

SPECIAL ISSUE

Kenya Gazette Supplement No. 114 (National Assembly Bills No. 25)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2013

NAIROBI, 6th August, 2013

CONTENT

Bill for Introduction into the National Assembly—

	PAGE
The Law Society of Kenya Bill, 2013	741



THE LAW SOCIETY OF KENYA BILL, 2013**ARRANGEMENT OF CLAUSES***Clause*

- 1—Short title.
- 2—Interpretation.

**PART II—ESTABLISHMENT OF THE LAW
SOCIETY OF KENYA**

- 3—Establishment of the Law Society of Kenya.
- 4—Functions and objects of the Society.
- 5—General powers of the Society.
- 6—Guiding principles.

PART III—MEMBERSHIP OF THE SOCIETY

- 7—Membership.
- 8—Special membership.
- 9—Honorary membership.
- 10—Regulations for non-practising members.
- 11—No entrance fee payable.
- 12—Membership rights.
- 13—Termination of membership.
- 14—Non-member to cease to practice.

PART III—GOVERNANCE OF THE SOCIETY

- 15—Organs of the Society.

- 16—The General Meeting.
- 17—The Council.
- 18—Eligibility for election as Council member.
- 19—Election of the members of the Council.
- 20—Supervision of Society elections.
- 21—Assumption and term of office.
- 22—Removal from office of president, vice president and Council members.
- 23—Committees and delegation Assumption and term of office.
- 24— Branches of the Society.
- 25—Nomination and Recall of Society's Representatives to Statutory Bodies powers.

PART V—THE SECRETARY AND THE SECRETARIAT

- 26—The secretary.
- 27—The secretariat.
- 28—The structure of the secretariat.
- 29—Liability of Council members, officers and employees.

PART VI—MEETINGS OF THE SOCIETY

- 30—Ordinary general meeting.
- 31—Requisitioning a general meeting.
- 32—Convening and procedure of meetings.
- 33—Resolutions of the Society.

34—Voting.

35—Voting procedure.

36—Alteration of resolutions.

37—Minutes to be recorded, etc

PART VIII—MISCELLANEOUS PROVISIONS

38—Accounts to be kept.

39—The common seal.

40—Committees of Society members.

41—Regulations.

PART IX—REPEALS AND SAVINGS

42—Repeal of Cap. 18.

44—Transitional.

SCHEDULE—BRANCHES OF THE SOCIETY

THE LAW SOCIETY OF KENYA BILL, 2013**A Bill for**

AN ACT of Parliament to establish the Law Society of Kenya, to provide for the objects, and conduct of the affairs of the Society; to provide for the establishment of the Advocates Client Compensation Fund and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Law Society of Kenya Act, 2012 and shall come into operation in accordance with the Constitution.

Interpretation.

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

Cap. 16.

“advocate” has the meaning assigned to it in the Advocates Act;

Cap. 534.

“Certified Public Secretary” has the meaning assigned in the Certified Public Secretaries Act;

Cap. 16.

“client” has the meaning assigned to it in the Advocates Act;

“costs” includes fees, charges, disbursements, expenses and remuneration;

“Council” means the Council of the Society established by section 17;

Cap. 16.

“Disciplinary Committee” means the Disciplinary Committee established under section 57 of the Advocates Act;

“Independent Electoral and Boundaries Commission” means the Independent Electoral and Boundaries Commission established by Article 88 of the Constitution;

“ordinary general meeting” means a meeting of the Society held in terms of section 30;

“practising certificate” means a certificate issued under section 21 of the Advocates Act;

Cap. 16

“prescribed” means prescribed by the Council with the approval of the general meeting;

“paralegal” means a person offering support services to legal practice;

“Roll of Advocates” means the Roll of Advocates kept under section 16 or the Roll of Senior Counsel kept under section 18 of the Advocates Act;

Cap. 16

“Secretary” means the Secretary of the Society appointed by the Council under section 26;

“Society” means the Law Society of Kenya established under http://www.kenyalaw.org/kenyalaw/klr_app/view_cap.php?CapID=20 section 3.

PART II—ESTABLISHMENT OF THE LAW SOCIETY OF KENYA

3. (1) There is established a society to be known as the Law Society of Kenya.

Establishment of the Law Society of Kenya.

(2) The Society shall be body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of—

- (a)** suing and be sued;
- (b)** taking, purchasing or otherwise acquiring, holding, developing or disposing of movable and immovable property;
- (c)** borrowing or raising money;
- (d)** invest and deal with monies of the Society not immediately required in such manner as may from time to time be determined by the Society; and

- (e) doing or performing all such other things or acts, which may, lawfully, be done by a body corporate.

Cap. 18

(3) The Society shall be the successor of the Law Society of Kenya established under the Law Society of Kenya Act, and subject to this Act, all rights, duties, obligations, assets and liabilities of the Law Society of Kenya existing at the commencement of this Act shall be automatically and fully transferred to the Society and any reference to the Law Society of Kenya in any contract or document shall for all purposes be deemed to be a reference to the Society established under subsection (1).

Functions and
objects of the
Society.

4. The objects and functions of the Society are to—

- (a) assist the Government and the courts in matters relating to legislation, the administration of justice and the practice of law in Kenya;
- (b) uphold the Constitution of Kenya and advance the rule of law and the administration of justice;
- (c) ensure that all persons who practise law in Kenya or provide legal services in Kenya meet the standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide;
- (d) protect and assist the members of the public in Kenya in matters relating to or ancillary or incidental to the law;
- (e) set, maintain and continuously improve the standards of learning, professional competence and professional conduct for the provision of legal services in Kenya;
- (f) determine, maintain and enhance the standards of professional practice and ethical conduct, and learning for the legal profession in Kenya;
- (g) facilitate the acquisition of legal knowledge by members of the Society and ancillary service

providers, including paralegals through promotion of high standards of legal education and training;

- (h) represent, protect and assist members of the legal profession in Kenya in matters relating to the conditions of practice and welfare;
- (i) formulate policies that promote the restructuring of the legal profession in Kenya to embrace the spirit, principles, values and objects the Constitution of Kenya;
- (j) facilitate the realization of a transformed legal profession that is cohesive, accountable, efficient and independent;
- (k) establish mechanisms necessary for the provision of equal opportunities for all legal practitioners in Kenya;
- (l) protect and promote the interests of consumers of legal services and the public interest generally, by providing a fair, effective, efficient and transparent procedure for the resolution of complaints against legal practitioners;
- (m) develop and facilitate adequate training programmes for legal practitioners; and
- (n) do all such other things as are incidental or to the foregoing functions.

5. The Society shall have the powers to do all things necessary for the proper and effective achievement of its objects and the performance of its functions.

General powers of Society.

6. (1) In carrying out its functions and in the exercise of its powers under this Act, the Society shall have regard to the following principles—

Guiding principles.

- (a) the maintenance and advancement of constitutionalism, justice and the rule of law;

- (b) the facilitation of access to justice;
- (c) the protection of public interest;
- (d) the maintenance of integrity and professionalism; and
- (e) the promotion of cross border legal practice, inclusivity and equity.

PART III—MEMBERSHIP OF THE SOCIETY

Membership.

7. (1) The membership of the Society shall consist of—

Cap. 16

- (a) any person who has been admitted as an advocate and whose name has been entered into the Roll of Advocates kept under section 16 of the Advocates Act;
- (b) any person admitted to membership under section 8 of this Act; and
- (c) any person elected as an honorary member of the Society under section 9 of this Act;

(2) Notwithstanding subsection (1), a member of the Society who, as a result of disciplinary proceedings has been suspended or whose name has been struck off the Roll of Advocates shall not be a member of the Society during the period of suspension or expulsion.

(3) A person who has been expelled from membership of the Society shall not be re-admitted as a member of the Society without the authority of a special resolution.

Special membership.

8. Any person to whom section 10 of the Advocates Act applies may, upon application, in the prescribed manner be admitted as a member of the Society by the Council.

Honorary membership.

9. The Council may elect any person whom it considers fit to so honour, to be an honorary member of the Society either for life or for such period as the Council may

specify.

10. The Council may make Regulations prescribing matters relating to non practising membership that may be necessary for the promotion of the objects and the regulation of the affairs of the Society.

Regulations for non-practising members.

11. No entrance fee shall be payable by any person for becoming a member of the Society.

No entrance fee payable.

12. The members of the Society shall have the following rights—

Membership rights.

- (a) a paid up member with a practicing certificate shall have all rights of a member;
- (b) a non-practicing member shall have all the rights except that such member shall have no right to practice or vote or vie for office in any election or matter;
- (c) a honorary member have all rights of a member but shall have no right to practice or vote or vie for office in any election or matter;
- (d) a special member shall have the right to—
- (e) vote at any election of the Society or on any matter of the Society;
- (f) vie for any office of the Society;
- (g) vie for any office of the Society;
- (h) be nominated by the Society to any Constitutional or statutory body.

13. (1) Subject to the provisions of section 28 of the Advocates Act, any member of the Society, other than an honorary member, may be suspended or expelled from the Society upon such grounds and following such procedure as may be prescribed by the Council.

Termination of membership.

(2) A person shall not be suspended or expelled from

membership of the Society unless the person has been given reasonable opportunity to answer all allegations made against him or her.

(3) The regulations regarding the manner and the grounds upon, which a member may be suspended or expelled from the Society shall be made in consultation with the Chief Justice.

Non member to
cease to practice,
etc.

14. A member who is suspended or expelled from the Society shall, from the date of suspension or expulsion, cease to be qualified to practice as an advocate and if such member holds a practising certificate, the practising certificate shall where the member is—

- (a) suspended, be suspended for the duration for which that person suspended; or
- (b) expelled, cease to be valid.

PART III—GOVERNANCE OF THE SOCIETY

Organs of the
Council.

15. For the effective governance of the Society there shall be the following organs of the Society—

- (a) the general meeting;
- (b) the Council;
- (c) the secretariat; and
- (d) the branches.

The general
meeting.

16. (1) The general meeting shall be the supreme authority of the Society which shall approve all resolutions and important decisions of the Society.

(2) The general meeting shall consist of all the members of the Society.

(3) The secretary shall be the secretary to the general meeting.

(4) The expenses of the annual general meeting shall

be defrayed from the general funds of the Society.

(5) The quorum of the general meeting shall be at least five percent of all the members of the Society.

(6) The president of the Council shall preside at the general meeting and in the absence of the president, the vice-president shall preside at the meeting.

(7) In the absence of both the president and the vice president, the Council shall nominate one among its members to preside.

17. (1) The Council shall be the governing body of the society. The Council.

(2) The Council of the Society shall consist of-

- (a) the president;
- (b) the vice-president;
- (c) three representatives of the general membership of the Society;
- (d) four upcountry representatives, who shall be persons who do not ordinarily practise in Nairobi or at the coast and;
- (e) three Nairobi representatives who shall be persons who ordinarily practise in Nairobi; and
- (f) one coast representative, who shall be a person who ordinarily practises at the coast.

(3) The members of the Council shall be elected by all the members of the Society in accordance with this Act.

18. (1) A person is eligible for election as the president or vice-president if the person-

Eligibility of election as member of the Council.

- (a) is a member or former member of the Council: and

- (b) has practised as an advocate for at least seven years.

(2) A person is eligible for election as a member of the Council if the person—

- (a) is a member of the Society;
- (b) has been practise for at least two years, from the date of admission;
- (c) has not been found liable for professional misconduct by the Disciplinary Committee established by the Advocates Act, in the three years immediately preceding the election; and
- (d) meets the requirements of Chapter Six of the Constitution.

Cap. 16

Election of the members of the Council.

19. The election of the president, vice-president and members of the Council shall be-

- (a) conducted in a transparent and fair manner;
- (b) in every second year after the election of the Council;
- (c) by secret ballot;
- (d) held in such manner as the Council may, by Regulations, determine.

Supervision of elections.

20. The elections for the members of the Council shall be conducted under the supervision of the Independent Electoral and Boundaries Commission or such other body as the Council may determine.

Assumption and term of office.

21. (1) The president, the vice-president and the members of the Council shall assume office immediately after the ordinary general meeting of the Society next following an election of the members Council, and shall hold office for a period of two years, ending at the conclusion of the annual general meeting held in the second year, after their election.

(2) A person who has been elected as president shall serve for one term and shall not be eligible for election for another term.

(3) Where the president, the vice-president or member of the Council dies, resigns or is removed from office before the expiry of the term of office, the vacancy created shall be filled in such manner as provided in the regulations.

22. (1) The president, the vice-president and a member of the Council may be removed from office by a general meeting by a vote of at least two thirds of all members present and eligible to vote on grounds of—

Removal from office.

- (a) inability to perform the functions of office arising from mental or physical infirmity;
- (b) gross misconduct;
- (c) bankruptcy;
- (d) incompetence; or
- (e) neglect of duty.

(2) Before removal under subsection (1), the president, the vice-president and the member of the Council shall be—

- (a) informed of the reasons for the intended removal, in writing;
- (b) given an opportunity to put in a defence against any allegations, either in person or through an advocate.

23. (1) The conduct of proceedings of the Council, and of every committee of the Council, shall be as may be prescribed from time to time by the Council.

Committees of the Council.

(2) The Council may establish such committees consisting of members of the Council as it may consider necessary for the discharge of its functions.

(3) The Council may co-opt persons who are not

members of the Council to provide such expertise as may be required for the better discharge of its functions, and the attainment of the objects, of the Society.

24. (1) There shall be the following eight branches of the Society consisting of the centres set out in the Schedule—

- (a) Coast;
- (b) Rift Valley;
- (c) North Rift;
- (d) West Kenya;
- (e) South West Kenya;
- (f) Mount Kenya;
- (g) South Eastern; and
- (h) Nairobi.

(2) The branches shall—

- (a) deal with issues that regarding practise within their centres;
- (b) address issues relating to the welfare of the members practising in their centres;
- (c) inform the Council of any matters that affect members within the branches that require the Council's engagement with other stakeholders on behalf of the branch;

(3) The Council may from time to time amend the Schedule to alter the centres comprising each branch.

25. (1) The Council shall nominate the Society's representatives to statutory or public bodies to serve and articulate the objects of the Society.

Branches of the
Society.

Nomination and
recall of Society's
representatives to
statutory bodies.

(2) A person who has been nominated to a statutory body shall seek guidance and directions from the Council on matters affecting the Society and shall, regularly and when required by the Council, report to the Council, the deliberations of the statutory or public body that affect the Society.

(3) A person who has been nominated to serve on any statutory or public body may, at any time, be recalled by the Council notwithstanding that the position has been gazetted and the Council shall replace the vacant position within fourteen days. The person nominated to fill the vacant position shall serve for the unexpired term.

(4) The provisions of this section shall prevail where there is a conflict with any other Act or Subsidiary Legislation that provides for the nomination of the Society's representative.

PART V—THE SECRETARY AND THE SECRETARIAT

26. (1) There shall be a secretary to the Council who shall be the chief executive of the Society and in charge of the secretariat of the Society.

The secretary.

(2) The secretary shall be appointed by the Council through a transparent and competitive recruitment process.

(3) The secretary shall be responsible to the Council for the day-to-day administration and management of the Secretariat and the affairs and functions of the Society as the Council shall determine.

(4) A person shall be eligible for appointment the secretary to the Society if that person—

(a) is an advocate of the High Court of Kenya with at least ten years experience; and

(b) is a Certified Public Secretary.

(5) A person appointed secretary shall hold office for a period of three years and shall be eligible for

reappointment for a further term of three years.

(6) The secretary may be removed from office by the Council with the support of at least two thirds of the members of the Council and on the following grounds—

- (a) inability to perform the functions of office arising from mental or physical infirmity;
- (b) gross misconduct;
- (c) bankruptcy;
- (d) incompetence; or
- (e) neglect of duty.

(7) The Council shall, before removing the secretary under subsection (6)—

- (a) inform the secretary, in writing, of the reasons for the intended removal; and
- (b) give the secretary an opportunity to put in a defence against any such allegations, either in person or through an advocate.

The secretariat.

27. (1) There shall be a secretariat of the Society to be headed by the secretary.

(2) The secretariat shall be responsible for the day to day management of the affairs of the Society.

(3) The secretariat shall, from time to time receive such general or specific instructions from the Council through the secretary.

Structure of the secretariat.

28. (1) The secretariat shall be structured in a manner that promotes the commitment to practice excellence and client care in the profession.

(2) Without prejudice to subsection (1), the secretariat shall consist of the following directorates—

- (a) the practice standards directorate which shall be responsible for the promotion of excellence in practice, client care and the achievement of full compliance with the rules of good practice in the profession through advice, support and other forms of assistance to advocates and law firms;
- (b) the compliance and ethics directorate which shall be responsible for the receipt of complaints against advocates and the prosecution of matters before the Disciplinary Committee;
- (c) the continuing professional development directorate which shall be responsible for ensuring compliance of members with the relevant regulations;
- (d) the public interest directorate which shall be responsible for the identification of public interest issues and litigation; and
- (e) any other directorate that the Council may from time to time deem necessary to establish.

29. (1) No matter or thing done by a member of the Council or by any officer, member of staff, or agent of the Council shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Council or the objects of the Society under this Act or for any neglect or default in the performance or exercise in good faith of any such duty or power render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Liability of Council members, officers and employees.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Council, shall, if the court holds that such act was done bona fide, be paid out of the funds of the Society, if such expenses are not recovered by the person in such suit or prosecution.

(3) The provisions of subsection (1) shall not relieve

the Society of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

PART VI—MEETINGS OF THE SOCIETY

Ordinary general meeting.

30. (1) The Council shall, convene an ordinary general meeting of the Society in the month of March of every year at such venue as may be determined by the Council.

(2) The Council shall present to the ordinary general meeting a full report of the activities of the Society in the immediately preceding year.

Requisitioning a special general meeting.

31. (1) A special general meeting shall be convened at any time—

- (a) if requisitioned by at least five percent of the members from each branch; or
- (b) by the Council on its own motion after giving a thirty days notice.

(2) The notice requisitioning a special general meeting under subsection (1)(a) shall—

- (a) be writing;
- (b) be signed by the members from all the branches as specified in subsection (1);
- (c) specify the object of the proposed meeting;
- (d) be submitted to the secretary to the Society.

(3) The Council shall, within fourteen days of receiving a requisition submitted under subsection (2), convene a special general meeting of the Society.

(4) If the Council fails, within fourteen days after the requisition, to convene a general meeting in accordance

with the requisition, and specifying that it shall be held within thirty days, the members may themselves convene that general meeting to be held at any time within two months after such requisition.

32. Subject to the provisions of this Act, the manner of convening general meetings of the Society and the procedure at a general meeting shall, be as may be prescribed, from time to time, by the Council.

Convening and procedure of meetings.

33. (1) Except for any purpose for which a special resolution is expressly required by this Act or by any regulation made under this Act, all resolutions of the Society in general meeting shall be by simple majority vote.

Resolutions of the Society.

(2) In this Act a “special resolution” means a resolution passed by not less than two-thirds of such members of the Society as may be present and vote thereon at a general meeting of the Society, duly convened with notice of the intention to propose such resolution.

34. Every member present at a general meeting of the Society shall have one vote, and the president of that Council shall also have a casting vote.

Voting.

35. Subject to the provisions of this Act, the procedure of voting at the general meetings, shall, be as may be prescribed, from time to time, by the Council.

Voting procedure.

36. (1) A resolution of the Society in a general meeting shall not be altered or rescinded within nine months after the passage of the resolution without a special resolution of the Society.

Alteration of resolutions.

(2) The Council may at any time convene a special general meeting of the Society.

37. The Council shall cause proper minutes of all meetings of the Council and of the general meeting to be taken and recorded.

Minutes to be recorded, etc.

PART VIII—MISCELLANEOUS PROVISIONS

Records of
accounts.

38. (1) The Council shall cause proper books and records of accounts of all funds, property, assets and liabilities of the Society to be kept, and to be audited as on the 31st December of every year.

(2) The Council shall present the audited accounts of the immediately preceding year at every the ordinary general meeting.

The common seal.

39. The common seal of the Society shall be kept in such custody and used in such manner as may be prescribed from time to time.

Committees of
Society members.

40. (1) The Council may establish such thematic committees comprising members of the Society for the purpose of assisting the Society perform, or to advise the society on any matter relating to the performance of, its functions.

(2) Without prejudice to the generality of sub-section (1), there shall be a standing committee of the Society to be known as the Budget and Finance Committee.

Regulations.

41. The Council may, subject to the provisions of this Act and to approval by a resolution of members, make regulations, which shall be binding on all members of the Society, prescribing any of the following matters—

- (a) annual subscriptions;
- (b) manner of application for membership of the Society;
- (c) grounds for, and procedure relating to, suspension or expulsion of members of the Society;
- (d) resignation of members from the Society;
- (e) regulation of powers exercisable by the Council and any committees or subcommittees of the Council, and delegation of powers;
- (f) manner of convening meetings of the Council

and the committees of the Council, and quorums and procedure of meetings of the Council;

- (g) manner of convening general meetings of the Society, and quorum and procedure of general meetings;
- (h) manner of election, removal and replacement of the president, the vice-president and the other members of the Council, and of representatives of the Society on the Disciplinary Committee;
- (i) the functions and powers of the branches and sources of funding of the activities of the branches;
- (j) the membership, governance of the branches and the regulation of the conduct of business by branches;
- (k) recognition and competencies of chapters of the members of the Society or other local formations within branches;
- (l) manner of election of the branch representatives in the Council;
- (m) the manner of election, removal and replacement of a person nominated by the Society to any constitutional or statutory body;
- (n) recognition, regulation and membership status of non-practising members;
- (o) recognition and regulation of paralegals;
- (p) custody and use of the common seal;
- (q) alternative forms of dispute resolution, including reconciliation, mediation and arbitration;
- (r) professional conduct and etiquette by the

members; and the regulation of marketing and advertising by members of their services;

- (s) reciprocal recognition of qualification with the other bar associations; and
- (t) any other matters as may be necessary for the promotion of the objects and the regulation of the affairs of the Society.

PART IX—REPEALS AND SAVINGS

Repeal of Cap.
18.

42. The Law Society of Kenya Act is repealed.

Savings and
Transitional
provisions.

43. (1) The Council of the Society under the repealed Act shall continue in office for their unexpired term and elections held subsequent to the expiry of the term of that Council shall be held under this Act.

(2) A person who is not eligible for election by virtue of having served as a member of the Council under the repealed Act shall not be eligible to vie for election as a member of the Council under this Act.

(3) A person who was immediately before the commencement of this Act serving as the Secretary or an employee of the Society under the repealed Act shall continue in office until the expiry of their term.

(3) Any rule or regulation made, order or directive issued, notification given or any administrative act undertaken under the repealed Act, shall be deemed to have been made, issued, given or undertaken under this Act and shall continue in force and have effect as if it had been so made, issued, given or undertaken under this Act.

SCHEDULE

(s. 26)

Branches of the Society and respective centres of practice comprising the branches

COAST BRANCH

Mombasa
Malindi/Kwale
Lamu
Taveta

MOUNT KENYA BRANCH

Meru
Nyeri
Maua
Nanyuki
Embu
Kerugoya
Karatina
Othaya
Muranga
Chuka
Isiolo

NORTH RIFT BRANCH

Eldoret
Nandi
Kapsabet
Iten
Pokot
Elgeyo Markwet
Tran Nzoia(Kitale)
Turkana

NAIROBI BRANCH

Nairobi City
Thika

RIFT VALLEY BRANCH

Nakuru
Kericho
Naivasha
Laikipia
Baringo
Samburu
Bomet
Narok

Nyahururu
Molo
Sotik

SOUTH EASTERN BRANCH

Machakos
Kitui
Mwingi
Kagundo
Makueni
Kajiado/Kitengela

WEST KENYA BRANCH

Kisumu
Bungoma
Kakamega
Bondo
Mumias
Busia
Webuye
Siaya
Maseno

SOUTH WEST KENYA BRANCH

Migori
Rongo
Kisii
Homa Bay
Oyugis

MEMORANDUM OF OBJECTS AND REASONS

The legislative proposal giving rise to this Bill has been submitted by the Attorney-General. The principal purpose of this Bill is to provide for the regulation of the legal profession, to establish and provide for the functions of the Law Society of Kenya and to facilitate the realization of an independent and efficient legal profession that promotes the rule of law and the administration of justice.

PART I of the Bill contains preliminary provisions.

Part II of the Bill establishes the Law Society of Kenya as a body corporate and provides for its functions and powers.

PART III of the Bill deals with the membership of the Society. **Clause 8** provides for special membership and **clause 9** provides for honorary membership of the Society. **Clause 10** empowers the Council to make Regulations for non practising members while **clause 12** provides for the rights of members of the Society.

PART IV of the Bill sets out the governance organs of the Society which include the Council, Secretariat, branches of the Society and the general meeting. **Clause 17** provides that the management of the Society shall vest in a Council whose mode of election is provided in the **clause 19**. **Clause 23** of the Bill empowers the Council to establish Committees for the better performance of its functions while **clause 24** provides for the branches of the Society. **Clause 24** empowers the Council to nominate representatives to statutory or public bodies.

PART V of the Bill provides for the Secretariat of the Society. **Clause 26** provides for the appointment of the Secretary of the Society while **clauses 27 and 28** deal with the functions and structure of the Secretariat.

PART VI of the Bill sets out the manner in which meetings of the Society shall be conducted. **Clause 33** deals with the resolutions of the Society while **clauses 34 and 35** provide for the voting procedure at the meetings of the Society.

PART VII of the Bill contains miscellaneous provisions. **Clause 38** provides for the preparation and audit of financial accounts of the Society

before the end of each financial year and the submission of these accounts to the members of the Society at the annual general meeting. **Clause 41** empowers the Council to make Regulations.

PART IX of the Bill contains savings and transitional provisions.

The **Schedule** provides for the branches of the Society and the centers of practice of the branches of the Society.

This Bill is not a Bill concerning county governments.

The enactment of this Bill will not occasion additional expenditure of public funds.

Dated 26th July, 2013.

ADEN DUALLE,
Leader of the Majority Party.