

THE NATIONAL CORONERS SERVICE (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the National Coroners Service Act, 2017

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the National Coroners Service (Amendment) Act, 2023.

Amendment to section 2 of No. 18 of 2017.

2. Section 2 of the National Coroners Services Act, 2017, in this Act referred to as the “principal Act” is amended—

- (a) by deleting the definition of the term “Cabinet Secretary”;
- (b) by deleting the definition of the term “Coroner” and substituting therefor the following definition—

“coroner” means a coroner appointed under section 15;

- (c) in the definition of the term “interested person”—

- (i) by deleting the word “examiner” appearing in paragraph (c) and substituting therefor the word “practitioner”; and

- (ii) by inserting the words “or a representative of the employer” immediately after the word “employment” appearing in paragraph (g);

- (d) by inserting the following new definitions in proper alphabetical sequence—

“Attorney-General” means the Attorney-General appointed under Article 156 of the Constitution;

“Coroner-General” means the Coroner-General appointed under section 9;

“coronial services” means the services offered by a coroner in exercise of the functions of the Service specified under section 19;

“Council” means the National Coroners Service Council established under section 8A;

“officer” means—

- (a) a police officer under the National Police Service Act, 2011;

- (b) a military police under the Kenya Defence Forces Act,

2012;

(c) a national government administrative officer under the National Government Co-ordination Act, 2013; or

(d) a prison officer under the Prisons Act;

“reportable deaths” means a death which occurs under the circumstances specified under section 24;

Amendment to section 3 of No. 18 of 2017.

3. Section 3 of the principal Act is amended by deleting the words “and appointment of coronial officers” appearing in paragraph (a).

Amendment to section 8 of No. 18 of 2017.

4. Section 8 of the principal Act is amended by deleting subsection (2) and substituting therefor the following subsection—

(2) A person who influences or attempts to influence a decision of the Coroner-General or member of the Service; or interferes with the exercise of powers or the performance of a function under this Act, commits an offence and is liable on conviction—

(a) to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years; or

(b) where the offence is committed by a body corporate, a fine of two million shillings.

Insertion of new sections to No. 18 of 2017.

5. The principal Act is amended by inserting the following new sections immediately after section 8—

Establishment of the Council.

8A. (1) There shall be a National Coroners Service Council which shall consist of—

(a) a chairperson appointed by the President;

(b) the Attorney-General or a designated representative;

(c) the Principal Secretary responsible for the National Treasury or a designated representative;

(d) the Inspector-General of the National Police Service or a designated representative;

(e) the Director of Public Prosecutions or a designated representative;

(f) the Principal Secretary responsible for health services or a designated representative;

(g) one person nominated by both the Kenya National Commission on Human Rights and Law Society of Kenya;

(h) one person nominated by the Council of Governors;

(i) one medical practitioner or dental practitioner nominated by the Kenya Medical Practitioners and Dentists Council; and

(j) the Coroner-General.

(2) A person qualifies to be appointed as the chairperson of the Council if the person—

(a) is a Kenyan citizen

(b) has at least fifteen years' experience in the field of law, criminology or human rights;

(c) holds a degree from a university recognized in Kenya; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) A person qualifies to be appointed under subsection (1) (g) if the person—

(a) has at least ten years' experience in the field of law, public administration, economics, finance, gender and social development, human rights or social sciences;

(b) holds a degree from a university recognized in Kenya; and

(c) meets the requirements of Chapter Six of the Constitution.

(4) A member of the Council appointed under subsection (1) (a), (g), (h) or (i) shall serve for a term of three years and shall be eligible for re-appointment for one final term.

(5) The office of member of the Council appointed under subsection (1) (a), (g), (h) or (i) shall become vacant where the holder—

(a) dies;

- (b) resigns from office in writing;
- (c) term of office expires;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment;
- (e) has been adjudged bankrupt
- (f) is absent from three consecutive meetings of the Council; or
- (g) is removed from office for any of the following grounds—
 - (i) violation of the Constitution or any other law;
 - (ii) gross misconduct; or
 - (iii) inability to perform the functions of the office arising out of physical or mental incapacity.

(7) The Council shall—

- (a) formulate and review the policy on coronial services;
- (b) advise the Service on coronial services, the administration of the Service; and the expenditure of the Service; and
- (c) perform such other functions as are conferred by any other written law.

(8) The Council shall, within three months after the end of each financial year prepare an annual report and submit the report to the Attorney-General and Parliament.

(9) The report referred to in subsection (8) shall specify—

- (a) a description of the activities of the Service;
- (b) the financial statements of the Service;
- (c) all the measures taken and the progress achieved in the realization of each of the functions of the Service;
- (d) any recommendations made by the Service and the action taken thereafter;

- (e) the impact of the exercise of the functions of the Service;
- (f) any impediments to the achievements of the functions of the Service; and
- (g) such other information as the Council considers appropriate relating to the functions of the Service.

(10) The Council may delegate to any committee of the Council to a member of staff of the Service the performance of any of its functions.

(11) The affairs of the Council shall be conducted in accordance with the Schedule.

(12) Without prejudice to subsection (11), the Council may regulate its own procedure.

Corporation
secretary to the
Council.

8B. There shall be a corporation secretary to the Council who shall be appointed by the Council through a competitive and transparent process, on such terms as the Council may determine.

Amendment to
section 9 of No.
18 of 2017.

6. Section 9 of the principal Act is amended—

- (a) in subsection (1) by deleting the words “Cabinet Secretary, on the recommendation of the Public Service Commission” and substituting therefor the words “Council through a competitive and transparent process, on such terms as the Council may determine”
- (b) in subsection (2) by deleting the words “Public Service Commission, such number of coroners” and substituting therefor the word “Council”.

Amendment to
section 10 of No.
18 of 2017.

7. Section 10 of the principal Act” is amended—

- (a) by inserting the following new paragraphs immediately after paragraph (a)—
 - (aa) has practised as a medical practitioner for at least fifteen years;
 - (ab) has at least five years’ experience the field of human pathology;
- (b) in paragraph (c) by deleting the words “degree in medicine” and substituting therefor the words “Bachelors’ degree in medicine and

surgery”;

(c) by deleting paragraph (f) and substituting therefor the following paragraph—

(f) possesses a qualification obtained pursuant to training for a period of at least six months in forensic pathology.

Amendment to
section 11 of No.
18 of 2017.

8. Section 11 of the principal Act is amended—

(a) in subsection (1) by deleting the word “five” and substituting therefor the word “six”

(b) in subsection (2) by deleting the words “Cabinet Secretary” and substituting therefor the word “Council”.

Amendment to
section 12 of No.
18 of 2017.

9. Section 12 of the principal Act is amended—

(a) in subsection (1)—

(i) by inserting the words “due to physical or mental incapacity” immediately after the word “office” appearing in paragraph (b);

(ii) by deleting paragraph (d);

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

(2) Where a request for the removal of the Coroner-General from office for a reason under subsection (1) arises, the Council shall inform the Coroner-General in writing of the request and the Coroner-General may respond to the allegations raised in the request.

(c) by deleting subsection (3)

Amendment to
section 13 of No.
18 of 2017.

10. Section 13 of the principal Act is amended by deleting the words “Cabinet Secretary” and substituting therefor the word “Council”.

Repeal of section
14 of No. 18 of
2017.

11. The principal Act is amended by repealing section 14.

Amendment to
section 15 of No.
18 of 2017.

12. Section 15 of the principal Act is amended—

(a) in subsection (1) by deleting the words “Public Service Commission” and substituting therefor the words “Council through

a competitive and transparent process, on such terms as the Council may determine”

- (b) in subsection (2) by deleting the words “Cabinet Secretary” and substituting therefor the word “Council”.

Repeal of section 16 of No. 18 of 2017.

13. The principal Act is amended by repealing section 16.

Repeal of section 17 of No. 18 of 2017.

14. The principal Act is amended by repealing section 17.

Repeal of section 18 of No. 18 of 2017.

15. The principal Act is amended by repealing section 18.

Repeal and replacement of section 19 of No. 18 of 2017.

16. The principal Act is amended by repealing section 19 and replacing therefor the following section—

Functions of the Service.

19. The functions of the Coroner Service shall be—

- (a) to conduct forensic medical investigation on reportable deaths;
- (b) assist the police in handling investigations involving decedent bodies and scene management by providing forensic medical science services;
- (c) participate in inquiries into reportable deaths conducted under sections 386, 387 and 388 of the Criminal Procedure Code;
- (d) advise on public health, public safety and administration of justice matters relating to reportable deaths;
- (e) conduct forensic study on measures to prevent the occurrence of reportable deaths for the purpose of advising the Government in policy formulation;
- (f) perform such other function on matters related to reportable deaths for the fulfillment of the objects of this Act.

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Repeal and replacement of section 20 of No. 18 of 2017.

17. The principal Act is amended by repealing section 20 and replacing therefor the following section—

Functions of the
Coroner-General.

20. The functions of the Coroner-General shall be—

- (a) to ensure efficient delivery of the functions of the Service in accordance with the Constitution, this Act and any other written law;
- (b) the day-to-day management of the affairs of the Service;
- (c) to manage the budget of the Service; and
- (d) to perform such other functions as may be conferred under this Act or any other law.

Repeal and
replacement of
section 22 of No.
18 of 2017.

18. The principal Act is amended by repealing section 22 and replacing therefor the following section—

Powers of the
Coroner-General.

22. The Coroner-General shall have the power to—

- (a) issue consent to the Registrar of Births and Deaths on the issuance of a certificate of cause of death for a person who died from a reportable death;
- (b) request a magistrate to hold an inquiry in accordance with section 387 of the Criminal Procedure Code in relation to a reportable death;
- (c) designate a facility for temporary holding or storage of a deceased person; and
- (d) approve the transfer of deceased persons outside the territory of Kenya.

Cap. 75

Repeal and
replacement of
section 24 of No.
18 of 2017.

19. The principal Act is amended by repealing section 24 and replacing therefor the following section—

Obligations on
reportable
deaths.

24. (1) The Service shall have jurisdiction to investigate all reportable deaths.

(2) All deaths that occur in Kenya shall be deemed to be reportable deaths.

(3) Without prejudice to the generality of subsection (2), reportable death occurs where—

- (a) a deceased person is reported to have died of an act of violence, accident, from suspected homicide or

suicide;

- (b) a deceased person is reported to have experienced a sudden and unexpected death;
- (c) a deceased person died in police custody, military custody, prison custody or other form of custody;
- (d) a deceased person has died within one year and one day of suffering from an assault;
- (e) a deceased person has died within twenty-four hours following a surgical or invasive procedure;
- (f) a deceased person has died during or immediately after the administration of anaesthesia;
- (g) a deceased person has died within twenty-four hours after being discharged from a health facility;
- (h) the death is a maternal death;
- (i) a deceased person is a victim of a sexual offence under the Sexual Offences Act, 2006;
- (j) a deceased person has died from suspected infanticide;
- (k) the death is a cot death;
- (l) a child has died from suspected child abuse;
- (m) a deceased person has died within a mental health facility;
- (n) a deceased person has died in a children's institution, education institution, early childhood education centre, child care facility or any other facility offering care or protection to a child;
- (o) a deceased person has died while in the care of a guardian;
- (p) a deceased person is suspected to have died from misadventure, negligence, misconduct, or malpractice;
- (q) a deceased person has died from a disease for which the person was treated by an unqualified healthcare professional;

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(r) a deceased person has died from a disease for which the person was treated by an individual not qualified to offer that treatment; or

(s) a deceased person has died under such circumstances as the Inspector General of the National Police Service may require to be investigated.

(4) A person who suspects that the death of a person is a reportable death shall immediately notify the Service or an officer.

(5) On receiving the notice under subsection (4), the Service shall immediately notify a police officer of the reportable death.

(6) An officer who has been notified under subsection (4) shall immediately notify the Service of the reportable death.

(7) A person who fails to notify the Service or a police officer of a reportable death commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

(8) In this section “guardian” means a person who is legally responsible for, entrusted with the care, welfare or protection of an individual.

Amendment to
section 25 of No.
18 of 2017.

20. Section 25 of the principal Act is amended—

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

(1) Where death occurs in police custody, military custody, prison custody or any other form of custody, an officer in the area shall notify the Service immediately after the death is discovered.

(b) by inserting the following new subsection immediately after subsection (1)—

(1A) An officer who does not comply with subsection (1) commits an offence.

(c) in subsection (2) by deleting the expression “subsection (1)(b)” and substituting therefor the expression “subsection (1)”;

(d) in subsection (3) by inserting the words “or any other form of custody immediately after the words “prison custody”.

Amendment to section 26 of No. 18 of 2017.

21. Section 26 of the principal Act is amended—

(a) by deleting the word “reporting” appearing in marginal note and substituting therefor the word “investigations”;

(b) by deleting the words “Coroner-General” and substituting therefor the word “Service”.

Amendment to section 27 of No. 18 of 2017.

22. Section 27 of the principal Act is amended by inserting the words “or omission” immediately after the words “an act”.

Repeal of section 28 of No. 18 of 2017.

23. The principal Act is amended by repealing section 28.

Amendment to section 32 of No. 18 of 2017.

24. Section 32 of the principal Act is amended—

(a) in subsection (3) by deleting the words “not later than seven days” and substituting therefor the words “within three months”;

(b) in subsection (4) by deleting the words “notification of a death: and substituting therefor the words “post-mortem investigation”;

(c) by deleting subsection (5) and substituting therefor the following subsection—

(5) A coroner shall submit to the Director of Public Prosecutions, National Police Service and any other relevant entity as the case may be, a final and conclusive report of an investigation within three months after conducting the post-mortem:

Provided that where the coroner does not submit the report within the stipulated time, the coroner shall notify, in writing, the Director of Public Prosecutions, National Police Service and any other relevant entity as the case may be, of the reasons for the delay.

Insertion of new sections to No. 18 of 2017.

25. The principal Act is amended by inserting the following new sections immediately after section 33—

Review of investigations by the Service.

34A. A coroner may, on application by an aggrieved party or on the coroner’s own motion, review the report of an investigation conducted by the Service on the ground that—

- (a) the circumstances warrant a fresh investigation;
- (b) the emergence of a new fact or evidence that was previously not within the knowledge of the coroner; or
- (c) emergence of new technology beneficial to the conduct of the investigation.

Amendment to section 35 of No. 18 of 2017.

26. Section 35 of the principal Act is amended—

- (a) by deleting subsection (2);
- (b) by deleting subsection (3).

Repeal of section 36 of No. 18 of 2017.

27. The principal Act is amended by repealing section 36.

Repeal of section 37 of No. 18 of 2017.

28. The principal Act is amended by repealing section 37.

Repeal of section 38 of No. 18 of 2017.

29. The principal Act is amended by repealing section 38.

Amendment to section 39 of No. 18 of 2017.

30. Section 39 of the principal Act is amended by deleting subsection (3) and substituting therefor the following section—

(3) A person who interferes with or tampers with evidence or at a crime scene commits an offence and shall be liable on conviction—

- (a) to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years; or
- (b) where the offence is committed by a body corporate, a fine of two million shillings.

Repeal of section 40 of No. 18 of 2017.

31. The principal Act is amended by repealing section 40.

Amendment to section 41 of No. 18 of 2017.

32. Section 41 of the principal Act is amended in subsection (1) by deleting the words “This section shall apply if” and substituting therefor the word “Where”.

Repeal of section 42 of No. 18 of 2017.

33. The principal Act is amended by repealing section 42.

Amendment to section 43 of No. 18 of 2017.

34. Section 43 of the principal Act is amended by deleting subsection (2) and substituting therefor the following subsection—

(2) The Service may procure the services of a qualified medical practitioner or any other expert to conduct a post-mortem examination.

Amendment to section 44 of No. 18 of 2017.

35. Section 44 of the principal Act is amended—

(a) in subsection (2) by deleting the word “autopsy” and substituting therefor the words “post-mortem examination”;

(b) in subsection (3) by deleting the word “autopsy” appearing in paragraph (b) and substituting therefor the words “post-mortem examination”;

(c) in subsection (8) by deleting the word “autopsy” and substituting therefor the words “post-mortem examination”.

Repeal and replacement of section 45 of No. 18 of 2017.

36. The principal Act is amended by repealing section 45 and replacing therefor the following section—

Conduct of post-mortem examination.

45. (1) The Service may authorise an interested person, or a representative of the interested person, to observe or participate in a post-mortem investigation for the purposes of the vocational training, clinical education or training of the person.

(2) Before issuing the authorisation under subsection (1), a coroner shall be satisfied that—

(a) the person or representative has an interest in the post-mortem investigation;

(b) the attendance of the person or representative, shall not compromise the integrity of the post-mortem investigation; and

(c) where practicable, a family member of the deceased person has been consulted.

(3) Upon issuing an authorisation under subsection (1), a coroner shall issue to the person or representative a notice of the time and place where the post-mortem investigation is to be conducted.

(4) A coroner shall prepare a post-mortem report within three months after completing the post-mortem investigation.

Repeal of section 46 of No. 18 of 2017.

37. The principal Act is amended by repealing section 46.

Repeal and replacement of section 47 of No. 18 of 2017.

38. The principal Act is amended by repealing section 47 and replacing therefor the following section—

Tissues required for conducting post-mortem examination.

47. (1) This section applies where a coroner requires the removal of tissue from a deceased person for testing in the conduct of a post-mortem examination.

(2) If prescribed tissue has been removed, a coroner may order the release of the deceased person where the coroner is satisfied that the guardian of the deceased person has been informed of the extraction of the prescribed tissue and the retention of the prescribed tissue is necessary for the conduct of the investigation.

(3) If tissue kept for testing is prescribed tissue, a coroner shall, at least once in every six months after the commencing the post-mortem examination, determine whether—

- (a) the tissue still needs to be kept for the investigation or proceedings for an offence;
- (b) the tissue may be disposed of; or
- (c) the processed prescribed tissue may be stored indefinitely.

(4) In this section “prescribed tissue” means any type of human tissue that has been identified as suitable for a particular purpose by the Service.

Insertion of new section 47A to No. 18 of 2017.

39. The principal Act is amended by inserting the following new section immediately after section 47—

Donation of body or tissue of deceased person.

47A. (1) The Service may retain the body or tissue of a deceased person where—

- (a) the person donated the body or tissue by will, in a document or by an oral statement, made in the prescribed manner;
- (b) after the death, an interested person, donates the body or tissue, made in the prescribed manner; or

(c) in the absence of (a) or (b), the Service, on its own motion or on an application made in the prescribed manner by an interested person, determines that it is necessary to do so.

(2) A body or tissue of a deceased person may only be retained for the purpose of—

- (a) training students undertaking a course in health sciences;
- (b) conducting research;
- (c) the advancement of health sciences;
- (d) offering therapeutic treatment to another person; or
- (e) the production of a therapeutic, diagnostic or prophylactic substance.

Repeal and replacement of section 49 of No. 18 of 2017.

40. The principal Act is amended by repealing section 49 and replacing therefor the following section—

Disposal of body or tissue of deceased person.

49. (1) A person who intends to or transfer the body or tissue of a deceased person outside the territory of Kenya, shall apply for consent from a coroner for the issuance of certificate of the cause of death issued under the Registration of Births and Death Act.

(2) A person who intends to bury, cremate, dispose of the body or tissue of a deceased person who died from a reportable death, shall apply for certificate of the cause of death from a coroner.

(3) A person who intends to bury, cremate, dispose of the body or tissue of a deceased person whose death was not investigated in Kenya, shall obtain a medical certificate of the cause of death issued by the country where the death occurred.

(4) This section shall not apply to—

- (a) a body or tissue thereof retained under section 47;
- (b) tissue taken during a medical procedure; and

No. 6 of 2006.

(c) antiquities under the National Museums and Heritage Act, 2006.

Amendment to section 50 of No. 18 of 2017.

41. Section 50 of the principal Act is amended in subsection (2) by deleting paragraph (f).

Repeal and replacement of section 51 of No. 18 of 2017.

42. The principal Act is amended by repealing section 51 and replacing therefor the following section—

Control of body of deceased person.

51. (1) Unless a death is reported to the Service after the body of a deceased person has been disposed of, the Service shall have control of a body of a deceased person immediately the body is delivered to the custody of the Service.

(2) The Service shall cease control of the body of a deceased person when the coroner stops investigating the death and—

(a) authorises a doctor to issue a cause of death certificate for the deceased person; or

(b) release of the body of the deceased person in accordance with this Act or any other written law.

(3) For purposes of subsection (2)(b), unless the Service considers it is necessary to bury the body, the Service shall not order the release a body for burial where the coroner cannot determine the identity of the deceased person.

Repeal of section 52 of No. 18 of 2017.

43. The principal Act is amended by repealing section 52.

Repeal and replacement of section 53 of No. 18 of 2017.

44. The principal Act is amended by repealing section 53 and replacing therefor the following section—

Discontinuing of investigation.

53. (1) The Service may discontinue the investigation if—

(a) the Service determines that the person died of a natural cause;

(b) a court order has been issued to discontinue the investigation;

(c) the coroner who conducted the investigation has a conflict of interest while conducting the investigation; or

(d) the Service determines that it is prudent to

discontinue the investigation for public health or public safety concerns.

(2) Where an investigation is discontinued, the Service shall prepare a report as soon as practicable and a written explanation as to why the coroner discontinued the investigation.

Repeal of section 54 of No. 18 of 2017.

45. The principal Act is amended by repealing section 54.

Repeal of section 55 of No. 18 of 2017.

46. The principal Act is amended by repealing section 55.

Repeal and replacement of section 56 of No. 18 of 2017.

47. The principal Act is amended by repealing section 56 and replacing therefor the following section—

Complaints to the Council.

56. (1) An interested person may lodge a complaint to the Council against any of the following decisions made by the Service —

- (a) whether or not to conduct a post-mortem examination;
- (b) the entitlement to observe or participate in the conduct of the post-mortem examination;
- (c) the determination made at the outcome of a post-mortem investigation;
- (d) the review a post-mortem examination;
- (e) the resumption a post-mortem examination;
- (f) the issuance of a certificate of cause of death; or
- (g) the transfer, retention or disposal of the body or tissue of a deceased person.

(2) Upon considering a complaint, the Council may make such recommendations as it deems necessary to a coroner.

(3) A person who is aggrieved by a recommendation made under subsection (2) may appeal to Court.

Amendment to section 57 of No. 18 of 2017.

48. Section 57 of the principal Act is amended by deleting subsection (2).

Amendment to
section 58 of No.
18 of 2017.

49. Section 58 of the principal Act is amended—

(a) in subsection (2)—

- (i) by inserting the words “of the Council” immediately after the word “members” appearing in paragraph (a);
- (ii) by deleting the word “Commission” appearing in paragraph (c) and substituting therefor the word “Service”;

(b) in subsection (3)—

- (i) by deleting the word “Commission” and substituting therefor the word “Council”;
- (ii) by deleting the words “Cabinet Secretary” and substituting therefor the words “Attorney-General”;

(c) by inserting the following new subsection immediately after subsection (3)—

(4) No expenditure shall be incurred by the Service except in accordance with the annual estimates approved under subsection (3), or authorised by the Council and the prior written approval of the Attorney-General.

Amendment to
section 60 of No.
18 of 2017.

50. Section 60 of the principal Act is amended in subsection (1) by deleting the word “Commission” and substituting therefor the word “Service”.

Repeal of section
61 of No. 18 of
2017.

51. The principal Act is amended by repealing section 61.

Repeal and
replacement of
section 62 of No.
18 of 2017.

52. The principal Act is amended by repealing section 62 and replacing therefor the following section—

State to bear cost
of post-mortem
examination.

62. The cost of undertaking a post-mortem examination shall be borne by the State.

Repeal and
replacement of
section 63 of No.
18 of 2017.

53. The principal Act is amended by repealing section 63 and replacing therefor the following section—

Conflict of
interest.

63. Where the personal interest of a coroner conflicts with the exercise of a power or performance of a function of the Service under this Act, the coroner shall declare to the Council and refrain from exercising that power or

performing that function.

Repeal and replacement of section 64 of No. 18 of 2017.

54. The principal Act is amended by repealing section 64 and replacing therefor the following section—

Protection from personal liability.

64. Anything done by a member of the Council or staff of the Service if done in good faith in the execution of a power or performance of a function of the Service under this Act, shall not render such member or staff personally liable for any action, claim or demand.

Amendment to section 65 of No. 18 of 2017.

55. Section 65 of the principal Act is amended in subsection (2) by deleting the words “breaches any of the provisions of this Act shall be deemed to be in contempt of Parliament” and substituting therefor the words “contravenes subsection (1) commits an offence”.

Repeal of section 66 of No. 18 of 2017.

56. The principal Act is amended by repealing section 66.

Amendment to section 67 of No. 18 of 2017.

57. Section 67 of the principal Act is amended by deleting the words “of giving information and other things to coroner” appearing in the marginal note.

Repeal of section 68 of No. 18 of 2017.

58. The principal Act is amended by repealing section 68.

Amendment to section 69 of No. 18 of 2017.

59. Section 69 of the principal Act is amended by deleting the word “five” and “month” and substituting therefor the words “two” and “year” respectively.

Repeal and replacement of section 70 of No. 18 of 2017.

60. The principal Act is amended by repealing section 70 and replacing therefor the following section—

Offence of failure to supply information.

70. A person who, without reasonable excuse, fails supply information or documents or other items things, to the extent that the person is capable of supplying with, and that a coroner requires the person to, commits an offence and is liable on conviction—

(a) to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year; or

(b) where the offence is committed by a body corporate, a fine of two million shillings.

Repeal and replacement of

61. The principal Act is amended by repealing section 71 and replacing therefor the following section—

section 71 of No.
18 of 2017.

Offence of false
or misleading
statements.

71. A person who makes a statement or omits any matter knowing that, or being reckless as to whether, the statement or omission makes the document false or misleading in a material particular, commits an offence and is liable on conviction—

(a) to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years; or

(b) where the offence is committed by a body corporate, a fine of two million shillings.

Amendment to
section 72 of No.
18 of 2017.

62. Section 72 of the principal Act is amended—

(a) renumbering the existing provision as subsection (1);

(b) inserting the following new subsection immediately after subsection (1)—

(2) A person who is convicted of the offence under subsection (1) shall be liable—

(a) to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years; or

(b) where the offence is committed by a body corporate, a fine of two million shillings.

Amendment to
section 73 of No.
18 of 2017.

63. Section 73 of the principal Act is amended by deleting paragraph (b) and substituting therefor the following paragraph—

(b) where the offence is committed by a body corporate, a fine of two million shillings.

Amendment to
section 74 of No.
18 of 2017.

64. Section 74 of the principal Act is amended—

(a) in subsection (1) by deleting the words “Cabinet Secretary” and substituting therefor the words “Attorney-General”;

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

(2) Without prejudice to the generality of subsection (1), the regulations may prescribe—

- (a) the conduct of a forensic medical investigation;
- (b) the procedure for conducting a reviews of an investigation by the Service;
- (c) the procedure and considering a complaint by the Council;
- (d) the procedure for seeking a second opinion;
- (e) the procedure for obtaining a certificate of the cause of death from a coroner;
- (f) the procedure for the transfer of a body of a deceased person outside the territory of Kenya;
- (g) the procedure for the retention of the body or tissue of a deceased person; and
- (h) any other matter required in order to achieve the objects of the Act .

Insertion of
Schedule to No.
18 of 2017.

65. The principal Act is amended by inserting the following new schedule immediately after section 74—

SCHEDULE
(s. 8A (11))

THE CONDUCT OF AFFAIRS OF THE COUNCIL

Meetings of the
Council.

1. (1) The Council shall meet as often as may be necessary for the dispatch of its business but there shall be at least four meetings of the Council in any financial year.

(2) A meeting of the Council shall be held on such date and at such time and place as the Council may determine.

(3) The chairperson shall, on the written application of at least one-third of the members, convene a special meeting of the Council.

(4) The Chairperson shall preside at every meeting of the Council 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.

(5) The proceedings of the Council shall be not be deemed invalid only by reason of a vacancy among the

members thereof.

Quorum.

2. The quorum for the conduct of business at a meeting of the Council shall be five members excluding the *ex-officio* members of the Council.

Decisions of the Council.

3. A decision of the Council shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a casting vote.

Signification of instruments and decisions of the Council.

4. Unless otherwise provided by or under any law, all instruments made by and decisions of the Council shall be signified under the hand of the Chairperson.

Disclosure of interest by members

5. (1) If a member is directly or indirectly interested in any matter before the Council and is present at a meeting of the Council at which the 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 this meeting during consideration of the matter.

(2) Despite subparagraph (1) where 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 Council 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.

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

(4) A member of the Council 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 to both.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the Bill is to amend the National Coroners Service Act, 2017 to provide for the operationalisation of the Service.

Clause 2 of the Bill amends section 2 of the Act to delete the definition of the term “Cabinet Secretary” since the organisation of Government doesn’t provide for the cabinet secretary responsible for matter of justice. This clause also amends the definition of the term “interested person” to provide for medical practitioners and representatives of employers as interested persons. This clause also inserts the new definitions of the terms “Attorney-General”, “Coroner-General”, “coronial services”, “Council”, “officer” and “reportable deaths”.

Clause 3 of the Bill amends section 3 of the Act to delete the words “and appointment of coronial officers” as an object of the Act since the appointment of coroners and other members of staff of the Service is incidental to the process of establishment of the Service.

Clause 4 of the Bill amends section 8 of the Bill to insert a penalty where a person is convicted for an offence under subsection (2).

Clause 5 of the Bill inserts a new section 8A to the Act to provide for the establishment of the Council, the composition, qualifications, vacation from office and functions of the Council. This clause also provides for the submission of an annual report of the operations of the Service to Parliament. This clause also inserts a new section 8B to provide for the appointment of the corporation secretary to the Council.

Clause 6 of the Bill amends section 9 of the Act to provide for the appointment and terms of service of the Coroner-General to be determined by the Council and not the Public Service Commission.

Clause 7 of the Bill amends section 10 of the Act to provide for the qualifications for appointment as a coroner-general to include having practised as a medical practitioner for at least fifteen years, and five years in the field of human pathology, possessing a bachelors’ degree in medicine and surgery and a qualification obtained pursuant to training for a period of at least six months in forensic pathology.

Clause 8 of the Bill amends section 11 of the Act to provide for the term of office of the Coroner-General and the terms of service of the Coroner-General to be determined by the Council rather than the Cabinet Secretary.

Clause 9 of the Bill amends section 12 of the Act to provide for the grounds for the removal from the office of the Coroner-General to include inability to perform the function of the office due to physical or mental incapacity. This clause also provides that the hearing of a request for removal of the Coroner-General from office shall be determined by the Council and that the Coroner-General may respond to the request.

Clause 10 of the Bill amends section 13 of the Act to provide that the resignation of the Coroner-General to be addressed to the Council rather than the Cabinet Secretary.

Clause 11 of the Bill repeals section 14 of the Act to enable the organisational structure of the Service to be established administratively.

Clause 12 of the Bill amends section 15 of the Act to provide for the appointment and terms of service of the members of staff of the Service to be determined by the Council and not the Public Service Commission or the Cabinet Secretary.

Clause 13 of the Bill repeals section 16 of the Act since section 5 of the Public Officer Ethics Act already provides for the prescribing of a code of conduct of the members of staff of the Service.

Clause 14 of the Bill repeals section 17 of the Act to enable the scheme of service for the members of staff of the Service to be established administratively.

Clause 15 of the Bill repeals section 18 of the Act to enable the training of the members of staff of the Service to be determined administratively.

Clause 16 of the Bill repeals section 19 of the Act and replace it with a new section that provides for the functions of the Service.

Clause 17 of the Bill repeals section 20 of the Act and replace it with a new section that provides for the functions of the Coroner-General.

Clause 18 of the Bill repeals section 22 of the Act and replace it with a new section that provides for the powers of the Coroner-General.

Clause 19 of the Bill repeals section 24 of the Act and replace it with a new section that provides for the circumstances under which a reportable death would occur. This clause also provides for the notification of the Service or the police whenever a reportable death occurs. Further, this clause creates an offence for the failure to make the notification of a reportable death to the Service or the police. This clause also provides that the Service shall have jurisdiction to investigate all reportable deaths.

Clause 20 of the Bill amends section 25 of the Act to provide for the notification of a death in custody if an officer to the Service. Further, this clause creates an offence for the failure to make the notification of a death while in the custody of an officer to the Service or the police.

Clause 21 of the Bill amends section 26 of the Act to provide for non-discrimination in the conduct of investigations conducted by the Service based on faith or the request for the immediate disposal of the body of a deceased person.

Clause 22 of the Bill amends section 27 of the Act to provide for the conduct of the Service when the death being investigated has occurred from an omission that constitute an offence.

Clause 23 of the Bill repeals section 28 of the Act since the circumstances which constitute reportable death have been provided for in the new section 24 (clause 19).

Clause 24 of the Bill amends section 32 of the Act to provide for the submission of a report by the Service of an investigation into a death to the relevant authorities and interested persons within three months after the notification of the death.

Clause 25 of the Bill inserts a new section 34A to the Act to provide for the review of the decisions of a coroner.

Clause 26 of the Bill amends section 35 of the Act by deleting subsections (2) and (3) to enable the comprehensive procedure for seeking a second opinion as to the conduct of an investigation by the Service to be provided for under subsidiary legislation.

Clauses 27, 28 and 29 of the Bill repeals sections 36, 37 and 38 of the Act respectively to align the provision with clauses 19 and 20 of the Bill which provide that the jurisdiction of the Service to conduct investigations shall be for all reportable deaths and deaths that occur within the custody of an officer.

Clause 30 of the Bill amends section 39 of the Bill to insert a penalty where a person is convicted for an offence under subsection (3).

Clauses 31 and 33 of the Bill repeals sections 40 and 42 of the Act respectively since the power of the Coroner-General to regulate the transfer of a body of a deceased persons has been provided for in clause 18 of the Bill and the enabling provision to make regulation for the procedure of the transfer of a deceased person has been provided for in clause 47 of the Bill.

Clause 32 of the Bill amends section 41 of the Act to provide for compliance with the directions of the Service in the conduct of investigations while at a mortuary.

Clause 34 of the Bill amends section 43 of the Act to enable the Service to engage a medical practitioner or any other expert to conduct a post-mortem examination.

Clause 35 of the Bill amends section 44 of the Act to provide for the conduct of post-mortem examination in place of an autopsy for consistency.

Clause 36 of the Bill repeals section 45 of the Act and replace it with a new section that provides for the conduct of a post-mortem examination. This clause also enables the authorisation of an interested person to observe or participate in the conduct of a post-mortem examination.

Clause 37 of the Bill repeals section 46 of the Act to align the provision with clauses 19 and 20 of the Bill which provide that the jurisdiction of the Service to conduct investigations shall be for all reportable deaths and deaths and subsequently make a report on the investigations.

Clause 38 of the Bill repeals section 47 of the Act and replace it with a new section that provides for tissues required for conducting a post-mortem examination. This clause also provides for the circumstances and procedure where the tissues required for conducting post-mortem examination may be disposed of or stored after the conclusion of the investigation.

Clause 39 of the Bill inserts a new section 47A to the Act to provide for the donation of a body or tissue of a deceased person to the Service. This clause provides for the circumstances and purposes where a body or tissue of a deceased person may be donated to the Service or retained by the Service after the conclusion of an investigation.

Clause 40 of the Bill to repeal section 49 of the Act and replace it with a new section that provides for the burial or cremation of a body or tissue of a deceased person who died from a reportable death. This clause also provides for the transfer of a body of a deceased person into or out of the territory of Kenya.

Clause 41 of the Bill amends section 50 of the Act to omit the requirement of a coroner to indicate whether a death which the Service has investigated is subject of an inquest since the Service does not have the mandate to conduct inquests.

Clause 42 of the Bill repeals section 51 of the Act and replace it with a new section that provides for the circumstances and manner in which the Service shall cease to have control over a body of a deceased person. This clause also provides for where the Service may retain the body of a deceased person despite the reasons for ceasing control over the body having occurred.

Clause 43 of the Bill repeals section 52 of the Act to align the provision to clauses 19 and 20 of the Bill that enable the conduct of investigations by the Service within different locations in Kenya to be determined administratively.

Clause 44 of the Bill repeals section 53 of the Act and replace it with a new section that provides for the circumstances in which the Service may discontinue an investigation.

Clauses 45 and 46 of the Bill repeals sections 54 and 55 of the Act respectively to align the provision to clause 46 of the Bill on complaints against the conduct of investigations by the Service.

Clause 47 of the Bill repeals section 56 of the Act and replace it with a new section that provides for the grounds on which an interested person may raise a complaint to the Council on the conduct of an investigation by the Service. This clause also provides for appeals against the decisions of the Council to be determined by Court.

Clause 48 of the Bill amends section 57 of the Act since the reporting of gifts and other donations received by a public entity has already been provided for under section 47 of the Public Finance Management Act, 2012.

Clause 49 of the Bill amends section 58 of the Act to provide that the estimates of the Service shall provide for the remuneration of the members of the Council and the maintenance of the assets of the Service. This clause also provides for the submission of the annual estimates of the Service to the Attorney-General. In addition, this clause provides for approval for additional expenses of the Service to be authorised by the Council and approved by the Attorney-General.

Clause 50 of the Bill amends section 60 of the Act to enable the Service keep proper records.

Clause 51 of the Bill repeals section 61 of the Act to align the provision with the new section 8A which provides for the preparation of reports by the Council.

Clause 52 of the Bill repeals section 62 of the Act and replace it with a new section which provides that the state shall bear the cost of conducting post-mortem examinations.

Clause 53 of the Bill repeals section 63 of the Act and replace it with a new section which provides for the conduct of a coroner where a conflict of interest arises in the execution of their duties.

Clause 54 of the Bill repeals section 64 of the Act and replace it with a new section which provides for the protection of the members of the Council and the staff of the Service from liability when exercising their functions and powers in good faith.

Clause 55 of the Bill amends section 65 of the Act to create the offence of where a public officer or state officer contravenes the Act.

Clause 56 of the Bill repeals section 66 of the Act to omit the restriction of coroners from engaging in other forms of gainful employment.

Clause 57 of the Bill amends section 67 of the Act to omit unnecessary words from the marginal note.

Clause 58 of the Bill repeals section 68 of the Act to align the provision with the insertion of the new section 8A.

Clause 59 of the Bill amends section 69 of the Act to provide for a general penalty of a fine of two hundred thousand shillings or imprisonment for one year.

Clause 60 of the Bill repeals section 70 of the Act and replace it with a new section that provides for penalties for the offence of failing to supply information to a coroner.

Clause 61 of the Bill repeals section 71 of the Act and replace it with a new section that provides for penalties for the offence of submitting false or misleading information to a coroner.

Clause 62 of the Bill amends section 72 of the Bill to provide penalties for the offence of failing to comply with the direction of a coroner to remove a body.

Clause 63 of the Bill amends section 73 of the Act to provide general penalties.

Clause 64 of the Bill amends section 74 of the Act to enable the Attorney-General to make regulations for the better implementation of the Act and also to provide for the scope of the regulations that may be made by the Attorney-General.

Clause 65 of the Bill inserts a new Schedule to the Act to provide for the conduct of the affairs of the Council.

Dated2023.

JUSTIN MUTURI

DRAFT

Section 2 of Act No. 18 of 2017 which it is proposed to amend—

Interpretation

2. In this Act, unless the context otherwise requires—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to justice;

“Coroner” means the Coroner-General appointed under section 9 and the coroners appointed under section 15;

“custody” means detention or custody of a person in any place by the State and it includes custody of person while in transit;

“interested person” in relation to a deceased person or an investigation into a person's death, means—

- (a) a spouse, parent, child, brother, sister, grandparent, grandchild, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;
- (b) a personal representative of the deceased;
- (c) a medical examiner exercising functions in relation to the death of the deceased;
- (d) a beneficiary under a policy of insurance issued on the life of the deceased;
- (e) the insurer who issued a policy of insurance under paragraph (d);
- (f) a person who may by any act or omission have caused or contributed to the death of the deceased, or whose employee or agent may have done so;
- (g) in a case where the death may have been caused by an injury sustained in the course of an employment, a representative of a trade union of which the deceased was a member at the time of death;
- (h) a person appointed by, or representative of, an enforcing authority;
- (i) a person appointed by a Government department to inquire into the death or to assist in, or provide evidence for the purposes of, an investigation into the death;
- (j) a person appointed by the Coroner to represent muslims or any interest groups;
- (k) a medical practitioner who examined the deceased; and
- (l) any other person who the Coroner-General thinks has a sufficient interest as may be prescribed;

“Service” means the National Coroners Service established under section 6.

Section 3 of Act No. 18 of 2017 which it is proposed to amend—

Objects of the Act

3. The objects of this Act are to—

- (a) provide for the establishment of the National Coroners Service and appointment of coronial officers;
- (b) provide for investigation of reportable deaths in order to determine the identities of the deceased persons, the times and dates of their deaths and the manner and cause of their deaths;
- (c) provide for the complementary role of forensic medical science services to the police in handling investigations involving decedent bodies and scene management;
- (d) provide for matters relating to exhumation of bodies at the order of the courts and pursuant to other written laws;
- (e) provide for the mandatory requirement to report reportable deaths;
- (f) establish the procedures for investigations, by coroners of reportable deaths;
- (g) assist in policy formulation by advising the Government, by forensic study, on possible measures to help to prevent deaths from similar causes happening; and
- (h) facilitate the participation of the Coroner at inquests to advise on matters connected with reportable deaths, including matters related to public health or safety and the administration of justice.

Section 8 of Act No. 18 of 2017 which it is proposed to amend—

Independence of the Service

8. (1) In the discharge of its functions and exercise of the powers under this Act or any other written law, the Service shall be independent and free from any interference.

(2) A person who—

- (a) influences or attempts to influence a decision of the Coroner-General or member of the Service;
- (b) interferes with the exercise of powers or the performance of a function under this Act, commits an offence.

Section 9 of Act No. 18 of 2017 which it is proposed to amend—

Appointment of Coroner-General and coroners

9. (1) There shall be a Coroner-General of the Service who shall be competitively appointed by the Cabinet Secretary, on the recommendation of the Public Service Commission.

(2) For proper discharge of the functions of the Coroner-General under this Act, there shall be competitively recruited, by the Public Service Commission, such number of coroners, who shall assist the Coroner General in the performance of functions of the Coroner- General within their areas of jurisdiction.

Section 10 of Act No. 18 of 2017 which it is proposed to amend—

Qualifications for appointment as Coroner-General

10. A person is qualified for appointment as Coroner- General if that person—

- (a) is a citizen of Kenya;
- (b) has had at least five years' experience at management level;
- (c) holds a degree in medicine from a university recognized in Kenya;
- (d) has specialized in human pathology for at least five years;
- (e) has a valid practising certificate issued under the Medical Practitioners and Dentists Act (Cap. 253) and
- (f) has training in forensic pathology.

Section 11 of Act No. 18 of 2017 which it is proposed to amend—

Term of service of the Coroner-General

11. (1) The Coroner-General shall serve the Service for a term of five years which shall be renewable once.

(2) The terms of service of the Coroner-General shall be determined by the Cabinet Secretary upon advice by the Salaries and Remuneration Commission.

Section 12 of Act No. 18 of 2017 which it is proposed to amend—

Removal from office

12. (1) The Coroner-General may be removed from office for—

- (a) violation of the Constitution;

- (b) inability to perform the function of the office;
- (c) gross misconduct and misbehavior;
- (d) incompetence; or
- (e) any other justifiable cause as may be set out in the contract of employment.

(2) Where the question for removal from office of the Coroner-General arises, the Cabinet Secretary shall inform the Coroner-General in writing and authorize the Public Service Commission to investigate the matter and report to him or her with recommendations on the appropriate action to be taken.

(3) The Public Service Commission shall expeditiously hear and determine the matter and recommend the appropriate action to be taken by the Cabinet Secretary.

Section 13 of Act No. 18 of 2017 which it is proposed to amend—

Vacancy

13. The office of the Coroner-General shall become vacant if the holder—

- (a) dies;
- (b) resigns from office, by a notice in writing addressed to the Cabinet Secretary;
- (c) is convicted of a felony and sentenced to imprisonment;
- (d) is removed from office under any of the circumstances specified in section 12.

Section 14 of Act No. 18 of 2017 which it is proposed to amend—

Structure of the Service

14. (1) The Coroner-General, in consultation with the Public Service Commission shall determine the structure of the Service.

(2) The structure of the Service referred to under subsection (1) shall recognize—

- (a) the nature of services rendered by the Service;
- (b) the necessity to employ other professionals and expertise in the Service for proper discharge of the functions of the Coroner-General under the Act and other written laws.

Section 15 of Act No. 18 of 2017 which it is proposed to amend—

Officers and other staff of the Service

15. (1) The Public Service Commission shall appoint such number of coroners and other staff of the Service as shall be necessary for the proper and efficient discharge of the functions of the Service.

(2) The terms and condition of service of coroners and staff of the Service shall be determined by the Cabinet Secretary on advice of the Salaries and Remuneration Commission.

Section 16 of Act No. 18 of 2017 which it is proposed to amend—

Professional code of conduct.

16. (1) The Cabinet Secretary in consultation with the Coroner-General shall develop and maintain a code of conduct to regulate the affairs and conduct of members of the Service.

(2) The Public Officer Ethics Act, (No. 4 of 2003) and any other law regulating the conduct of public officers shall, with necessary modifications, apply to members of the Service.

(3) In developing the code of conduct referred to under subsection (1), the Cabinet Secretary and the Coroner General shall consult other State organs and departments responsible for ethics and professional ethics relevant to the Service.

Section 17 of Act No. 18 of 2017 which it is proposed to amend—

Scheme of Service

17. The Public Service Commission shall prescribe a Scheme of Service for the coroners and other members of the Service.

Section 18 of Act No. 18 of 2017 which it is proposed to amend—

Continuous training of member of the Service

18. The Cabinet Secretary in consultation with the Coroner-General shall ensure continuous training of coroners and other members of the Service.

Section 19 of Act No. 18 of 2017 which it is proposed to amend—

Functions of Coroner-General

19. The functions of the Coroner-General shall be to—

(a) co-ordinate the services throughout the country;

- (b) ensure efficient delivery of the functions and services of the Service in accordance with the Constitution, this Act and any other written law;
- (c) ensure that all deaths which the Service has jurisdiction to conduct an investigation on are properly investigated and in a timely manner;
- (d) monitor and evaluate investigations of deaths by the Service;
- (e) issue guidelines to other coroners to assist them in the exercise or performance of their functions; and
- (f) perform such other functions as are conferred or imposed by or under this Act or any other law.

Section 20 of Act No. 18 of 2017 which it is proposed to amend—

Functions of coroners

20. The Coroner shall be the administrative head of coronial services in a County in respect of which he or she is appointed, and shall, subject to the control and directions of the Coroner-General, be responsible for the investigations into the reportable deaths which occur or are reported within the County.

Section 22 of Act No. 18 of 2017 which it is proposed to amend—

Powers of the Coroner

22. (1) Subject to any other written law and jurisdiction of the Coroner-General under this Act, the Coroner-General shall approve the issuance of—

- (a) burial permits;
- (b) cremation permits;
- (c) waivers of post-mortem;
- (d) post-mortem permits; and
- (e) authority to move dead bodies into or out of Kenya.

(2) The Cabinet Secretary shall make regulations to give full effect to this Act.

(3) In making the regulations referred to under subsection (2), the Cabinet Secretary shall have due regard to other laws in force regulating the issue of registration of and issuance of permits referred to under subsection (1).

Section 24 of Act No. 18 of 2017 which it is proposed to amend—

Obligation to report certain deaths.

24. (1) A person who has reasons to believe that a deceased person died—

(a) as a result of—

(i) violence;

(ii) misadventure;

(iii) negligence;

(iv) misconduct; or

(v) malpractice;

(b) by unfair means;

(c) during pregnancy or following pregnancy in circumstances that might reasonably be attributable thereto;

(d) suddenly and unexpectedly;

(e) from disease or sickness for which he or she was not treated by a legally qualified medical practitioner;

(f) from any cause other than disease; or

(g) under such circumstances as may require investigation,

shall immediately notify a coroner or a police officer of the facts and circumstances relating to the death.

(2) Where a police officer is notified under subsection (1), the police officer shall immediately notify the coroner of such facts and circumstances.

Section 25 of Act No. 18 of 2017 which it is proposed to amend—

Report of deaths in custody

25. (1) Where death occurs in police custody or military custody or any other form of custody, the officer in charge or any officer in the area shall—

(a) immediately report the death to the Coroner; and

(b) make such report as soon as possible but not later than six hours after the death.

(2) In exceptional circumstances and where it is not practically possible to report within the period specified in subsection (1) (b), the officer in charge of the station or the premises where the deceased was held in custody shall, in addition to reporting the death, issue a written report stating the reasons for delay in reporting the death.

(3) Where a coroner investigates a death occurring in police custody or prison custody, the coroner shall furnish a copy of the report to the Independent Policing Oversight Authority or any other relevant authority.

Section 26 of Act No. 18 of 2017 which it is proposed to amend—

Mandatory reporting of all deaths

26. The Coroner-General shall undertake full medical investigations of all deaths suspected to be of criminal nature, regardless of faith or other considerations that may require immediate disposal of bodies.

Section 27 of Act No. 18 of 2017 which it is proposed to amend—

Procedure where death is found to be due to an act amounting to an offence

27. Where a coroner finds that the death of the deceased person was occasioned by an act which amounts to an offence under any law in force in Kenya, the Coroner shall immediately after the investigation, and in accordance with this Act, forward a copy of the investigation report, together with the names and addresses of any witnesses, to the Director of Public Prosecutions and Inspector-General of Police.

Section 28 of Act No. 18 of 2017 which it is proposed to amend—

Deaths to be investigated by the Service

28. The Service shall have jurisdiction to investigate the cause of death where—

- (a) the deceased person is reported to have died of a violent or an unnatural death;
- (b) the deceased person is reported to have died of a sudden death of which the cause is unknown;
- (c) the deceased person is reported to have died in police custody or military custody;
- (d) the death occurs during or following an assault within twenty four hours following a surgical or invasive or surgical procedures;
- (e) the death occurs during or following administration of anaesthesia;
- (f) the death occurs twenty four hours immediately after a person is discharged from hospital or any health facility;
- (g) a person suffers an injury and dies within one year and one day;
- (h) it is a suspected maternal death, termination of birth, cot deaths and sexual violence related deaths;
- (i) it is a case of infanticides;

- (j) the death occurs in circumstances prescribed by regulations under any written law and classified and reportable deaths;
- (k) death occurs in an institution with children facilities or mental hospital;
- (l) death occurs during or while in care of any institution or person; or
- (m) the death was a death in custody of any other person authorized in law to retain custody of a person for a specified period;
- (n) the death was as a result of child abuse; or
- (o) it is in a place and in such circumstances as may require an investigation under any other law within the jurisdiction of the Coroner-General.

Section 32 of Act No. 18 of 2017 which it is proposed to amend—

Reports by the Coroners on investigations carried out

32. (1) A coroner shall make a report of every investigation conducted under this Act.

(2) The report referred to under subsection (1) shall be issued to relevant authorities and interested persons as soon as the report is concluded.

(3) The Coroner shall submit the report of his or her investigations not later than seven days from the date the report was made.

(4) For purposes of criminal investigation and subsequent prosecution of an offence under any written law, the Coroner shall submit an interim report to the National Police Service and the Director of Public Prosecutions or any other relevant Authority within twenty four hours of notification of a death under this Act.

(5) The Coroner shall submit to the Director of Public Prosecutions or the National Police Service as the case may be, a final and conclusive report of the cause of death investigated under this Act within seven days.

Section 35 of Act No. 18 of 2017 which it is proposed to amend—

Second opinion

35. (1) Any person dissatisfied or who disagrees with the report or finding of the Coroner under this Act may, at his or her own cost, seek second or other opinion from other qualified officers.

(2) Where a second or other opinions are sought under subsection (1), the Coroner may attend or send his or her representative to be present during the investigation.

(3) The Cabinet Secretary in consultation with the Coroner-General may make regulations generally to give full effect to this section and in particular provide for—

- (a) a framework within which repeat post-mortems may be called;
- (b) the implications of the second or other opinions sought;
- (c) the process to challenge the decision of the Coroner with regard to his or her decision on reportable deaths;
- (d) the person who may be present during the examination; and
- (e) the format and process of lodging a complaint in relation to a complaint arising from a report of and conduct of investigations by the Coroner.

Section 36 of Act No. 18 of 2017 which it is proposed to amend—

Power to hold investigation on a body within local limits

36. Whenever an investigation ought to be conducted on any dead body lying within the local limits of the jurisdiction of any Coroner, the Coroner shall conduct such investigation, whether or not the cause of death arose within that jurisdiction.

Section 37 of Act No. 18 of 2017 which it is proposed to amend—

Place of investigation

37. Upon the notice to the Coroner of the death or discovery of a dead body, an investigation may be conducted either in the territory of the Coroner in whose jurisdiction the body was found or where the death took place.

Section 38 of Act No. 18 of 2017 which it is proposed to amend—

Coroner to be sent for when prisoner dies

38. (1) Whenever a person dies in a prison or in police custody—

- (a) the officer in charge of the prison; or
- (b) the Officer Commanding a police station,

shall inform the Coroner within whose jurisdiction the prison or police station is situate.

(2) A Coroner who is informed of the death under subsection (1) shall investigate into the death and prepare an investigation report.

Section 39 of Act No. 18 of 2017 which it is proposed to amend—

Preservation and management of scene of crime

39. (1) A police officer or any person who is present at the time of death or who finds a dead body, shall in addition to reporting the death under this Act or any other written law,

preserve the scene of crime until the Coroner or a member of the Service presents himself or herself at the scene.

(2) In addition to securing and preserving the scene under subsection (1), a police officer shall collect evidence necessary and relevant for purposes of investigation of an offence and prosecution of the matter.

(3) A person who interferes with or tampers with evidence or the scene of crime, commits an offence.

Section 40 of Act No. 18 of 2017 which it is proposed to amend—

Preservation and movement of dead bodies

40. (1) The Cabinet Secretary in consultation with the Coroner-General shall make regulations generally to regulate and provide for rules and procedures for preservation of bodies and movement of bodies.

(2) The regulations made under subsection (1) shall recognize the dignity of dead body and cultural beliefs of the deceased where the same is known by the Coroner or member of the Service.

Section 41 of Act No. 18 of 2017 which it is proposed to amend—

Transferring body to mortuary

41. (1) This section shall apply if a body is to be taken to a mortuary at the direction of—

- (a) a coroner; or
- (b) a police officer.

(2) A person who is involved in taking the body to the mortuary must comply with—

- (a) any direction of the Coroner or police officer; or
- (b) the guidelines issued by the Coroner-General about—
 - (i) the dignity and respect to be accorded to persons who are at a place from which a body is to be taken, and their cultural traditions or spiritual beliefs; and
 - (ii) the way in which bodies are to be taken to a mortuary.

Section 42 of Act No. 18 of 2017 which it is proposed to amend—

Designation of temporary holding of the body

42. (1) In compelling or exceptional circumstances, the Coroner may designate the temporary holding of the body.

(2) The Cabinet Secretary in consultation with the Coroner-General shall make regulations to give full effect to this section.

Section 43 of Act No. 18 of 2017 which it is proposed to amend—

Power to conduct post-mortem

43. (1) If a coroner is of the opinion that it is appropriate and essential to ascertain the circumstances and the nature of death, the coroner may conduct a post-mortem on the body.

(2) A coroner may hire a suitably qualified practitioner, qualified medical practitioner, medical provider or any other expert to conduct a post-mortem examination of a body.

(3) The services of a suitably qualified person referred to under subsection (2) shall be in accordance with prescribed procedures and the public procurement laws.

(4) For the purposes of subsection (2), a person is a suitably qualified medical practitioner if the person—

(a) is a registered medical practitioner with relevant qualification and experience in human pathology; or

(b) in a case where a particular kind of examination is requested, a practitioner of a description designated by the Coroner-General as suitable to make examinations of that kind.

(5) Where a person informs a coroner that, in the informant's opinion, death was caused wholly or partly by the improper or negligent treatment of a registered medical practitioner or other person, that practitioner or other person—

(a) must not make, or assist at, an examination of the body under this section; and

(b) is entitled to be represented at such an examination.

(6) A person who conducts a post-mortem examination under this section must as soon as practicable report the result of the examination to the Coroner in the prescribed form.

Section 44 of Act No. 18 of 2017 which it is proposed to amend—

Exhuming body or recovering cremated remains

44. (1) This section applies if, after a body is buried or cremated, the Coroner-General forms the belief that the death was a reportable death.

(2) To enable an autopsy of a body to be conducted, the Coroner-General may make an application to court for an order—

(a) if the body was buried, to be exhumed; or

(b) if the body was cremated and the cremated remains may be recovered, the cremated remains to be recovered.

(3) The Coroner must give at least two days' notice of the Coroner's intention to apply for the order under subsection (1) to—

(a) the person in charge of the place where the body is, or the cremated remains are; and

(b) any person who the Coroner considers has a sufficient interest in the autopsy.

(4) Subsection (3) does not apply if—

(a) after taking all reasonable steps, the Coroner cannot contact a person mentioned in subsection (3); or

(b) the Coroner considers it is not, in the circumstances, in the public interest to notify a person mentioned in subsection (3).

(5) If a person has raised a concern in relation to the order being made but after discussing the matter with the person, the Coroner considers it is in the public interest for the order to be made, the court shall make the order and give a copy of it to the person.

(6) The order authorizes a police officer to enter the place stated in the order and stay there for as long as reasonably necessary to exhume the body or recover the cremated remains.

(7) The police officer shall arrange for the body or cremated remains to be taken, in accordance with the directions in the order, to a place stated in the order.

(8) The Coroner shall, as soon as reasonably practicable after the autopsy, order the body or cremated remains to be returned to the place from where they were taken.

Section 45 of Act No. 18 of 2017 which it is proposed to amend—

Observing an autopsy

45. (1) The Coroner, or a police officer who is investigating a death under this or another Act, is entitled to observe and participate in the autopsy.

(2) If the Coroner considers it appropriate, a person may observe and participate in an autopsy for his or her vocational or clinical education or training with the consent of the doctor who is conducting the autopsy.

(3) The Coroner may allow a person, or the person's representative, to observe the autopsy if the Coroner considers—

(a) the person has a sufficient interest in the autopsy;

(b) the attendance of the person, or the person's representative, at the autopsy would not compromise the integrity of the coronial investigation or any other investigation into the death; and

(c) the attendance of the person, or the person's representative, at the autopsy is otherwise appropriate.

(4) Before allowing a person to observe an autopsy under subsection (3), the Coroner—

(a) must, whenever practicable, consult with and consider the views of—

(i) a family member of the deceased person;

(ii) the doctor who is to conduct the autopsy; and

(b) may consult with, and consider the views of, anyone else the Coroner considers appropriate.

(5) If the Coroner allows a person to observe an autopsy under subsection (3), the Coroner must give the person notice of the time and place of the autopsy before it is conducted.

Section 46 of Act No. 18 of 2017 which it is proposed to amend—

Autopsy reports

46. (1) As soon as practicable and within the timelines in this Act or regulations made under this Act, after completing an autopsy, the Coroner or doctor who conducted the autopsy must—

(a) prepare an autopsy report; and

(b) give the report to the Coroner.

(2) If an investigating police officer asks for a copy of the autopsy report, or a copy of a test report, the doctor who conducted the autopsy or the person who did the test must give a copy of the report to the police officer.

Section 47 of Act No. 18 of 2017 which it is proposed to amend—

Removing tissue for autopsy testing

47. (1) This section applies if during an autopsy of a body, the doctor conducting the autopsy removes tissue from the body for testing.

(2) If prescribed tissue is removed, the doctor must inform the Coroner before the Coroner orders the body's release.

(3) The Coroner, knowing that the tissue has been removed, may nevertheless order the release of the body.

(4) If prescribed tissue has been removed, the Coroner shall not order the release of the body unless satisfied that—

- (a) if practicable, a family member of the deceased person has been informed of the removal of the prescribed tissue; and
- (b) the retention of the prescribed tissue is necessary for the investigation of the death, despite any concerns raised with the Coroner about the retention of the prescribed tissue.

(5) If the Coroner is not satisfied as mentioned in subsection (4), the Coroner must order the doctor to return the prescribed tissue to the body before the body is released.

(6) If tissue kept for testing is prescribed tissue, the Coroner must, at not more than six months intervals after the date of the order for the autopsy, decide whether the tissue—

- (a) still needs to be kept for—
 - (i) the investigation of the death; or
 - (ii) proceedings for an offence relating to the death; or
- (b) may be disposed of.

(7) Specimen tissue must be kept indefinitely by the entity that turned the tissue into specimen tissue.

(8) A person must not dispose of any other tissue kept for testing, except under the order of a coroner.

(9) If a coroner orders the disposal of the tissue, the entity that has the tissue must—

- (a) if a family member of the deceased person has told the Coroner that he or she wishes to test, or use, the tissue for a lawful purpose or to bury the tissue-release the tissue to the family member, or the family member's representative, for the test, use or burial; or
- (b) otherwise arrange for the tissue to be buried.

(10) Subject to any relevant local laws, a statement by the entity, in the approved form, to the effect that the Coroner has ordered the disposal of the tissue is sufficient authority for the burial of the tissue.

(11) In this section, Coroner means—

- (a) the Coroner who ordered the autopsy; or
- (b) if that coroner is not available, any other coroner.

Section 49 of Act No. 18 of 2017 which it is proposed to amend—

Authorizing burial of body, etc

49. (1) A person shall not—

- (a) prepare a human body for burial; or
- (b) bury a human body; or
- (c) take a human body out of Kenya,

unless the person is authorised to do so under subsection (2).

(2) A person is authorised if—

- (a) for a death investigated by a coroner—
 - (i) a certificate of the cause of death under the Births and Deaths Registration Act (Cap. 149) has been issued with the Coroner's consent; or
 - (ii) the Coroner has ordered the release of the body under this Act; or
 - (b) for a death investigated outside Kenya by a non-Kenyan coroner, a non-Kenyan coroner's release certificate has been issued; or
 - (c) otherwise, a cause of death certificate has been issued.
- (3) This section does not apply to—
- (a) part of a human body taken during an autopsy under section 47;
 - (b) part of a human body taken during a medical procedure;
 - (c) part of a human body taken during a medical procedure;
 - (d) indigenous burial remains; or
 - (e) the taking of a human body to any type of mortuary.

Section 50 of Act No. 18 of 2017 which it is proposed to amend—

Notifying registrar when body is released and investigation ends

50. (1) When a coroner orders the release of a deceased person's body for burial, or to another jurisdiction, under this Act, the Coroner shall give a copy of the order to the registrar under the Births and Deaths Registration Act (Cap. 149).

(2) On completion of an investigation into a death, a coroner shall give the registrar of births and deaths a written notice, in the prescribed form, that states—

- (a) who the deceased person was;

- (b) when the person died;
- (c) where the person died, and in particular whether the person died in Kenya;
- (d) what caused the person to die;
- (e) the date of the Coroner's findings; and
- (f) whether or not an inquest has been held into the death, and if an inquest has been held, the date and place of the inquest.

Section 51 of Act No. 18 of 2017 which it is proposed to amend—

Control of deceased's body

51. (1) Unless a person's death is reported to the Coroner after burial, the Coroner starts having control of the deceased person's body when the coroner starts investigating the deceased person's death.

(2) The Coroner stops having control of the body if he or she—

- (a) stops investigating the death and orders the release of the body in accordance with this Act or any other written law;
- (b) stops investigating the death and authorises a doctor to issue a cause of death certificate for the deceased person;
- (c) stops investigating the death and orders the release of the body for burial;
- (d) stops investigating the death and orders the release of the body to the other jurisdiction;
- (e) transfers control of the body to another coroner; or
- (f) decides that it is not necessary for the Coroner's investigation to keep the body after an autopsy and the Coroner orders the release of the body for burial.

(3) For purposes of subsection (2)(f), the Coroner shall order the release of the body for burial as soon as reasonably practicable after the autopsy.

(4) However, the Coroner must not order the release of a body for burial if it is not known whose body it is, unless the coroner believes it is necessary to bury the body in the particular circumstances.

(5) A doctor shall not issue a cause of death certificate for a person if—

- (a) the death appears to the doctor to be a reportable death, unless a coroner advises the doctor that the death is not a reportable death; or

(b) a coroner is investigating the death, unless the Coroner authorizes the issue of the certificate.

(6) For purposes of subsection (2)(a), (c), (d) and (f), a reference to the Coroner, in relation to an order for the release of a body, includes, if the Coroner investigating the death is not available, another coroner.

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Section 52 of Act No. 18 of 2017 which it is proposed to amend—

Direction for other coroner to conduct investigation

52. (1) The Coroner-General may require a coroner to conduct an investigation into a person's death notwithstanding that the death occurred in a County other than the County in respect of which the Coroner is appointed.

(2) A coroner required to undertake investigations under subsection (1) shall conduct the investigation as soon as practicable.

(3) A coroner shall give to the Coroner-General notice in writing stating any reasons why the coroner might be unable to investigate a death occurring within an area in respect of which the coroner is appointed.

(4) Subject to this Act, a coroner may take over and continue investigations into a person's death from another coroner.

Section 53 of Act No. 18 of 2017 which it is proposed to amend—

Discontinuance where cause of death is revealed

53. (1) A coroner who is responsible for conducting an investigation into a person's death may discontinue the investigation if—

- (a) the cause of death becomes apparent; and
- (b) the Coroner is of the opinion that it is not necessary to continue with the investigation.

(2) An interested person may object to the decision to discontinue any investigation under subsection (1).

(3) Where an application has been made to a court of competent jurisdiction may order the Coroner to discontinue investigation under this Act for a period not exceeding ten days.

(4) Subsection (1) does not apply if the Coroner has reason to suspect that the deceased—

- (a) died a violent or unnatural death; or
- (b) died while in custody.

(5) Nothing in this section prevents a fresh investigation under this Part from being conducted into the death.

(6) A coroner who discontinues an investigation into a death under this section must, on his or her own motion or upon request in writing by an interested person, give a report as soon as practicable and a written explanation as to why the investigation was discontinued.

Section 54 of Act No. 18 of 2017 which it is proposed to amend—

Investigations lasting more than a year

54. (1) A coroner who is conducting an investigation into a person's death that has not been completed or discontinued within a year—

- (a) must notify the Coroner-General of that fact;
- (b) must notify the Coroner-General of the date on which the investigation is completed or discontinued.

(2) In subsection (1), "within a year" means within the period of twelve months beginning with the day on which the Coroner was made aware that the person's body was within the Coroner's area of jurisdiction.

Section 55 of Act No. 18 of 2017 which it is proposed to amend—

Right to make a complaint

55. (1) Any person may make a complaint to the complaints committee about a coroner, a pathologist or a person, other than a coroner or pathologist, with powers or duties under this Act.

- (2) The complaint must be in writing and shall state the nature of complaint.

Section 56 of Act No. 18 of 2017 which it is proposed to amend—

Appeals to the Coroner-General

56. (1) An interested person may appeal to the Coroner-General against a decision made by a coroner that falls within subsection (2).

- (2) The decisions that fall within this subsection are—
 - (a) a decision whether to discontinue an investigation;
 - (b) a decision whether to resume or suspend an investigation;
 - (c) a decision not to request for a post-mortem examination; and
 - (d) a decision to request a post-mortem examination of a body that has already been the subject of a post-mortem examination, unless the decision is to request an examination of a different kind from the one already carried out.

(3) On an appeal under this section the Coroner-General may, if the appeal is allowed, do one or more of the following—

- (a) substitute the decision; or

(b) quash the decision and remit the matter for a fresh decision.

(4) A party to an appeal under this section may appeal on a question of fact to a court of competent jurisdiction.

Section 2 of Act No. 18 of 2017 which it is proposed to amend—

Funds of the Service

57. (1) The funds of the Service shall consist of—

- (a) monies allocated by Parliament for purposes of the Service;
- (b) such fees as may be charged in accordance with this Act or regulations made thereunder;
- (c) any grants, gifts, donations or other endowments given to the Service;
- (d) such funds as may vest in or accrue to the Service in the performance of its functions under this Act or under any other written law.

(2) Any funds donated or lent to, or gift made to the Service shall be disclosed to the Cabinet Secretary and National Assembly and made public before use.

Section 58 of Act No. 18 of 2017 which it is proposed to amend—

Annual estimates

58. (1) At least three months before the commencement of each financial year, the Service shall cause to be prepared estimates of the revenue and expenditure of the Service for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Service for the financial year concerned and in particular, shall provide for the—

- (a) payment of remuneration in respect of the members and staff of the Service;
- (b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the Service;
- (c) maintenance of the buildings and grounds of the Commission;
- (d) funding of training, research and development of activities of the Service; and
- (e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Service may think fit.

(3) The annual estimates shall be approved by the Commission before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for tabling in Parliament.

Section 60 of Act No. 18 of 2017 which it is proposed to amend—

Accounts and audit

60. (1) The Service shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Commission.

(2) The annual accounts of the Service shall be prepared, audited and reported upon in accordance with the Public Audit Act, (No. 34 of 2015).

Section 61 of Act No. 18 of 2017 which it is proposed to amend—

Reports

61. (1) The Service shall, at the end of each financial year cause an annual report to be prepared.

(2) The Service shall submit the annual report to the President and the National Assembly three months after the end of the year to which it relates.

(3) The annual report shall contain, in respect of the year to which it relates—

- (a) the financial statements of the Service;
- (b) a description of the activities of the Service;
- (c) such other statistical information as the Service may consider appropriate relating to the Service's functions;
- (d) any recommendations made by the Service to State departments or any person and the action taken;
- (e) the impact of the exercise of any of its mandate or function;
- (f) any impediments to the achievements of the objects and functions under this Act or any written law; and
- (g) any other information relating to its functions that the Service considers necessary.

(4) The Service shall cause the annual report to be published and the report shall be publicized in such manner as the Commission may determine.

Section 62 of Act No. 18 of 2017 which it is proposed to amend—

Cost of undertaking postmortem and autopsy

62. The cost of undertaking postmortem or autopsy on reportable deaths under this Act shall be borne by the State.

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Section 63 of Act No. 18 of 2017 which it is proposed to amend—

Conflict of interest

63. A coroner shall not conduct investigation or participate in any matter where he or she has an interest.

Section 64 of Act No. 18 of 2017 which it is proposed to amend—

Protection from personal liability

64. Nothing done by a member of the Service or by any person working under the instructions of the Service shall, if done in good faith for the purpose of executing the powers, functions or duties of the Service under this Act or any other written law, render such member or officer personally liable for any action, claim or demand.

Section 65 of Act No. 18 of 2017 which it is proposed to amend—

Duty to co-operate

65. (1) A public officer, State Organ or State office shall at all times co-operate with the Coroner in ensuring the successful performance of the functions of the coroner under this Act and shall in particular—

- (a) respond to any inquiry relevant to the investigation on the cause of death made by the Service; and
- (b) provide any other information that the Service may require in the performance of its functions under the Act and any other written law.

(2) Any State officer or public officer who breaches any of the provisions of this Act shall be deemed to be in contempt of Parliament and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

Section 66 of Act No. 18 of 2017 which it is proposed to amend—

Gainful employment

66. A person employed by the Service shall not undertake any other gainful employment.

Section 67 of Act No. 18 of 2017 which it is proposed to amend—

Protection from liability for giving information and other things to coroner

67. (1) A person is not liable, civilly, criminally or under an administrative process, for giving a coroner any of the following—

- (a) information, a document or anything else in compliance with a requirement made under this Act or any other written law; or

(b) confidential information.

(2) Where a person gives the Coroner an item required in the course of undertaking the functions of the coroner under this Act or confidential information, that person shall not be held to have—

(a) breached any code of professional etiquette or ethics; or

(b) departed from accepted standards of professional conduct.

(3) Without limiting subsections (1) and (2)—

(a) in a proceeding for defamation, the person has a defence of absolute privilege for publishing the required item or confidential information; and

(b) if the person would otherwise be required to maintain confidentiality about the required item or confidential information under an Act, oath or rule of law or practice, the person—

(i) does not contravene the Act, oath or rule of law or practice by giving the required item or confidential information; and

(ii) is not liable to disciplinary action for giving the required item or confidential information.

Section 68 of Act No. 18 of 2017 which it is proposed to amend—

The National Coroners Council

68. (1) There is established a Council to be known as the National Coroners Council which shall consist of—

(a) the Principal Secretary responsible for coronial services, who shall be the Chairperson and preside at the meetings of the Council;

(b) the Principal Secretary for the time being responsible for matters relating to Justice;

(c) the Principal Secretary Treasury;

(d) the Inspector-General;

(e) the Director of public prosecutions;

(f) the Principal Secretary for the time being responsible for matters relating to health services; and

(g) two representatives of the medical and dental profession nominated by the Kenya Medical Practitioners and Dentists Board and the Clinical Officers Council, one female and one male.

(2) The Coroner-General shall be the Secretary to the Council and shall facilitate the conduct of business and affairs of the Council by offering secretariat services to the Council.

(3) The functions of the Council shall be—

(a) to formulate and review policy relating to coronial services;

(b) to advise the Service generally on all matters pertaining to—

(i) national coronial services policies;

(ii) the administration of the Service;

(iii) the expenditure of the Service.

(c) to perform such other functions as are conferred on it by this Act or by any other written law.

(4) For the better carrying out of its functions under this Act, the Council may establish such functional committees of the Council as it may deem necessary.

(5) The Council shall once every year prepare and submit to the President and Parliament a report on the activities of the Service specifying—

(a) the activities of the Service;

(b) all the measures taken and the progress achieved in the realization of each of the functions of the Service;

(c) such other statistical information as the Council considers appropriate relating to the its functions;

(d) the financial statements of the Service; and

(e) any other information relating to its functions that the Service considers necessary.

(6) The Council shall cause the annual report to be published and publicized in a manner as Council may determine.

Section 69 of Act No. 18 of 2017 which it is proposed to amend—

Offence of obstruction

69. Any person who obstructs a coroner in due execution of his functions under this Act commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one month.

Section 70 of Act No. 18 of 2017 which it is proposed to amend—

Failure to supply information, etc

70. A person who, without reasonable excuse, fails to comply with a written notice by the Coroner requiring that person to supply information or documents or other things to the extent that the person is capable of complying with it, commits an offence.

Section 71 of Act No. 18 of 2017 which it is proposed to amend—

False or misleading statements and omissions in certain documents

71. (1) A person who makes a statement or omits any matter knowing that, or being reckless as to whether, the statement or omission makes the document false or misleading in a material particular, commits an offence.

(2) This section applies to the following documents—

- (a) a doctor's report required under this Act;
- (b) any other report required under this Act to supply information for purposes of discharge of the functions of the Service under this Act.

Section 72 of Act No. 18 of 2017 which it is proposed to amend—

Non-compliance with direction about removal of body

72. A person who—

- (a) fails or refuses to comply with a direction about the removal of a body or any other lawful direction by the Coroner under this Act; or
- (b) hinders or prevents any person from complying with a direction about the removal of a body or any other lawful direction under this Act,

commits an offence.

Section 73 of Act No. 18 of 2017 which it is proposed to amend—

General penalty

73. Any person who commits an offence under this Act to which no other penalty is provided for shall be liable on conviction to—

- (a) in case of a natural person, a fine not exceeding five hundred thousand or imprisonment for a term not exceeding two years or to both;
- (b) in case of a health facility or any other person, a fine of two million shilling and the director or person in charge of the health facility shall be liable to the penalty provided for under paragraph (a).

Section 74 of Act No. 18 of 2017 which it is proposed to amend—

Regulations

74. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to subsection (1), the regulations may prescribe—

- (a) any matter of procedure or practice under this Act;
- (b) circumstances when a medical practitioner shall be required to notify a coroner of a death of a person whom the practitioner was attending;
- (c) other categories of reportable deaths;
- (d) requirement for a registered medical practitioner who attended the deceased before his or her death—
 - (i) to prepare a certificate stating the cause of death to the best of the practitioner's knowledge and belief; or
 - (ii) where the practitioner is unable to establish the cause of death, to refer the case to a coroner.

(3) The power to make regulations under this Act shall be—

- (a) for the purpose and objective of giving effect to the Constitution and this Act;
- (b) limited to the nature and scope specifically stipulated in the Constitution and this Act.