

BUSINESS REGISTRATION SERVICE (AMENDMENT) BILL, 2021

BUSINESS REGISTRATION SERVICE (AMENDMENT) BILL, 2021

A Bill for

AN ACT of Parliament to amend the Business Registration Service Act and for connected purposes.

ENACTED by the Parliament of Kenya as follows—

- Short title. **1.** This Act may be cited as the Business Registration Service (Amendment) Act, 2021.
- Amendment of the long title of the principal Act. **2.** The Business Registration Service Act No. 15 of 2015, in this Act referred to as the "principal Act" is amended by inserting the words "and Insolvency" between the word "Registration" and "Service" appearing in the long title.
- Amendment of the short title of the principal Act. **3.** The principal Act is amended in the short title by deleting the short title and substituting therefor the following new short title—
- Short title. **1.** This Act may be cited as the Business Registration and Insolvency Service Act, 2015.
- Amendment of the section 2 of the principal Act. **4.** The principal Act is amended in section 2 by deleting the definition of the term "Service" and substituting therefore the following new definition—
- (a) "Service" means the Business Registration and Insolvency Service established under section 3.
- Amendment of section 3 of the principal Act. **5.** The principal Act is amended by deleting section 3 and substituting therefor the following new section—
- Establishment of the Service. **3.** (1) There is established a service to be known as the Business Registration and Insolvency Service.
- (2) The service shall be a body corporate with perpetual succession and common seal and shall in its corporate name be capable of—
- (a) suing and being sued;
- (b) acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts;
- (e) charging fees for the services rendered under this Act; and

BUSINESS REGISTRATION SERVICE (AMENDMENT) BILL, 2021

(f) doing or performing such other things or acts as may legally be done or performed by a body corporate for the proper discharge of its functions under this Act.

(3) The headquarters of the Service shall be in Nairobi but the Service shall subject to Article 6(3) of the Constitution, ensure access to its services in other parts of the Republic.

Amendment of section 4 of the principal Act.

4. The principal Act is amended in section 4 by inserting the following new subsection immediately after subsection 2—

(3) The Service shall in the furtherance of its functions under this Act, be responsible for the administration of the laws listed in the Second Schedule.

Amendment to section 5 of the principal Act.

5. The principal Act is amended in section 5 by—

(a) deleting subsection (3) and substituting therefore the following new subsection—

(3) The President shall appoint a person who has knowledge and proven experience in matters relating to the Service to be the chairperson.

(b) inserting the following new section immediately after subsection (3)—

(4) The Cabinet Secretary shall appoint a person who has knowledge and proven experience in matters relating to the Service to be a member of the Service under paragraph 2(e).

Amendment to section 6 of the principal Act.

6. The principal Act is amended in section 6 by—

(a) deleting paragraph (1) (b); and

(b) deleting the words "Cabinet Secretary" appearing in paragraph 6(2)(c) and substituting therefore the words "appointing Authority".

Amendment to section 8 of the principal Act.

7. The principal Act is amended in section 8 by—

(a) deleting the word "Board" appearing in the marginal note and substituting therefore the word "Service"; and

(b) deleting the word "Board" wherever it appears in the body of the section and substituting therefore the word "Service".

Amendment of section 9 of the principal Act.

8. The principal Act is amended by deleting section 9 and substituting therefor the following new section—

BUSINESS REGISTRATION SERVICE (AMENDMENT) BILL, 2021

- Meetings of the Board.
- 9.** (1) The meetings of the Board shall be as prescribed in the First Schedule to this Act.
- (2) Despite subsection (1), the Board may regulate its own procedure.
- (3) The Board may co-opt into its membership a person whose knowledge and skills are considered exceptional for the effective discharge of the functions of the Service under this Act.
- Amendment of section 11 of the principal Act.
- 9.** The principal Act is amended in section 11 by—
- (a) deleting the word "Board" appearing in the marginal note and substituting therefore the word "Service"; and
- (b) deleting the word "Board" wherever it appears in the body of the section and substituting therefore the word "Service".
- Amendment of section 14 of the principal Act.
- 7.** The principal Act is amended in section 14 by deleting the phrase "Registrar-General" appearing in subsection(1) and substituting therefor the phrase "Director-General".
- Amendment of section 16 of the principal Act.
- 8.** The principal Act is amended in section 16 by—
- (a) deleting the word "Board" appearing in the marginal note and substituting therefore the word "Service"; and
- (b) deleting the word "Board" wherever it appears in the body of the section and substituting therefore the word "Service".
- Amendment of section 22 of the principal Act.
- 9.** The principal Act is amended in section 22 by—
- (a) deleting the word "Board" appearing in the marginal note and substituting therefore the word "Service"; and
- (b) deleting the word "Board" wherever it appears in the body of the sections and substituting therefore the word "Service".
- Amendment of section 27 of the principal Act.
- 10.** The principal Act is amended in section 27 by—
- (a) deleting the word "Board" appearing in the subsection (1) and substituting therefore the word "Service"; and
- (b) deleting the word "Board" appearing in subsection (2) and substituting therefore the word "Service".
- Amendment of section 30 of the principal Act.
- 11.** The principal Act is amended by deleting section 30 and substituting therefore the following new section—
- Regulations.
- 30.** (1) The Cabinet Secretary in consultation with the Board, may pursuant to Article 94(6) of the Constitution, make Regulations generally for the

BUSINESS REGISTRATION SERVICE (AMENDMENT) BILL, 2021

better carrying into effect the provisions of this Act.

Amendment of Schedule to the principal Act.

9. The principal Act is amended by deleting the Schedule and substituting therefore the following new Schedules—

S. 9(1)

FIRST SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Meetings.

1. (1) The Board shall meet at least four times in every financial year and not more than four months shall lapse between the date of one meeting and the date of the next meeting.
- (2) A meeting of the Board shall be held on such date and at such time and place as the Board may determine.
- (3) The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Board.
- (4) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.
- (5) The quorum for the conduct of business at a meeting of the Board shall be any five members excluding ex-officio members of the Board.
- (6) The chairperson shall preside at every meeting of the Board at which he or she is present and in the absence of the chairperson at a meeting, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.
- (7) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting at the meeting and in the case of an equality of votes, the chairperson or the person presiding shall have a second or casting vote.
- (8) Subject to paragraph 5, no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

BUSINESS REGISTRATION SERVICE (AMENDMENT) BILL, 2021

(9) Unless otherwise provided by or under any law, all instruments and decisions of the Board shall be signified under the hand of the chairperson.

(10) Subject to this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make rules in respect thereof.

Disclosure of interest. of **2.** (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that person shall, at the meeting and as soon as reasonably 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.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

Contracts and instruments. and **3.** Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

S. 4(3).

SECOND SCHEDULE

LAWS UNDER THE ADMINISTRATION OF THE SERVICE

- 1.** Moveable Property Security Rights Act, No. 13 of 2017.
- 2.** Companies Act, No. 17 of 2015.
- 3.** Insolvency Act, No. 18 of 2015.
- 4.** Limited Liability Partnership Act, No. 42 of 2011.
- 5.** Hire Purchase Act, Cap. 507.

BUSINESS REGISTRATION SERVICE (AMENDMENT) BILL, 2021

MEMORANDUM OF REASONS AND OBJECTS