

THE ACCOUNTANTS (AMENDMENT) BILL, 2021

A Bill for

AN ACT of Parliament to amend the Accountants Act

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Accountants (Amendment) Act, 2021.

Amendment of section 9 of No.15 of 2008.

2. The Accountants Act, 2008, hereinafter referred to as the principal Act is amended in section 9 by deleting subsection (3) and substituting therefor the following new sub section —

“(3) The Council shall issue standards of professional accountancy practice for members of the Institute”.

Amendment section 12 of No.15 of 2008.

3. The principal Act is amended by repealing section 12 and substituting therefor the following new section —

Chief Executive Officer

“**12.** (1) There shall be a Chief Executive Officer of the Institute who shall be appointed by the Council through a competitive recruitment process.

(2) The Chief Executive Officer shall hold office for a period of five years on such terms and conditions of employment as the Council, may determine and shall be eligible for re-appointment for one further final term.

(3) The Chief Executive Officer shall be an ex-officio member of the Council and shall have no right to vote at any meeting of the Council.

(4) The Chief Executive Officer shall —

(a) be the Secretary of the Council;

(b) be the head of the secretariat and shall be responsible for the day-to-day management of the Institute;

(c) be responsible for the affairs and transactions of the Institute, the exercise, discharge and performance of its objectives and functions, and the general administration of the Institute; and

(d) in addition to the functions which he is required to exercise and perform by or under this Act, the Secretary to the Council shall exercise and perform such other functions as the Council may, from time to time, determine.”

Amendment of No.15 of 2008.

4. The principal Act is amended by inserting the following new section immediately after section 12 —

Qualifications for Chief Executive Officer.

“**12 A.** A person shall not be appointed the Chief Executive Officer unless that person has —

- a) at least a master’s degree, in accounting, finance or business-related fields from a recognized university;
- b) a bachelor’s degree, in accounting, finance or business-related fields or other related field from a recognized university;
- c) experience, of at least fifteen (15) years’ working experience in accounting, finance or business-related fields in the corporate, with seven (7) years’ of experience in a senior management position;
- d) a certified Public Accountants registered in Kenya (C.P.A.)-Kenya in good standing for the last five consecutive years;
- e) knowledge of the accountancy profession, policy formulation and understanding of government;
- f) proven leadership ability and integrity and satisfies the requirements of Article 10 and Chapter Six of the Constitution of Kenya, 2010; and
- g) any other qualifications as may be determined by the Council.”

Amendment of No.15 of 2008.

5. The principal Act is amended by inserting the following new section immediately after section 12 A —

Removal from Office.

“**12. B** (1) The Chief Executive Officer may be removed from office by the Council for —

- (a) inability to perform functions of the office;
- (b) gross misconduct;
- (c) bankruptcy;
- (d) conviction to a jail term exceeding six (6) months; or
- (e) physical or mental incapacity.

(2) Before removal under subsection (1), the Chief Executive Officer —

- (a) shall be informed in writing of the reasons for the intended removal;
- (b) shall be given an opportunity to put in a defence against any such allegations within fourteen days;
- (c) shall be informed of the Council’s decision after considering his defence within fourteen days;
- (d) shall have the right to appeal the Council’s decision to the Council within seven days; and
- (e) may be suspended from office by the Council.

(3) the removal of the Chief Executive Officer shall be considered in a meeting of the Council convened for that purpose as per the procedures for conducting Council meetings.

(4) where the Council determines that the Chief Executive Officer should be removed from office based on justifiable reasons, the Council shall do so after exhausting the disciplinary procedure set out in sub-section (2).

(5) where the Chief Executive Officer is dissatisfied with the Council’s decision under sub-section (4), he shall have the right to appeal the decision to the High Court within twenty-one days, during which

period the Council shall not substantively fill the position of the Chief Executive Officer.”

Amendment section
15 of No.15 of 2008.

6. Section 15 (1) of the Accountants Act is amended by —

(a) deleting paragraph (g) and substituting therefor the following new paragraph —

“(g) one shall be nominated by the Council of the Institute of Certified Public Secretaries of Kenya;”

(b) Inserting the following paragraph immediately after paragraph (g) —

“(ga) one shall be nominated by the Institute of Certified Investment and Financial Analysts;”

Amendment section
16 of No.15 of 2008.

7. Section 16 (1) of the Accountants Act is amended by —

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

“16 (1) There shall be a Secretary/Chief Executive Officer of the Examinations Board appointed by the Cabinet Secretary on the recommendation of the Board following a competitive process of recruitment”;

(b) deleting subsection (2) and substituting therefor the following new paragraph —

“(2) The Secretary/Chief Executive Officer shall hold office for a term of five years in accordance with the terms and conditions —

(a) specified in the instrument of appointment to that office and shall be eligible for reappointment once, to a further term of five years.

(b) as determined by the Examinations Board on the advice of the Salaries and Remuneration Commission and specified in the instrument of appointment.”

(c) deleting subsection (4) and substituting therefor the following new section —

“(4) The Secretary/Chief Executive Officer shall subject to the direction of the Board be —

(a) the Secretary of the Examinations Board;

(b) the accounting officer of the Examinations Board;

(c) the head of secretariat and responsible for the day-to-day management of the affairs of the Examinations Board;

(d) responsible for the direction of the affairs and the exercise, discharge and performance of the objectives, functions and duties and the general administration of the Examinations Board; and

(e) perform such other functions as the Board may direct.”

(d) inserting the following subsection immediately after sub-section (4)

“(5) A person shall not be appointed the Secretary/Chief Executive Officer unless that person has—

(a) a master’s degree, in accounting, finance, investments, certified public secretary or business-related fields from a recognized university;

(b) a bachelor’s degree in finance, investments, certified public secretary or business-related fields from a recognized university;

(c) experience, of at least fifteen (15) years’ working experience in accounting, finance or business-related fields in the corporate, with seven (7) years’ of experience in a senior management position;

(d) at least five years’ experience in the administration and management of examinations at national level;

(e) any of the following qualifications –

(i) a Certified Public Accountants registered in Kenya

(C.P.A.)-Kenya in good standing for the last five years; or

(ii) a Certified Public Secretary registered in Kenya (C.P.S or CS) – Kenya in good standing for the last five years; or

(iii) a Certified Investment and Financial Analyst Kenya (C.I.F.A.) – Kenya in good standing for the last five years;

(f) knowledge of the accountancy profession, corporate governance and investments and financial analysis, policy formulation and understanding of government procedures; and

(g) proven leadership ability and integrity and satisfies the requirements of Article 10 and Chapter Six of the Constitution.”

Amendment section
17 of No.15 of 2008.

8. Section 17 (1) of the Accountants Act is amended by deleting paragraph (a) and substituting therefor the following new paragraph —

“(a) prepare syllabuses for professionals’, diploma, certificates, vocational and post graduate specialization’ examinations in accountancy and company secretarial practice and related disciplines.”

Amendment section
19 of No.15 of 2008.

9. Section 19 of the principal Act is amended by deleting sub-section (2).

Amendment of
section 26 of No.15
of 2008.

10. Section 26 of the principal Act is amended by inserting the following new subsection immediately after subsection (3) —

“(4) A person with foreign qualifications in accountancy shall be—
(a) required to apply for and receive a work permit in accordance with the Immigration Act, where applicable;
(b) required to meet the requirements of sub-sections (2) and (3);
and
(c) be registered with the Institute if the person is being employed in the position of chief accountant or chief finance officer and above, as a professional.”

Amendment of the
First Schedule to No.
15 of 2008.

11. The First Schedule to the Act is amended in paragraph 1 by deleting sub paragraph (3) and substituting therefor the following new sub paragraph —

“(3) A person elected as chairman in subsection (1) shall hold office for a non-renewable term of three years.”

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Accountants Act to provide clarity on the administration of this Act.

Statement of how the Bill concerns County governments

The Bill does not concern county governments in terms of Article 110 (a) of the Constitution.

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

The Bill does not contain any provision limiting any fundamental rights or freedoms.

Statement that the Bill is a money Bill, within the meaning of Article 114 of the Constitution.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the

2021.

**Ukur Yatani,
Cabinet Secretary for the National
Treasury and Planning.**