

THE METEOROLOGY BILL, 2020

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THE METEOROLOGY ACT, 2020

AN ACT of Parliament to provide for the establishment of the Kenya Meteorological 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

Short title and commencement.

1. This Act may be cited as the Kenya Meteorology Act, 2020 and shall come into operation on such date as the Cabinet Secretary may, by notice in the *Gazette*, appoint.

Interpretation.

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

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

“aerodrome meteorological office” means an office designated to provide meteorological service for aerodromes serving international air navigation;

“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 (SIGMET) information;

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

“authorized officer” means a person designated as an authorized officer under section 37;

“Board” means the Board of Directors constituted under section 8;

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“Cabinet Secretary” means the Cabinet Secretary for the time being 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 person appointed under section 19;

“environment” shall have the meaning assigned to it in the Environment Management and Coordination Act, 1999;

No. 8 of 1999.

“flight information region” means an airspace of defined dimensions within which flight information service and alerting service 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, 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;

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“meteorological watch office” means an office designated to provide information concerning the occurrence or expected occurrence of specified en route weather and 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 of a technical and advisory in nature;

“meteorological infrastructure” means meteorological observation network, data management and archival, integrated information system, forecasting systems and human capital;

“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 specified in the Second Schedule;

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

“Institute” means the Kenya Institute for Meteorological Training and

Research established under section 27;

“Institute Academic Board” means the Institute Academic Board established under section 29;

“specialized 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.

Application of the Act.

- 3.** This Act shall, except where implied or expressly specified, apply to—
- (a) weather observers;
 - (b) meteorological service providers;
 - (c) private weather service providers;
 - (d) the Institute;
 - (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.

Object and Purpose of the Act.

- 4.** The purpose of this Act is to—
- (a) provide for the regulation, co-ordination, monitoring, management, and provision of meteorological services in Kenya; and
 - (b) give effect to and ensure fulfilment of the obligations under the international treaties, protocols, agreements, and conventions on meteorology, in particular the Convention of World Meteorological Organization, to which Kenya is a party.

PART II – THE KENYA METEOROLOGICAL AUTHORITY

Establishment of the Kenya

- 5.** (1) There is established an authority to be known as the Kenya

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Meteorological Authority.

Meteorological 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 with the approval of the Cabinet Secretary and in accordance to the Public Finance Management Act, 2012;
- (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.

No. 18 of 2012.

(3) The Authority shall be the official single national authoritative source and voice for the provision of meteorological services in Kenya and 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.

(5) Notwithstanding sub section (4), the Authority shall establish county meteorological offices to ensure its services are accessible in all parts of the Republic.

Functions of the Authority.

6. The functions of the Authority shall be to—

- (a) develop, review and monitor implementation of Government policy in meteorology and related sciences;
- (b) develop, review and operate a national strategic plan for the Authority in alignment with international treaties, protocols, agreements, and conventions on meteorology;
- (c) develop, review and operate 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;

- (d) establish and maintain surface, upper-air and marine meteorological observation networks;
- (e) establish and maintain integrated information systems, in line with the World Meteorological Organization Information System, for the exchange of meteorological data and products;
- (f) provide 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;
- (g) provide timely meteorological information for search and rescue services and accident investigation;
- (h) establish and maintain meteorological management systems for data processing, analysis, forecasting and archival;
- (i) prepare and disseminate 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;
- (j) prepare and disseminate marine and tsunami early warning advisories as designated by Intergovernmental Oceanographic Commission (IOC) of United Nations Education, Scientific and Cultural Organization (UNESCO) as the Indian Ocean Tsunami Watch Centre;
- (k) prepare and disseminate agricultural meteorological services to improve productive capacity and build resilience posed by extreme events associated with climate variability and climate change;
- (l) 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;

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- (m) provide public and private good services as set out in the First and Third Schedule;
- (n) conduct and set education and training standards in meteorology, operational hydrology and related sciences in the School;
- (o) in collaboration with ministry responsible for matters related to education, set the minimum curriculum requirements for training in meteorology;
- (p) collaborate with relevant ministries and departments through participation in the development, implementation and operation of national multi-hazard early warning systems;
- (q) in collaboration with Kenya Civil Aviation Authority, participate in the training and rating of the air traffic controllers;
- (r) collaborate with other institutions or individual to observe, record and transmit meteorological data in line with the World Meteorological Organization Integrated Global Observing System;
- (s) conduct and co-ordinate research and development in meteorology and related environmental sciences including scientific assessments to improve operations and services and inform the climate change agenda;
- (t) design, fabricate and in collaboration with Kenya Bureau of Standards calibrate and monitor standards for meteorological instruments;
- (u) set and maintain standards and recommended practices on meteorological instruments and methods of observations;
- (v) conduct public weather services for public education ,outreach programme, radio and television communication and media presentation for meteorological services;
- (w) maintain up-to-date data on weather and climate within the zone of responsibility assigned to Kenya by the World

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Meteorological Organization;

- (x) register weather stations for meteorological data collection;
- (y) collaborate with the public and private sector in meteorological observation; carrying out research and development; and education and training;
- (z) 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
- (aa) any other function that the Authority may be required to undertake by this or any other written law.

Powers of the Authority.

7. (1) The Authority shall have all powers necessary for the proper performance of its functions under this Act.
- (2) Without prejudice to the generality of subsection (1), the Authority shall have power to—
- (a) subject to the approval of the Cabinet Secretary, determine, impose and levy charges, dues or fees for any 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;
 - (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

Composition and appointment of Board of Directors.

8. (1) The management of the Authority shall vest in a Board of directors to be known as the Kenya Meteorological Authority Board.
- (2) The Board shall comprise of—

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- (a) a chairperson, appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to meteorological services or his representative;
- (c) the Principal Secretary for the time being responsible for matters relating to Finance or his representative;
- (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to Transport or his representative;
- (e) the Attorney General or his representative;
- (f) a representative nominated by the meteorology professional body;
- (g) three 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;
- (h) the Director General appointed under section 19 who shall be a member and Secretary to the Board.

(3) Members of the Board, appointed under sub-section (1) (b) to (g) shall be appointed by the Cabinet Secretary through a notice in the *Gazette*.

Qualifications of Board members.

- 9.** (1) A person shall be qualified for appointment as the chairperson of the Board under section 8 if that person—
- (a) is a citizen of Kenya;
 - (b) meets the requirements of Chapter Six of the Constitution of Kenya;
 - (c) holds a degree from a university recognized in Kenya and has at least ten years' experience in the relevant field; and

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(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 8 (1)(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 the specified fields; 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.

Tenure of office.

10. The Chairperson and members of the Board appointed under section 8 (1)(a) and 8 (1)(g), shall hold office for a period of three years on such terms and conditions as may be specified in their instruments of appointment and shall be eligible for reappointment for one further term of three years.

Vacancy.

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

(a) dies;

(b) resigns from office by notice in writing addressed to the Cabinet Secretary;

(c) assumes a political office;

(d) is found to have contravened Chapter Six of the Constitution;

(e) is convicted of an offence and sentenced to imprisonment for a term of six months or more 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.

Functions of the Board.

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

(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 for the Institute;

(i) in consultation with the Director of the Institute, establish the Departments in the Institute; and

(j) perform any other functions that may be assigned to it by the Cabinet Secretary.

Powers of the Board.

13. The Board shall—

(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

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expenditure and for reserves of the Authority.

Meetings of the Board.

14. The conduct of the business and affairs of the Board shall be as provided in the Fourth Schedule.

Committees of the Board.

15. (1) The Board may from time to time establish committees for the better carrying out of its functions.

(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.

Delegation by the Board.

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

Remuneration of Members of the Board.

17. The Authority shall pay members of the Board such allowances as may be determined by Salaries and Remuneration Commission.

Common Seal of the Authority.

18. (1) 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.

(2) 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.

Appointment of the Director – General.

19. (1) There shall be a Director-General of the Authority who shall be appointed by the Board following a competitive recruitment process.

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

(3) The Director-General shall hold office for a term of three years' renewable once subject to performance evaluated by the Board.

(4) A person is qualified for appointment as Director-General if that person—

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

Termination of Appointment of the Director General.

- 20.** (1) The Board may terminate the appointment of the Director-General in accordance with the contract terms or if he—
- (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 incapacitated by prolonged physical or mental illness;
 - (d) is found to have contravened the provisions of Chapter Six of the Constitution; and
 - (e) fails to comply with the provisions of this Act relating to disclosure of interest.
- (2) The Director-General may at any time, resign by notice in writing to the Board as provided in the contract.

Duties of the Director General.

- 21.** (1) The Director-General shall—
- (a) be responsible for the day to day management 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 with the World Meteorological Organization; and
 - (d) perform such other duties as may, from time to time, be assigned by 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 Institute 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 resources of the Authority;
- (i) prepare the annual reports, business plans and financial statements of the Authority;
- (j) execute and communicate the Boards strategies, decisions and policies;
- (k) implement, co-ordinate and supervise the defined activities related to the management of meteorological programs;
- (l) promote stakeholder engagement and enhance the corporate image of the Authority; and
- (m) perform such other duties as may be assigned by the Board.

Conflict of interest.

22. The Director-general shall neither engage in any other paid employment nor 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 or regulations made hereunder.

Delegation of powers by the Director-General.

23. (1) The Director-General may, from time to time, in writing, either 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, excluding this present power of delegation.

(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) Every delegation under this section shall be revocable at will and no such delegation shall prevent the exercise of any power by the Director-General.

Appointment of Corporation Secretary.

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

(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.

Duties of the Corporation Secretary.

- 25.** (1) The Corporation Secretary shall be the Secretary to the Board and shall—

- (a) provide legal services and advice the Board;
- (b) provide guidance to the Board on their duties and responsibilities;
- (c) ensure Board procedures are followed and reviewed regularly, and that the Board complies with the law, rules and regulation;
- (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 agenda, 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) any other duties as may from time to time be assigned by the

Director-General.

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

Staff of the Authority.

- 26.** 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, in consultation with the relevant authorities.

PART IV-KENYA INSTITUTE FOR METEOROLOGICAL TRAINING AND RESEARCH

Establishment of the Kenya Institute for Meteorological Training and Research.

- 27.** (1) There is hereby established an institute to be known as the Kenya Institute for Meteorological Training and Research.

- (2) The Institute shall be the successor of the Institute for Meteorological Training and Research, Nairobi.

- (3) The Institute shall be headed by a Director who shall be responsible to the Director General of the Authority.

- (4) The Institute shall be a National and International training institution and the designated World Meteorological Organization Regional Training Centre for the provision of Diploma, Certificate, professional Courses in meteorology, operational hydrology and related sciences.

Functions of the Institute .

- 28.** The functions of the Institute are to—

- (a) develop curricular and provide training, examinations and award Diploma, Certificates and other awards in line with the World Meteorological Organization education and training programme;
- (b) facilitate seminars and workshops aimed at maintaining standards in meteorology and related sciences;
- (c) provide consultancy, research and development in meteorology and related sciences; and
- (d) collaborate with other institutions of higher learning in training and research in meteorology and related sciences.

Institute Academic Board.

- 29.** (1) There shall be a Institute Academic Board consisting of not more than nine members appointed by the Director General.

- (2) The Institute Academic Board shall consist of—
(a) the Director of the School;

- (b) four Managers of the School;
 - (c) a representative of Technical and Vocational Education and Training-Curriculum Development Assessment and Certification Council;
 - (d) two representatives of the Academia nominated by the Commission for University Education representing universities teaching meteorology; and
 - (e) a representative nominated by the Professional Meteorological Body.
- (3) Members appointed under sub-section 1 (c), (d) and (e) shall hold office for a term of three years' renewable for a further term of three years.
- (4) Members of the Institute Academic Board shall hold the office subject to terms and conditions as may be specified in their instruments of appointment.

Functions of the
Institute
Academic
Board.

- 30.** The functions of the Institute Academic Board shall be to—
- (a) set requirements for the award of diploma, certificates and other awards;
 - (b) set and review the curriculum and academic standard of diploma, certificate and other awards;
 - (c) moderate and ratify examinations for award of Diploma and Certificates; and
 - (d) coordinate such other activities as may be undertaken by the Institute in the discharge of its functions under this Act.

PART V— FINANCIAL PROVISIONS

Funds of the
Authority.

- 31.** (1) The funds of the Authority and resource mobilization shall comprise of—
- (a) such monies as may be appropriated by Parliament for purposes of the Authority;
 - (b) 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;
 - (c) grants and loans from the government;

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- (d) grants and loans from any organizations or person(s) subject to provisions of Public Finance Management Act, 2012;
 - (e) interest on savings made by the Authority;
 - (f) money collected under the Air Passenger Service Charge Act; and
 - (g) all monies and fees from any other sources provided, donated or lent to the Authority.
- (2) The Authority may with the approval of the National Treasury open and operate its own Bank Accounts in both domestic and foreign currencies in banks approved by the Board;

Annual estimates.

32. (1) The Board shall at least three months before the end of each financial year cause to be prepared estimates of revenue and expenditure of the Authority for that financial year.

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

- (a) 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 accounting officer of the Ministry.

(4) Approved annual estimates under sub section (3) shall not be amended without the prior consent of the Board.

Investment of funds.

No. 18 of 2012.

33. The Board may in consultation with 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.

Accounts and Audit.

34. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

(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.

No. 34 of 2015.

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

(4) Notwithstanding anything in 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 relevant sections of the Public Audit Act, 2015 shall apply, with necessary changes, to any report made under this section.

Annual Report.

35. The Board shall, within three months after the end of each Financial Year prepare and submit to the Cabinet Secretary a report of the operations of the Authority for the immediate preceding year.

PART VI — GENERAL PROVISIONS

Establishment of observation stations.

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

(2) An officer authorized under section 37(2) may enter at all reasonable times any land on which an observation station is established for the purpose of conducting necessary inspection, maintenance and data collection.

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

Authorized officers.

37. (1) The Director-General shall designate and appoint such persons as considered necessary, to be authorized officers for purposes of carrying out the functions of the Authority.

(2) In carrying out their duties, the Authorized officers shall have such powers as may be necessary for proper carrying out of such duties.

Intellectual Property Rights.

38. (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.

(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 or imprisonment for a period not exceeding two years, or both.

Limitation of

39. The Authority is not liable for any damage, loss or injury sustained or

standards and recommended practices;

PART VII - OFFENCES AND PENALTIES

General
Offences.

- 42.** A person who—
- (a) obstructs an authorized officer of the Authority in the exercise of their powers or duties 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.

Offences in
relation to
meteorological
equipment and
instruments.

- 43.** A person who uses an instrument or equipment that is not examined or accepted 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.

Offence relating
occupation of
land within
protected areas.

- 44.** 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 be liable, upon conviction to a fine not exceeding five million and to a term of imprisonment not exceeding twenty four months.

Offence for
Relocation.

- 45.** A person who relocates meteorological stations, instrument or equipment without approval from 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.

Offence for
using
meteorological

- 46.** A person who uses meteorological instruments without a valid calibration certificate from the Authority and the Kenya Bureau of

instruments
without valid
calibration
certificate.

Standards 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.

Use of
meteorological
Data.

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

General Penalty.

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

PART VIII—TRANSITIONAL PROVISIONS

Court and other
proceedings.

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

Assets and
Liabilities.

50. All movable and immovable property, which immediately before the commencement of this Act were vested in the Kenya Meteorological Department shall, on the date of commencement of this Act, vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting that property.

Staff.

51. (1) The Director of Kenya Meteorological Department shall assume the duties of the Director General in an acting capacity until the position is filled as provided in section 19.

(2) All technical staff who immediately before the date of commencement of this Act were employees of Kenya Meteorological Department shall continue to be employees of the Authority except dismissal cases.

(3) Notwithstanding subsection (2) where at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of Kenya Meteorological Department pursuant to disciplinary proceedings against him, and the penalty has not been or remains to be served by such employee, such employee shall, on his transfer to the Authority serve or continue to serve such penalty to its full term as if it had been imposed by the Authority.

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

(5) 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;—

(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.

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

(7) 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 with 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 with Kenya Meteorological Department.

Certificates.

52. All certificates issued by the Institute for Meteorological Training and

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Research shall be deemed to have been issued by the Kenya Institute for Meteorological Training and Research established by this Act.

FIRST SCHEDULE

(s2, 6)

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

(s2)

PRIVATE WEATHER SERVICE PROVIDERS

Private weather service providers may be 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;
- (f) meteorological related research.

THIRD SCHEDULE
PUBLIC GOOD SERVICES

(s2, 6)

Public Good Service include the following—

1. The gathering of meteorological, climatological and environmental observational data over Kenya and the Western Indian Ocean, sufficient for the needs of the country 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 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,

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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 specialized 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.

FOURTH SCHEDULE (s14)
CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

- Meetings. 1. (1) The Board shall meet not more 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) Provided that the chairperson may call a special meeting of the Board at any time he/she deems fit for expedient transaction of the business of the Board.
- (3) Notice of a Board meeting 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, and 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;
 - (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 he/she is present but in his/her 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, 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

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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.

Committees
of the
Board

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

Disclosure
of Interest

3. (1) If a member of the Board is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, he/she shall, at the meeting and as soon as is practicable after commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

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

Minutes

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.

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 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 5-7) of the Bill Establishes the Kenya Meteorological Authority and provides for its functions and powers under clauses 6 and 7, 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 8-26) of the Bill provides for the Management of the Authority by a Board of Directors appointed under clause 8. Clause 9 sets out the qualification of the chairperson and the members of the Board. The functions of the Board include overseeing the implementation of metrology. The Part further sets out provisions relating to tenure of office, vacancy of office, meetings of the Board, remuneration among others.

Part IV (Clauses 27-30) of the Bill provides for the establishment of the Kenya Institute of Meteorology Training and Research. The Kenya Institute for Meteorological Training and Research (KIMTR) 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. The Institute shall have an Academic Board appointed by the Director General to set requirements for giving out awards, set and review curriculum, moderate and ratify examinations.

Part V (Clauses 31-35) of the Bill provides for financial provisions including reporting mechanism, audits and accounts, investment and management of funds by the Authority.

Part VI (Clauses 36-41) 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 42-48) 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 48-52) of the Bill contains transitional provisions relating to court proceedings, assets and liabilities, contracts and staff of the Kenya Meteorological Department to the Authority. Clause 52 provides for certificates issued by the Institute for Meteorological Training to be deemed as having been issued by the Kenya Institute for Meteorological Training and Research.

The Schedules detail the provisions relating to Private Good Service, Private weather Service Providers, Public Good Service 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.

FINANCIAL CONSIDERATIONS

The enactment of this Bill shall occasion limited additional expenditure of public funds which shall be provided for in the annual estimates.

STATEMENT OF HOW 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 Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Made on the....., 2020.

KERIAKO TOBIKO,
Cabinet Secretary for Environment and Forestry.