

Paper laid

By Hon. Aden Duale E.A.M.  
Leader of the Majority Party

16th April, 2015

at 2.30 pm



**PROTOCOL TO THE CONSTITUTIVE ACT  
OF THE AFRICAN UNION RELATING TO  
THE PAN-AFRICAN PARLIAMENT**

## PREAMBLE

**The Member States** of the African Union, States Parties to the Constitutive Act of the African Union:

**Bearing in mind** the Sirte Declaration adopted at the Fourth Extraordinary Session of the Assembly of Heads of State and Government held in Sirte, Libya on 9.9.99 establishing the African Union and calling for the speedy establishment of the institutions provided for in the Treaty Establishing the African Economic Community signed in Abuja, Nigeria, on 3 June 1991, and the establishment of the Pan-African Parliament by the year 2000;

**Noting**, in particular, the adoption by the Assembly of Heads of State and Government meeting at its 36<sup>th</sup> Ordinary Session in Lome, Togo, from 10 to 12 July 2000, of the Constitutive Act of the African Union, thereby giving concrete expression to the common vision of a united, integrated and strong Africa;

**Considering** the principles and objectives stated in the Constitutive Act of the African Union;

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**Further considering that** Articles 5 and 17 of the Constitutive Act of the African Union provide for a Pan-African Parliament as an organ of the African Union, whose composition, functions, powers and organization are to be defined in a Protocol;

**Further noting that** the establishment of the Pan African Parliament is informed by a vision to provide a common platform for African peoples in the continent and the diaspora and their grassroots organizations to be more involved in discussions and decision-making on the problems and challenges facing the continent;

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**Conscious** of the imperative and urgent need to further consolidate the aspiration of the African peoples for greater unity, solidarity and cohesion in a larger community transcending cultural, ideological, ethnic, religious and national differences;

**Recalling** the Cairo Agenda for Action which was endorsed by the Thirty-first Ordinary Session of the Assembly held in Addis Ababa, Ethiopia, from 26 to 28 June 1995 (AHG/Res. 236 (XXXI)), and which recommended the speeding up of the rationalization of the institutional framework in order to achieve economic integration at the regional level;

**Further Recalling** the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, which was



adopted by the Twenty-sixth Ordinary Session of the Assembly in Addis Ababa, Ethiopia, on 11 July 1990;

**Considering** that by the Algiers Declaration (AHG/Decl. 1 (XXXV) of 14 July 1999, the Assembly reaffirmed its faith in the African Economic Community;

**Determined** to promote democratic principles and popular participation, to consolidate democratic institutions and culture and to ensure good governance;

**Further determined** to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;

**Conscious** of the obligations and legal implications for Member States of the need to establish the Pan African Parliament;

**Taking into account** the decision of the Assembly adopted at its Twelfth Ordinary Session held in Addis Ababa, Ethiopia in February 2009 [Assembly/AU/Dec. 223 (XII)] requesting the Commission to initiate a review process of the Protocol in consultation with the Permanent Representatives Committee taking into account the views of the Pan African Parliament;

**Noting** that Articles 25 of the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament provided for a review of the operation and effectiveness of the Protocol and the system of representation in the Pan African Parliament after five years and also for further Conferences of the Members at intervals of ten (10) years or such shorter time as may be decided by the Pan-African Parliament;

**Firmly convinced** that the strengthening of the Pan-African Parliament will ensure effectively the full participation of the African peoples in the economic development and integration of the continent;

**HEREBY AGREE AS FOLLOWS:**

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### **Article 1 Definitions**

In this Protocol,

**"AU"** means the African Union;

**"African Diaspora"** means peoples of African origin living outside the Continent irrespective of their citizenship and nationality and who are willing to contribute to the development of the Continent and the building of the African Union;



“**Assembly**” means the Assembly of Heads of States and Government of the African Union;

“**Bureau**” means the Bureau of the Pan-African Parliament and it is composed by the President and Vice-Presidents of the Pan-African Parliament;

“**Chairperson of the Commission**” refers to the Chairperson of the African Union Commission;

“**Secretary-General**” means the Secretary-General of the Pan African Parliament;

“**Commission**” means the African Union Commission;

“**Community**” means the African Economic Community;

“**Council**” means the Executive Council of Ministers of the African Union;

“**Court**” means the African Court of Justice and Human and Peoples’ Rights of the African Union;

“**Deputy Secretary-General**” means the Deputy Secretary-General of the Pan African Parliament;

“**Inaugural Session**” means the first meeting of the Pan African Parliament after the election of the Members;

“**Member of Pan African Parliament**” or **Pan African Parliamentarian**” or “**Member**” means a person elected to the Pan African Parliament in accordance with Article 5 of this Protocol;

“**Member State**” means a Member State of the African Union;

“**OU**” means the Organization of African Unity;

“**Other deliberative body**” means the institution in a Member State which performs the legislative functions of the State;

“**Parliament**” means the Pan African Parliament;

“**Plenary**” means a meeting of the whole or full Parliament;

**“President”** unless otherwise specified means the Member of the Pan African Parliament elected to preside over the business of Parliament in accordance with Article 13 of this Protocol;

**“Protocol”** means the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament;

**“Region of Africa”** shall have the meaning assigned to it in the relevant decisions of the Assembly;

**“State Party”** means a Member State who has ratified or acceded to this Protocol.

**“Treaty”** means the Treaty Establishing the African Economic Community.

## **Article 2** **The Pan African Parliament**

1. The Pan African Parliament established by the Protocol to the Treaty establishing the African Economic Community Relating to the Establishment of the Pan African Parliament is hereby continued in existence and shall have the functions and powers provided for in the present Protocol.
2. The organs of the Pan African Parliament shall be the Plenary, the Bureau, the Secretariat, Committees and regional groups.
3. The Pan African Parliamentarians shall represent all the peoples of Africa and the interests of the African diaspora.

## **Article 3** **Objectives of the Pan African Parliament**

The objectives of the Pan African Parliament shall be to:

- a) give a voice to the African peoples and the Diaspora;
- b) facilitate the effective implementation of the policies and objectives of the AU;
- c) promote the principles of human and peoples' rights and democracy in Africa;
- d) encourage good governance, respect for the rule of law, transparency and accountability in Member States;

- e) familiarize the peoples of Africa and the African Diaspora with the objectives and policies aimed at integrating the African Continent within the framework of the African Union;
- f) promote peace, security and stability;
- g) contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- h) facilitate cooperation and development in Africa;
- i) strengthen continental solidarity, co-operation and development and build a sense of common destiny;
- j) facilitate cooperation among Regional Economic Communities in Africa and their Parliamentary fora;
- k) to encourage National and Regional Parliaments to ratify and integrate treaties adopted by the AU into their legal systems';
- l) co-operate with National and Regional Parliaments and similar bodies within and outside Africa as well as civil societies, community based organizations and grassroots organizations;
- m) invite and encourage the full participation of African Diaspora as an important part of the African peoples in the building of the African Union in accordance with modalities approved by the Assembly.

#### **Article 4 Membership**

1. Until the Assembly decides otherwise, each State Party shall be represented in the Pan African Parliament by an equal number of parliamentarians.

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2. The membership of the Pan African Parliament shall comprise five (5) members elected by each State Party.
3. At least two (2) of the elected members, shall be women. A Delegation which does not satisfy this requirement shall not have the right to be accredited for representation in the Parliament.

#### **Article 5 Elections**

1. (a) The National Parliament or other deliberative body shall elect from outside its membership, five (5) members of the Pan African Parliament.

- (b) The representation of each State Party must reflect the diversity of political opinions in each National Parliament or other deliberative body taking into account the number of members from each political party represented in the national Parliament.
  - (c) The elections of Members of the Pan African Parliament by the National Parliaments or other deliberative body shall be conducted as far as possible in the same month throughout the Member States as maybe decided by the Assembly.
  - (d) The election of the President of the Pan African Parliament shall be presided over by the Chairperson of the Assembly
2. (a) Qualifications for election to the Pan African Parliament shall be the same as for a National Parliament or other deliberative body.
- (b) Notwithstanding paragraph 2(a) of this Article, membership of the Pan African Parliament shall not be compatible with the exercise of executive or judicial functions in a State Party or a permanent office in the AU, a Regional Economic Community or other international organization.
3. Until a code is developed for election to the Pan African Parliament by direct universal suffrage, the procedure for election to the Pan African Parliament shall be determined by the National Parliament or other deliberative body of each Member State.
4. (a) The institution of a Member State which determines disputes about elections to the National Assembly or other deliberative body shall be responsible for determining any question that may arise as to whether a person has been duly elected a Member of the Pan African Parliament or whether a vacancy has occurred in the representation at the Pan African Parliament of a Member State.
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- (b) Where the institution decides that a vacancy has occurred a bye-election shall be conducted to elect another person to fill the vacancy.
5. The Speaker/President of the National Parliament or other deliberative body shall notify the President of the Pan African Parliament of every election under paragraph one (1) of this Article and every determination under paragraph four (4) of this Article.

6. For the avoidance of doubt, a Member of a National Parliament or other deliberative body is eligible to contest an election to the Pan African Parliament. However, if elected, he or she shall resign from the National Parliament or other deliberative body.

**Article 6**  
**Tenure of Office of a Member and Vacancies**

1. The term of a Member of the Pan African Parliament shall be five (5) years. He or she shall be eligible for re-election for one (1) further term only.
2. The term of a Member of the Pan African Parliament shall commence from the date on which he or she is sworn into office and shall end on the last day of the term of the Parliament.
3. The seat of a Member of the Pan African Parliament shall become vacant if the holder:
  - a) dies;
  - b) ceases to satisfy the eligibility criteria stipulated in this Protocol for Members of the Pan African Parliament;
  - c) is unable to perform his or her functions because of physical or mental incapacity;
  - d) resigns in writing to the President ;
  - e) is removed on grounds of misconduct by the Pan African Parliament in accordance with its Rules of Procedure;
  - f) is absent from the Pan African Parliament meetings for such period and in such circumstances as are prescribed by the Rules of Procedure of the Pan African Parliament;
  - g) is convicted by a court of competent jurisdiction of an offence involving fraud, dishonesty or moral integrity and sentenced to a term of imprisonment exceeding six (6) months
  - h) Represents a State Party which is suspended from participating in the activities of the AU;
  - i) When his or her term expires.
4. Removal on the grounds stipulated in paragraph 6(c) or 6 (e) above shall be by a resolution on a motion to be decided on by secret ballot and supported at the end of a debate by two-thirds majority of all the Members of the Pan African Parliament. In the case of a removal on the grounds stipulated in paragraph 6(c), the motion shall, in addition, be supported by

a medical report in accordance with rules provided for in the Rules of Procedure.

5. Where a vacancy occurs in the office of a member of the Pan African Parliament a bye-election shall be conducted to fill his or her place subject to Article 4(3). The person elected shall serve for the remainder of the term of the member and shall be eligible for re-election for a full term.

### **Article 7** **Voting in the Pan African Parliament**

The Pan African Parliamentarian shall vote in person and in his or her personal and independent capacity except when he or she is on an official mission of the Parliament in which case he or she may vote through a proxy. A Parliamentarian cannot act as a proxy for more than one (1) Member at a time.

### **Article 8** **Functions and Powers**

1. The Pan African Parliament shall be the legislative organ of the African Union. In this regard,
  - a) The Assembly shall determine the subjects/areas on which the Pan African Parliament may propose draft model laws;
  - b) The Pan African Parliament may on its own make proposals on the subjects/areas on which it may submit or recommend draft Model Laws to the Assembly for its consideration and approval.
2. The Pan African Parliament shall also:
  - a) Receive and consider reports of other organs of the African Union as may be referred to it by the Council or the Assembly, including audit and other reports and make recommendations thereon;
  - b) Debate and discuss its own budget and the budget of the Union and make recommendations thereon to the relevant policy organs;
  - c) Establish any Parliamentary Committee and determine its functions, mandate, composition and term of office;
  - d) Discuss any matter relevant to the African Union and make recommendations to the Council or the Assembly as it may deem appropriate;
  - e) Make proposals to the Council on the structure of the Secretariat of the Parliament taking into account its needs;

- f) Request the attendance of officials of the other organs of the African Union at its sessions to offer assistance to the Parliament in the discharge of its duties;
  - g) Promote the programmes and objectives of African Union in Member States;
  - h) Receive, consider and submit opinions on draft legal instruments, treaties and other international agreements as may be referred to it by the Council or Assembly;
  - i) Liaise with National Parliaments or other deliberative bodies and the Parliaments of the Regional Economic Communities on all matters relating to the African Union and regional integration in Africa;
  - j) Carry out such other activities as it deems appropriate to achieve the objectives set out in Article 3 of this Protocol.
3. Without prejudice to the preceding paragraphs and in so far as it is not in conflict with the mandate of any other organ of the AU, the powers and functions of the Parliament may also be exercised through:
- a) Fact-finding or inquiry missions;
  - b) Observer missions;
4. a) The Pan African Parliament shall have the power in accordance with the Financial Rules and Regulations of the African Union, to engage in fund raising activities.
- b) The Pan African Parliament shall not have the power to raise a loan.
5. For the avoidance of doubt, paragraph 2 shall not apply to the Assembly, Council or Court.
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### **Article 9**

#### **Privileges and Immunities of the Pan-African Parliamentarians**

1. The Pan African Parliamentarians, while exercising their functions, shall enjoy in the territory of each Member State the immunities and privileges extended to representatives of Member States under the General Convention on the Privileges and Immunities of the OAU and the Vienna Convention on Diplomatic Relations.
2. The Pan African Parliamentarians shall enjoy parliamentary immunity in each Member State. Accordingly, a member of the Pan African Parliament shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done by him or her, within or outside the Pan

African Parliament in his or her capacity as a Pan African Parliamentarian in the discharge of his or her duties.

3. Without prejudice to paragraph 2 of this Article, the Pan African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

#### **Article 10 Allowances**

1. The Pan-African Parliamentarians shall be paid allowances by their respective State Parties.
2. The allowances for the President, Vice Presidents and other officials of Committees shall be the responsibility of the respective States Parties.

#### **Article 11 Rules of Procedure**

1. The Parliament may adopt and amend its own Rules of Procedure including the procedures for giving effect to its mandate under Article 8 of this Protocol, by a two-thirds majority of all its members.
2. In developing its Rules of Procedure, the Parliament shall ensure consistency of these Rules with AU rules and regulations.

#### **Article 12 The Bureau of the Pan African Parliament**

1. There shall be a Bureau of the Pan African Parliament which shall be elected on a rotational basis among the five (5) regions of the AU.
2. The Pan African Parliament shall elect, at its first sitting, by secret ballot, from among its members and in accordance with its Rules of Procedure, a President and four (4) Vice-Presidents representing the five (5) regions of the AU. The election shall, in each case, be by simple majority of the members present and voting. At least two (2) of the Bureau Members shall be women.
3. The Bureau shall, in line with the relevant AU rules and regulations, be responsible for the development of policies for the management and administration of the affairs and property of the Pan African Parliament, which shall be submitted to the Plenary for approval.



4. The functions of the President and the Vice-Presidents shall be defined in the Rules of Procedure.
5. The term of office of the President and the Vice-Presidents of the Bureau shall be two (2) and a half years renewable once.
6. The President shall preside over all parliamentary proceedings except those held in committees and, in his or her absence, the Vice-Presidents shall act in rotation, in accordance with the Rules of Procedure.
7. The Vice-Presidents shall be ranked in the order of First, Second, Third and Fourth Vice-President, in accordance with the result of the vote. In the absence of the President, each Vice President shall stand in for the President in rotation.
8. The offices of the President and Vice-President shall become vacant if the holder:
  - a) dies;
  - b) resigns in writing to the Bureau;
  - c) is unable to perform his or her functions for reasons of physical or mental incapacity;
  - d) is removed on grounds of misconduct;
  - e) loses his/her membership of the Pan African Parliament or when his or her term of office expires.
9. Removal on the grounds stipulated in paragraph 8 (c) or 8 (d) above shall be by a resolution on a motion to be decided on by secret ballot and supported at the end of debate by two-thirds majority of all the Members of the Pan African Parliament. In the case of removal on the grounds stipulated in 8(c), the motion shall, in addition, be supported by a medical report.
10. In case of a vacancy in the Bureau, a Member of the Pan African Parliament shall be elected in his/her place to complete his/her term, through an election at the sitting of the Pan African Parliament immediately following its occurrence.
11. The President may, with the approval of the Bureau, invite any person to a session of the Pan African Parliament, if in the opinion of the Bureau the business to be transacted at that session renders the presence of that person desirable.

**Article 13**  
**The Secretary-General of the Pan African Parliament**

1. The Pan African Parliament shall, on the recommendation of the Bureau, appoint a Secretary General and two Deputy Secretaries General in accordance with the AU Staff Rules and Regulations.
  2. The Secretary General shall appoint, after consultation with the Bureau, such other staff as may be necessary for the proper functioning of the Pan African Parliament, in accordance with the AU Staff Rules and Regulations.
  3. The Secretary General and a Deputy Secretary General shall be a person of proven experience or expertise in parliamentary practice, management and financial administration, and a demonstrated interest and understanding of the process of integration in Africa.
  4. The Secretary General shall be the head of the Secretariat, and shall be responsible for the day to day management and administration of the affairs and property of the Pan African Parliament. He/ she shall be accountable to the Parliament through the Bureau.
  5. The Secretary General shall be the Accounting Officer of the Parliament.
  6. The Secretary General shall, as soon as practicable, cause to be transmitted to the Secretaries General/Clerks of the National Parliaments or other deliberative body and the Parliaments of the Regional Economic Communities copies of the records of all the relevant debates at the sessions and committee hearings of the Pan African Parliament for information.
  7. The Deputy Secretaries General shall assist the Secretary General in the discharge of his/her duties.
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8. The Secretary General shall ensure that proper books of account are kept for the Pan African Parliament; the Secretary General shall submit annually a report on the utilization of the funds available to the Pan African Parliament including its budgetary allocation through the Bureau to the Council in accordance with the AU Financial Rules and Regulations.
  9. The Secretary General and the Deputy Secretaries General shall before assuming office take an Oath or make a Solemn Declaration before the Pan African Parliament.

#### **Article 14 Oath of Office**

At its sitting following the election and before transacting any other business, the Parliamentarians shall take an Oath or make a Solemn Declaration. The text of the Oath or Declaration shall be set out as an addendum to the Rules of Procedure.

#### **Article 15 Sessions and Quorum**

1. The inaugural session of the Pan African Parliament shall be convened by the Secretary General;
2. The Pan African Parliament shall meet in ordinary session at least twice a year, within a period to be determined in the Rules of Procedure. Each ordinary session may last up to one (1) month.
3. The Bureau, the Assembly, the Council or at least two-thirds of the Pan-African Parliamentarians may, by written notification addressed to the President, request an extraordinary session, subject to the following: -
  - a) The request shall provide the reasons for and details of the matters to be discussed at the proposed extraordinary session.
  - b) The President shall convene such a session within such time as provided for in the Rules of Procedure.
  - c) The session shall discuss only those matters stipulated in the request.
  - d) The session shall end upon exhaustion of the agenda.
  - e) In any case, the duration of an extraordinary session shall not exceed ten (10) days.
4. The proceedings of the Pan African Parliament shall be open to the public, unless otherwise directed by the Bureau.
5.
  - (a) The quorum for a meeting of the Pan African Parliament shall be determined by the Rules of Procedure.
  - (b) The Rules of Procedure may differentiate between the quorum necessary for the conducting ordinary business by the Pan African Parliament and the quorum needed for making valid decisions.

**Article 16**  
**Budget of the Pan African Parliament**

1. The annual budget of the Pan African Parliament shall constitute an integral part of the regular budget of the AU.
2. The budget shall be drawn up by the Pan African Parliament and submitted to the relevant AU policy organs for approval, in accordance with the AU Financial Rules and Regulations.
3. The financial year of the Pan African Parliament shall be the same as that of the AU.

**Article 17**  
**Seat of the Pan-African Parliament**

1. The seat of the Pan African Parliament shall be located in the Republic of South Africa.
2. The Pan African Parliament may convene in the territory of any Member State at the invitation of that Member State.

**Article 18**  
**Official and Working Languages**

The official and working languages of the Pan African Parliament shall be those of the AU.

**Article 19**  
**Relations between the Pan African Parliament, the Parliaments of Regional Economic Communities and National Parliaments or other Deliberative Bodies**

1. The Pan African Parliament shall work in close co-operation with the Parliaments of the Regional Economic Communities and the National Parliaments or other deliberative body. To this effect, the Pan African Parliament may, in accordance with its Rules of Procedure, convene annual consultative fora with the Parliaments of the Regional Economic Communities and the National Parliaments or other deliberative body to discuss matters of common interest.

2. The Pan African Parliament shall periodically submit a report in writing on its work to the National Parliaments or other deliberative bodies for information. Copies of such reports shall also be submitted to the Ministers with responsibility for foreign affairs, African Union affairs and/ or regional integration.

**Article 20**  
**Relations between the Pan African Parliament and**  
**other organs of the AU**

1. The Chairperson of the Assembly shall deliver a speech on the state of the AU at each inaugural Session of a new term of the Pan African Parliament.
2. The Chairperson of the Commission shall, at least once during the term of each Parliament, present the Activity Report of the Commission to the Pan African Parliament.
3. The other organs of the AU, except the Assembly, the Council and the Court, shall forward their activity reports annually to the Pan African Parliament by the third month of each succeeding year.
4. The Pan African Parliament shall forward its annual Activity Report to the different organs of the AU, at the latest, by the third month of each succeeding year.

**Article 21**  
**Interpretation**

The Court shall have jurisdiction on all questions of interpretation of this Protocol.

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**Article 22**  
**Signature and Ratification**

1. This Protocol shall be signed and ratified by Member States in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

**Article 23**  
**Entry into Force**

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairperson of the Commission by a simple majority of the Member States.

#### **Article 24 Accession**

1. A Member State shall accede to this Protocol, after its entry into force, by depositing its instrument of accession with the Chairperson of the Commission. The Chairperson of the Commission shall, upon receipt of such instrument of accession, notify all Member States.
2. For any Member State acceding to this Protocol, the Protocol shall come into force on the date of the deposit of its instrument of accession.

#### **Article 25 Amendment or Revision of the Protocol**

1. This Protocol may be amended or revised by a decision of a two-thirds majority of the Assembly.
2. A Member State party to this Protocol or the Pan African Parliament may propose, in writing to the Chairperson of the Commission any amendment or revision of the Protocol.
3. The Chairperson of the Commission shall notify the proposal to all Member States at least thirty (30) days before the meeting of the Assembly, which is to consider the proposal.
4. Save where the proposal originates from the Pan African Parliament, the Chairperson of the Commission shall request the opinion of the Pan African Parliament on the proposal and shall transmit the opinion, if any, to the Assembly, which may approve the proposal, taking into account the opinion of the Pan African Parliament.
5. The amendment or revision shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairperson by a simple majority of Member States.

#### **Article 26 Review of the Protocol**

Conferences to review the operation and effectiveness of the Protocol, the legislative mandate and the system of representation to the Pan African Parliament, may be organized by the States Parties at intervals of ten (10) years, or within such shorter time as the Pan African Parliament may decide with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision

underlying the Protocol, are being realized and that the Protocol meets with the evolving needs of African States.

**Article 27**  
**Transitional Provision**

1. The present Protocol shall upon entry into force replace the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan African Parliament.
2. The term of office of Member of the Parliament shall terminate within a period not exceeding one year of the entry into force of this Protocol.

**ADOPTED BY THE TWENTY-THIRD ORDINARY SESSION OF  
THE ASSEMBLY, HELD IN MALABO, EQUATORIAL GUINEA**

**27<sup>TH</sup> JUNE 2014**

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LEGAL NOTICE No. 39

THE BASIC EDUCATION ACT

(No. 14 of 2013)

IN EXERCISE of the powers conferred by section 95 of the Basic Education Act, the Cabinet Secretary for Education, Science and Technology makes the following Regulations:—

THE BASIC EDUCATION REGULATIONS, 2015

PART I—PRELIMINARY

1. These Regulations may be cited as the Basic Education Regulations, 2015. Citation.

2. In these Regulations, unless the context otherwise requires— Interpretation.

“Board” has the meaning assigned to it under the Act;

“class mode” refers to the optimum number of learners in a classroom;

“Commission” means the Teachers’ Service Commission;

“Director” means the County Director of Education;

“head of institution” means a teacher, head teacher, or principal appointed by the Teachers’ Service Commission to head an institution and exercising delegated authority of the Cabinet Secretary, Ministry of Education as the Accounting Officer for the institution;

“institution” means an institution of basic education and training;

“institution of basic education and training” includes a pre-primary school, primary or a secondary school, an adult education institution and a middle-level college;

“KCSE” means the Kenya Certificate of Secondary Education;

“middle level college” means an institution offering pre-service and in-service teacher training courses that support basic education;

“Ministry” means the Ministry responsible for basic education;

“non-teaching staff” means all employees of the Boards of Governors who are not engaged in teaching or research;

“zone” means an education administrative area consisting of a cluster of schools identified by the County Education Board with the approval of the National Education Board.

V-8

## PART II- MANAGEMENT OF BASIC EDUCATION INSTITUTIONS

*A-Registration of Institutions*

3. No person, body or organization shall establish or admit learners to a private or public institution without first obtaining written authority from the Cabinet Secretary. Registration.

4. All institutions referred to in regulation 3 shall be registered in a manner and form prescribed through guidelines issued by the Cabinet Secretary. Procedure for registration.

5. (1) The day to day management of a public institution of basic education and training shall be the responsibility of the head of the institution, who shall be appointed by the Commission. Head of Institution

(2) The head of institution—

(a) shall be the accounting officer of the institution, an authority delegated by the Cabinet Secretary;

(b) shall be the team leader for the implementation of the Ministry's policies and programs in the institution;

(c) may initiate policy proposals for consideration by the County Education Board and the Cabinet Secretary.

(3) Where any impropriety is established on the part of a head of an institution, the Cabinet Secretary shall forthwith revoke the designation of such head of institution as the accounting officer and request the Teachers Service Commission for a replacement.

(4) Where the institution referred to paragraph (4) is a private institution, the Cabinet Secretary shall request the proprietor thereof to appoint a replacement.

(5) In paragraphs (3) and (4) above the Teachers Service Commission or the proprietor, as the case may be, shall institute disciplinary action against the concerned head of institution.

*B-Boards of Management*

6. The minimum qualifications of the Chairmen and members of Boards of Management shall be— Qualifications for members to the Board of Management.

(a) in the case of—

(i) a pre-primary or primary school; and

(ii) an adult education and continuing education centre, a diploma and a KCSE certificate respectively; and

(b) in the case of a Secondary School or a middle level college, a degree from a university recognized in Kenya, and a KCSE Certificate respectively.

7. (1) The head of an institution shall, whenever a vacancy occurs in the Board of management of the institution for which he or she is Application for membership.

responsible, notify the County Education Board accordingly through the sub-county Education Board office and request for the filling of the vacancy.

(2) Upon receipt of a request under paragraph (1), the County Education Board shall in writing request the nominating entities to forward names of suitably qualified persons to be appointed as members of the Board of Management.

(3) The County Education Board shall constitute an ad hoc committee to vet the suitability of the proposed nominees, which shall consist of—

- (a) a representative of the County Director of Education who shall be the Chairperson;
- (b) the member of County Assembly responsible for the area where the institution is located;
- (c) the Member of Parliament for the area in which the institution is located;
- (d) the Chief of the area in which the institution is located;
- (e) the sponsor, if any, of the institution;
- (f) a representative of the Parents Association, of the institution;
- (g) a representative of County Education Board, and
- (h) the head of institution, who shall be the committee Secretary.

8. (1) The committee appointed under regulation 7(3) shall ensure that—

Ad-hoc vetting panel.

- (a) the persons nominated to the Board of Management of any institution meet the requirements of Article 10 and Chapter Six of the Constitution of Kenya, 2010; and
- (b) the composition of the Board Members adheres to the two third gender rule.

(2) A Board of Management appointed under these regulations shall remain in office for a term of three years, which shall be renewable for one further term.

9. (1) The Cabinet Secretary may, on the recommendation of the County Education Board dissolve the Board of Management of an institution where—

Dissolution of the Board of Management.

- (a) such Board—
  - (i) is found guilty of gross misconduct;
  - (ii) is deemed to be incapable of discharging its mandate as provided for in the Act; or
- (b) the institution changes its mandate or ceases to operate.

(2) Where a Board of Management is dissolved under paragraph (1), the County Education Board shall appoint an interim committee of

five members to assume the responsibility of management of the institution.

10. A newly appointed Board of Management shall hold its inaugural meeting, convened and chaired by the secretary to the County Education Board or his representative within two weeks after appointment.

Board of Management  
Inaugural meeting

11. (1) The County Director of Education shall promote both recreational and competitive sports, games for physical development, performing and creative arts, talent shows and congresses in institutions of basic education and training by ensuring that—

Promotion of co-curricular activities

- (a) all students and pupils are accorded the opportunity to participate in activities from the institutional to the national level;
- (b) every institution has or can access adequate facilities for co-curricular activities; and
- (c) every institution shall put in place measures to promote co-curricular activities and ensure that all learners shall have access to suitable affordable sports kits.

(2) The calendar for all co-curricular activities shall be drawn up by the Cabinet Secretary in consultation with the relevant national and regional bodies and associations and shall be circulated to all institutions three months before the end of each school year.

12. No institution shall cause any parent or guardian to contribute any funds for co-curricular activities without written approval from the Cabinet Secretary on the advice of the respective County Director of Education, and all payments made hereunder shall be so authorized at all levels.

Contribution for activities.

13. All private institutions of basic education and training shall facilitate the participation of their learners in co-curricular activities at all levels.

Institutions to facilitate training

14. (1) Where funds from the government for a particular co-curricular activity are found to be inadequate the concerned institutions shall in writing notify the County Director of Education of the deficit three months prior to the commencement of the activity.

Insufficient funds for activities.

(2) Upon receipt of the notice, the County Director of Education in liaison with the County Education Board shall consult the Cabinet Secretary on how to meet the deficit.

15. Any person, head of institution or any member of the Board of Management who sends away a learner due to non-payment of activity fees by the parent or guardian without written authority from the County Director of Education commits an offence under the Act.

Offence.

16. Every County Director of Education shall establish a committee to manage and coordinate co-curricular activities, which shall comprise one representative of the following respectively—

Composition of committee.

- (a) the County Director of Education, who shall be the Chairperson;

- (b) the Education Standards Quality Assurance Council, who shall serve as the Secretary;
- (c) the County Director of the Teachers Service Commission;
- (d) the county government;
- (e) the heads of the respective basic education institutions within the county; and
- (f) the private schools association within the county.

17. Every Board of Management shall, pursuant to section 59 (p) of the Act, recruit, employ, remunerate, promote, demote or terminate the services of any of its employees.

Appointment of non-teaching staff.

18. Persons belonging to a professional cadre and employed by the Board of Management shall be employed on such terms and conditions of service similar to those recommended for equivalent posts in the Civil Service and as per the applicable scheme of service.

Terms and conditions of employment for non-teaching staff.

19. The Board of management may appoint suitable semi-professional and subordinate staff, on such terms and conditions as shall be determined by the Board.

Employment of semi-professional by the Board.

20. Where a claim or grievance arises from an employee of the Board of management, the Board shall deal with the claim or grievance exhaustively in accordance with the Employment Act, 2007.

Board to deal with claims and grievances. No. 11 of 2007.

21. (1) The Board of Management shall reserve the right to dismiss any of its employees instantly and without notice or pay in lieu of notice for reasons of gross misconduct as provided in the Employment Act, 2007.

Dismissal and termination of employment.

No. 11 of 2007.

(2) The Board shall not decide on a proposal to—

- (a) dismiss from employment any person employed by the Board;
- (b) terminate a contract between the Board of Management and its employees;
- (c) request the Cabinet Secretary to terminate the services of a person seconded to the Board of management,

on grounds of misconduct or grave professional default, until the person concerned has been given an opportunity to appear in person before the Board and has presented his defence.

(3) Subject to the provisions of paragraph (1) where a member of non-teaching staff is entrusted as an agent of the Cabinet Secretary to perform certain functions and such officer fails or neglects to perform the duties so assigned and sufficient grounds exist to discipline, terminate or dismiss the officer from the service, the Cabinet Secretary shall direct the cause of action to be taken against that officer and the Cabinet Secretary's decision shall be final.

#### *C-Learners with Special Education Needs*

22. Whenever it is necessary or appropriate to do so, a learner shall be assessed for placement and continuous support in an institution

Assessment of learners with special needs.

of basic education and training at the County Education Assessment and Research Centre set up at County level under section 46 of the Act.

23. Assessment under regulation 22 shall be carried out with the consent of the learner's parent or guardian at the Centres referred to in that regulation by qualified personnel, including, but not limited to medical staff, educationists, special needs experts, at the request of such parent or guardian or on the initiative of the institution.

Qualified personnel to assess.

24. Learners with special needs who have been assessed under regulation 22 shall be placed in any of the following facilities—

Types of institutions.

- (a) regular institutions of basic education and training;
- (b) special needs institutions of basic education and training;
- (c) regular institutions of basic education and training with special needs unit;
- (d) talent academies for gifted and talented learners;
- (e) vocational institution; and
- (f) hospital schools and home-based schooling.

25. The Boards of Management for all the institutions specified in regulation 24 shall ensure *inter alia* that—

Facilities to be suitable.

- (a) the institution provides reasonable accommodation to all learners;
- (b) the pace of instruction is commensurate with learners' physical, mental or intellectual abilities;
- (c) catch-up classes or waivers are facilitated in specific subject areas, and
- (d) all learners are provided with adequate appropriate instructional materials.

26. The Kenya Institute of Curriculum Development shall provide differentiated curricula appropriate for the needs of learners with special needs.

Curriculum.

27. All learners with special needs shall be entitled to auxiliary services or assistive devices placed in their respective institutions.

Auxiliary services.

28. All learners with special needs shall be evaluated and issued with appropriate certificates of achievement in the prescribed course undertaken.

Evaluation of learners.

29. Notwithstanding anything under these regulations learners of school going age residing in children's homes, borstal institutions or other corrective facilities shall be provided with basic education and training pursuant to Article 53, 54, 55 and 56 of the Constitution.

Borstal institutions etc.

### PART III—SCHOOL RULES, DISCIPLINE PROCEDURES FOR STUDENTS AND EXCLUSION

30. Every institution of basic education shall develop school rules which shall be subjected to public participation and which shall not be inconsistent with the Act, or any other relevant written law.

School rules to be subjected to public participation.

31. No institution shall implement the rules referred to in regulation 30 until they have been approved by the Board of Management of the institution.

School rules to be approved by the Board of Management.

32. A learner shall be deemed to be individually disciplined if involved in—

Individual liability for indiscipline.

- (a) physical fights;
- (b) bullying of other learners;
- (c) stealing;
- (d) playing truancy;
- (e) cheating in examinations;
- (f) abusing teachers or other persons in authority;
- (g) defiance of lawful instructions;
- (h) drug trafficking or substance abuse; or
- (i) any other conduct categorized as indiscipline by the Board of Management.

33. Learners shall be deemed to have participated in mass indiscipline in the institution if they jointly take part in—

Mass indiscipline.

- (a) unlawful demonstration;
- (b) boycott of classes or meals;
- (c) the destruction of school property; or
- (d) invasion of other institutions, shopping centres or homesteads.

34. (1) If the head of the institution notices any of the activities described in regulation 33 among the students, which in his or her opinion may result in the disruption of general activities in the institution, he or she shall close the institution and notify the County Director of Education accordingly within twenty four hours after such closure.

Notice to close institution in case of impending strike.

(2) The notice under paragraph (1) shall bear the signature of the head of the institution.

(3) The notice given under paragraph (1) shall only be deemed to be valid if it is signed by the head of the institution.

35. (1) In cases of mass indiscipline, the Board of Management of an institution may declare the institution closed and students held back from attending school for a period not exceeding two weeks.

Closure in case of mass indiscipline.

(2) The Board of Management shall submit a report to the County Education Board within two days after the closure of an institution under paragraph (1).

36. (1) The County Education Board may after considering the report of the Board of Management under regulation 35, and after

Action of the Board on receiving a report.

holding such inquiry as it may deem necessary to determine the cause of the mass indiscipline—

- (a) confirm or terminate the closure of the institution;
- (b) determine the condition under which all or any of the students are to be re-admitted to the same or any other institution; or
- (c) order placement to a correctional facility.

~~(2) In cases of damage or destruction of property, the management of the institution shall invite a registered loss assessor following the relevant law to determine the value of the loss.~~

(3) The loss assessed under paragraph (2) shall be borne by the person found to bear the highest responsibility for the mass indiscipline.

37. Every institution shall establish and keep a register of indisciplined learners indicating the name, class, category of indiscipline, date and warning or any other corrective measures taken by the institution.

Register to be

38. If the head of the institution is of the opinion that—

Suspension l

- (a) the acts of indiscipline have persisted in spite of the warnings or corrective measures taken under these regulations; and
- (b) if the act of indiscipline is likely to threaten the safety of the other learners in the institution,

the head of the institution shall issue the learner, with a suspension letter addressed to the parent or guardian indicating the nature of the indiscipline and specifying the date the learner, accompanied by the parent or guardian is required to appear before the Board of Management of the institution.

39. (1) The particulars of the complaint preferred against the learner shall be read out to the parent or guardian and the learner at the meeting with the Board of Management under regulation 38, and the learner shall be asked to defend himself or herself.

Procedure fo  
handling  
disciplinary

(2) Where the parent or guardian fails to appear, the business of the Board shall be adjourned, and the matter shall be deferred and a new date set and communicated for the parties to appear.

(3) Where the parent or guardian fails to attend on the rescheduled date, the case shall be heard and determined such absence notwithstanding.

(4) In all disciplinary proceedings affecting a learner the attendance of the Sub-county Education Officer shall be mandatory.

(5) The recommendations of the Board of Management shall within two days be communicated to the County Director of Education.

40. Where the County Director of Education receives the recommendation of the Board of Management then he or she shall seek the advice of the County Education Board as to whether to—

Exclusion o  
from the ins  
in case of  
indiscipline.

- (a) order for conditional or unconditional re-admission of the learner;
- (b) transfer the learner to an alternative institution; or
- (c) transfer the learner to a corrective center in the context of education.

41. Any person aggrieved by a decision under regulation 40 may appeal to the Education Appeals Tribunal.

Appeals to the Tribunal.

42. No school shall withdraw the registration of a learner as a candidate in a national examination as a form of punishment.

No withdrawal of learner's candidature.

43. A student shall only be transferred by the County Director of Education on the following grounds—

Transfer of learner.

- (a) transfer on request in writing by the parent or guardian;
- (b) on medical grounds; or
- (c) as a result of insecurity or natural calamity.

#### PART IV—FREE AND COMPULSORY EDUCATION

44. No public school or institution shall issue alternative fees structures other than those approved by the Cabinet Secretary.

Fees.

45. No person or Board of Management in a public institution of basic education and training shall alter or increase fees without written authority from the Cabinet Secretary.

No fees increment without the authority of the Cabinet Secretary.

46. The members of the Board of Management of an institution which contravenes regulation 44 or 45 shall jointly and severally be guilty of an offence under the Act.

Offence.

47. (1) The minimum age for admission into a primary school shall be six years.

Minimum entry.

(2) Notwithstanding paragraph (1), no person shall deny any learner of school-going age admission in a primary school for lack of proof of age.

48. A learner transiting from a pre-primary school to a public primary school of a parent's or guardian's choice shall not be subjected to—

Transit of a learner.

- (a) entry examination except as provided for in section 34(4) of the Act;
- (b) any interview; or
- (c) admission fee.

49. All persons deployed to teach in basic education institutions of learning and training shall be required to have undertaken a training program approved or recognized by the Cabinet Secretary and registered by Teachers Service Commission.

Qualification of teachers.

50. (1) A person, body, organ or institution responsible for the management of a pre-primary, primary or secondary school shall have provision for the following—

Mandatory provision in institutions.

- (a) a first aid kit for each class and training on the use thereof for the whole school community;
- (b) adequate safe and clean water;
- (c) adequate, safe, clean and appropriate sanitation facilities which are age and gender appropriate;
- (d) disability-friendly facilities and environment;
- (e) safe and appropriate playing grounds and equipment;
- (f) spacious and conducive learning rooms; and
- (g) appropriate furniture and utilities.

(2) All boarding institutions shall have provisions for—

- (a) a qualified nurse;
- (b) a watchman; and
- (c) other suitable adult supervision within the boarding facilities.

51. The Kenya Institute of Curriculum Development shall develop—

- (a) a national basic education curricular in line with the Kenya Institute of Curriculum Development Act, 2013; and
- (b) curricula for learners with special needs.

52. The Kenya Institute of Curriculum Development may accredit any other agency involved in curriculum development with the approval of the Cabinet Secretary in line with the Kenya Institute of Curriculum Development Act, 2013.

53. The Cabinet Secretary shall retain the policy-making and oversight role in the preparation and approval of curriculum and vetting of all educational materials to be used in institutions.

54.(1) The Board of Management of a public institution or the manager of a private institution, as the case may be, shall ensure that the curriculum and the instructional materials in use therein have been developed or approved by the Kenya Institute of Curriculum Development.

(2) Any person who contravenes the provisions of paragraph (1) commits an offence and shall be liable to prosecution under the provisions of the Kenya Institute of Curriculum Development Act, 2013, and any other written law.

55. Notwithstanding regulation 54 an institution may in consultation with its Parents Teachers Association or Parents Association, recommend supplementary instructional materials for use by the learners.

56. There shall be continuous assessment of the learners' progress in the following assessment areas—

Curricular developm

No.4 of 20

Accred other

No.4 of 20

Policy ma

Curricula approved Kenya In-curriculum developm

No.4

Suppl textbooks

Conduct based as

- (a) character; and
- (b) co-curricular activities and performing arts.

57. (1) The Cabinet Secretary shall issue guidelines on course books to be used in public primary and secondary schools from time to time.

Guidelines on course books.

(2) All schools shall establish and maintain a safe and secure room for storage of instructional materials.

~~(3) Any person found in possession of instructional materials bearing the official stamp of any institution without due authority from the management of the institution commits an offence.~~

58. (1) A learner admitted into an institution of basic education and training shall be entitled to progress to the next level unhindered except—

Admission of a learner.

- (a) on the recommendation of a qualified medical practitioner; or
- (b) due to non-attendance of the relevant programme for one academic year.

(2) All learners who have undertaken a full course of primary education shall be eligible for admission to a secondary school regardless of their scores in the summative evaluation of the primary education.

(3) No school or any institution of basic education shall compel a parent or guardian to transfer a learner to a different institution without written approval of the County Director of Education.

59. A learner progressing from a primary school to a public secondary school of his or her choice shall not be subjected to any interviews, pre-qualification examinations or be required to make any payments before admission.

Progression of learner.

60. The County Director of Education in consultation with the County Education Board shall institute affirmative action to enable learners from minority or marginalized groups, or groups with special needs or those living in especially difficult circumstances to be admitted to secondary schools.

Learners living in difficult circumstances.

61. Every institution shall maintain the following data on every learner—

Bio-data of learners.

- (a) the name and date of birth;
- (b) the name and contact information of the learner's parent or guardian; and
- (c) medical history and other special needs.

62. Every institution shall maintain the following information on the parent or guardians of the learners—

Information on parents.

- (a) full name, nationality and place of residence;

- (b) occupation; and
- (c) two telephone contacts.

63. Every institution shall establish and maintain the following registers and records in both hard and soft copies—

- (a) the registration certificate of the institution;
- (b) the institutions' books of accounts;
- (c) registers of the institutions' movable and immovable assets;
- (d) admissions registers, indicating the date and admission number of the learners;
- (e) parents register;
- (f) visitors books;
- (g) daily attendance registers for learners;
- (h) learners progress reports;
- (i) register of learners' transfers, drop-out and completion;
- (j) the school title deed or land allotment letter or a copy thereof if the title is held by the sponsor, proprietor or trustee;
- (k) register of disciplinary action taken against learners;
- (l) an inventory of all instructional materials, stationery, equipment and assistive devices available and their state of repair or use;
- (m) syllabi;
- (n) an approved list of text books and other instructional material; and
- (o) any other records recommended by the Education Standards Quality Assurance Council.

64. Every institution of basic education and training shall have provisions for the following—

- (a) outdoor playing facilities and equipment, both for outdoors and indoors with provisions for persons with disabilities;
- (b) administrative offices;
- (c) sanitary facilities, including bathrooms for both learners and other persons, segregated by gender and age;
- (d) kitchen and dining room;
- (e) standard classrooms measuring 7m x 8m for 50 learners for primary school or 45 learners for secondary schools or standard classrooms measuring 7m x 6m for 25 learners for pre-primary learners;
- (f) store rooms; and

(g) a science room or other rooms for specialized subjects.

65. (1) All institutions shall provide—

Guidance programs.

- (a) guidance services to all learners, distinct from counseling services;
- (b) counselling services as an essential corrective measure; and
- (c) spiritual development services focusing on moral values and character formation of the learners.

(2) Any person offering professional counselling services to institutions shall be duly qualified and registered as a counselor under the appropriate law, and approved by the Cabinet Secretary.

66. It shall be the responsibility of the Board of Management to make a report to the Teachers Service Commission and the County Education Board on matters related to staffing levels.

Report on shortfall of teaching staff.

67. (1) Every Board of Management of a public institution or manager of a private institution shall, in consultation with the respective Parents Association, develop a common dress code for learner, which shall have unique features for identification and branding.

Uniform.

(2) In the case of a sponsored school the concerned Board of Management shall develop the dress code in consultation with the Parents' Association and the sponsor.

(3) No institution shall prescribe a specific supplier of school uniforms or any other materials for the parent or guardian.

#### PART V—ALTERNATIVE PROVISIONS OF BASIC EDUCATION, TRAINING AND CONTINUING ADULT EDUCATION

68. Institutions of Alternative Basic Education, Training and Continuing Adult Education may utilize facilities of the existing institutions of basic education or other public and private institutions or premises on request.

Institutions of alternative basic and continuing adult education.

69. Learners under the age of eighteen in institutions to which this Part applies shall be eligible for capitation grants under the free and compulsory education programme.

Grants.

70. Only curricula approved by the Kenya Institute of Curriculum Development shall be offered by all institutions of Alternative Basic, Adult and Continuing Education.

Curriculum  
Institutions of alternative basic and continuing adult education.

71. Learners above the age of eighteen years shall only be admitted into the institutions of alternative basic, adult and continuing education.

Learners above the age of eighteen years.

72. While admitting learners to institutions of alternative basic, adult and continuing education, the institution shall use the learner's prior ability, knowledge and competencies in determining placement at an appropriate level of education.

Placement at an appropriate level of education.

73. Institutions of alternative basic, adult and continuing education shall conduct their programs through accelerated and self-directed learning to cover the prescribed curriculum.	Conduc
74. Public institutions of alternative basic, adult and continuing education may charge such levies as may be approved by the Cabinet Secretary in consultation with the County Education Board.	Levies to be charged.
75. Institutions of alternative basic adult and continuing education shall be provided with grants for infrastructure improvement by the national government through the relevant Ministries.	Infrastructure
76. A middle level institution of basic education shall include an institution offering pre-service and in-service teacher training courses that support basic education.	Middle level institution.
77. No institution registered as a public middle level institution of basic education and training shall be transferred or converted to any other use other than that for which it was registered or established, except with the approval of the Cabinet Secretary.	Registered mid-level institution.
78. (1) All private middle level institutions of basic education and training shall only offer courses or programs whose curriculum is developed or approved by the Kenya Institute of Curriculum Development or by any agencies recognized by the Cabinet Secretary.	Curriculum in middle level institution.
(2) Certification of the courses referred to under paragraph (1) or programs shall be the responsibility of Kenya National Examinations Council or any other body recognized by the Cabinet Secretary.	
PART VII—CATEGORIZATION OF INSTITUTIONS OF BASIC EDUCATION AND TRAINING	
79. The institutions categorized as provided for under section 43 (1) of the Act shall be registered with reference to—	Classification of institutions.
<ul style="list-style-type: none"> <li>(a) the gender of learners admitted;</li> <li>(b) the catchment area of the school as either national, extra-county, county or sub-county;</li> <li>(c) boarding or day school;</li> <li>(d) low cost boarding school (in case of primary school); and</li> <li>(e) special needs education institutions.</li> </ul>	
80. No person or Board of Management shall change the status of a registered institution without re-registration.	Re-registration.
81. Matters of safety, security and hygiene in institutions of basic education and training shall be the responsibility of the Board of Management provided for under the Act.	Environment committee of the board of management.
82. The Board of Management of an institution shall put in place reasonable measures regarding the hygiene, security and safety of learners while in and outside the institution while travelling on the institution's business.	Security meas
83. The Board of Management of an institution shall ensure that—	Board of Management to ensure adequate security.

- (a) all institution compound is clearly demarcated and fenced with a secure gate;
- (b) the classrooms, dormitories, offices, kitchens, toilets and other physical structures are clean, well maintained, safe and properly utilized;
- (c) the school environment is such as to nurture positive health and is conducive to learning and social development without compromising diversity or disability;
- ~~(d) the environment is drug-free;~~
- (e) all learners, particularly at lower levels, are conversant with road safety rules and other survival skills;
- (f) that regular fire disaster response drills are conducted in preparedness for fires and other disasters by all stakeholders;
- (g) all doors should open to the outside and windows should have no grills;
- (h) lightning arresters are installed in lightning-prone areas;
- (i) fire extinguishers and alarms are available and functional;
- (j) all institutional vehicles are in sound mechanical condition; and
- (k) in institutions with boarding facilities, the space between the beds shall be at least 1.2 metres while the corridors or pathways shall be at least 2 metres wide.

#### PART VIII—OFFICIAL SCHOOL HOURS

84. (1) The official operating hours for all day public or private institutions shall be Monday to Friday—

Official school hours.

- (a) 8.00 a.m. to 3.30 p.m. for class hours; and
  - (b) 3.30 p.m. to 4.45 p.m. for co-curriculum activities.
- (2) No day institution of basic education and training shall require learners to report earlier than 7.15 a.m.
- (3) Notwithstanding paragraph 84 (1), all institutions with boarding facilities shall operate 24/7 hour basis as follows—
- (a) 8.00 a.m. to 3.30 p.m. for class hours Monday to Friday;
  - (b) 3.30 p.m. to 4.45 p.m. for co-curriculum activities Monday to Friday;
  - (c) 5.00 p.m. to 7.30 p.m. for self-directed activities Monday to Friday;
  - (d) 7.30 p.m. to 9.30 p.m. preps Monday to Friday;
  - (e) 9.30 p.m. to 6.00 a.m. bedtime Monday to Friday; and
  - (f) 6.00 a.m. to 8.00 a.m. supervised routine activities.
- (4) No boarding institution shall send away an unaccompanied learner later than 9.00 a.m.
- (5) The latest reporting time for learners to a boarding institution shall be 5.00 p.m.

	Revocation
85. The following Regulations are revoked—	
(a) The Education (Education Standards) Regulations, 1968;	LN 106/1
(b) The Education (Board of Governors) Order, 1969;	LN 17/1969
(c) The Education (Board of Governors) (Administration) Regulations, 1969;	LN 18/1969
(d) The Education (Registration of Unaided Schools) Regulations, 1969;	LN201/1969
(e) The Education (School Discipline) Regulations, 1972;	LN 40/1972
(f) The District Education Boards Regulations, 1973;	LN 207/1973
(g) The Education (School Committees) Regulations, 1978; and	LN 190/1978
(h) The Education (Board of Governors) (Non-Teaching Staff) Regulations, 1993.	LN 262/1993

Made on the 4th April, 2015.

JACOB T. KAIMENYI,  
*Cabinet Secretary for Education, Science and Technology.*

LEGAL NOTICE NO. 40

THE MINING ACT

(Cap. 306)

IN EXERCISE of the powers conferred by section 92 (1) (xviii) of the Mining Act, the Cabinet Secretary for Mining makes the following Regulations:—

THE MINING (PRESCRIPTION OF ROYALTY RATES FOR DIATOMITE) REGULATIONS, 2015

1. These Regulations may be cited as the Mining (Prescription of Royalty Rates for Diatomite) Regulations, 2015.
2. The royalty rates payable for diatomite shall with effect from the 1st July, 2013, be as follows—
  - (a) from 1st July, 2013 to 30th June, 2015—2% of gross sales value;
  - (b) from 1st July, 2015 to 30th June, 2017—3% of gross sales value;
  - (c) from 1st July, 2017 to 30th June, 2019—4% of gross sales value;
  - (d) from 1st July, 2019 and thereafter—5% of gross sales value.
3. Legal Notice No. 187 of 2013, shall not apply to the diatomite products.

Dated the 24th February, 2015.

NAJIB BALALA,  
*Cabinet Secretary for Mining.*