies on—

- (a) the persons to whom assisted reproductive technology services are provided;
- (b) the number of persons seeking assisted reproductive technology services, segregated by type of service sought, gender and outcome;
- (c) the kind of assisted reproductive technology services provided;
- (d) the persons whose gametes are kept or used for the purposes of assisted reproductive technology services;
- (e) the persons whose gametes have been used in bringing about human procreation; and
- (f) such other matters as the Council may specify.

(4) No information shall be removed from any records maintained in pursuance of a license before the expiry of a period specified by the Council.

(5) A woman shall not be provided with any treatment services that involve—

- (a) the use of any gametes of any person, if the consent of the person is required under this Act and the consent has not been obtained;
- (b) the use of any embryo taken from another woman, if the consent of the woman from whom

it was taken has not been obtained; or

- (c) the procedures specified under paragraph (a) and (b), unless the woman has been provided with relevant information and given an opportunity to receive counseling on the implications of taking the proposed steps.

(6) A person who contravenes the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years, or to both.

48. (1) Every licence authorising the storage of gametes shall have the condition that —

Conditions for storage of gametes and embryos.

- (a) the gametes of a person shall be placed in storage only if received from that person or acquired from a person to whom a licence applies;
- (b) gametes which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (c) no gametes shall be kept in storage for longer than the statutory storage period;
- (d) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (e) there is provision for adequate safety and security for the stored gametes;
- (f) the storage tubes are labelled with a unique identifier;
- (g) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (h) there is maintenance of a movement register of storage and retrieval of stored gametes; and
- (i) there are adequate facilities to ensure privacy and confidentiality of the owner of the stored gamete

and the identity of the donor.

(2) Every licence authorising the storage of embryos shall have the condition that —

- (a) the resultant embryo taken from a person shall be placed in storage only if received from that person or acquired from a person to whom a license applies;
- (b) an embryo the creation of which has been brought about by assisted reproductive technology than in pursuance of the license shall be placed in storage only if acquired from a person to whom the license applies;
- (c) embryos which are stored shall not be supplied to a person other than in the course of providing treatment services unless that person is a person to whom a license applies;
- (d) an embryo which is created but is not transferred to the surrogate or intended mother for any reason shall be stored and shall be given priority in the succeeding application for assisted reproductive technology;
- (e) no embryos shall be kept in storage for longer than the statutory storage period;
- (f) information regarding persons whose consent is required under this Act, the terms of their consent and the circumstances of the storage shall be included in the records maintained;
- (g) there is provision for adequate safety and security for the stored embryos;
- (h) the storage tubes are labelled with a unique identifier;
- (i) there is a register linking the unique identifier to the identity of the donors, date of storage and any other relevant information;
- (j) there is maintenance of a movement register of storage and retrieval of stored embryos; and
- (k) there are adequate facilities to ensure privacy and

confidentiality of the owner of the stored embryo and the identity of the donor.

(3) Where a donor or person wishing to store their gamete or embryo in a cryo bank through cryo-preservation, the cryo bank shall only store such gamete or embryo for as long as the owners of the gamete or embryo are alive or for a period not exceeding ten years, and at the end of this period the embryo or gamete shall be allowed to perish.

49. (1) Where an application for a license is made to the Council, the Council shall issue the person a license if satisfied that—

Grant of licence.

- (a) the application is for a license designating the applicant as the person under whose supervision the activities to be authorised by the license are to be carried on;
- (b) either the person is the applicant or—
 - (i) the application is made with the consent of the person; and
 - (ii) the applicant is a suitable person to hold a license.
- (c) the character, qualifications and experience of the person making the application are such as are required for the supervision of the activities under this Act and that the person is qualified to discharge the duties under this Act;
- (d) the premises in respect of which the licence is to be granted are suitable for the activities, and
- (e) all other requirements under this Act in relation to granting of a licence are satisfied.

(2) The Council may grant a licence to any person by way of renewal whether on the same or different terms.

(3) Where the Council is of the opinion that the information provided in the application is insufficient to enable it to determine the application, the Council shall not consider the application until the applicant has provided further information as the Council may require.

(4) The Council shall not grant a license unless a copy of the conditions to be imposed by the licence have

been provided to, and acknowledged in writing by the applicant and the person under whose supervision the activities are to be carried on.

(5) The fee specified under section 45(2) means a fee of such amount as may be fixed from time to time by the Council with the approval of the Cabinet Secretary.

(6) In determining the amount of fee under subsection (5), the Council may have regard to the costs of performing all its functions.

(7) The Council may fix different fees for different circumstances and any fees paid under this section shall not be refundable.

50. (1) It shall be the responsibility of a person under whose supervision the activities authorised by a licence are carried on to ensure—

Responsibility of a supervisor.

- (a) that the persons to whom the licence applies are of such character, and are qualified by training and experience, to be suitable persons to participate in the activities authorised by the licence;
- (b) that proper equipment is used;
- (c) that proper keeping of gametes and embryos and for the disposal of gamete or embryos that have been allowed to perish; and
- (d) that the conditions of the licence are complied with.

(2) The persons to whom a licence applies under this Act are—

- (a) persons under whose supervision the activities authorised by a licence are carried on;
- (b) any person designated in the licence, or in a notice given to the Council by the person who holds the licence or the person responsible, as a person to whom the licence applies; and
- (c) any person acting under the direction of the person responsible or of any person designated.

51. (1) The Council may revoke a license if satisfied—

Revocation of licence.

- (a) that the information given for the purposes of the application for the grant of the licence was false or misleading;
- (b) that the premises to which the licence relates are no longer suitable for the activities authorised by the licence;
- (c) that the person responsible has failed to discharge, or is unable because of incapacity to discharge, the duty under this Act or has failed to comply with directions given in connection with any licence;
- (d) that the person responsible has committed a professional malpractice or has been removed from office for contravening the provisions of the Constitution or any other written law; or
- (e) the person responsible dies or is convicted of an offence under this Act or any other law and sentenced to imprisonment for a term exceeding six months.

(2) Where the Council has power to revoke a license under subsection (1), the Council may vary any terms of the licence.

(3) The Council may, on application by the person responsible or the nominal licensee, vary or revoke the licence.

(4) The Council may, on an application by the nominal licensee, vary the licence so as to designate another person in place of the person under whom supervision is authorised by a licence, if the Council is satisfied that the character, qualifications and experience of the other person are such as are required for the supervision of the activities authorised by the licence and that the person shall discharge the duties under this Act, and the application is made with the consent of the other person.

(5) Except on an application under subsection (4), the Council may vary a licence under this section—

- (a) if it relates to the activities authorised by the licence, the manner in which they are conducted

or the conditions of the licence, or

- (b) so as to extend or restrict the premises to which the licence relates.

(6) The Cabinet Secretary shall make Regulations for the refusal, variation and revocation of licenses by the Council under this Act.

52. (1) Where the Council refuses to issue a licence or refuses to vary a licence—

Application to the Cabinet Secretary for review.

- (a) the applicant may apply for review to the Cabinet Secretary within thirty days of the date on which the decision was communicated to the applicant; and
- (b) the Cabinet Secretary may make such determination on the review as they deem fit.

(2) The Cabinet Secretary shall give notice of its decision to the appellant and, if it is a decision to refuse a licence or to refuse to vary a licence so as to designate another person in place of the person under whom supervision is authorised by a licence, or a decision to vary or revoke a licence, shall include in the notice the reasons for the decision.

53. Where the Cabinet Secretary, upon an application for review under section 52 of this Act determines—

Appeal to the High Court.

- (a) to refuse a licence or refuse to vary a licence so as to designate another individual in place of the person under whom supervision is authorised by a licence; or
- (b) to vary or revoke a licence,

the person on whom notice of the determination was served may appeal to the High Court.

54. (1) Where the Council —

Temporary suspension of a licence.

- (a) has reasonable grounds to suspect that there are grounds for revoking the licence for non-compliance with this Act, and
- (b) is of the opinion that the licence should immediately be suspended,

the Council may by notice suspend the licence for a

period not exceeding three months.

(2) The Council shall give notice under subsection (1) to the person under whom supervision is authorised by a licence or, where the person under whom supervision is authorised by a licence is dead or appears to the Council to be unable because of incapacity to discharge the duty imposed on him under this Act, to some other person to whom the licence applies or the nominal licensee and the Council may, by a further notice to that person, renew the notice under subsection (1) specified in the renewal notice.

PART VII—MISCELLANEOUS PROVISIONS

55. (1) A person commits an offence under this Act where the person— Offences.

- (a) contravenes any of the provisions of the Act;
- (b) contravenes any of the provisions of a notice issued under this Act; or
- (c) obstructs a person in the execution of the person's duty under the Act;

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

(2) Where an offence against this section is committed by a body corporate, the body corporate shall be liable to a fine not exceeding five million shillings.

56. Any 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 two years, or to both. General penalty.

57. (1) Every clinic or cryo bank which conducts assisted reproductive technology, partly or exclusively shall, within a period of sixty days from the date of establishment of the Committee, apply for licences provided that such clinics and cryo banks shall cease to conduct any assisted reproduction procedures on the expiry of six months from the date of commencement of this Act, unless such clinics and cryo banks have applied for registration. Transitional provisions.

(2) On receipt of the application under subsection (1),

the Council shall, subject to the provisions of this Act and within a period of thirty days—

- (a) issue a certificate of registration and a registration number to the applicant; or
- (b) reject the application in writing with reasons for the rejection.

PART VIII—PROVISIONS ON DELEGATED POWERS

58. (1) The Cabinet Secretary, in consultation with the Council, may make regulations generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations—

Regulations.

- (a) for the eligibility of donors;
- (b) for the storage of gametes and embryos;
- (c) for the number of embryos that can be transferred into a woman;
- (d) for settling disputes arising out of assisted reproduction;
- (e) for the maintenance of records;
- (f) regarding rights and duties of patients, donors surrogates and children;
- (g) in respect of the giving of informed consent for the use of human reproductive material or an embryo from assisted reproductive process or for the removal of human reproductive material;
- (h) in respect of the number of embryos that may be created from the gametes of one donor through the application of assisted reproduction procedures;
- (i) in respect of the terms and conditions of licenses;
- (j) in respect of the qualifications for licenses;
- (k) in respect of the issuance, amendment, renewal, in respect of suspension, restoration and revocation of licenses;
- (l) in respect of the information to be provided in

respect of applications for a license or for the renewal or amendment of a license;

- (m) in respect of the identification and labeling of human reproductive materials and embryos from assisted reproductive process used in treatment services;
- (n) in respect of the collection, use and disclosure of information regarding assisted reproduction processes; and
- (o) in respect of counseling services.

(2) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by Parliament.

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

Meetings.

1. (1) The Committee shall meet not less than four times 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 Committee at any time the chairperson deems fit for expedient transaction of the business of the Committee.

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

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

(5) Despite 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 Committee at any time for the transaction of the business of the Committee.

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

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

(7) The chairperson shall preside at

every meeting of the Committee 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 Committee shall be by the concurrence of a majority of all the members present and voting at the meeting.

(9) The Committee 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 Committee as the Committee 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 Committee.

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

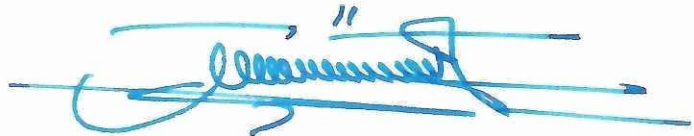
(12) The quorum for the meetings of the Committee shall be five members. Co-opted or invited persons shall not be counted in the quorum of the meetings of the Committee and shall not be eligible to vote.

Contracts
and

2. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to

- instruments. be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorised by the Council for that purpose.
- Disclosure of Interest. **3.** (1) If a member of the Committee is present at a meeting of the Committee or any meeting 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.
- (2) The person making the disclosure of interest under paragraph (1) shall not, unless the 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 and shall be liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months, or to both.
- (4) No member of the Committee or officer, employee or agent of the Committee shall enter into a service contract or trade with the Committee.
- (5) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- Minutes. **4.** The Committee shall cause minutes of all resolutions and proceedings of meetings of the Committee to be entered in books kept for that purpose.

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 11th November, 2025.

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke at the end.

Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.

A handwritten signature in black ink, written in a cursive style with a prominent 'W' at the beginning.

Speaker of the National Assembly