Kilifi County Gazette Supplement No. 32 (Bills No. 27)

KILIFI COUNTY GAZETTE SUPPLEMENT

BILLS, 2016

NAIROBI, 8th September, 2016

CONTENT

Bill for Introduction into the County Assembly of Kilifi — 1

The Kilifi County Co-operative Societies Bill, 2016 1
THE KILIFI COUNTY COOPERATIVE SOCIETIES BILL, 2016

ARRANGEMENT OF CLAUSES

PART I—PRELIMINARY

1—Short title
2—Objects and Purpose
3—Interpretations
4—Application

PART II—ADMINISTRATION AND OFFICES

5—Responsibilities of the County Executive Committee Member
6—Establishment of the Directorate
7—Functions of the Directorate
8—Director of the Co-operatives Development
9—Powers of the Director
10—Transitional

PART III—PROMOTION AND DEVELOPMENT

11—Promotion and Development
12—Sub-County Co-operative Societies Leaders’ Forum
13—County Co-operative Societies Leaders’ Forum
14—Sub-County Co-operative Committee

PART IV—CO-OPERATIVE SOCIETY ENTERPRISE DEVELOPMENT FUND

15—Establishment of Co-operative Societies Enterprise Development Fund
16—Funds to remain in the Fund at the end of a Financial Year
17—Administrator of the Fund
18—Loans Appraisal Committee
19—Duties of the Committee
20—Application for a Loan
21—Eligibility for a loan
22—Loans to be secured and attract interest
PART V—BOOKS OF ACCOUNTS AND FINANCIAL REPORTS

24—Books of Accounts and Reports
25—Audit of the Fund

PART VI—REGISTRATION OF COOPERATIVES

26—Categories of Co-operative Societies
27—Eligibility and Application Procedure
28—Registration and Effects.
29—Registration of existing cooperative societies
30—Licensing of a branch of a Co-operative society registered under other laws.
31—Issuance of license
32—Display of Certificate of Registration and License

PART VII—MANAGEMENT OF COOPERATIVE SOCIETIES

33—Promoting good governance in cooperative societies
34—Annual General Meeting
35—General and special Meetings
36—Committees of a Co-operative Society
37—Election and tenure of Committee members
38—Declaration of wealth of a member of a committee

PART VIII—RIGHTS AND OBLIGATIONS OF COOPERATIVES

39—By-laws and Rules of a Co-operative society
40—Recruitment of members
41—Keeping and access to records of Co-operative Society
42—Right to trade with members in Agricultural Products
43—Right to a first charge over members assets over debts
44—Filing of Annual Report
PART IX—RIGHTS AND OBLIGATIONS OF MEMBERS

45—General rights of members
46—Rights to hold shares and invest with the Cooperative society
47—Limitation of right to vote
48—Right to appoint an nominee
49—Restriction to attachment of member’s share
50—Liability of a past member
51—Liability of a deceased member

PART X—ACCOUNTS AND FUNDS OF A COOPERATIVE SOCIETIES

52—Financial year
53—Account and Audit
54—Personal Liability for failure to ensure audit
55—Funds of a Cooperative Society.
56—Restriction on giving loans to non-members
57—Restriction on receiving deposit or loans from non-members
58—Limitation of powers to borrow.
59—Registration of a charge property of Cooperative Society.
60—Investment of Funds of a Cooperative Society.
61—Declaration of Bonus
62—Reserve fund
63—Front Office Services

PART XI—INSPECTION, INQUIRY AND WINDING UP

64—Supervision of Front Office Services.
65—Conduct of routine inspection
66—Conduct of an Inquiry
67—Inspection of books of Indebted Society
68—Expense of the inquiry or inspection
69—Cancellation of Certificate of Registration
70—Winding up
71—Limitations of liquidators powers
72—Cooperatives Liquidation Accounts

PART XII—GENERAL PROVISIONS

73—Principles of Cooperatives
74—Protection of the words “Cooperative Society”
75—Protection of the name of a registered Cooperative Society.
76—Application for change of name of a Cooperative Society
77—Publication of regulations
78—Power to surcharge of person
79—Appeals
80—Remuneration of members of a Cooperative Society
81—Other powers of the Director
82—Offences
83—Certain laws not to apply
84—Savings

SCHEDULES
THE KILIFI CO-OPERATIVE SOCIETIES BILL 2016

AN ACT of County Assembly of Kilifi to provide for the Constitution, registration and regulation of Co-operative Societies; promotion and development of cooperatives and purposes incidental thereto

ENACTED by the County Assembly of Kilifi as follows—

PART I – PRELIMINARIES

1. This Act may be cited as the Kilifi County Co-operative Societies Act, 2016.

2. The purpose of this Act is to facilitate the implementation of section 7 (e) of part II of the Fourth Schedule to the Constitution and to provide for the establishment of legal and institutional framework for registration and regulation of Cooperative Societies in order to—

   (a) Promote growth and development of co-operative societies;

   (b) Enhance good governance in the cooperative societies;

   (c) Promote local economic growth and development; and

   (d) Promote the realization of Article 36 of the Constitution on freedom of association.

3. In this Act unless where the context otherwise requires—

   “By-laws” means the by-laws made by a cooperative society and approved under this Act and includes any amendment of such by-laws.

   “Agriculture produce” means any produce or article produced or obtained by the work or industry of members of a cooperative society or marketed by a cooperative society whether the produce be of agriculture, animal husbandry, forestry, fisheries, handicrafts or otherwise.

   “Bonus” in relation to a member of a cooperative society means the member’s share of the surplus of the Co-operative Society which is divided amongst its members, calculated by reference to the proportion of the member’s
volume of business with the cooperative society to the total volume of business done by the cooperative society.

“Capital” means the permanent members equity in the form of common stock and includes all disclosed reserves, retained earnings, grants or donations.

“Co-operatives society” means a co-operative society registered under section 26 of this Act.

“County” means the County Government of Kilifi.

“Executive Committee Member” means the Executive Committee Member for the time being in charge of cooperatives.

“Director” means the Director for cooperatives appointed under this Act and includes any person on whom the powers of the Director have been conferred in accordance with this Act.

“Share” means the amount represented by a member’s portion in the equity of a cooperative society as a co-owner.

“Fund” Means the cooperative Enterprise Development Fund Established under section 15 of this Act.

4. (1) This Act shall apply to any person operating or intending to operate a cooperative society or a branch of a cooperative society within the County.

(2) A person shall not operate a cooperative society or a branch of a cooperative society within the County unless they have been registered and issued with a licence in accordance with this Act.

(3) A person who contravenes the provisions of Section(4)(2) commits an offence and is liable on conviction to a fine for a sum not exceeding five million or to imprisonment for a term not exceeding twelve months or to both.

PART II ADMINISTRATION AND OFFICES

5. The County Executive Committee Member shall be responsible for the growth and development of cooperative societies in the County, and in particular—

(a) Develop and oversee the implementation of policies and strategies on cooperatives;
(b) Promote good governance in cooperative societies;

(c) Provide liaison with the national government on matters relating to cooperative societies.

(d) Advise the County on matters relating to the cooperatives;

(e) On the advice of the Directorate, register or cancel a registration certificate of a cooperative societies;

(f) Publish regulations for better undertaking of the functions under this Act; and

(g) Undertake any other function for the effective realization of the objectives of the policies and strategies relating to cooperatives.

6. There is established the Directorate of Co-operative Development, which shall be an office in the County Public Service.

7. (1) The directorate shall be responsible for—

(a) promoting and facilitating the establishment, growth and development of co-operative societies;

(b) supervising co-operative societies and ensuring compliance with the Act and any other written law;

(c) providing liaison with National Government on any matter related to this Act;

(d) advise the County Executive Committee Member generally on any policy to be adopted or matter necessary to effective achievement of the objectives;

(e) Carry out any other function for effective realization of objectives under this Act or any other function assigned by the County Executive Committee Member.

(2) The directorate shall prepare an annual report on the development and status of co-operative societies which shall provide among others for—

(a) the status of promotion of formation of cooperative societies;

(b) the level of growth and development of cooperative
societies;

(c) the challenges faced in implementing the Act and proposed mitigation measures;

(d) the status of promotion of good corporate governance among co-operative societies;

(e) the challenges faced by co-operative societies and proposed mitigation measures;

(f) any other matter as may be prescribed.

(3) The directorate shall submit the report to the Executive Member not later than two months after the end of each financial year.

(4) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the County Assembly for consideration.

8. (1) There shall be a Director of Co-operative Development who shall head the directorate.

(2) The director shall be appointed by the County Public Service Board through a competitive process.

(3) A person shall not be appointed as the director unless he or she—

(a) holds a master’s degree in business administration, management or co-operatives development;

(b) has at least ten years’ experience in management;

(c) meets the requirements of Chapter Six of the Constitution; and

(d) meets any other qualification as the County Public Service Board may stipulate.

9. (1) The director shall have powers to perform the functions assigned to the directorate in furtherance of the purpose of this Act.
(2) The director may delegate in writing any of his powers under this Act generally or specially to officers appointed under this Act or to any person.

10. The County Public Service Board shall appoint such number of officers as may be necessary to carry out the functions of the directorate for effective carrying out of its functions under this Act.

11. Any public officer serving in the County Government appointed and working in the co-operatives department before the coming into effect of this Act and is shall be deemed to be in the service of the Directorate of the co-operatives as established under section 6.

PART III—PROMOTION AND DEVELOPMENT

12. The directorate shall—

(a) mobilize county residents, farmers, traders, business community and any person involved in any enterprise to form co-operative societies;

(b) facilitate the formation and establishment of co-operative societies;

(c) supervise co-operative societies registered under this Act;

(d) promote growth and development of co-operative societies;

(e) promote and facilitate advancement and integration of good corporate governance in co-operative societies; and

(f) carry out any other function as may be assigned by the County Executive Committee Member for the purposes of implementing this Act.

13. (1) The directorate shall, at least twice in every financial year organize and convene in each sub-county, the co-operative leaders’ forum.

(2) The forum shall be open for attendance to all of any registered Co-operative Society operating in the Sub-County.

(3) The Director shall chair the Forum.

(4) The Forum shall address the matters affecting the Co-operative Societies at Sub-County
14. (1) The Directorate shall at least once in every financial year organize and convene the County Co-operative Leaders' Forum.

(2) The forum shall be open for attendance to all leaders of any registered co-operative society operating in the County.

(3) The Director shall chair the Forum.

(4) The forum shall address matters affecting co-operatives societies in the County.

15. (1) The Executive Committee Member may establish an ad hoc committee in a Sub-County, to act as a link and a medium of coordinating Co-operatives Societies’ participating in matters of governance or an event organized by the County Government.

(2) The remuneration of such committee shall be subject to the recommendation by the Salaries and Remuneration Commission

PART IV—CO-OPERATIVE SOCIETY ENTERPRISE DEVELOPMENT FUND

16. (1) There is establish a Fund known as the Co-operative Society Enterprise Development Fund which shall consist of—

(a) Such monies as may be appropriated by the County Assembly

(b) Such monies as may be realized from repayment of the capital and interest of any loan granted from the fund;

(c) Any gifts, donations, grants and endowments lawfully granted to the Fund;

(d) All other sums which may in any manner become lawfully payable to, or vested in the Fund

(2) The Fund shall be utilized to advance loans to such Co-operative Societies as may be approved.

17. (1) The Fund shall be a revolving fund and all receipts, earnings, accruals and its balances at the close of each financial year shall not be paid into the County revenue
The Kilifi County Co-operative Societies Bill, 2016

Fund but shall be retained in the Fund in accordance with Section 109 (2)(b) of the Public Finance Management Act.

(2) Interest accruing to the Fund may be used to defray costs incurred in its administration.

18. The Executive Committee Member responsible for Finance shall designate an administrator of the Fund in Accordance with Section 116(2) of the Public Finance Management Act, 2012.

19. (1) There is established in the Directorate, the Loans Appraisal Committee comprising of not more than five(5) members who shall be officers in the Directorate designated by the County Executive Committee Member.

(2) In addition to the five members designated under sub-section 1, the Director shall be a member and the Chairperson of the committee while the Administrator designated in accordance with section 17 of this Act, shall be the secretary.

The loans Appraisal Committee shall vet all the loan applications to the Fund and determine the suitability or otherwise of a Co-operative Society to be granted a loan from the Fund.

20. An application for a loan under this Act shall be made to the Administrator who shall forward the same to the Loans Appraisal Committee for vetting in accordance with this Act.

21. (1) A Co-operative Society shall be eligible to access a loan from the Fund if—

(a) it was registered and has been operating for atleast one year preceding the coming into force of the Act;

(b) it operates in the County;

(c) Has atleast two thirds of its members as residents of the County;

(d) has audited accounts for atleast one preceding year;

(e) has no known history of defaulting debt repayment;

(f) meets such other conditions as may be prescribed by the Executive Committee Member.

(2) Notwithstanding sub-section (1)(a), a Co-operative
Society may be eligible to be granted a loan from the Fund if it has been operational for a period of at least one year preceding the application and registered after the coming into force of the Act.

22. (1) A loan advanced from the Fund shall be secured by collateral security whose value shall be more than the amount being advanced.

(2) The Administrator shall cause to be charged in favour of the County Government, the collateral securing a loan advanced from the fund.

(3) The County Executive Committee Member may, on exceptional circumstance depending on what the loan is applied, exempt a Co-operative Society from proving a collateral security and instead require the Co-operative Society to provide another type of security.

(4) Notwithstanding sub-section (3), the County Executive Committee Member shall not exempt the requirement of collateral security where the loan’s repayment period exceeds thirty (30) days.

(5) The Executive Committee Members shall prescribe the interest rate accrue to loans advance from the Fund.

23. (1) The County Executive Committee Member, may, as it shall be necessary from time to time, on recommendation of the Director and in accordance with procedures that dictate such appointments, appoint one or more persons to be liquidator of a cooperative society under this Act on such terms and conditions as the County Executive Committee Member shall determine.

(2) Upon appointment, all property of the cooperative society the subject of such appointment shall vest in the liquidator from the date the cooperative society was referred for liquidation.

(3) A person shall not be appointed as a liquidator unless the person has –

(a) an academic degree in financial or legal matters;

(b) has at least five years’ work experience in a financial or legal institution;

(c) meets the constitutional threshold of integrity; and;
(d) is not a member or a past member of the cooperative society under liquidation.

(4) The liquidator shall have the powers to—

(a) schedule the manner and period in which creditors whose claims are not already recorded in the books of the cooperative society shall state and prove their claims for admission;

(b) institute and defend suits and other legal proceedings by and on behalf of the society in the name of the office of the liquidator and appear in the proceedings as a litigant on behalf of the cooperative society;

(c) appoint professionals and experts as shall be necessary to execute the functions assigned;

(d) determine from time to time the contributions to be made members, past members or estates of deceased members of the cooperative society to the funds of the cooperative society;

(e) investigate all claims against the cooperative society and decide questions of priority arising between claimants;

(f) call such meeting of members and creditors as may be necessary for the proper conduct of the liquidation;

(g) sell the movable and immovable assets and rights of action of the cooperative society in accordance with this Act and transfer rights and title;

(h) carry on the business of the cooperative society as far as may be necessary for the proper liquidation of the affairs of the cooperative society;

(i) determine from time to time persons who are liable to meet the liquidation expenses and in what proportion;

(j) take possession of the books, documents and assets of the cooperative society;

(k) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Director;
(l) give such direction in regard to the disposal of books and documents of the society as shall be necessary for the winding up of the affairs of the cooperative society;

(m) with approval of the Executive Committee Member, Compromise any claim by or against the cooperative society; and

(n) apply to the Executive Committee Member for discharge from the duties of liquidator after completion of the liquidation process.

(5) The Executive Committee Member may terminate the appointment of a liquidator if the member is satisfied that the liquidator—

(a) Has failed to meet the performance targets set in the Contract of appointment;

(b) Is suspected of mismanagement or execution of fraudulent transactions in the performance of the functions assigned;

(c) Tendered false documents to secure the appointment;

(d) A situation of conflict of interest has arisen; or

(e) In the interest of the public and maintenance of peace.

PART V—BOOKS OF ACCOUNTS AND FINANCIAL REPORTS

24. The Administrator shall—

(a) maintain accurate books of accounts in respect of the Fund; and

(b) submit all financial reports and other reports as required by the Public Finance Management Act to—

(i) County Assembly

(ii) The Office of the Auditor General; and

(iii) The Office of the Controller of Budget

25. The Fund shall be subject to auditing in accordance with the Public Audit Act.
PART VI — REGISTRATION OF COOPERATIVES

26. (1) A cooperative society may be registered under this Act either as—

(a) a limited liability cooperative society which shall be a cooperative society limited by shares; or

(b) unlimited liability cooperative society which shall be a society where members’ liability is limited to the extent set out by the By-laws.

(2) Any two or more cooperative societies may apply for to form a cooperative society and shall be known as a “cooperative Union”. The Liability of each cooperative society in a cooperative union shall be spelt out in the By-laws.

(3) Any two or more societies may apply to amalgamate to form one cooperative society subject to compliance with the regulations guiding amalgamation of cooperative societies as shall be set out in accordance with this Act.

(4) A cooperative society may apply to divide into more than one cooperative society subject to compliance with the regulations governing division of cooperative societies as shall be set out in accordance with this Act.

(5) An application under Section 9(1) this Act shall clearly specify the kind of cooperative society intended to be incorporated.

27. (1) Any group of at least fifteen persons associated for any lawful purpose who intends to operate a cooperative society or a branch of a cooperative society within the County may apply to the Director for registration in the form set out in the First Schedule to this Act.

(2) The Director shall assess the application to confirm that persons who have applied for registration under this Act—

(a) Have access to this Act and any other regulations and guidelines emanating from this Act;

(b) Are capable or promoting the principles of cooperative society;

(c) Meets the requirements set out in the Second Schedule; and
(d) Have paid the requisite fees set out in the third schedule.

(3) The Director shall, within two months from the date of receipt of an application, either reject the application and give written reason for rejection or make recommendation for registration of the applicants into a cooperative society to the Executive Committee Member.

28. (1) The Executive Committee Member may on recommendation of the Director and on such terms and conditions as the Executive Committee Member deems appropriate grant a Certificate of Registration in the format set out in the First Schedule.

(2) A cooperative society registered under this Act shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of—

(a) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(b) Borrowing money or making investments;

(c) Entering into contracts; and

(d) Doing or performing all other acts or things for the proper performance of its functions which may lawfully be done of performed by a body corporate.

(3) The particulars of cooperative society registered under this Act shall be published in the County Gazette and its name entered in the register of Cooperative Societies.

(4) A cooperative society registered under this Act may establish a branch or other offices other than its registered headquarters and file a notification of such establishment with the Director subject to payment of requisite fees.

29. (1) Any cooperative society existing before the commencement of this Act which has an office, a branch or such other form of existence within the County and intends to continue operating within the County shall within six months from the commencement of this Act apply for registration in Accordance with the procedure set out in this Act.

(2) A Cooperative Society or a branch of a cooperative
society which fails to comply with the provisions of Subsection (1) above shall be guilty of an offence and liable to a fine not exceeding Kenya Shillings five million or to imprisonment for a term not exceeding twelve months or to both.

30. (1) A cooperative society which is not registered within the County intending to operate a branch or an office or establish any other form of existence within the County shall apply for licensing as a branch in the format set out in the First Schedule and pay the requisite fees.

(2) An application under this section shall be considered in the same manner as an application for registration and licensing of a cooperative society.

(3) The County Executive Committee Member may, on recommendations of the Director and, on such conditions as the Executive Committee Member deem appropriate, issue a branch of the cooperative society with a license under this Act and have its name be entered in the register of cooperatives and marked “Branch”.

(4) A license issued under this section or any action taken in respect of a branch of a cooperative society shall not be deemed to confer any legal personality to the branch of the cooperative society.

(5) A branch of a cooperative society recognized under this Act shall comply with the regulations and requirement set out to be observed by the registered cooperative societies under this Act.

31. (1) A cooperative society registered under this Act shall be issued with a license to carry out the business of cooperatives within the County in the format set out in the First Schedule.

(2) A license issued under this Act shall be valid for a period of one year, but may be renewed on an annual basis on application of the cooperative society in the format set out in the First Schedule and payment of the requisite fee.

(3) A license shall not be renewed unless the cooperative society has—

(a) Continued to comply the provisions of this Act and relevant laws, regulations and guidelines emanating
therefrom;

(b) Adheres to the directives issued by the Director implementing this Act;

(c) Continues to promote the principles of cooperatives; and

(d) There is no valid objection from its members for renewal of the registration certificate.

(4) If a cooperative society fails to apply for renewal of license or where in accordance with this Act the renewal of the licence is declined, the cooperative society shall cease to carry out the business of a cooperative society within the County.

(5) Notwithstanding the generality of the foregoing the Executive Committee Member may, on recommendation by the Director withdrawal the license of a cooperative society for gross violation of the provisions of this Act for such period as shall be necessary to ensure that the cooperative society has duly complied with the law.

(6) The Director may in addition to any other cause of action available under this Act order the closure of an office, or a branch, or such other form of existence within the County of a cooperative society that does not have a valid license or whose license has been withdrawn.

32. (1) A cooperative society or branch of a cooperative society shall display the Certificate of Registration and the license granted under this Act at strategic positions at its registered office and at its branch offices or places that it carries on its business.

(2) A cooperative society that fails to display the Certificate of Registration and license shall be guilty of an offence and liable to a fine not exceeding one hundred thousand.

PART VII—MANAGEMENT OF COOPERATIVE SOCIETIES

33. A cooperative society shall promote the principles of good governance, accountability and democracy in addition to other principles of cooperatives in its operations.

(2) Notwithstanding subsection (1) a cooperative society
(2) No person shall use the words “cooperative society” as part of the name of a business within the County unless they are registered under this Act.

(3) A person who contravenes the provisions of this section commits an offence liable to a fine of the sum not exceeding five million or to imprisonment for a term not exceeding twelve months or to both.

75. (1) The Director shall ensure that no cooperative society is registered in the name—

(a) of a registered cooperative society within Kenya;

(b) Which is identical or similar to or bears close semblance to a name of a cooperative society or is likely to mislead members of the public as to its identity;

(c) Consists of a abbreviations or initials; or

(d) In the opinion of the Director is undesirable in the public interest.

(2) The Director shall publish the name of a cooperative society registered under this Act in the County Gazette within thirty days from the date of grant of a certificate of registration.

76. (1) The Executive Committee Member may on recommendation of the Director issue a Certificate of Change of Name to a cooperative society that has made an application for change of name under this Act.

(2) The Director shall enter the new name in the cooperatives register and publish the same in the County Gazette.

(3) Application under this section shall be in the format set out in the first schedule to the Act subject to payment of the requisite fee.

(4) No person shall use the words “cooperative society” as part of the name of a business within the County unless they are registered under this Act.

(5) The change of name of the cooperative society shall not—

(a) affect any rights or obligations of the cooperative
(b) render defective any legal proceedings by or against the cooperative society.

77. (1) The Executive Committee Member may from time to time by a notice in the County gazette publish regulations for the better carrying out of the objects of this Act, in particular to provide for—

(a) The winding up process of a cooperative society;

(b) Conduct of an inquiry or an inspection;

(c) Prescribing fees for services rendered;

(d) Conduct and procedure of meeting of cooperatives;

(e) Transfer of shares and rights of members of cooperative society; and

(f) Any other regulations deemed necessary for better implementation of this Act.

(2) The Regulations set out in the second schedules are deemed to be published in accordance with this section and may be amended from time to time.

78. (1) The Director may if it considers appropriate make an order requiring a person to repay or restore the money or property or any part thereof to the cooperative society together with interest at such rate as the Director thinks just or to contribute such sum to the assets of the cooperative society by way of compensation as the Director deems just where is appears that any person who has taken part in the organization or management of a cooperative society or any past or present officer or a member of the society—

(a) Has misapplied or retained or become liable or accountable for any money or property of the society; or

(b) Has been found guilty of misfeasance or breach of trust in relation to the society.

(2) This section shall apply notwithstanding that the act or default by reason of which the order is made may constitute an offence under another law for which the person has been prosecuted or is being or is likely to be prosecuted.
79. Any person aggrieved by the decision of the Director or a liquidator may appeal in writing to the Executive Committee Member within thirty days from the date of communication of the decision of the Director or liquidator and the decision of the Executive Committee Member shall be final.

80. No member of a cooperative society shall receive remuneration, salary, commission or any other payment from the society for services rendered save by resolution of the members in an annual general meeting and approved by the Director.

81. (1) Without prejudice to any other powers under this Act the Director may—

(a) Call for elections in any cooperative society that has failed to undertake this function in accordance with its by-laws;

(b) Attend meetings of a cooperative society and require a cooperative society to send within proper time a notice and agenda of every meeting and all minutes and communications in respect thereof;

(c) Require that cooperative societies update their by-laws; and

(d) Exercise such other powers consistent with this Act.

82. (1) It shall be an offence under this Act if—

(a) A cooperative society or a member of a cooperative society fails to do or to cause to be done any act or thing which is required by or under this Act or any Regulations made thereunder to be done; or

(b) A cooperative society or a member thereof does anything which is prohibited by or under this Act or any Regulations made thereunder; or

(c) A cooperative society or a member thereof willfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Director or any person duly authorized in that behalf by the Director; or

(d) A cooperative society or member thereof willfully makes a false return or furnishes false information
with respect to any return or information in or which is required by or under this Act or any Regulations made thereunder; or

(e) Any person willfully and without reasonable excuse disobeys any summons requirements or lawful order issues under this Act or fails to furnish any return or information lawfully required from him by a persons authorized to do so or which he is required to furnished by or under this Act or any Regulations made thereunder; or

(f) Any person acts or purports to act as an officer of a cooperative society when not entitled to do so.

(2) Any person who commits an offence under this section shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both.

(3) The Executive Committee Member may recommend to the Director of Public Prosecution persons who may be appoint public prosecutors for cases arising under the provisions of this Act.

83. (1) The provisions of the Companies Act other than those referred to in this Act and the Registration of Business Name Act shall not apply to the cooperative society.

(2) Notwithstanding the provisions relating to employees no cooperative society shall be taken to a trade union.

84. (1) A cooperative society existing before the enactment of this Act shall within one year from the date of enactment ensure that it is in compliance with the provisions of this Act and in particular—

(a) Hold fresh elections to comply with the law at the annual general meeting of the following financial year. Person holding office shall continue to be in office until such elections are held.

(b) Amend its by-laws and any rules enacted therefrom to align them with the provisions of this Act; and

(c) Undertake such other actions as shall be necessary to align the cooperative society to this Act.
(2) Any member of a cooperative society existing before the enactment of this Act, shall retain his or her rights, assets and liabilities in the cooperative society as if such rights, assets and liabilities were held under this Act.

(3) Any contract or obligation of a cooperative society existing before the enactment of this Act and duly registered under this Act shall continue in force as if the contract or obligation was under this Act.
FIRST SCHEDULE

FORM I

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016
APPLICATION FOR REGISTRATION OF A CO-OPERATIVE SOCIETY

TO: The Director of Co-operative Societies
P.O. Box 519-80108, Kilifi

1. Name of proposed co-operative society

2. Area of operation

3. Type of society

4. Whether limited or unlimited liability is desired

5. Language in which books and accounts will be kept

6. Name of person appointed to perform the duties of the secretary of the society

7. Registered office and postal address of the society

We the undersigned hereby apply for the registration of the above society under the Act, and enclose four copies of the proposed by-law-laws in English.

<table>
<thead>
<tr>
<th>Name</th>
<th>Occupation and Address</th>
<th>Age Signature</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>
FORM II A

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

CERTIFICATE OF REGISTRATION

REGISTRATION NO.................

I hereby certify that the Co-operative Society under the name of

.................................................................

.................................................................

and its by-laws have this day been provisionally registered by me in
the Register of Co-operative Societies, in pursuance to the provisions
of the Act and the Rule made there under.

Given under my hand at Nairobi,
this.....Day of .............20.................

.................................................................

County Executive Committee Member
FORM IIB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

CERTIFICATE OF AMALGAMATION

REGISTRATION NO.............

Thereby certify that the Co-operative Society under the name of.................................................................

and its by-laws have this day been provisionally registered by me in the Register of Co-operative Societies, in pursuance to the provisions of the Act and the Rules made there under.

Given under my hand at .................................................................this....................... day of........................................20..................

.................................................................

County Executive Committee Member

FORM III

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

CERTIFICATE OF AMENDMENT OF BY-LAWS

We, Chairman and Secretary of:

.................................................................Co-operative Society

Limited hereby certify:

i. that the enclosed amendment for the by-laws was made at a general meeting held on............................... 

ii. that on that date there were ...............members present in the meeting.

iii. that...............members voted for the amendment Societies by-laws

iv. that proper notice of the meeting and the proposed amendment were issued to all members of the society;

v. that a voting paper was duly issued to every member;

vi. that the amendment has received the prior approval of the Director of Co-operative Development.

................................................................. Date.................................

Secretary

................................................................. Date.................................

Chairman
insert name of society to be deleted in all cases except those in which voting papers have been used by society of limited liability. delete if not applicable.

FORM IVA

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

ANNUAL RETURN FOR THE YEAR ...........................................

(to be submitted within four months of the end of the financial year)

Name of the co-operative society
...........................................................................................

Registration number........ Date of registration.................................

Registered address...........................................................................

Type of Society..................................................................................

The Liability of Members is*
............................................................................................

(a) Limited to a nominal value for each share held;

(b) Limited to ................. times the nominal value of each share held;

(c) Unlimited

The number of members of the society is ...........................................

The number of shares issued is..........................................................

The nominal value of one share is KSh..............................................

The maximum liability which the society may incur in loans or deposits is KSh.................................................................

The total indebtedness of the society secured by registered charges is KSh.................................................................

The date the last annual general meeting was held..........................

Particulars of offices for the financial year from .......... to ............. are as follows:

<table>
<thead>
<tr>
<th>Title of Office</th>
<th>Name of Holder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chairman</td>
<td></td>
</tr>
<tr>
<td>Vice – Chairman</td>
<td></td>
</tr>
<tr>
<td>Committee members</td>
<td>1</td>
</tr>
</tbody>
</table>
A certified true copy of the audited accounts and balance sheet is filed herewith.

Dated this .......... day of.................. 20........

(Signed): .........................

Secretary/ Manager,

FORM V

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

INDEMNITY TO A CO-OPERATIVE SOCIETY

TO: .................................................................

.................................................................

.................................................................

In consideration of your giving or continuing to give an indemnity of

KSh.........................................................

I .................................................................

jointly and severally for myself and my legal personal representatives, successors and assigns hereby—

(a) agree to keep you indemnified against all actions, proceedings, liability, Claims, losses, damages, costs and expenses arising from action and omissions as a consequence of my role in the mismanagement of the resources of the co-operative society in my capacity as a member of the Committee/Board.

(b) irrevocably authorize you to offset the liability, losses, damages, costs and expenses by attaching my shares, deposits, personal property and other personal assets without prior reference to me;

(c) irrevocably authorize you to make any payments and comply with any demands which may be claimed from or made upon you under the said indemnity without any further reference to or further authority from me and agree that it shall not be incumbent upon you to inquire whether or not any dispute exists between myself and the beneficiary of the said indemnity and further agree that any payment in accordance or purporting to be in accordance with the said indemnity shall be binding on me and shall be accepted by me as conclusive evidence, that you were liable to
make such payments or comply with such demands and further that you may at any time determine the said indemnity and

(d) Irrevocably authorize you to: debit my share/deposit account with KSh............. and to hold this amount as security margin against your liability under the said indemnity until such time as the same may discharge; and/or

(e) agree to undertake to deposit with you at any time until the same indemnity shall have been released such or other securities as may be acceptable to you in full or part of your liability under the same indemnity.

Signed this ........ day of .................................. 20..........

DEPONED by me
..............................................................................................

Chairman
Before ...................................... Commissioner for Oaths
Director, .......................................................... Co-operative society Ltd
P.O Box ....................................................

FORM VI A

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

DEDUCTION AUTHORIZATION FORM

TO: .................................................................

Date: .................................

DEDUCTION FROM MY SALARY/PROCEEDS

I ................................................................. I/D NO.
................................. P/NO .........................

Of P.O Box........................................................ Hereby authorize you to make deductions from my salary/proceeds of KSh................................. to be remitted to.................................Co-operative Society Ltd.- to be credited towards my shares account from time to time the said society may advise you on any other deductions The society’s
instruction shall be taken as if they given under my hand. These instructions shall, remain in force unless altered by me in Concurrence with the said society.

Given under my hand this ........... day of ............... 20...........

Name ........................................ I/D No. .................. Signature ........................................

 ..................................................  ........................................

FORM VIB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT
REMITTANCE RETURNS

TO:  The Director of Co-operative Societies
     P.O. Box 519-80108, Kilifi

1. Name of the co-operative society ........................................

2. Registration number ......................................................

3. Type of society ............................................................

4. Province/District ..........................................................

5. Name of employer ..........................................................

6. Last payroll deduction remitted ................................. (month& year)

7. Number of months in arrears ..............................................

8. Amount expected for current payroll deduction KSh ...........

9. Amount remitted as per (8) above Ksh ..........................

10. Shortage Excess (8-9) Ksh ..............................................

   with employer (cumulative) Ksh .................................

Dated .................................. Signed ..............................

Chairman/Manager
FORM VII

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

NOMINATION FORM

The Chairman, ........................................ Co-operative Society Ltd.

P.O. Box..........Kilifi

I ......................................................I/D No.------------------------ of Post office Box ..................... member of .................................. Co-operative Society Ltd; being member No......................... hereby nominate the following nominee(s) to inherit my shares or interest in the said Society in the following manner.

<table>
<thead>
<tr>
<th>Name of nominee(s)</th>
<th>Relationship</th>
<th>% of share/Interest</th>
</tr>
</thead>
<tbody>
<tr>
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<tr>
<td>1.</td>
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<td>2.</td>
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<td>3.</td>
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<tr>
<td>4.</td>
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</tbody>
</table>

Witnessed by:

1. ............................. I/D NO. ........................................
Address.................................Signature ................................

2. .................................I/D NO. ........................................
Address.................................Signature ................................

Given under this hand this ..... Day of ...................... 20...........
Signature ...........................................................................

FORM VIII
THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

NOTIFICATION OF LIMITATION OF BORROWING POWERS

TO: The Director of Co-operative Societies

P.O. Box 519-80108, Kilifi

Name of the co-operative society .................................................................

Registration Number ......................................................................................

This is to inform you that at a duly convened annual general meeting of the above society held on the ............................................................. day of ................................. 20 .................. the following resolution was passed—

That the maximum liability which the society may incur in loans or deposits from non members shall be shillings (in words) ...........................................................

On the date of the annual general meeting members the society had.......fully paid members and there were .........................................members present at the meeting of whom .......................................voted infavor of the resolution and ................. Against.

I hereby certify that the particulars contained above are correct.

Signed...........................................

FORM IX

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

PARTICULARS OF CHARGE CREATED BY A CO-OPERATIVE SOCIETY

To: The Director of Co-operative Societies

P.O Box 519-80108, Kilifi

Name of Co-operative Society .................................................................

Registration Number ......................................................................................

Date and description of the instrument creating or evidencing mortgage or charge...........................................................

Land registrar particulars ............................................................................

...................................................................................................................

Name, address and description of the mortgage on persons entitled to the charge:

...................................................................................................................
FORM XB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

REGISTER OF CHARGES

Name of the co-operative society
Registration number
Date of charge
Date of acquisition of property
Amount secured by charge
Particulars of properties charged
Person entitled to charge
Date of resolution authorizing issue of series debentures
Date of covering deed
Names of trustees of debenture holders:
Date of registration
Signature
Memorandum of satisfaction
Date of discharge
Dated this ........... day of ........ 20 .................

Director
FORM XB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT, 2016

CHRONONOGICAL INDEX OF CHARGES

Serial No .................................................................
Register of charges folio No. ..............................................
Date charged .....................................................................
Amount of charge ............................................................
Particulars of charge .........................................................
Person entitled to charge ..................................................
Name of society creating the charge ......................................
......................................................................................
......................................................................................
......................................................................................
......................................................................................

......................................................................................
......................................................................................

Date of registration ............................................................
Remarks ............................................................................
......................................................................................
......................................................................................
......................................................................................
......................................................................................

......................................................................................

FORM XI

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

CERTIFICATE OF REGISTRATION OF A CHARGE

To: .................................................................
......................................................................................
......................................................................................
......................................................................................

......................................................................................
Name of the co-operative society ........................................
Registration number ........................................................
Date and description of the instrument creating or evidencing the mortgage or charge ......................................................
Amount secured by the mortgage or charge KSh ..........................
Short particulars of the property mortgaged or charged ..............
Land Registry particulars: .................................................................

Name, addresses and description of the mortgages or persons entitled to the charge: .................................................................

Dated this..............day of................20..................................................

SCHEDULE ON BY LAWS

(1) A co-operative society shall make by-laws in respect of the following matters—

(a) its name;

(b) its registered office and postal address;

(c) its area of operation and membership common bond;

(d) the objects of the society;

(e) the purposes to which its funds may be applied;

(f) the disposal of its accumulated funds;

(g) the qualification for membership, the terms of admission of members and the mode of their admission;

(h) the withdrawal and expulsion of members and the payment, if any, to be made to such members and the time within which such payment shall be made;

(i) the rights, liabilities and obligations of members, including the minimum share-holding and produce delivery;

(j) the transfer of the shares or interests of the members;

(k) the manner of raising funds, including the maximum rate of interest on deposits;

(l) its general meetings, the procedure and quorum of such meetings, power of such meetings and representation and voting at such meetings;

(m) the appointment, suspension and removal of members of the committee and officers and the powers and duties of the committee and officers;

(n) the period of its financial year;

(o) the authorization of officers to sign documents on its behalf;
(p) the settlement of disputes; and

(q) such other matters as may be expedient for the better carrying out of its objects.

(2) If the objects of the society include the creation of funds to be lent to its members, by-laws shall also be made in respect of the conditions and other requirements on which loans and advances may be made to members including-

(a) the rate of interest;

(b) the maximum amount which may be lent to a member;

(c) the extension, renewal and recovery of loans;

(d) the period and purpose of loans;

(e) the security for loans; and

(f) the consequences of default in the repayment of any sum due.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the Constitution, registration of Cooperative Societies, promotion and development of Cooperatives.

The structure of the Bill is as follows:

Part I (Clauses 1-4) provides for preliminary matters. It provides for short title, purposes of the Bill, interpretation of terms as used in the Bill and the application of the Act.

Part II (Clause 5-10) of the Bill deals with administration and offices. It provides for the responsibilities of the Executive Committee Member which shall be the growth and development of cooperative societies in the County. It also provides the establishment of the Directorate of Cooperative development and its functions and it establishes for the director and its powers.

Part III (Clause 11-14) of the Bill deals with promotion and development. It provides for the directorate to organize and convene Sub-County Cooperative Societies leaders’ forum and the establishment of the Sub-County Cooperative committee.

Part IV (Clause 15-23) contains the Cooperative Society Enterprise Development Fund. It provides the administration of the fund, loan appraisal committee and their duties and loan application and eligibility and loan security and interest and the office of liquidator.


Part VI (Clause 26-32) Deals with Registration of Cooperatives. It provides for the categories of cooperative societies, eligibility and application procedure and registration and effects. It also contains the registration of the existing cooperatives, licensing of branch of a cooperative society registered under the laws and issuance of license with the display of certificate of registration and license.

Part VII (Clause 33-38) Deals with Management of Cooperative Societies. It provides for promotion of good governance and annual general and specials meetings. It also provides for committees, the elections and tenure of committee members.

Part VIII (Clause 39-44) contains the rights and obligations of cooperative societies. It establishes the By-Laws and rules of a cooperative society, recruitment of members, keeping and access to records of cooperative society. It also provides the right to trade with members in agricultural products, right to a first charge over members’ assets over debts and filing of annual report.
Part IX (Clause 45-51) Deals with rights and obligations of Members. It outlines the general rights of members, rights to hold shares and invest with the cooperative society, limitation of right to vote, right to an nominee and restriction to attachment of members share. It also provides liability of a past member and of a deceased member.

Part X (Clause 52-64) Deals with accounts and funds of a cooperative societies. It provides for the financial year accounts and audit, personal liability for failure to ensure audit and funds of a cooperative society. It also contains the restrictions on giving loans to non- members, restriction on receiving deposit or loans from non-members, limitation of powers to borrow, registration of a charge property of cooperative society and investment of funds of a cooperative society. It provides for declaration of bonus, reserve fund, front office services and supervision of front office services.

Part XI (Clause 65-72) Deals with inspection, inquiry and winding up. It provides for conduct of routine inspection, inquiry, inspection of books of indebted society, expense of the inquiry or inspection, cancellation of certificate of registration, winding up, limitation of liquidators powers and cooperatives liquidation accounts.

Part XII (Clause 73-84) contains general provisions. It outlines the principles of cooperatives, protection of the words “cooperatives society”, protection of the name of a registered cooperative society, application for change of name of a cooperative society and publication of regulations. It also provides for powers to surcharge of person, appeals, remuneration of members of a cooperative society, powers of the director, offences, certain laws not to apply and savings.

SILAS MZUNGU CHITIBWI (Dr.)
Chairperson Planning, Trade and Cooperatives Committee.