

22nd May, 2009

LEGAL NOTICE NO. 55

**THE STATE CORPORATIONS ACT
(Cap.446)**

IN EXERCISE of the power conferred by section 3 (1) of [the State Corporations Act](#), I, Mwai Kibaki, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, make the following order-

THE KENYA ACCREDITATION SERVICE ORDER, 2009

1. Citation.

This Order may be cited as the Kenya Accreditation Service Order, 2009.

2. Interpretation.

In this Order, unless the context otherwise requires-

“accreditation” means attestation by KENAS relating to a conformity assessment body conveying formal demonstration of the conformity assessment body’s competence to carry out specific conformity assessment tasks;

“accreditation certificate” means a formal documentation, stating that accreditation has been granted for the defined scope;

“accreditation mark” means a mark issued by an accreditation body to be used by an accredited conformity assessment body to indicate their accredited status;

“appeal” means a request by a conformity assessment body for reconsideration of any adverse decision made by KENAS relating to its desired accreditation status;

“assessment” means the process undertaken by KENAS to evaluate the competence of a conformity assessment body based on particular standards or other normative documents for a defined scope of accreditation;

“Board” means the KENAS Board established under paragraph 5;

“conformity assessment” means demonstration that specified requirements relating to a product, process, system, person or body are fulfilled;

“conformity assessment body” means a body that carries out conformity assessment services such as testing, calibration, inspection, management system certification, certification of persons, and product certification and may include both public and private bodies;

“fees” includes subscription, application and any other fee that may be prescribed by KENAS;

“KENAS” means the Kenya Accreditation Service established under paragraph 3 and may also be referred to as the National Accreditation Body for Kenya;

“Minister” means the Minister for the time being responsible for industrialization matters;

“scope of accreditation” means specific conformity assessment services for which accreditation is sought or has been granted.

3. Establishment of KENAS.

There is hereby established a State Corporation to be known as the Kenya Accreditation Service (hereinafter referred to as KENAS) which shall be a body corporate and with perpetual succession and a common seal, and shall in its corporate name, be capable of-

(a) suing and being sued;

(b) acquiring, holding, and disposing, movable or immovable, property; and

(c) entering into contracts and performing all acts relating to the performance of its functions under this Order.

4. Functions of KENAS

(1) KENAS shall perform the following functions-

(a) develop, regulate and review the criteria or requirements for accreditation of conformity assessment bodies;

(b) accredit conformity assessment bodies;

(c) open, maintain and update the register of accredited conformity assessment bodies;

(d) design and issue identification numbers and certificates to all accredited conformity assessment bodies;

(e) publish in the *Gazette* all conformity assessment bodies that have been accredited within a particular year annually;

(f) promote the use of accreditation marks and certificates issued to accredited conformity assessment bodies;

(g) promote competence and equivalence of accredited bodies;

(h) establish and nurture relations and co-operation with regional and international accreditation bodies, persons, associations and organizations that KENAS may consider desirable or appropriate, in furtherance of the objectives and purposes for which KENAS is established;

(i) promote accreditation as a means of facilitating regional and international trade and enhancing economic performance and transformation;

(j) participate in the formulation of regional and international guidelines and standards to facilitate the accreditation process;

(k) raise awareness on the importance and purpose of accreditation; and

(l) promote KENAS as the sole National Accreditation Body in the scope of accreditation.

(2) KENAS shall carry out accreditation based on-

(a) Government regulations;

(b) regional directives;

(c) the requirement for health, safety, and protection of the environment; and

(d) the market and the needs of clients.

5. Composition of the Board.

The KENAS shall have a Board of Directors which shall consist of -

(a) a non-executive chairman appointed by the President;

(b) the Permanent Secretary of the Ministry for the time being responsible for industrialization matters;

(c) the Permanent Secretary of the Ministry for the time being responsible for finance;

(d) the Chief Executive Officer of KENAS who shall be the Secretary; and

(e) not more than three other people, appointed by the Minister to represent regulatory bodies;

6. Functions of the Board.

(1) The Board shall-

(a) advise and consult the Minister on matters relating to accreditation;

- (b) oversee the administration and financial management of the KENAS;
- (c) formulate policy for the purpose of providing guidance to KENAS for the better performance of its functions under this Order;
- (d) administer the assets and funds of KENAS in such a manner for the purposes of promoting the objectives and interests of KENAS;
- (e) receive donations and other monies, property and equipment on behalf of KENAS; and
- (f) perform any other function that is necessary for the better carrying out of the functions of KENAS under this Order.

(4) The Board shall, in consultation with the Minister, appoint a Chief Executive Officer who shall be in charge of the management of KENAS and be accountable to the Board for the administration and financial management of KENAS, and all technical matters.

(5) KENAS shall engage and employ such number of staff, as may be necessary for the proper performance of its functions.

7. Composition of the Accreditation Committee.

KENAS shall have an Accreditation Committee which shall consist of-

- (a) the Director of Industries who shall be the Chairman;
- (b) the Director of Standards of the Kenya Bureau of Standards;
- (c) the Director of Metrology of the National Metrology Institute;
- (d) the Chief Executive of KENAS who shall be the Secretary;
- (e) not more than four persons representing conformity assessment bodies appointed by the Minister; and
- (f) one person representing the manufacturing and production industries appointed by the Minister.

8. Functions of the Accreditation Committee.

(1) The Accreditation Committee shall-

- (a) determine the accreditation marks or symbols and how the accreditation marks or the symbol and certificates shall be used by registered persons and accredited bodies;
- (b) make rules to regulate its procedure and affairs to ensure independence and impartiality;

(c) review applications for accreditation, and grant, renew, suspend or cancel registration or accreditation;

(d) hear disputes relating to registration or accreditation; and

(e) deal with any other issue relating to accreditation.

(2) The Accreditation Committee shall exercise its powers to cancel accreditation where-

(a) accreditation has been obtained by fraud;

(b) the accredited conformity assessment body does not comply with specified requirement or conditions for accreditation as the Accreditation Committee may prescribe;

(c) the accredited body becomes insolvent;

(d) the accredited conformity assessment body is declared insolvent or has had a receiving order issued against it; and

(e) the accredited conformity assessment body does not pay fees prescribed by the Board when required.

9. Board committees.

The Board may establish any other committees to deal with issues that the Board may specify.

10. Accreditation of persons and bodies.

(1) Any person or body that desires to be accredited shall make an application to KENAS in the prescribed form.

(2) An application for accreditation shall be accompanied by application fees that the Board may, from time to time prescribe.

(3) Every accredited conformity assessment body shall pay any other fees including subscription fees that the Board may, from time to time prescribe.

11. Fees.

KENAS may charge fees determined by the Board and the fees shall be published in the Gazette.

12. Certificates.

(1) Every conformity assessment body accredited under this Order shall be issued with -

- (a) a certificate of accreditation in the prescribed form; and
 - (b) an identification number specified by the Accreditation Committee.
- (2) A certificate issued under this Order shall be-
- (a) valid for a period of one year and renewable; and
 - (b) subject to such terms and conditions as the Accreditation Committee may prescribe.

13. Publication.

KENAS shall once in every year, after 1st January, and not later than 31st March, publish in the Gazette, a list containing the names, and registered addresses of all accredited bodies.

14. Accreditation mark.

KENAS shall own and maintain an accreditation symbol that shall be used by its accredited conformity assessment bodies subject to such conditions as may KENAS may impose.

15. Financial Provisions [No. 12 of 2003]

- (1) The funds of KENAS shall consist of all monies received or recovered under these Regulations by or on behalf of KENAS or any other monies made available to KENAS.
- (2) The Board shall cause to be kept all proper books of accounts and other books and financial records in relation to the funds including all the undertakings, activities, assets and liabilities of KENAS.
- (3) The accounts of KENAS shall be prepared and be submitted for examination annually by the Controller and Auditor General in accordance with [the Public Audit Act, 2003](#).

16. Protection from personal liability.

- (1) No matter or thing done by Board or any officer or employee or agent of KENAS shall, if the matter or this is done bona fide for executing the functions, powers and duties of KENAS render the member, officer, employee or agent or any person acting by his directions personally liable to any action, claim or demand.
- (2) The provisions of these Order shall not relieve KENAS of the liability to pay compensation or damages to any person for injury or loss caused to him, his property, or any of his interest by the exercise of powers conferred by these Regulations by reason of negligence whether wholly or partially of its officers or employees.

17. Confidentiality.

Any person, who is or has been engaged in the administration of this Order shall not disclose, except for the purposes of his functions or when required to do so by a court

or under any written law, any information acquired by him in the exercise or purported exercise of his functions under this Order to any person.

19. Appeals.

A accredited conformity assessment body that is dissatisfied and aggrieved by any decision made by the KENAS and desires to challenge that decision shall within twenty one days from the date of such decision appeal to the Standards Tribunal.

Made on the 11th May, 2009.

Mwai Kibaki,
President