

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 142 (National Assembly Bills No. 38)*



REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2016**

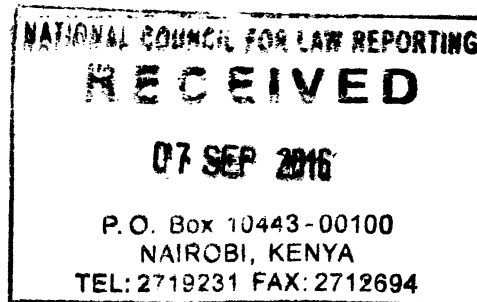
**NAIROBI, 30th August, 2016**

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**THE KENYA NATIONAL EXAMINATIONS  
COUNCIL (AMENDMENT) BILL, 2016**

**A Bill for**

**AN ACT of Parliament to amend the Kenya National  
Examinations Council Act**

**ENACTED** by the Parliament of Kenya, as follows—

**1.** This Act may be cited as the Kenya National Examination Council (Amendment) Act, 2016.

Short title.

**2.** Kenya National Examinations Council Act is amended by deleting section 45 and substituting therefor the following new sections—

Amendment of  
section 45 of Cap  
225A.

Disciplinary  
powers of the  
Council.

**45A** The Council shall have powers to investigate, consider and determine any case where it is alleged that there is an examination irregularity or malpractice.

Inquiry by the  
Council.

**45B (1)** Where the Council has reason to believe that there is an examination irregularity or malpractice, the Council shall conduct investigation, and undertake the necessary disciplinary proceedings.

(2) In any disciplinary proceedings under this section the Council shall—

- (a) inform the person concerned of the nature of the allegations made against them;
- (b) afford the person adequate time for the preparation and presentation of their defense, and;
- (c) afford the person the opportunity of being heard in person or through an advocate;

(3) The Council may act on general evidence or statements relating to the character or conduct of the person concerned, and shall not be bound to receive and consider only evidence admissible in a court of law;

(4) For the purposes of proceedings at any inquiry held by the Council; the Council may administer oaths and may, for the purpose of dealing with any matter before it, summon any person to attend and give evidence and to produce any relevant documents.

(5) The Council may make rules for regulating the practice and procedure of the proceedings under this section.

Determinations  
of Council in  
disciplinary  
proceedings and  
appeals.

**45C** (1) Where the Council after disciplinary proceedings determines in any case that the examination results of a candidate have been obtained by irregular means, the Council shall nullify the examination results of such candidate;

(2) The Council shall as soon as practically possible notify the candidate of the determination taken against him.

(3) A notice served under this section shall include a statement of the facts found to have been proved in the proceedings before the Council and the reasons for the determination.

(4) A person aggrieved by the determination of the Council in the exercise of its powers under this section may within twenty-eight days from the service on the person of the determination appeal to the Examination Appeals Tribunal.

(5) The Examination Appeals Tribunal may annul or vary the determination as it deems fit.

### **EXAMINATIONS APPEALS TRIBUNAL**

Establishment of  
Appeals  
Tribunal.

**45D** (1) There is hereby established a tribunal, known as the Examinations Appeals Tribunal, which shall consider and determine appeals arising from the determinations of the Council.

(2) The Appeals Tribunal established under sub section (1) shall be an ad hoc tribunal limited to the appeals period.