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**THE CO-OPERATIVE COLLEGE OF KENYA ACT**

CHAPTER 490A

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**CHAPTER 490A**

**CO-OPERATIVE COLLEGE OF KENYA ACT**

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**CHAPTER 490A**

**CO-OPERATIVE COLLEGE OF KENYA ACT**

[Date of assent: 13th December, 1995.]

[Date of commencement: 1st July, 1998.]

**An Act of Parliament to provide for the establishment and management of the Co-operative College of Kenya and for connected purposes**

[Act No. 6 of 1995, Legal Notice 41 of 1998.]

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Co-operative College of Kenya Act.

**2. Interpretation**

In this Act, unless the context otherwise requires—

"Academic Board" means the Academic Board of the College established under section 14;

"Alumni Association" means the Alumni Association of the College established under section 15;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for Co-operative Development;

"College" means the Co-operative College of Kenya established under section 3;

"constituent training centre" means a training centre referred to in section 3(2)(a);

"Council" means the governing Council of the College established under section 7;

"department" means a department of the College established under section 8;

"Deputy Principal" means a Deputy Principal of the College appointed under section 10;

"former College" means the Co-operative College of Kenya established before the commencement of this Act under the Ministry of Co-operative Development;

"graduate" means a person upon whom a diploma or certificate or any other award has been conferred by the College;

"Principal" means the Principal of the College appointed under section 10;

"Registrar" means the Registrar of the College appointed under section 10.

**PART II – ESTABLISHMENT AND FUNCTIONS OF THE COLLEGE**

**3. Establishment of the College**

(1) There shall be established a College to be known as the Co-operative College of Kenya referred to in this Act as the "College" which shall be the successor to the institution hitherto known as the Co-operative College of Kenya

established under the Ministry of Co-operative Development in this Act referred to as the "former college".

(2) The College shall include—

- (a) any constituent training centres that may be established from time to time by the College; and
- (b) any other institution as the Cabinet Secretary may from time to time in consultation with the Council by notice in the *Gazette* declare to be a constituent training centre of the College.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing all such other things or acts, including entering into such contracts as may be necessary or expedient for the furtherance of the provisions of this Act which may lawfully be done by a body corporate.

#### **4. Common seal and signification of documents**

(1) The common seal of the College shall be kept in such custody as the Council directs and shall not be used except by the order of the Council.

(2) The common seal of the College shall be authenticated by the signature of the Principal and the Chairperson or by any other member of the Council duly authorized by the Council on its behalf.

(3) The common seal of the College when affixed to any document and authenticated under this section shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization of the Council shall be presumed to have been duly given.

#### **5. Functions of the College**

The functions of the College are—

- (a) to provide co-operative education and training for various categories of personnel of the co-operative movement and Government officers, and to serve as a centre of academic excellence in the co-operative movement in Kenya;
- (b) to promote the development and expansion of opportunities for continuing education in co-operatives, management and finance approved by the Academic Board;
- (c) to provide consultancy services in co-operative management and in other development areas relating to co-operatives;
- (d) to undertake research in disciplines related to co-operative management either directly or through approved institutions;
- (e) to conduct examinations, and to award diplomas, certificates and make other academic awards of the College;
- (f) to develop syllabuses and curricula for co-operative education and training;

- (g) to examine and make proposals for the establishment of constituent training centres, departments and faculties;
- (h) to collaborate with other national and international co-operative colleges, and universities, and institutions in the field of co-operative education and training, in research and consultancy services and exchange programmes; and
- (i) to perform such other functions as are incidental to the foregoing.

## 6. Admission to the College

Admission to the College as candidates for diplomas, certificates or other academic awards shall be open to all persons accepted as being qualified by the Academic Board, without discrimination on grounds of race, place of origin or residence or other local connections, political opinion, colour, creed or sex and no barrier based on any such grounds shall be imposed upon any person as a condition of that person becoming a continuing to be a member of the academic staff, or a graduate or student, of the College or of that person holding office in the College, nor shall any preference be given to or advantage be withheld from any person on any such grounds.

## PART III – MANAGEMENT OF THE COLLEGE

### 7. The Council of the College

(1) The governing body of the College shall be the Council of the College which shall consist of—

- (a) a Chairperson, who shall be appointed by the Cabinet Secretary;
- (b) a vice-Chairperson who shall be appointed by the Council from amongst its members;
- (c) the Principal, who shall be the Secretary of the Council;
- (d) the Principal Secretaries or their representatives of the Ministries for the time being responsible for—
  - (i) co-operative development; and
  - (ii) finance;
- (e) the Chairperson of the Kenya National Federation of Co-operatives;
- (f) the Secretary of the Commission for Higher Education or his representative;
- (g) the Managing Director of the Co-operative Bank of Kenya; and
- (h) five other persons representing the co-operative movement nominated at a meeting of co-operative leaders of the Kenya National Federation of Co-operatives.

(2) Subject to subsection (3), a member of the Council, other than an *ex officio* member, shall hold office for a period of three years from the date of appointment specified in his instrument of appointment, but shall be eligible for re-appointment.

(3) The office of a member of the Council shall become vacant—

- (a) if, not being an *ex officio* member—
  - (i) he resigns his office in writing to the Secretary to the Council;
  - (ii) he is convicted of a criminal offence and sentenced to imprisonment for a term exceeding three months; or

- (iii) he is absent without reasonable cause from three consecutive meetings;
- (b) if the Council is satisfied that the member is, by reason of physical or mental infirmity, unable to exercise the functions of his office; or
- (c) upon death of the member.

(4) Where the office of a member of the Council becomes vacant under subsection (3), the Secretary shall forthwith notify the appropriate appointing authority or person of the vacancy.

### **8. Functions of the Council**

(1) Subject to this Act and without prejudice to any other written law, trust, deed or other instrument, or power by or under which a constituent training centre is established, the management, control and administration of the College shall vest in the Council.

(2) Notwithstanding subsection (1), the Council shall have the power—

- (a) to administer the property and funds of the College in a manner and for purposes which shall promote the interest of the College, but it shall not charge or dispose of immovable property of the College except in accordance with the procedures laid down by the State Corporations Advisory Committee established under the State Corporations Act (Cap. 446);
- (b) to receive gifts, donations, grants or other moneys on behalf of the College;
- (c) to admit students to the College;
- (d) to determine the terms and conditions of service, including the appointment, dismissal, suspension, interdiction and retirement benefits of the members of the staff of the College;
- (e) to determine the scales of fees payable by students at the College and to prescribe the conditions under which fees may be remitted in whole or in part;
- (f) to provide for the welfare of the students of the College and for the formation of the Student's Alumni Association;
- (g) to enter into association with universities, colleges and other institutions of higher learning, whether within or outside Kenya, as it may deem necessary and appropriate;
- (h) to make, after consultation with the Academic Board, rules governing the—
  - (i) conduct and discipline of students;
  - (ii) conduct of examinations;
  - (iii) award of diplomas, certificates and other academic awards;
- (i) to establish departments and faculties of the College;
- (j) to award diplomas or certificates or make academic awards;
- (k) to establish sub-committees of the Council.

### **9. Meetings and procedure of the Council**

(1) Unless the Council otherwise determines, a meeting of the Council shall be held at least three times in a year at such time and place as the Chairperson may appoint in consultation with the Secretary of the Council.



(2) The Chairperson may at any time call a special meeting of the Council, or shall call a meeting within twenty-one days of a requisition for that purpose addressed to him and signed by one-third of the members of the Council.

(3) The Chairperson, or in his absence the vice-Chairperson, shall preside at all meetings of the Council at which he is present and in the event of the absence of both the Chairperson and the vice-Chairperson, the members present and constituting a quorum shall elect a Chairperson for the meeting from among themselves.

(4) At any meeting of the Council, seven members shall constitute a quorum.

(5) Any issue or matter for decision by the Council shall be determined by a majority of the members present and voting.

(6) In the event of equality of votes, the Chairperson of, or the person presiding at, the meeting shall have a casting vote in addition to his deliberative vote.

(7) The Council shall cause—

(a) minutes of its proceedings to be kept by the Secretary and such minutes shall be confirmed subject to any necessary amendments by the Council at its subsequent meeting;

(b) minutes of proceedings of a committee of the Council to be kept by the Secretary, and such minutes shall be confirmed by the committee members before they are presented to the Council.

(8) Subject to the provisions of this section, the Council shall regulate its own procedure for the conduct of business.

#### **10. Principal, Deputy Principal and Registrar**

(1) There shall be a Principal of the College who shall be appointed by the Cabinet Secretary on the advice of the Council.

(2) The Council shall appoint one Deputy Principal to assist the Principal in academic matters, and a Registrar who shall assist the Principal in the administration and management of the College's funds and assets.

(3) The Principal, the Deputy Principal and the Registrar shall hold office upon such terms and for such period as may be determined by the Council.

(4) The Deputy Principal appointed under subsection (2) shall be the secretary to the Academic Board.

#### **11. Functions of the Principal**

(1) The Principal of the College shall be the chief executive of the College and Chairperson of the Academic Board.

(2) In addition, the Principal shall—

(a) have overall responsibility for the direction, organization, content and administration of the College's programmes; and

(b) be responsible to the Council for the general conduct and discipline of the staff and students.

#### **12. Academic and administrative staff of the College**

(1) The academic staff of the College shall consist of the Principal, the Deputy Principal, the librarian and all members of staff who are engaged in teaching or research.

(2) The administrative staff of the College shall consist of the Principal, the Registrar and such other members of the staff, not being engaged in teaching or research, as the Council may from time to time determine.

(3) All members of staff of the College shall, subject to this Act, be appointed by the Council either—

- (a) upon such terms and conditions of service as may be determined by the rules made by the Council; or
- (b) in case of an officer seconded from the service of any university, university college or similar institution, any other college, the Government or any other public service or a State corporation, on such terms and conditions as may be agreed between the Council and the seconding authority or body.

(4) The Council may, subject to such restrictions, if any, as it may impose, delegate, either generally or specifically, to any person, or committee of the Council, the power to appoint any member of the staff of the College.

(5) All members of staff of the College shall—

- (a) be subject to the general authority of the Council; and
- (b) be employed on full time basis unless otherwise specifically provided in the rules or the terms of a particular appointment.

(6) There may be established, with the approvals of and in accordance with such rules as may be made by the Council, a College Staff Welfare Association.

### **13. Performance of functions in the absence of office holders**

(1) In the event of the incapacity of the Principal, the functions of the Principal shall during the incapacity be performed by the Deputy Principal.

(2) In the event of the incapacity of both the Principal and the Deputy Principal, the Cabinet Secretary, after consultation with the Chairperson of the Council, may appoint a member of the academic staff of the College to perform the functions of the Principal during the incapacity.

(3) In the event of the incapacity of any member of the staff of the College, other than the Principal, the Principal may appoint a suitable person from the staff to perform the functions of the member during the incapacity.

(4) In this section "incapacity" means absence from Kenya or inability for any other reason to perform the functions of the office concerned.

### **14. The Academic Board**

(1) There shall be an Academic Board of the College which shall consist of—

- (a) the Principal, who shall be the Chairperson of the Academic Board;
- (b) the Deputy Principal who shall be the Secretary;
- (c) the Registrar;
- (d) the heads of departments and faculties of the College;
- (e) the heads of constituent training centres;
- (f) five members of the academic staff of the College, not being members of the Academic Board under any other provisions of this subsection, elected by the academic staff of the College.

(2) The Academic Board shall have the power—

- (a) to design, develop and assess the content and academic standard of any course of study in respect of any diploma, certificate or any other academic award of the College, and to make appropriate recommendations to the Council;
- (b) to propose rules to be made by the Council regarding the standard of proficiency to be attained in each examination for a diploma, certificate or other academic award;
- (c) to approve, upon the recommendation of the College Assessment Committee, the award of diplomas, certificates or other academic awards to persons who attain the requisite standard of proficiency or otherwise qualify for such awards;
- (d) to make proposals to the Council on matters relating to the running of the College generally, including the establishment of departments or faculties of the College; and
- (e) to regulate such other academic matters as are within its powers in accordance with the provisions of this Act.

#### **15. The Alumni Association**

(1) There shall be an Alumni Association of the College comprising past graduates and such other persons as may be prescribed by rules made by the Council.

(2) The Alumni Association shall meet from time to time and discuss any matters relating to the College and by resolutions adopted at such meetings make appropriate recommendations to the Council, and may assist the College in raising funds for the College, and perform such other functions as the Association may deem necessary in the interest of the College.

### PART IV – FINANCIAL PROVISIONS

#### **16. Financial year**

The financial year of the College shall be the period of twelve months commencing on 1st July and ending on the 30th June in the next succeeding year.

#### **17. Funds and investments**

(1) The funds of the College shall consist of—

- (a) fees;
- (b) Government grants;
- (c) donations and gifts;
- (d) endowments;
- (e) loans;
- (f) consultancy fees; and
- (g) money from any other source approved by the Cabinet Secretary.

(2) The Council may invest any of the funds of the College in securities in which trustees may by law for the time being in force invest as trust funds or in such other securities or any other investment as the Cabinet Secretary may approve.

(3) The Council may place on deposits with the Co-operative Bank of Kenya or such other bank as it may determine any money not immediately required for the purpose of the College.

**18. Annual estimates**

(1) Not later than three months before the beginning of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the College for that financial year.

(2) The annual estimates shall make provisions for all the estimated expenditure of the College for each financial year and in particular shall provide—

- (a) for the payment of the pensions, gratuities and other charges in respect of the retirement benefits which are payable out of the funds of the College;
- (b) for the payment of the salaries, allowances and other charges in respect of the staff of the College and members of the Council;
- (c) for the proper maintenance of the buildings and grounds of the College;
- (d) for the proper maintenance, repair and replacement of plant and equipment, and other movable property of the College;
- (e) for the cost of teaching and research activities of the College;
- (f) for insurance and contingent services;
- (g) for contributions towards activities of the College with respect to collaboration with other institutions or bodies;
- (h) for food, provisions and rations; and
- (i) for any other expenditures approved by the Council.

(3) The annual estimates in respect of each financial year shall be approved by the Council not later than one month before the beginning of the financial year.

(4) No expenditure shall be incurred for any purpose of the College, except in accordance with the annual estimates approved under subsection (3) or in pursuance of any authorization of the Council.

**19. Accounts and audit**

(1) The Council shall cause to be kept proper books and records of the accounts of the College.

(2) Within three months after the end of each financial year, the Council shall submit to the Auditor-General the accounts of the College together with—

- (a) a statement of the income and expenditure during that financial year; and
- (b) a statement of the assets and liabilities of the College on the last day of that financial year.

(3) The accounts of the College shall be audited and reported on annually by the Auditor-General in accordance with Part VII of the Exchequer and Audit Act (Cap. 412).

(4) The expenses of and incidental to the auditing of the accounts of the College shall be met from the funds of the College.

**PART V – MISCELLANEOUS PROVISIONS****20. Protection of name of the College**

(1) Notwithstanding any other written law, no public officer performing functions relating to the registration of companies or business names shall accept for registration any name which includes the words, "Co-operative College" or

"Co-operative College of Kenya" unless the application for the registration is accompanied by the written consent of the Cabinet Secretary.

(2) Any person who, without the written consent of the Cabinet Secretary, uses the words "Co-operative College" or "Co-operative College of Kenya" in furtherance of, or as in connection with, an advertisement for any trade, business, calling or profession shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding six months or to both.

#### **21. Dissolution of former College**

The former College shall cease to exist on the commencement of this Act.

#### **22. Transfer of property, assets, liabilities, staff, etc., of former College**

(1) The funds, assets and other movable and immovable property held by the Government for and on behalf of the former College shall vest in the College without any further assurance with effect from the commencement of this Act.

(2) All rights, liabilities and obligations, whether arising under any written law or otherwise, vested in or enforceable by or against, the Government for or on behalf of the former College before the commencement of this Act, shall be transferred to, or enforceable by or against, the College on such commencement.

(3) Any suit or other legal proceedings, or application to any authority, by or against the Government for or on behalf of the former College pending before the commencement of this Act, shall not abate nor be discontinued nor be prejudiced by virtue of the dissolution of the former College but may be prosecuted or continued by or against the College, and any judgment or award obtained by or against the Government for or in respect of the former College and not fully satisfied shall be enforceable by or against the College on the commencement of this Act.

(4) In any legal proceedings, concerning any right or liability transferred to or vested in the College by this section a certificate by the accounting officer of the Ministry for the time being responsible for matters relating to co-operative development that the right or liability has been so transferred to, or vested in, the College shall be *prima facie* evidence thereof.

(5) Unless the Council otherwise directs, all persons who are members of the staff of the former College immediately before the commencement of this Act, shall continue to be members of the staff of the College if they so desire and shall be deemed to have been appointed under this Act on the terms and conditions of service applicable to them immediately before such commencement.

(6) Unless the Council otherwise directs, the departments of the former College existing immediately before the commencement of this Act shall be deemed to be the departments of the College established under section 8.

#### **23. Validity of diplomas, certificates, etc., of former College**

Nothing in this Act shall affect the validity of any diplomas or certificates awarded or other academic awards made by the former College.

#### **24. Adaptation of existing laws and documents**

Any reference in any written law, document or existing instrument, to the former College or to the Government for or on behalf of the former College shall be construed as reference to the College.