

KENYA WATER INSTITUTE BILL, 2021

Sections	Provisions	Marginal Notes/ Short Titles
	<p>KENYA WATER INSTITUTE BILL, 2021</p> <p>ARRANGEMENT OF SECTIONS</p> <p>PARTI– PRELIMINARY</p> <ol style="list-style-type: none">1. Short title and commencement.2. Interpretation. <p>PART II – ESTABLISHMENT AND FUNCTIONS OF KENYA WATER INSTITUTE</p> <ol style="list-style-type: none">3. Establishment of Kenya Water Institute4. Campuses of the Institute.5. Objects of the Institute6. The Council of the Institute.7. Functions of the Council.8. Indemnity from Personal Liability9. Meetings of the Council.10. Academic and Research Board.11. Committees of the Academic and Research Board.12. Director-General.13. Staff of the Institute.14. Establishment of Institutes’ Student Association	

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	<p>NO.....OF 2021</p> <p>KENYA WATER INSTITUTE BILL, 2021</p>	

	<p>[Date of assent:]</p> <p>][Date of commencement:]</p> <p style="text-align: center;">A Bill For An Act of Parliament to transform Kenya Water Institute to be a Technical Centre of Excellence for training, research, consultancy, outreach and education for the water sector and provide for maintenance of competence of water sector practitioners and to Repeal Kenya Water Institute Act No. 11 of 2001</p>	
	PART I –PRELIMINARY	
1.	This Act may be cited as the Kenya Water Institute Act, 2021	Short Title and Commencement
2.	<p>In this Act, unless the context otherwise requires-</p> <p>“Academic and Research Board” means the Academic and Research Board of the Institute constituted under section 10 of this Act;</p> <p>“Council” means the Governing Council of the Institute established under section 6 of this Act;</p> <p>“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters water</p> <p>‘Certification’ means the process of determining that a person or organization possesses the knowledge, skill and key competences required of a specified organization relating to water;</p> <p>“Director General” means the Accounting Officer of the Institute appointed and designated as such under section 9 of this Act;</p> <p>“Institute” means the Kenya Water Institute established under section 3 of this Act;</p> <p>‘License’ includes any certificate, permit or document, authorizing any person to do or not to omit to do anything under this Act</p>	Interpretation

	<p>“National Council of Non-Governmental” means the National Council of Non-Governmental organizations established under the Non-Governmental Organizations Co-ordination Act (No. 19 of 1990),</p> <p>“student” shall include both long term and short-term participants of the Institute</p> <p>“Technical Universities” shall be as declared under section 25(1) of The Universities Act, No. 42 of 2021</p> <p>“Water Practitioners” shall be as provided in the First Schedule of this Act</p> <p>“Water Sector” includes Water, Sanitation and Irrigation</p>	
	PART II – ESTABLISHMENT AND OBJECTS OF THE INSTITUTE	
3.	<p>(1) There is established an Institute to be known as the Kenya Water Institute.</p> <p>(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-</p> <ul style="list-style-type: none"> (a) suing and being sued; (b) taking, purchasing or otherwise acquiring, holding, charging, disposing and alienating movable or immovable property; (c) borrowing, lending and receiving money; and (d) subject to the provisions of this Act, of doing or performing all such acts or things including entering into contracts as may be necessary as expedient for the furtherance of the provisions of this act as may by law be done or performed by a body corporate. <p>(3) The headquarters of the Institute shall be in Nairobi</p>	Establishment of the Institute
4.	<p>(1) The Object of the institute is to provide training and human resource development, research, consultancy, outreach, water education and certification directly or in collaboration with relevant local or international stakeholders, in water sector on a social and commercial basis.</p> <p>(2) Notwithstanding the generality of the object (1) the objects of the Institute are to:</p>	Objects of the Institute

	<ul style="list-style-type: none"> a. Provide training and human resource development services to improve technical capacity of the water sector b. Develop and review curricular for Technical and Vocational Education and Training programs in the water sector c. Assess, examine and award Higher Diplomas, National Diplomas, Crafts certificates, Artisan and Vocational certificates. d. Offer higher education to the water sector in collaboration with chartered universities e. Conduct certification of Water Practitioners in Kenya f. Conduct research to inform policy, innovation, creativity to promote sustainability in the water sector; g. Undertake consultancy services designed to inform public policy, h. Provide water education for public awareness and technology transfer i. Establish a Water Reference Laboratories to promote knowledge transfer j. Establish and maintain water information systems to support training, research, consultancy, outreach and water education k. Undertake any other activities as may be expedient for the discharge of the Institute's functions. 	
5.	<ul style="list-style-type: none"> 1. The Cabinet Secretary may, on the advice of the Council, by Order in the Gazette, establish campuses of the Institute whose functions and powers shall be provided by the Order. 2. The Kenya Water Institute Campuses specified in the Second Schedule shall be deemed to be campuses of the Institute established under subsection (1) 	Campuses of the Institute
6.	<ul style="list-style-type: none"> (1) There shall be a Governing Council of the Institute which shall consist of- <ul style="list-style-type: none"> a) A non-executive Chairperson appointed by the Cabinet Secretary; b) The Principal Secretary for the time being responsible for Finance, or a representative; c) The Principal Secretary for the time being responsible for Water or a representative; 	The Governing Council of the Institute

	<p>d) The Principal Secretary for the time being responsible for intergovernmental relations or a representative;</p> <p>e) The Director General of the Institute, who shall be Secretary of the Council and Ex-officio member;</p> <p>f) One representative of the Technical Universities</p> <p>g) Three other independent members who shall be appointed by the Cabinet Secretary:</p> <ul style="list-style-type: none"> i. One representative of the designated professional bodies in the third schedule ii. One representative of an Association representing National Water Service Providers iii. One representative of Non-Governmental Organization <p>(2) A person shall not be appointed as member to the Council unless that person possesses a minimum of a Bachelor’s degree and has demonstrated leadership skills. The person shall meet the requirements of Chapter Six of the Constitution of Kenya on Leadership and Integrity.</p>	
7.	<p>(1) Subject to this Act, the governance, control and administration of the Institute shall vest in the Council. The Council shall have powers to -</p> <ul style="list-style-type: none"> a) Provide strategic direction and leadership to the Institute through delegated authority to the Director General b) formulate, policies pertaining to the organization, management and implementation of the objects of the Institute; c) administer the property and funds of the Institute in such manner and for such purposes as shall best promote the interests of the Institute: <p>Provided that the Council shall not charge or dispose of the immovable property of the Institute without the approval of the Cabinet Secretary;</p> <ul style="list-style-type: none"> d) receive, on behalf of the Institute, donations, endorsements', gifts, grants or other monies and to make legitimate disbursements there from; e) borrow, generate and raise funds for the purposes of the Institute; 	Functions of the Council

	<p>f) approve and submit through the Cabinet Secretary financial estimates in respect of the Institute for consideration by the National Treasury</p> <p>g) Administer the National Water Training and Research Fund</p> <p>h) perform oversight function on standards in matters of human resource development, research, water education, innovation and consultancy in the Institute</p> <p>i) appoint qualified staff for the Institute upon such terms and conditions as may be determined by Institute’s Human Resource Instruments</p> <p>j) Determine the fees and charges payable for the purposes of this Act upon approval by the Cabinet Secretary</p>	
8.	No member of the Council or staff of the Institute shall be personally liable for any act or default done in good faith in the exercise or purported exercise of the functions of the Council.	Indemnity from personal liability
9.	<p>(1) The Chairperson shall preside at all meetings of the Council but in the absence of the chairperson the members present shall appoint one member from among themselves to preside at the meeting.</p> <p>(2) The quorum for the conduct of business at a meeting of the Council shall be five.</p> <p>(3) The members of the Council shall attend the meetings of the Council in person and not by proxy</p> <p>(4) Except as provided for in this section, the Council shall comply with the provisions of the State Corporations Act (Cap. 446) governing the meetings and proceedings of Boards of State Corporations</p>	Meetings of the Council
10.	There shall be an Academic and Research Board of the Institute to be chaired by the Director General. The membership and functions of the Board are set out in the fourth Schedule of this Act.	Establishment of the Academic and Research Board
11.	The Academic and Research Board may establish committees to deal with such	Committees of the Academic and Research Board

	matters as the Board may specify in the fifth Schedule	
12.	There shall be a Director General of the Institute who shall be appointed by the Governing Council through a competitive recruitment process in consultation with the Cabinet Secretary. The qualifications of the Director General are set out in the Sixth Schedule	Appointment and Qualifications of the Director General
13.	(1) The Council shall employ subject to the State Corporations Act (Cap. 466) employ such staff as it considers necessary for the efficient discharge of the Objects of the Institute (2) There shall be established with the approval of the Governing Council a Staff Association	Staff of the Institute
14.	There shall be established an Institute’s Student Association governed by the their Constitution whose functions shall be provided in the seventh Schedule	Establishment of Institute’s Student Association
15.	There is established Alumni Association whose functions shall be provided in the eight Schedule	Establishment of Alumni Association
16.	(1) The Cabinet Secretary shall establish by <i>Gazette Notice</i> a fund known as Water Training and Research Fund (2) The Fund shall consist of — a) any funds provided by bilateral or multilateral donors, for the purpose of achieving the objects of this Act; b) funds provided by Parliament specifically for the purpose of the objects of this Act; c) training and research levy charged from water revenues; and d) funds from any other source approved by the Governing Council. (3) The Fund shall be managed by the Governing Council. (4) The Institute shall apply the monies received into the Fund to provide strategic and predictable funding for the Objects of the Institute.	Establishment of a Water Training and Research Fund
	PART III –FINANCIAL PROVISIONS	
17.	(1) The funds, assets and liabilities of the Institute shall consist of—	Funds, assets and liabilities of

	<ul style="list-style-type: none"> a) such sums as the Cabinet Secretary may, with the consent of the Treasury, make available for the purposes of this Act out of monies provided by Parliament; b) any assets, liabilities, rights and privileges held by or on behalf of the Institute, c) any sums or property which may in any manner become payable to, or vest in the Institute in respect of tuition fees or any other matter incidental to the carrying out of its functions; d) fees and charges payable for the purposes of this Act e) funds from the Water Training and Research Fund f) all monies from any other source provided for or donated or lent to the Institute; and g) any sums or property which may be donated to, or borrowed by the Institute: <p>(2) Provided that the Council shall not be obliged to accept a donation for any particular purposes unless it approves the terms and conditions attached to that donation</p>	<p>the Institute</p>
<p>18.</p>	<p>(1) At least five months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Institute for that year.</p> <p>(2) The annual estimates shall make provision for all the estimated expenditure of the institute for the financial year concerned and in particular shall provide for -</p> <ul style="list-style-type: none"> a) the payment of salaries, allowances and other charges in respect of the staff of the Institute and the members of the Council; b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Council; c) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Institute; d) funding of training, research, water education, innovation, consultancy and development of the Institute 	<p>Annual Estimates</p>

	<p>e) funding for infrastructure development, land acquisition and establishment of field stations and campuses</p> <p>f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem fit.</p> <p>(3) The annual estimates shall be approved by the Council at least three months before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.</p> <p>(4) No expenditure shall be incurred for the purposes of the Institute except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Council given with prior written approval of the Cabinet Secretary and the Cabinet Secretary to the National Treasury.</p>	
19.	<p>(1) The Governing Council shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Institute.</p> <p>(2) The Council shall within a period of three months after the end of each financial year, submit to the Auditor-General financial statements of the Institute.</p> <p>(3) Annual accounts of the institute shall be prepared audited and reported in accordance with the provisions of the constitution, the Public Audit Act, Public Finance Management Act and International Public Sector Standards.</p> <p>(4) Without prejudice to subsection (1), the Council shall prepare the financial statements in a form that complies with the relevant accounting standards prescribed and published by the Public Sector Accounting Standards Board in accordance with the Public Finance Management Act, 2012.</p>	Books and Records of Accounts
20.	<p>(1) The Council shall, as soon as practicable after the commencement of this Act and in a period not exceeding three years, prepare or cause to be prepared a five-year strategic plan pertaining to the Institute which shall be submitted to the Council for approval.</p>	Strategic plans, budget and annual report

	<p>(2) The Council shall, not later than the end of February in every year, prepare and submit to the Cabinet Secretary for approval a three-year budget incorporating estimates of the Institute’s revenue and expenditure for the next three financial years.</p> <p>(3) A plan or budget submitted to the Cabinet Secretary under this Act, unless earlier disapproved by the Cabinet Secretary, shall be approved by the Cabinet Secretary with or without such modifications not later than three months after it has been submitted.</p> <p>(4) The Council shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report on the operations and activities of the Institute.</p> <p>(5) The financial year of the Institute shall be the period of twelve months ending on the thirtieth June, in each year.</p>	
	PART IV - MISCELLANEOUS PROVISIONS	
21.	<p>(1) The common seal of the Institute shall be kept in the custody of the Director General or of such other person as the Council may direct, and shall not be used except upon the order of the Council.</p> <p>(2) All documents other than those required by law to be under seal made on behalf of the Council shall be signified by the hand of the Chairperson of the Council, the Director General, or any other member of the Council specifically authorized by the Council in that behalf.</p> <p>(3) The common seal of the Institute shall be authenticated by the signature of the chairman and the Director General.</p> <p>(4) The common seal of the Institute, when affixed to any document and duly authenticated under this section, shall be judicially and officially noticed, and unless the contrary is proved, the necessary order or authorization of the Council</p>	Common Seal

	<p>under this section shall be deemed to have been duly given.</p> <p>(5) All documents other than those required by law to be under seal made on behalf of the Council shall be signified by the hand of the Chairperson of the Council and witnessed by the Director General.</p>	
22.	<p>(1) In the performance of its functions under this Act, the Council shall make Administrative Statutes generally for the administration of the Institute, and in particular for-</p> <ul style="list-style-type: none"> a) the establishment of Departments of the Institute; b) prescribing student admission criteria c) the conduct of examinations; d) the requirements for the award of Certificates of the Institute; e) prescribing fees, boarding and other charges; f) prescribing the terms and conditions of service, including the appointment, discipline, dismissal and retirement benefits of staff of the Institute; g) the procedure of meetings of the Council and the establishment, composition and terms of reference of the Committees of the Council. <p>(2) Administrative Statutes shall be made by a resolution made at a meeting of the Council and passed by a majority of the members present and voting.</p>	Administrative Statutes
23.	<p>(1) Notwithstanding the provisions of any other written law, no public officer performing functions relating to registration of companies and business names shall accept for such registration any name which includes the words "Water Institute" together with the word "Kenya" unless the application for the registration is accompanied by the written consent of the Council.</p> <p>(2) Any person who, except with the written consent of the Council, uses the words "Water Institute." together with the word "Kenya" <i>in</i> furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession, commits an offence and is liable to a fine of Kenya Shillings Five Hundred Thousand and in default two years' imprisonment</p>	Protection of name
24.	The Cabinet Secretary may make regulations for the better carrying out of the	Regulations

	purposes of this Act.	
25.	No duty shall be chargeable under the Stamp Duty Act (Cap. 480) in respect of any instrument executed by, or on behalf of, or in favour of the Institute which, but for this section, the Institute would be liable to pay.	Exemption from stamp duty
	PART V – TRANSITIONAL PROVISIONS	
26.	In this Part- “ appointed day ” means the day appointed by the Cabinet Secretary as the commencement date for this Act	Interpretation
27.	<p>(1) On the appointed date, all the funds, assets and other property, both movable and immovable, liabilities which immediately before such date were vested in the Institute under the previous Act shall, by virtue of this paragraph, vest in the Institute.</p> <p>(2) On the appointed date, all rights, powers and liabilities which immediately before such date were vested in, imposed on or enforceable against the Institute under the previous Act shall, by virtue of this paragraph, be vested in, imposed on or be enforceable against the Institute.</p> <p>(3) Any reference to the Institute in any written law, document or instrument under the previous Act shall, on and after the appointed date, be construed to be a reference to the Institute.</p> <p>(4) The annual estimates of the Institute under the previous Act for the financial year in which the appointed date occurs shall be deemed to be the annual estimates of the Institute for the remainder of that financial year:</p> <p>(5) Provided that such estimates may be varied by the Council in such manner as the Cabinet Secretary may approve. The administrative directions made by the Institute under the previous Act or by the Cabinet Secretary which are in force immediately before the appointed date shall, on or after such date, have</p>	Assets and Liabilities

	<p>force as if they were directions made by the Council or the Cabinet Secretary under this Act.</p> <p>(6) Any legal proceedings pending in any court of law or any other tribunal by or against the Institute under the previous Act in respect of any matter shall be continued by or against the Institute under this Act</p>	
28.	Any person who immediately before the appointed date was an employee of the Institute under the previous Act shall be deemed to be an employee the Institute under this Act:	Staff
29.	<p>Schedule 1: List of Water Practitioners</p> <p>Schedule 2: List of Campuses</p> <p>Schedule 3: List of Professional Bodies</p> <p>Schedule 4: Membership and Functions of Academic and Research Board</p> <p>Schedule 5: Committees of the Academic and Research Board</p> <p>Schedule 6: Qualifications of the Director General</p> <p>Schedule 7: Functions of Student Association</p> <p>Schedule 8: Functions of Alumni Association</p>	Schedules

FIRST SCHEDULE
(Section 2)
LIST OF WATER PRACTITIONERS

- 1) Water practitioners include; Technologists, Water and Wastewater Technicians, Artisans and operators who are skilled and have direct “hands-on” responsibility for the process of safeguarding water quality, water standards, public health and the environment.
- 2) Water and Waste Water Technicians, Artisans and Operators-
 - a. Water supply technician
 - b. Wastewater treatment technician
 - c. Waste disposal technician
 - d. Sewage works technician
 - e. Sewerage emptier/exhausting artisan
 - f. Water Recycling and waste management technician
 - g. Hydraulic engineering technician
 - h. Pipe, sewer and industrial services technician
 - i. Plumbing Technician
 - j. Water treatment technicians
 - k. Water supply Operator
 - l. Water Meter Readers
 - m. Pumping operators/attendants
 - n. Drilling Technicians
 - o. Water and wastewater Laboratory Technologists
 - p. Plant Maintenance Technicians
 - q. Borehole cleaning technicians
 - r. Irrigation and Drainage Technicians
- 3) Water and Waste Water Facilities and Systems-
 - a. Water treatment
 - b. Water distribution
 - c. Wastewater collection, transportation and disposal
 - d. Water and wastewater laboratory
 - e. Water Harvesting and storage
 - f. Plant maintenance

- g. Sewerage and Sanitation works
 - h. Pumping stations
 - i. Irrigation and drainage systems
 - j. Water Browsers
 - k. Drilling Rigs
- 4) Water Resource Management Technicians
- a. Hydrologist technicians
 - b. Geologist technicians
 - c. Water quality technicians

SECOND SCHEDULE

(Section 5 (2))

LIST OF CAMPUSES

- 1. Kenya Water Institute Nairobi Campus
- 2. Kenya Water Institute Chiakariga Campus
- 3. Kenya Water Institute Kitui Campus
- 4. Kenya Water Institute Kisumu Campus

THIRD SCHEDULE

(Section 6 (1) (g) (i))

LIST OF PROFESSIONAL BODIES

- 1. The Institution of Engineers of Kenya
- 2. Hydrological Society of Kenya
- 3. Geological Society of Kenya

FOURTH SCHEDULE

(Section 10)

MEMBERSHIP AND FUNCTIONS OF ACADEMIC AND RESEARCH BOARD

There shall be an Academic and Research Board of the Institute which shall consist of -

(a) The Director General who shall be the Chair of the Board

(b) The Directors in charge of:

(i) Planning, Finance and Administration

(ii) Academic and Student Affairs who may be appointed as Secretary of the Board

(ii) Research, Consultancy and Technical Services who may be appointed as Secretary of the Board

(ii) Campuses of the Institute

(c) The Heads of Departments of the Institute.

(d) Institute Librarian

(e) Institute Registrars

(f) Chair of the Student Council

(2) The Academic and Research Board may co-opt such other members as may be necessary for the exercise of its functions under this Act.

(3) The Academic and Research Board shall perform the following functions as specified by the Governing Council-

(a) Set and review the content and academic standards of the Institute;

(b) Establish quality standards for training and be responsible for the training programs of the Institute.

(c) Provide technical support in development and review of curricular for the courses offered in the water sector

(d) Determine entry requirements for the training programs in the Institute.

(e) Establish quality standards and be responsible for research and innovation programs.

(f) Establish quality standards and be responsible for water education, consultancy and technical programs.

(g) Shall be the examining body and provide advisory to the certification board.

(h) Develop and approve academic calendar of the Institute

FIFTH SCHEDULE

(Section 11)

COMMITTEES OF ACADEMIC AND RESEARCH BOARD

1. Examination and Certification Committee
2. Research and Consultancy Committee
3. Institute Management Committee

SIXTH SCHEDULE

(Section 12)

QUALIFICATIONS OF THE DIRECTOR GENERAL

A person shall not be qualified for appointment as the Director-General unless that person-

- a. holds a Minimum of a Master's degree from a university recognized in Kenya in the field of Water / Civil / Mechanical Engineering, Water Resources Management, Hydrology, Geology, Hydrogeology, Social Science, Physical Sciences, Natural Sciences, Education, Business.
- b. has at least Fifteen (15) years' work experience;
- c. has at least 10 Years' relevant experience in Management of public or private institutions;
- d. meets the requirements of Chapter 6 of the Constitution

SEVENTH SCHEDULE

(Section 14)

FUNCTIONS OF STUDENTS ASSOCIATION

The Functions of the Student Association shall be as follows:

- a. Oversee and plan, in consultation with the Academic and Research board, students' activities
- b. Promote academic, spiritual, moral, harmonious communal life and social wellbeing of all students
- c. Draw to the attention of the appropriate authority, where necessary special needs from particular students.
- d. Offer suggestions to the Academic and Research Board on matters affecting the wellbeing of students, and
- e. Undertake functions as provided in its governance instrument as approved by the Academic and Research Board

EIGHTH SCHEDULE

(Section 15)

FUNCTIONS OF ALUMNI ASSOCIATION

There is established Alumni Association whose functions shall be:

- a. to organize Alumni activities and promote members' welfare for all Institute graduates
- b. to foster and promote linkages between the Institute and the Alumni, policy makers, industry regulators, development partners, sponsors and the government for mutual benefit of the Institute and members