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THE NATIONAL ASSEMBLY

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THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION AND
INFORMATION

REPORT ON THE INFORMATION COMMUNICATION TECHNOLOGY
PRACTITIONERS BILL, 2016



Clerk's Chambers
National Assembly,
Parliament Buildings,
NAIROBI

NOVEMBER, 2016

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ABBREVIATIONS

KICTANET	–	Kenya ICT Action Network
TESPOK	–	Technology Service Providers of Kenya
KITOS	–	Kenya IT and Outsourcing Services
BAKE	–	The Bloggers Association of Kenya
ICT	–	Information, Communication and Technology
KEPSA	–	Kenya Private Sector Alliance



CHAIR'S FOREWARD

The Information Communication Technology Practitioners Bill, 2016 was read a First Time on **22nd June, 2016**. It was then committed to the Departmental Committee on Energy, Communication and Information pursuant to Standing Order 127 (1).

During stakeholder and public participation forums, the Committee engaged with a broad and representative team drawn from a cross-section of ICT industry stakeholders including KICTANET, TESPOK, KITOS, BAKE, and iHub who got together and collectively presented a memorandum to Parliament under the KEPSA umbrella with views regarding the said bill.

The issues raised in the memorandum included, a lack of stakeholder participation in the legislative process, contravenes and unsupportive of the various Government policies on ICT, Youth and unemployment, adverse labour implications, a lack of research and analysis to identify gaps as the basis for legislation and a lack of harmonisation with global ICT standards and licensing regimes.

It was also noted that the Bill fails to take into account the review of ICT Policy, poor institutional framework, incongruent with realities of ICT training, research and development opportunities in the ICT Sector and that the Innovation and learning/knowledge, technology transfer and fostering technology entrepreneurship will suffer if passed in the same form. The Committee looks forward to bringing amendments to the Bill to reflect the realities in the ICT sector and the views of the stakeholders.

The Committee wishes to thank the Office of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the process of considering the Information Communication Technology Practitioners Bill, 2016.

As the chairperson, I also want to extend my appreciation to all the Members of the Committee, the secretariat and the stakeholders, for their time, sacrifice and commitment and putting up longer hours during the consideration of the Bill.

Hon. Speaker, on behalf of the Departmental Committee on Energy, Communication and Information and pursuant to provisions of Standing Order 127, it is my pleasant privilege and honor to present to the House the Report of the Committee on its consideration of the Information Communication Technology Practitioners Bill, 2016.

THE HON. JAMLECK KAMAU, EGH, M.P.
CHAIRPERSON

EXECUTIVE SUMMARY

The Information Communication Technology Practitioners Bill, 2016 was published on **7th June 2016** and read a First Time on **22nd June, 2016**. Thereafter it was committed to the Departmental Committee on Energy, Communication and Information for consideration pursuant to Standing Order 127.

In processing the Bill, the Committee invited comments from the public by placing advertisements in the Daily Nation and Standard Newspapers on **1st July, 2016** pursuant to Article 118 of the Constitution.

The principal object of this Bill is to establish a legal framework for the training, registration, licensing, practice and standards of Information Communication Technology (ICT) professionals in Kenya.

The Bill proposes the establishment of an institute of ICT practitioner's governing council that would set standards of professional competence, approve courses as well as register and license practitioners upon payment of prescribed fees.

The Bill has also proposed that for one to be eligible for registration, one should be a holder of a Bachelor's degree and have at least three years relevant experience. On the other hand those with diplomas from recognized universities are required to pass an examination, or fulfil other requirements that the council may set, before registration.

Consequently, the Committee received presentations from the following persons and institutions:-

- (1) The Ministry of Information Communication and Technology;
- (2) The Kenya Private Sector Alliance on behalf of Technology Service Providers, Kenya ICT Action Network, Bloggers Association of Kenya, Kenya Information Technology and Outsourcing services and the I-Hub;
- (3) Communication Authority of Kenya; and
- (4) ICT Association of Kenya.

The Committee also met with the Sponsor of the Bill, Hon. Aden Duale, EGH, MP whose views are also captured and contained in the body of the Report.

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Departmental Committee on Energy, Communication & Information is one of the twelve Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:-

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) **To study and review all the legislation referred to it;**
- d) To study, access and analyse the relative success of the ministries and departments measured by the results obtained as compared with their stated objective;
- e) To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a Cabinet Secretary;
- f) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments); and
- g) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to oversee:-

Fossil fuels exploration, Development of energy, Production of energy, Maintenance and regulation of energy, Communication, Information, Broadcasting, Information Communications Technology (ICT) development and management.

In executing its mandate, the Committee oversees the following government Ministries, namely:

- i. Ministry of Energy and Petroleum
- ii. Ministry of Information, Communication and Technology

COMMITTEE MEMBERSHIP

The Committee on Energy, Communication and Information was constituted by the House in May, 2013 and comprises of the following Members:-

Chairperson	The Hon. Jamleck Kamau, EGH, MP
Vice Chairperson	The Hon. Jackson Kiptanui, MP
	The Hon. Mohammed Elmi, EGH, MP
	The Hon. Edick Anyanga, MP
	The Hon. Mithika Linturi, MP
	The Hon. Mary Mbugua, HSC, MP
	The Hon. (Eng.) Vincent Musau, MP
	The Hon. Zebedeo Opore, MP
	The Hon. Aramat Lemanken, MP
	The Hon. Arthur Odera, MP
	The Hon. Banticha Abdullahi, MP
	The Hon. Esther Gathogo, MP
	The Hon. Fathia Mahbub, MP
	The Hon. James Lomenen, MP
	The Hon. Cecily Mbarire, MP
	The Hon. Nicholas Ngikor, MP
	The Hon. Onesmus Njuki, MP
	The Hon. Rachael Amolo, MP
	The Hon. Roba Duba, MP
	The Hon. Ndung'u Gethenji, MP
	The Hon. William Kisang, MP
	The Hon. Richard Tongi, MP
	The Hon. Moses Kuria, MP
	The Hon. Silverse Anami, MP
	The Hon. Charles Nyamai, MP
	The Hon. Joseph Magwanga, MP
	The Hon. William Mtengo, MP

COMMITTEE SECRETARIAT

Lead Clerk Assistant	Mr. Amos Kiangwe Sikweya
Clerk Assistant	Mr. Jimale Mohammed
Clerk Assistant	Ms. Laureen Wesonga
Legal Counsel	Ms. Jemimah Waigwa
Research & Policy Analyst	Mr. Donald Manyala
Fiscal Analyst	Mr. Abdirahman Gorod

1. CONSIDERATION OF THE BILL

1.1 SUBMISSIONS BY THE CABINET SECRETARY, MINISTRY OF INFORMATION COMMUNICATION AND TECHNOLOGY

The Cabinet Secretary made the following submission among others- was it written or did CS appear?

- (1) The Bill ignores the concept of self-taught innovators who with the introduction of the licensing regime would be limited to practice;
- (2) The unique nature of ICT training is not acknowledged, making the Bill incongruent with realities of ICT training, certification and practice;
- (3) Only one ICT body, the ICT Association is represented on the Board.
- (4) There is need for clarity on how the Bill would be operationalized and the need to address potential conflict with existing statutory bodies operating in the sector.
- (5) Lack of a basis to register ICT practitioners given the pervasiveness of ICT as an enabler for all business operations;
- (6) The form of licensing as proposed in the Bill will entrench entry barriers;
- (7) A Bill should be preceded by a Policy that outlines the broad issues that require legislation;
- (8) The ICT Policy 2006 is under review to take into account and consideration the various changes that have taken place in ICT since 2006;
- (9) The Bill does not reflect the policy position of the Ministry and would make it impossible for the Cabinet Secretary to make regulations for the Bill;
- (10) Licensing is done by other Agencies such as the Communications Authority of Kenya and hence the Council under the Bill cannot licence;
- (11) Training is within the ambit of the Ministry of Education and hence the Council under the Bill cannot approve courses and administer examinations for purposes of the registration of ICT Practitioners;

(12)The Ministry had sought the withdrawal of the Bill but was guided by the Committee that the Bill can only be withdrawn by the mover of the Bill.

1.2 CONSOLIDATED SUBMISSIONS BY THE MINISTRY OF INFORMATION COMMUNICATION AND TECHNOLOGY, KENYA PRIVATE SECTOR ALLIANCE, COMMUNICATION AUTHORITY OF KENYA AND THE ICT ASSOCIATION OF KENYA.

The Ministry of Information, Communication and Technology, KEPSA and the ICT Association of Kenya made the following submissions- was this a joint written submission or how was it arrived at?

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status proposals by CA and KEPSA after consultations with ICTAK
PART I – PRELIMINARY					
	Preamble A Bill for AN ACT of Parliament to provide for the training, registration, licensing, practice and standards of ICT practitioners and for connected purposes	No comment made	Delete the phrase “licensing, practice and standards” so it reads as follows: “A Bill for AN ACT of Parliament to provide for the training and registration of ICT practitioners and for connected purposes”	Duplication of the functions of licensing and setting standards. A number of ICT players are currently licensed both locally and internationally. Further licensing requirements will result in double licensing and impose an undue and onerous burden. For instance, in order to maintain standards within the ICT industry, the Communications Authority of Kenya maintains a register of technical personnel of their licensees. Further, other professions such as engineers, accountants, advocates, etc. who may also be ICT Professionals are also respectively registered and licensed by	Not agreed. All stakeholders however agreed that the Bill should provide for self-regulation.

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Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
2 (1)	processing, using or sending out information and include those involving the use of computers, mobile apparatus or any telecommunication system		Replace the current definition of ICT with the following phrase: <i>"Information Communication Technology (ICT)" means any equipment, or interconnected system or subsystem of equipment for which the principal function is the creation, conversion, duplication, automatic acquisition, storage, analysis, evaluation, manipulation, management, movement, control, display, switching, interchange, transmission, reception, or broadcast of data or information.</i>	The definition of ICT in the Bill is too narrow and represents ICT as a static profession yet ICT is a dynamic profession and only takes into account the narrow aspect of data protection. The proposed amendment will address this concern and represents a broad understanding of the Sector as it is today.	Agreed
	"ICT practitioner (ICTP)" means a person registered under this Act as an ICT practitioner who is also licensed under section 20 to practice as such		Replace the current definition of ICT Practitioner with the following phrase: <i>"ICT practitioner (ICTP)" means a person whose principle occupation is to commercially design, develop, operate, maintain or support of ICT systems</i>	This amendment will create greater clarity on the definition of ICT Practitioner	Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
			<i>registered under this Act.</i> <i>But does not include persons who utilise ICT systems or equipment as an enabler in the performance of other functions; or, where a person is registered or qualified as a professional in another field.</i>		
2(1)	"Practicum" means an ongoing, supervised and organized practical experience or internship prescribed as part of the qualifications for the award of any degree or diploma and obtained in an integrated training program recognized by the Council;		Delete the definition of practicum in clause 2 (1) and also delete the reference to "practicum" under Section 37(2) (c)	The emphasis should be on one having gone through relevant training that vests the relevant skill and competence rather than imposing an additional obligation for internship	Agreed
	Proposed definition new		Insert the following new definition: <i>" "Complaint Committee" means the Complaints Committee established under Section 26 of this Act"</i>	New definition caters for amendments with respect to dispute resolution detailed below	Agreed
	Proposed definition new		Insert the following new definition: <i>" "Appeals Tribunal" means the Communications and Multimedia Appeals</i>	New definition caters for amendments with respect to dispute resolution detailed below	Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
			<i>Tribunal established under Section 102 of the Kenya Information and Communications Act (Chapter 411A) Laws of Kenya"</i>		
3	Establishment of the Institute	There is no need to establish a separate institute. The reasons are given under the commentary for Clause 6		KEPSA: S. 3 (a) ICT Institute cannot be governed in the same way as other sectors since it is not a static sector	Not agreed
PART II – ESTABLISHMENT OF THE ICT PRACTITIONERS INSTITUTE					
4	Composition of the Council	There is need for public consultations in order to establish whether the Information Communication Technology Association of Kenya is the most representative industry body for ICT professionals. Looking at the broad definition of ICT and ICT professionals, as provided for in the Bill, it should follow that there are many distinct bodies that represent ICT professionals. Diverse areas of practice include mobile communications, ICT innovation, domain name registration, internet service providers, telecommunications engineers, bloggers etc. ICT is composed of a broad spectrum of professionals Since the five council members mentioned in Clause 4(1) (c) are meant to represent industry interests, it is important that selection of the			Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		nominating body (bodies) be arrived at through a consultative process that involves the stakeholders that seek to be represented. The Bill should provide for the office that will appoint the five council members mentioned in Clause 4 (1) (c) once they are nominated. Is it the cabinet secretary? Clause 4(3). The reference to Chairman should be amended to Chairperson – Gender parity Clause 4(4). The reference to subsection 1(a) should be deleted since it implies that the principal secretary in the Ministry of ICT must have at least five years' experience in ICT. The Public Service Commission sets out the qualifications for PS's. Accordingly, Clause 4(4) should apply to all persons appointed under clause 4(1) with the exception of ministry representatives The Composition of the Council (the number of Councilors) offends the provisions of Mwongozo codes, which provides that Boards of Public agencies should be composed of not more than nine members including the CEO. There is therefore need to reduce the proposed membership by one			

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		Clause 4 (5) – All appointments, even where nominations are made by an industry body, should be made by the Cabinet Secretary since all appointments to public office are either made by the President or a Cabinet Secretary. Moreover, an industry representative body cannot gazette the appointments. Effecting the proposed change will be in harmony with Clause 38(2) and paragraph 2 of the First Schedule. Further to the foregoing, all appointments under Clause (4) (5) save for ministry representatives should take into account the gender, regional and other diversities of the People of Kenya since the Council is a public agency and should therefore be composed in the manner envisaged by the Constitution. Accordingly, application of Clause 4(5) should not be limited to Clause 4(1) (c) and (d)			
4 (1) (a)	the principal secretary in the Ministry for the time being responsible for matters relating to information communications technology;		Replace clause 4 (1) (a) with the Chairperson appointed according to sub-section 2	Provide for self-regulation, consistent with other professionals	
4 (1) (b)	the Principal Secretary in the Ministry for the		Delete this clause	Provide for self-regulation, consistent with	

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	time being responsible for matters relating to the national treasury;			other professionals	
4 (1) (c)	one person appointed by the Cabinet Secretary to represent training institutions in Kenya which have power to grant a qualification which is recognized under this Act;		Delete this clause	The selection panel under the proposed clause 4 (2) should take into consideration the Constitutional requirements for diversity and gender parity	
4 (1) (d)	one person who shall be of the female gender appointed by the Cabinet Secretary to represent minorities and marginalized groups;		Delete this clause	The selection panel under the proposed clause 4 (2) should take into consideration the Constitutional requirements for diversity and gender parity	
4 (1) (e)	five persons of good professional standing nominated by the Information Communication Technology Association of Kenya; and		Replace the clause with five persons as appointed under the selection process in proposed clause 4 (2).	The selection panel under the proposed clause 4 (2) should take into consideration the Constitutional requirements for diversity and gender parity	
New clause 4 (2)	None		Replace the current clause 4(2) after the proposed clause 4(1): "A selection panel shall be	The proposed clause provides for a transparent competitive and consultative selection process	

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
			<i>appointed to select six council members:</i> <i>(1) Within sixty days of the occurrence of a vacancy in the office of chairperson or member of the Council, the Cabinet Secretary, shall—</i> <i>(a) by notice in the Gazette and on the official website of the Ministry, declare a vacancy in the Council, and invite applications from qualified persons; and</i> <i>(b) convene a selection panel for the purpose of selecting suitable candidates for appointment as the chairperson or member of the Council.</i> <i>(2) The selection panel referred to under subsection (1) shall comprise of persons drawn from the following organisations:</i> <i>(a) Kenya Educational Network</i> <i>(b) Kenya Private Sector Alliance;</i> <i>(c) Kenya IT and Outsourcing Services</i> <i>(d) Technology Service Providers of Kenya;</i><i>(e) Kenya ICT Action Network</i> <i>(f) Bloggers Association of Kenya</i> <i>(g) Consumers Federation</i>		

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
			of Kenya; and (h) ICT Association of Kenya (3) At their first meeting, the panel shall appoint a chairperson and a vice-chairperson who shall be of opposite gender (4) An application in respect of a vacancy declared under subsection (1) shall be forwarded to the selection panel within fourteen days of the publication of the notice, and may be made by— (a) any qualified person; or (b) any person, organisation or group of persons proposing the nomination of any qualified person. (5) The selection panel shall, subject to this section, determine its own procedure for the discharge of its functions under this section. (6) The selection panel shall consider the applications, shortlist and publish the names and qualifications of all the applicants and those shortlisted by the panel in the Gazette, within twenty-one days from the expiry of the deadline of receipt of applications under		

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
			subsection (4). (7) The selection panel shall interview the shortlisted applicants within fourteen days from the date of publication of the list of shortlisted applicants under subsection (6) (8) Upon carrying out the interviews, the selection panel shall select— (a) one person qualified to be appointed as chairperson; and (b) Six persons, in relation to each vacancy, qualified to be appointed as members of the Council, and shall forward the names to the Cabinet Secretary. (9) The Cabinet Secretary shall, within fourteen days of receipt of the names under subsection (8), appoint the chairperson and the members, respectively. (10) In selecting, shortlisting and appointing the chairperson and members of the Board, the Cabinet Secretary shall— (a) ensure that the appointees to the Council reflect the interests of all sections of society; (b) ensure equal		

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
			<i>_opportunities for persons with disabilities and other marginalized groups; and</i> <i>(c) ensure that not more than two-thirds of the members are of the same gender.</i> <i>(11) Council members shall hold office for a period of three years and shall be eligible for re-appointment for a further and final term of three years</i> <i>(12) All appointments under this section shall be by notice in the Gazette."</i>		
4 (2)	<i>All appointments under this section shall be by notice in the Gazette</i>		Delete this clause	Gazette notice provided in proposed clause 4 (2) (12)	
4 (3)	There shall be a chairman and vice-chairman of the Council who shall be elected in manner provided in 3 of the First Schedule		Delete this clause	The proposed clause provides for a transparent competitive and consultative selection process	
4 (5)	In appointing the members of the Council under subsection (1) (c) and (d), the Cabinet Secretary shall take into account the gender, regional and other diversities of the		Replace proposed clause 4 (5) with the following clause: <i>"In selecting the members of the Council under subsection (2), the selection panel shall take into account the gender, regional and other diversities of the people of Kenya."</i>	The proposed clause maintains the constitutional requirement for diversity and gender parity	

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	people of Kenya				
5	Conduct of business and affairs of the Council	No comment			
New clause 5 (3)	None		Replace proposed clause 4 (5) with the following clause: “Council members will declare and make public their wealth annually from three months after appointment and every subsequent anniversary of appointment.”	This addition seeks to create a clear obligation on accountability through the requirement for wealth declaration	
6	Functions of the Institute	The functions provided for under Clause 6 are already being performed by other specialized government agencies such as • The Communications Authority of Kenya (Registration and licensing of Telecommunications Contractors and technical personnel) • The ICT Authority of Kenya (advise the Cabinet Secretary on appropriate policies and programs governing the profession of ICT in Kenya/ protecting, assisting and educating the public in matters relating to ICTs – One of the functions of ICTA is on ICT Human Resources and Skills) • The Commission for University Education • (approving courses for purposes of			

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA amendment proposed	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		registration) - The Engineers Board of Kenya (approving courses for purposes of registration) - The Council of Legal Education (approving courses for purposes of registration) - Professional bodies such as The Institution of Engineers of Kenya/the Law Society of Kenya (setting professional standards/representing and assisting members) - Kenya School of Law/National Transport Safety Authority (administer such exams as may be necessary) Some of the functions prescribed under Clause 6 are difficult to implement for example - Administering such examinations as may be necessary. The magic of ICT is innovation and diversity. A number of ICT practitioners are self-taught or have different educational backgrounds. The breadth of ICT is also very broad. It may therefore prove difficult for one body to administer examinations that will cater to all ICT professionals (as defined in the Act) in Kenya - ICT is also a very			

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		dynamic industry and as has been proven to be the case worldwide, academia and established practices are always catching up with new innovations - Determining the fees to be charged by ICT Practitioners and firms for professional services. Some ICT services are not standard as is the case with the other professions such as legal work or engineering consultancies etc. Accordingly, it is difficult to have predetermined fees for all ICT solutions, most of which are very innovative and dynamic. - In addition, most professions are self-regulated or are regulated in a hybrid mix of government regulation and Accordingly, we are of the view that the functions to be vested by the Council can be performed by other bodies. If need be the roles of existing agencies may be enhanced to adequately provide for any shortcomings.			
6 (a)	(a) Establish standards of professional competence and practice		Replace with ‘ Promote standards of professional competence and practice’	Its covered in extensively in the KICA 411 that mandates Communication Authority of Kenya to develop and enforce standards of	Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
				Telecommunications, Broadcasting, Content, Electronic Transactions and Postal systems. Some aspects of the quality of workmanship are a mandate of the Kenya Bureau of Standards The mandate is already with the Communications Authority. There are 28 citing's of clauses dealing with standards as follows: KICA 411 -: 46H. (1); 47. (1)c, (2)f; 56; 83E	
6 (b)	Protect, assist and educate the public in Kenya in all matters touching, ancillary or incidental to the profession of ICT		Replace with ' <i>Assist and educate the public in Kenya in all matters touching, ancillary or incidental to the profession of ICT</i> '	The mandate is already covered under several other acts dealing with Consumer Protection	Agreed
6 (c)	represent, protect and assist members of the profession of ICT		Delete	There are other that ICT Associations of Kenya that are legally registered with a mandate to represent, protect and assist members of the ICT profession. Since industry are already represented by various member based associations such as KEPSA, TESPOK, KITOS, KICTANET, BAKE	Agreed
6 (d)	Approve courses for purposes of registration of ICT Practitioners under this Act;		Delete	This is a role of the Commission of University Education, under CUE Act, 2012	Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
6 (e)	Administer such examinations as may be necessary to determine whether persons are qualified for registration under this Act;		Delete	This is a role of the Commission of University Education, under CUE Act, 2012 and also provided under the KICA 38(i)	Agreed
6 (f)	register and license ICT practitioners upon payment of the prescribed fees		Replace with “ Register ICT practitioners for purposes of this Act”	Licensing is covered extensively under the Kenya Information and Communication Authority 411 that mandates Communication Authority of Kenya to license networks and content with regards to Telecommunications, Broadcasting, and Postal systems and oversee quality of service concerns under clause 5 on objects and purpose of the Communications Authority of Kenya	Not agreed
6 (h)	determine the fees to be charged by ICT practitioners and firms for professional services rendered from time to time		Delete this clause	This mandate is already vested in the Communications Authority. These fees paid by firms and personnel who are already licensed by the Communications Authority of Kenya are determined by the Commission and other regulatory professional bodies	Agreed
6 (i)	Upon request, to act as an arbitrator in any disputes between a licensed ICT Practitioner		Delete this clause	This is function will be provide in the ICT Practitioners Tribunal	Addressed by Clause 28

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	and a client;				
6 (j)	Advise the Cabinet Secretary on appropriate policies and programs governing the profession of ICT in Kenya;		Delete this clause	It is covered extensively in the Kenya Information and Communication Authority 411 on Policy guidelines by Cabinet Secretary	Agreed as proposed in the Bill.
6 (k)	supervise the professional conduct and practice of ICT practitioners and to take the necessary disciplinary measures in cases of violations of professional conduct and discipline		Delete this clause	This mandate is already with the Communications Authority. its covered in extensively in the Kenya Information and Communication Authority 411 that mandates Communication Authority of Kenya to license networks and content with regards Telecommunications, Broadcasting, and Postal systems and oversee quality of service concerns under clause 5 on objects and purpose of the Communications Authority of Kenya	Agreed as proposed in the Bill.
6(l)	plan, arrange, co-ordinate and oversee continuing professional training and development of ICT practitioners		Delete this clause	to be achieved through Section 6 (g) hence no need to include it here	Not agreed
7	Powers of the Council	No Comment			
8	Remuneration of Council Members	No Comment			
9	Chief Executive	Typo: Sub-clause (3) Capitalize the letter (C)			Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	Officer	when describing the Council The term of the Chief Executive Officer of the Institution should be specified for good corporate governance purposes			
9. (4)a	has at least five years proven experience in the field of ICT;		Replace with “has at least five years proven experience at senior management level”	This takes into consideration the nature of experience (managerial) that is required for this role to be effective	
b.	has knowledge and experience in policy formulation, administration and management;	–	Replace with “has proven knowledge and experience in policy formulation and administration”	Creates clarity on the specifics of the knowledge and experience required	Agreed after deletion of the word “proven”
9	Perform such duties as are prescribed by or under this Act	–	Delete this clause	Already provided in 9 (a)	Agreed
9 (4) (d)	None	–	will declare and make public to stakeholders their wealth annually from three months after appointment and every subsequent anniversary of appointment	Seeks to create accountability for appointees under this section	Stakeholders agreed to delete proposal
10	Staff of the Institute	No comment			
11	Delegation by the Council	No comment			
12	Committees of the Council	Sub-clause (3) capitalize the C for Council Additional comments provided in the analysis for the Second Schedule			Agreed
12.(5)	Without prejudice to the foregoing	–	Delete this clause	Too prescriptive on operational issues of the	Agreed to this section

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	provisions of this section, the Council shall establish the committees set out in the Second Schedule.			Institute that may change once other stakeholders are involved subject to what is seen as a priority by the council	and the deletion of the 2 nd schedule
13	Protection from personal liability	No comment			
14	Common seal	No comment			

PART III – REGISTRATION OF ICT PRACTITIONERS

5	Qualifications for registration	Clarity to the definition of ICT Practice/Practitioner can be achieved by defining the ICT related fields and ICT experience that is required for purposes of registration It is not clear what the fate of self-taught ICT innovators will be. One of the advantages of ICT is that it offers young people from diverse backgrounds the opportunity to earn a living. Some of these young people are those who lacked the means or opportunity to attain tertiary education. Locking some practitioners out of ICT practice will have a detrimental effect on their ability to innovate, earn a living and occupy themselves with gainful activity. Accordingly, we are opposed to the proposed rigidity with respect to registration for membership			
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Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
15a	15. A person shall be eligible for registration under this Act as an ICT practitioner if the person- (a) is the holder of at least a bachelor's degree in an ICT related field from a recognized university; (b) is the holder of at least a bachelor's degree from a recognized university and has relevant ICT experience of at least three years; (c) is the holder of a diploma from a recognized university and has passed an examination or fulfilled such requirements as may be prescribed by the Council; (d) satisfies the Council that he or she is a person of good moral character and a fit and proper person to be registered under this Act.	-	Replace this clause with the following clause: <i>"15. (1) A person shall be eligible for registration under this Act as an ICT practitioner if the person-</i> <i>(a) is the holder of a bachelor's or graduate degree in an ICT related field from a recognized university; or</i> <i>(b) is the holder of a diploma from a recognized institution; or</i> <i>(c) is the holder of certification by a recognized Institution or organisation; or</i> <i>(d) has relevant ICT experience as prescribed by the Council in consultation with stakeholder;</i> <i>(2) the Council in consultation with stakeholder shall develop a Code of Business and Ethics for ICT Practitioners</i>	In view of the dynamism in the profession, criteria for registration of ICT professionals has been expanded to include certification and experience. This will also cater for self-taught persons. Further, it is not clear what moral character means. To provide clarity, a Code of Ethics is proposed in place of this requirement	Agreed
16	Registration	Clause 16 makes mention of a Registrar but the office is not created in the Bill. There is therefore need for clarification as to whether the Register provided for in Clause			Agreed. Replace the word "Registrar" with "Council"

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		17 is to be maintained by a Registrar or the Council Arising from the diversity of ICT Practice/Practitioners as defined in the Bill, it is not easy to establish all the people who are eligible to be registered as ICT Practitioners			
16(1)	Every person eligible to be registered as an ICT practitioner may apply in the prescribed form to the registrar for registration in the register, and every such application shall be accompanied by the prescribed fee.	-	Delete “ and every such application shall be accompanied by the prescribed fee “		Not agreed
17	Register of ICT practitioners	No comment			
17 (b)	None		The Council shall avail the register online subject to existing data protection and privacy legislation	This will facilitate access to the information herein	Agreed
18	Alterations to the Register	Sub-clause (3) – Reference should be made to Section 26 (on disciplinary proceedings by the Council which include removal from the Register) as opposed to Section 27 (on the effect of removal, suspension or procedure) Clause 18(5) is at odds with the aim of registration. The			Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		purpose of a professional register is to provide information that certain persons have met the minimum requirements to practice in a certain profession. It should not be treated as an advertising tool where people pay to list additional qualifications for their benefit. Moreover, most regulated professions discourage advertisement since it is believed that professional stature should be influenced by competence and skill.			
18 (3)	Removal from the Register			Provided for in the complaints and disciplinary procedures	Agreed
18 (5)	Every person registered under this Act who has obtained a higher qualification than the registered qualification shall, on the payment of the prescribed fee, be entitled to have that additional qualification inserted in the register in addition to the qualification previously registered.		Delete the phrase ‘ on the payment of the prescribed fee’		Agreed
19	Publication of registration	No comment			

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
19(1)	The Council shall publish in the Gazette as soon as may be practicable after registration, the name of every ICT practitioner registered under this Act.		Delete “ as soon as may be practicable’ and insert “annually”	Creates certainty on the time frame	Agreed
(2)	It shall be the duty of every ICT practitioner to inform the Council immediately of any change in their registered address.		Delete to read “ the ICT practitioner may inform the Council from time to time any change in their registered address	Creates clarity on how the duty to notify on address changes will be communicated	Agreed
19(3)	3) The publication of the list of registered ICT practitioners in the Gazette shall be prima facie evidence that the persons named therein are registered under this Act, and the absence of the name of any person from such list shall be prima facie evidence that the person is not so registered.		Delete “Publication” and replace with “registration” Move the clause to be part of 7(c)	Creates greater clarity	Retain as per the Bill.
PART IV – LICENSING OF ICT PRACTITIONERS					
20	Licence to practice	There will be double registration for some practitioners. For example both the Communications Authority of Kenya and the National Construction Authority currently register telecommunications contractors and technical personnel. Increasing the number of regulators has the disadvantage of			Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		increasing the cost and ease of doing business in Kenya Requiring ICT employers, many of which are SMEs, to employ registered ICT Practitioners will increase the costs of regulatory compliance and doing business. This is because registration and annual compliance costs for employees are usually borne by employers. The enactment of this provision will also discourage innovation and the ease with which young people, especially those without tertiary education, can exploit opportunities available in ICTs.			
20 (1)	A person shall not practice as an ICT practitioner unless such person has complied with the requirements for continuing education and supervision, and		Delete this clause	The propose legislation ought to provide for registration of practitioners for purposes of accountability and records. However, noting the dynamism of ICT practice, annual licensing is impractical and ought to be done away with.	Not agreed
	has been issued with a valid practice license by the Council, in accordance with regulations made under this Act.				
20 (2)	(2) The Council may issue to an ICT practitioner who has applied in the		Delete this clause	The propose legislation ought to provide for registration of practitioners for purposes	Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	prescribed form, a license to practice on their own behalf or to be employed.			of accountability and records. However, noting the dynamism of ICT practice, annual licensing is impractical and ought to be done away with.	
20 (3)	(3) Subject to the provisions of this Act, a person shall not operate an ICT firm unless- (a) the firm has a certificate of registration of a business name or certificate of incorporation; (b) the firm has at least one partner or principal shareholder who is registered as an ICT practitioner and who has a valid practicing license; and (c) the firm fulfils any other condition as may be stipulated by the Council.		Delete this clause	Restrictive trade. An ICT practitioner should be free to practice in his/her own name, subject only to registration.	Not agreed
21	(1) A licence granted under this Act shall be valid for one year, for the duration between the 1st January and 31st December in every year, and may, upon expiry, be renewed. (2) A person whose licence has not been renewed for		Delete this clause	The propose legislation ought to provide for registration of practitioners for purposes of accountability and records. However, noting the dynamism of ICT practice, annual licensing is impractical and ought to be done away	Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA amendment proposed	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	one year or more and who wishes to have the licence renewed may apply to the Council upon- (a) swearing an affidavit in the prescribed form explaining the reasons for non-renewal; (b) payment of the license fee for the current license period; (c) presentation of evidence to the Council of fulfilment of all applicable conditions for renewal of a license; and (d) payment of annual subscription fee for the current license period. (3) The Council may refuse to issue or to renew a license. (4) A person aggrieved by a decision of the Council under this section may appeal to the High Court, and in any such appeal the High Court may annul or vary the decision of the Council as it may determine necessary.				
21	Period of validity	Clause 21(4) For purposes of clarity and			Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		administrative efficiency, we propose the introduction of timescales within which an appeal from the decision of the Council with respect to renewal of licences may be lodged at the High Court. Thirty days perhaps?			
22	Publication of Licences	We propose that the Council maintains an up-to-date register or all ICT practitioners through an online portal as opposed to gazetting a list of all practitioners on an annual basis. This is will facilitate ease of access by members of the public and will ensure that practitioners registered in the course of the year are reflected in the register with minimum delay following the initial gazettment. Moreover, it will reduce the costs of the Council.			Not agreed
22	22. (1) The issue and the cancellation, revocation or withdrawal of a license under this Part shall be published in the Gazette. (2) The Council shall, once in every year, as soon as convenient after 1st January, but		Delete this clause	The propose legislation ought to provide for registration of practitioners for purposes of accountability and records. However, noting the dynamism of ICT practice, annual licensing is impractical and ought to be done away with.	Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	not later than 31st March, publish in the Gazette a list containing the names, qualifications and registered addresses of all licensed ICT practitioners.				
23	No fees for unlicensed persons	The enactment of this provision will discourage innovation and the ease with which young people, especially those without tertiary education, can exploit opportunities available in ICTs. It can also lead to the exploitation of persons who do not qualify to be licensed. For example, a number of students are engaged in coding and website development during the course of their studies.			Not agreed
23	23. A person shall not be entitled to recover a fee for ICT services, unless such person is licensed under this Act.	-	Delete this clause	The propose legislation ought to provide for registration of practitioners for purposes of accountability and records. However, noting the dynamism of ICT practice, annual licensing is impractical and ought to be done away with.	Not agreed
PART V – ENFORCEMENT					
24	False registration or licensing	No comment			
24(1)	Any person who willfully procures or attempts to procure registration or		Delete the phrase and replace with the following phrase “Any person who	The aforementioned offence is sufficiently covered by other laws	Agreed. Penalties for the offence

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	licensing under any of the provisions of this Act, by making or producing or causing to be made or produced any false or fraudulent representation or declaration either orally or in writing, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to Imprisonment for a term not exceeding two years, or both.		<i>willfully procures or attempts to procure registration under any of the provisions of this Act, by making or producing or causing to be made or produced any false or fraudulent representation or declaration either orally or in writing, commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings"</i>	under the Penal Code including; fraud, forgery, soliciting money by false pretense, impersonation	yet to be agreed
(2)	If a person convicted of an offence under this section is registered or licensed under this Act, the Council Shall remove such person's name from the register and cancel the licence.		Delete the phrases "licensed" and "cancel the licence"	As detailed above, it is proposed that the Council will undertake registration of ICT Practitioners only and will not license them	Agreed although "licencing" function by the council is still not agreed.
25	Professional misconduct	Some of the reasons provided as evidence of professional misconduct, though unsavoury are more of unprofessional conduct. Examples include disregard to clients feelings, personal unfitness arising out of a character defect or inexperience, attempts to blame others for mistakes, superficial work etc.			

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
		Even though the foregoing behavior should be chastised, it should not be a cause for deregistration and as such a tool for denying a professional the means of earning a living.			
25	A person who is licensed as an ICT practitioner Professional commits act of professional misconduct if such person- (a) deliberately fails to follow the laid down standards of conduct and practice of the profession of ICT as may be laid down by the Council; (b) commits gross negligence in the conduct of professional duties, (c) allows another person to practise in their name, where such person- (i) is not a holder of a practising certificate issued under this Act; and (ii) is not in partnership with the ICT practitioner; (d) takes advantage of clients by abusing a position of trust, expertise, or authority; (e) is insensitive to clients		Delete Section 25 and insert the provisions under (a) and (h) relating to Code of Business and Ethics and replace with the following clauses: <i>“(a) The Council shall develop a code of Business and Ethics to govern the conduct of ICT Practitioners in consultation with Stakeholders.</i> <i>(b) A person who is registered as an ICT practitioner commits an act of professional misconduct if such person contravenes the provisions under the ICT Code of Business and Ethics under (a) above.”</i>	Professional conduct and offenses shall be defined, (under the Code of Business and Ethics) set out and continuously reviewed by the and independent body constituting of the standards, disciplinary arms of the institute	Agreed. Blend the two positions of KEPSA and CA. Also delete

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA amendment proposed	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	through a lack of regard or concern for clients' needs, feelings, rights, or welfare of others; (f) shows incompetence or inability to render services, for reasons ranging from inadequate training or inexperience, to personal unfitness, such as a character defect or an emotional disturbance; (g) evidences irresponsibility including lack of reliable or dependable execution of professional duties, attempts to blame others for one's mistakes, shoddy or superficial professional work, or excessive delays in delivering necessary feedback, assessments, reports, or services; or (h) is guilty of abandonment through failure to follow through with their duties or responsibilities, thereby causing clients to become vulnerable or incur unnecessary expenditure				
26	Disciplinary proceedings by the Council	No comment			
26(1)	Delete Section 25 and insert the provisions under (a) and (b) relating to Code of Business and		Delete the entire provision and insert the following provisions under:	We recommend establishment of an independent Complaints commission to handle complaints and make	Agreed to the following: 1. The form

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	Ethics. (a) The Council shall develop a code of Business and Ethics to govern the conduct of ICT Practitioners in consultation with Stakeholders. (b) A person who is registered as an ICT practitioner commits an act of professional misconduct if such person contravenes the provisions under the ICT Code of Business and Ethics under (a) above.		Section 26 (1): A) There shall be established a Complaints Committee that will handle complaints relating to professional conduct of ICT practitioners. B) The Council shall develop guidelines to govern the appointment of members of the Complaints committee, the rules governing conduct of business by the Complaints committee. C) Where the Complaints committee establishes that an ICT Practitioner has committed an act of impropriety or misconduct in respect of his or her profession, the Complaints Commission may recommend: (i) the removal of such person's name from the register; or (ii) the suspension of the Persons from the Register for a period not exceeding twelve months	recommendation to the Council. To avoid any conflict of interests and ensure that principles of natural justice are adhered to and that practitioners have sufficient avenues to defend and or redeem themselves. Mitigates against vendetta and which hunting and abuse of powers of any of these substantially powerful organs on the livelihoods of practitioners	ation of the Complaints Commission to handle complaints of ICT Practitioners at the first instance 2. An appeal to the Communications and Multimedia Appeals Tribunal against a determination of the Complaints Commission

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
26 (1)	Any person may, being dissatisfied with any services offered by an ICT practitioner or alleging breach of the standards of conduct as may be specified by the Council from time to time, make a written complaint to the Council in the prescribed manner.		Delete “ Council in the prescribed manner” and insert “ ICT Complaints Committee”	To avoid any conflict of interests Ensures that principles of natural justice are adhered to and that practitioners have sufficient avenues to defend and or redeem themselves. Mitigates against vendetta and witch hunting and abuse of powers of any of these substantially powerful organs on the livelihoods of practitioners	miss ion withi n 30 days 3. A further appe al shall lie in the High Cour t withi n 30 days
26 (2)	(2) Where the Council is satisfied in respect of any person registered or licensed under this Act, that such person-		Delete “Council and insert “Compliant Committees” and then delete (a) , (b) , (C) and substitute it with “ has breached the ICT Code of Business and Ethics”	Prevent witch hunting and arbitrary deregistration of person from an avenue of earning their livelihoods	
27 (1)	Subject to the provisions of this Act, the removal of a person's name from the register shall be notified by the Council to that person by registered mail sent to the address appearing in the register against that Person's name immediately before such removal.		27. (1) Subject to the provisions of this Act, the removal of a person's name from the register shall not without satisfactory final conclusion and after exhaustion and or non-pursuance of all disciplinary, arbitration, dispute resolution and appeal proceedings stipulated in this act and shall at every point be notified by the Council to that person by registered physical and electronic mail and other communication sent to the address appearing in the register against that	This is to give people's sufficient room for responding and defending as well as mitigating from further damage of relationships with other clients/partners and a punitive cycle.	

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
			person's name immediately before such removal. In any case the council shall give at least and 60 days' notice and or warning before removal and or suspension of any person from its register. This request shall upon sufficient grounds be reconsidered in view of the registered party's' circumstances		
27	Effect of removal, suspension or cancellation	Being informed of intended removal without being given the reasons for the intended removal and a reasonable opportunity to be heard offends the principle of natural justice. Accordingly, the Bill should clearly provide that no person should be removed from the list without (a) being informed of the reasons for the intended removal and (b) being given reasonable opportunity to answer all allegations made against him or her.			Agreed
28	Appeals	No comment			
Section	Before Appeals to the		The Appeals Tribunal to		Agreed as per

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
5 (28)	high court		handle appeals before high court		clause 26
29	Offences by unregistered or unlicensed persons	There is need to harmonize the penalty for the offence established under subclause (1), with the offences established under Clause 26(5) and clause 29(2). The penalty for falsely practicing or professing to be an ICT practitioner while ineligible for registration is five hundred thousand shillings while the penalty for using the title ICT practitioner while ineligible for registration is fifty thousand shillings. The penalty for failure to surrender a certificate following suspension or removal from the list is also fifty thousand shillings – why the discrepancy? The penalty of five hundred thousand provided for in Clause 29(1) also seems extreme in the circumstances.			Agreed. “Licencing” function still outstanding. Consensus on the amount of fine or term of imprisonment yet to be finalized.
29	Any person who, not being eligible to be licensed or registered under this Act, wilfully and falsely takes or uses any name, title or addition implying a qualification to practice	-	Delete the clause 29 and replace with the following clause: Any person aggrieved by a decision of the Appeals Tribunal may appeal	We recommend empowering the Communications and Multimedia Appeals Tribunal established under the KICA CAP 411A to handle appeals from the decisions of	Agreed. “Licencing” function still outstanding Penalties yet to be finalized.

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	as an ICT practitioner, or who, not being registered or licensed under this Act, practises or professes to practice or publishes that person's name as practising as an ICT practitioner, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both. (2) Any person who, not being eligible to be licensed or registered under this Act, uses the title "ICT practitioner" as appropriate to a person so registered or licensed, which entitles such person to use that title, commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding two years, or both.		within thirty days to the High Court and in any such appeal the High Court may confirm, annul or vary the decision of the Appeals tribunal as it deems fit	the Complaints committee.	
29 (2)	Any person who, not being eligible to be licensed or registered under this Act, wilfully and falsely takes or uses any name, title or addition implying a qualification to practice as an ICT practitioner, or who, not being registered	-	Delete the phrase <i>"liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both"</i> and insert the phrase <i>"shall be liable on conviction to a fine not exceeding twenty</i>	This bill is very cross cutting and many people may find themselves slipping into this offence. Further most ICT practitioners are small scale budding entrepreneurs whose	Agreed. "Licencing" function still outstanding Penalties yet to be finalized.

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	or licensed under this Act, practices or professes to practice or publishes that person's name as practicing as an ICT practitioner, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both.		thousand.”	turn over maybe nowhere near the prescribed penalties	
	(2) Any person who, not being eligible to be licensed or registered under this Act, uses the title "ICT practitioner" as appropriate to a person so registered or licensed, which entitles such person to use that title, commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding two years, or both		Replace the penalty provided with a fine not exceeding twenty thousand shillings	Again penalties are incongruent to the offence	Agreed. “Licencing” function still outstanding Penalties yet to be finalized.
30	Obstruction of officers of the Council	There is need to analyse how this provision sits with the accreditation administered by the Commission for University Education			Not agreed
30	Dealing with training inst.		Delete the clause	Covered extensively and in conflict with the University Act of 2014	Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
				section part (7) 48	
31	Punishment for offence of obstruction	No comment			
31	Any person who obstructs or hinders, or knowingly makes a false or misleading statement to any member, officer, servant or agent of the Council who is carrying out duties under this Act, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding two years, or both.		Delete the clause	The clauses confer investigation and prosecution powers to the institution. These powers rest with the police and with the Director of Public Prosecution.	Not agreed
PART VI – FINANCIAL PROVISIONS					
32	Funds of the Institute	No comment			
32	32. The funds of the Institute shall comprise- (a) such fees, monies or assets as may accrue to or vest in the Council in the course of the exercise of its powers or the performance of its functions Under this Act or under any written law; and (b) all monies from any other source provided for or donated or lent to the Institute.		Insert sub section (C) The institute shall prescribe any fees payable by the Members in consultation with the Stakeholders.	To avoid arbitrariness in charging of fees, the Institute should prescribe the fees in consultation with the Stakeholders.	Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
33	Financial year	No comment			
34	Annual estimates	No comment			
34 (3)	The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary's approval, the Council shall not increase the annual estimates without the consent of the Cabinet Secretary.		Replace the word "Cabinet Secretary" each time it appears in the clause with the word "stakeholders"	This provides for self-regulations in line with above proposals	Agreed
35	Books and records of account	No comment			
35 (2)	(2) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor General the accounts of the Institute together with- (a) a statement of the income and expenditure of the Institute during that year; and (b) a balance sheet of the Institute on the last day of that year.		Replace this clause with the following clauses: <i>"(2) Within a period of three months after the end of each financial year, the Council shall cause to be audited and published the accounts of the Institute together with-</i> <i>(a) a statement of the income and expenditure of the Institute during that year; and</i> <i>(b) a balance sheet of the Institute on the last day of that year."</i>	This provides for self-regulations in line with above proposals. Further for transparency, the accounts of the Council should be published	Agreed
36	Investment of funds	No comment			
36 (3)	(3) The accounts of the Institute shall be		Replace the phrase " <i>the Public Audit Act, 2015</i> "	This provides for self-regulations in line with	Agreed but substitute the

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	audited and reported upon in accordance with the Public Audit Act, 2015.		with the phrase “ <i>the Companies Act 2015</i> ”	above proposals	“Companies Act” with “Accountants Act”
PART VII – MISCELLANEOUS					
37	Regulations	From a reading of subclauses (1) and (3) of this clause, it is not clear whether the rule making function has been vested in the Council in consultation with the Cabinet Secretary – Clause 37(1) or in the Cabinet Secretary – Clause 37(3).			
37(1)	The Council may, upon consultation with the Cabinet Secretary, make Regulations generally for the better carrying into effect the provisions of this Act.		Replace the clause with the following phrase: <i>“The Council may, upon consultation with stakeholder, make Guidelines generally for the better carrying into effect the provisions of this Act.”</i> Replace the word “Regulations” each time it appears in the Bill with the word “Guideline”	This provides for self-regulation, while ensuring consultation prior to the Council prescribing Guidelines	Agreed. Replace “Guidelines” with “Regulations”
37 (2) (b)	prescribe forms, methods and regulations concerning conditions for the issuance of licenses;		Delete this clause	Prescription of form detailed in clause 37 (2) (g)	Not agreed
37 (2) (c)	prescribe the manner of training, subject matter of training		Delete this clause	Already provided	Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	courses, standards of proficiency for the profession of ICT, including standards for internship and practicum and examinations of persons for whom provision is made under this Act to be regulated;				
37 (2) (d)	prescribe the standards and conditions of professional practice of persons registered or licensed under this Act;		Replace the clause with the following phrase: <i>"prescribe the conditions of professional practice for persons registered under this Act"</i>		Agreed
37 (2) (e)	provide for the procedure to be followed by the Council in a disciplinary inquiry;		Delete this clause	Provided under Complaints Committee	Agreed
37 (2) (f)	provide for enforcing the attendance of witnesses and the production of books and documents at an inquiry held by the Council;		Delete this clause	Provide as above	Agreed
37 (2) (g)	prescribe forms to be used in connection with this Act or fees to be charged under this Act;		Insert the phrase <i>"in consultation with stakeholders"</i> at the beginning of the clause		Agreed
37 (2) (h)	h) prescribe the supervision to be undergone by persons registered under this Act;		Delete this clause		Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
38	Transition	Clause 38(1)(c) – The first letter (i) of the word Institute should be in Capital			Agreed
38 (1)	(1) Within sixty days upon the commencement of this Act the Cabinet Secretary shall by notice in the Gazette- (a) publish the names of the Council members in accordance with section 4 (1); (b) convene the first Council meeting for the purpose of launching the business and affairs of the Institute. (c) provide the institute with such facilities and other support as it may require for the discharge of its functions under this Act.		Delete clause 38 (1) and replace with the following clause: (1) Within twelve month upon the commencement of this Act the Cabinet Secretary shall by notice in the Gazette publish the names of the members of the selection panel in accordance with Section 4 (2)	To allow ICT stakeholders a time to bring the law into effect, we wish to provide for a transition period of twelve months To allow for self-regulation the role of the Cabinet Secretary has been removed from this clause	Not agreed
38(3)	(3) Notwithstanding anything in this Act, a person who immediately before the date of commencement of this Act was engaged in practice as an ICT Practitioner shall be entitled to continue in such practice without a license under this		Delete the word “license” where ever it is appearing in this clause and replace with registration		Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA amendment proposed	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	Act- (a) for a period of one year beginning with the date of the commencement of this Act; and (b) if before the expiration of six months, the person applies for a licence under this Act, until the licence is granted or finally refused or the application is withdrawn.				

FIRST SCHEDULE – PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

1	Tenure of office	For purposes of complying with Mwongozo the reappointment of Council members should be limited one term. Mwongozo provides that Council Members should serve a maximum of six years.			Not agreed
1	The chairperson, vice chairperson or a member of the Council other than an ex officio member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the	Delete	The proposed clause 4 (2) provides for a transparent competitive and consultative selection process for selection of a Chairperson, hence this provision is no longer necessary		Not agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	instrument of appointment, but shall be eligible for reappointment.				
2	Vacation of office	No comment			
2 (b) (+v)	is otherwise unable or unfit to discharge his functions.		Delete the phrase and replace with the following phrase: <i>" fails to adhere to the ICT Code of Business and Ethics"</i>		Agreed
3	Chairperson and vice chairperson/Meetings/ Quorum	No Comment			Agreed
SECOND SCHEDULE – COMMITTEES OF THE COUNCIL					
		The Second Schedule to the Bill proposes the establishment of Four Committees of the Council. It should be noted that Mwongozo provides for the establishment of a maximum of four Committees of the Board including the Audit Committee which is a statutory committee that must be established			
	1. The Examination and Registration Committee. 2. The Continuing Education Committee. 3. The Disciplinary		Delete the Second Schedule	Provide under different section and a standalone committee delinked for the Council to ensure transparency and accountability Administrative , let	Agreed

Clause	Title & specific provision	Communications Authority proposed amendment	KEPSA proposed amendment	Justifications	Status of proposals by CA and KEPSA after consultations with ICTAK
	Committee. 4. The Finance and Administration Committee.			Council make their own committees	

2. COMMITTEE OBSERVATIONS

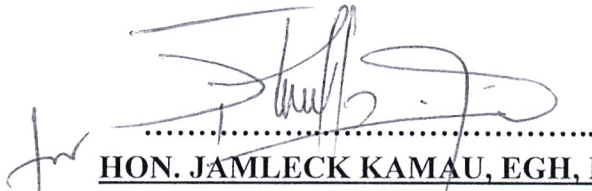
The Committee considered the Bill and the submissions made by the stakeholders and made the following observations:-

1. The Bill is a significant Bill as it seeks to establish a legal framework for the training, registration, licensing, practice and standards of Information Communication Technology (ICT) professionals in Kenya.
2. The stakeholders have raised key issues regarding the Bill , that-
 - (a) The Bill ignores the concept of self-taught innovators who with the introduction of the licensing regime would be limited to practice;
 - (b) The Bill is incongruent with realities of ICT training, certification and practice;
 - (c) Only one ICT body, the ICT Association is represented on the Board;
 - (d) There exists potential conflict with existing statutory bodies operating in the sector;
 - (e) The requirement for licensing in the Bill will entrench entry barriers;
 - (f) Licensing is done by other Agencies such as the Communications Authority of Kenya and hence the Council under the Bill cannot licence;
 - (g) Training is within the ambit of the Ministry of Education and hence the Council under the Bill cannot approve courses and administer examinations for purposes of the registration of ICT Practitioners;
3. Although the Ministry and other stakeholders had sought the withdrawal of the Bill pursuant to Standing Order 140, only the mover of the Bill with the permission of the Speaker can withdraw the Bill.

3. COMMITTEE RECOMMENDATION

Based on the submissions, presentations and observations adduced, the Committee made the following recommendation:-

1. **THAT** the Committee rejects the Bill as stakeholders have raised key issues regarding it and urges the mover of the Bill to consider withdrawing the Bill pursuant to Standing Order 140; then a new Bill in consultation with the stakeholders should be reintroduced to the House in accordance with the Standing Orders.



HON. JAMLECK KAMAU, EGH, MP

CHAIRPERSON DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION
AND INFORMATION

DATE...22/11/2016...

4. ADOPTION OF THE REPORT

We the members of the Committee on Energy, Communication and Information have adopted this report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity -

- 1. The Hon. Jamleck Kamau, EGH, MP.....
- 2. The Hon. Jackson Kiptanui, MP.....
- 3. The Hon. Mohammed Elmi, EGH, MP.....
- 4. The Hon. Edick Anyanga, MP.....
- 5. The Hon. Mithika Linturi, MP.....
- 6. The Hon. Mary Mbugua, HSC, MP.....
- 7. The Hon. (Eng.) Vincent Musau, MP.....
- 8. The Hon. Zebedeo Omore, MP.....
- 9. The Hon. Aramat Lemanken, MP.....
- 10. The Hon. Arthur Odera, MP.....
- 11. The Hon. Banticha Abdullahi, MP.....
- 12. The Hon. Esther Gathogo, MP.....
- 13. The Hon. Fathia Mahbub, MP.....
- 14. The Hon. James Lomenen, MP.....
- 15. The Hon. Cecily Mbarire, MP.....
- 16. The Hon. Nicholas Ngikor, MP.....
- 17. The Hon. Onesmus Njuki, MP.....
- 18. The Hon. Rachael Amolo, MP.....
- 19. The Hon. Roba Duba, MP.....
- 20. The Hon. Ndung'u Gethenji, MP.....
- 21. The Hon. William Kisang, MP.....
- 22. The Hon. Richard Tongi, MP.....
- 23. The Hon. Moses Kuria, MP.....
- 24. The Hon. Silverse Anami, MP.....
- 25. The Hon. Charles Nyamai, MP.....
- 26. The Hon. Joseph Magwanga, MP.....
- 27. The Hon. William Mtengo, MP.....

MINUTES OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION & INFORMATION HELD ON MONDAY 29TH AUGUST 2016 ATBOMA HOTEL, 9.30AM WITHTHE MINISTRY OF INFORMATION, COMMUNICATION AND TECHNOLOGY, KENYA PRIVATE SECTOR ALLIANCE (KEPSA) AND THE INFORMATION, COMMUNICATION AND TECHNOLOGY ASSOCIATION OF KENYA (ICTAK) TO CONSIDER THEIR SUBMISSIONS TO THE ICT PRACTITIONERS BILL, 2016

PRESENT

- | | |
|----------------------------------|--------------------|
| 1. Hon. Jackson Kiptanui, MP | - Vice Chairperson |
| 2. Hon. (Eng.) James Rege, MP | |
| 3. Hon. Edick Anyanga, MP | |
| 4. Hon. Cecily Mbarire, MP | |
| 5. Hon. Arthur Odera, MP | |
| 6. Hon. Aramat Lemanken, MP | |
| 7. Hon. (Eng.) Vincent Musau, MP | |
| 8. Hon. Mithika Linturi, MP | |
| 9. Hon. Onesmus Njuki, MP | |
| 10. Hon. Racheal Amolo, MP | |
| 11. Hon. Banticha Abdullahi, MP | |
| 12. Hon. Charles Nyamai, MP | |
| 13. Hon. William Kisang', MP | |
| 14. Hon. Richard Tongi, MP | |
| 15. Hon. Joseph Magwanga, MP | |
| 16. Hon. Silverse Anami, MP | |

APOLOGY

- | | |
|--------------------------------|---------------|
| 1. Hon. Jamleck Kamau, EGH, MP | - Chairperson |
| 2. Hon. Fathia Mahbub, MP | |
| 3. Hon. Mohammed Elmi, EGH, MP | |
| 4. Hon. James Lomenen, MP | |
| 5. Hon. Aburi Mpuru, MP | |
| 6. Hon. Roba Duba, MP | |
| 7. Hon. Mary Mbugua, HSC, MP | |
| 8. Hon. William Mtengo, MP | |
| 9. Hon. Zebedeo Opore, MP | |
| 10. Hon. Esther Gathogo, MP | |
| 11. Hon. Nicholas Ngikor, MP | |
| 12. Hon. Moses Kuria, MP | |

13. Hon. Ndung'u Gethenji, MP

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|---|
| 1. Mr. Samuel Kalama | – | First Clerk Assistant |
| 2. Ms. Jemimah Waigwa | – | Legal Counsel |
| 3. Mr. Jimale Mohamed | – | Clerk Assistant (Taking Minutes) |
| 4. Mr. Donald Manyala | – | Research Officer |

MINISTRY OF INFORMATION COMMUNICATION AND TECHNOLOGY

- | | | |
|--------------------------|---|----------------------|
| 1. Mr. Joe Muchiri | – | CS, ICT |
| 2. Mr. Victor Kyalo | – | PS, Innovation |
| 3. Mr. Christopher Maina | - | Legal Officer, MOICT |

KEPSA AND ICTAK

- | | | |
|-----------------------|---|--------------------------|
| 1. Mr. Joel Itube | – | Member, ICTAK |
| 2. Mr. Kamotho Njenga | – | Secretary General, ICTAK |
| 3. Mr. Thomas Kaberi | – | KEPSA |
| 4. Mr. Josiah Mugambi | – | Member, KEPSA |

MIN. NO.001/DC-E/2016 PRELIMINARY/COMMUNICATION FROM THE CHAIR

The Chairman called the meeting to order at 10:10 am with a word of prayer. The Chair then called for introduction of those present before inviting the Cabinet Secretary and other officials from Ministry of Information Communication and Technology, ICTAK and KEPSA to present their submissions on proposed amendments to the ICT Practitioners Bill, 2016.

He notified the meeting that the Committee on Energy, Communication & Information has been considering the Information Communication and Technology Bill, 2016 and invited the stakeholders to come up with a consolidated document.

The chair noted further that the purpose of the retreat was to help solve the issues raised by the stakeholders and suggest ways of coming up with a legal framework that will help the delivery of service to Kenyan people through effective and efficient management of the ICT sector.

MIN. NO.002/DC-E/2016

CONFIRMATION OF MINUTES

Agenda deferred

MIN. NO.003/DC-E/2016

MATTERS ARISING

Agenda deferred

MIN NO.004/DC-E/2016

CONSIDERATION OF THE SUBMISSIONS BY THE STAKEHOLDERS FROM MOICT, ICTAK AND KEPSA ON THE ICT PRACTITIONERS BILL, 2016

The Cabinet Secretary informed the Committee the following regarding the ICT Practitioners, Bill, 2016.

The Cabinet Secretary made the following submissions among others-

- (1) The Bill ignores the concept of self-taught innovators who with the introduction of the licensing regime would be limited to practice;
- (2) The unique nature of ICT training is not acknowledged, making the Bill incongruent with realities of ICT training, certification and practice;
- (3) Only one ICT body, the ICT Association is represented on the Board.
- (4) There is need for clarity on how the Bill would be operationalized and the need to address potential conflict with existing statutory bodies operating in the sector.
- (5) Lack of a basis to register ICT practitioners given the pervasiveness of ICT as an enabler for all business operations;
- (6) The form of licensing as proposed in the Bill will entrench entry barriers;
- (7) A Bill should be preceded by a Policy that outlines the broad issues that require legislation;

- (8) The ICT Policy 2006 is under review to take into account and consideration the various changes that have taken place in ICT since 2006;
- (9) The Bill does not reflect the policy position of the Ministry and would make it impossible for the Cabinet Secretary to make regulations for the Bill;
- (10) Licensing is done by other Agencies such as the Communications Authority of Kenya and hence the Council under the Bill cannot licence;
- (11) Training is within the ambit of the Ministry of Education and hence the Council under the Bill cannot approve courses and administer examinations for purposes of the registration of ICT Practitioners;
- (12) The Ministry had sought the withdrawal of the Bill but was guided by the Committee that the Bill can only be withdrawn by the mover of the Bill.

The Committee further considered the Consolidated Submissions by the Ministry of Information Communication And Technology, Kenya Private Sector Alliance, Communication Authority of Kenya and The ICT Association of Kenya.

All stakeholders however agreed that the Bill should provide for self-regulation.

The status of proposals by the Communication Authority and KEPSA after consultations with ICTAK, the following clauses were agreed to: 2 (1) 6 (b) (d) (e) (h) (i) (j) (k) (l)

Regarding the Preamble of the Bill; All stakeholders however agreed that the Bill should provide for self-regulation.

PART II – ESTABLISHMENT OF THE ICT PRACTITIONERS INSTITUTE

Clause 3 and 4 - not agreed to

Clause 9 (4) (a) (b) - Agreed to

Clause 9 (4) (d) Stakeholders agreed to delete this proposal and replace it with a New Clause

Clause 12 (5) and Agreed to this section and the deletion of the 2nd schedule

Clause 15, - Agreed

Clause 16 – registration agreed and Replace the word “Registrar” with “Council”

Clause 16 (1) not agreed to

Clause 17, 18, 19 - agreed to

Clause 19 (3) Retain as per the Bill

Clause 20 (1) (2) (3) , 21,22,23 – not agreed to

PART V – ENFORCEMENT

Clause 24 (1) Agreed to - Penalties for the offence yet to be agreed

Clause 24 (2) Agreed although “licencing” function by the council is still not agreed.

Clause 25 - Agreed. Blend the two positions of KEPISA and CA. Also delete

Clause 26 - Agreed to the following:

1. The formation of the Complaints Commission to handle complaints of ICT Practitioners at the first instance
 2. An appeal to the Communications and Multimedia Appeals Tribunal against a determination of the Complaints Commission within 30 days
- A further appeal shall lie in the High Court within 30 days

Clause 27 agreed to

Clause 28 - Agreed. “Licencing” function still outstanding. Consensus on the amount of fine or term of imprisonment yet to be finalized

Clause 29 Agreed. “Licencing” function still outstanding. Consensus on the amount of fine or term of imprisonment yet to be finalized

Clause 29 (2) Agreed. “Licencing” function still outstanding Penalties yet to be finalized.

Clause 30- not agreed to

PART VI – FINANCIAL PROVISIONS

Clause 31, 37 (2) (b) (c) not agreed to

Clause 38 (1) not agreed to

Clause 36 (3) Agreed but substitute the “Companies Act” with “Accountants Act”

Clause 37(1) Agreed. Replace “Guidelines” with “Regulations”

Clause 38 (1) (3) not agreed to

PART VII – MISCELLANEOUS

37 (1) Agreed. Replace “Guidelines” with “Regulations”

FIRST SCHEDULE – PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

1. Tenure of office

The chairperson, vice chairperson or a member of the Council other than an ex officio member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for reappointment.

2. 2b and 3 agreed to

SECOND SCHEDULE – COMMITTEES OF THE COUNCIL

It was agreed to

1. The Examination and Registration Committee.
2. The Continuing Education Committee.
3. The Disciplinary Committee.
4. The Finance and Administration Committee.

COMMITTEE’S OBSERVATIONS AND DELIBERATION

The Committee considered the Bill and the submissions made by the stakeholders and made the following observations:-

1. **THAT** the Bill is a significant Bill as it seeks to establish a legal framework for the training, registration, licensing, practice and standards of Information Communication Technology (ICT) professionals in Kenya.
2. **THAT** the stakeholders have raised key issues regarding the Bill relating to-
 - (a) The Bill ignores the concept of self-taught innovators who with the introduction of the licensing regime would be limited to practice;
 - (b) The Bill is incongruent with realities of ICT training, certification and practice;
 - (c) Only one ICT body, the ICT Association is represented on the Board;
 - (d) There exists potential conflict with existing statutory bodies operating in the sector;
 - (e) The requirement for licensing in the Bill will entrench entry barriers;
 - (f) Licensing is done by other Agencies such as the Communications Authority of Kenya and hence the Council under the Bill cannot licence;
 - (g) Training is within the ambit of the Ministry of Education and hence the Council under the Bill cannot approve courses and administer examinations for purposes of the registration of ICT Practitioners;
3. **THAT** although the Ministry and other stakeholders had sought the withdrawal of the Bill pursuant to Standing Order 140 only the mover of the Bill with the permission of the Speaker can withdraw the Bill.

COMMITTEE RECOMMENDATIONS

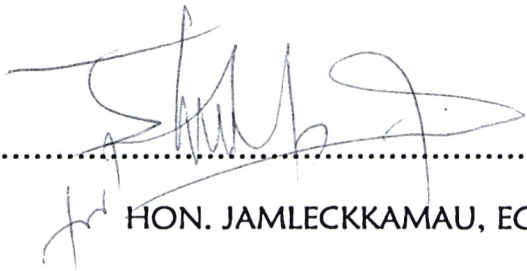
Based on the submissions, presentations and observations adduced, the Committee made the following recommendations:-

1. **THAT** the stakeholders have raised key issues regarding the Bill and the mover of the Bill may consider withdrawing the Bill pursuant to Standing Order 140; then a new Bill in consultation with the stakeholders is considered.
2. **THAT** in view of the fact that the withdrawal under paragraph (1) is dependent on the mover of the Bill, the Committee shall recommend amendments to the Bill to address the issues raised by the stakeholders.

MIN. NO.005/DC-E/2016

ADJOURNMENT

There being no other business for deliberation the Chairperson adjourned the meeting at 12.35 pm.

Signed.....
HON. JAMLECKKAMAU, EGH, MP
(CHAIRPERSON)

Date.....22/11/2016.....

MINUTES OF THE 37TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION & INFORMATION HELD ON TUESDAY 22ND NOVEMBER 2016 IN THE BOARDROOM ON 2ND FLOOR PROTECTION HOUSE, AT 10.00 AM ON ADOPTION OF THE REPORT OF THE INFORMATION COMMUNICATION TECHNOLOGY PRACTITIONERS BILL, 2016

PRESENT

- | | |
|----------------------------------|--------------------|
| 1. Hon. Jackson Kiptanui, MP | - Vice Chairperson |
| 2. Hon. Mohammed Elmi, EGH, MP | |
| 3. Hon. Mary Mbugua, HSC, MP | |
| 4. Hon. Edick Anyanga, MP | |
| 5. Hon. Fathia Mahbub, MP | |
| 6. Hon. Cecily Mbarire, MP | |
| 7. Hon. Arthur Odera, MP | |
| 8. Hon. Aramat Lemanken, MP | |
| 9. Hon. (Eng.) Vincent Musau, MP | |
| 10. Hon. Onesmus Njuki, MP | |
| 11. Hon. Charles Nyamai, MP | |
| 12. Hon. Roba Duba, MP | |
| 13. Hon. Zebedeo Oporo, MP | |
| 14. Hon. Esther Gathogo, MP | |
| 15. Hon. William Kisang', MP | |
| 16. Hon. Richard Tongi, MP | |
| 17. Hon. Silverse Anami, MP | |

APOLOGY

- | | |
|--------------------------------|---------------|
| 1. Hon. Jamleck Kamau, EGH, MP | - Chairperson |
| 2. Hon. Mithika Linturi, MP | |
| 3. Hon. Racheal Amolo, MP | |
| 4. Hon. Banticha Abdullahi, MP | |
| 5. Hon. James Lomenen, MP | |
| 6. Hon. Joseph Magwanga, MP | |
| 7. Hon. William Mtengo, MP | |
| 8. Hon. Nicholas Ngikor, MP | |
| 9. Hon. Moses Kuria, MP | |
| 10. Hon. Ndung'u Gethenji, MP | |

IN ATTENDANCE

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|----|---|
| 1. Mr. Amos Kiangwe | – | Clerk Assistant |
| 2. Ms. LaureenWesonga | - | Clerk Assistant |
| 3. Mr. Jimale Mohamed | – | Clerk Assistant (Taking Minutes) |
| 4. Ms. Lynette Otieno | – | Legal Counsel |
| 5. Mr. Donald Manyala | -- | Research Officer |
| 6. Ms. Winnie Kiziah | - | Media Relations Officer |

MIN. NO.196/DC-E/2016 PRELIMINARY/COMMUNICATION FROM THE CHAIR

The Chairman called the meeting to order at 10:15 am with a word of prayer. The Chair notified Members the adoption of the report of the ICT Practitioners Bill, 2016. He further informed the meeting that the Committee held several meetings with various stakeholders including the Ministry of Information Communication and Technology. He noted that the committee has received submissions on proposed amendments to the ICT Practitioners Bill, 2016.

MIN. NO.197/DC-E/2016 CONFIRMATION OF MINUTES

Agenda deferred

MIN. NO.198/DC-E/2016 MATTERS ARISING

Agenda deferred

MIN NO.199/DC-E/2016 THE ADOPTION OF THE REPORT OF THE INFORMATION, COMMUNICATION AND TECHNOLOGY PRACTITIOERS BILL, 2016

The Committee went through the report and deliberated the observations and concerns raised by the Ministry of ICT and other stakeholders. Thereafter, the Committee adopted the Report of the ICT Practitioners Bill, 2016.

The Committee however made the following recommendations based on the submissions, presentations and observations adduced that:-

“The Committee rejects the Bill as stakeholders have raised key issues regarding it and urges the mover of the Bill to consider withdrawing the Bill pursuant to Standing Order 140; then a new Bill in consultation with the stakeholders should be reintroduced to the House in accordance with the Standing Orders”.

MIN. NO.200/DC-E/2016

ANY OTHER BUSINESS

On the programme of the Committee, the Members raised a number of issues relating to Communication Authority and the Kenya Pipeline Corporation and resolved as follows:-

a) Communication Authority of Kenya (CAK)

The Committee resolved to invite CAK for a meeting on Tuesday, 29th November 2016 regarding the status of the Universal Service Fund projects and related programmes and projects.

b) Kenya Pipeline Company (KPC)

The Committee also resolved to invite KPC on Thursday, 1st December 2016 for a meeting to appraise the committee on the status of the implementation of the key programmes and projects currently been undertaken by the company. The Committee also agreed that the meeting may also deliberate emerging issues.

c) Visit to Lake Turkana Wind Power Project

The Chairperson informed the meeting that in accordance to the Programme the Committee will visit the Turkana wind project, Oil exploration field and Public school Electrification from 15th to 18th December 2016. The Clerk was directed to act on the same and inform Members accordingly.

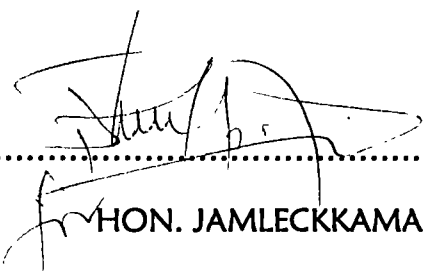
Action

Clerk of the Committee

MIN. NO.201/DC-E/2016

ADJOURNMENT

There being no other business for deliberation the Chairperson adjourned the meeting at 11.25 am and the next meeting to me held on Tuesday 29th November 2016.

Signed.....
HON. JAMLECK KAMAU, EGH, MP
(CHAIRPERSON)

Date.....24/11/2016.....