LEGAL NOTICE NO. 115

THE EDUCATION ACT
(Cap. 211)

IN EXERCISE of the powers conferred by section 10 of the Education Act, the Minister for Education, Science and Technology, makes the following Order:—

THE EDUCATION (BOARD OF GOVERNORS) (DEVELOPMENT LEARNING CENTRE) ORDER, 2003

PART I—PRELIMINARY

1. This Order may be cited as the Education (Board of Governors) (Development Learning Centre) Order, 2003.

2. In this Order, unless the context otherwise requires—
   “Board” means the Board of Governors of the Development Learning Centre established under paragraph 3;
   “governor” means a member of the Board.
   “Centre” means the Development Learning Centre situated within the Kenya Institute of Administration;
   “Director” means the Director of the Centre;
   “staff” means any staff of the Centre;
   “trainee” means a person who is undergoing training at the Centre;
   “D.P.M.” means the Directorate of Personnel Management; and

PART II—BOARD OF GOVERNORS

3. There is established a Board of Governors to be known as the Board of Governors of the Development Learning Centre, which shall be a body corporate with perpetual succession and a common seal and may, in its corporate name, sue and be sued.

4. The Board shall be independent and autonomous in its operations and functions.

5. (1) The Board shall consist of—

(a) a Chairman elected from amongst the members from the private sector;

(b) the Permanent Secretary/Director of Personnel Management, Office of the President;
(c) one person nominated by each of the following bodies and appointed by the Permanent Secretary/Director of Personnel Management, Office of the President—

(i) Ministry of Finance;
(ii) Kenya Institute of Administration;
(iii) Secretary to the Commission for Higher Education;
(iv) Ministry of Education, Science and Technology;
(v) Executive Director of Association of Professional Societies in East Africa;
(vi) Executive Director of the Kenya Institute of Management;
(vii) Executive Director of the Kenya Institute of Policy Research and Analysis;

(d) not more than three persons co-opted by the Board; and

(e) the Director appointed under paragraph 16, who shall be the Secretary to the Board.

6. (1) The governors shall hold office for a period of three years provided that the Board may make provision for the rotational retirement of any governor at the end of each calendar year.

(2) The governors shall be eligible for re-appointment for a further term of three years.

7. (1) Every vacancy on the Board shall be notified at once to the appointing authority as the case requires.

(2) Any governor who is absent from all meetings of the Board for a period of one year, or who is incapacitated by prolonged physical or mental illness or who is adjudicated bankrupt, or who communicates in writing to the Board his desire to resign, shall thereupon cease to be a governor.

(3) Any governor may appoint a representative to represent him or her at any meeting of the Board which any governor is unable to attend and such representative shall be entitled to vote and take part in the proceedings of the Board.

(4) Any meeting of the Board may be adjourned by a resolution of the Board and if a sufficient number of governors to form a quorum is not present, the meeting shall stand adjourned sine die.

(5) Any resolution of the Board may be rescinded or varied at a subsequent meeting of the Board if due notice has been given to all the governors.

(6) The Board may invite persons who are not members of the Board to attend any meeting thereof, but such persons shall not be entitled to vote on any matter, or except so far as the Chairman shall allow, to take part in the proceedings of the Board.
(7) All documents made by the Board shall be executed and all decisions of the Board shall be signified under the name of the Chairman or of, any member or officer or the Board authorized in that behalf.

8. The following persons, may appoint representatives who shall have the right to attend the meetings of the Board and to speak thereat but shall not have the right to vote—

(a) the Minister for Education, Science and Technology;
(b) the Minister for Trade and Industry;
(c) the Minister for Tourism and Information;
(d) the Minister for Labour and Human Resource Development; and
(e) the Minister of State for Public Service.

PART III—COMMITTEE AND PANELS

9. (1) The Board shall establish an executive committee in which shall be vested any of the powers and functions of the Board with respect to the Centre other than the power to appoint a Director and the power to approve estimates of expenditure of the Centre.

(2) The executive committee may consider any matter vested to it by the Board pursuant to paragraph (1) and for the purpose of submitting a report with recommendations to the next subsequent meeting of the Board.

(3) The proceedings of any meeting of the executive committee shall be reported to the Board at the next subsequent meeting of the Board.

(4) The executive committee shall consist of not less than four and not more than six members, who shall be appointed by the Board from among the members of the Board.

(5) The Chairman of the Board shall be an ex officio member of the executive committee.

(6) The executive committee shall appoint its own chairman and establish its own rules of procedure.

10. Except in special circumstances, and with the prior approval, in writing, of the Directorate of Personnel Management, Office of the President, no governor shall acquire, or hold any interest in any property belonging to the Centre, or receive any remuneration or be interested in any contract in which the Centre is concerned.

11. No governor shall be subject to any personal liability in respect of any matter or thing done or omitted or any contract entered into by or on behalf of the Board.

12. (1) The Board shall hold at least four ordinary meetings in each year. However, a special meeting may be summoned by the Chairman or at the written request of any three governors provided that a two weeks' notice shall be given to the other governors of any meeting and of the matters to be discussed thereat.
(2) The quorum of the Board shall be seven governors and every matter before the Board shall be determined by a majority of the governors present and voting thereon.

(3) In the absence of the Chairman from any meeting of the Board, the governors present shall elect one of the governors to be chairman of the meeting.

(4) The Chairman of the Board shall have a casting vote only.

(5) The members of the executive committee shall be appointed annually and shall be eligible for re-appointment upon retirement.

13. Without prejudice to the provision of paragraph 9, the Board may, from time to time, appoint any committee for any special purpose connected with the Centre and may vest in such committee such powers, other than the power to appoint a Director and the power to approve estimates of expenditure of the Board and the Board may impose on such committee rules of procedure as the Board may decide and the members of that committee may include, but shall not exclusively consist of persons who are not governors.

14. (1) The Board may appoint such advisory panels, as it may consider necessary for the good organization and development of the work of the Centre.

(2) The functions of an advisory panel shall be to advise the Director on—

(a) the organization of courses in a department or section of the Centre;

(b) the examination for which trainees in a department or section should be entered;

(c) the requirement of industry or commerce both as regards the number of trainees and character of training;

(d) arrangements for industrial or commercial experience during training; and

(e) any other matter relating to a department or section.

(3) The chairman of an advisory panel shall be appointed by the Board and may be a governor appointed under paragraph 5 (1) (c).

(4) The members of an advisory panel other than the chairman shall be appointed by the Board from amongst persons with relevant experience, training, education, industry and commerce or of industrial or commercial education and may include governors.

(5) The rules of procedure of an advisory panel shall be made by the panel.

PART IV—FUNCTIONS OF THE BOARD

15. The Centre shall be governed by the Board in accordance with this Order and any other relevant agreement for the time being in force relating to the Centre.
16. (1) The Board shall appoint a Director of the Centre who shall be assisted by an information technology officer and a training co-ordinator and such other staff as the Board may appoint.

(2) The Director shall submit items of business for discussion by the Board and attend meetings of the Board as the Board shall determine, but shall have no vote at any meeting of the Board.

(3) The Board shall appoint, after taking into consideration the recommendations of the Director, suitable and competent staff of the Centre.

(4) The power of the Board to appoint staff shall include the power to appoint persons seconded to the service of the Board by the Government, Global Development Learning Network (G.D.L.N.) or by any other employer.

(5) The appointment and dismissal of the Director or of any member of the staff of the Centre shall be subject to the approval of the Directorate of Personnel Management.

(6) The Board may, by resolution passed by not less than two-thirds of the governors present and voting at a special meeting convened for that purpose, request D.P.M., G.D.L.N. or any other employer, as the case may be, to terminate the secondment of any person seconded to the service of the Board under subparagraph (4).

(7) No proposal to dismiss a person employed by the Board or to terminate his or her contract or request the D.P.M. or any other employer to terminate the secondment of a person seconded to the service of the Board on the ground of misconduct or grave professional default, shall be decided until the person has been given an opportunity to appear in person before the Board and the person so appearing may be accompanied by a friend.

17. (1) Subject to the provisions of paragraph 15 and D.P.M.'s power to determine the general educational and training of the Centre, and its place in the education and training policy of Kenya, the Board shall have the general direction of the conduct and curriculum of the Centre provided that nothing shall be done or resolved by the Board at any meeting of the Board which contravenes the terms of any agreement, for the time being in force, entered into by the Government with respect to the Centre.

(2) All proposals and reports affecting the policy and curriculum of the Centre shall be submitted to the Board and a copy to D.P.M. at least fourteen days before the proposal and reports are considered by the Board.

18. (1) The Board may, with the approval of D.P.M. and subject to any restriction imposed by law, appeal to the general public for subscriptions, donations or requests for the benefit of the Centre.

(2) The Board shall pay all expenses connected with the Centre, including the salaries of the Director and other staff of the Centre.

(3) Any unexpended balance of grant may be carried forward in the accounts of the Centre from one calendar year to the next and the
Board may make proposals for the final disposal of such unspent balance, which shall be at the discretion of D.P.M., who may take such balances into account when assessing the following year's grant.

(4) The Board shall, subject to any matter prescribed under this Order, or to the approval of D.P.M., determine the scale of fees payable by or in respect of trainees at the Centre and prescribe the conditions under which fees may be remitted in whole or in part.

(5) The Board may, with the approval of D.P.M. provide bursaries or scholarships to assist in the education, training or maintenance of trainees who are undergoing courses of instruction at the Centre and prescribe the conditions under which such bursaries or scholarships may be granted or withdrawn.

(6) The Board shall be responsible for making arrangements to raise any loan which D.P.M. may, at the request of the Board, authorize the Board to raise for the purposes of the Centre and shall ensure that proper provision is made for the repayment of the loan including any interest and other charges thereon in consultation with D.P.M.

**PART V—FUNCTIONS OF THE DIRECTOR**

19. (1) Subject to the provision of this Order, the Director shall control the internal organization, management and discipline of the Centre, shall exercise supervision over staff, and shall be personally responsible to the Board for fostering and maintaining high standards of conduct and endeavour among the staff and trainees of the Centre.

(2) There shall be full consultations at all times between the Director, the Chairman of the Board and D.P.M. concerning the courses and training at the Centre.

20. (1) Subject to the provisions of this Order, and any rules and regulations made thereunder, the Director shall regulate the admission and exclusion of trainees from the Centre.

(2) No trainee shall be refused admission or excluded from the Centre on any other reason other than on a reasonable ground.

(3) The Director may perform any of the functions, under this paragraph subject to the control and general direction of the Board.

(4) The exclusion of any trainee from the Centre shall be reported to D.P.M.

21. (1) The Director shall have powers to suspend any trainee from the Centre for any cause he considers adequate, and for a period not exceeding thirty days.

(2) Before the expiry of any period of suspension, the matter shall be reported by the Director to the Board or to any committee or panel in which the powers of the Board in respect of the exclusion of trainees have been vested under paragraph 13 or 14.

22. (1) The Director shall prepare annual estimates of revenue and expenditure in such form and at such times as D.P.M. shall prescribe, for submission to the Board and D.P.M. for approval.
(2) The Director may incur expenditure for the purposes of the Centre in accordance with estimates, which have been approved by the D.P.M. and the Board:

Provided that the approved estimates may not be exceeded without the prior approval of D.P.M. in writing.

(3) The Director shall receive all fees payable by or in respect of trainees and all grants made out of public funds whether for capital or revenue purposes including any subscriptions, donations or bequests made to the Centre.

(4) Nothing in this Order shall affect the terms and conditions upon which any grant may be made to the Board in aid of the Centre out of public funds.

(5) The Director shall control the day-to-day expenditure connected with the running of the affairs of the Centre, and shall present an account of such expenditure to the Board as and when required by the Board.

(6) The Director shall furnish to D.P.M. with a certified copy of the audited annual statement of accounts of the Centre and such other information about the revenue, expenditure, assets and liabilities of the Centre as the D.P.M. may, from time to time, require.

PART IV—GENERAL

23. (1) All movable and immovable property, shares, funds and securities which are currently the property of and which may, from time to time, become the property of the Board or be proved for the purpose of the Board shall be in the name of the Board of Governors of the Centre and shall be dealt with in such manner as the Board may, from time to time, determine, subject to the conditions upon which any grants are made from public funds for capital or recurrent purposes and the conditions upon which any endowment, bequest or donation is made for any purpose connected with the Centre:

Provided no property of the Centre shall be sold without prior approval of D.P.M.

(2) The common seal of the Board shall be in the custody of the Secretary of the Board and shall be authenticated by the signature of the Chairman of the Board or such other Governor as the Board may, by resolution, appoint.

24. Any question arising as to the construction of this Order or as to the regularity or validity of any act done or about to be done hereunder shall be determined conclusively by the D.P.M. upon application made to it for that purpose.


GEORGE SAITOTI,
Minister for Education, Science and Technology.