

**INSTITUTE OF DESIGNERS OF
KENYA BILL, 2023**

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A Bill for

AN ACT of Parliament to provide for development, protection, promotion of creative designs and facilitate the development of Design Practices in Kenya and for connected purposes.

ENACTED BY the parliament of Kenya, as follows;

PART A—PRELIMINARY

1. **Short title** This Act may be cited as the Institute of Designers of Kenya Bill, 2023
2. **Interpretation** In this Act, unless the context otherwise requires-

“Cabinet Secretary” means the cabinet secretary responsible for Interior Design services

Design means the features of shape, configuration, pattern or composition of lines or colours applied whether in two or three dimensional or in both forms, by a process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; and done by a creative designer;

“Institute” means the Institute of Designers of Kenya established under section 3 of this Act;

"Continuing Professional Development" means systematic maintenance, improvement and broadening of knowledge and skills and the development of personal qualities necessary for the execution of professional and technical duties throughout one's working life;

“Practice of Interior Design” means the provision or offer to provide consultancy, advisory services or interior design services, for a fee, commission or hope of reward, in relation to the non-structural or non-seismic interior elements, components and assemblies of interior environment, promoting health, safety and welfare while supporting and enhancing human experience.

“Practice of Creative Graphic Design” entails provision of professional consultancy or advisory services in the conception of visual communications through creation, selection and arrangement of either or both typography and imagery elements, in two or three dimensions applying design elements and principles in a process involving; problem identification, objective setting, research, conceptualization, pretesting and final designing for production of visual messages, for either electronic and print media communications.

“Public institutions” mean institutions in the public sector; including National and a County Government and its entities, constitutional commissions, independent offices and state organs

PART B: ESTABLISHMENT OF THE INSTITUTE OF DESIGNERS OF KENYA.

- 3. Establishment of the Institute.**
- a) There is established an Institute to be known as the Institute of Designers of Kenya
 - b) The Institute shall be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of;–
 - i) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
 - ii) Entering into contracts; and
 - iii) Doing or performing all such other things or acts for the proper discharge of its functions under this Act.

4. Objectives of the Institute.

The Institute is established is to promote, maintain and;

- a) Develop standards of interior and creative graphic design Practice; and management in Kenya;
- b) Register Interior designers and creative graphic designers who meet the required professional and ethical standards;
- c) Publish standards of professional competencies and practice in Interior Design and creative graphic design in Kenya;
- d) Ensure professional development and regulation of standards and practices of interior design and creative graphic design in Kenya.
- e) Support and improve the standards, conduct and learning of interior design and creative graphic design in Kenya
- f) maintain a register and records of registered interior designers and creative graphic designers in Kenya;
- g) establish and promote programs for professional development for interior design and creative graphic design practice in Kenya

5. Powers of the Institute

The Institute shall have powers to:

- a) Register, compile, revise and publish lists of persons and firms registered;
- b) Convene seminars, conferences and any other meetings as and when considered necessary;
- c) Hold trainings and prescribe tests of competency deemed appropriate for registration;
- d) Receive, hold and administer any donations, bequests or endowments, which may be given for the furtherance of any of its objectives;
- e) Host, endorse, promote, assist and encourage the holding of competitions provided that the rules, organization and judging of such competitions are in line with its objectives;
- f) Invest any of its monies in such a manner as may from time to time be determined, provided the investment shall be applied to the furtherance of its objectives;
- g) make further regulations, rules and guidelines and from time to time alter, amend or rescind the same, for the carrying out its business and to provide for all other matters, which in terms of this Act may be prescribed; and
- h) Do all such other things as are incidental or conducive to the attainment of all or any of the foregoing powers.

6. Management of the Institute

- a) The Institute shall consist of –
 - i) The chairperson who shall be elected by registered members;
 - ii) A nominee to represent the Principal Secretary responsible for matters Interior Design.
 - iii) Two persons, of opposite gender, elected by members to represent interior design chapter
 - iv) Two persons, of opposite gender, elected by members to represent creative graphic design chapter
 - v) One person to represent any other design profession not related iii) and iv)
 - vi) The registrar of the Institute.
- b) A person shall not be appointed to the management of the Institute under sub section a i), iii), iv) and v) unless that person is a registered member of the Institute ;
- c) A person nominated under sub-section a) ii) shall have the full powers and authority to perform the functions of the Principal Secretary.

7. Term of office

- a) A person at the management of the Institute shall hold office for a term of three years but shall, be eligible for re-election for one further term.
- b) Subject to the provision on quorum, the election of the members shall be staggered to ensure that the respective expiry dates does not come to pass at once.

8. Qualification for appointment as at the Institute management.

- a) A person shall be eligible for election as a chairperson or a member at the management of the Institute if the person—
 - i) holds a Bachelor degree in Interior Design, Graphic Design or equivalent from a recognized university;
 - ii) has proven management or other relevant professional experience; and
 - iii) Meets the requirements of Chapter six of the Constitution.
- b) A person shall not be qualified for election as a chairperson or member at the management of the Institute if the person —
 - i) is a member of Parliament or County Assembly;
 - ii) Is a member of a governing body of a political party;
 - iii) Is an undercharged bankrupt
- iv) has been removed from office for contravening the Kenyan Constitution or any other law;

9. Vacation of office

- a) The office of a person serving at the management of the Institute shall become vacant if the member;
 - i) At any time, resign from office by notice in writing to the Chairperson.
 - ii) Is removed from office by a resolution of two thirds of registered members
 - iii) Commits a serious violation of the Constitution or any other law.
 - iv) Is incapacitated by prolonged physical or mental illness for a period exceeding six months
 - v) Breaches the Code of ethics established by the Institute ;
or
 - vi) Is otherwise unable or unfit to discharge his functions.
- b) Where a vacancy arises under subsection i), the provisions of filling the office shall apply.

10. The Institute Registrar

- a) There shall be a registrar of the Institute who shall be appointed for a period of four years and may be re-appointed on the basis of satisfactory performance.
- b) Terms and conditions of service shall be determined by the instrument of his appointment or otherwise in writing from time to time.
- c) The registrar shall—
 - i) be responsible to the Institute on the day-to-day management of its affairs; and
 - ii) Perform such other functions as the Institute Management may direct.
- d) A person shall not be qualified for appointment as the registrar unless that person—
 - i) holds a degree in interior design, graphic design or its equivalent from a university recognized in Kenya;
 - ii) has at least five years professional experience in interior design, graphic design or related

11. Staff of the Institute

The Institute may appoint such officers and other staff as are necessary for the proper discharge of its functions, upon such terms and conditions of service as may determine.

SECTION I: PROVISION RELATING TO REGISTRATION IN INTERIOR DESIGNERS PRACTICE

- 12. Provision relating to registration of Interior Designers.** There is established a chapter for interior designers which shall;
- i) receive, consider and make decisions on applications for its registration;
 - ii) publish the names of registered persons and firms;
 - iii) keep and maintain the roll of its members;
 - iv) issue certificates and other awards to qualified persons and firms;
 - v) Assess and approve qualifications of foreign persons intending to offer interior design services or works in Kenya;
 - vi) Develop such rules relating to interior design practice in Kenya.
 - vii) Doing anything incidental or conducive to the performance of any of the preceding functions.
- 13. Categories of registration of Interior Designers**
- a) Registration shall either be of a natural person or a firm.
 - b) For natural person, a person shall be eligible for registration under this category if that person;
 - i) Has obtained a diploma certificate in interior design from an institution recognized by the Institute; or.
 - ii) Has obtained a bachelor degree certificate in interior design or its equivalent from an institution recognized by the Institute
 - c) a person shall register a firm if;
 - i) the firm has at least one partner or principal shareholder being registered as a natural person and has a valid practice certificate; and
 - ii) in case of a foreign firm, at least fifty one percent of the shares in the firm are held by a Kenyan citizens;
 - iii) Fulfils any other condition as may be stipulated by the Institute through rules made thereof.

14. Registration as a foreign person or firm.

A person may register under this category if;

a) in the case of a natural person;

- i) That person possesses the necessary qualifications recognized for the practice of interior design in the country where he normally practices.
- ii) that immediately before entering Kenya, was practicing as interior designer and holds a valid registration documents; and
- iii) he is a resident of Kenya with a valid working permit;

b) in the case of a firm;

- i) The firm is incorporated in Kenya as per Kenyan laws.
- ii) The firm fulfils any other condition as may be stipulated by the Institute.

15. Registration on temporary basis.

A person may register in this category if;

- a) he is not ordinarily resident in Kenya;
- b) he intends to be present in Kenya in the capacity of Interior Designer for express purpose of carrying out specific work; and
- c) he possesses the necessary qualifications recognized for the practice of Interior design in the country where he normally practices; and
- d) Immediately before entering Kenya, was practicing as an interior designer.

16. Registration certificate

- a) A person wishing to obtain a registration certificate as interior designer shall apply to the Institute pursuant to this Act.
- b) A registration certificate shall be valid from the date on which it is issued and shall expire twelve months after the date of issue unless its holder ceases to be a registered under this Act
- c) Where a practising certificate ceases to be in force in accordance with this Act, the person to whom the certificate was issued shall deliver it to the Institute within thirty days from the date on which he ceases to be registered.
- d) A person who contravene this section commits an offence

17. Suspension of a member

The Institute may suspend a registration issued where;-

- a) An offence under this Act in relation to the registered person or firm is being investigated;
- b) Allegations of misconduct have been investigated and proved against the member ;
- c) A false declaration was made in an application for the registration certificate; or
- d) The member has contravened any provision of this Act

18. Professional conduct

- a) Where the Institute has reason to believe that a registered person or firm may have been guilty of professional misconduct it shall inquire into the matter
- b) For the purpose of proceedings at any inquiry held by the Institute, it may administer oaths, and may subject to any rules made under this Act enforce attendance of persons as witnesses and the production of books and documents
- c) For purposes of promoting ethical practice, the Institute shall
 - i. Establish and maintain a professional code of conduct for all persons and firms registered under this Act including their scope of practice and conditions under which such persons may practice
 - ii. Provide for regulations of practice of persons and firms registered under this Act.
 - iii. Inquire into any matter referred to it and to make its recommendations thereon
 - iv. Regulate the professional conduct of registered persons and take such disciplinary measures as may be appropriate to maintain proper professional standards
 - v. Doing anything incidental or conducive to the performance of any of the preceding functions.
- d) Where the Institute is satisfied that a registered person is in breach of any of the terms prescribed by this Act the Institute may-
 - i) suspend the registration of the member for a period specified by regulations thereof;
 - ii) withdraw or cancel the registration certificate of the member for such period specified by regulations thereof;
 - iii) issue the member with a letter of admonishment as regulations thereof provide;
 - iv) impose a fine which the Institute deems appropriate in the circumstances; or
 - v) Remove the name of the member from the register.

- e) Any member whose name has been removed from the roll or whose registration certificate has been suspended shall forthwith surrender to the Institute his certificate.
- f) Any person being registered refuses or fails to surrender his certificate to the Institute shall be guilty of professional misconduct and contravenes this section commits an offence
- g) Where a member has been suspended from practicing; he may appeal to the Institute as regulations thereof provide

19. Professional misconduct

- a) A person registered under this Act is guilty of professional misconduct if the person;-
 - i) refuses, fails or neglects to apply established Interior design practicing principles in the course of discharging his professional functions;
 - ii) engages himself in corrupt activities or practices;
 - iii) is guilty of gross negligence in the conduct of his professional duties;
 - iv) Is found guilty of fraud or any dishonest act.
 - v) Provides misleading interior design works, dangerous, unethical and designs that contradict the law.
- b) A person, who willingly procures or attempts to procure registration under the provisions of this Act by making, producing or causing to be made or produced any false or fraudulent representation or declaration, both orally or in writing, commits an offence and shall be liable on conviction.
- c) The registrar shall remove from the register the name of any person registered under this Act who is convicted of an offence and cancel the registration certificate held
- d) Members conducting an Interior design practice in partnership or association with non-registered members shall be responsible for the observance of this Act by themselves and by all members of the organization.
- e) Members working or seeking work in a country other than Kenya shall at all times observe the relevant code of conduct of the Institute concerned, subject to the member being a registered member of that organization.

SECTION II: DEVELOPMENT AND PROMOTION OF CREATIVE GRAPHIC DESIGN PRACTICE IN KENYA.

- 20. Application of this section** The provisions of this section shall apply in respect of creative graphic design-work, in Kenya.
- 21. Administration of this Section.**
- a) There is established a chapter for creative graphic designers, within the Institute, which shall administer this section of Act.
 - b) Any power conferred or duty imposed upon the registrar may be exercised or performed by the registrar personally or by an officer in the public service acting under a delegation from or under the control or direction of the registrar.
 - c) The Government Department responsible for Graphic Design shall, in consultation with the Creative Graphic Design Chapter of the Institute, shall;—
 - i. Formulate national and local creative design policies, guidelines, rules and strategies;
 - ii. Be responsible for establishment, improvement, development and maintenance of standards and guidelines for the creative graphic design practice and management in Kenya.
 - iii. Develop a framework for creative graphic designers access the Sport, Arts and Social Development Fund established under the Public Finance Management (Sports, Arts and Social Development Fund) Regulations, 2018
 - iv. Support in maintenance of a register and records of creative graphic design services under this section of the Act;
 - v. promote the establishment of programs for continuous professional development in the creative graphic design industry; and
 - vi. From time to time initiate, undertake or direct any matter concerning creative graphic design in Kenya;
- 22. Novelty**
- a) A creative design-graphical work shall be considered to be new if no identical design has been made available to the public:
 - i. in the case of an unregistrable creative graphic design-work, before the date on which the artwork for which protection is claimed has first been made available to the public;
 - ii. in the case of a registrable creative graphic design-work, before the date of filing of the application for registration of the designs for which registration is claimed, or, if priority is

claimed, the date of priority.

- b) Creative graphic design-work shall be deemed to be identical if their features differ only in immaterial details.

23. Provisions for secrecy

- a) If the Institute management is of opinion that in the national interest of any document relating to any creative graphical design-work should be kept secret, he may order to keep the design-graphical work secret and notify the applicant accordingly.
- b) Where, either before or after the commencement of this section of the Act, a call for a creative graphical design-work had been made, and it appears to the registrar, in consultation with a client who is a public institution that the creative design-graphical work is considered public secrecy, may give directions for prohibiting or restricting the publication of information with respect to the design-work, or the communication of such information to any person or class of persons specified in the directions.
- c) Design-work emanating from an employee of an organization; public or private shall be treated as secret work unless otherwise approved not as such by the employer.
- d) No person resident in Kenya shall, except under the authority of a written permit granted by or on behalf of the registrar , make or cause to be made any application outside the country for the registration of a creative design-work on behalf of a public institutions; being in a National or County Government unless an application for registration of the same design-work has been made to the registrar not less than six weeks before the application outside Kenya;
- e) An applicant for design registration under d) may request that the design-work be kept in secret for a period that shall be designated in the request and shall be no more than three years from the date of the registration.
- f) Design works considered secret shall be registered with the registrar, by the proprietor of the creative design work, on behalf of the clients.
- g) With regard to the design for which secrecy is requested the duration of a design right shall automatically expire after a period of 5 years from the date of registration of its establishment.

- h) A person filing a request prescribed in the preceding paragraph shall submit to the registrar, at the time of filing of the application or payment of registration fee for the first year stating the following:
 - i) the name and domicile or residence of the applicant for design-graphic work registration; and
 - ii) the period for which the secrecy is requested.
- i) The applicant for design registration or the holder of design right may request extension or reduction of the period for which the secrecy is requested
- j) The Institute shall by rules make provision for securing where such directions are given

24. Recognition of creative industry skills through training and apprenticeship.

- a) There is established the Creatives Technical Working Group
- b) The group, operating under the chapter for graphic design shall;
 - i) Carry out Professional Development Scheme for advancement of related skills for the creative graphic design industry.
 - ii) Enroll such persons being creative graphic designers, to the Professional Development Scheme
 - iii) Operationalise by a way of establishing, registering and admitting such persons being creative designers to the Prior Learning Assessment And Recognition Designers Programme
 - iv) Recommend to the Cabinet Secretary, issuance of competency certificate to such qualified person under the programme
 - v) Carry out such other function as may be issued
- c) Persons issued with competency certificates shall thereafter be enrolled to the Professional Development Scheme for continuous skill development
- d) Person issued with a competency certificate and is recommended by the registrar shall be considered competent as case may be required

25. Proprietorship of creative designs works in a design competition.

- a) The author of a creative design-work shall be treated for the purposes of this section of the Act as the original proprietor of the design, subject to the following provisions;
 - i) Where a creative design-work is created by an employee in the course of his employment, his employer shall be treated as the original proprietor of the creative design-work.
 - ii) Where a creative design-work becomes vested, whether by assignment, transmission or operation of law, in any person other than the original proprietor, either alone or jointly with the original proprietor, that other person, or as the case may be the original proprietor and that other person, shall be

treated for the purposes of this Act as the proprietor of the creative design-work.

- b) In this section of the Act the “author” of a creative design-work means the person who creates it.
- c) In the case of a creative design-work generated by computer in circumstances such that there is no human author, the person by whom the arrangements necessary for the creation of the design-work are made shall be taken to be the author.

26. Designs contrary to public policy or morality.

A right to practice as a creative designer in Kenya shall not subsist in a design-graphic work which is contrary to public policy or to accepted principles of morality

27. Inventions by employees.

For purposes of this section of the Act, inventions by employees of the National and County Government Departments shall apply *mutatis mutandis* to creation of a design-work by an employee.

28. Registration of creative design works.

a) A creative designer may, subject to the provisions of section of the Act, consider registering his design-graphic work if he considers it fit.

b) The proprietor of a design-work which is-

i. new; and

ii. not commonplace in the art in question may, in the prescribed manner and on payment of the prescribed fee, apply for registration of such design-work

c) A design work shall be deemed to be new if it is different from or if it does not form part of the state of the design-work immediately before the date of application for registration thereof or the release date thereof, whichever is the earlier:

Provided that in the case of the release date thereof being the earlier; the design-work shall not be deemed to be new if an application for the registration of such design-work has not been lodged within six months of such release date.

d) The state of the design-work shall comprise;

i. All matter which has been made available to the public (whether in Kenya or elsewhere) by written description, by use or in any other way; and

ii. All matter contained in an application for the registration of a design-work in Kenya

e) The registration of creative design-work shall be for a period of 12months from date of registration

f) Upon registration, the director will grant a certificate of registration

- in the prescribed form to the registered proprietor of a design-work
- g) The director may, in a case where he is satisfied that the certificate of registration has been lost or destroyed, or in any other case in which he thinks it expedient, furnish one or more copies of the certificate.
 - h) Where the registration has been effected, the following matters shall be published:
 - i. *the name and address of the holder of the design-work;*
 - ii. *the number and the filing date of the application for the design registration;*
 - iii. *the contents of the application and drawing, photograph, model or specimen attached to the application; and*
 - iv. *Other necessary matters.*
 - i) The registrar shall examine in the prescribed manner any application for the registration and, if it complies with the requirements, register.
 - j) A design-work when registered shall be registered as from the date of application.

29. Rights conferred upon registration of design-work

- a) A registered design-work shall confer on its holder the exclusive right to use it and to prevent any third party not having his consent from using it. The aforementioned use shall cover, in particular, the making, offering, putting on the market, importing, exporting or using of a product in which the design-work is incorporated or to which it is applied, or stocking such a product for those purposes.
- b) An unregistered design-work shall, however, confer on its holder the right to prevent the acts referred to in paragraph 1 only if the contested use results from copying the design-work.
- c) The effect of registration shall be to grant to the registered proprietor in the Republic, for the duration of the registration, the right to exclude other persons from the making, importing, using or disposing so that he shall have and enjoy the whole profit and advantage accruing by reason of the registration.
- d) The rights of a creative designer are infringed by a person who, without the consent of the registered proprietor, does anything which is the exclusive right of the registered proprietor.
- e) The right in a registered design-work is not infringed by—
 - i. *an act which is done privately and for purposes which are not commercial;*
 - ii. *an act which is done for experimental purposes*
 - iii. *an act of reproduction for teaching purposes or for the purpose of making citations provided acknowledgement is made to the design-work*

- f) the act of reproduction is compatible with fair trade practice and does not unduly prejudice the normal exploitation of the creative design-work; and
- g) No judicial proceedings shall be taken in respect of an infringement of the right in a registered design-work committed before the date on which the certificate of registration under this Act is granted.

30. Refusal of application

- a) If it appears to the registrar that an application was not made in the prescribed manner, he shall refuse the application.
- b) Without prejudice to section a) above creative work may be declared registrable; —
 - i. for creative designers registered in another country in respect of which the director designates as such,*
 - ii. is otherwise not registrable under the regulations made thereof*

31. Application of this Act to certain international design-works.

The Institute shall develop rules defining the extend upon which Kenya creative graphic designs can be applied under the International territories.

32. Right of the creative designer to be cited

- a) The creative graphic designer shall have the right to be cited as such if his design-work is used under provisions relating to 13 above
- b) If the design-work is the result of teamwork, the citation of the team may replace the citation of the individual creative graphic designers.

33. Disclosure

- a) A design-work shall be deemed to have been made available to the public if it has been published following registration or otherwise, or exhibited, used in trade or otherwise disclosed, before the date of approval of registration
- b) The design-work shall not, however, be deemed to have been made available to the public for the sole reason that it has been disclosed to a third person under explicit or implicit conditions of confidentiality.

34. Representation

Any person is entitled to be represented by an agent to act on his behalf in connection with any matter or proceedings in terms of this Act

**35. Logo Design
Competition Guidelines**

- a) The Institute shall establish logo design competitions to enhance the welfare of the creatives, art directors, artists, creative designers and other visual communicators participating in logo competitions in Kenya.
- b) The contest relating to logo competitions for public and private institutions is open to Creatives, art directors, artists and designers and other visual communicators as shall be defined by the Registrar
- c) Employees of National and County Governments are not eligible to participate in the logo design competitions for any public organization.
- d) The director may authorize any other procurement method for acquisition of logo for public institutions.
- e) The inviting organization shall set specific rules relating to the contest and other submission required and deemed appropriate
- f) Entrants shall affirm in writing that their submissions are their own original work, have not been copied from others or from previous designs, including their own, and do not violate the intellectual property rights of any other person or entity.
- g) The winning submission becomes the property of inviting organization and may be used for any inviting organization purpose.
- h) The inviting organization shall have the right to adapt, edit, modify, or otherwise use the winning submission in part or in its entirety in whatever manner it deems appropriate.
- i) The winners shall be notified within a period of three months from the date of closing of the submissions.
- j) Without prejudice to the specified rules there-above, the Institute shall develop National Logo Competition Guidelines stipulating among others, the prize for the winning entries.
- k) The guidelines specified in j) above shall be applicable to all creative graphic design competitions in;
 - i) *Public institutions including those in the County Governments*
 - ii) *Multinational and Organization with branch offices in Kenya*
- l) Private sector organizations may apply the competitions rules, as the case may be.

36. Provision relating to registration of creative Graphic designers.

- a) Creative Graphic designers may be registered with the Institute for purposes of advancing Creative Graphic design industry practice in Kenya
- b) The registrar will keep the register, wherein shall be entered the names and addresses of persons registered
- c) The register under b) shall be the principal prequalified government register for any design work required by any public institution
- d) Proprietors of registered designs, notifications of assignments and of transmissions of registered designs, and such other matter as may be prescribed and such register may be maintained wholly or partly, subject to such safeguards as may be prescribed.
- e) The register of designs existing at the commencement of this Act shall be incorporated with and form part of the register of designs under this Act.
- f) The register of designs shall be prima facie evidence of any matter by this Act directed or authorized to be entered therein

37. Formulation of Code of Ethics.

- a) The registrar shall, in consultations, develop a code of professional ethics for creative graphic designers
- b) A creative graphic designer shall;
 - i) comply with the existing laws, regulations, codes, procedures and practice of creative design in the area which he conducts business;
 - ii) As much as possible maintain certificate of registration and be in good standing
 - iii) serve clients by undertaking responsibilities diligently, with competence and professionally

PART C—FINANCIAL PROVISIONS

- 38. Funds of the Board** The funds of the Institute shall comprise;
- i) such monies or assets as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act; such gifts, grants, donations or other endowments given to the Institute; and
 - ii) Monies from any other donated or lent to the Institute.
- 39. Financial year.** The financial year of the Institute shall be the period of twelve months ending on the thirtieth June in every year.
- 40. Accounts and audits** The Management of the Institute shall cause to be kept all proper books and records or accounts relating to the income, expenditure, assets and liabilities of the Institute.

PART D—MISCELLANEOUS PROVISIONS

- 41. Registrar to furnish information from register on request** The registrar shall, at the request of any person and on payment of prescribed fee, furnish copies of any documents lodged at his office and which are open to public inspection or particulars from the register, or furnish a certificate in respect thereof.
- 42. Use of title.** The terms “Interior Design”, “Interior Designing” and “Interior Designer” are protected under this Act and shall only be applied to persons and firms registered and possess valid practice license pursuant to this Act.
- 43. Unregistered person not to practice as interior designer**
- a) After the expiration of six months from the commencement of this Act or such further period as the as Cabinet Secretary may, by notice in the Gazette specify, either generally or in respect of any particular person or class of persons—
 - i) no individual shall carry on business as a practicing interior designer unless he or she is registered as a interior designer;
 - ii) no partnership shall carry on business as practicing interior designers unless the partners whose activities include the doing of acts by way of such practice, are interior designers;
 - iii) no corporate body shall carry on business as interior designers unless the directors whose activities include the doing of acts by way of such practice, are interior designers.

- b) Any person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year or to both.

44. Indemnity requirements

After the expiration of six months from the commencement of this Act, no person shall carry on business as a practicing interior designer unless there is in force in relation to his business, a guarantee bond or a policy of insurance entered into or issued by an insurance company approved by the Institute guaranteeing that compensation shall be payable to persons suffering monetary loss through professional negligence of the persons so practicing.

45. Powers to make rules

- a) The Institute may make rules generally for the better carrying out the objectives of and purpose of this Act
- b) Without prejudice to the generality of the foregoing, may provide for;
 - i) the forms, fees and charges to be prescribed
 - ii) the manner and subject matter pertaining to trainings and continuous professional development;
 - iii) the form and method of keeping the register and other records under this Act;
 - iv) Procedure for the revoking a registration certificate;
 - v) a code of ethics, rules of professional conduct and standards of practice including their scope of practice and conditions under which such persons and firms may practice;
 - vi) Duties, responsibilities and control of the officers and employees of the Institute.
 - vii) Procedure for appointment of members of the Institute
 - viii) Inspection of interior design institutions including firms; and
 - ix) Anything required to be prescribed under this section.

SCHEDULE (S.6(1)) CONDUCT OF BUSINESS AND AFFAIRS OF THE INSTITUTE

1. Meetings

- a) The Institute Management shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
- b) Notwithstanding the provisions of subparagraph the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Institute Management.
- c) Unless three quarters of the total members of the Institute Management otherwise agree, at least fourteen days' written notice of every meeting of the Institute Management shall be given to every member of the Institute Management. The quorum for the conduct of the business of the Board shall be seven and no meeting shall be held or continued, notwithstanding that there is a quorum, unless the registrar or a person deputed by him is present.
- d) The chairperson shall preside at every meeting of the Institute Management at which he is present but, in the absence of the chairperson, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted, have all the powers of the chairperson.
- e) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote in addition to a deliberative vote.
- f) Subject to subparagraph (d), no proceedings of the Institute Management shall be invalid by reason only of a vacancy among the members thereof.

2. Disclosure of interests

- a) If a member of the Institute Management is directly or indirectly interested in any contract, proposed contract or other matter before Institute and is present at a meeting at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

- b) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- c) A member of the Institute Management who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

3. Minutes.

The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the bill is to provide for development, protection, promotion of creative designs and facilitate the development of Interior Design and Creative graphic design Practices in Kenya

PART A of the Bill provides for preliminary matters.

PART B provides for the establishment of the Institute of Designers of Kenya, its powers, management, composition and functions and the Institute registrar. The Registrar shall be the chief executive officer of the Institute. The Institute shall keep and maintain a register of designers registered under the Act

Section I provides for the registration and categorization of interior designers and firms. The Part also specifies provisions relating to temporary registration, the registration certificate and professional conduct of registered members

Section II of the Bill provides for development and promotion of creative graphic design practice in Kenya.

The Part provides its application and administration. The Part further provides for Novelty, secrecy and recognition of creative industry skills through training and apprenticeship. The part further provides for proprietorship of creative designs works in a design competition, Designs contrary to public policy or morality, Inventions by employees and development of Logo Design Competition Guidelines

PART C of the Bill provides for financial provisions.

PART D contains miscellaneous provisions. The Part provides for the registrar to furnish information from register on request, use of titles, , indemnity requirements, dishonest practices and includes a provision on the preparation of regulations by the Cabinet Secretary.

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

This law when enacted will confer the Cabinet Secretary for the time being responsible for matters relating to Design the authority to make provisions having the force of law in Kenya. Under section 45 of this Act, the Cabinet Secretary is given powers to make regulations generally for the better carrying into effect the provisions of this Act.

Limits of the Delegated Authority

The regulations made under this Act by the Cabinet Secretary will be limited to bringing into effect provisions of this Act and in particular the following: Logo design competition, the forms, fees and charges to be prescribed, a code of ethics, rules of professional conduct and standards of practice including their scope of practice and conditions under which such persons and firms may practice

Statement that the Bill concerns County Governments

The Bill does not concern County Governments in terms of Article 110 (1) (a) of the Constitution as it affects the functions and powers of National Government set out in the Fourth Schedule.

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

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

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Dated; October, 2023

Ministry of Lands, Public Works, Housing & Urban Development