



SCHEDULE

EXPLANATORY MEMORANDUM

Paper laid by the Hon. Aden Duale on Thursday, 20/11/2014 at 2:30pm

RWA

EXPLANATORY MEMORANDUM TO THE SCIENCE, TECHNOLOGY AND INNOVATIONS (RESEARCH LICENSING) REGULATIONS, 2014 L.N. NO. 108

PART I

NAME OF THE STATUTORY INSTRUMENT: SCIENCE, TECHNOLOGY AND INNOVATIONS (RESEARCH LICENSING) REGULATIONS, 2014

NAME OF THE PARENT ACT: THE SCIENCE, TECHNOLOGY AND INNOVATIONS ACT, 2013

ENACTED PURSUANT TO SECTION 45 OF THE SCIENCE, TECHNOLOGY AND INNOVATIONS ACT, 2013

NAME OF THE MINISTRY/DEPARTMENT: MINISTRY OF EDUCATION SCIENCE AND TECHNOLOGY

DEPARTMENT OF SCIENCE AND TECHNOLOGY

Gazetted on: 1st August, 2014 .

TABLED ON:

PART II

1. PURPOSE OF THE STATUTORY INSTRUMENT

The purpose of the Statutory Instrument is to co-ordinate all research activities in Kenya to ensure that research is conducted ethically and used constructively so that no harm occurs to the natural, social and cultural environments of Kenya and human life.

2. LEGISLATIVE CONTEXT

To operationalize the Science, Technology and Innovations Act 2013 with respect to the licensing of research in Kenya.



3. POLICY BACKGROUND

The Kenya Vision 2030 places sufficient emphasis on the generation and management of knowledge to transform Kenya into a knowledge-based economy for global economic competitiveness. The Science, Technology and Innovations (ST&I) Policy and the Act, 2013 provide a framework for a coordinated approach to the generation and management of knowledge to achieve the aspirations of the Kenya Vision 2030 and compliance with the Constitution of Kenya 2010. The Vision and the Constitution recognize the critical role played by research and development (R&D) in accelerating economic development of the country. Given globalization and the imperative of knowledge based economies there is need for transformation to achieve the goals of becoming middle –income economy by 2030. This calls for a critical revisit and application of science, research and technology and innovation as an engine and driver of knowledge economies in general and knowledge based economy in particular.

The Government in aligning the ST&I sector with the Constitution developed the ST&I Policy and the Act in 2013. The Policy addresses the issues of relevance and quality of ST&I programmes in research institutions, accreditation of research institutions, licensing of research in Kenya as well as the co-ordination of ST&I between the various agencies involved in the Sector. Further the policy integrates the ST&I in national production processes. The policy underscores the importance of mainstreaming science, technology and innovation in all sectors of the economy to ensure that Kenyans benefit from acquisition and utilization of available ST&I capacities and capabilities to improve their quality of life. Before the formulation of the Policy and the enactment of the ST&I Act, each research institute and university developed their own research programmes without regard to what the others were doing. Many research programmes are fragmented and have not been appraised to address specific challenges of the Vision 2030 flagship programmes due to lack of coordination and a national research agenda. The Regulations will address these challenges and also ensure that research is carried out in a co-ordinated manner.

The Cabinet Secretary in consultation with stake holders drafted the ST&I (Research Licensing) regulations 2014, in order to implement the functions of the Commission as per the ST&I Act, in regard to licensing of research in Kenya. The regulations were subjected to

stakeholder interrogation through a workshop held on 9th September, 2013 at Utalii Hotel. The participants of the workshop included Vice Chancellors from public and private universities; the heads of research institutions; representatives from government ministries and departments and agencies; the private sector, international development partners among others. Based on feedback received from the stakeholders, the draft regulations were further refined and the refined copy was forwarded to the Attorney General for drafting as a legal document. The draft copy was sent back to the Ministry for editing and confirmation of content and upon revision of the Regulations, the Ministry forwarded the Regulations to the Attorney General for publication.

4. CONSULTATION OUTCOME

The workshop on the validation of the ST&I regulations adopted a three-phased dynamic participatory process to encourage participants to actively engage in the process. These were:

- Presentation of the draft regulations including the key relevant provisions of the ST&I Act, 2013.
- Facilitated group discussion sessions to engage the participants in synthesizing the draft documents and address questions arising from the presentations.
- Plenary session for presentations of input and comments from each group. The session included a brainstorming on issues raised by each group to fill the existing gaps in the documents identified during group discussions.

The key participants who were consulted were Vice Chancellors from public and private universities; the heads of research institutions; representatives from government ministries and departments and agencies; the private sector, international development partners among others. Upon presentation of the regulations, the participants were grouped based on their expertise to interrogate the draft Regulations in the areas of:

1. Relevance and quality assurance in research
2. Registration and accreditation of research Institutions
3. Research Licensing

The participants then gave their consolidated feedback through their appointed chairs in the plenary. The document was adopted by the participants subject to the consideration of the aspects raised by the various groups, thus validating the Regulation.

5. GUIDANCE

Once the Regulations are published the Commission for Science, Technology and Innovation shall distribute them to all research institutions including the universities in Kenya and upload them on the Commission website for ease of reference by any interested party. In addition the Commission shall train sensitize its resource person and research institutions on various aspects of the Regulations.

6. IMPACT

6.1 The Impact on Fundamental Rights and Freedoms

The Constitution provide under Article 43(1) (f) access to quality education and also relevant education as per Article 55(a).

6.2 The Impact on the Private Sector

These Regulations will co-ordinate research in Kenya through licensing of research by the Commission. The process will enable the Commission which is mandate by the Act to set the national priorities on research to guides the country on research which is considered a national priority. This will also impact on the growth and development of the economy through the quality of research to be conducted in line with the national priorities and contribute towards the growth of the private sector.

6.3 The Impact on the Public Sector

Under fourth Schedule the functions of ensuring Education policy which include research, standards, curricula, research institutions, higher education is on the National Government. These Regulations will contribute to Vision 2030 which aims at creating a globally competitive and prosperous nation with a high quality of life through the channelling out of highly competitive and innovative graduates and researchers. The regulations will also coordinate all research activities in Kenya to ensure that research is conducted ethically and used constructively so that no harm occurs to the natural, social and cultural environments of Kenya and human life.

7. MONITORING AND REVIEW

The Commission will at least once in a year conduct or cause to be conducted an evaluation of research carried out under the Act for purpose of assessing and evaluating compliance with the conditions of the licence.

8. CONTACT

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