

CHAPTER 446

THE STATE CORPORATIONS ACT

SUBSIDIARY LEGISLATION

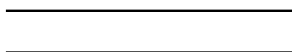
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THE KENYATTA NATIONAL HOSPITAL BOARD ORDER

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Establishment and incorporation of the Board
 3. The Director
 4. Powers and Functions of the Board
 5. Functions of the Hospital
 6. Finances
-

THE KENYATTA NATIONAL HOSPITAL BOARD ORDER

[Legal Notice 109 of 1987, Legal Notice 38 of 2021]

1. Citation

This order may be cited as the Kenyatta National Hospital Board Order.

2. Establishment and incorporation of the Board

(1) There is hereby established a state corporation to be known as the Kenyatta National Hospital Board (hereinafter called "the Board") which shall be a body corporate in accordance with section 3 of the Act and which shall perform and exercise the duties, functions and powers specified in the Act and in this order.

(2) The Board shall consist of —

- (a) a non-executive chairman appointed by the President;
- (b) the Director of the Kenyatta National Hospital;
- (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to health or an officer designated by him in writing;
- (d) the Permanent Secretary to the Treasury of an officer designated by him in writing.
- (e) the Principal of the College of Health Sciences of the University of Nairobi;
- (f) the Attorney-General or his representative designated in writing;
- (g) three other members, not being public officers, appointed by virtue of their knowledge and experience in matters relating to finance, management, economics, law or any other relevant field.

(2A) The persons to be appointed under subparagraph (2)(a) and (g) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) Members of the Board appointed under subparagraph (2)(a) and (g) shall hold office for a term of three years from the date of their appointment and shall be eligible for reappointment.

[L.N. 38/2021, r. 2.]

3. The Director

There shall be a Director for the Kenyatta National Hospital who shall be the chief executive and secretary to the Board and shall be appointed by the Cabinet Secretary for the time being responsible for matters relating to health on such terms and conditions of services as the Cabinet Secretary shall, in consultation with the Board, determine.

4. Powers and Functions of the Board

(1) The Board shall, under the control of the Cabinet Secretary for the time being responsible for matters relating to health, be responsible for the administration, management and development of the hospital and satellites established by the Government known as the Kenyatta National Hospital (hereinafter referred to as "the Hospital").

- (2) (a) The Board shall be the successor of the Government in respect of all rights, duties, obligations, assets and liabilities concerning the Hospital existing at the date of publication of this Order.
- (b) All such rights, duties, obligations, assets and liabilities shall be automatically and fully transferred to the Board and any reference to the Government or the Cabinet Secretary for Health or the Permanent Secretary, Ministry of Health or the Permanent Secretary to the Treasury or the Director, Kenyatta National Hospital in connection with the Hospital in any written law or in any contract or document shall for all purposes be deemed to be reference to the Board established under this order.

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- (3) Without prejudice to the generality of subparagraph (1) the Board shall—
- (a) administer the assets and funds of the Hospital in such manner and for such purposes as will promote the best interests of the Hospital in accordance with the Act;
 - (b) have power to receive, on behalf of the Hospital, gifts, donations, grants or other money and to make legitimate disbursements therefrom;
 - (c) promote the general welfare of the patients and staff of the Hospital;
 - (d) have power to enter into association with other hospitals, health institutions, institutions of higher learning and research organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Hospital is established;
 - (e) make by-laws for the proper and efficient management of the Hospital which by-laws shall be issued by the Director on behalf of the Board and shall not be published in the *Gazette* but shall be brought to the attention of all those affected or governed by them.

[L.N. 38/2021, r. 3.]

5. Functions of the Hospital

It is hereby declared that the Hospital is established for the following purposes—

- (a) to receive patients on referral from other hospitals or institutions within or outside Kenya for specialized health care;
- (b) to provide facilities for medical education for the University of Nairobi and for research either directly or through other co-operating health institutions;
- (c) to provide facilities for education and training in nursing and other health and allied professions;
- (d) to participate, as a national referral hospital, in national health planning.

6. Finances

In addition to any gifts grants, donations or other moneys which the Board may receive on behalf of the Hospital there shall be paid to the Board by way of grants, in every financial year, out of money appropriated by Parliament for the purpose, such sum as the Cabinet Secretary may determine as being necessary to enable the Board to carry out its functions, having regard to the estimate for that year approved under section 11 of the Act.

**NATIONAL WATER CONSERVATION
AND PIPELINE CORPORATION ORDER**

[Legal Notice 270 of 1988, Legal Notice 42 of 1989]

Revoked by Act No. 43 of 2016 on 21st April, 2017

KENYA VETERINARY VACCINES PRODUCTION INSTITUTE ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the Corporation
 3. Board of the Corporation
 4. Headquarters
 5. Functions of the Corporation
 6. Powers of the Board
 7. Protection from personal liability
 8. Liability of the Institute for damages
 9. Delegation by the Corporation
-

KENYA VETERINARY VACCINES PRODUCTION INSTITUTE ORDER

[Legal Notice 223 of 1990]

1. Citation

This Order may be cited as the Kenya Veterinary Vaccines Production Institute Order and shall be deemed to have come into operation on the 5th March, 1990.

2. Establishment of the Corporation

There is hereby established a state corporation to be known as the Kenya Veterinary Vaccines Production Institute (hereafter called "the Institute") which shall be a body corporate in accordance with section 3 of the Act and which shall perform and exercise the duties, functions and powers specified in the Act and in this Order.

3. Board of the Corporation

There shall be a Board of the Institute which shall, subject to section 6(4) of the Act, consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) a managing director;
- (c) the Principal Secretary to the Ministry for the time being responsible for livestock development;
- (d) the Director, Kenya Agricultural Research Institute;
- (e) the Principal Secretary to the Treasury;
- (f) not more than six other members not being employees of the Institute of whom not more than two shall be public officers, appointed by the Cabinet Secretary.

4. Headquarters

The headquarters of the Institute shall be in Nairobi.

5. Functions of the Corporation

(1) The Institute shall—

- (a) co-ordinate and take charge of all veterinary vaccines production in the country;
- (b) market and distribute veterinary vaccines locally and abroad;
- (c) research, either alone or in collaboration with other research institutions, into new innovations of veterinary vaccines production;
- (d) develop and produce chemicals, media and laboratory products for use in the production of vaccines and other veterinary products;
- (e) provide information in the field on the suitability and effectiveness of veterinary vaccines.

(2) The Institute may engage in other activities as the Board with the approval of the President may determine.

6. Powers of the Board

The Board shall—

- (a) administer the assets and funds of the Institute in such manner and for such purposes as will promote the best interests of the Institute in accordance with the Act;
- (b) have power to receive, on behalf of the Institute, gifts, donations, grants or other money and equipment and to make legitimate disbursements therefrom;
- (c) have power to enter into association with other persons, bodies or organizations within or outside Kenya as the Board may consider desirable

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or appropriate and in furtherance of the purposes for which the Institute is established;

- (d) make by-laws for the proper and efficient management of the Institute which by-laws shall be issued by the managing director on behalf of the Institute and shall not be published in the *Gazette* but shall be brought to the attention of all those affected or governed by them.

7. Protection from personal liability

No matter or thing done by the Board or any officer, employee or agent of the Institute shall, if the matter or thing is done *bona fide* for executing the functions, powers and duties of the Institute, render the member, officer, employee or agent or any person acting by his directions, personally liable to any action, claim or demand whatsoever.

8. Liability of the Institute for damages

The provisions of this Order shall not relieve the Institute of the liability to pay compensation or damages to any person for injury to him, his property or any of his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, for any works.

9. Delegation by the Corporation

The Institute may, by resolution, either generally or in any particular case delegate to any committee of the Institute, or to any member, officer, employee or agent of the Institute, the exercise of any of the powers or the performance of any of the functions or duties the Institute is authorized by this Order to exercise or perform.

KENYA PLANT HEALTH INSPECTORATE SERVICE ORDER

[Legal Notice 305 of 1996]

Revoked by Act No. 54 of 2012 on 1st September, 2016

KENYA TOURIST BOARD ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the Board
 3. Constitution of the Board
 4. Headquarters
 5. The Managing Director
 6. Functions of the Board
 7. Powers of the Board
 8. Fund and banking accounts
 9. Protection from personal liability
 10. Liability of the Board for damages
 11. Delegation by the Board
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KENYA TOURIST BOARD ORDER

[Legal Notice 14 of 1997, Legal Notice 141 of 1999]

1. Citation

This order may be cited as the Kenya Tourist Board Order.

2. Establishment of the Board

There is hereby established a State Corporation to be known as the Kenya Tourist Board (hereinafter called "the Board") which shall be a body corporate in accordance with section 3 of the Act and which shall perform and exercise the duties, functions and powers specified in the Act and in this Order.

3. Constitution of the Board

The Board shall, subject to section 6(4) of the Act, consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) a managing director appointed by the President;
- (c) the Principal Secretary to the Ministry for the time being responsible for the development of tourism;
- (d) the Principal Secretary responsible for Provincial Administration and Internal Security, Office of the President;
- (e) the Principal Secretary to the Treasury;
- (f) the Chairperson, Kenya Association of Tour Operators;
- (g) the Chairperson, Kenya Association of Hotel Keepers and Caterers;
- (h) the Chairperson, Kenya Association of Travel Agents;
- (i) the Chairperson, Mombasa Coast Tourist Association;
- (j) the Managing Director, Kenya Tourist Development Corporation;
- (k) the Director, Kenya Wildlife Service;
- (l) the Managing Director, Kenya Airways;
- (m) the Chairperson, Kenya Tourism Federation;
- (n) subject to section 6(1)(e) of the Act, not more than three other members appointed by the Cabinet Secretary.

[LN 141 of 1999, r. 2.]

4. Headquarters

The headquarters of the Board shall be in Nairobi.

5. The Managing Director

(1) There shall be a managing director of the Board who shall be its chief executive and secretary to the Board.

(2) The managing director shall be appointed by the President on such terms and conditions as the President shall determine.

6. Functions of the Board

The Board shall, under the general direction of the Cabinet Secretary for the time responsible for the development of tourism—

- (a) promote and market Kenya as a tourist destination locally and internationally;
- (b) establish public relation services to address issues of concern to the tourism industry, and facilitate the resolution of conflicts within the industry;

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- (c) monitor the quality and standards of facilities available to tourists and advise both the private sector and relevant Government agencies on how to improve the facilities;
- (d) work in partnership with national, regional and international organizations as well as local authorities in the country to improve the tourism environment;
- (e) initiate education and awareness programmes on tourism locally as well as abroad;
- (f) develop and maintain professional personnel to deal with the issues that adversely affect Kenya's image in the tourism industry.

7. Powers of the Board

The Board shall—

- (a) administer its assets and funds in such manner and for such purposes as will promote the best interests of the Board in accordance with the Act;
- (b) have power to receive gifts, donations, grants or other moneys and equipment and to make legitimate disbursements therefrom;
- (c) have power to enter into association with other persons, bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Board is established.

8. Fund and banking accounts

(1) The Board shall establish a "Kenya Tourists Development fund" (hereinafter called "the fund") into which all moneys received by the Board shall be paid and out of which all payments made by the Board shall be made.

(2) The Board shall, in connection with the Fund—

- (a) supervise and control the administration of the Fund;
- (b) open a banking account or banking accounts for the Fund;
- (c) invest any surplus funds in the manner approved by the Cabinet Secretary;
- (d) if it thinks fit, impose conditions as to the use to be made of any expenditure authorized by it or on its behalf and such conditions may impose any reasonable prohibition, restrictions, suspension or requirements concerning such use or expenditure.

9. Protection from personal liability

No matter or thing done by the Chairperson or any other member of the Board or any officer, employee or agent of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done *bona fide* for the purpose of executing any provision of this Order render the Chairperson, member, officer, employee or agent or any person acting by these directions personally liable to any action, claim or demand.

10. Liability of the Board for damages

The provisions of this Order, shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Order or by the failure, whether wholly or partially, for any works.

11. Delegation by the Board

The Board may, by resolution, either generally or in any particular case, delegate to a committee of the Board, or to any member, officer, employee or agent of the Board the exercise of any of the powers or the performance of any of the functions or duties the Board is authorized by this Order to exercise or perform.

**KENYA INSTITUTE FOR PUBLIC POLICY
RESEARCH AND ANALYSIS ORDER**

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the corporation
 3. Board of the corporation
 4. Headquarters
 5. Functions of the corporation
 6. Powers of the Board
 7. Protection from personal liability
 8. Liability of the Institute
 9. Delegation by the corporation
 10. Finance
-

**KENYA INSTITUTE FOR PUBLIC POLICY
RESEARCH AND ANALYSIS ORDER**

[Legal Notice 56 of 1997]

1. Citation

This Order may be cited as the Kenya Institute for Public Policy Research and Analysis Order and shall be deemed to have come into operation on the 14th November, 1996.

2. Establishment of the corporation

There is hereby established a State Corporation to be known as the Kenya Institute for Public Policy Research and Analysis (hereinafter called the "Institute") which shall be a body corporate in accordance with section 3 of the Act and which shall perform and exercise the duties, functions and powers specified in the Act and in this Order.

3. Board of the corporation

There shall be a Board of the Institute which shall, subject to section 6(4) of the Act, consist of—

- (a) the Permanent Secretary/Secretary to the Cabinet and Head of the Public Service or his representative;
- (b) the Permanent Secretary, Office of the Vice-President and Ministry of Planning and National Development;
- (c) the Permanent Secretary, Ministry of Finance or his representative;
- (d) the Permanent Secretary, Ministry of Research, Technical Training and Technology or his representative;
- (e) the Director of Planning, Ministry of Planning and National Development;
- (f) the Director of the Kenya Institute for Public Policy Research and Analysis;
- (g) five other members appointed by the Cabinet Secretary.

4. Headquarters

The Headquarters of the Institute shall be in Nairobi.

5. Functions of the corporation

The main functions of the Institute shall be—

- (a) to develop capacities in public research and analysis and assist the Government in the process of policy formulation and implementation;
- (b) to develop adequate analysis and research programming in areas such as human resources, agriculture and rural development, trade and industry, public finance, money and finance and macro-economic modelling; and
- (c) to establish a mechanism for close working relationships between, the Institute and other institutions interested in utilizing its policy output.

6. Powers of the Board

The Board shall—

- (a) administer the assets and funds of the Institute in such manner and for such purposes as will promote the best interests of the Institute in accordance with the Act;
- (b) have power to receive, on behalf of the institute, gifts, donations, grants or other moneys and equipment and to make legitimate disbursements therefrom;
- (c) have power to enter into association with other persons, bodies, or organizations within or outside Kenya as the Board may consider desirable

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or appropriate and in furtherance of the purpose for which the Institute is established;

- (d) make by-laws for the proper and efficient management of the Institute.

7. Protection from personal liability

No matter or thing done by a member of the Board or any officer, employee or agent of the Institute shall, if the matter is done *bona fide* executing the functions, powers and duties of the Institute, render the member, officer, employee or agent or any person acting by his direction, personally liable to any action, claim or demand whatsoever.

8. Liability of the Institute

The provisions of this Order shall not relieve the Institute of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests, caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, for any works.

9. Delegation by the corporation

The Institute may, by resolution, either generally, or in any particular case delegate to any committee of the Institute, or to any member, officer, employee or agent of the Institute, the exercise of any of the powers or the performance of any of the functions or duties the Institute is authorized by this Order to exercise or perform.

10. Finance

The Institute shall receive financial and logistic support through the Office of the Vice-President and Ministry of Planning, and National Development.

KENYA ORDNANCE FACTORIES CORPORATION ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the Corporation
 3. Headquarters of the Corporation
 4. Objects of the Corporation
 5. Powers of the Board
 6. Functions of the Board
 7. Accounts and Banking
 8. Protection from personal liability
 9. Liability of the Corporation for damages
 10. Delegation by the Corporation
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KENYA ORDNANCE FACTORIES CORPORATION ORDER

[Legal Notice 125 of 1997]

1. Citation

This Order may be cited as the Kenya Ordnance Factories Corporation Order.

2. Establishment of the Corporation

There is hereby established a State Corporation to be known as the Kenya Ordnance Factories Corporation (hereinafter "the Corporation") which shall be a body corporate with a Board constituted in accordance with section 6(1) of the Act.

3. Headquarters of the Corporation

The Headquarters of the Corporation shall be in Eldoret.

4. Objects of the Corporation

(1) The purpose and the object for which the Corporation is established is to manufacture hardware, machinery and equipment.

(2) The Corporation may engage in other activities normally connected with and incidental to the object stated above as the Board with the approval of the President shall determine.

5. Powers of the Board

The Board shall have power—

- (a) to administer the assets and funds of the Corporation in such manner and for such purposes as will promote the best interests of the Corporation in accordance with the Act which shall include the right to borrow and own property;
- (b) to receive, on behalf of the Corporation, donations, grants or other money and equipment and to make legitimate disburse therefrom;
- (c) to enter into association with other persons within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Corporation is established;
- (d) subject to the provisions of the Act and this Order, appoint, remove, determine the remuneration, terms and conditions of service or otherwise deal with employees of the Corporation;
- (e) to constitute and establish local boards, local managing or consulting committees or local agencies in Kenya, or elsewhere, and to appoint any one or more of the members or any other person or persons to be members thereof with such power and authorities as may be prescribed by regulation, and for such period and at such remuneration as the Board may think fit, and to revoke such appointment;
- (f) to make by-laws for the proper and efficient management of the Corporation which by-laws shall be issued by the managing director on behalf of the Corporation and shall not be published in the *Gazette* but shall be brought to the attention of all those affected or governed by them.

6. Functions of the Board

The Board shall—

- (a) supervise the manufacture of materials and equipment and regulate the marketing of the products locally and internationally;
- (b) monitor the quality and standards of the Corporation's products and ensure the maintenance of high standards;

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- (c) direct research within the Corporation or in co-operation with local, regional or international organizations and industries to improve the Corporation's products or develop other products;
- (d) ensure the development of and maintenance of professional personnel to deal with the manufacture and processing of the material and equipment or activities connected with or incidental to the purposes for which it is established;
- (e) establish and maintain good public relations with other parties in relation to the Corporation's activities.

7. Accounts and Banking

The Board shall, in connection with the Corporation's funds—

- (a) ensure that a banking account or banking accounts for such funds are opened;
- (b) authorize the investment of any surplus funds;
- (c) if it thinks fit impose conditions as to the use to be made of any expenditure authorized by it or on its behalf and such conditions may impose any reasonable prohibition, restrictions, suspension or requirement concerning such use or expenditure.

8. Protection from personal liability

No matter or thing done by the Board or any officer, employee or agent of the Corporation shall, if the matter or thing is done *bona fide* for executing the functions, powers and duties of the Corporation, render the member, officer, employee or agent or any person acting by these directions, personally liable to any action, claim or demand whatsoever.

9. Liability of the Corporation for damages

The provisions of this Order shall not relieve the Corporation of the liability to pay compensation or damages to any person for injury to him, his property or any of his interests caused by the exercise of any power conferred by this Order.

10. Delegation by the Corporation

The Corporation may, by resolution, either generally or in any particular case delegate to any committee of the Corporation, or to any member, officer, employee or agent of the Corporation the exercise of any of the powers or the performance of any of the functions or duties the Corporation is authorized by this Order to exercise or perform.

THE MOI TEACHING AND REFERRAL HOSPITAL BOARD ORDER

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Establishment and Incorporation of the Board
 3. Chief Executive Officer
 4. Deputy Directors
 - 4A. Corporation Secretary
 5. Powers and Functions of the Board
 6. Functions of the Hospital
 7. Finance
-

THE MOI TEACHING AND REFERRAL HOSPITAL BOARD ORDER

[Legal Notice 78 of 1998, Legal Notice 56 of 2002, Legal Notice 40 of 2021]

1. Citation

This order may be cited as the Moi Teaching and Referral Hospital Board Order.

2. Establishment and Incorporation of the Board

(1) There is established a state corporation to be known as the Moi Teaching and Referral Hospital Board (hereinafter referred to as the "Board") which shall be a body corporate in accordance with section 3 of the Act and which shall perform and exercise duties, functions and powers specified in the Act and in this order.

(2) The Board shall consist of—

- (a) a non-executive Chairperson appointed by the president;
- (b) the Principal Secretary in the Ministry of Health or an officer designated by him in writing;
- (c) the Principal Secretary Ministry of Finance or an officer designated by him in writing;
- (d) the Principal Secretary Ministry of Education and Human Resource Development or an officer designated by him in writing;
- (e) the Attorney-General or his representative designated in writing;
- (f) *deleted by L.N. 40/2021, r. 2(a)(ii)*;
- (g) the Principal of the College of Health Sciences, Moi University;
- (h) two other members, not being public officers, appointed by virtue of their knowledge and experience in matters relating to finance, management, economics, law or any other relevant field;
- (i) the Director, Moi Teaching and Referral Hospital;
- (j) *deleted by L.N. 40/2021, r. 2(a)(iv)*.

(2A) The persons to be appointed under subparagraph (2)(a) and (h) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) Members of the Board appointed under subparagraph 2(a) and (h) shall hold office for a term of three years from the date of their appointment and shall be eligible for re-appointment.

[L.N. 56/2002, r. 2, L.N. 40/2021, r. 2.]

3. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Board who shall be appointed by the Board on such terms and conditions of service as the Cabinet Secretary may, in consultation with the Committee, approve.

(2) A person shall be qualified for appointment as the Chief Executive Officer if that person—

- (a) is a registered medical practitioner who holds a Master's degree in a health-related field;
- (b) has had a distinguished career in a senior management position in either the private or public sector for at least ten years; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be responsible for the day to day operations and administration of the Board, under the general direction and supervision of the Board.

[L.N. 56/2002, r. 3, L.N. 40/2021, r. 3.]

[Subsidiary]

4. Deputy Directors

(1) There shall be two Deputy Directors of the Moi Teaching and Referral Hospital who shall be under the direction of the Director.

(2) The two Deputy Directors shall be—

- (a) the Deputy Director, Finance and Administration who shall be responsible for all administrative and financial matters and shall be appointed by the Board in consultation with the Cabinet Secretary for Health;
- (b) the Deputy Director, Clinical and Academic Affairs who shall be responsible for all clinical teaching, research and academic matters and shall be appointed by the Board in consultation with the Cabinet Secretary for Health.

(3) The Board may employ such other officers, servants or agents as it deems necessary for the discharge of its functions and duties under this Order upon such terms and conditions as it may determine.

[L.N. 56/2002, r. 3.]

4A. Corporation Secretary

(1) The Board shall competitively recruit a person qualified in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Board.

(2) The Corporation Secretary shall be the Secretary to the Board and shall be responsible for arranging the business and meetings of the Board, the keeping of records of the Board's meetings, the keeping of the records of the proceedings of the Board; and perform such other duties as the Board may direct.

[L.N. 40/2021, r. 4.]

5. Powers and Functions of the Board

(1) The Board shall, under the direction of the Cabinet Secretary for Health, be responsible for the administration, management and development of the hospital established in Eldoret by the Government known as the Moi Teaching and Referral Hospital (hereinafter referred to as the Hospital").

- (2) (a) The Board shall be successor of the Government in respect of all rights, duties obligations, assets and liabilities concerning Eldoret District and Uasin Gishu Memorial Hospitals existing at the date of publication of this Order.
- (b) All such rights, duties, obligations, assets and liabilities shall be automatically and fully transferred to the Board and any reference to the Government or the Cabinet Secretary for Health or the Principal Secretary, Ministry of Health or the Principal Secretary/the National Treasury or the Director, Moi Teaching and Referral Hospital in connection with the hospital in any written law or in any contract or document shall for all purposes be deemed to be a reference to the Board established under this Order.

(3) Without prejudice to the generality of subparagraph (1) the Board shall—

- (a) administer the assets and funds of the hospital in such a manner and for such purposes as will promote the best interests of the Hospital in accordance with the Act;
- (b) have power to receive on behalf of the Hospital, gifts donations grants or other money and to make legitimate disbursements there from;
- (c) promote the general welfare of the patients, trainees and staff of the Hospital;
- (d) promote medical training and provide technical advice on health research, planning and development;
- (e) have power to enter into association with other hospitals, health institutions of higher learning and research organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Hospital is established;

- (f) make by-laws for the proper and efficient management of the Hospital which by-laws shall be issued by the Director on behalf of the Board and shall not be published in the *Kenya Gazette* but shall be brought to the attention of all those affected or governed by them;
- (g) have power to raise funds and levy fees for services rendered as may be determined from time to time by the board for the furtherance of the purposes for which the Hospital is established.

6. Functions of the Hospital

It is hereby declared that the hospital is established for the following purposes—

- (a) to receive patients on referral from other hospitals or institutions within or outside Kenya for specialized health care;
- (b) to provide facilities for medical education for Moi University and for research either directly or through other co-operating health institutions;
- (c) to provide facilities for education and training in nursing and other health and allied professions;
- (d) to participate, as a national referral hospital, in national health planning.

7. Finance

In addition to any gifts, grants donations, fees or other moneys which the board may receive on behalf of the hospital, there shall be paid to the board by way of grants in every financial year, out of money appropriated by parliament for the purpose of carrying out the functions of the hospital, such sum as the Cabinet Secretary may determine as being necessary to enable the board to carry out its function, having regard to the estimate for the year approved under section 11 of the Act.

THE NATIONAL SYNDOMIC DISEASES CONTROL COUNCIL ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 - 1A. Interpretation
 2. Establishment of the Council
 3. Composition of the Council
 4. Chief Executive Officer
 - 4A. Corporation Secretary
 5. Deleted
 6. Functions of the Council
 7. Powers of the Council
 - 7A. Common Seal of the Council
 8. Council to establish and control Fund
 9. Protection from personal liability
 10. Liability of the Council
 11. Delegation by the Council
 12. Finance
-

THE NATIONAL SYNDemic DISEASES CONTROL COUNCIL ORDER

[Legal Notice 170 of 1999, Legal Notice 4 of 2000, Legal Notice 78 of 2004,
Legal Notice 156 of 2009, Legal Notice 36 of 2021, Legal Notice 143 of 2022]

1. Citation

This Order may be cited as the National Syndemic Diseases Control Council Order.

[L.N. 143/2022, r. 3.]

1A. Interpretation

In this Order unless the context otherwise requires —

“Council” means National Syndemic Diseases Control Council established by paragraph 2;

“syndemic diseases” include —

- (a) the Human Immunodeficiency Virus, Acquired Immunodeficiency Syndrome, related co-morbidity to the human immunodeficiency virus;
- (b) sexually transmitted infections;
- (c) malaria;
- (d) tuberculosis;
- (e) leprosy;
- (f) lung disease; or
- (g) such other related disease as may be specified by the Cabinet Secretary.

[L.N. 143/2022, r. 4.]

2. Establishment of the Council

(1) There is established a state corporation to be known as the National Syndemic Diseases Control Council (hereinafter called “the Council”) which shall be a body corporate in accordance with section 3 of the Act and shall perform and exercise the duties, functions and powers specified in the Act and this Order.

(2) The Council shall be the successor of the National AIDS Control Council existing immediately before the commencement of this Order and all the rights, duties, obligations, assets and liabilities of the National AIDS Control Council existing at the commencement of this Order shall be transferred to the Council.

(3) Any person who held office as a member of the Board, or as an officer or member of staff of the National AIDS Control Council existing immediately before the commencement of this Order shall continue to hold office as if that person had been appointed under this Order.

[L.N. 143/2022, r. 5.]

3. Composition of the Council

(1) The Council shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative designated, in writing;
- (da) one person, not being a Governor or state officer, nominated by the Council of Governors;
- (e) three other persons, not being public officers, of whom one must be a person representing persons living with Human Immunodeficiency Virus or

[Subsidiary]

affected by a syndemic disease, appointed by the Cabinet Secretary by virtue of gender, disability, skills mix, regional balance and their knowledge and experience in matters relating to finance, law, business management, medicine, economics or any other relevant field; and

(f) the Chief Executive Officer.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) A person appointed as a member of the Board under subsection (1)(a) and (e), shall serve for a term of three years and shall be eligible for reappointment for a further and final term of three years but may cease to be a member of the Council if—

- (a) at any time the member resigns from office by giving notice, in writing, to the President or Cabinet Secretary, respectively;
- (b) has been absent from three consecutive meetings of the Council without permission of the Chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding twenty thousand shillings; or
- (d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council.

[L.N. 4/2000, r. 2, L.N. 156/2009, r. 2, L.N. 36/2021, r. 3, L.N. 143/2022, r. 6.]

4. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Council who shall be appointed by the Council with the approval of the Cabinet Secretary.

(2) The Chief Executive Officer shall be appointed on such terms and conditions of service as the Cabinet Secretary may, in consultation with the Committee, approve.

(3) The Chief Executive Officer shall subject to the direction of the Council, be responsible for the day to day management of the affairs and staff of the Council

[L.N. 36/2021, r. 4.]

4A. Corporation Secretary

(1) The Board shall competitively recruit a person qualified in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Council.

(2) The Corporation Secretary shall be the Secretary to the Council and shall be responsible for arranging the business and meetings of the Council, the keeping of records of the Council's meetings, the keeping of the records of the proceedings of the Council and perform such other duties as the Council may direct.

[L.N. 36/2021, r. 5.]

5. Deleted

Deleted by L.N. 36/2021, r. 6.

6. Functions of the Council

The Council shall —

- (a) develop policies and guidelines relevant to the prevention and control of syndemic diseases;
- (b) mobilize resources for syndemic diseases control and prevention and provide grants to implementing agencies;
- (c) co-ordinate, supervise and ensure accountability for the implementation of syndemic diseases programmes in the country;

- (d) collaborate with local and international agencies which work in syndemic diseases control;
- (e) facilitate the setting up of multi-sectoral and inter-sectoral syndemic diseases control programmes;
- (f) mobilize Government Ministries, Counties and institutions, Non-Governmental organizations, community-based organizations, research bodies, the private sector and universities to participate in syndemic diseases control and prevention;
- (g) develop strategies to deal with all aspects of the syndemic diseases;
- (h) develop national management information systems for syndemic diseases control;
- (i) identify sector training needs and devise appropriate manpower development strategies;
- (j) develop appropriate mechanisms for research, surveillance, monitoring and evaluation of syndemic diseases programmes; and
- (k) take a leadership role in advocacy and public relations for the prevention and control of syndemic diseases.

[L.N. 4/2000, r. 3, L.N. 156/2009, r. 3, L.N. 143/2022, r. 7.]

7. Powers of the Council

The Council shall—

- (a) administer its assets and funds in such manner and for such purposes as shall promote the best interests of the Council in accordance with the Act;
- (b) have power to receive gifts, donations, grants or other moneys and equipment and to make legitimate disbursements therefrom;
- (c) have power to enter into association with such other persons, bodies or organizations within or outside Kenya as the Council may consider desirable or appropriate and in furtherance of the purposes for which the Council is established.

7A. Common Seal of the Council

(1) There shall be a common seal of the Council which shall be kept in the custody of the Corporation Secretary and shall not be used except on the direction of the Council.

(2) The affixing of the common seal shall be authenticated by the signature of the Chairperson or the Chief Executive Officer or any other person authorized in that behalf by a resolution of the Council.

(3) The common seal shall, when affixed to any document and duly authenticated, be judicially noticed and unless the contrary is proven, any necessary order or authorisation by the Council under this paragraph shall be presumed to have been duly given.

[L. N 36/2021), r. 7.]

8. Council to establish and control Fund

(1) The Council shall establish a National AIDS Control Fund (hereafter called "the Fund") into which all moneys received by the Council shall be paid and out of which all payments made by the Council shall be made.

(2) The Council shall—

- (a) supervise and control the administration of the Fund;
- (b) open a banking account or banking accounts for the Fund;
- (c) invest any surplus funds in the manner approved by the Council;
- (d) if it deems fit, impose conditions as to the use to be made of any expenditure authorized by it or on its behalf, and such conditions may impose any

[Subsidiary]

reasonable prohibition, restrictions, suspension or requirements concerning such use or expenditure.

9. Protection from personal liability

No matter or thing done by the Chairperson or any other member of the Council or any officer, employee or agent of the Council shall, if the matter or thing is done *bona fide* for the purpose of executing any provision of this Order, render the Chairperson, member, officer, employee or agent or any person acting under the directions of those persons personally liable to any action, claim or demand.

10. Liability of the Council

The provisions of this Order, shall not relieve the Council of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Order or by the failure, whether wholly or partially, of any action.

11. Delegation by the Council

The Council may, by resolution, either generally or in any particular case, delegate to a committee of the Council or to any member, officer, employee or agent of the Council the exercise of any of the powers or the performance of any of the functions or duties the Council is authorized by this Order to exercise or perform.

12. Finance

In addition to any gifts, grants, donations, fees or other moneys which the Council may receive, there shall be paid to the Council by way of grants in every financial year, out of money appropriated by Parliament for the purpose of carrying out the functions of the Council, such sum as the Cabinet Secretary may determine as being necessary to enable the Council to carry out its functions, having regard to estimate for the year approved under section 11 of the Act.

KENYA MEDICAL SUPPLIES AGENCY ORDER, 2000

[Legal Notice 17 of 2000, Legal Notice 54 of 2009]

Revoked by Act No. 20 of 2013 on 25th April, 2013

STATE CORPORATIONS (CERTIFICATE OF SURCHARGE) REGULATIONS

[Legal Notice 48 of 2001]

- 1. These Regulations may be cited as the State Corporations (Certificate of Surcharge) Regulations and shall be deemed to have come into operation on the 1st September, 2000.
- 2. The certificate of surcharge referred to in section 19 of the Act shall be in the form set out in the Schedule hereto.

SCHEDULE

[r. 2]

CERTIFICATE OF SURCHARGE

REPUBLIC OF KENYA

(INSPECTORATE OF STATE CORPORATION)

CERTIFICATE OF SURCHARGE

Serial No

To: (name of the person surcharged), (position held at the State Corporation) of P. O. Box (current postal address).

Town:

Name of State Corporation:

Pursuant to the powers conferred on the Inspectorate of State Corporations by section 19 of the State Corporations Act (Cap. 446), this is to certify that you are hereby surcharged the sum of Ksh. only).

The general circumstances of the surcharge

include:

Please take notice that in exercise of the powers conferred upon the inspector by section 24 of the said Act, it is hereby demanded that you pay the said sum of Ksh. to the order of within thirty (30) days of the date hereof. Under section 21(1) of the said Act, you have the right to appeal to the state Corporations Appeal Tribunal within thirty (30) days from the date of this certificate.

Further, take notice that failure to pay the above amount within the stipulated period will lead to enforcement procedures to recover the amount so surcharged.

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

Signed:

Inspector of state corporations

STATE CORPORATIONS APPEAL TRIBUNAL RULES

ARRANGEMENT OF RULES

Rule

1. Citation
2. Interpretation
3. Quorum
4. Form of Appeal
5. Register of appeals
6. Filing of Memorandum
7. Amendment of Memorandum
8. Service of memorandum
9. Service of notice of hearing
10. Withdrawal of appeal
11. Appearance
12. Hearing
13. Summoning of witnesses
14. Power to adjourn hearing
15. Ruling
16. Procedure
17. Costs

SCHEDULES

FORMS

FEES

STATE CORPORATIONS APPEAL TRIBUNAL RULES

[Legal Notice 59 of 2001]

1. Citation

These Rules may be cited as the State Corporations Appeal Tribunal Rules.

2. Interpretation

In these Rules, unless the context otherwise requires—

"appellant" means the person who is empowered by the Act to appeal to the Tribunal;

"Chairperson" means the Chairperson of the Tribunal appointed under section 22 of the Act;

"hearing" means a sitting of the Tribunal duly constituted for the purpose of receiving evidence, hearing addresses and witnesses, delivering the decision of the Tribunal or doing anything lawfully required to enable the Tribunal to reach a decision on any particular appeal or matter prosecuted before it;

"inspector" means the Inspector of State Corporations;

"interested party" means any party named and enjoined in any proceedings before the Tribunal;

"member" means a member of the Tribunal appointed under section 22 of the Act;

"representative" means an officer or advocate appointed by the Inspector of State Corporations or an advocate appointed by an appellant or any of the parties;

"Secretary" means the Secretary to the Tribunal appointed under section 22 of the Act.

3. Quorum

(1) The quorum of a meeting of the Tribunal shall be two members.

(2) The Chairperson shall preside over all meetings of the Tribunal, but in his absence for any reason he shall appoint one of the other members to preside, and the proceedings of such meeting shall be deemed to be valid proceedings of the Tribunal for all purposes.

4. Form of Appeal

(1) Every appeal shall be made in the form of a memorandum in writing presented by the appellant or his representative and shall have attached thereto a copy of the decision appealed against or other document prescribed under these rules and shall be presented to the registry of the Tribunal together with the prescribed fee.

(2) Each separate ground of appeal shall be contained in a separate paragraph of the memorandum and shall be numbered consecutively.

(3) The appellant shall attach to his Memorandum of Appeal any documentary evidence, or copy thereof, relevant to his appeal, which is in his possession or which he can reasonably obtain.

5. Register of appeals

The Secretary shall keep in the registry of the Tribunal a register of all matters dealt with by the Tribunal indicating the following particulars in respect of each matter—

- (a) the date of filing;
- (b) the serial number assigned thereto;
- (c) the names of the parties;
- (d) the relief sought; and
- (e) the final determination or order of the Tribunal and the date thereof.

[Subsidiary]

6. Filing of Memorandum

The appellant shall, within thirty days from the date of the decision of the Inspector file his Memorandum of Appeal at the Registry of the Tribunal and shall serve the same together with any annexures thereto upon the Inspector and any other named interested party.

7. Amendment of Memorandum

The appellant may with the leave of the Tribunal amend his Memorandum of Appeal at any time before the hearing of the appeal and shall serve the same upon the Inspector and any other named interested party.

8. Service of memorandum

The service of any pleadings or documents under these Rules shall be effected in the manner prescribed for the service of summons under Order V of the Civil Procedure Rules (Sub. Leg) or in such manner as the Tribunal may direct on application made to it by any party.

9. Service of notice of hearing

As soon as may be practicable after the lodging of the Memorandum of Appeal, the Chairperson shall fix a date and place for the hearing and shall cause to be served upon the appellant, not less than seven clear days before the date fixed for the hearing, a notice as prescribed in the First Schedule and shall cause a copy of such notice to be sent to the Inspector and any named interested party.

10. Withdrawal of appeal

An appellant may at any time before the hearing of his appeal by notice in writing to the Secretary withdraw his appeal, and thereupon the appeal shall be struck out with such order as to costs as may appear to be just to the Tribunal.

11. Appearance

Any advocate appearing for any party in proceedings before the Tribunal shall file a notice of his appointment as such and any subsequent change shall be notified by the filing of a notice of change of advocate or a notice of intention to act in person as the case may be.

12. Hearing

(1) The hearings of the Tribunal shall be held in public, unless for good cause shown and reasons recorded the Tribunal directs that a hearing shall be held in camera.

(2) The parties appearing before the Tribunal at a hearing may under the direction of the Tribunal proceed either by giving oral evidence or by way of making written submissions.

(3) The Tribunal shall not be bound to reject any evidence on the ground only that the evidence would be inadmissible in any other Court or Tribunal, and may dispense with the formal proof of any of the documents referred to in rule 4(3).

(4) The Tribunal shall give the Inspector's representative an opportunity to address the Tribunal and call witnesses, and shall give the Appellant and other interested parties or their representatives an opportunity to cross-examine any witness called.

(5) The Tribunal shall give the appellant or his representative an opportunity to address the Tribunal and call witnesses, and shall give the Inspector's representative an opportunity to cross-examine any witness called.

(6) The appellant may, if he so desires, give evidence as a witness on his own behalf.

(7) If at the hearing the appellant fails to appear, either in person or by his representative, or if the Inspector's representative fails to appear, it shall be at the discretion of the Tribunal to proceed with the hearing and determine it or adjourn the hearing or give such directions in respect thereof as appear to it to be just and expedient in all the circumstances of the case.

(8) The Tribunal shall administer to any witness appearing before it an oath in the form prescribed by law for administering oaths during court proceedings.

(9) The Tribunal may have regard to the circumstances existing at the date of the hearing of the appeal where any change of circumstances has occurred since the lodging thereof.

13. Summoning of witnesses

(1) The provisions of Order XV of the Civil Procedure Rules (Sub. Leg) (which deals with the summoning and attendance of witnesses) shall apply *mutatis mutandis* for the purposes of hearings under these Rules.

(2) The Tribunal may require the attendance before it of such other persons as witnesses, not called by any of the parties to an appeal, and may consider such other evidence as may appear to the Tribunal to assist it in reaching its decision, subject to the right of the Inspector and the appellant, or their representatives, to cross-examine any such witnesses as provided in rule 12.

(3) When in the opinion of the Chairperson a matter arises in a hearing which calls for specialized knowledge, he may call upon any person whom he considers to be possessed of such knowledge to sit with the Tribunal as an assessor for purposes of assisting it in reaching a decision.

(4) Any person called upon to sit with the Tribunal under paragraph (3) shall be paid his reasonable out-of-pocket expenses and a daily remuneration, the amount of which shall be decided by the Chairperson.

(5) The Tribunal may if it deems necessary or expedient in any particular case, enter and inspect any land, property or anything else of whatsoever description concerned in an appeal.

14. Power to adjourn hearing

(1) The Tribunal may adjourn the hearing from time to time if for any reason it appears to the Tribunal necessary or desirable to do so.

(2) The Chairperson may on application upon such terms and conditions, if any, as appear to him to be just and expedient, extend the time appointed by these Rules for doing of any act or taking any proceedings.

15. Ruling

(1) At the conclusion of a hearing under these Rules, the Chairperson shall require the assessor referred to in rule 13(3) to state his opinion:

Provided that the Tribunal shall in delivering its decision not be bound to conform to such opinion.

(2) The Secretary shall cause the proceedings of the Tribunal to be recorded in a document to be certified by the Chairperson as a true and correct record of such decision and proceedings, and shall as soon as may be practicable thereafter forward copies thereof to the appellant.

(3) Every copy certified as provided under this rule shall be conclusive evidence of the decision and proceedings of the Tribunal on the matter to which the decision relates.

16. Procedure

(1) Unless the Tribunal otherwise directs, no proceedings of the Tribunal shall be void by reason only of the non-compliance by the appellant or the Inspector with any of the provisions of these Rules, and the Chairperson may at any time give such instructions as appear to him to be necessary or desirable by reason of such non-compliance.

(2) The Tribunal may at its discretion either on its own motion or on the application of any party make such orders and give such directions as may appear to be just and appropriate in the circumstances or necessary to prevent the abuse of its own process.

(3) Applications to the Tribunal shall be made by Chamber Summons supported by an Affidavit and the party served shall be entitled to file an affidavit or statement in reply:

Provided that with the permission of the Tribunal during the hearing of any matter any party may apply orally before the Tribunal.

State Corporations

[Subsidiary]

17. Costs

There shall be paid to the Tribunal the filing and other fees prescribed under the Second Schedule of these Rules.

FIRST SCHEDULE

[r. 9]

FORMS

REPUBLIC OF KENYA
 IN THE STATE CORPORATIONS APPEAL TRIBUNAL AT NAIROBI
 STATE CORPORATIONS
 APPEAL/APPLICATION NO. OF
 20
 APPELLANT/
 APPLICANT
 VERSUS
 THE INSPECTOR
 OF STATE CORPORATIONS
 RESPONDENT
 HEARING NOTICE
 To:

TAKE NOTICE that the above-mentioned Appeal/Application has been set down for hearing on the day of in the forenoon or soon thereafter as may be convenient. TAKE FURTHER NOTICE that in default of your attendance or anyone by law authorized to attend on your behalf, the same may be heard and decided in your absence. DATED at Nairobi this day of 20

.....
*Chairperson,
 State Corporations Appeal
 Tribunal.*

SECOND SCHEDULE

[r. 17]

FEES

TRIBUNAL FILING FEES		FEES (KSHS)	
DOCUMENT			
1. Memorandum/Record of Appeal			<i>Amount in KSh.</i>
1.00	-	10,000.00	1,250.00
11,000.00	-	50,000.00	3,350.00
51,000.00	-	100,000.00	6,750.00
101,000.00	-	250,000.00	11,250.00

State Corporations

[Subsidiary]

251,000.00	-	500,000.00	23,150.00
500,001.00	-	700,000.00	47,300.00
700,001.00	-	1,000,000.00	69,690.00
1,000,001.00	-	5,000,000.00	69,690.00 plus 1.5% of the amount
5,000,001.00	-	100,000,000.00	69,690.00 plus 1% of the amount
100,000,001.00	-	1,000,000,000.00	69,690.00 plus 0.5% of the amount
2. Notice of Appointment			250.00
3. Memorandum of Appearance			450.00
4. Affidavit			250.00
5. Notice of Motion			1,250.00
6. Chamber Summons			1,250.00
7. Summons to Witness			225.00
8. Warrant of Arrest of Witness			650.00
9. Tribunal Collection Fee			250.00
10. Order of Tribunal Decree			550.00
11. Request for Judgement			225.00
12. Copies of Proceedings and Judgement			20.00 per page
13. Certification			120.00
14. Any Other Document			100.00

NYAYO TEA ZONES DEVELOPMENT CORPORATION ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the Corporation
 3. Powers and function of the Corporation
 4. Revocation
-

NYAYO TEA ZONES DEVELOPMENT CORPORATION ORDER

[Legal Notice 30 of 2002]

1. Citation

This Order may be cited as the Nyayo Tea Zones Development Corporation Order.

2. Establishment of the Corporation

There is hereby established a state Corporation, to be known as the Nyayo Tea Zones Development Corporation (hereinafter called "the Corporation") which shall be a body corporate with a Board constituted in accordance with section 6(1) of the Act.

3. Powers and function of the Corporation

- (1) (a) The Corporation shall, in consultation with the Chief Conservator of Forests, create tea and fuel wood growing zones to be known as the "Nyayo Tea Zones", in *gazetted* forests and *gazetted* trust land forests in those areas of Kenya where the Kenya Tea Development Agency does not, in accordance with the Schedule to the Kenya Tea Development Agency Order (Sub. Leg.), operate.
- (b) After the creation of the tea and fuel wood growing zones, the land shall be vested and become the property of the Corporation for the purposes of this Order.
- (c) Any tea and fuel wood growing areas created and developed in *gazetted* forests and trust lands forests by the Government prior to the making of this Order, shall be deemed to have been created by the Corporation for the purpose of this Order.
- (d) The zones so created under subparagraph (1) shall serve as buffer zones to protect and conserve the forests, rehabilitate the ecologically fragile areas by planting tea, indigenous trees, fuel wood plantations and other suitable tree crops.

(2) The Corporation shall manage and foster the development of tea growing and forest conservation in the zones created under subparagraph (1) and shall for that purpose in the zones—

- (a) establish, manage and develop tea and fuel wood plantations;
- (b) establish and manage nurseries for the propagation of tea and forest tree seedlings;
- (c) establish, manage and maintain tea processing factories and process tea therein;
- (d) construct and maintain access roads, offices and green leaf buying centres; and
- (e) empower its officers to safeguard its assets in the field.

(3) The Corporation may buy and process tea from areas outside the zones created under section 3(1)(a) but it shall only buy and process tea from areas where the Kenya Tea Development Agency operates with the consent of that Agency, which consent shall not be unduly withheld.

(4) The Corporation may enter into agreements with competent tea and fuel wood plantation firms as well as tea processing factories for the purpose of establishing plantations and processing tea produced by the Corporation.

(5) The Corporation shall have the sole right to transport, lease, sell or market in Kenya or outside Kenya any tea, wood and other products produced or processed by it or on its behalf.

State Corporations

[Subsidiary]

(6) In addition to the powers and functions specified in this paragraph, the Corporation shall perform such other functions as may be necessary for the performance of its functions under this Order.

4. Revocation

Legal Notice Number 265/1986 is hereby revoked.

SPORTS STADIA MANAGEMENT BOARD ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the Board
 3. Membership of the Board
 4. The Director
 5. Staff of the Board
 6. Functions of the Board
 7. Powers of the Board
 8. Establishment of the Sports Management Fund
 9. Protection from Personal Liability
 10. Liability for damages
 11. Delegation by the Board
 12. Grants to the Board
-

SPORTS STADIA MANAGEMENT BOARD ORDER

[Legal Notice 180 of 2002]

1. Citation

This Order may be cited as the Sports Stadia Management Board Order.

2. Establishment of the Board

There is established a State Corporation to be known as the Sports Stadia Management Board (hereinafter called "the Board") which shall be a body corporate and shall perform and exercise the duties, functions and powers specified in the Act and in this Order.

3. Membership of the Board

(1) The Board shall consist of—

- (a) a Chairperson appointed by the President;
- (b) the Director of the Board;
- (c) the following persons or their representatives—
 - (i) the Principal Secretary in the Ministry for the time being responsible for matters relating to sports;
 - (ii) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance;
 - (iii) the Principal Secretary in the Ministry for the time being responsible for matters relating to public works;
 - (iv) the Attorney-General;
 - (v) the Principal Secretary in the Ministry for the time being responsible for matters relating to education;
 - (vi) the Commissioner of Sports;
 - (vii) the Chairperson, Kenya National Sports Council;
 - (viii) the Chairperson, Kenya Association of Manufacturers;
 - (ix) the Chairperson, Federation of Kenya Employers;
 - (x) The Chairperson, Kenya Amateur Athletics Association;
 - (xi) the Chairperson, Kenya Football Federation;
- (d) not more than three members nominated by the Cabinet Secretary.

(2) The Chairperson and the members of the Board appointed under subparagraph (1) (d) shall hold office for a term of three years but shall be eligible for re-appointment.

4. The Director

(1) There shall be a Director of the Board who shall be appointed by the Cabinet Secretary on such terms and conditions as the Board shall determine.

(2) The Director shall be the chief executive and secretary to the Board.

5. Staff of the Board

(1) There shall be two Deputy Directors of the Board who shall be under the direction of the Director.

(2) The Deputy Directors shall be appointed by the Board as follows—

- (a) the Deputy Director, Finance and Administration, who shall be responsible for all administrative and financial matters; and
- (b) the Deputy Director, Technical, who shall be responsible for research and development of sports related issues.

[Subsidiary]

(3) The Board may employ such other officers, staff or agents as it may deem necessary for the discharge of its functions and duties under this Order upon such terms and conditions as it may determine.

6. Functions of the Board

The Board shall, under the general direction of the Cabinet Secretary for the time being responsible for matters relating to sports—

- (a) manage and maintain sports facilities effectively and efficiently;
- (b) market the available sports facilities and maximize their utilization by Kenyans;
- (c) determine competitive charges for the use of sports facilities in Kenya;
- (d) collect fees and charges accruing from the use of sports facilities;
- (e) liaise with the City Council of Nairobi and other local authorities and companies for timely and efficient service delivery;
- (f) account for all receipts accruing from the sports facilities;
- (g) plan and implement the expansion of existing sports facilities and development of new ones; and
- (h) raise its own funds in running its activities and functions under this Order.

7. Powers of the Board

The Board shall—

- (a) administer its assets and funds in such manner and for such purpose as shall promote the best interests of the Board in accordance with the Act;
- (b) have power to receive gifts, donations, grants or other moneys and equipment and make legitimate disbursements therefrom; and
- (c) have power to enter into association with such other persons, bodies or organizations within or outside Kenya as the Board may consider desirable and appropriate and in furtherance of the purposes for which the Board is established.

8. Establishment of the Sports Management Fund

(1) There shall be a Fund to be known as the Sports Management Fund (hereinafter called "the Fund") into which all moneys received by the Board shall be paid and out of which all payments made by the Board shall be made.

(2) The Board shall—

- (a) supervise and control the administration of the Fund;
- (b) open a banking account or banking accounts for the Fund;
- (c) invest any surplus funds in the manner approved by the Board;
- (d) if it deems fit, impose conditions as to any expenditure authorized by it or in its behalf, and such conditions may impose any reasonable prohibition, restrictions, suspension or requirements concerning such use or expenditure.

9. Protection from Personal Liability

No matter or thing done by the Chairperson or any other member of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done *bona fide* for the purpose of executing any provisions of this Order, render the Chairperson, member, officer, employee or agent or any person acting under the directions of those persons personally liable to any action, claim or demand.

10. Liability for damages

The provisions of this Order shall not relieve the Board of the liability to pay compensation or damages to any persons for any injury to him or his property or any of his interests caused

by the exercise of any power conferred by this Order or by the failure, whether wholly or partially of any action.

11. Delegation by the Board

The Board may, by resolution, either generally or in any particular case, delegate to a committee of the Board or to any member, officer, employee or agent of the Board the exercise of any of the powers or the performance of any of the functions or duties the Board is authorized by this Order to exercise or perform.

12. Grants to the Board

In addition to any gifts, grants, donations, fees or other moneys which the Board may receive, there shall be paid to the Board by way of grants in every financial year, out of money appropriated by Parliament for the purpose of carrying out the functions of the Board, such sum as the Cabinet Secretary may determine as being necessary to enable the Board to carry out its functions, having regard to the estimate for the year approved under section 11 of the Act.

**KENYA MARITIME AUTHORITY ORDER REVOKED
BY NECESSARY IMPLICATION BY KMA ACT**

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the Authority
 3. Constitution of the Authority
 4. Director-General
 5. Staff of the Authority
 6. Corporation Secretary
 7. Principal objects of Authority
 8. Function of the Authority
 9. Powers of the Authority
 10. Authority to establish and control Fund
 11. Protection from personal liability
 12. Liability for damages
 13. Delegation by the Authority
 14. Finance
-

**KENYA MARITIME AUTHORITY ORDER REVOKED
BY NECESSARY IMPLICATION BY KMA**

[Legal Notice 79 of 2004]

1. Citation

This Order may be cited as the Kenya Maritime Authority Order.

2. Establishment of the Authority

There is established a State Corporation to be known as the Kenya Maritime Authority (hereinafter called "the Authority") which shall be a body corporate in accordance with section 3 of the Act and which shall perform and exercise the duties, functions and powers specified in the Act and in this Order.

3. Constitution of the Authority

(1) There shall be a Board of Directors of the Authority which shall be the governing body of the Authority consisting of—

- (a) a chairman appointed by the President;
- (b) the Director-General of the Authority;
- (c) the following persons or their representatives—
 - (i) the Permanent Secretary in the Ministry for the time being responsible for matters relating to maritime transport;
 - (ii) the Permanent Secretary in the Ministry for the time being responsible for matters relating to finance; and
 - (iii) the Attorney-General;
- (d) six other persons with knowledge and experience in matters relating to the regulation of the shipping industry, pilotage service, maritime security, seafarers welfare, ports and harbours, appointed by the Cabinet Secretary.

(2) The Chairman and the Members of the Authority appointed under subparagraph (1) shall hold office for a term of three years but shall be eligible for re-appointment.

(3) If a member of the Board appointed under subparagraph (1)(d)—

- (a) dies;
- (b) resigns;
- (c) gets his appointment revoked; or
- (d) ceases to be a member of the Board for any other reason other than the above,

the Cabinet Secretary may appoint another person to take the place of that member and the person so appointed shall hold office until the expiration of the term of office of the member in whose place he has been appointed.

(4) The Chairman shall notify the Cabinet Secretary as soon as a vacancy occurs in the membership of the Board, and the Cabinet Secretary shall appoint a member to fill such vacancy within one month of receiving the notice.

4. Director-General

(1) There shall be a Director-General of the Authority who shall be appointed by the Cabinet Secretary, from a list of persons, recommended by the Board of the Authority.

(2) No person shall be appointed under paragraph (1) unless, such person is a holder of at least a degree from a recognized university or its equivalent and has at least ten (10) years working experience in a relevant field, which in the opinion of the Board and that of the Cabinet Secretary, is sufficient to enable the person so appointed to carry out his or her duties as the Director-General.

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(3) The Director-General shall hold office on such terms and conditions as shall be specified in the instrument of appointment.

(4) The Director-General shall be the chief executive of the Authority.

5. Staff of the Authority

The Authority may employ such staff or agents as it deems necessary for the discharge of its functions and duties under this Order upon such terms and conditions as it may determine.

6. Corporation Secretary

(1) There shall be a Corporation Secretary who shall be appointed by the Authority on such terms and conditions as the Authority may determine and who shall perform such duties as the Authority may, from time to time, assign.

(2) In the performance of his or her duties under this Order, the Corporation Secretary shall be responsible to the Director-General.

7. Principal objects of Authority

The principal objects of the Authority are to regulate, co-ordinate and oversee maritime affairs.

8. Function of the Authority

(1) The functions of the Authority are to carry out such activities as may be necessary to give effect to the objects specified in paragraph 7, and without prejudice to the generality of the foregoing the Authority shall have the power to—

- (a) co-ordinate the implementation of policies relating to maritime affairs and promote the integration of such policies into the national development projects;
- (b) advise the Government on legislative and other measures necessary for the implementation of relevant international conventions, treaties and agreements to which Kenya is a party;
- (c) undertake and co-ordinate research, investigation and surveys in the maritime field;
- (d) discharge flag State and port State responsibilities in an efficient and effective manner having regard to international maritime conventions, treaties, agreements and other international instruments;
- (e) develop, co-ordinate and manage a national oil spill contingency plan for both coastal and inland waters and shall in the discharge of this responsibility be designated as the "competent oil spill authority";
- (f) maintain and administer a ship register;
- (g) deal with matters pertaining to maritime search and rescue and co-ordinate the activities of the Kenya Ports Authority, the Kenya Navy and any other body engaged during search and rescue operations;
- (h) enforce safety of shipping including compliance with construction regulations, maintenance of safety standards and safety navigation rules;
- (i) conduct regular inspection of ships to ensure maritime safety and prevention of maritime pollution;
- (j) oversee matters pertaining to the training, recruitment and welfare of Kenya seafarers;
- (k) plan, monitor and evaluate training programmes to ensure conformity with standards laid down in international maritime conventions;
- (l) conduct investigations into maritime casualties including wreck;
- (m) undertake enquiries with respect to charges of incompetence and misconduct on the part of the seafarers;

- (n) ensure in collaboration with such other public agencies and institutions, the prevention of marine source pollution, protection of the marine environment and response to marine environment incidents;
- (o) regulate activities with regard to shipping in the inland waterways including safety of navigation; and
- (p) perform such other functions as the Cabinet Secretary may, from time to time, assign to the Authority.

(2) For the purpose of the performance of its functions under this Order, the Authority may do anything and enter into any transactions which, in the opinion of the Authority is necessary or incidental to its functions, and in particular and without prejudice to the generality of the foregoing, the Authority may impose fees or charges as may be prescribed by the Cabinet Secretary from time to time for the use of any service provided by the Authority.

9. Powers of the Authority

The Authority shall—

- (a) have all powers necessary for the proper performance of its functions under this Order;
- (b) administer its assets and funds in such manner and for such purpose as shall promote the best interests of the Authority in accordance with the Order;
- (c) have power to receive gifts, donations, grants or other moneys and equipment and make legitimate disbursements therefrom; and
- (d) have power to enter into association with such other persons, bodies or organizations within or outside Kenya as the Authority may consider desirable and appropriate and in furtherance of the purposes for which the Authority is established.

10. Authority to establish and control Fund

(1) The Authority shall establish a Maritime Administration Fund (hereinafter called "the Fund") into which all moneys received by the Authority shall be paid and out of which all payments made by the Authority shall be made.

(2) The Authority shall—

- (a) supervise and control the administration of the Fund;
- (b) open a banking account or banking accounts for the Fund;
- (c) invest any surplus funds in the manner approved by the Authority; and
- (d) if it deems fit, impose conditions as to any expenditure authorized by it or on its behalf, and such conditions may impose any reasonable prohibition, restrictions, suspension or requirements concerning such use or expenditure.

11. Protection from personal liability

No matter or any thing done by the chairman or any other member of the Authority or any officer, employee or agent of the Authority shall, if the matter or thing is done *bona fide* for the purpose of executing any provisions of this Order, render the chairman, member, officer, employee or agent or any person acting under the directions of those persons, personally liable to any action, claim or demand whatsoever.

12. Liability for damages

The provisions of this Order shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or his property or any of his interests caused by the exercise of any power conferred by this Order or by the failure, whether wholly or partially, of any action.

[Subsidiary]

13. Delegation by the Authority

The Authority may, by resolution, either generally or in any particular case, delegate to a committee of the Authority or to any member, officer, employee or agent of the Authority the exercise of any of the powers or the performance of any of the functions or duties the Authority is authorized by this Order to exercise or perform.

14. Finance

In addition to any gifts, grants, donations, fees or other moneys which the Authority may receive, there shall be paid to the Authority by way of grants in every financial year, out of money appropriated by Parliament for the purpose of carrying out the functions of the Authority, such sum as the Cabinet Secretary may determine as being necessary to enable the Authority to carry out its functions, having regard to the estimate for the year approved under section 11 of the Act.

KENYATTA INTERNATIONAL CONFERENCE CENTRE ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Establishment of the corporation
 3. Headquarters
 4. Mandate of the Corporation
 5. Board of Directors
 6. Powers of the Corporation
 7. Staff of the Corporation
 8. Funds and Accounts of the Corporation
-

KENYATTA INTERNATIONAL CONFERENCE CENTRE ORDER

[Legal Notice 77 of 2004]

1. Citation

This Order may be cited as the Kenyatta International Conference Centre Order.

2. Establishment of the corporation

There is established a corporation to be known as the Kenyatta International Conference Centre (hereinafter called "the corporation") which shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and shall acquire, hold and dispose of movable and immovable assets for the purpose of the Corporation.

3. Headquarters

The headquarters of the Corporation shall be in Nairobi.

4. Mandate of the Corporation

The Corporation, under the general direction of the Cabinet Secretary for the time being responsible for matters relating to tourism, shall either alone or in association with other authorities or persons discharge the following mandates—

- (a) promote and market conference tourism both locally and internationally;
- (b) monitor the quality and standard of conference of facilities and advice both private and public investors on improvement of such facilities;
- (c) plan and implement the expansion and modernization of existing conference facilities and develop new ones; and
- (d) carry out any other activities relevant to its principal mandate.

5. Board of Directors

The Corporation shall have a Board of Directors constituted in accordance with section 6(1) of the State Corporations Act (Cap. 446) and shall consist of—

- (a) a non-executive chairman appointed by the President;
- (b) the Chief Executive Officer who shall be the Managing Director and Secretary to the Board;
- (c) the Permanent Secretary, of the Ministry for the time being responsible for tourism;
- (d) the Permanent Secretary, Ministry of Finance;
- (e) the Town Clerk, Nairobi City Council; and
- (f) six other members to be appointed by the Cabinet Secretary for the time being responsible for Tourism.

6. Powers of the Corporation

The Corporation in exercise of its powers shall—

- (a) own, manage and maintain its assets and conference facilities;
- (b) administer its assets and funds in such manner and such purpose as will promote the best interest of the corporation;
- (c) determine and collect fees and charges accruing from the use of its facilities;
- (d) apart from raising its own funds, receive and borrow funds in accordance with the provisions of the State Corporations Act and other relevant laws from other sources including the exchequer in running its activities and functions under this Order;

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- (e) enter into associations with other persons, bodies or organizations within or outside Kenya as the corporation may deem desirable or appropriate and in furtherance of the purposes for which it is established.

7. Staff of the Corporation

The Corporation shall engage and employ such number of staff including the Chief Executive Officer on such terms and conditions of service as the Cabinet Secretary may, in consultation with the State Corporations Advisory Committee, approve.

8. Funds and Accounts of the Corporation

The funds and accounts of the Corporation shall be managed in accordance with the provisions of the State Corporations Act (Cap. 446), the Exchequer and Audit Act (Cap. 412) and all other relevant laws.

**STATE CORPORATIONS (PERFORMANCE
CONTRACTING) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Definition
 3. Application
 4. Autonomy and responsibility of Boards of Directors
 5. Responsibility of parent Ministry
 6. Negotiations
 7. Signing of performance contracts
 8. Responsibility of parent Ministry and the National Treasury
 9. Responsibility to Inspector-General (Corporations)
 10. Cabinet Secretary to submit report
 11. Removal of Director
 12. Incentives and bonuses
-

STATE CORPORATIONS (PERFORMANCE CONTRACTING) REGULATIONS

[Legal Notice 93 of 2004]

1. Citation

These Regulations may be cited as the State Corporations (Performance Contracting) Regulations.

2. Definition

In these Regulations, except where the context otherwise requires—

"Act" means the State Corporations Act (Cap. 446);

"budget" means estimates of revenue and expenditure including sources thereof covering one financial year;

"Cabinet Secretary" means the Cabinet Secretary for the time being assigned ministerial responsibility over a state corporation and "parent Ministry" shall be constructed accordingly;

"Committee" means the State Corporations Advisory Committee established under section 26 of the Act;

"Chief Executive" means the Chief Executive Officer of a state corporation;

"Director" means a person appointed as such to the Board of a state corporations;

"evaluation criteria" means the standard of judgment to be applied for evaluation;

"financial year" means a period of twelve months during which the business of a state corporation is accounted for;

"incentives" means the graduated or monetary reward for good performance based on performance evaluation;

"Inspector" means the Inspector-General (Corporations) appointed under section 18 of the Act;

"performance" means evaluated results of achievement of agreed performance targets;

"performance contract" means a contract entered into between the Government and a state corporation;

"performance evaluation" means assessment of extent of achievement of agreed targets;

"sanction" means punitive action taken for failure to achieve agreed targets; and

"target" means a specified and agreed goal to be achieved by the Board of a state corporation.

3. Application

Subject to the Act and any other written law, these Regulations shall apply to all state corporations.

4. Autonomy and responsibility of Boards of Directors

(1) Subject to the Act and any other written law, every state corporation shall have all the powers necessary or expedient for the performance of its functions.

(2) Subject to paragraph (1), the Board of a state corporation shall—

- (a) implement budget approved by the National Treasury and the parent Ministry;
- (b) recruit staff including the Chief Executive Officer of the state corporation;

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- (c) develop and negotiate with the parent Ministry performance targets for the state corporation for a specified financial year;
- (d) develop, maintain and review on a regular basis the strategic plan for the state corporations;
- (e) manage the assets of the state corporation;
- (f) enter into and implement performance contracts with the Chief Executive of the state corporation;
- (g) submit quarterly reports on the performance of the state corporation to the parent Ministry, the National Treasury and the Inspector-General (Corporations); and
- (h) perform any other duties that may be deemed necessary or expedient for the implementation of the performance contracts.

(3) Every state corporation shall submit its annual budget to the parent Ministry and the National Treasury for approval not later than the end of February in every year and the parent Ministry and the National Treasury shall grant such approval not later than 30th April in every year.

(4) Where the financial year of a state corporation is different from that of the Government, the corporation may, in consultation with the parent Ministry and the National Treasury, make arrangements for submission of performance targets in line with the financial year of the corporation, provided that no state corporation shall begin a new financial year before signing a performance contract.

5. Responsibility of parent Ministry

The parent Ministry shall, upon receipt of the performance targets from the Board of state corporation, constitute a team of experts to—

- (a) examine and determine the adequacy of the performance targets; and
- (b) negotiate with each state corporation on the implementation of the performance targets.

6. Negotiations

Formal negotiations between the state corporation and the parent Ministry on the implementation of performance targets formulated pursuant to these Regulations shall be undertaken between the months of April and June in each year, except that where a financial year of a state corporation does not coincide with the Government's financial year, the state corporation shall proceed in a manner provided for in regulation 4(4) of these Regulations.

7. Signing of performance contracts

(1) The performance contracts for each financial year shall be signed between the Board of a state corporation and the parent Ministry and shall be counter-signed by the National Treasury every last month of the financial year in order to become effective on the first month of the financial year.

(2) The Chairperson and one other Board member of a state corporation shall sign the performance contract on behalf of the state corporation pursuant to paragraph (1).

8. Responsibility of parent Ministry and the National Treasury

For the purposes of implementing the performance contracts, the parent Ministry and the National Treasury shall be responsible for—

- (a) negotiating and signing performance contracts with the state corporations; and
- (b) reviewing performance targets with the state corporations.

9. Responsibility to Inspector-General (Corporations)

For the purpose of implementing the performance contracts, the Inspector-General (Corporations) shall—

- (a) evaluate actual results of operation and management on the basis of the agreed performance targets;
- (b) determining methods for evaluating performance on the basis of specified and agreed targets;
- (c) develop evaluation criteria;
- (d) submit results of evaluation to the National Treasury and the parent Ministry within three months after the end of the financial year; and
- (e) advise on the administrator of the performance contracts.

10. Cabinet Secretary to submit report

The Cabinet Secretary shall submit the results of evaluation of state corporations to the Auditor-General, the National Assembly and the President.

11. Removal of Director

Subject to the provisions of any other Act, the Cabinet Secretary may, in consultation with the committee, and based on results of evaluation, remove a Director of a state corporation whose performance is unsatisfactory.

12. Incentives and bonuses

(1) The Cabinet Secretary for the time being responsible for matters relating to finance may, in consultation with the Committee, approve incentives for Board members and employees of state corporations whose performance achieves the agreed targets.

(2) The Cabinet Secretary for the time being responsible for matters relating to finance shall, in consultation with the Committee, develop guidelines on sanctions against Board members and employees of state corporations whose performance is below the agreed targets.

**NATIONAL CO-ORDINATING AGENCY FOR
POPULATION AND DEVELOPMENT ORDER**

ARRANGEMENT OF ORDERS

Order

1. Citation.
 2. Definition
 3. Establishment
 4. Functions of the Agency
 5. National Council for Population and Development
 6. Annual Report
-

NATIONAL CO-ORDINATING AGENCY FOR POPULATION AND DEVELOPMENT ORDER

[Legal Notice 120 of 2004, Legal Notice 172 of 2011]

1. Citation.

This Order may be cited as the National Council for Population and Development Order.

[L.N 172/2011, r. 2]

2. Definition

In this Order—

"Agency" *deleted by L.N 172/2011*;

"Council" means the National Council for Population and Development established under paragraph 3.

[L.N 172/2011, r. 3]

3. Establishment

There is hereby established a State Corporation to be known as the National Council for Population and Development.

[L.N 172/2011, r.4]

4. Functions of the Agency

(1) The following are the functions of the Council—

- (a) to analyze population issues and develop policies relating to population;
- (b) to provide leadership and mobilize support for population programmes, including co-ordinating population programmes implemented by different organizations;
- (c) to assess the impact of population programmes and make recommendations arising from such assessments;
- (d) to assist other organizations in dealing with population issues;
- (e) to identify and advise on population issues that may not be adequately or appropriately dealt with by the Government; and
- (f) to advocate for political and other support to address population issues.

(2) In this paragraph—

"population issues" means—

- (a) issues that relate to, arise from, or influence mortality, reproduction or migration; and
- (b) other issues that relate to population;

"population programmes" means programmes addressing population issues.

[L.N 172/2011, r. 5]

5. National Council for Population and Development

(1) The management of the Council shall vest in a board which shall be responsible for the overall direction and management of the Council.

(2) The Board shall consist of the following members—

- (a) a Chairman appointed by the President;
- (b) the following *ex officio* members—
 - (i) the chief executive of the Agency;
 - (ii) the Principal Secretary in the Ministry responsible for the Agency;

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- (iii) the Director of Medical Services;
 - (iv) the Director of education;
 - (v) the Commissioner for Social Services;
 - (vi) the Executive Director, Maendeleo ya Wanawake Organization;
 - (vii) the Secretary-General, Kenya Conference of Catholic Bishops;
 - (viii) the Chairperson, Supreme Council of Kenya Muslims;
 - (ix) the Secretary-General, National Council of Churches of Kenya;
 - (x) the Executive Director, International Federation of Women Lawyers (FIDA) (Kenya Chapter); and
 - (xi) the Director-General, National Environment Management Authority;
- (c) not more than two other members appointed by the Cabinet Secretary.

(3) Each member appointed under subparagraphs (2)(a) and (c) shall be for a renewable period of three years.

[L.N 172/2011, r. 6]

6. Annual Report

(1) The Council shall prepare an annual report for each financial year and submit it to the Cabinet Secretary.

(2) The annual report for a year shall include the financial statements of the Council for the year.

(3) The Council shall publish the annual report after submitting it to the Cabinet Secretary.

[L.N 172/2011, r. 7]

YOUTH ENTERPRISE DEVELOPMENT FUND ORDER

ARRANGEMENT OF ORDERS

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 2. Interpretation
 3. Establishment of the Fund
 4. Objects and purposes of the Fund
 5. Establishment and composition of the Board
 6. Functions of the Board
 7. Headquarters
 8. Expenses of administering the Fund
 9. Financial year
 10. Annual estimates
 11. Accounts and audit
 12. Investment of funds
 13. Annual report
 14. Savings and transitional
 15. Repeal of L.N. 167/2006
-

YOUTH ENTERPRISE DEVELOPMENT FUND ORDER

[Legal Notice 63 of 2007]

1. Citation

This Order may be cited as the Youth Enterprise Development Fund Order.

2. Interpretation

In this Order unless the context otherwise requires—

"Board" means the Youth Enterprise Development Fund Board established under regulation 3;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for Youth Affairs;

"financial year" means the period of twelve months ending on the 30th June in each year;

"Fund" means the Youth Enterprise Development Fund established under regulation 5;

"youth" means any person aged between 18 and 35 years.

3. Establishment of the Fund

(1) There is established a Fund to be known as the Youth Enterprise Development Fund.

(2) The Fund shall consist of—

- (a) monies appropriated by Parliament;
- (b) grants and donations;
- (c) income generated from the proceeds of the Fund.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purpose for which the Fund is established.

4. Objects and purposes of the Fund

The objects and purposes for which the Fund is established are to—

- (a) provide funding and business development services to youth owned or youth focused enterprises;
- (b) provide incentives to commercial banks through appropriate risk mitigation instruments to enable them to increase lending and financial services to youth enterprises;
- (c) provide loans to existing micro-finance institutions, registered non-governmental organizations involved in micro financing, and savings and credit co-operative organizations for on-lending to youth enterprises;
- (d) attract and facilitate investment in micro, small and medium enterprises oriented commercial infrastructure such as business or industrial parks, stalls, markets or business incubators that will be beneficial to youth enterprises;
- (e) support youth oriented micro, small and medium enterprises to develop linkages with large enterprises;
- (f) facilitate marketing of products and services of youth-owned enterprises in both domestic and international markets;
- (g) facilitate employment of youth in the international labour market; and
- (h) carry out any other activities relevant to its principal mandate.

5. Establishment and composition of the Board

(1) There is established a state corporation to be known as the Youth Enterprise Development Fund Board which shall be a body corporate in accordance with section 3 of the Act.

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(2) The Board shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) a chief executive of the Board who shall also be the secretary to the Board;
- (c) the Principal Secretary in the Ministry for the time being responsible for youth affairs;
- (d) the Principal Secretary in the Ministry for the time being responsible for finance;
- (e) seven persons appointed by the Cabinet Secretary, of whom—
 - (i) four shall be persons who are not public officers who shall, be appointed by virtue of their knowledge or experience in matters relating to financial management, venture capital fund management or youth development;
 - (ii) three shall be public officers;
- (f) one person nominated by the National Youth Council and appointed by the Cabinet Secretary.

(3) The Board shall engage the chief executive of the Board and such other staff as the Board may consider necessary on such terms and conditions of service as the Board may, with the approval of the Cabinet Secretary, determine.

6. Functions of the Board

The Board shall—

- (a) manage and administer the Fund in such a manner as to realize the objects and purposes for which the Fund is established;
- (b) enter into association with other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects and purposes for which the Board the Fund is established;
- (c) carry out any other activity as, in the Board's opinion, will promote and facilitate the objects and purposes for which the Fund is established.

7. Headquarters

The Headquarters of the Board shall be in Nairobi.

8. Expenses of administering the Fund

There shall be paid out of the Fund, at such times and in such manner as the Board in consultation with the Cabinet Secretary may determine such sum as the Board may estimate to be their expenses in carrying this Order into effect.

9. Financial year

The financial year of the Board shall be the period of twelve months ending on the thirtieth June in each year.

10. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the members and the staff of the Board;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;

- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Board; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Board may consider necessary.

(3) The annual estimates shall be submitted to the Board for approval before the commencement of the financial year to which they relate:

Provided that once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of an authorization of the Board.

11. Accounts and audit

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Board together with—

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

(3) The accounts of the Board shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.

(4) The appointment of an auditor shall not be terminated by the Board without the prior written consent of the Auditor-General.

(5) The Auditor-General may give general or special directions to an auditor appointed under subparagraph (3) and the auditor shall comply with those directions.

(6) An auditor appointed under subparagraph (3) shall report directly to the Auditor-General on any matter relating to the directions given under subparagraph (5).

(7) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts to the Board and to the Cabinet Secretary, and in the case of an auditor appointed under subparagraph (3), the auditor shall transmit a copy of the report to the Auditor-General.

(8) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Board's accounts or records whenever it appears to him desirable and the Auditor-General shall carry out such an inspection at least once every six months.

(9) The Cabinet Secretary shall lay the annual report before the National Assembly as soon as reasonably practicable after the report is submitted to him under this paragraph.

12. Investment of funds

(1) The Board may invest any of the funds of the Board which are not immediately required for its purposes in such securities as the Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Board.

13. Annual report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediately preceding year.

[Subsidiary]

(2) The Cabinet Secretary shall lay the annual report before the National Assembly within three months of the day the Assembly next sits after the report is presented to him.

14. Savings and transitional

On the coming into operation of this Order—

- (a) the Youth Enterprise Development Fund and the Advisory Board established under the Government Financial Management (Youth Enterprise Development Fund) Regulations 2006 (L.N. 167/2006) (hereinafter referred to as the "former Fund" and the "former Board" respectively) shall become the Fund and Board respectively;
- (b) all assets and liabilities of the former Fund and the former Board shall be transferred to and vest in the Fund and the Board as the case may be without further assurance than this Order and the Board shall have all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;
- (c) every agreement, whether in writing or not, and every deed, bond or other instrument to which under this Order the former Board or any other person was a party or which affected the former Board or any other person, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Board or the corresponding person under this Order were a party thereto or affected thereby instead of the former Board or that other person and as if for every reference (however worded and whether express or implied) therein to the former Board or to that person there were substituted in respect of anything to be done on or after the date of coming into operation of this Order a reference to the Board or the corresponding person under this Order;
- (d) any proceedings pending immediately before the coming into operation of this Order to which any person was a party shall be continued as if the Board or the corresponding person under this Order were a party thereto in lieu of that person;
- (e) the members of the former Board appointed under regulation 5(1)(a), (f) and (g) of the Government Financial Management (Youth Enterprise Development Fund) Regulations, 2006 shall become members of the Board in the corresponding capacities for the unexpired period of their term of appointment.

15. Repeal of L.N. 167/2006

The Government Financial Management (Youth Enterprise Development Fund) Regulations, 2006, are repealed.

NATIONAL CAMPAIGN AGAINST DRUG ABUSE AUTHORITY ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
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 7. The National Co-ordinator
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-

NATIONAL CAMPAIGN AGAINST DRUG ABUSE AUTHORITY ORDER

[Legal Notice 140 of 2007]

1. Citation

This Order may be cited as the National Campaign against Drug Abuse Authority Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Authority" means the National Campaign against Drug Abuse Authority established under paragraph 3;

"Board" means the management Board of the Authority constituted under paragraph 8;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Drug Abuse;

"National Co-ordinator" means the chief executive officer appointed under paragraph 7.

3. Establishment of the Authority

(1) There is established a State corporation to be known as National Campaign against Drug Abuse Authority.

(2) The Authority shall be a corporate body 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 or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing such other things or acts necessary for the proper performance of its functions under this Order which may lawfully be done by a body corporate.

(3) The Authority shall be the successor to the Board known as the National Campaign Against Drug Abuse Advisory Board existing immediately before the commencement of this Order and subject to this Order, all rights, duties, obligations, staff, assets and liabilities of the National Campaign Against Drug Abuse Advisory Board at the commencement of this Order shall be automatically and fully transferred to the Authority and any reference to the National Campaign Against Drug Abuse Advisory Board in any contract or document shall, for all purposes, be deemed to be a reference to the Authority.

4. Composition of the Authority

The Authority shall consist of—

- (a) the National Co-ordinator;
- (b) heads of departments and sections of the Secretariat as may be established by the Board in consultation with the Cabinet Secretary; and
- (c) such other staff or bodies, for the time being formally collaborating with the Authority, from time to time.

5. Functions of the Authority

(1) The objects and functions of the Authority shall be—

- (a) to provide directly or in collaboration with other institutions, agencies or organizations, facilities for co-ordination of public education against drug abuse;

[Subsidiary]

- (b) to co-ordinate the implementation of the national action plan on curbing drug abuse by the public especially the youth and children;
- (c) to play an effective role in the development, setting up and expansion of rehabilitation centres for the rehabilitation of drug dependents;
- (d) to prepare and maintain a register of licensed persons to offer expert advice on treatment and prevention services in the field of drug abuse;
- (e) to liaise with relevant authorities in carrying out training or approving the training curriculum of trainers in the campaign against drug abuse;
- (f) to advise on the best practices and discipline of licensed rehabilitation operators; and
- (g) to undertake research directly or in collaboration with other organizations or bodies in matters relating to control of drug abuse and chemical substances, as may be approved by the Board.

(2) For the better carrying out of the functions and objects of the Authority, the Board may establish Provincial or District Offices.

6. Headquarters

The Headquarters of the Authority shall be in Nairobi.

7. The National Co-ordinator

(1) There shall be a National Co-ordinator of the Authority appointed by the Cabinet Secretary on the recommendation of the Board.

(2) The National Co-ordinator shall be—

- (a) the chief executive of the Authority and shall, subject to the direction of the Board, be responsible for the day to day management of the Authority;
- (b) secretary to the Board; and
- (c) Chairperson of the Disciplinary Committee of the Authority.

(3) The National Co-ordinator shall be an *ex officio* member of the Board and shall have no right to vote at any meeting of the Board.

(4) The National Co-ordinator shall hold office for a term of three years but shall be eligible for re-appointment.

8. Board of the Authority

(1) The management of the Authority shall vest in a Board which shall consist of—

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary, in the Ministry for the time being responsible for Provincial Administration and Internal Security or his representative;
- (c) the Principal Secretary in the Ministry of Finance or his representative;
- (d) the Principal Secretaries or their representatives in the Ministries for the time being responsible for—
 - (i) health;
 - (ii) education; and
 - (iii) youth affairs;
- (e) the National Co-ordinator;
- (f) two representatives of different religious organizations appointed by the Cabinet Secretary on the recommendations by their respective organizations;
- (g) one representative of the youth appointed by the Cabinet Secretary in consultation with the Cabinet Secretary in charge of Youth Affairs;
- (h) one person nominated by the Medical Practitioners and Dentists Board; and
- (i) not more than three members co-opted by the Board by virtue of their expertise in matters relating to young persons, delinquency and drug abuse.

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

(3) A member of the Board, other than an *ex officio* member may—

- (a) resign from office by a notice written under his hand addressed to the Chairperson;
- (b) be removed from office by the Cabinet Secretary if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the Chairperson;
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding two thousand shillings; or
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board.

9. Powers of the Board

The Board shall have all the powers necessary for the proper performance of the functions of the Authority under this Order and, in particular but without prejudice to the generality of the foregoing, the Board shall have the power to—

- (a) manage, control and administer the assets of the Authority in such manner and for such purposes as best promote the purpose for which the Authority is established;
- (b) receive any gifts, grants, donations or endowments made to the Authority or any other moneys in respect of the Authority and make disbursements therefrom in accordance with the provisions of this Order;
- (c) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Authority is established; and
- (d) open a banking account or banking accounts for the funds of the Authority.

10. Funds of the Authority

The funds and assets of the Authority shall consist of—

- (a) such moneys or assets as may accrue to or vest in the Authority, in the course of the exercise of its powers or the performance of its functions under this Order;
- (b) any moneys which may in any manner become payable to or vested in the Authority in respect of any matter incidental to the carrying out of its functions;
- (c) any gifts as may be given to the Authority;
- (d) such moneys as may be appropriated by Parliament for the purposes of the Authority; and
- (e) all moneys from any other source provided, donated or lent to the Authority.

11. Financial year

The financial year of the Authority shall be the period of twelve months ending on thirtieth day of June in each year.

[Subsidiary]

12. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the officers, members of staff or agents of the Authority;
- (b) the payment of the pensions, gratuities and other charges in respect of the retirement benefits payable to the members of staff of the Authority;
- (c) the proper maintenance of the buildings and grounds of the Authority;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Authority; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment or in respect of such other matters as the Board may deem fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary, and the Principal Secretary to the Treasury.

13. Accounts and audit

(1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Authority.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Authority, in respect of that year, together with—

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

(3) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

14. Investment of funds

(1) The Board may invest any of the funds of the Authority in securities in which the Board may by law invest trust funds, or in any other securities which the National Treasury may, from time to time, approve.

(2) The Board may place on deposit, with such bank or banks as the Treasury may approve from time to time, any moneys not immediately required for the purposes of the Authority.

15. Annual report

(1) The Authority shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report on the operations of the Authority for the immediately preceding financial year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly as soon as is practicable after the National Assembly next sits after the Cabinet Secretary has received the report.

KENYA COCONUT DEVELOPMENT AUTHORITY ORDER

ARRANGEMENT OF ORDERS

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GUIDELINES FOR CONTRACTUAL AGREEMENT BETWEEN THE PRODUCER
AND DEALER IN THE INDUSTRY

KENYA COCONUT DEVELOPMENT AUTHORITY ORDER

[Legal Notice 165 of 2007]

1. Citation

This Order may be cited as the Kenya Coconut Development Authority Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Authority" means the Kenya Coconut Development Authority established by this Order;

"Board" means the Board of the Authority established by paragraph 4;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Agriculture;

"Committee" means the Coconut Nurseries Committee established under paragraph 19 of this Order;

"dealer" means a person, company, co-operative society, association of persons or firm engaged in buying coconut produce and by-products for resale in the local or export market and includes exporters, importers, processors, agents and marketing agents;

"grower" means a small or large scale producer of coconut who grows and sells to a dealer;

"inspector" means any person authorized in writing by the Agriculture Secretary or the Authority to carry out inspections in the coconut industry;

"nursery operator" means a person who has planted or who intends to plant, multiply or grow coconut from seeds or any vegetative parts which may be used to multiply the coconuts for own use or for sale;

"planting material" means any plant raised from the seed or from the vegetative part of a plant in a coconut nursery.

PART II – Establishment of the authority

3. Establishment of the Authority

There is hereby established a State corporation to be known as the Kenya Coconut Development Authority which shall be a body corporate in accordance with section 3 of the Act.

4. Board of the Authority

(1) There shall be a Board of the Authority consisting of the following members—

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for agriculture;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance;
- (d) the Principal Secretary of the Ministry for the time being responsible for regional development authorities;
- (e) the Principal Secretary of the Ministry for the time being responsible for co-operative development and marketing;
- (f) the Managing Director of the Authority appointed under paragraph 8;
- (g) five members appointed by the Cabinet Secretary and who have an interest in the coconut industry and other relevant qualification or experience.

[Subsidiary]

(2) The Chairperson and members appointed under subparagraph (1)(g) shall serve for a term of three years, which may be renewed once.

(3) The Chairperson and members of the Board appointed under subparagraph (1)(g) shall cease to hold office if one—

- (a) resigns his office as such in writing to the appointing authority;
- (b) is absent from three consecutive meetings of the Authority without justifiable cause;
- (c) is adjudged bankrupt;
- (d) is incapacitated by prolonged physical or mental illness;
- (e) ceases to represent the interest in respect of which he was nominated to the Board;
- (f) is otherwise unable or unfit to discharge the functions of the office;
- (g) is convicted of a criminal offence.

5. Functions of the authority

The Authority shall in respect of coconut industry have the following functions. These shall be to—

- (a) provide advisory service on matters related to coconut industry to the Government and to the industry for planning purposes;
- (b) collect and collate data, maintain a database on coconut industry, document and monitor the industry through registration of all players in the industry;
- (c) assist in the production, processing, grading, storage, collection, transportation and warehousing of all the produce and by-products destined for markets;
- (d) arbitrate on disputes arising between the growers and any of the players or among other players in the industry;
- (e) vet and witness contracts entered into between the growers and any other players or between other players in the industry before they are executed;
- (f) appoint agents for the implementation or performance of any function of the Authority under this Order; and
- (g) monitor imports and exports of coconut produce and by-products for efficient management of the coconut industry.

6. Powers of the board

The Board shall have all powers necessary for the proper performance of the functions of the Authority under this Order and, in particular but without prejudice to the generality of the foregoing, the Board shall have power to—

- (i) regulate the production, post-harvest handling and marketing of coconut produce and by-products;
- (ii) impose restrictions on the quantity and quality of coconut produce and by-products to be imported or exported;
- (iii) raise such funds on such terms and for such purposes as may be approved by the Cabinet Secretary after consultation with the Cabinet Secretary for the time being responsible for Finance;
- (iv) establish, acquire and operate produce handling facilities on its own or through private public partnerships, for the purpose of promoting production, marketing and processing of coconut produce and by-products;
- (v) investigate and research into all matters relating to the industry generally and in particular production, processing, value addition and marketing of coconut produce and by-products;
- (vi) regulate coconut nurseries and their operators;

- (vii) destroy any planting material in unregistered coconut nurseries;
- (viii) initiate, promote and enforce standards for labeling, packaging, grading, transport and storage of coconut produce and by-products and ensure observance and compliance with local and international standards in liaison with relevant organizations or bodies.

7. Meetings of the board

(1) The Chairperson shall preside at all meetings and in the absence, the other members present at the meeting shall appoint one of the members to act as Chairperson at that meeting.

(2) The quorum for the Board meeting shall be two-thirds of the members.

(3) The Board may co-opt, for such period as it may think fit, not more than three persons whose assistance or advice it may require, but persons so co-opted shall not be counted as members for the purpose of forming a quorum or shall not be entitled to vote at any meeting of the Board.

(4) Every decision of the Board shall be by a simple majority of the members present and voting but the Chairperson or the person appointed to be the Chairperson under subparagraph (1) shall have a casting as well as a deliberative vote.

(5) Subject to this Order, the Board shall regulate its own proceedings.

8. Managing director

(1) There shall be a Managing Director appointed by the Cabinet Secretary on the recommendation of the Board and who shall be the secretary to the Board.

(2) The Managing Director shall possess a degree in agricultural sciences and be well versed in the coconut industry.

(3) The appointment of the Managing Director shall be for a four year contract renewable only once for a period not exceeding four years.

9. Appointment of staff

The Authority shall appoint upon such terms and conditions as it thinks proper such officers and employees as it deems necessary for the efficient operation of the Authority.

10. Remuneration

The Authority shall pay such remuneration, fees, allowances and such other reimbursement to members of the Board as may be approved by the Treasury.

11. Delegation of powers

The Board may delegate any of its powers to any of its committees or to the Managing Director.

12. Execution of documents

(1) The seal of the Authority shall be authenticated by the signature of the Chairperson and the Managing Director, or by either the Chairman or the Managing Director, together with one member other than an *ex officio* member of the Board authorized in writing by the Authority in that behalf.

(2) Any document, other than a document which is required by any other law to be under seal, made and any decision of the Authority, may be signified under the hand of the Chairperson, or the Managing Director or of any other member of the Board or any other person authorized in writing by the Board in that behalf.

PART III – Financial provisions

13. Funds of the authority

The funds and assets of the Board shall consist of—

State Corporations

[Subsidiary]

- (a) such monies or assets as may accrue to or vest in the Board, in the course of the exercise of its powers or the performance of its functions under this Order;
- (b) any moneys which may in any manner become payable to or vested in the Board in respect of any matter incidental to the carrying out of its functions;
- (c) any gifts as may be given to the Board;
- (d) such moneys as may be appropriated by Parliament for the purposes of the Board; and
- (e) all moneys from any other source provided, donated or lent to the Board.

14. Financial year

The financial year of the Board shall be the period of twelve months ending on the thirtieth day of June in each year.

15. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the officers, members of staff or agents of the Board;
- (b) the payment of the pensions, gratuities and other charges in respect of the retirement benefits payable to the members of staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Board; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Board may deem fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subparagraph (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary, and the Permanent Secretary to the Treasury.

16. Accounts and audit

(1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Board.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Board, in respect of that year, together with—

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

(3) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

17. Investment of funds

(1) The Board may invest any of the funds of the Board in securities in which the Board may by law invest trust funds, or in any other securities which the National Treasury may, from time to time, approve.

(2) The Board may place on deposit, with such bank or banks as the National Treasury may approve from time to time, any moneys not immediately required for the purposes of the Board.

18. Annual report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report on the operations of the Board for the immediately preceding financial year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly as soon as is practicable after the National Assembly next sits after the Cabinet Secretary has received the report.

PART IV – Quality assurance in production and marketing

19. Establishment of coconut nursery committee

(1) There shall be a Coconut Nursery Committee of the Board consisting of the following

- (a) the Agriculture Secretary;
- (b) the Managing Director of the Authority;
- (c) the Director, Kenya Agricultural Research Institute;
- (d) the Managing Director, Kenya Plant Health Inspectorate Service;
- (e) the Managing Director, Coast Development Authority; and
- (f) one representative of registered private sector nursery operators.

(2) The Committee shall from time to time certify the minimum nursery standards in respect of coconut palm that is grown.

(3) The Committee may co-opt, for such period as it may think fit, any person whose assistance or advice it may require.

20. Registration of nursery

(1) No person shall, after the publication of this Order, establish or operate a coconut nursery in any area unless that nursery is registered in accordance with this Order.

(2) Every application for a certificate of registration for a coconut nursery shall be made to the Authority before establishment of such a nursery as set out in Form A of the First Schedule.

(3) The certificate of registration as set out in Form B of the First Schedule shall be renewable after three years and only applicable for the area inspected.

21. Conditions before registration

No person shall be issued with a certificate as a nursery operator under paragraph 20 unless an inspector—

- (a) has visited and inspected the site and confirmed it as suitable for a coconut nursery;
- (b) is satisfied that the planter or his agent has adequate knowledge of nursery management and coconut production techniques.

22. Certificate not transferable

(1) No person to whom a certificate of registration is issued under paragraph 20 shall sell, lend, transfer or otherwise dispose of the certificate without the prior written permission from the Authority.

(2) The operator of a coconut nursery shall display the certificate of registration for inspection at all times.

[Subsidiary]

23. Restriction on transfer of planting materials

No person shall transfer coconut planting materials from one part of the country to another unless that person has obtained a movement permit in the form set out in Form C of the First Schedule to this Order from the District Agricultural Officer of his area.

24. Approved source of seeds

(1) Every coconut nursery operator shall procure seeds from sources approved by the Committee.

(2) Coconut seeds shall be grown according to procedures on nursery management as laid down by the Committee.

(3) Seedlings shall be inspected by an inspector while still in the seedbed before they are approved for transplanting.

25. Approved planting material

(1) The Authority shall prescribe the manner of procuring of planting material by the growers and the manner of dealing with planting material generally.

(2) Every grower shall comply with any requirement of the Authority under subparagraph (1).

(3) A person who fails to comply with subparagraph (2) commits an offence.

26. Records of sale

Every nursery operator shall keep accurate records of distributed planting materials indicating the buyer's name, district, location, sub-location and postal address, and quantity purchased and shall produce such records on demand for the purposes of inspection.

27. Restriction on sale of planting materials

(1) No person shall distribute any planting material without a plant health certificate issued by the Authority.

(2) Any person who contravenes subparagraph (1) commits an offence and shall have his nursery certificate revoked, his plants destroyed by the Authority in addition to any other penalty which the court may impose under this Order.

(3) The operator of a coconut nursery which is destroyed under subparagraph (2) may re-apply for registration after a period of two years.

28. Compensation

(1) No compensation shall be payable in respect of any planting material destroyed under paragraph 27 of this Order.

(2) No suit, prosecution or other legal proceeding shall lie against an inspector for anything done in good faith and without negligence under this Order or under any rule made thereunder.

29. Selection of production sites

(1) Every producer shall select a site for production of coconuts and such a site shall not be in the land that has proximity to an area contaminated by industrial, faecal or domestic organic waste.

(2) The selected site and production practices shall minimize detrimental impact on environment while conserving nature and wildlife in accordance with the provisions of Environmental Management and Co-ordination Act (Cap. 387).

(3) Every producer shall draw farm plans and such plans shall indicate the selected sites and the facilities that have been strategically sited to ensure workers' occupational health and safety, and to prevent contamination of crops or produce and packaging materials.

(4) The areas selected for production of coconuts shall be indicated in the farm plans in relation to workers' housing, toilets, drinking water points, waste disposal pits, waste water treatment, utility stores, and social amenities.

(5) A person who contravenes the provisions of this paragraph commits an offence.

30. Compliance by producers

Every producer shall comply with good agricultural practices in relation to production, site selection, soil and water analysis, record and document control, hygiene, cleanliness and workers welfare.

31. Coconut produce and by-products traceability

Every producer and every dealer shall develop, implement and monitor a precise and detailed traceability system to ensure that consumers are informed correctly on the coconut produce and by-products which addresses—

- (a) origin, nature, quantities and use of farm inputs;
- (b) field operations from planting to harvesting of the crop;
- (c) agro-chemicals and usage particularly related to authorized safe uses, application rates, dates of usage, and pre-harvest intervals;
- (d) nature, quantities and consignees of all the coconut produce and by-products sold.

32. Periodic Residue Analysis

Every producer, dealer and processor shall undertake periodic residue analyses based on risk assessment by an approved laboratory and provide a written action plan and in the event that maximum residue level is exceeded, document the remedial action taken.

33. General provisions for produce handling facility

(1) The produce shall be handled, packaged, prepared, processed and stored hygienically in establishments approved as set out in the Second and Third Schedules to this Order.

(2) The produce shall be appropriately packaged as set out in the Fourth Schedule to this Order.

(3) The produce shall be stored and transported under satisfactory conditions of hygiene as set out in the Fourth Schedule to this Order.

34. Waste disposal

Every dealer shall comply with the procedures for the safe and hygienic disposal of rejected produce, organic waste, waste water and other rubbish and which shall be done in an environmentally acceptable manner.

35. Application for registration of produce and by-products dealers

(1) No person shall process, import, export, or act as an agent or dealer of coconut produce and by-products unless he is registered by the Authority.

(2) An application for a registration certificate shall be as set out in Form D in the First Schedule.

(3) Every certificate of registration issued shall be as set out in Form E of the First Schedule.

(4) Every registration certificate shall remain valid for a period of three years from the date of issue.

(5) Any person who contravenes the provisions of subparagraph (1) commits an offence and shall be liable to a fine not exceeding six thousand shillings or to imprisonment for a term not exceeding six months, or to both.

36. Restrictions on registration

(1) No registered dealer shall—

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- (a) sponsor the growing of coconuts for trading without informing the Authority in writing and any production schemes so sponsored shall be regulated by contract as set out in the Fifth Schedule;
 - (b) collect produce from sponsored production schemes unless authorized in writing to do so by the sponsoring firm;
 - (c) distribute planting materials to farmers without a plant health certificate;
 - (d) distribute any pest control product to farmers which has not been approved and recommended under the Pest Control Products Act (Cap. 346);
 - (e) return produce collected from the farmers or suppliers contrary to the contract agreement as per the Fifth Schedule.
- (2) A registered dealer shall—
- (a) sign a contract with the producer and register such contract with the Authority as set out in the Fifth Schedule;
 - (b) indicate in the contract the produce price, quantity and quality requirements;
 - (c) strive to attain the highest produce quality standards;
 - (d) adopt and use the specified national coconut logo as prescribed by the Authority;
 - (e) notify the Authority of any dealer who contravenes any contract or order within 30 days after the date of default.

37. General penalty

Any dealer who commits an offence under this Order shall be liable to a fine two times the value of the produce or to imprisonment to a term of six months and shall in addition, where applicable, have his registration certificate cancelled.

FIRST SCHEDULE

FORMS

FORM A

(para.20(2))

PART 1

Application for Registration of Coconut Nursery

1. Full Name of Applicant ID No./Reg. No.
2. Address
3. Tel Fax E-mail
4. District
5. Division
6. Location
7. Sub-Location
8. L.R. No.
9. Altitude
10. Water source: Rivers/Dam/Boreholes, others (specify).....
11. Type of material to be produced:

Crop/variety	No. of seedlings	Source of Seed
12. I confirm that I shall abide by the regulations and ensure that all seed material for planting has been inspected and approved.
13. Applicants signature
Date

PART II

FOR OFFICIAL USE ONLY

14. Recommended/Not recommended
 Remarks
 Site inspected by
 District

 (*Inspector*)
 Date:

PART III

15. Approved/Not Approved

Managing Director
 Kenya Coconut Development Authority.
 Date

Note:

Application for registration of Coconut nursery should be sent to the Managing Director, Kenya Coconut Development Authority.

FORM B (para.20(3))

Certificate of Registration of Coconut Nursery

Messrs..... of P.O. Boxis/are registered to operate a Coconut nursery for the year 20 Located at sub-location LR No.

The following planting materials will be produced

Types	Numbering of planting stock
.....
.....
.....

Registration No.

Signed

(Managing Director)

Kenya Coconut Development Authority

Date:

CONDITIONS

1. This certificate is valid for 3 years from date of issue.
2. This certificate is not transferable to any other person, or nursery site.
3. All seed must be from approved source.
4. No sale of planting material before final visual inspection and approval
5. All approved planting materials which are not distributed during the approved season will be subject to re-approval before distribution.

[Subsidiary]

6. The application for renewal of this licence shall be made to the Managing Director, Kenya Coconut Development Authority so as to reach at least 3 months before expiry date.

(para.23)

**FORM C
PERMIT FOR THE MOVEMENT OF PLANTING MATERIAL**

Permit No.

Name of permit holder
Address
Vehicle Registration No.
Quantity to be moved (specify types and names)
.....
.....
.....

Date of movement
To be moved from
District
Division
Location
Sub-Location
L.R. No.

(Registered nursery)
Signed on behalf of the Authority
by
District Agricultural Officer
For: Managing Director
District
Date

Note:
This permit is valid for only the specified consignment and date of movement

**FORM D (para 35(2))
APPLICATION FOR REGISTRATION AS A PRODUCE/BY-PRODUCTS DEALER**

1. (a) Full name of Applicant
- (b) Postal Address
- Registered Office:
 L.R. No. Street
- (c) Tel. No. Fax No.
- (d) E-mail Website

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2. List of shareholders/Directors, their citizenship and percentage shareholding for each.

NAME	Citizenship	%Shares
.....
.....
.....
.....

3. (a) Location of offices

Street

L.R. No.

Telephone:

(b) Location of Pack houses

Street

L.R. No

Tel.

4. VAT Registration No.

5. PIN

6. Year of establishment of Company and Registration No. (attach copy)

7. Type of dealership (Tick as appropriate)

Exporter/marketing agent/processor/dealer/buyer/agent/supermarket/any other (specify)

8. Name and address of Bankers

9. Overseas markets targeted/supplied

10. Types of produce for exports

11. Sources of supply for produce

(Attach copies of ID of Directors, company registration certificate and current trade licence)

CONDITIONS:

1. Consideration of this application will be conditional on the applicant's information which must satisfy the Authority that the applicant is capable of complying with Kenya Standard Code of Practice and any other legal requirements.

2. The dealer shall produce such documentary evidence as requested to support the statements made above.

3. Should the Authority wish to restrict the quantity and quality of coconuts to be marketed, it shall be empowered to do so by giving the dealer written notice of such restriction.

4. A dealer shall pay all dues to the Authority before his application can be considered.

5. A registration certificate issued under this Order shall be valid for three years from date of issue.

6. The Authority has the right to approve or reject this application. In case of rejection reasons will be given and the applicant can reapply.

I hereby declare that the particulars which I have given are true and accurate to the best of my knowledge and belief.

Date

.....

[Subsidiary]

Signature

Approval by Kenya Coconut Development Authority

Approved/Not approved

Signature

Managing Director

FORM E

(Para. 35(3))

CERTIFICATE OF REGISTRATION OF COCONUT PRODUCE/BY-PRODUCTS DEALER

Registration No.

Name:

Address:

L.R. No.

Street:

Is hereby registered as a dealer of coconut produce/by-products under this Order.

The registration expires on

Date of registration

Signed

Name

(Managing Director, Kenya Coconut Development Authority)



SECOND SCHEDULE

FIELD HANDLING AND GRADING MINIMUM REQUIREMENTS

(p. 33(1))

FIELD HANDLING AND GRADING MINIMUM REQUIREMENTS

1. High standards of field hygiene shall be maintained during harvesting operations.
2. All harvested produce shall be at the right stage of maturity for intended use.
3. Appropriate harvesting equipment shall be used.
4. Produce unfit for marketing shall be separated from marketable produce at the field level.
5. All produce shall be sorted and graded as appropriate.
6. Physical handling of produce shall be minimized at all stages.
7. A collection shed shall be constructed for receiving produce at field level.
8. The collection shed shall—
 - (a) be accessible to both buyers and farmers;
 - (b) be designed to allow for a store, an office and working area;
 - (c) floors, doors and wall surfaces that shall be made of impervious, non-toxic, washable materials, which are easy to clean and disinfect;
 - (d) constructed to allow for adequate ventilation, lighting, effective produce inspection and made of acceptable materials;
 - (e) have potable water and adequate toilet facilities;
 - (f) have waste disposal facilities;

- (g) have clear documentation procedures and document control systems.

THIRD SCHEDULE

[p. 33(1)]

MINIMUM CONDITIONS APPLICABLE TO PACK
HOUSES PRODUCE HANDLING FACILITY

1. Each produce handling facility location shall consider the following catchment area, market or point of exit, access road, room for expansion, ease of labour access and security.
2. All processing and packaging must be carried out in a clean, hygienic and safe conditions as set out under the provisions of the Public Health Act (Cap. 242) and the Occupational Safety and Health Act (Cap. 236A).
3. The working areas and premises shall be kept free of waste materials.
4. Any person in the produce handling facility shall wear protective clothing at all times.
5. All hand used equipment and grading tables shall be rust proof and easily cleaned.
6. The floor layout shall allow for smooth flow of produce with adequate separation of raw material and finished products.
7. The floors, doors and wall surfaces shall be made of impervious, non-absorbent, non-toxic, washable materials which are easy to clean and disinfect.
8. The produce handling facility shall have adequate ventilation, temperature control and lighting.
9. All machinery used in the produce handling facility shall conform to the provisions of the Occupational Safety and Health Act (Cap. 236A).
10. The produce handling facility shall be designed and constructed to prevent entry of domestic animals, rodents, insects, birds, dust and any other unwanted animals.
11. Prominent signs shall be displayed forbidding smoking, eating or drinking within the facility.
12. All packaging materials shall be kept off the floor in clean dry storage areas free from risk of contamination.
13. All produce shall move through the facility operation in the order that it is received, first in first out.
14. The traceability of all produce shall be documented throughout the process chain.

FOURTH SCHEDULE

[p. 33(3)]

PACKAGING, TRANSPORTATION AND STORAGE MINIMUM REQUIREMENTS

1. The packaging shall protect the produce from mechanical and physiological damages to minimise loss of quality.
2. The packaging shall be designed to suit the transport handling system and have capacity to meet market requirements.
3. The packaging materials used shall be able to contain the produce, enabling the required quantity to be handled as one unit.
4. Coconut produce and by-products shall during storage and transport be kept at the prescribed temperature and humidity levels for each consignment.

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5. Coconut produce and by-products shall not be stored or transported together with other produce which may contaminate them or otherwise adversely affect their quality.

6. Vehicles for transport shall be built and equipped to ensure maintenance of optimum temperatures to prevent damage and spoilage of produce and by-products.

FIFTH SCHEDULE

[p. 36(1)]

GUIDELINES FOR CONTRACTUAL AGREEMENT BETWEEN
THE PRODUCER AND DEALER IN THE INDUSTRYCONTRACT FORMAT
PRODUCER/ DEALER AGREEMENT

AGREEMENT made this..... day of..... two thousand and.....

BETWEEN:

..... of a registered dealer
(Registration No.) hereinafter called "dealer" which expression shall where the
context so admits include its successors and assignees of the first part;

AND

..... of a producer entity of horticultural produce
(Registration No.) hereinafter called the "producer" which expression shall where the
context so admits include its successors and assignees) of the second part.

WHEREAS

(a) the dealer is duly registered under this Order; and

(b) the producer has requested the dealer to provide services referred to below and the
dealer has agreed to provide such services to the producer upon the terms and conditions
appearing hereinafter.

**NOW IT IS HEREBY AGREED BETWEEN THE PARTIES AS UNDER THE
FOLLOWING GUIDELINES:**

AIMS AND OBJECTIVES OF CONTRACTS

The guidelines shall—

- (i) act as a memorandum of understanding between the producer and dealer of coconut produce;
- (ii) serve as a guideline for the producer and dealer in order to conduct good business practices, which will be mutually beneficial, and help promote the well-being of the coconut industry in Kenya;
- (iii) act as guideline or framework for development of a legally binding contract to be executed by the producer and dealer.

OBLIGATIONS OF THE PRODUCER AND DEALER

(a) The producer shall—

- (i) be organized into well-managed registered legal entities;
- (ii) relate to specific dealers only under a contract as specified in this Order;
- (iii) request for training on any aspect that deals with quality control as need arises including—
 - safe and effective use of pesticides;
 - proper record keeping and analysis of production costs;
 - proper post-harvest handling techniques;

- group leadership, management and administration;
- procurement and use of appropriate certified inputs;
- production technology.

(b) The dealer shall—

- (i) relate to specific producer entities under contract as specified in this Order;
- (ii) provide the necessary extension services to the producer(s);
- (iii) relate directly with the producer;
- (iv) establish means and ways of financing the producer.

(c) All parties to the contract shall—

- (i) undertake to conduct their business diligently and professionally at all times;
- (ii) submit agreement to the Authority for vetting/witnessing before execution;
- (iii) seek for arbitration in the event that there is a contravention of contract obligation;

TERMS AND CONDITIONS

The contract shall include specific terms and conditions of payment, responsibilities for production, handling and collection of produce, and any other essential elements, which will create a clear understanding of obligations of both the producer and the dealer.

THE ESSENTIAL ELEMENTS THAT A CONTRACT SHALL HAVE, INCLUDE—**(a) Quantity and quality of produce to be supplied at a particular time and contract price**

- (i) The contract shall specify the quantity in either boxes/cartons/crates or kilos to be supplied by the producer(s) over a period of time.
- (ii) The contract should specify a minimum quantity of produce to be provided by the dealer (i.e. the quantity below which no collection will be effected).
- (iii) The producer and dealer shall agree to produce and market high quality levels of produce and this shall be specified clearly in the contract.

(b) Seed and other inputs

- (i) The contract shall specify who is responsible for inputs, including labour.
- (ii) If the buyer requires the use of approved seeds/planting materials by the seller, it shall be specified in the contract.
- (iii) The contract shall address which party will be responsible for supplying and applying other inputs such as fertilizer and pesticides.
- (iv) Terms and conditions for purchase or sale of inputs must be included within the contract.

(c) Generally accepted production practices Growers shall agree to undertake good agricultural practices and procedures.**(d) Record keeping**

- (i) Each grower and buyer shall implement a complete record keeping system for production and handling of produce.
- (ii) Minimum record keeping requirements for traceability and accountability shall include—
 - identification of previous crop;
 - date of planting;
 - application of pest control products: date, rate, weather conditions;
 - irrigation dates and quantities;
 - harvesting: dates and weather conditions.

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(e) Field support and training

(i) Every dealer shall provide the contracted producer with sufficient training during the contract period on—

- Group management and administration;
- Good Agricultural Practices.

(f) Harvesting and post-harvest practices

- (i)** Seller shall agree to undertake acceptable management practices for the harvesting and handling of produce, which will ensure high quality levels.
- (ii)** These practices include—
 - the use of clean containers away from heat and direct sunlight;
 - protection of produce from heat and direct sunlight;
 - the use of clean water for washing of produce where necessary.

(g) Inspection and grading

Dealer and producer shall agree on and specify responsibilities for inspection and grading of produce, type of document to be executed upon collection/ delivery of produce, agree at what stage goods change title and obligations of each party.

(h) Packaging supply and procedures

- (i)** The contract shall specify which party is obligated to supply packaging materials.
- (ii)** The contract shall specify packaging procedures such as condition and quantity of produce, grade and type of produce, and placement within a container.

(i) Conditions of collection and/or delivery

- (i)** The contract shall specify the collection periods of produce (time and year).
- (ii)** The contract shall specify conditions for the events of non-collection.
- (iii)** If the dealer fails to collect at specified time, he shall be obliged to pay the contracted price for that produce.
- (iv)** Any produce which the dealer has accepted delivery of shall not be returned to the producer.

(j) Rejected produce

- (i)** The point of rejection of produce shall be specified upon in the contract.
- (ii)** Conditions for the return of the rejected produce shall be specified.
- (iii)** Disposal of rejected produce shall be specified.
- (iv)** Any produce which the dealer has accepted delivery of shall not be returned to the producer.

(k) Payment terms and mechanism

Producer and dealer shall specify the mode, terms and mechanism of payment.

(l) Penalties

The contract agreement shall specify penalties including type and amount of compensation to either party as a result of failure to abide by the terms of the contract.

(m) Termination clause

- (i)** The conditions for termination of the contract shall be specified.
- (ii)** Either party may terminate the contract by giving the other a written notice within a reasonable period equivalent to a full production and marketing cycle of the produce.

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(n) Natural calamities and non-commercial risks (*force majeure*)

- (i) In the event of natural calamities (such as floods, hail, earthquakes, etc.) it shall be stated clearly in the contract that both parties shall not be held responsible.
- (ii) Furthermore, in the event of non-commercial risks (such as war, national labour strikes, etc.) the affected party shall be held harmless for non-performance.

IN WITNESS WHEREOF the parties have hereunto executed this agreement on the day and date hereinbefore mentioned.

SIGNED for and on behalf of the

Dealer	Producer
Name:	Name:
Date:	Date:
Witness:	Witness:
Date:	Date:
Witness:KCDA	Witness:KCDA
Date:	Date:

KENYA YEARBOOK ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Interpretation
 3. Establishment of the Board
 4. Functions of the Board
 5. Headquarters
 6. Funds and Assets of the Board
 7. Financial Year of the Board
 8. Annual estimates
 9. Account and audit
 10. Investment of Funds
 11. Annual Report
-

KENYA YEARBOOK ORDER

[Legal Notice 187 of 2007]

1. Citation

This Order may be cited as the Kenya Yearbook Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the Kenya Yearbook Editorial Board established under paragraph 3;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to Information and Communications.

3. Establishment of the Board

(1) There is established a State corporation to be known as the Kenya Yearbook Editorial Board, which shall be a body corporate in accordance with section 3 of the Act.

(2) The Board shall consist of—

- (a) a non-executive Chairman appointed by the President;
- (b) a chief executive of the Board who shall be appointed by the Cabinet Secretary;
- (c) the Principal Secretary to the National Treasury;
- (d) the Principal Secretary in the Ministry for the time being responsible for information;
- (e) the Principal Secretary, Ministry for the time being responsible for provincial administration and internal security;
- (f) the Principal Secretary, Ministry of Trade and Industry;
- (g) the Principal Secretary, Ministry of Planning and National Development;
- (h) the Principal Secretary, Ministry of Tourism and Wildlife;
- (i) the Principal Secretary, Ministry of Science and Technology;
- (j) three other members, nominated by the following bodies and appointed by the Cabinet Secretary—
 - (i) the Kenya Private Sector Alliance;
 - (ii) the Kenya Chamber of Commerce;
 - (iii) the National Council of Non-Governmental Organizations.

(3) The members of the Board other than *ex officio* members shall hold office for a period of three years and shall be eligible for re-appointment once.

4. Functions of the Board

The functions of the Board shall be to—

- (a) periodically compile, edit and publish the Kenya Yearbook;
- (b) document and detail the work of Government of Kenya in the Yearbook in partnership with the people;
- (c) explain in the Yearbook the programme of action to sustain and speed up progress towards the kind of society Kenyans desire;
- (d) convey in the Yearbook the immense resources of Kenya and the potential still to be tapped.

5. Headquarters

The Headquarters of the Board shall be in Nairobi.

[Subsidiary]

6. Funds and Assets of the Board

The funds and assets of the Board shall consist of—

- (a) such monies or assets as may accrue to or vest in the Board, in the course of the exercise of its powers or the performance of its functions under this order;
- (b) any monies which may in any manner become payable to or vested in the Board in respect of any matter incidental to the carrying out of its functions under this order;
- (c) any gifts as may be given to the Board;
- (d) such monies as may be appropriated by Parliament for the purposes of the Board; and
- (e) all monies from any other source provided, donated or lent to the Board.

7. Financial Year of the Board

The financial year of the Board shall be the period of twelve months ending on thirtieth day of June in each year.

8. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for;

- (a) the payment of the salaries, allowances and other charges in respect of the financial officers, members of staff or agents of the Board;
- (b) the payment of the pensions, gratuities and other charges in respect of the retirement benefits payable to the members of staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Board; and
- (e) the creation of such reserve funds to meet future contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Board may deem fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subparagraph (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary, and the Principal Secretary to the Treasury.

9. Account and audit

(1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Board.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Board, in respect of that year, together with—

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

(3) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

10. Investment of Funds

(1) The Board may invest any of the funds of the Board in securities in which the Board may by law invest trust funds, or in any other securities which the National Treasury may, from time to time, approve.

(2) The Board may place on deposit, with such bank or banks as the National Treasury may approve from time to time, any monies not immediately required for the purposes of the Board.

11. Annual Report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report on the operations of Board for the immediately proceeding financial year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly as soon as is practicable after the National Assembly next sits after the Cabinet Secretary has received the report.

BRAND KENYA BOARD ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
2. Interpretation

PART II – ESTABLISHMENT OF THE BOARD

3. Establishment of the Board
4. Objectives of the Board
5. Functions of the Board
6. Staff of the Board

PART III – FINANCIAL PROVISIONS

7. Funds of the Board
8. Annual estimates
9. Accounts and audit
10. Investment of funds

PART IV – MISCELLANEOUS

11. Annual report
-

BRAND KENYA BOARD ORDER

[Legal Notice 38 of 2008, Legal Notice 119 of 2010]

1. Citation

This Order may be cited as the Brand Kenya Board Order, 2008.

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the Brand Kenya Board established under paragraph 3;

"financial year" means a period of twelve months ending on the thirtieth June in each year; and

"Minister" means the Minister for the time being responsible for matters relating to information and communications.

PART II – ESTABLISHMENT OF THE BOARD

3. Establishment of the Board

(1) There is hereby established a state corporation to be known as the Brand Kenya Board, which shall be a body corporate in accordance with section 3 of the Act.

(2) The Board shall consist of-

- (a) a non-executive chairman appointed by the President;
- (b) the Permanent Secretary of the Ministry for the time being responsible for information and communications;
- (c) the Permanent Secretary of the Ministry for the time being responsible for finance;
- (d) the Permanent Secretary of the Ministry for the time being responsible for trade and industry;
- (e) the Permanent Secretary of the Ministry for the time being responsible for foreign affairs;
- (f) the Permanent Secretary of the Ministry for the time being responsible for public service;
- (g) the Permanent Secretary of the Ministry for the time being responsible for tourism;
- (gg) the Permanent Secretary of the Ministry for the time being responsible for Nairobi Metropolitan Development;
- (h) a chief executive officer appointed by the Minister; and
- (i) at least seven persons appointed by the Minister by virtue of their knowledge or experience and past and current membership to professional organizations in matters relating to marketing, communication, or related fields.

(3) The Minister shall, in appointing members under subparagraph (2)(i), have regard to the principle of gender equity.

(4) Every appointment under subparagraph (2) (a) (h) and (i) shall be by name and notice in the *Gazette*, and shall be for a renewable period of three years.

[LN 119 of 2010, r. 2.]

4. Objectives of the Board

The principal objectives of the Board shall be to—

- (a) co-ordinate initiatives for marketing the country in order to maximize their efficiency; and

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- (b) create and maintain the Kenya brand to identify and distinguish Kenyan products, services and concepts.

5. Functions of the Board

The functions of the Board shall be to—

- (a) establish a brand for Kenya which positions the country optimally in terms of investment, creditworthiness, tourism and international relations;
- (b) unite Kenyans and provide them with positive information about the country in order to promote patriotism and national pride;
- (c) establish an integrated approach within Government and the private sector towards the international marketing of Kenya;
- (d) build national support for the brand within Kenya with the co-operation of the Government, non-governmental organizations and the private sector;
- (e) promote local products and services to encourage economic transformation;
- (f) encourage commitment to quality and innovation among the businesses and people;
- (g) assist the different towns and cities in the country to improve their image; and
- (h) undertake measures aimed at improving the international image of Kenya.

6. Staff of the Board

The Board may employ such number of staff on such terms and conditions of service as the Board may deem fit.

PART III – FINANCIAL PROVISIONS

7. Funds of the Board

The funds of the Board shall consist of—

- (a) such monies as may be appropriated by Parliament for purposes of the Board;
- (b) such monies or assets as may accrue to the Board in the course of the performance of its functions under this Order;
- (c) grants and donations.

8. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of its revenue and expenditure for that year.

(2) The annual estimates shall make provision for the estimated expenditure of the Board for the financial year concerned, and in particular shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff and members of the Board;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Board;
- (e) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Board may deem fit.

(3) The annual estimates shall be submitted to the Minister for approval before the commencement of the financial year to which they relate, and once approved, the sum provided in the estimates shall not be increased without the prior consent of the Minister.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of the authorization of the Board.

9. Accounts and audit

(1) The Board shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Board.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Controller and Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Board together with—

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

(3) The accounts of the Board shall be audited by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act, 2003 (No. 12 of 2003), or by an auditor appointed by the Board with the written approval of the Controller and Auditor-General.

(4) The appointment of an auditor appointed under subparagraph (3) shall not be terminated by the Board without prior written consent of the Controller and Auditor-General.

(5) The Controller and Auditor-General may give general or special directions to an auditor appointed under subparagraph (3) and the auditor shall comply with those directions.

(6) An auditor appointed under subparagraph (3) shall report directly to the Controller and Auditor-General on any matter relating to the directions given under subparagraph (5).

(7) Within a period of six months after the end of each financial year, the Controller and Auditor-General shall report on the examination and audit of the accounts to the Board and to the Minister, and in the case of an auditor appointed under subparagraph (3), the auditor shall transmit a copy of the report to the Controller and Auditor-General.

(8) Nothing in this Order shall be construed to prohibit the Controller and Auditor-General from carrying out an inspection of the Board's accounts or records whenever it appears to him desirable, and the Controller and Auditor-General shall carry out such an inspection at least once every six months.

(9) The Minister shall lay the report prepared in accordance with subparagraph (7) before the National Assembly as soon as reasonably practicable after the report is submitted to him.

10. Investment of funds

(1) The Board may invest any of its funds which are not immediately required for its purposes in such securities as the Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine, any monies not immediately required for its purposes.

PART IV – MISCELLANEOUS

11. Annual report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Minister a report of the operations of the Board for the immediately preceding year.

(2) The Minister shall lay the report submitted under subparagraph (1) before the National Assembly within three months of the day the Assembly next sits after the report is submitted to him.

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[Legal Notice 54 of 2009]

[This is a stub. Please see the publication document for the original content.]

KENYA ACCREDITATION SERVICE ORDER

ARRANGEMENT OF ORDERS

Order

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 2. Interpretation
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 4. Functions of KENAS
 5. Composition of the Board
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 10. Accreditation of persons and bodies
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 14. Accreditation mark
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KENYA ACCREDITATION SERVICE ORDER

[Legal Notice 55 of 2009]

1. Citation

This Order may be cited as the Kenya Accreditation Service Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"accreditation" means attestation by KENAS relating to a conformity assessment body conveying formal demonstration of the conformity assessment body's competence to carry out specific conformity assessment tasks;

"accreditation certificate" means a formal documentation, stating that accreditation has been granted for the defined scope;

"accreditation mark" means a mark issued by an accreditation body to be used by an accredited conformity assessment body to indicate their accredited status;

"appeal" means a request by a conformity assessment body for reconsideration of any adverse decision made by KENAS relating to its desired accreditation status;

"assessment" means the process undertaken by KENAS to evaluate the competence of a conformity assessment body based on particular standards or other normative documents for a defined scope of accreditation;

"Board" means the KENAS Board established under paragraph 5;

"conformity assessment" means demonstration that specified requirements relating to a product, process, system, person or body are fulfilled;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for industrialization matters;

"conformity assessment body" means a body that carries out conformity assessment services such as testing, calibration, inspection, management system certification, certification of persons, and product certification and may include both public and private bodies;

"fees" includes subscription, application and any other fee that may be prescribed by KENAS;

"KENAS" means the Kenya Accreditation Service established under paragraph 3 and may also be referred to as the National Accreditation Body for Kenya;

"scope of accreditation" means specific conformity assessment services for which accreditation is sought or has been granted.

3. Establishment of KENAS

There is hereby established a State Corporation to be known as the Kenya Accreditation Service (hereinafter referred to as KENAS) which shall be a body corporate and with perpetual succession and a common seal, and shall in its corporate name, be capable of—

- (a) suing and being sued;
- (b) acquiring, holding, and disposing, movable or immovable, property; and
- (c) entering into contracts and performing all acts relating to the performance of its functions under this Order.

4. Functions of KENAS

- (1) KENAS shall perform the following functions—

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- (a) develop, regulate and review the criteria or requirements for accreditation of conformity assessment bodies;
 - (b) accredit conformity assessment bodies;
 - (c) open, maintain and update the register of accredited conformity assessment bodies;
 - (d) design and issue identification numbers and certificates to all accredited conformity assessment bodies;
 - (e) publish in the *Gazette* all conformity assessment bodies that have been accredited within a particular year annually;
 - (f) promote the use of accreditation marks and certificates issued to accredited conformity assessment bodies;
 - (g) promote competence and equivalence of accredited bodies;
 - (h) establish and nurture relations and co-operation with regional and international accreditation bodies, persons, associations and organizations that KENAS may consider desirable or appropriate, in furtherance of the objectives and purposes for which KENAS is established;
 - (i) promote accreditation as a means of facilitating regional and international trade and enhancing economic performance and transformation;
 - (j) participate in the formulation of regional and international guidelines and standards to facilitate the accreditation process;
 - (k) raise awareness on the importance and purpose of accreditation; and
 - (l) promote KENAS as the sole National Accreditation Body in the scope of accreditation.
- (2) KENAS shall carry out accreditation based on—
- (a) Government regulations;
 - (b) regional directives;
 - (c) the requirement for health, safety, and protection of the environment; and
 - (d) the market and the needs of clients.

5. Composition of the Board

The KENAS shall have a Board of Directors which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for industrialization matters;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance;
- (d) the Chief Executive Officer of KENAS who shall be the Secretary; and
- (e) not more than three other people, appointed by the Cabinet Secretary to represent regulatory bodies;

6. Functions of the Board

(1) The Board shall—

- (a) advise and consult the Cabinet Secretary on matters relating to accreditation;
- (b) oversee the administration and financial management of the KENAS;
- (c) formulate policy for the purpose of providing guidance to KENAS for the better performance of its functions under this Order;
- (d) administer the assets and funds of KENAS in such a manner for the purposes of promoting the objectives and interests of KENAS;
- (e) receive donations and other monies, property and equipment on behalf of KENAS; and

- (f) perform any other function that is necessary for the better carrying out of the functions of KENAS under this Order.

(2) The Board shall, in consultation with the Cabinet Secretary, appoint a Chief Executive Officer who shall be in charge of the management of KENAS and be accountable to the Board for the administration and financial management of KENAS, and all technical matters.

(3) KENAS shall engage and employ such number of staff, as may be necessary for the proper performance of its functions.

7. Composition of the Accreditation Committee

KENAS shall have an Accreditation Committee which shall consist of—

- (a) the Director of Industry who shall be the Chairperson;
- (b) the Director of Standards of the Kenya Bureau of Standards;
- (c) the Director of Metrology of the National Metrology Institute;
- (d) the Chief Executive of KENAS who shall be the Secretary;
- (e) not more than four persons representing conformity assessment bodies appointed by the Cabinet Secretary; and
- (f) one person representing the manufacturing and production industries appointed by the Cabinet Secretary.

8. Functions of the Accreditation Committee

(1) The Accreditation Committee shall—

- (a) determine the accreditation marks or symbols and how the accreditation marks or the symbol and certificates shall be used by registered persons and accredited bodies;
- (b) make rules to regulate its procedure and affairs to ensure independence and impartiality;
- (c) review applications for accreditation, and grant, renew, suspend or cancel registration or accreditation;
- (d) hear disputes relating to registration or accreditation; and
- (e) deal with any other issue relating to accreditation.

(2) The Accreditation Committee shall exercise its powers to cancel accreditation where

- (a) accreditation has been obtained by fraud;
- (b) the accredited conformity assessment body does not comply with specified requirement or conditions for accreditation as the Accreditation Committee may prescribe;
- (c) the accredited body becomes insolvent;
- (d) the accredited conformity assessment body is declared insolvent or has had a receiving order issued against it; and
- (e) the accredited conformity assessment body does not pay fees prescribed by the Board when required.

9. Board committees

The Board may establish any other committees to deal with issues that the Board may specify.

10. Accreditation of persons and bodies

(1) Any person or body that desires to be accredited shall make an application to KENAS in the prescribed form.

(2) An application for accreditation shall be accompanied by application fees that the Board may, from time to time prescribe.

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(3) Every accredited conformity assessment body shall pay any other fees including subscription fees that the Board may, from time to time prescribe.

11. Fees

KENAS may charge fees determined by the Board and the fees shall be published in the *Gazette*.

12. Certificates

(1) Every conformity assessment body accredited under this Order shall be issued with

- (a) a certificate of accreditation in the prescribed form; and
- (b) an identification number specified by the Accreditation Committee.

(2) A certificate issued under this Order shall be—

- (a) valid for a period of one year and renewable; and
- (b) subject to such terms and conditions as the Accreditation Committee may prescribe.

13. Publication

KENAS shall once in every year, after 1st January, and not later than 31st March, publish in the *Gazette*, a list containing the names, and registered addresses of all accredited bodies.

14. Accreditation mark

KENAS shall own and maintain an accreditation symbol that shall be used by its accredited conformity assessment bodies subject to such conditions as KENAS may impose.

15. Financial provisions

(1) The funds of KENAS shall consist of all monies received or recovered under these Regulations by or on behalf of KENAS or any other monies made available to KENAS.

(2) The Board shall cause to be kept all proper books of accounts and other books and financial records in relation to the funds including all the undertakings, activities, assets and liabilities of KENAS.

(3) The accounts of KENAS shall be prepared and be submitted for examination annually by the Controller and Auditor General in accordance with the Public Audit Act (Cap. 412B)

16. Protection from personal liability

(1) No matter or thing done by Board or any officer or employee or agent of KENAS shall, if the matter or this is done *bona fide* for executing the functions, powers and duties of KENAS render the member, officer, employee or agent or any person acting by his directions personally liable to any action, claim or demand.

(2) The provisions of these Order shall not relieve KENAS of the liability to pay compensation or damages to any person for injury or loss caused to him, his property, or any of his interest by the exercise of powers conferred by these Regulations by reason of negligence whether wholly or partially of its officers or employees.

17. Confidentiality

Any person, who is or has been engaged in the administration of this Order shall not disclose, except for the purposes of his functions or when required to do so by a court or under any written law, any information acquired by him in the exercise or purported exercise of his functions under this Order to any person.

18. Appeals

A accredited conformity assessment body that is dissatisfied and aggrieved by any decision made by the KENAS and desires to challenge that decision shall within twenty one days from the date of such decision appeal to the Standards Tribunal.

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[Legal Notice 119 of 2010]

[This is a stub. Please see the publication document for the original content.]

KENYA INSTITUTE OF EDUCATION ORDER

ARRANGEMENT OF ORDERS

Order

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2. Interpretation

PART II – ESTABLISHMENT AND FUNCTIONS OF THE INSTITUTE

3. Establishment of Kenya Institute of Education
4. Functions of the Institute
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PART III – THE COUNCIL OF THE INSTITUTE

6. The establishment of the Council
7. Qualifications for appointment
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10. Director
11. Committees of the Council
12. Academic Committee
13. Course, subject research and evaluation panels
14. Secretariat Services
15. Delegation by Council
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17. Frequency of meetings and special meetings
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20. Decisions of the Council
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PART V – TRANSITIONAL PROVISIONS

31. Repeal of L.N. 105/1976 and savings

KENYA INSTITUTE OF EDUCATION ORDER

[Legal Notice 120 of 2010]

1. Citation

This Order may be cited as the Kenya Institute of Education Order.

2. Interpretation

In this Order, except where the context otherwise requires—

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Education;

"Council" means the Council of the Institute established under paragraph 6;

"member" means a member of the Council;

"Institute" means the Kenya Institute of Education established under paragraph 3;

"Director" means the Director of the Institute appointed under paragraph 10;

"Staff" means the staff of the Institute;

"curriculum" means all the programmes of the Institute that facilitate formal, non-formal and informal learning.

PART II – ESTABLISHMENT AND FUNCTIONS OF THE INSTITUTE

3. Establishment of Kenya Institute of Education

(1) There is hereby established an Institute to be known as the Kenya Institute of Education, which shall be a body corporate with perpetual succession and a common seal, and which shall in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts necessary for the proper performance of its functions which may lawfully be done by a body corporate.

(2) The Institute shall be the successor to the Institute known as the Kenya Institute of Education existing immediately before the commencement of this Order.

4. Functions of the Institute

The functions of the Institute shall be to—

- (a) implement the policies relating to curriculum development in basic and tertiary education and training;
- (b) initiate, develop and review curricula for basic and tertiary education and training in collaboration with other relevant bodies;
- (c) prepare programmes and curricula for—
 - (i) early childhood care, development and education;
 - (ii) primary education;
 - (iii) secondary education;
 - (iv) adult, continuing and non-formal education;
 - (v) teacher education and training;
 - (vi) special education;
 - (vii) tertiary education and training; and
 - (viii) management, industrial and professional training;

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- (d) initiate and conduct curriculum based research to inform curriculum development;
- (e) collect, document and catalogue information on curricula, curriculum materials and innovations to create a data bank and disseminate the information to educational institutions and stakeholders;
- (f) publish and disseminate information relating to curriculum for basic and tertiary education and training;
- (g) organize and conduct in-service and orientation programmes for teachers, teacher trainers, quality assurance standard officers and field officers involved in education and training on curriculum programmes and materials;
- (h) prepare, disseminate and transmit programmes and curriculum support materials through mass media, e-learning, distance learning and any other mode of delivering education and training programmes and materials;
- (i) initiate and propose policy review in curriculum development;
- (j) evaluate, vet and approve curriculum and curriculum support materials for all basic and tertiary education and training programmes;
- (k) offer curriculum-based consultancy services in basic and tertiary education and training; and
- (l) receive, consider, develop and review curriculum proposals.

5. Powers of the Institute

In the performance of its functions under paragraph 4, the Institute may—

- (a) create, develop, apply for and hold intellectual property rights and enter into agreements or arrangements for their commercial exploitation or otherwise as the Council may consider appropriate;
- (b) enter into arrangements with other similar institutions or professional organizations, whether within or outside Kenya, and
- (c) do any other thing which is necessary or convenient to be done in connection with or incidental to its functions.

PART III – THE COUNCIL OF THE INSTITUTE

6. The establishment of the Council

(1) There shall be a Council of the Institute, which shall have the responsibility of managing the Institute in accordance with this Order.

(2) The Council shall consist of the following members—

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry responsible for education;
- (c) the Principal Secretary in the Ministry responsible for higher education, science and technology;
- (d) the Principal Secretary to the Treasury; and
- (e) not more than seven other members, not being employees of the Institute and of whom not more than three shall be public officers, appointed by the Cabinet Secretary, and
- (f) the Director of the Institute, who shall be the Secretary.

(3) The members referred to in paragraph (2) (b), (c) and (d) may, in writing, designate a senior officer, not being below the level of a Deputy Secretary, to represent them on the Council.

7. Qualifications for appointment

A person shall be eligible for appointment as the Chairperson or a member of the Council if such person—

- (a) in the case of the Chairperson, holds a degree from a recognized university and at least ten years experience in the matters related to education; and
- (b) in the case of a member, holds a degree from a recognized university in his area of specialization.

8. Term of office

Subject to the provisions of this Order, the Chairperson and members of the Council shall hold office for a term of three (3) years and shall be eligible for re-appointment for one further term:

Provided that in the case of the initial members appointed under this Order, the Council shall, at its first meeting, elect—

- (a) four (4) members whose terms of office shall expire at the end of two years from the date of appointment; and
- (b) other members whose terms of office shall expire at the end of three years from the date of appointment.

9. General functions of the Council

The Council shall have all the powers necessary for the proper performance of its functions under this Order, and in particular, but without prejudice to the generality of the foregoing, the Council shall have power to—

- (a) manage, supervise and administer the assets of the Institute in such a manner as best promotes the purpose for which the Institute is established;
- (b) determine the provisions to be made for capital, recurrent expenditure and for reserves of the Institute;
- (c) receive any grants, gifts, donations or endowments on behalf of the Institute and make legitimate disbursements there from;
- (d) enter into association with such other bodies or organizations within or outside Kenya as the Council may consider desirable or appropriate and in furtherance of the purpose for which the Institute is established;
- (e) open a banking account or bank accounts for the funds of the Institute; and
- (f) constitute working panels for the purpose of the performance of the functions of the Council.

10. Director

(1) There shall be a Director of the Institute who shall be appointed by the Council on such terms and conditions as may be approved by the Cabinet Secretary and specified in the instrument of appointment.

(2) The Director shall be the chief executive officer of the Institution and responsible to the Council for the day-to-day management of the affairs of the Institute.

11. Committees of the Council

(1) The Council may establish such committees as it may consider appropriate to perform such functions and discharge such responsibilities as it may determine.

(2) Without prejudice to the provisions of subparagraph (1), the Council shall establish the following Committees and Panels—

- (a) the Academic Committee;
- (b) the Finance Committee;
- (c) the Audit Committee; and
- (d) the Human Resource and Integrity Committee.

12. Academic Committee

(1) The Academic Committee shall consist of—

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- (a) the Education Secretary who shall be the Chairperson; and
 - (b) not less than thirteen nor more than twenty members appointed by the Council.
- (2) The members of the Academic Committee shall be appointed to represent—
- (a) the Ministries responsible for—
 - (i) education;
 - (ii) higher education, science and technology;
 - (b) the Kenya National Examinations Council;
 - (c) the Commission for Higher Education;
 - (d) the Kenya Institute of special Education; and
 - (e) the schools of Education in a public and a private university respectively.
- (3) The Committee may co-opt other persons whose knowledge and experience it may find necessary for the performance of its functions—
- (a) keep under constant review the curricula at different levels of education and training as provided for in paragraph (c);
 - (b) oversee the quality of educational programmes developed by the Institute;
 - (c) coordinate and guide the activities of subject and course panels appointed under paragraph 13;
 - (d) review broad issues relating to curriculum and education policy and make recommendations to the Council; and
 - (e) approve all educational programmes developed at the Institute on the behalf of the Council.
- (4) The Academic Committee may establish its own rules of procedure and shall submit the proceedings of its meetings to the Council for approval.

13. Course, subject research and evaluation panels

- (1) The Council shall, in consultation with the Academic Committee, appoint and assign functions to such Course Panels, Subject Panels, and Research and Evaluation Panels as it may consider necessary.
- (2) The Chairpersons of the panels appointed under this paragraph shall be as follows:
- (a) each course panel shall be chaired by an officer who is in charge of quality assurance in the Ministry responsible for education;
 - (b) each subject panel shall be chaired by an appropriate subject specialist in charge of quality assurance and standards; and
 - (c) the Research and Evaluation panel shall be chaired by the Education Secretary in the Ministry responsible for higher education, science and technology.
- (3) The functions of a course panel shall be to—
- (a) examine the curriculum in a broad educational area;
 - (b) keep the relevant course under constant review and make recommendations to the Academic Committee;
 - (c) coordinate and guide the activities of the Subject Panels; and
 - (d) where applicable, liaise with other institutions and agencies involved in human resource development.
- (4) The functions of a Subject Panel shall be to—
- (a) initiate and guide appropriate curriculum development activities in the relevant subject;
 - (b) keep the existing syllabuses in a subject or curriculum area under constant review and make recommendations to the Course Panel;

- (c) review teaching and learning materials and make recommendations to the Course Panel; and
 - (d) keep assessments and examinations conducted in the relevant subject under constant review and make recommendations to the Course Panel.
- (5) The functions of the Research and Evaluation Panel shall be to—
- (a) initiate and guide appropriate research projects;
 - (b) keep the need for curriculum-based research and evaluation under constant review; and
 - (c) give general guidance and support to the curriculum-based research and evaluation programmes of the Institute.

14. Secretariat Services

The Director shall provide secretariat services to the Academic Committee and the panels appointed under paragraph 11.

15. Delegation by Council

The Council may, by resolution either generally or in any particular case delegate to any committee of the Council or to any member, officer, employee or agent of the Institute, the exercise of any of the powers or the performance of any of its functions or duties.

16. Vacancy in office

(1) The office of a member of the Council, other than an *ex officio* member, shall become vacant—

- (a) when the member resigns by giving notice in writing, in the case of the Chairperson, to the President, and in the case of any other member, to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the President or the Cabinet Secretary, as the case may be;
- (b) when the appointment is revoked by the Cabinet Secretary where the member—
 - (i) becomes insolvent or enters into a composition or scheme of arrangement for the benefit of his creditors;
 - (ii) is convicted of any offence by a court of competent jurisdiction;
 - (iii) is incapacitated by reason of infirmity of body or mind;
 - (iv) is absent from three consecutive meetings of the Council without the leave of the Chairperson; or
 - (v) is otherwise unable or unfit to discharge the functions of the Council.

(2) Where the office of the Chairperson or a member of the Council becomes vacant under this paragraph, the President or the Cabinet Secretary, as the case may be, may appoint another person as a replacement of the person vacating office.

17. Frequency of meetings and special meetings

(1) The Council shall hold not less than four meetings in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and shall, upon requisition in writing by at least five members of the Council, convene a special meeting of the Council at any time for the transaction of its business.

(3) The notice for a meeting for the Council shall be in writing, and shall be for a period of—

- (a) fourteen days in the case of a meeting under subparagraph (1); and
- (b) seven days in the case of a meeting under subparagraph (2).

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18. Quorum

The quorum for the conduct of business at a meeting of the Council shall be two thirds of all the members of the Council.

19. Chairing of meetings

(1) The Chairperson shall preside at every meeting of the Council at which he is present.

(2) In the absence of the Chairperson from the meeting the vice-Chairperson shall chair, and in the absence of both the Chairperson and the vice-Chairperson, the members present shall elect one of their number to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

20. Decisions of the Council

Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of the votes of the members present and voting, and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

21. Disclosure of interest

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Council who contravenes subparagraph (1) commits an offence and shall be liable on conviction to a fine of one hundred thousand shillings, or to imprisonment for a term of six months, or to both.

22. Common Seal

(1) Subject to this Order, the common seal of the Council shall be kept in such custody as the Council may direct and shall not be used except in the manner authorized by the Council.

(2) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Council—

- (a) where they are required to be under seal, if sealed with the common seal of the Council and authenticated by the Chairperson and the Secretary;
- (b) where they are not required to be under seal, if executed in that behalf by a member authorized by the Council for that purpose.

(3) A deed, instrument, contract or other document executed in accordance with subparagraph (2) shall be effective in law to bind the Council and its successors and may be varied or discharged in the same manner as that in which it was executed.

23. Remuneration

The members of Council shall be paid such remuneration or allowances as the Council may, with the approval of the Cabinet Secretary, determine, and shall be entitled to be paid their travelling and other expenses in connection with the work of the Institute.

24. Appointment of staff

The Council may employ such staff or engage such consultants or experts or approve such secondment as may be necessary for the proper performance of its functions, on such terms and conditions as may be approved by the Cabinet Secretary.

25. Protection from personal liability

Nothing done by a member of the Council or any officer, employee or agent of the Council shall, if it is done *bona fide* for executing the functions, powers or duties of the Council, render the member, officer, employee or agent or any person acting on the directions of the Council personally liable to any action, claim or demand whatsoever.

PART IV – FINANCIAL PROVISIONS

26. Funds of the institute

The funds of Institute shall comprise of—

- (a) such sums as may be provided by Parliament;
- (b) such monies as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Order or under any other written law; and
- (c) all monies from any other source provided for or donated or lent to the Institute.

27. Financial year

The financial year of the Institute shall be the period of twelve months ending on the thirtieth day of June in each year.

28. Annual estimates

(1) At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Institute for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Institute for the financial year, and in particular, the estimates shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Institute;
- (b) the payment of pensions, gratuities and other charges in respect of the staff of the Institute; and
- (c) the proper maintenance of the buildings and grounds of the Institute.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

29. Books of accounts records, audit and reports.

(1) The Council shall cause to be kept proper books of accounts of all the income and expenditure, assets and liabilities undertakings, funds, activities, contracts, transactions and other business of the Institute.

(2) The Council shall ensure that all money received is properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets and liabilities.

(3) The account of the Institute shall be audited in accordance with the Public Audit Act (Cap. 412B).

30. Investments of funds

(1) The Council may invest any of the funds of the Institute in any securities which the Treasury may, from time to time, approve for that purpose.

(2) The Council may, subject to the approval of Treasury, place on deposit with such bank or banks as the Council may determine, any monies not immediately required for the purposes of the Institute.

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(3) Any balance of grant may be carried forward in the accounts of the Council from one year to the next and be expended as the Council may determine, or be put into a reserve account of the Council.

PART V – TRANSITIONAL PROVISIONS

31. Repeal of L.N. 105/1976 and savings

- (1) The Kenya Institute of Education Order, 1976 is revoked.
- (2) Notwithstanding subparagraph (1), upon the commencement of this Order—
 - (a) all the rights duties, obligations, assets and liabilities of the former Institute existing at the commencement of this Order shall be automatically and fully transferred to the Institute;
 - (b) any reference to the former Institute in any contract or document shall, for all purposes, be deemed to be a reference to the Institute;
 - (c) any person who is an employee of the former Institute immediately before the commencement of this Order shall upon such commencement be deemed to be an employee of the Institute.
 - (d) the annual estimates of the former Institute for the financial year in which the appointed day occurs shall be deemed to be the annual estimates of the Institute for the remainder of that financial year;
 - (e) the administrative directions made by the former Institute or by the Cabinet Secretary and which are in force immediately before the appointed day shall, on or after such day, have force as if they were directions made by the Council or the Cabinet Secretary under this Act;
 - (f) any donation or government funding of a continuing nature administered by the former Institute or its Council and existing immediately before the commencement of this Order shall be administered by the Institute, but otherwise in accordance with the terms and conditions to which it was subject immediately before that date;
 - (g) all contracts, deeds, bonds, agreements, arrangements, guarantees and other instruments made or entered into, on behalf of shall, or in relation to the former Institute or its Council have effect as if made or entered into by, on behalf of, or in relation to, the Institute;
 - (h) all actions, claims, arbitrations, applications and other proceedings (including proceedings on appeal or review) pending or existing immediately before the commencement of this Order, by, against, or in relation to the former Institute shall have effect as if they were proceedings by, against, or in relation to the Institute, and may be continued and completed accordingly; and
 - (i) the members of the Council of the former Institute immediately before the appointed day shall be deemed to be members of the Council appointed under paragraph 6 of this Order.

(3) In this part—

"appointed day" means the day on which this Order comes into force;

"former institute" means the Kenya Institute of Education established by the Kenya Institute of Education Order, 1976.

KENYA TRADE NETWORK AGENCY ORDER

ARRANGEMENT OF ORDERS

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-

KENYA TRADE NETWORK AGENCY ORDER

[Legal Notice 6 of 2011]

1. Citation

This Order may be cited as the Kenya Trade Network Agency Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Agency" means the Kenya Trade Network Agency established under paragraph 3;

"Board" means the Kenya Trade Network Agency Board established under paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to finance;

"Kenya Shippers Council" means the Kenya Shippers Council registered under the Societies Act (Cap. 108);

"National Electronic Single Window System" means the system described in paragraph 4; and

"Secretariat" means the National Single Window Project Secretariat existing in the Ministry of Finance.

3. Establishment of the Agency

(1) There is hereby established an Agency to be known as the Kenya Trade Network Agency which shall be a body corporate in accordance with section 3 of the Act.

(2) The Agency shall be the successor of the Secretariat.

(3) The headquarters of the Agency shall be in Nairobi.

4. Objectives of the Agency

(1) The principal objective of the Agency is to establish and manage a National Electronic Single Window System and to facilitate trade.

(2) The National Electronic Single Window System shall serve as a single entry point for parties involved in trade and transport to—

(a) lodge documents electronically, for processing and approval; and

(b) make payments electronically for fees, levies, duties and taxes due to the Government, on goods imported or exported.

5. Functions of the Agency

The functions of the Agency shall be to—

(a) implement, in consultation with the Cabinet Secretary, policies relating to the National Electronic Single Window System;

(b) integrate electronic systems of public and private entities involved in receipting, processing and approving documents relating to international trade transactions;

(c) develop, manage, and promote interchange of electronic data for facilitation of trade;

(d) undertake and co-ordinate research and surveys in electronic commerce aimed at simplifying and harmonizing trade documentation;

(e) maintain an electronic database of all imported and exported goods and services and the levies, fees, duties and taxes charged on imported or exported goods and services;

(f) collect trade statistics;

[Subsidiary]

- (g) plan, develop, monitor and evaluate training programmes for all stakeholders to ensure conformity with international best practices; and
- (h) perform such other functions related to trade facilitation and other such duties as the Cabinet Secretary may, from time to time, assign to the Agency.

6. Board of Directors

(1) There shall be a Board of Directors of the Agency which shall consist of—

- (a) a non-executive Chairman appointed by the President;
- (b) the Chief Executive Officer of the Agency appointed under paragraph (9);
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance;
- (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to trade;
- (e) the Principal Secretary in the Ministry for the time being responsible for matters relating to transport;
- (f) a representative from the Kenya Shippers Council; and
- (g) three other members, not being public officers, appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters relating to—
 - (i) trade logistics;
 - (ii) information communication technology; or
 - (iii) finance or administration.

(2) The Chairman and members of the Board, other than *ex officio* members shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

7. Powers of the Board

(1) The Board shall, under the general direction of the Cabinet Secretary, be responsible for the administration, management and development of the Agency.

(2) The Board shall have all the powers necessary for the performance of its functions under this Order, and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) administer the assets and funds of the Agency in such manner and for such purposes as shall promote the best interests of the Agency;
- (b) receive grants, donations or other moneys on behalf of the Agency;
- (c) enter into association with such other institutions, persons, bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate in furtherance of the purposes for which the Agency is established;
- (d) impose fees and charges as may be approved by the Cabinet Secretary, from time to time, for the use of any services provided by the Agency.

8. Delegation by the Board

The Board may, by resolution either generally or in any particular case, delegate to a committee of the Board, or to any member, officer, employee or agent of the Agency the exercise of any powers or the performance of any of the functions or duties the Agency is authorized by this Order to exercise or perform.

9. Chief executive officer

(1) There shall be a Chief Executive Officer of the Agency appointed by the Board, who shall be the secretary to the Board and who shall be responsible for the day to day operations and administration of the Agency.

(2) A person shall qualify for appointment as a Chief Executive Officer if that person—

- (a) is a holder of at least an advanced relevant degree from a recognized university; and
- (b) has at least ten years working experience at a senior management level.

(3) The Chief Executive Officer shall serve on such terms and conditions as specified in the instrument of appointment.

10. Staff

The Agency may employ such other officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions as the Cabinet Secretary may, in consultation with the Board determine.

11. Funds of the Agency

The funds of the Agency shall consist of—

- (a) such moneys as may be appropriated by Parliament;
- (b) moneys that may accrue or vest in the Agency in the course of the performance of its functions under this Order; and
- (c) such grants and other donations as may be made to the Agency.

12. Financial Year

The financial year of the Agency shall be the period of twelve months ending on the thirtieth June in each year.

13. Annual Estimates

(1) The Board shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Agency for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Agency for the financial year concerned, and in particular, shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the Board members and the staff of the Agency;
- (b) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Agency; and
- (c) proper maintenance, repair, and replacement of the equipment and other movable property of the Agency.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Agency except in accordance with the annual estimates approved under subparagraph (3) or with the authorization of the Board given with prior written approval of the Cabinet Secretary.

14. Accounts and Audit

(1) The Board shall cause to be kept all proper books and other records of accounts of income, expenditure, assets and liabilities of the Agency.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the controller and Auditor-General the accounts of the Agency, in respect of that year together with—

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

[Subsidiary]

15. Protection from personal liability

No matter or thing done by the Chairperson or any other member of the Board or any officer, employee or agent of the Agency shall, if the matter or thing is done in good faith for the purposes of executing any provisions of this Order, render the Chairman, member, officer, employee or agent or any person acting under the direction of those persons personally liable to any action, claim or demand.

16. Liability for damages

The provisions of this Order shall not relieve the Agency of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

KENYA ANIMAL GENETIC RESOURCES CENTRE ORDER

ARRANGEMENT OF ORDERS

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 15. Investment of Funds
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 17. Protection from Personal Liabilities
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-

KENYA ANIMAL GENETIC RESOURCES CENTRE ORDER

[Legal Notice 110 of 2011]

1. Citation

This Order may be cited as the Kenya Animal Genetic Resources Centre Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the board of the Centre;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to livestock development;

"Centre" means the Kenya Animal Genetic Resources Centre established under paragraph 3.

"member" means a member of the Board;

3. Establishment

(1) There is hereby established a state corporation to be known as the Kenya Animal Genetic Resource Centre.

(2) The Centre 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 or disposing of movable or immovable property; and
- (c) doing or performing such other things or acts necessary for the proper performance of its functions which may lawfully be done by a body corporate.

(3) The Centre shall be the successor of the institution formerly known as the Central Artificial Insemination Station existing immediately before the commencement of this Order.

4. Headquarters

The headquarters of the Centre shall be in Nairobi.

5. Composition of the Board

(1) The Centre shall be governed by a Board which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to livestock development or his representative;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to Finance or his representative;
- (d) the Managing Director of the Centre appointed under paragraph 9;
- (e) the director of the Kenya Agricultural Research Institute or his representative;
- (f) four other persons not being employees of the Centre with knowledge in matters relating to—
 - (i) livestock breeding;
 - (ii) finance;
 - (iii) management; and
 - (iv) law.

(2) The members of the Board referred to in subparagraphs (a) and (f) shall be appointed by the President and Cabinet Secretary respectively by notice in the *Gazette*.

[Subsidiary]

(3) The Chairperson and members of the Board, other than *ex officio* members shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

6. Functions of the Corporation

(1) The Centre shall—

- (a) establish a national livestock resources gene bank and take custody of livestock tissues, DNA, semen and embryos of all livestock and emerging livestock species in Kenya;
- (b) conserve for posterity and avail livestock tissues, DNA, semen and embryos of all livestock and emerging livestock species in Kenya for both research and breeding;
- (c) engage in strategic semen production;
- (d) serve as a reference laboratory for certification, testing of semen, embryos, and related livestock reproductive materials, for purposes of imports and exports;
- (e) either alone or in collaboration with other institutions, develop and produce chemicals and laboratory products for use in the production of semen;
- (f) either alone or in collaboration with other institutions, provide information on the suitability and effectiveness of animal breeding products; and
- (g) provide training in animal resource conservation procedures, semen, in-vitro embryo production and transfer and related technology transfer.

(2) The Centre may engage in such other activities that promote the best interest for the Centre in accordance with this Order and as the Board may determine from time to time, with the approval of the Cabinet Secretary.

7. Powers of Board

The Board shall—

- (a) administer the assets and funds of the Centre in such manner and for such purposes as will promote the purpose for which the Centre is established;
- (b) receive gifts, donations, grants or other money and equipment on behalf of the Centre and make legitimate disbursement therefrom;
- (c) have power to enter into association with other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate and in furtherance of the purpose for which the Centre is established;
- (d) make policies and regulations for the proper and efficient management of the Centre; and
- (e) apply for and hold intellectual property rights and enter into agreements or arrangements for their commercial exploitation or otherwise as the Board may consider appropriate.

8. Meetings of the Board

(1) The Board shall hold not less than four meetings in a year, and not more than three months shall lapse from the date of one meeting and the date of the next meeting.

(2) The quorum shall be two thirds of the members of the Board.

9. Managing Director

(1) There shall be a Managing Director of the Centre who shall be appointed by the Board on such terms and conditions of service as the Cabinet Secretary may in consultation with the Board determine.

(2) The Managing Director shall be the executive officer responsible to the Board and secretary to the Board.

(3) The Managing Director shall be responsible for the day-to-day operations and administration of the Centre.

10. Staff

The Centre may employ such officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions of service as it may determine.

11. Funds

The funds of the Centre shall consist of—

- (a) monies appropriated by Parliament for the purposes of the Centre;
- (b) monies or assets as may accrue to, or vest in the Centre in the course of its functions under this Order; and
- (c) any grant, gift and other donation as may be received by the Centre.

12. Financial year

The financial year of the Centre shall be the period of twelve months ending on the thirtieth day of June in each year.

13. Annual estimates

(1) The Board shall, at least five months before commencement of each financial year, cause to be prepared estimates of the revenue and expenditure of the Centre for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Centre for the financial year, and in particular, the estimates shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the members and staff of the Centre;
- (b) the payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Centre; and
- (c) the proper maintenance, repair and replacement of the equipment, buildings and grounds of the Centre; and
- (d) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment in respect of other matters as the Centre may consider necessary.

(3) The Board shall approve the annual estimates before commencement of the financial year to which they relate and shall submit the annual estimates to the Cabinet Secretary for approval.

(4) Once the annual estimates have been approved, the sum provided shall not be increased without prior consent of the Board given with approval of the Cabinet Secretary.

(5) The Centre shall not incur expenditure for the purposes of the Centre except in accordance with the annual estimates approved under subparagraph (3) or with authorization of the Board given with the approval of the Cabinet Secretary.

14. Account and Audit

(1) The Board shall cause to be kept proper books of accounts of all the income, expenditure, assets and liabilities of the Centre.

(2) The accounts of the Centre shall be audited and reported in accordance with the provisions of the Public Audit Act (Cap. 412B).

15. Investment of Funds

(1) The Board may invest funds of the Centre which are not immediately required for its purposes in bank deposits or such other securities as Treasury may, from time to time, approve.

(2) Any balance of grant may be carried forward in the accounts of the Board from one year to the next and may be expended as the Board may determine, or may be put in a reserve account of the Board.

[Subsidiary]

16. Annual Report

(1) The Centre shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report of the operations of the Centre for the year immediately preceding the financial year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly within three months of the day the National Assembly sits after the report is presented.

17. Protection from Personal Liabilities

No matter or thing done by the Board or any officer, employee or agent of the Centre shall, if the matter or thing is done in good faith for the purposes of executing the functions, powers and duties of the Centre, render the member, officer, employee or agent or any person acting by his directions, personally liable to any action, claim or demand whatsoever.

18. Transitional provision

Upon the commencement of this Order—

- (a) all rights, duties, obligations, assets and liabilities of the Central Artificial Insemination Station existing as at the commencement of this Order shall vest in the Centre;
- (b) any reference to the Central Artificial Insemination Station in any written law, contract or document shall, for all purposes, be deemed to be a reference to the Centre;
- (c) any person who is an officer of the Central Artificial Insemination Station before the commencement date shall be deemed to be on secondment to the Centre:

Provided that such person shall, within a period of one year from the Commencement, exercise the option either—

- (i) to enter into a written contract of service with the Centre, whereupon his service with the Government shall be deemed to have terminated without right to severance pay but without prejudice to all other remuneration and benefits payable upon such termination; or
 - (ii) to be deployed by the Government.
- (d) the annual estimates of the Central Artificial Insemination Station for the financial year in which the commencement date occurs shall be deemed to be the annual estimates of the Centre for the remainder of the financial year; Provided that such estimates may be varied by the Board in such a manner as the Cabinet Secretary may approve.
 - (e) the administrative directions made by the Central Artificial Insemination Station or the Cabinet Secretary and which are in force immediately before the commencement date shall, on or after such day, have force as if they were made by the Board or the Cabinet Secretary under this Order;
 - (f) any donation or government funding of a continuing nature administered by the Central Artificial Insemination Station or its Board and existing immediately before the commencement of this Order shall be administered by the Centre, in accordance with the terms and conditions to which it was subject immediately before that date;
 - (g) the members of the Board of the Central Artificial Insemination Station immediately before the commencement date shall be appointed to be members of the Board under paragraph 5 of this Order.
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KENYA LEATHER DEVELOPMENT COUNCIL ORDER

ARRANGEMENT OF ORDERS

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 12. Execution of documents
 13. Funds of the Council
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 17. Investment of funds
 18. Annual Report
 19. *[Spent]*
-

KENYA LEATHER DEVELOPMENT COUNCIL ORDER

[Legal Notice 114 of 2011]

1. Citation

This Order may be cited as the Kenya Leather Development Council Order..

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the Board of the Council established under paragraph 4;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to livestock.

"Council" means the Kenya Leather Development Council established under paragraph 3;

3. Establishment of the Council

(1) There is established a state corporation to be known as the Kenya Leather Development Council, which shall be a body corporate in accordance with section 3 of the Act.

(2) *Spent*

(3) The headquarters of the Council shall be in Nairobi.

4. Board of the Council

(1) There shall be a Board of the Council to perform the functions of the Council consisting of the following members—

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to livestock;
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance;
- (d) the chief executive officer of the Council appointed under paragraph 8;
- (e) seven members appointed by the Cabinet Secretary and who shall have an interest in the leather industry and other relevant qualification or experience.

(2) A person shall not be qualified to be appointed a Chairperson under paragraph (1)

(a) unless that person—

- (a) holds a university degree or its equivalent in a discipline related to leather industry from a university recognized in Kenya and has at least five years' experience in the leather industry; or
- (b) has at least ten years' experience in the leather industry where that person is not a holder of a university degree.

(3) The Chairperson and members appointed under subparagraph (1)(a) and (e) respectively shall serve for a term of three years and are eligible for reappointment for a further term of three years.

(4) The Chairperson and members of the Board appointed under subparagraph (1)(a) and (e) respectively shall cease to hold office if that person—

- (a) resigns from office as such in writing addressed to the appointing authority;
- (b) is absent from three consecutive meetings of the Board without justifiable cause;
- (c) is adjudged bankrupt;
- (d) is incapacitated by prolonged physical or mental illness;

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- (e) ceases to represent the interest in respect of which he was appointed to the Board;
- (f) is otherwise unable or unfit to discharge the functions of the office;
- (g) is convicted of a criminal offence for which the sentence is imprisonment for more than six months.

5. Functions of the Council

The Council shall in respect of the leather industry have the following functions—

- (a) to provide advisory services to the Cabinet Secretary on matters relating to processing of and trade in hides, skins, leather and leather goods for planning purposes;
- (b) to promote, direct, coordinate and harmonize all activities in the leather subsector;
- (c) to guide the implementation of the Board's policies and strategies;
- (d) to undertake research and development activities;
- (e) to oversee licensing in the leather subsector;
- (f) to collect, store, analyze and disseminate data on leather subsector;
- (g) to enhance inertial and external marketing strategies; and
- (h) to perform such other function as the Cabinet Secretary may consider necessary.

6. Powers of the Board

The Board shall have all powers necessary for the proper performance of the functions of the Council under this Order and, in particular but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) regulate the production and marketing of hides, skins, leather and leather goods;
- (b) impose restrictions on the quantity and quality of hides, skins, leather and leather goods;
- (c) raise such funds on such terms and for such purposes as may be approved by the Cabinet Secretary after consultation with the Cabinet Secretary for the time being responsible for matters relating to finance;
- (d) investigate and research into all matters relating to the leather subsector generally and in particular production, processing, value addition and marketing of hides, skins, leather and leather goods;
- (e) initiate, promote and enforce standards of compliance to ensure observance and compliance with local and international standards in liaison with relevant organizations or bodies.

7. Meetings of the Board

(1) The Chairperson shall preside at all meetings of the Board, and when absent, the other members present at the meeting shall appoint one of their member to act as Chairperson at that meeting.

(2) The quorum for the Board meeting shall be two-thirds of the members.

(3) The Board may co-opt for such period, as it may think fit not more than three persons, whose assistance or advice it may require, but persons so co-opted shall not be counted as members for the purpose of forming a quorum and shall not be entitled to vote at any meeting of the Board.

(4) Every decision of the Board shall be by a simple majority of the members present and voting but the Chairperson or the person appointed to be the Chairperson under subparagraph (1), shall have a casting as well as a deliberative vote.

(5) Subject to this Order, the Board may regulate its own proceedings.

8. Chief Executive officer

(1) There shall be a Chief Executive Officer of the Council appointed by the Cabinet Secretary on the recommendation of the Board and who shall be the secretary to the Board.

(2) The Chief Executive Officer shall possess a university degree in a leather related field from a university recognised in Kenya and shall be well versed in the leather subsector.

(3) The appointment of the Chief Executive Officer shall be for a five-year contract renewable only once for a period not exceeding five years.

9. Appointment of staff

The Council shall appoint upon such terms and conditions as it deems proper such officers and employees as it considers necessary for the efficient operation of the Council.

10. Remuneration

The Council shall pay such remuneration, fees, allowances and such other reimbursement to members of the Board as may be approved by the National Treasury.

11. Delegation of powers

The Board may delegate any of its powers to any of its committees or to the Chief Executive Officer.

12. Execution of documents

(1) The seal of the Council shall be authenticated by the signature of the Chairperson and the Chief Executive Officer, or by either the Chairperson or the Chief Executive Officer, together with one member other than an *ex officio* member of the Board authorized in writing by the Council in that behalf.

(2) Any document, other than a document which is required by any law to be under seal, and any decision of the Council, may be signified under the hand of the Chairperson, or the Chief Executive Officer or of any other member of the Board or any other person authorized in writing by the Board in that behalf.

13. Funds of the Council

The funds and assets of the Council shall consist of—

- (a) such monies or assets as may accrue to or vest in the Council, in the course of the exercise of its powers or the performance of its functions under this Order;
- (b) any moneys which may in any manner become payable to or vested in the Council in respect of any matter incidental to the carrying out of its functions;
- (c) such gifts as may be made to the Council;
- (d) such moneys as may be appropriated by Parliament for the purposes of the Council; and
- (e) all moneys from any other source provided, donated or lent to the Council.

14. Financial year

The financial year of the Council shall be the period of twelve months ending on thirtieth day of June in each year.

15. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Council for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Council for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the officers, members of staff or agents of the Council;

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[Subsidiary]

- (b) the payment of the pensions, gratuities and other charges in respect of the retirement benefits payable to the members of staff of the Council;
- (c) the proper maintenance of the buildings and grounds of the Council;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Council; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subparagraph (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary, and the Principal Secretary to the National Treasury.

16. Accounts and Audit

(1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Council.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Council, in respect of that year, together with—

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

(3) The accounts of the Council shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

17. Investment of funds

The Board may place on deposit with such bank or banks as the National Treasury may approve from time to time, any moneys not immediately required for the purposes of the Council.

18. Annual Report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report on the operations of the Council for the immediately preceding financial year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly as soon as is practicable after the National Assembly next sits after the Cabinet Secretary has received the report.

19.

[Spent]

UNTITLED

[Legal Notice 172 of 2011]

[This is a stub. Please see the publication document for the original content.]

NATIONAL DROUGHT MANAGEMENT AUTHORITY ORDER

[Legal Notice 171 of 2011]

Revoked by Act No. 4 of 2016 on 21st April, 2016

THE KENYA INSTITUTE OF MASS COMMUNICATION ORDER

ARRANGEMENT OF ORDERS

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 8. Meetings
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 10. Documents and decisions of the Council
 11. Conferment of awards
 12. Director and Deputy Directors the institute
 13. Staff of the Institute
 14. Performance of functions in the absence of the office holder
 15. The Academic Board
 16. Admission to the Institute
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THE KENYA INSTITUTE OF MASS COMMUNICATION ORDER

[Legal Notice 197 of 2011, Legal Notice 83 of 2012]

1. Citation

This Order may be cited as the Kenya Institute of Mass Communication Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Cabinet Secretary" means Cabinet Secretary responsible for matters relating to information and communications;

"Council" means the Council of the Kenya Institute of Mass Communication established under paragraph 5;

"Director" means the Director appointed under paragraph 12;

"incapacity" includes absence from Kenya or inability for any reason to perform the functions of the office;

"Institute" means the Kenya Institute of Mass Communication established under paragraph 3.

3. Establishment

(1) There is hereby established a state corporation to be known as the Kenya Institute of Mass Communication which shall be the successor to the Kenya Institute of Mass Communication.

(2) The Institute shall be body corporate in accordance with section 3 of the Act 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) receiving, investing, borrowing and lending money; and
- (d) doing or performing any such other things or acts, as may be necessary or expedient, for the furtherance of the provisions of this Order which may be done by a body corporate.

(3) The Headquarters of the Institute shall be in Nairobi.

4. Functions of the Institute

The Institute shall—

- (a) offer training in communication and the cinematic arts;
- (b) produce and disseminate products in communication and cinematic arts for education and info-tainment;
- (c) produce and disseminate mass media products for training and commercial purposes;
- (d) provide and advance education and training to appropriately qualified candidates, leading to the award of diplomas and certificates and such other qualifications as the Council may, from time to time prescribe;
- (e) conduct examinations for such academic awards as the Council may, from time to time prescribe;
- (f) develop as an institution of excellence in teaching, training, scholarship, entrepreneurship, innovation, research and consultancy services;
- (g) participate in resource generative services or commercial ventures and other activities for the benefit of the Institute, the community and stakeholders;

[Subsidiary]

- (h) develop and provide educational, cultural, professional, technical and vocational services to the community and in particular foster corporate social responsibility and the development of performing arts; and
- (i) foster the general welfare of all staff and students.

5. The Council

(1) There shall be the Council of the Institute, which shall have responsibility of managing and administering the Institute.

(2) The Council shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for information and communications;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance;
- (d) the Principal Secretary of the Ministry for the time being responsible for culture and heritage;
- (e) the Principal Secretary of the Ministry for the time being responsible for youth;
- (f) the Principal Secretary of the Ministry for the time being responsible for education;
- (g) the Director, who shall be the Secretary; and
- (h) not more than seven persons appointed by the Cabinet Secretary by virtue of their knowledge or experience and past and current membership to professional organizations dealing with matters relating to culture, national heritage, communications, media, and the performing arts or related fields.

(3) The appointments under subparagraph 2(a) and (h) shall be by name and by a notice in the *Gazette*.

(4) A member of the Council appointed under paragraph 2(h) shall hold office for a term of three years and shall be eligible for reappointment for one further term of three years.

(5) The Cabinet Secretary shall, when appointing members under paragraph 2(h) have regard to the principle of gender equity.

6. Functions and powers of the Council

The Council—

- (a) shall administer the property and funds of the Institute in a manner and for purposes that promote the interests of the Institute:
 Provided that the Council shall not charge or dispose of immovable property of the Institute except in accordance with the procedures laid down by the Government;
- (b) shall receive, on behalf of the Institute, donations, endowments, gifts, grants or other monies and make disbursements there from to the Institute or other bodies or persons;
- (c) shall approve the appointment criteria and the terms and conditions of service of staff;
- (d) shall provide for the welfare of the staff and students of the Institute;
- (e) may on behalf of the Institute enter into association with other institutions of learning, whether within Kenya or otherwise, as the Council may deem necessary and appropriate;
- (f) may, after consultation with the Academic Board, make regulations governing the conduct and discipline of the students of the Institute;

- (g) shall ensure that a proper management structure is in place and make sure that the structure functions to maintain corporate integrity, reputation and responsibility;
- (h) shall monitor and evaluate the implementation of strategies, policies, and management criteria and plans of the Institute;
- (i) shall constantly review the viability and financial sustainability of the Institute, and shall do so once every year;
- (j) shall ensure that the Institute complies with all the relevant laws, regulations, governance practices, accounting procedures and auditing standards; and
- (k) do or perform such other things for the better carrying out of the purposes of the Institute.

7. Statutes

(1) In the performance of its functions under this Order, the Council shall make statutes generally for the administration of the Institute, and in particular for—

- (a) the establishment of departments of the Institute;
- (b) the requirements for the award of certificates, diplomas, degrees, post graduate diplomas and other awards of the Institute;
- (c) the conduct of examinations;
- (d) prescribing tuition fees, boarding fees and other charges;
- (e) prescribing the terms and conditions of service, including the appointments, discipline, dismissal and retirement benefits of the officers of the Institute;
- (f) regulations and handbooks of the Institute;
- (g) the procedure of meetings of the Council and the establishment, composition and terms of reference of the Committees of the Council.

(2) The Statutes shall be made by a resolution of a meeting of the Council and passed by a majority of the members present and voting.

7A. Committees of the Council

(1) The Council, may, for the better performance of its functions, establish and assign duties to such Committees, as it may consider appropriate.

(2) The Council may from time to time co-opt into its membership one or more persons to assist it in any particular matter for the time being before the Council or its committees and such co-opted member shall not be entitled to vote on the matter.

[L.N. 83/2012, r. 2]

8. Meetings

(1) The Council shall meet not less than four times during each financial year.

(2) The quorum for any meeting of the Council shall be one half plus one of all members of the Council.

9. Payment to Council members

The Council shall pay to each of its members such remuneration and allowances, if any, as the Cabinet Secretary may approve.

10. Documents and decisions of the Council

All documents, other than those required by law to be under seal, made on behalf of the Council, and all decisions of the Council may be signified under the hand of the Chairperson, the Director or any other members of the Council generally or specifically authorized by the Council in that behalf.

[Subsidiary]

11. Conferment of awards

The Institute may award certificates, diplomas, post-graduate diplomas and such other qualifications as the Council may, from time to time prescribe.

12. Director and Deputy Directors the institute

(1) There shall be a Director of the Institute who shall be appointed by the Cabinet Secretary on the recommendation of the Council.

(1A) The Director shall hold office for such period and on such terms and conditions of service as the Council may determine.

(2) A person shall not be qualified for appointment as the Director of the Institute unless that person has the relevant academic and professional qualifications and the ability to manage an educational institution.

(3) The Director shall be the chief executive of the Institute and shall—

- (a) have overall responsibility for the direction, organization and administration of programmes and other affairs of the Institute;
- (b) be responsible for the supervision and discipline of the staff of the Institute;
- (c) subject to the directions of the Council on matters of policy, be responsible to Council for the administration and management of the Institute; and
- (d) be the accounting officer of the Institute.

(4) The Council may appoint deputy director and such other staff as it deems necessary for its functions, on such terms and conditions of service as it may determine.

[L.N. 83/2012, r. 3]

13. Staff of the Institute

(1) The staff of the Kenya Institute of Mass Communications prior to the commencement of this Order, including those on secondment, shall upon the commencement of this Order, be deemed to be members of staff of the Institute.

(2) The academic staff of the Institute shall consist of the Director, the Deputy Directors, the librarian and all members of staff who are engaged in teaching and research.

(3) The senior management staff of the Institute shall consist of the Director, the Deputy Directors, and the heads of departments and such other members of staff as the Council may from time to time determine.

(4) The administrative staff of the Institute shall consist of the registrar, the finance officer and such other members of staff, not being engaged in teaching or research, as the Council may, from time to time, determine.

(5) The technical staff of the Institute shall consist of the staff engaged in laboratory, field instruction, workshops and such similar environs in the teaching departments, as the Council may from time to time determine.

(6) The support staff of the Institute shall consist of those staff engaged in general duties and as the Council may from time to time determine.

(7) All members of staff of the Institute shall, subject to this Order, be appointed—

- (a) in the manner and upon the terms and conditions of service prescribed in the Statutes; or
- (b) in the case of a person seconded to the service of the Institute from the service of another institution, the Government or any other public service, on terms and conditions agreed upon between the Council and the seconding institution.

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

(9) All members of staff of the Institute shall—

- (a) be subject to the general authority of the Council and the Director; and
- (b) be employed in accordance with the Statutes or as otherwise specifically provided in the terms of a particular appointment.

[L.N. 83/2012, r. 4]

14. Performance of functions in the absence of the office holder

(1) In the event of the incapacity of the Director, the Chairperson of the Council may appoint one of the Deputy Directors to carry out the functions of the Director during the period of incapacity.

(2) In the event of the simultaneous incapacity of the Director and the Deputy Directors, the Chairperson of the Council may appoint any member of the academic staff of the Institute to perform the functions of the Director during the incapacity.

(3) In the event of the incapacity of a member of staff of the Institute other than the Director and Deputy Director, the Director may appoint a suitable person to perform the functions of the said officer during the incapacity.

15. The Academic Board

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

- (a) the Director, who shall be the Chairperson;
- (b) the Deputy Director in charge of academic affairs, who shall be the secretary;
- (c) the heads of the teaching departments of the Institute;
- (d) the Registrar;
- (e) the librarian;
- (f) the Dean of students;
- (g) the Deputy Director in charge of ICT services; and
- (h) two members elected by the students' organization, who shall not be entitled to attend deliberations of the Academic Board on matters which are considered by the Chairperson of the Academic Board to be confidential and which relate to examinations, the general discipline of students, and other related matters.

(2) The Academic Board shall—

- (a) satisfy itself regarding the content and academic standard of any course of study in respect of any degree, diploma, certificate or other award of the Institute and to report its findings thereon to the Council;
- (b) propose regulations for consideration by the Council regarding the eligibility of persons for admission to a course of study;
- (c) propose regulations for consideration by the Council regarding the standard of proficiency to be attained in each examination for the award of a certificate, diploma or other award of the Institute;
- (d) determine the persons who have attained the prescribed standard of proficiency and are otherwise fit to be granted a degree, diploma, certificate or other award of the Institute and to report its decision thereon to the Council; and
- (e) make regulations governing such other matters as are within its powers in accordance with this Order or the Statutes.

(3) Notwithstanding any of the provision of this Order, the Council shall not initiate any action relating to paragraph 2(a), (b), (c) or (d) unless it has received a report or proposal from the Academic Board and the Council shall not reject any such report, or reject or amend any regulations as proposed without further consultation with the Academic Board.

[L.N. 83/2012, r. 5]

[Subsidiary]

16. Admission to the Institute

Admission to the Institute shall be open to all persons accepted as being qualified by the Academic Board of the Institute in accordance with this Order, without distinction of race, ethnicity, place of origin or residence or other local connections, political opinion, colour, creed, physical ability or gender; and no barrier based on any such distinction shall be imposed upon any person as a condition of their becoming, or continuing to be, a professor, lecturer, graduate or student of the Institute, or of their holding any office therein, and no preference shall be given to, or advantage withheld from any person on the grounds of any such distinction.

17. Award of scholarships. Bursaries, etc

Subject to this Order, the Institute may award scholarships, bursaries and prizes and make other awards.

18. Alumni Association of the Institute

(1) There shall be an alumni association of the Institute which shall consist of graduates of the Institute and such other persons as may be prescribed by the Statutes.

(2) The alumni association shall have the right to meet and discuss any matter relating to the Institute and transmit its resolutions to the Council or the Academic Board, and may exercise such other functions as the Statutes may prescribe.

19. Management Board

(1) There shall be a Management Board of the Institute which shall consist of—

- (a) the Director, who shall be the Chairperson;
- (b) the Deputy Directors;
- (c) the Deputy Director in charge of administration, who shall be the secretary;
- (d) the Finance Officer; and
- (e) such other member of senior management of the Institute as the Council may determine.

(2) The Management Board shall assist the Director in the day to day management of the Institute and shall, in this respect, be responsible for—

- (a) the efficient management of the human, physical, and financial resources of the Institute;
- (b) making proposals to the Council and the Academic Board on policies that may apply to institution;
- (c) the coordination of the strategic and development plans of the Institute; and
- (d) any other matters related to the management of the Institute.

20. Funds of the Institute

The funds of the Institute shall include—

- (a) monies appropriated by Parliament for the purposes of the Institute;
- (b) monies that accrue or vest in the Institute in the course of the performance of its functions under this Order;
- (c) gifts, grants or donations made to the Institute; and
- (d) such amounts from any public Fund that may be created by law for the purposes of the promotion of any and all of the objects and functions of this Institute

21. Financial year

The financial year for the Institute shall be a period of twelve months ending on the thirtieth June in each year.

22. Annual estimates

(1) At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of revenue and expenditure for the year.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the members of Council and the staff of the Institute;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Institute;
- (c) the proper maintenance of buildings and grounds of the Institute;
- (d) the proper maintenance, repair, and replacement of the equipment and other movable property of the Institute; and
- (e) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of other matters as the Council may consider necessary.

(3) The annual estimates shall be presented to the Council for approval before the commencement of the financial year to which they relate.

(4) Once the annual estimates are approved, the sum provided in the estimates shall not be increased without the prior consent of the Council.

(5) No expenditure shall be incurred for the purposes of the Institute except in accordance with the annual estimates approved under subparagraph (3) or the authorization of the Council.

[L.N. 83/2012, r. 6]

23. Accounts and audit

(1) The Council shall cause to be kept all proper books and records of accounts of income, expenditure, assets and liabilities of the Institute.

(2) The accounts of the Institute shall be audited in accordance with the Public Audit Act (Cap. 412B).

24. Investment of funds

(1) The Council may invest funds of the Institute which are not immediately required for its purposes in such securities as the National Treasury may from time to time approve.

(2) The Council may place on deposit, with such bank as it may determine any money that is not immediately required for the purposes of the Institute.

25. Annual report

(1) The Council shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Institute for the immediately preceding financial year.

(2) The Cabinet Secretary shall lay the annual report before the day the National Assembly within three months of the day the National Assembly sits after the report is presented to the Cabinet Secretary.

26. Transitional provision

All rights, liabilities and assets held by or by any body on behalf of the Kenya Institute of Mass Communications existing at the commencement of this Order, shall be automatically and fully transferred to the Institute.

KONZA TECHNOPOLIS DEVELOPMENT AUTHORITY ORDER

ARRANGEMENT OF ORDERS

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PART III – FINANCIAL PROVISIONS

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KONZA TECHNOPOLIS DEVELOPMENT AUTHORITY ORDER

[Legal Notice 23 of 2012]

PART 1 – PRELIMINARY**1. Citation**

This Order may be cited as the Konza Technopolis Development Authority Order.

2. Interpretation

In this Order unless the context otherwise requires—

"Area" means all that parcel of land known as L.R. 9918/6 located within Makueni and Machakos Counties measuring approximately 2023.6 hectares;

"Authority" means the Konza Technopolis Development Authority established under paragraph 3 of this Order;

"Board" means the Konza Technopolis Development Authority Board established under paragraph 5 of this Order;

"buffer zone" means parcels of land lying within a delineated 10 kilometer radius from the Area;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to information and communications technology;

"Chief Executive Officer" means the Chief Executive Officer appointed under paragraph 10 of this Order.

PART II – ESTABLISHMENT OF THE AUTHORITY**3. Establishment of the Authority**

(1) There is established an Authority to be known as the Konza Technopolis Development Authority.

(2) The Authority 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 or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing such other things or acts necessary for the proper performance of the functions of the Authority under the Order and which may lawfully be done or performed by a body corporate.

4. Headquarters

The Headquarters of the Authority shall be in Nairobi.

5. Board of the Authority

The Authority shall be managed by a Board comprising of—

- (a) a non-executive Chairperson appointed by the President.
- (b) the Principal Secretary to the National Treasury;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to information and communications technology;
- (d) two persons of opposite gender, being public officers, appointed by the Cabinet Secretary in consultation with the Public Service Commission;

[Subsidiary]

- (e) not more than seven other members, two of whom shall be of the opposite gender and not being employees of the Authority nor public officers, appointed by the Cabinet Secretary in consultation with the Public Service Commission by virtue of their qualifications, knowledge or experience in matters relating to the development of special economic zones, information and communications technology, science parks infrastructure, economics or taxation; and
- (f) the Chief Executive Officer appointed under paragraph 10(1).

6. Term of office

The Chairperson and members of the Board appointed under paragraph 5(d) and (e) shall serve for a term of three years and shall be eligible for appointment for one further term.

7. Disqualification of Board Member

The Chairperson or a member of the Board appointed under paragraph 5(d) and (e) shall cease to hold office if he—

- (a) resigns from office in writing to the appointing authority;
- (b) is absent without reasonable excuse from three consecutive meetings of the Board of which he has had notice;
- (c) is adjudged bankrupt;
- (d) is incapacitated by prolonged physical or other illness;
- (e) is convicted of any offence in contravention of the tenets of Chapter Six of the Constitution; or
- (f) is otherwise unable or unfit to discharge the functions of the Board.

8. Functions of the Board

The functions of the Board shall be to—

- (a) develop all aspects of the Area with particular emphasis on—
 - (i) developing integrated infrastructural facilities, and
 - (ii) provision of advice to the Government on the removal of impediments to, and creation of incentives for trade, services and manufacturing in the Area;
- (b) regulate and administer approved activities within the Area, through implementation of a system in which the Area enterprises are self regulatory to the maximum extent possible;
- (c) generate additional economic activities in the Area;
- (d) plan for the development of the Area and initiate project activities identified for such planning through Government;
- (e) develop and keep up to date a long term development plan for the Area;
- (f) initiate studies, and carry out surveys of the Area as may be considered necessary by the Government or the Authority, and to assess the alternative and substitute demands within the Area on the available resources;
- (g) co-ordinate the various studies of, and schemes within the Area so that human, land, energy, water and other resources are utilized to the best advantage and monitor the design and execution of planned projects within the Area;
- (h) effect a programme of both monitoring and evaluation of the performance of any project within the Area so as to improve that performance, establish responsibility and improve planning;
- (i) cause the construction of any works necessary for the protection and preservation of natural resources within the Area;
- (j) maintain liaison between the Government, the private sector and other Government agencies including but not limited to any specialized economic

zone agency, in matters of development of the Area with a view to maximizing resource utilization and benefits to the people of Kenya;

- (k) liaise with relevant government institutions to promote both locally and internationally the opportunities for investment in information and communications technology and such other industrial activities of the Area;
- (l) facilitate and manage information and communication technology, industrial incubation parks and science and technology parks together with related facilities within the Area and buffer zone;
- (m) liaise with the Machakos and Makueni County Authorities to ensure developments within the buffer zone are in line with the permitted standards of the Area.
- (n) liaise with Machakos and Makueni County Authorities in coordinating regulatory matters relating to investment requirements of the Area.
- (o) carry out any other activity that the Board considers necessary for the promotion and facilitation of development of information and communications technology products and services within the Area.

9. Meetings of the Board

(1) The Chairperson shall preside over all meetings and in the absence of the Chairperson; the other members present at the meeting shall appoint one of the members to act as Chairperson for the purpose of that meeting.

(2) The quorum for the Board meeting shall be two-thirds of the members.

(3) The Board may co-opt, for such period as it may deem fit, not more than three persons whose assistance or advice it may require, but the persons so co-opted shall not be considered as members for the purpose of forming a quorum and shall not be entitled to vote at any meeting of the Board.

(4) Every decision of the Board shall be by a simple majority of the members present and voting but the Chairperson or the person appointed to be the Chairperson under subparagraph (1) shall have a casting as well as a deliberative vote.

(5) Subject to this Order, the Board may regulate its own proceedings.

10. Chief Executive Officer and other staff

(1) There shall be a Chief Executive Officer of the Authority appointed by the Cabinet Secretary in consultation with the Board.

(2) The Chief Executive Officer shall be the secretary to the Board.

(3) The Chief Executive Officer shall hold office for such period and on such terms and conditions of employment as the Board may determine with the approval of the Cabinet Secretary.

(4) The Board may appoint other officers and employees as it deems necessary upon such terms and conditions as it deems proper for the efficient operation of the Authority.

(5) The Board shall pay remuneration, fees, allowances and such other reimbursement to members of the Board and staff of the Authority as may be approved by the National Treasury.

(6) The Board may delegate any of its powers to any of its committees or to the Chief Executive Officer.

11. Execution of documents

(1) The common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer, or by either the Chairperson or the Chief Executive Officer, together with one member other than an *ex officio* member of the Board authorized in writing by the Board in that behalf.

(2) Any document, other than a document which is required by any law to be under seal, made and any decision of the Board, may be signified under the hand of the Chairperson, or

[Subsidiary]

the Chief Executive Officer or any other member of the Board or any other person authorized in writing by the Board in that behalf.

12. Protection from liability

(1) Neither the Board, any of its members nor any officer, employee or servant of the Authority shall be personally liable for an act which is done or purported to be done in good faith by such person, on the direction of the Board or in the performance of any duty or in the exercise of any power under this Order.

(2) Any expenses incurred by any person referred to in subsection (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Order on the direction of the Board shall, if the court holds that such act was done in good faith be paid out of the general fund of the Authority, unless such expenses are recovered by him in such suit or prosecution.

PART III – FINANCIAL PROVISIONS

13. Funds for the Authority

The funds of the Authority shall consist of—

- (a) such moneys as may be provided by Parliament for the purposes of the Authority;
- (b) such moneys or assets as may accrue or vest in the Authority in the course of the performance of its functions under this Order; and
- (c) such moneys as may be payable to the Authority pursuant to this Order or any written law or pursuant to any gift or trust.

14. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

15. Annual estimates

(1) At least four months before the commencement of each financial year, the Board shall cause to be prepared estimate of the revenue and expenditure for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the members of the Board and the staff of the Authority;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Authority;
- (c) the proper maintenance of the buildings and ground of the Authority;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Authority; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Board may consider necessary.

(3) The annual estimates shall be submitted to the Board for approval before the commencement of the financial year to which they relate provided that once approved, the sum provided in the estimate shall not be increased without a prior consent of the Board.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of an authorization by the Board.

16. Accounts and audit

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

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

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

(3) The accounts of the Authority shall be audited in accordance with the Public Audit Act (Cap. 412B).

(4) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Authority to the Board and to the Cabinet Secretary.

(5) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Authority's accounts or records whenever it appears to him desirable so to do and the Auditor-General shall carry out such an inspection at least once every six months.

17. Investment of funds

(1) The Board may invest any of the funds of the Authority which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any money not immediately required for the purposes of the Authority.

KENYA WATER TOWERS AGENCY ORDER

ARRANGEMENT OF ORDERS

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SCHEDULES

WATER TOWERS

KENYA WATER TOWERS AGENCY ORDER

[Legal Notice 27 of 2012]

1. Citation

This Order may be cited as the Kenya Water Towers Agency Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Agency" means the Kenya Water Towers Agency established under paragraph 3;

"biodiversity hot spot" means a unique habitat with rare and diverse animals, organisms and endangered species, which is under threat of extinction;

"Board" means the Kenya Water Towers Agency Board established under paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to the co-ordination of the rehabilitation, conservation and sustainable management of water towers in Kenya;

"carbon reservoir" means a pool of carbon derivatives from organic matter and its natural products;

"forest land" means an area of land declared under section 23 of the Forests Conservation and Management Act (Cap. 385) to be a forest area;

"Secretariat" means the Interim Co-ordinating Secretariat established by *Gazette* Notice No. 12058 of 2009;

"sequestration" means the capture of carbon into growing vegetation;

"watershed" means a highland area from which rivers flow in different directions into different basins;

"water tower" means an area that acts as a receptacle for rain water and that stores water in the aquifers underneath it and gradually releases the water to the springs and springs emanating from it.

3. Establishment of the Agency

(1) There is established a state corporation to be known as the Kenya Water Towers Agency which 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 or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing such other things or acts necessary for the proper performance of the Agency, and which may be lawfully done or be performed by a body corporate.

(2) The Agency shall be the successor of the Secretariat.

(3) All rights, duties, obligations or assets of the Secretariat existing at the time this Order comes into operation, shall be automatically and fully transferred to the Agency and any reference in contract or document shall, for all purposes, be considered to be a reference to the Agency.

4. Headquarters

The headquarters of the Agency shall be in Nairobi.

[Subsidiary]

5. Functions of the Agency

- (1) The functions of the Agency shall be to—
- (a) co-ordinate and oversee the protection, rehabilitation, conservation, and sustainable management of water towers;
 - (b) co-ordinate and oversee the recovery and restoration of forest lands, wetlands and biodiversity hot spots;
 - (c) promote the implementation of sustainable livelihood programmes in the water towers in accordance with natural resource conservation;
 - (d) mobilize resources from the Government, development partners and other stakeholders as well as through payment for environmental services, including carbon reservoirs and sequestration;
 - (e) in consultation with the relevant stakeholders, identify water towers and watersheds for protection;
 - (f) assess and monitor rehabilitation, conservation and management activities in the water towers; and
 - (g) perform such other functions as the Cabinet Secretary may, from time to time, assign to the Agency.
- (2) The water towers referred to under subparagraph (1) are set out in the Schedule.

6. The Board

- (1) There shall be a Board of Directors of the Agency which shall consist of—
- (a) a non-executive Chairperson appointed by the President;
 - (b) the Chief Executive Officer of the Agency appointed under paragraph 10;
 - (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to the co-ordination, rehabilitation, conservation and sustainable management of water towers or his representative;
 - (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance or his representative;
 - (e) the Principal Secretary in the Ministry for the time being responsible for matters relating to water or his representative;
 - (f) the Principal Secretary in the Ministry for the time being responsible for matters relating to energy or his representative; and
 - (g) not more than five other members appointed by the Cabinet Secretary on the basis of their experience in finance and human resources, law or conservation.
- (2) The Chairperson and members of the Board, other than *ex officio* members, shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

7. Functions and powers of the Board

- (1) The Board shall, be responsible for the administration, management and development of the Agency.
- (2) The Board shall have all the powers necessary for the proper performance of its functions under this Order, and in particular, but without prejudice to the generality of the foregoing, the Board shall—
- (a) administer the assets and funds of the Agency in such manner and for such purposes as shall promote the purposes for which the Agency is established;
 - (b) receive donations, grants or other moneys on behalf of the Agency and make legitimate disbursement therefrom;
 - (c) have power to enter into association and agreement with other institutions, persons, bodies or organizations, within or outside Kenya, as the Board may

consider desirable or appropriate and in furtherance of the purpose for which the Agency is established.

8. Delegation by the Board

The Board may, by resolution either generally or in any particular case, delegate to a committee of the Board, or to any member, officer, employee or agent of the Agency the exercise of any powers or the performance of any of the functions or duties the Agency is authorized by this Order to exercise or perform.

9. Co-option of members

The Board may co-opt such members or experts as it may consider necessary for the effective performance of its functions and duties under this Order.

10. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Agency who shall be appointed by the Cabinet Secretary on recommendation of the Board.

(2) The Chief Executive Officer shall be the secretary to the Board and shall be responsible for the day-to-day operations and administration of the Agency.

(3) The Chief Executive Officer shall be appointed on such terms and conditions of service as the Cabinet Secretary, in consultation with the Board, determine.

11. Staff

The Agency may employ such officers and other staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions of service as the Board may, in consultation with Cabinet Secretary, determine.

12. Funds of the Agency

The funds of the Agency shall consist of—

- (a) moneys appropriated by Parliament for the purposes of the Agency;
- (b) moneys or assets as may accrue to, or vest in the Agency in the course of the exercise of its powers or the performance of its functions under this Order;
- (c) any gifts, grants and other donations as may be made to the Agency; and
- (d) such amounts, as may be paid to the Agency from any public fund, created by law for the purposes of promotion of any or all the objects and functions of the Agency.

13. Financial year

The financial year of the Agency shall be the period of twelve months ending on the thirtieth day of June in each year.

14. Annual estimates

(1) The Board shall, at least three months before the commencement of each financial year, cause to be prepared estimates of the revenue and expenditure of the Agency for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Agency for the financial year concerned, and in particular, shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the Board members and the staff of the Agency;
- (b) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Agency;
- (c) proper maintenance, repair, and replacement of the equipment and other movable property of the Agency; and

State Corporations

[Subsidiary]

- (d) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Board may consider appropriate.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved the annual estimates shall be submitted to the Cabinet Secretary for approval.

(4) Once the annual estimates are approved, the sum provided shall not be increased without prior consent of the Board.

(5) The Agency shall not, for its own purpose incur expenditure except in accordance with the annual estimates approved under subparagraph (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary.

15. Accounts and Audit

(1) The Board shall cause to be kept proper books of accounts of income, expenditure, assets and liabilities of the Agency.

(2) The accounts of the Agency shall be audited and reported upon in accordance with the Public Audit Act (Cap. 412B).

16. Investment of funds

The Board may invest funds of the Agency which are not immediately required for its purposes in bank deposits or other securities as Treasury may, from time to time, approve.

17. Reports

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Agency for the immediately preceding financial year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly within three months of the day the National Assembly sits after the report is presented to the Cabinet Secretary.

(3) The Cabinet Secretary shall lay quarterly reports on the activities of the Agency before the National Assembly.

18. Protection from personal liability

No matter or thing done by the Chairperson or any other member of the Board or any officer, employee or agent of the Agency shall, if the matter or thing is done *bona fide* for the purpose of executing any provisions of this Order, render the Chairperson, member, officer, employee or agent or any person acting under the direction of those persons personally liable to any action, claim or demand.

19. Liability for damages

The provisions of this Order shall not relieve the Agency of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any action.

 SCHEDULE

[para. 5(2)]

WATER TOWERS

1. Aberdare Range.
2. Cherangani Hills.
3. Chyulu Hills.

4. Huri Hills.
 5. Kirisia Hills.
 6. Loita Hills.
 7. Marmanet Forest.
 8. Matthews Range.
 9. Mau Forest Complex.
 10. Mount Elgon.
 11. Mount Kenya.
 12. Mount Kipipiri
 13. Mount Kulal.
 14. Mount Marsabit.
 15. Mount Njiru.
 16. Ndotos.
 17. Nyambene Hills.
 18. Shimba Hills.
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**KENYA TSETSE AND TRYPANOSOMIASIS
ERADICATION COUNCIL ORDER**

ARRANGEMENT OF ORDERS

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KENYA TSETSE AND TRYPANOSOMIASIS ERADICATION COUNCIL ORDER

[Legal Notice 77 of 2012]

1. Citation

This Order may be cited as the Kenya Tsetse and Trypanosomiasis Eradication Council Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the Board of the Council established under paragraph 5;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to livestock development;

"Council" means the Kenya Tsetse and Trypanosomiasis Eradication Council established by paragraph 3;

"financial year" means the period of twelve months ending on the 30th June in each year; and

"Unit" means the Pan African Tsetse and Trypanosomiasis Eradication Campaign (PATTEC) Unit existing within the Ministry of Livestock Development immediately before the coming into operation of this Order.

3. Establishment of the Council

(1) There is established a body to be known as the Kenya Tsetse and Trypanosomiasis Eradication Council.

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

- (a) suing and being sued;
- (b) acquiring, holding and disposing of movable and immovable property, and
- (c) doing all such other things or acts as may properly be done by a body corporate.

(3) The Council shall be the successor to the Pan African Tsetse and Trypanosomiasis Eradication Campaign Unit (PATTEC) existing immediately before the commencement of this Order, and upon such commencement—

- (a) all property which was vested in the Government for the use of the Unit shall vest in the Council subject to all interests, liabilities, changes and obligations affecting such property; and
- (b) unless the Council otherwise determines, all public officers who are employed by the Government for purposes of the Unit shall be deemed to be on secondment to the Council under this Order until they are employed by the Council or their secondment with the Council otherwise ceases in accordance with the terms of secondment.

4. Headquarters of the Council

The headquarters of the Council shall be in Nairobi but the Council may establish branches in the Counties.

5. Board of the Council

(1) There shall be a Board of the Council which shall consist of—

- (a) a Chairperson appointed by the President;

State Corporations

[Subsidiary]

- (b) the Principal Secretary of the Ministry for the time being responsible for matters relating to livestock;
- (c) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance;
- (d) the Director of Medical Services or a designated representative;
- (e) the Director-General of the Kenya Wildlife Service or a designated representative;
- (f) the Director of Veterinary Services;
- (g) the Director of Livestock Production or a designated representative;
- (h) the chief executive officer of the Council appointed under paragraph 8;
- (i) one person with at least five years' experience in matters related to livestock development, nominated by research institutions dealing with tsetse and trypanosomiasis and appointed by the Cabinet Secretary;
- (j) one person with at least five years' experience in matters related to impacts and pest management, nominated by an association recognized as representing the private sector and appointed by the Cabinet Secretary; and
- (k) two persons of opposite gender nominated by the association recognized as representing farmers, appointed by the Cabinet Secretary.

(2) A person shall be eligible for appointment as the Chairperson under subparagraph (1)(a) if that person—

- (a) holds a university degree or its equivalent in science or any other discipline related to livestock science from a university recognized in Kenya and has at least five years' experience in livestock development; or
- (b) has at least ten years' experience in matters related to livestock development.

(3) A person appointed under subparagraphs (1)(a), (h), (j) or (k) shall serve for a term of three years and shall be eligible for re-appointment for a further term of three years.

(4) A person appointed under paragraphs (1)(a),(h), (j) or (k) shall cease to hold office if the person—

- (a) resigns his office as such in writing addressed, in the case of the Chairperson, to the President, or in the case of any other member, to the Cabinet Secretary;
- (b) is absent from three consecutive meetings of the Board without justifiable cause;
- (c) is adjudged bankrupt;
- (d) is incapacitated by prolonged physical or mental illness;
- (e) ceases to represent the interest in respect of which he was appointed to the Board;
- (f) is otherwise unable or unfit to discharge the functions of the office; or
- (g) is convicted of a criminal offence and sentenced to imprisonment for a term of more than six months.

6. Functions of the Council

The functions of the Council shall be to—

- (a) advise the Government on the policy on tsetse and trypanosomiasis eradication in Kenya and its implementation;
- (b) recommend standards and guidelines for tsetse and trypanosomiasis eradication;
- (c) determine and advise the Government on national goals, priorities and strategies for tsetse and trypanosomiasis eradication;

- (d) co-ordinate activities of Government departments, agencies and other stakeholders at the national and county levels in matters related to tsetse and trypanosomiasis eradication;
- (e) promote collaboration among stakeholders on tsetse and trypanosomiasis eradication;
- (f) act as the lead agency on tsetse and trypanosomiasis eradication activities in Kenya;
- (g) act as the Government agency for tsetse and trypanosomiasis eradication, and advise the Government in its negotiations and other engagements with foreign countries and international organizations in tsetse and trypanosomiasis eradication;
- (h) negotiate, source and mobilize resources for the tsetse and trypanosomiasis eradication;
- (i) ensure effective and efficient use of resources provided by the Government and other financiers or donors for tsetse and trypanosomiasis eradication;
- (j) establish and maintain an appropriate tsetse and trypanosomiasis knowledge, information and communication system and database based on contemporary science and technology;
- (k) co-ordinate, guide and facilitate research and the use of technology and development of science for the purposes of eradication of tsetse and trypanosomiasis;
- (l) promote and facilitate activities in all relevant sectors including land use management and sustainable livelihoods to sustain tsetse and trypanosomiasis eradication in Kenya;
- (m) promote public and private sector partnership for sustainable tsetse and trypanosomiasis eradication; and
- (n) perform such other function as may be assigned to it by the Cabinet Secretary.

7. Meetings of the Board

(1) The Chairperson shall preside at all meetings of the Board at which the Chairperson is present, but in the absence of the Chairperson the members present at the meeting shall appoint one of their number to preside at that meeting.

(2) The quorum for the Board meeting shall be seven members.

(3) The Board may co-opt, for such period as it may think fit, not more than three persons whose assistance or advice it may require, but persons so co-opted shall not be counted as members for the purpose of forming a quorum and shall not be entitled to vote at any meeting of the Board.

(4) Every decision of the Board shall in the absence of consensus, be by a simple majority of the members present and voting, but in the case of an equality of votes the Chairperson or the person presiding shall have a casting vote.

(5) Subject to this Order, the Board may regulate its own procedure, and the procedure for any committee of the Board and for attendance of any other persons at its meetings.

8. Chief Executive Officer

(1) There shall be a chief executive officer of the Council who shall be appointed by the Board on such terms and condition as may be specified in the instrument of appointment.

(2) A person shall be eligible for appointment under subparagraph (1) if the person holds a degree from a university recognized in Kenya in biological sciences related to livestock development and at least ten years' experience in strategic tsetse and trypanosomiasis management.

[Subsidiary]

9. Appointment of staff

The Council may appoint such other officers and staff conditions as it considers proper for its efficient operation of the functions.

10. Remuneration of Board members

The Council shall pay such remuneration, fees, allowances and such other reimbursement to members of the Board as may be approved by the Cabinet Secretary responsible for finance.

11. Delegation of functions

The Board may delegate any of its powers to any of its committees as established by the Board or to the chief executive officer.

12. Execution of documents

(1) The seal of the Council shall be authenticated by the signature of the Chairperson and the chief executive officer, or by either of them together with one member of the Board, other than an ex-officio member, authorized in writing by the Board in that behalf.

(2) Any document made, other than a document which is required by any other law to be under seal, and any decision of the Council, may be signified under the hand of the Chairperson, or the chief executive officer or of any other member of the Board or any other person authorized in writing by the Board in that behalf.

13. Funds of the Council

The funds and assets of the Council shall consist of—

- (a) such monies as may be appropriated by Parliament for the purposes of the Council;
- (b) such monies or assets as may accrue to or vest in the Council, in the course of the exercise of its powers or the performance of its functions under this Order;
- (c) any monies which may in any manner become payable to or vested in the Council in respect of any matter incidental to the carrying out of its functions;
- (d) any gifts made to the Council; and
- (e) all monies from any other source provided, donated or lent to the Council.

14. Financial year

The financial year of the Council shall be the period of twelve months ending on thirtieth day of June in each year.

15. Annual estimates

(1) At least three months, before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Council for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Council for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the officers, members of staff or agents of the Council;
- (b) the payment of the pensions, gratuities and other charges in respect of the retirement benefits payable to the members of staff of the Council;
- (c) the proper maintenance of the buildings and grounds of the Council;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Council; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) Expenditure shall not be incurred for the purposes of the Council except in accordance with the annual estimates approved under subparagraph (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary, and the Permanent Secretary to the National Treasury.

16. Books of accounts and audit

(1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Council.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Council, in respect of that year, together with—

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

(3) The accounts of the Council shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

17. Investment of Funds

The Board may invest any of the funds of the Council which are not immediately required for its purposes in such securities as the National Treasury may approve from time to time.

18. Annual report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report on the operations of the Council for the immediately preceding financial year.

(2) The Cabinet Secretary shall lay the annual report submitted under subparagraph (1) before the National Assembly as soon as is practicable after the National Assembly next sits after the Cabinet Secretary has received the report.

SOUTH-SOUTH CENTRE ORDER

ARRANGEMENT OF ORDERS

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SOUTH-SOUTH CENTRE ORDER

[Legal Notice 120 of 2012]

1. Citation

This Order may be cited as the South-South Centre Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the board of directors for the Centre established under paragraph 5;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to planning;

"Centre" means the South-South Centre established under paragraph 3;

3. Establishment

(1) There is hereby established a state corporation to be known as the South-South Centre.

(2) The Centre 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 or disposing of movable or immovable property; and
- (c) doing or performing such other things or acts necessary for the proper performance of its functions which may lawfully be done or performed by a body corporate.

4. Headquarters

The headquarters for the Centre shall be in Nairobi.

5. Composition of the Board

(1) The Centre shall be governed by a Board which shall consist of—

- (a) a Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to planning;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance;
- (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to foreign affairs;
- (e) the Principal Secretary in the Ministry for the time being responsible for matters relating to trade;
- (f) the Chief Executive Officer of the Centre appointed under paragraph 10; and
- (g) five other persons, appointed by the Cabinet Secretary and not being employees of the Centre, with knowledge and experience in matters relating to—
 - (i) knowledge management;
 - (ii) business development;
 - (iii) research and development; or
 - (iv) policy and advocacy.

(2) A person shall not be eligible for appointment as the Chairperson unless that person

[Subsidiary]

- (a) holds a degree from a university recognized in Kenya;
- (b) has at least five years experience in development related issues; and
- (c) fulfils the requirements set out in Chapter Six of the Constitution.

(3) The members of the Board referred to in subparagraph (g) shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(4) The Chairperson and members of the Board, other than the *ex officio* members shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

(5) A member of the Board shall cease to hold office, if the member—

- (a) resigns in writing addressed to the respective appointing authority;
- (b) is absent from three consecutive meetings of the Board without the approval of the Chairperson;
- (c) is adjudged bankrupt;
- (d) is unable to perform the functions of the office by virtue of physical or mental incapacity;
- (e) ceases to represent the interest in respect of which he was appointed;
- (f) is convicted of a criminal offence and sentenced to imprisonment for a period of more than six months; or
- (g) dies.

6. Functions of the Board

The functions of the Board are to—

- (a) approve long-term and medium-term programs of the Centre;
- (b) prepare annual reports of the Centre;
- (c) decide on the participation of local, regional, private sector and non-governmental organizations in the functions of the Centre;
- (d) co-ordinate the strategic planning process for the Centre;
- (e) co-ordinate and promote all South-South and triangular co-operation;
- (f) promote policy mainstreaming of the Centre in all sectors to capitalize on current programs and untapped activities;
- (g) advice the Government on potential links that could be established with other programmes and initiatives within and outside the region and sub-region.

7. Functions of the Centre

The Centre shall—

- (a) initiate, organize and manage South-South activities and projects in consultation with the Government, civil society organizations or private sector institutions;
- (b) sensitize, co-ordinate and enhance capacity building for the private sector;
- (c) act as a clearing house for South-South engagements in Kenya;
- (d) mobilize resources donated to the Center from local or international sources;
- (e) securing baseline data and on going data collection;
- (f) conduct monitoring and evaluation; and
- (g) perform such other related functions as the Cabinet Secretary may from time to time assign.

8. Powers of the Board

(1) The Board shall—

- (a) administer the assets and funds of the Centre in such manner and for such purposes as shall promote the purpose for which the Centre is established;

- (b) receive gifts, donations, grants or other monies and equipment on behalf of the Centre and make disbursements therefrom;
- (c) enter into association with other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate and in furtherance of the purpose for which the Centre is established; and
- (d) make policies and regulations for the proper and efficient management of the Centre.

(2) The Board may for the efficient performance of its functions under this Act, delegate any of its powers to any committee or to the Chief Executive Officer.

9. Meetings of the Board

(1) The Board shall hold at least four meetings in a year, and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall preside over all the meetings of the Board, and where the Chairperson is absent, the members of the Board shall appoint one person from amongst their number to chair the meeting.

(3) The quorum shall be two-thirds of the members of the Board.

(4) The Board may co-opt for such a period as it deems appropriate not more than three persons whose knowledge and skills are found necessary for the performance of the functions of the Board.

(5) A co-opted member shall not form part of the quorum and shall not have a right to vote at a meeting, but may participate in the deliberations of the Board.

(6) A decision of the Board shall be by a simple majority of the members present and voting.

(7) The Chairperson shall have a casting vote as well as a deliberative vote.

(8) Subject to the provisions of this paragraph the Board may regulate its own procedure.

10. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Centre who shall be competitively recruited and appointed by the Cabinet Secretary on recommendation by the Board.

(2) The Chief Executive Officer shall be the secretary to the Board.

(3) The Chief Executive Officer shall be responsible for the day-to-day operations and administration of the Centre.

(4) A person shall be eligible to be appointed as the Chief Executive Officer if he holds a degree from a university recognized in Kenya.

(5) The Chief Executive Officer shall hold office for a period of five years renewable for one further term.

11. Staff

(1) The Centre may employ such officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order.

(2) The Board may determine with the approval of the National Treasury the remuneration, fees, allowances and such other reimbursements to be paid to the members of staff.

12. Execution of documents

(1) The seal of the Centre shall be authenticated by the signature of the Chairperson and the Chief Executive Officer.

(2) In the absence of either the Chairperson or Chief Executive Officer, the seal shall be authenticated by the signature of either the Chairperson or the Chief Executive Officer together with one other member authorized by the Board for that purpose in writing.

[Subsidiary]

13. Funds

The funds of the Centre shall consist of—

- (a) monies appropriated by Parliament for the purposes of the Centre;
- (b) such monies or assets as may accrue to, or vest in the Centre in the course of the performance of its functions under this Order; and
- (c) any monies, grants, gift and other donation as may be received by the Centre.

14. Financial year

The financial year of the Centre shall be the period of twelve months ending on the thirtieth day of June in each year.

15. Annual estimates

(1) The Board shall, at least five months before commencement of each financial year, cause to be prepared estimates of the revenue and expenditure of the Centre for that financial year.

(2) The annual estimates shall make provision for the estimated expenditure of the Centre for the financial year, and in particular, the estimates shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the members and staff of the Centre;
- (b) the payment of pensions, gratuities and other charges in respect of the retirement benefits of the staff of the Centre; and
- (c) the proper maintenance, repair and replacement of the equipment, buildings and grounds of the Centre; and
- (d) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of other matters as the Centre may consider necessary.

(3) The Board shall approve the annual estimates at least three months before commencement of the financial year to which they relate and shall submit the annual estimates to the Cabinet Secretary for approval.

(4) Once the annual estimates have been approved, the sum provided shall not be increased without prior consent of the Board given with approval of the Cabinet Secretary.

(5) The Centre shall not incur expenditure except in accordance with the annual estimates approved under subparagraph (3) or with authorization of the Board given with the approval of the Cabinet Secretary and the Principal Secretary to the National Treasury.

16. Account and Audit

(1) The Board shall cause to be kept proper books of accounts and other records of all the income, expenditure, assets and liabilities of the Centre.

(2) The Board shall submit the accounts of the Centre together with a statement of income and expenditure for that financial year and a statement of assets and liabilities as at the last day of the financial year, to the Auditor-General within three months after the end of the financial year concerned.

(3) The accounts of the Centre shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

17. Investment of Funds

The Board may place on deposit such funds of the Centre which are not immediately required for its purposes in a bank or such securities as the National Treasury may, from time to time, approve.

18. Annual Report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report of the operations of the Centre for the year immediately preceding the financial year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly as soon as practicable after the National Assembly sits.

KENYA NUCLEAR ELECTRICITY BOARD ORDER, 2012

[Legal Notice 131 of 2012]

Revoked by Act No. 1 of 2019 on 28th March, 2019

LAPSSET CORRIDOR DEVELOPMENT AUTHORITY ORDER

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LAPSSET CORRIDOR DEVELOPMENT AUTHORITY ORDER

[Legal Notice 58 of 2013]

1. Citation

This Order may be cited as the LAPSSET Corridor Development Authority Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Authority" means LAPSSET Corridor Development Authority established under paragraph 3(1);

"Board" means the LAPSSET Corridor Authority Board;

"Committee" means the State Corporations Advisory Committee;

"Director-General" means the Director-General appointed under paragraph 12 of this Order;

"LAPSSET" means Lamu Port-South Sudan-Ethiopia Transport Corridor;

"LAPSSET Corridor" means all that piece of land covered by the Lamu Port-South Sudan and Ethiopia highways, pipelines, and railways connecting Kenya, South Sudan, Ethiopia and Lamu Port, refineries, airports, resort cities and high grand falls multipurpose project and surrounding areas;

"member" means a member of the Board of the Authority;

"Projects Components" means projects within LAPSSET Corridor including—

- (a) Lamu Port at Manda Bay;
- (b) standard gauge railway lines from Lamu to Isiolo, Isiolo to South Sudan, Isiolo to Ethiopia, and Nairobi to Isiolo;
- (c) highway from Lamu to Isiolo, Isiolo to Nadapal/Nakodok (South Sudan), and Isiolo to Moyale-Addis Ababa (Ethiopia);
- (d) crude oil pipeline from Lamu to Isiolo-Nadapal/Nakodok (South Sudan), and product oil pipeline from Lamu to Isiolo-Moyale-Addis Ababa (Ethiopia);
- (e) international airports at Isiolo, Lamu and Lake Turkana;
- (f) resort cities at Lamu, Isiolo and Lake Turkana;
- (g) merchant oil refinery at Lamu;
- (h) Malindi-Garsen-Lamu Road;
- (i) Isiolo-Maralal-Lokichar Road;
- (j) high grand falls multipurpose power generation dam;
- (k) water supply lines;
- (l) power supply lines; and
- (m) Fiber optic cable and communications systems;

"staff" means the staff of the Authority.

PART II – ESTABLISHMENT

3. Establishment

(1) There is established an authority to be known as LAPSSET Corridor Development Authority.

(2) The Authority 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;

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- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) performing such other things or acts necessary for the proper performance of the functions of the Authority under the Order and which may lawfully be done or performed by a body corporate.

4. Headquarters

The headquarters of the Authority shall be in Nairobi with field offices in Lamu, Isiolo, Lokichogio, Marsabit and Moyale.

5. Board of the Authority

- (1) The Authority shall be managed by a Board comprising of—
- (a) a Chairperson who shall be appointed by the President;
 - (b) Principal Secretary for the time being responsible for the matters relating to the office of the president
 - (c) Principal Secretary for the time being responsible for matters relating to finance;
 - (d) Principal Secretary for the time being responsible for matters relating to energy;
 - (e) Principal Secretary for the time being responsible for matters relating to transport;
 - (f) Principal Secretary for the time being responsible for tourism;
 - (g) five other members appointed by the President by virtue of their knowledge and expertise in the following fields—
 - (i) finance;
 - (ii) law;
 - (iii) management;
 - (iv) project management; and
 - (v) international trade;
 - (h) Director-General of the Authority who shall be Secretary to the Board.

(2) The members referred to in subparagraph (1)(b), (c), (d), (e), and (f) may, in writing designate a senior officer to represent them on the Board as alternate members.

6. Term of office

The Board member other than an *ex officio* member, appointed under paragraph 5 shall serve for a term of three years and may be re-appointed for a further term of three years based on performance.

7. Qualifications for appointment

A person shall be qualified for appointment as Chairperson or as a member of the Board if the person—

- (a) holds a degree from a university recognized in Kenya;
- (b) meets the requirements of Chapter Six of the Constitution; and
- (c) has at least ten years experience in corporate leadership.

8. Functions of the Authority

The functions of the Authority shall be to—

- (a) plan, co-ordinate and sequence LAPSET Corridor projects in collaboration with implementing ministries and agencies;

- (b) co-ordinate implementation of LAPSSET Corridor projects across implementing ministries and agencies;
- (c) provide leadership, direction and guidance in operations and implementation of the LAPSSET Corridor;
- (d) ensure implementation of all decisions and resolutions of the government;
- (e) mobilize funds to project components using a variety of resources including budgetary resources from government, donor loans, infrastructure bonds, and private finance;
- (f) in collaboration with the relevant National and County Government department, build the capacity of LAPSSET Corridor towns to manage the urban growth resulting from LAPSSET Corridor investments;
- (g) promote the competitiveness and use of the LAPSSET Corridor for the transport of goods and people; and
- (h) provide a forum for all stakeholders in the LAPSSET Corridor.

9. Powers of the Board

The Board shall have all the powers necessary for the proper performance of its functions under this Order, and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) manage, supervise and administer the assets of the Authority in such a manner as best promotes the purpose for which the Authority is established;
- (b) determine the provisions to be made for capital, recurrent expenditure and for reserves of the Authority;
- (c) receive any grants, gifts, donations or endowments on behalf of the Authority and make legitimate disbursements;
- (d) enter into association with such other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Authority is established;
- (e) open a bank account or bank accounts for the funds of the Authority;
- (f) constitute working committees for the purpose of the performance of the functions of the Authority; and
- (g) approve all projects of the Authority.

10. Meetings of the Board

(1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) A meeting of a Board shall be held on such date and at such time as the Board shall decide or, in the absence of such decision or on any occasion on which the Chairperson in consultation with the chief executive officer shall decide that a meeting is necessary, on a date and at a time determined by the Chairperson.

(3) No meeting of a Board shall be held at any place other than the registered or principal office of the Authority except with the prior written approval of the Committee.

(4) Unless three-quarters of the total membership of a Board otherwise agree, at least fourteen days' written notice of every meeting of a Board shall be given to every member of the Board.

(5) The quorum for the conduct of business at a meeting of a Board shall be two-thirds of the total number of members of a Board or the number nearest to but not less than two-thirds.

(6) The Chairperson of the Board shall preside at all meetings of the Board but in the absence of the Chairperson the members present shall appoint one of their number to preside at the meeting.

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(7) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) The Board may co-opt, for such period as it may consider necessary, not more than three persons whose assistance or advice it may require, but the persons so co-opted shall not be considered as members for the purpose of forming a quorum and shall not be entitled to vote at any meeting of the Board.

(9) Subject to this Order, the Board may regulate its own procedures.

11. Vacancy in the Board

(1) The office of the Chairperson, or a member of the Board, other than an *ex officio* member, shall become vacant—

- (a) when a member resigns by giving notice in writing to the President, which notice shall take effect on the date specified in the notice, and, where no date is specified, on the date of receipt of the notice by the President;
- (b) when the appointment is revoked by the President;
- (c) if the member—
 - (i) becomes insolvent or enters into a scheme of arrangement for the benefit of his or her creditors;
 - (ii) is convicted of any offence by a court of competent jurisdiction;
 - (iii) is incapacitated by reason of infirmity of body or mind;
 - (iv) is absent from three consecutive meetings of the Board without the leave of the Chairperson;
 - (v) is otherwise unable or unfit to discharge the functions of the Board; or
 - (vi) dies.

(2) Where the office of the Chairperson of the Board or a member of the Board becomes vacant under this paragraph, the President may appoint another person possessing the qualifications under paragraph 7.

12. Director-General

(1) There shall be a Director-General of the Authority who shall be appointed by the Board on such terms and conditions of service as the Board may approve.

(2) A person shall be qualified for appointment as a Director-General to the Authority if the person—

- (a) is a citizen of Kenya;
- (b) holds at least a masters degree from a university recognized in Kenya;
- (c) has at least ten years experience at senior corporate management level; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be the Secretary to the Board and the chief executive officer of the Authority and shall be responsible to the Board for—

- (a) the day-to-day management of the affairs of the Authority;
- (b) the management of the funds of the Authority;
- (c) the administration of the Authority; and
- (d) the supervision and control of the officers and other staff of the Authority.

(4) Subject to the provisions of this Order, the Director-General shall hold office for a term of five years and may be re-appointed for a further term of five years based on performance.

13. Establishment of Directorates

In carrying out its functions under this Order the Authority shall establish the following directorates—

- (a) Directorate of transport infrastructure responsible for infrastructure development for railways, port, road and airports including fishing ports and sites;
- (b) Directorate of utility infrastructure responsible for development of oil pipe line, oil refinery, water supply, electricity and renewable energy, high grand falls multipurpose dam for power generation, communications; and
- (c) Directorate of trade, tourism and urban development responsible for development of nodal points, urban centers, Lamu metropolis, special economic zones, resort cities and other LAPSSET Corridor economic activities.

14. Committees of the Board

(1) The Authority may appoint committees of the Board—

- (a) to inquire into and advise the Board on any matter concerning the functions of the Authority, as the Board may consider necessary; and
- (b) to exercise the powers or perform functions of the Authority, as the Board may delegate or refer to the committee.

(2) A committee appointed under subparagraph (1) shall consist of a Chairperson and other persons, whether members of the Board or not, as the Board may determine based on competence requirements.

(3) The Board may require a committee appointed under this paragraph to act jointly or in cooperation with any other committee or agency of the Authority.

15. Delegation by the Board

The Board may, by resolution either generally or in any particular case delegate to any committee of the Board or to any member, officer, employee or agent of the Authority, the exercise of any of the powers or the performance of any of its functions or duties.

16. Common seal

(1) All deeds, instruments, contracts and other documents shall be considered to be duly executed by or on behalf of the Board—

- (a) where they are required to be under seal, if sealed with the common seal of the Board; and
- (b) where they are not required to be under seal, if executed in that behalf by a member authorized by the Board for that purpose.

(2) The common seal of the Board shall be authenticated by the signature of the Director-General and Corporation Secretary.

(3) A deed, instrument, contract or other document executed in accordance with paragraph (1)(a) or (b) shall bind the Board and its successors and may be varied or discharged in the same manner as that in which it was executed.

17. Protection from liability

(1) A member of the Board, any officer, employee or servant of the Authority shall not be personally liable for an act which is done in good faith by such person, on the direction of the Board or in the performance of any duty or in the exercise of any power under this Order.

(2) Any expenses incurred by any person referred to in subparagraph (1) in any suit or prosecution brought against him before any court in respect of any act which is done or purported to be done by him under this Order on the direction of the Board shall, if the court holds that such act was done in good faith be paid out of the general fund of the Authority, unless such expenses are recovered by him in such suit or prosecution.

18. Liability for damages

The provisions of this Order shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to that person or his interests caused

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by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any action.

19. Staff

The Authority may employ such officers and other staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions of service as the Board may, in consultation with the Treasury, determine.

20. Remuneration of the Board

The Authority shall pay such remuneration, fees, allowances and such other reimbursement to staff and members of the Board based on existing guidelines issued by the Committee from time to time.

PART III – FINANCIAL PROVISIONS

21. Funds of the Authority

The funds of the Authority shall consist of—

- (a) moneys appropriated by Parliament for the purposes of the Authority;
- (b) moneys or assets as may accrue to, or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Order;
- (c) any gifts, grants and other donations as may be made to the Authority; and
- (d) such amounts, as may be paid to the Authority from any public fund, created by law for the purposes of promotion of any or all the objects and functions of the Authority.

22. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

23. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the members of the Board and the staff of the Authority;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Authority;
- (c) the proper maintenance of the buildings and ground of the Authority;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Authority; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Board may consider necessary.

(3) The annual estimates shall be submitted to the Board for approval before the commencement of the financial year to which they relate provided that once approved, the sum provided in the estimate shall not be increased without consent of the Board.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of an authorization by the Board.

24. Accounts and audit

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

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

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

(3) The accounts of the Authority shall be audited in accordance with the Public Audit Act (Cap. 412B) and the Public Financial Management Act (Cap. 412A).

(4) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Authority to the Board and to the President.

(5) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Authority's accounts or records whenever it appears to the Auditor-General necessary to do so and the Auditor-General shall carry out such an inspection at least once every six months.

25. Investment of funds

(1) The Board may invest any of the funds of the Authority which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any money not immediately required for the purposes of the Authority.

PART IV – GENERAL PROVISIONS

26. Reports

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the President a report of the operations of the Authority for the immediately preceding financial year.

(2) The annual report shall be laid before the National Assembly within three months of the day the National Assembly sits after the report is presented to the President.

(3) The President shall cause the submission of quarterly reports on the activities of the Authority before the National Assembly.

**INFORMATION AND COMMUNICATIONS
TECHNOLOGY AUTHORITY ORDER**

ARRANGEMENT OF ORDERS

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**INFORMATION AND COMMUNICATIONS
TECHNOLOGY AUTHORITY ORDER**

[Legal Notice 183 of 2013, Legal Notice 198 of 2013]

PART I – PRELIMINARY

1. Citation

This Order may be cited as the Information and Communications Technology Authority Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Authority" means the Information and Communications Technology Authority established by paragraph 3;

"assets" include all property movable or immovable and all estates, easements and rights whether equitable or legal in, over or out of property, choses-in-action, money or goodwill of the former bodies whether situated in Kenya or elsewhere;

"Board" means the Board of the Authority established by paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to Information, Communications and Technology;

"Chief Executive Officer" means the Chief Executive Officer of the Authority appointed under paragraph 11;

"former bodies" means—

- (a) the Kenya ICT Board established under the Kenya ICT Board Order, 2007 under Legal Notice number 26 of 2007;
- (b) the E-Government Directorate established under Presidential Circular Number 1 of 2004; and
- (c) the Government Information Technology Services established under Treasury Circular Number 9 of 2003;

"GITS" means the Government Information Technology Services;

"ICT" means Information and Communications Technologies;

"ICT Infrastructure and systems" means information and communication technologies employed in collecting, storing, using or sending out information and include those involving the use of computers or any telecommunication system;

"computer system" means a device or collection of devices including input and output devices but excluding calculators which are not programmable and capable of being used in conjunction with external files which contain computer programmes, electronic instructions and data that perform logic, arithmetic, data storage, data retrieval, communication control and other functions;

"data" means information recorded in a format in which it can be processed by equipment operating automatically in response to instructions given for that purpose, and includes representations of facts, information and concepts held in any removable storage medium;

"e-Government services" means public services provided electronically by a Ministry or Government department, local authority, or any body established by or under any law or controlled or funded by the Government;

"electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

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"electronic form" with reference to information, means any information generated, sent, received or stored in magnetic, optical, computer memory, microfilm or similar device

"electronic record" means a record generated in digital form by an information system, which can be transmitted within an information system or from one information system to another and stored in an information system or other medium;

"equipment" includes any appliance, apparatus or accessory used or intended to be used for communication services;

"innovation" includes—

- (a) a technovation model, utility model or industrial design within the meaning of the Industrial Property Act (Cap. 509);
- (b) a product, process, service or idea which is novel;
- (c) an improved use of a new product, service or method in industry, business or society;
- (d) indigenous or traditional knowledge by community of beneficial properties of land, natural resources, including plant and animal resources and the environment; or
- (e) any other non-patentable creations or improvements which may be deemed as deserving promotion and protection or *sui generis* intellectual property rights and "innovator" shall be construed accordingly;

"Kenya National Spatial Data Infrastructure Initiative" means the Project under the Authority to promote the sharing of geographical data throughout the Government, the private and non-profit making sectors and the academic community;

"liabilities" means liabilities, debts, charges, duties and obligations of every description, whether present or future, actual or contingent, and whether to be observed or performed in Kenya or elsewhere;

"telecommunication system" means a system for the conveyance, through the agency of electric, magnetic, electro-magnetic, electro-chemical or electro-mechanical energy, of—

- (a) speech, music and other sounds;
- (b) visual images;
- (c) data;
- (d) signals serving for the impartation (whether as between persons and persons, things and things or persons and things) of any matter otherwise than in the form of sound, visual images or data; or
- (e) signals serving for the activation or control of machinery or apparatus and includes any cable for the distribution of anything falling within paragraphs (a) to (d);

"transition period" means the period commencing on the date of publication in the *gazette* and ending ninety days thereafter;

"rights" means all rights, powers, privileges and immunities whether actual, contingent or prospective, whether observed or performed in Kenya or elsewhere;

"vesting day" means the day specified by the Cabinet Secretary responsible for matters relating to the National Treasury and the Cabinet Secretary for the time being responsible for matters relating to Interior and Co-ordination of National Government under this Order or thirty days from the date of this Order, whichever occurs earlier; and

"Vesting Schedule" means the Schedule of assets and liabilities identified for vesting from the former bodies to the Authority by the Cabinet Secretary for the National Treasury and the Cabinet Secretary for Interior and Co-ordination of National Government.

[L.N. 198/2013, r. 2.]

PART II – ESTABLISHMENT OF THE AUTHORITY

3. Establishment and functions of the Authority

(1) There is hereby established a state corporation to be known as the Information and Communications Technology Authority.

(2) The Authority shall be a body corporate in accordance with section 3 of the Act and shall be capable of—

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

(3) The Authority shall be the successor to the following bodies existing before the commencement of this Order—

- (a) the Kenya Information and Communications Technology (ICT) Board;
- (b) the Directorate of e-Government; and
- (c) the Government Information Technology Services (GITS) Department.

(4) The headquarters of the Authority shall be in Nairobi.

4. Functions of the Authority

The functions of the Authority shall be to—

- (a) set and enforce ICT standards & guidelines for human resource, infrastructure, processes, systems and technology for the public office and public service and;
- (b) deploy and manage all ICT staff in the public service;
- (c) facilitate and regulate the design, implementation and use of ICTs in the public service;
- (d) promote ICI' literacy and capacity;
- (e) promote e-Government services;
- (f) facilitate optimal electronic, electronic form, electronic record and equipment use in the public service;
- (g) promote ICT innovation and enterprise;
- (h) establish, develop and maintain secure ICT infrastructure and systems;
- (i) supervise the design, development and implementation of critical ICT Projects across the public service; and
- (j) implement and manage the Kenya National Spatial Data Initiative.

[L.N. 198/2013, r. 3.]

5. Guiding principles of the Authority

(1) In carrying out its functions, the Authority shall be guided by the following principles in addition to national values and principles of governance specified under Article 10 of the Constitution—

- (a) efficiency;
- (b) effectiveness;
- (c) value for money; and
- (d) environmental protection.

(2) In carrying out its functions, the Authority shall promote the following among others—

- (a) strategic progress in the development and use of ICTs;

[Subsidiary]

- (b) universal access to services through ICTs;
- (c) universal good quality broadband.

PART III – ESTABLISHMENT OF THE BOARD

6. Establishment, of the Board

(1) There shall be a Board of the Authority which shall have responsibility of managing the Authority in accordance with this Order.

(2) The Board shall consist of the following members—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary responsible for matters relating to Information Communications and Technology;
- (c) the Principal Secretary responsible for matters relating to the National Treasury;
- (d) the Principal Secretary responsible for matters relating to Land, Housing and Urban Development;
- (e) not more than six persons, not being public officers, appointed by the Cabinet Secretary, by virtue of their specialist knowledge and distinguished service and experience of at least seven years in matters relating to information and communications technologies, e-Government, e-Commerce, law, finance or human resources management; and
- (f) the Chief Executive Officer.

(3) A member of the Board shall, subject to such conditions as may be specified in his instrument of appointment, hold office for a term not exceeding three years and shall be eligible for reappointment for one further term.

(4) Members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(5) The Board may from time to time co-opt into its membership persons to assist it in any particular matter for the time being before the Board, but such co-opted member shall not be entitled to vote on the matter.

[L.N. 198/2013, r. 4.]

7. Remuneration and allowances

The members of the Board shall be paid such remuneration, allowances and reimbursement of costs as the Board may, with the approval of the Cabinet Secretary in consultation with the National Treasury and Salaries and Remuneration Commission, determine.

8. Appointment of committees

The Board, may, for the better performance of its functions appoint and assign duties to such Committees, as it may consider appropriate.

9. Board meetings

The Board shall meet not less than four times during each financial year.

10. Quorum of the Board

The quorum of a meeting of the Board shall be two thirds of all members.

[L.N. 198/2013, r. 5.]

11. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Authority who shall be appointed by the Cabinet Secretary

(2) The Cabinet Secretary shall appoint the first Chief Executive Officer of the Authority upon commencement of this Order from among the chief executive officers of the former bodies set out under this Order for a term of not more than three years but subsequent appointments shall be made by the Cabinet Secretary on the recommendation of the Board after a competitive recruitment process on such terms and conditions as shall be determined.

(3) The Chief Executive Officer shall hold office for a term not exceeding three years and shall be eligible for reappointment for a further one term.

(4) A person shall not be appointed as the Chief Executive Officer unless the person possesses a degree from a recognized institution and has a least seven years working experience in a senior position in matters relating to information communications technology, law or finance and satisfies the requirements of Chapter six of the Constitution

(5) The Chief Executive Officer shall—

- (a) have overall responsibility for the direction, organization and administration of programmes and other affairs of the Authority;
- (b) be responsible for the supervision and discipline of the staff of the Authority;
- (c) subject to the directions of the Board on matters of policy, be responsible to Board for the administration and management of the Authority;
- (d) be the accounting officer of the Authority.

[L.N. 198/2013, r. 6.]

12. Powers of the Board

Subject to this Order, the Board shall have powers to—

- (a) administer the property and funds of the Authority in a manner and for the purposes which shall promote the interest of the Authority; but the Board shall not charge or dispose of immovable property of the Authority except in accordance with the procedures laid down by the Government of Kenya;
- (b) receive, on behalf of the Authority, donations, endowments, gifts, grants or other moneys and make disbursements there from to the Authority or other bodies or persons;
- (c) approve the appointment criteria and the terms and conditions of service of staff;
- (d) provide for the welfare of the staff of the Authority;
- (e) on behalf of the Authority enter into association with other Agencies, institutions or bodies, whether within Kenya or otherwise, as the Board may deem necessary and appropriate; and
- (f) make regulations governing the conduct and discipline of the staff of the Authority;
- (g) ensure that a proper management structure is in place and make sure that the structure functions to maintain corporate integrity, reputation and responsibility;
- (h) monitor and evaluate the implementation of strategies, policies, and management criteria and plans of the Authority;
- (i) regularly review the viability and financial sustainability of the Authority,
- (j) ensure that the Authority complies with all the relevant laws, regulations, governance practices, accounting procedures and auditing standards;
- (k) consider and approve the Authority's budget;
- (l) undertake any other activities as may be necessary for the performance of its functions and the attainment of the purposes of the Authority.

[Subsidiary]

13. Seal and Execution of Documents

(1) The common seal of the Authority shall be kept in the custody of the Authority and shall not be affixed to any instrument or document except as may be generally or specifically authorised by the Board.

(2) The common seal of the Authority shall be authenticated by the signature of the Chief Executive Officer and the Chairperson or of one other member of the Board authorized by the Board on their behalf.

(3) All documents, other than those required by law to be under seal and all decisions of the Board, may be authenticated by the signature of the Chairperson or, in the case of a decision taken at a meeting at which the Chairperson was not present, by the signature of the person presiding at such meeting

14. Staff

(1) The staff of the Authority shall consist of—

- (a) such professional, technical and administrative officers and support staff, as may be appointed by the Authority in the discharge of its functions under this Act; and
- (b) such public officers as may be seconded by the Public Service Commission to the Authority upon the request of the Authority.

(2) In addition to the staff appointed by the Authority, the national and county governments may, upon request by the Authority, second to the Authority such number of public officers as may be necessary for the due performance of the functions of the Authority.

(3) A public officer seconded to the Authority shall, during the period of secondment, be deemed to be an officer of the Authority and shall be subject only to the direction and control of the Authority.

(4) The Board may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person, committee, or body, the power to appoint any member of the staff of the Authority.

(5) All members of staff of the Authority shall be subject to the general authority of the Board and the Chief Executive Officer.

15. Delegation of duties of the Chief Executive Officer

(1) In the event of the incapacity of the Chief Executive Officer, the Chairperson of the Board may appoint an officer of the Authority to carry out the functions of the Chief Executive Officer during the period of incapacity.

(2) In this section "incapacity" includes absence from Kenya or inability for any reason to perform the functions of the office

PART IV – FINANCIAL PROVISIONS

16. Funds of the Authority

The funds of the Authority shall include—

- (a) monies appropriated by Parliament for purposes of the Authority;
- (b) monies that accrue or vest in the Authority in the course of the performance of its functions under this Order;
- (c) gifts, grants or donations made to the Authority; and
- (d) such amounts from any public funds that may be created by law for the purposes of the promotion of any and all of the objects and functions of this Authority

17. Financial Year

The financial year for the Authority shall be a period of twelve months ending on the thirtieth June in each year.

18. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of revenue and expenditure for the year.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned, and in particular shall provide for—

- (a) the payment of the allowances and other charges in respect of the members of Board of the Authority;
- (b) the payment of salaries, pensions, gratuities and other charges in respect of retirement benefits to staff of the Authority;
- (c) the proper maintenance of buildings and grounds of the Authority;
- (d) the proper maintenance, repair, and replacement of the equipment and other movable property of the Authority; and
- (e) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of other matters as the Board may consider necessary.

(3) The annual estimates shall be presented to the Board for approval before the commencement of the financial year to which they relate.

(4) Once the annual estimates are approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

(5) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under paragraph (3) or an authorization of the Board.

19. Accounts and audit

(1) The Board shall cause to be kept all proper books and records of accounts of income, expenditure, assets and liabilities of the Authority.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Authority together with—

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

(3) The accounts of the Authority shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.

(4) The appointment of the Auditor shall not be terminated by the Board without the prior written consent of the Auditor-General.

(5) The Auditor-General may give general or special directions to an Auditor appointed under subparagraph (3) and the Auditor shall comply with the directions.

(6) An Auditor appointed under subparagraph (3) shall report directly to the Auditor-General on any matter relating to the directions given under subparagraph (5).

(7) Within a period of six months after the end of financial year, the Auditor-General shall report on the examination and audit of the accounts to the Board and to the Cabinet Secretary, and in the case of an Auditor appointed under subparagraph (3), the Auditor shall send a copy of the report to the Auditor-General.

(8) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Authority's accounts or records whenever it is desirable and the Auditor-General shall carry out such an inspection once every six months.

(9) The Cabinet Secretary shall cause to be laid the Annual Audit Report before the National Assembly as soon as is reasonably practicable after the report is submitted to the Cabinet Secretary.

[Subsidiary]

20. Investment of funds of the Authority

(1) The Board may invest funds of the Authority which are not immediately required for its purposes in such securities as the National Treasury may from time to time approve.

(2) The Board may place on deposit, with such bank as it may determine any money that is not immediately required for the purposes of the Authority.

21. Disposal of assets of the Authority

The Board shall not charge or dispose of immovable property of the Authority without the prior approval of the Cabinet Secretary.

22. Annual report on Authority operations

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Authority for the immediately preceding financial year.

(2) The Cabinet Secretary shall cause to be laid the annual report before the National Assembly within three months of the day the National Assembly sits after the report is presented to the Cabinet Secretary.

23. Transfer of vesting Schedule

(1) The Cabinet Secretary for responsible for matters relating to the National Treasury and the Cabinet Secretary for responsible for matters relating to the Interior and Co-ordination of National Government, may by notice in the *Gazette*, specify the date or dates and the manner in which the vesting Schedule shall be transferred to and vested in the Authority.

(2) A notice under subparagraph (1) shall specify the assets and liabilities of the former bodies which are to be transferred to the Authority.

(3) If, on the vesting day, any suit, appeal, arbitration or other proceedings of whatever nature and whosoever instituted in relation to the business of the former bodies which is by virtue of this section, transferred to the Authority, shall not abate, be discontinued or be in any way prejudicially affected by reason of such transfer of the business of the former bodies or of anything contained in this Order, and any suit, appeal arbitration or other proceedings shall be continued, and enforced by or against the Authority.

(4) In the case of assets and liabilities arising under any loans which vest in the former bodies on the vesting day, the Authority, may enter into such arrangements or agreements over such rights and liabilities with the Government or any other third party.

(5) Any assets and liabilities of the former bodies which are not to be vested in the Authority shall be disposed of in such manner as the Cabinet Secretary for responsible for matters relating to the National Treasury shall determine.

[L.N. 198/2013, r. 7]

24. Revocation of L.N. 26/2007

The Kenya Information Technology Board Order, 2007 is revoked.

25. Transition and saving provisions

(1) All rights, liabilities and assets held by any body on behalf of the former bodies existing at the commencement of this Order, shall be automatically and fully transferred to the Authority.

(2) A State Organ, Public Office or Public Entity shall not enter into any new contract or contractual arrangement or procurement for the provision of goods or services covered by the mandate of the authority during the transition period without the prior written authorization of the Cabinet Secretary.

(3) The former bodies, shall continue to be liable to former employees who have retired on the vesting day for such pension benefits payable as they are entitled to under the regulations of those pension schemes.

(4) The staff of the former bodies existing prior to the commencement of this Order including those on secondment are eligible for employment by the Authority subject to appraisal and evaluation by the Board.

(5) Where any person whose services are transferred to the Authority, is on the vesting day, a member of any statutory or voluntary pension scheme or provident fund he shall, for the purpose of this Order, continue to be governed by the same regulations under those schemes or funds as if he had not been so transferred, and for purposes of the regulations governing those schemes or funds his service with the Authority, shall be deemed to be service in the former bodies.

(6) *Deleted by L.N. 198/2013.*

(7) *Deleted by L.N. 198/2013.*

(8) Where on the vesting day—

- (a) any disciplinary proceedings against any employee of the former bodies are in the course of being heard or instituted, or have been heard or investigated by the former bodies but no order or decision has been made thereon; or
- (b) any such employee is interdicted or suspended, the Authority, shall—
 - (i) in the case of item (a), carry on and complete the hearing or investigation and make an order or render a decision, as the case may be; and
 - (ii) in the case of item (b), deal with such employee in such manner as it thinks appropriate having regard to the offence committed by him, including the completion of disciplinary proceedings making of an order or the rendering of a decision, as the case may be, as if such disciplinary proceedings have been commenced by the Authority.
 - (iii) where on the vesting day, any penalty (other than dismissal) has been imposed on any employee of the former bodies pursuant to disciplinary proceedings against him and the penalty has not been, or remains to be, serviced by such employee, he shall on his transfer to the Authority under this Order serve or continue to serve such penalty to its full term as if it had been imposed by the former bodies.

[L.N. 198/2013, r. 8]

CHILD WELFARE SOCIETY OF KENYA ORDER

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CHILD WELFARE SOCIETY OF KENYA ORDER

[Legal Notice 58 of 2014]

PART I – PRELIMINARY

1. Citation

This Order may be cited as the Child Welfare Society of Kenya Order.

2. Objective

The objective and purpose of this Order is to provide a legal and institutional framework for the care, control, protection, welfare and adoption of children through the establishment of the Child Welfare Society of Kenya.

3. Interpretation

In this Order, except where the context otherwise requires-

"Act" means the State Corporations Act;

"adoption" means the process through which a child is permanently placed with an alternative family and is provided with new permanent legal parents and severs the bond between a child and the child's natural parents;

"Board" means Board established under paragraph 7;

"Board of Trustees" means the Board of Trustees registered under the irrevocable Trust Deed of the Child Welfare Society of Kenya on the 12th June, 1970 as reviewed from time to time;

"Cabinet Secretary" means the Cabinet Secretary responsible for children;

"Chief Executive Officer" means the Chief Executive Officer appointed in accordance with paragraph 16;

"child" has the meaning assigned in the Children Act (Cap. 141);

"children without appropriate care" means children who are lost, abandoned, in institutions, in abusive families or in unformalized foster care or unformalized adoption, in child headed households, living in the streets, of imprisoned parents, in emergency situations, refugees and other separated children;

"duty bearer" means any person or institution, including the state that has the responsibility of promoting the welfare of the child;

"Endowment and Trust Fund" means the Fund established under the Trust Deed of the 12th June, 1970;

"family" includes the nuclear family, extended family, foster family, adoptive family, kinship care family and guardianship family;

"foster care" means temporary placement of a child or children who for any reason cannot remain in the natural family and urgently require alternative family care while other measures are being undertaken to address their circumstances in order to either restore the child or children to their families or place them in a permanent family set up;

"Society" means the Child Welfare Society of Kenya established by paragraph 4 of this Order;

"temporary places of safety" means foster families or abodes where children are cared for and are provided with residential care on a temporary basis as interventions are being made to address the circumstances under which a child was made to be in need of care and protection;

[Subsidiary]

"Trust Deed" means the irrevocable Trust Deed of the Child Welfare Society of Kenya dated the 12th June, 1970 as reviewed from time to time.

PART II – ESTABLISHMENT OF THE CHILD WELFARE SOCIETY OF KENYA

4. Establishment of the Society

(1) There is established a state corporation to be known as the Child Welfare Society of Kenya.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing such other things or acts necessary for the proper performance of the functions of the Society under the Order and which may lawfully be done or performed by a body corporate.

(3) The Society shall be the successor of the Child Welfare Society of Kenya a society exempted from registration under the Societies Act and approved as a society working for the purpose of care, protection and control of children vide *Gazette* Notice No. 1768 of 1955, and approved as an adoption society vide *Gazette* Notice No. 1356 of 1969 as read with section 200 of the Children Act (Cap. 141) and paragraph 9(1) of the Seventh Schedule to the Children Act (Cap. 141).

(4) Subject to this Order, all the rights, duties, obligations, functions of care, protection and control of children, exemptions, assets and liabilities of the Child Welfare Society of Kenya existing immediately before the commencement of this Order shall be automatically and fully transferred to the Society.

5. Headquarters of the Society

The Headquarters of the Society shall be in Nairobi but the Society may establish offices and branches in other parts of the country in order to extend its services to all parts of the country.

6. Functions of the Society

The Society shall-

- (a) be the national emergency response and rescue organization for children;
- (b) ensure the welfare of children and vulnerable young persons;
- (c) be the national adoption society;
- (d) strengthen families and provide families for separated children, children at risk of separation and children without appropriate care by facilitating-
 - (i) family empowerment and rehabilitation;
 - (ii) local and international tracing and reunification;
 - (iii) guardianship;
 - (iv) foster care;
 - (v) custody, including providing professional social work assessment;
 - (vi) adoption; and
 - (vii) any other suitable means that the Society considers necessary;
- (e) develop and review standards and guidelines on child welfare, care, protection and control to be applied by the Society;
- (f) establish such temporary places of safety including child care facilities, group homes, foster care homes, child rescue centres, child protection centres and

- child protection units as may be considered necessary and in the best interest of children;
- (g) receive separated children and children without appropriate care into temporary places of safety;
 - (h) rescue, receive and provide care to lost or abandoned children, children given up by their parents or committed to the Society by courts, referred by duty bearers or other stakeholders in the temporary places of safety and undertake family tracing, mediation and reunification;
 - (i) ensure rapid response by initiating urgent action in response to children in distress and rescue of children in distress including the provision of psychosocial support;
 - (j) advise any party on the procedure to be followed to adopt, foster or be a guardian to a child;
 - (k) develop and publish guidelines, training manuals or any other literature in relation to any of the matters dealt with by the Society;
 - (l) educate, give vocational training and skills to children and vulnerable young persons;
 - (m) conduct research into matters relevant to its functions and publish reports on such research;
 - (n) maintain relevant records and documents relating to the Society and the activities of the Society;
 - (o) establish and maintain appropriate information and communication systems and data base based on contemporary trends and practices for the purposes of linking knowledge and information with its stakeholders;
 - (p) establish mechanism to combat sexual exploitation of children and other forms of child labour;
 - (q) build capacity of children and promote their participation in national affairs;
 - (r) build capacity of duty bearers and institutional strengthening;
 - (s) establish programmes for orphans and other vulnerable children; and
 - (t) perform any other functions as may be necessary to achieve the objectives of the Society under this Order.

7. The Board of the Society

(1) The management of the Society shall be vested on a nonexecutive Board which shall consist of -

- (a) a Chairperson, appointed by the President;
- (b) the Principal Secretary for the time being responsible for matters relating to children affairs or a representative;
- (c) the Principal Secretary for the time being responsible for matters relating to finance or a representative;
- (d) one member of the existing Board of Trustees or a representative of the Board of Trustees;
- (e) a person who has at least a bachelor's degree from a recognized institution and who has experience in social work;
- (f) a medical doctor duly registered under the Medical Practitioners and Dentist Act (Cap 253)
- (g) a trustee from the existing Endowment and Trust Fund; and
- (h) the Chief Executive Officer of the Society who shall be the Secretary to the Board, but not be entitled to vote.

(2) The members of the Board appointed under paragraph (d), (e), (f) and (g) shall be appointed by the Cabinet Secretary.

[Subsidiary]

(3) In appointing the Members under paragraphs 7(1)(a), (d), (e), (f) and (g), the President and the Cabinet Secretary shall ensure that the persons have knowledge, experience, and expertise in matters relating to child welfare.

(4) The members of the Board of Trustees of the Society existing immediately before the commencement of this Order shall recommend to the Cabinet Secretary the names of people to be appointed to the first Board.

8. Term of office

(1) The Chairperson and Members of the Board appointed under paragraphs 7(1)(a), (d), (e), (f) and (g) shall serve for a term of three years and shall be eligible for appointment for one further term of three years.

(2) Notwithstanding paragraph (1), the office of a member of the Board shall be vacant if the member-

- (a) resigns from office, in writing, to the appointing authority;
- (b) is absent without reasonable excuse from three consecutive meetings of the Board of which the member had notice;
- (c) is adjudged bankrupt;
- (d) is incapacitated by prolonged physical or other illness;
- (e) is convicted of any offence in contravention of the requirements of Chapter Six of the Constitution; and
- (f) is otherwise unable or unfit to discharge the functions of the Board.

(3) Where the office of the Chairperson or a member of the Board becomes vacant under this paragraph, the President or the Cabinet Secretary, as the case may be, may appoint another person as a replacement of the person vacating office in accordance with paragraph 7.

9. Functions of the Board

The Board shall-

- (a) control, supervise and administer the assets of the Society in a manner that best promotes the purpose for which the Society is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Society and the Trust Fund;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (d) mobilize resources for the Society;
- (e) strengthen the Endowment and Trust Funds established under the irrevocable Trust Deed of the 12th June, 1970 and such other funds as may be necessary for achieving the objectives of the Society;
- (f) cause necessary programmes to be developed and regularly review programmes developed to effect the objectives of the Society;
- (g) contribute towards the development and revision of the National Strategy for the promotion, securing and protection of children's rights;
- (h) prescribe fees payable for services rendered by the Society;
- (i) advise the Government on laws and policies relating to child welfare and their implementation;
- (j) promote public and private sector partnerships for sustainable child welfare programmes and activities;
- (k) perform such other functions as may be assigned to it by the President or the Cabinet Secretary.

10. Powers of the Board

(1) The Board shall have all the powers necessary for the proper performance of its functions under this Order.

(2) Without prejudice to the generality of paragraph (1), the Board shall have the power to-

- (a) establish such committees as it may consider necessary for the discharge of the functions of the Board;
- (b) develop and review policies to be undertaken by the Society;
- (c) open such banking accounts for the funds of the Society as may be necessary;
- (d) invest any funds of the Society not immediately required for its purposes in the manner provided under this Order;
- (e) gather relevant information, including requisition of reports, records, documents or any information from any source, including governmental authorities, and maintain a database on children affairs;
- (f) develop, in consultation with the Cabinet secretary, and publish in the *Gazette* guidelines for the better carrying out of this Order;
- (g) prescribe the qualifications for the appointment and the procedure of appointing and gazetting of Child Welfare Officers; and
- (h) do any other thing which is necessary or incidental to the functions of the Society.

11. Meetings of the Board

(1) The Chairperson shall preside over all meetings in which the Chairperson is present and in the absence of the Chairperson, the members present at the meeting shall appoint one of the members to act as a Chairperson for the purpose of that meeting.

(2) The quorum for a Board meeting shall be two-thirds of all the members.

(3) The Board may co-opt not more than three persons whose assistance or advice it may require for such period as it may determine, but the persons so co-opted shall not be considered as members for the purpose of forming a quorum and shall not be entitled to vote at any meeting of the Board.

(4) Subject to the provisions of this Order, the Board may regulate its own proceedings.

12. Remuneration

The Chairperson and Members of the Board shall be paid such remuneration, fees, allowances and such other reimbursements as the Cabinet Secretary shall in consultation with the Cabinet Secretary to the National Treasury determine.

13. Decisions of the Board

Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a simple majority of the votes of the members present and voting, and in the case of an equality of votes, the Chairperson or the person appointed to be the Chairperson under paragraph 11(1) shall have a casting vote as well as a deliberative vote.

14. Delegation by the Board

The Board may, by resolution either generally or in any particular case, delegate to a committee of the Board, or to any member, or the Chief Executive Officer of the Society the exercise of any powers or the performance of any of the functions or duties of the Board.

15. Execution of Documents

(1) The common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer, or by either the Chairperson or the Chief

[Subsidiary]

Executive Officer, together with one member other than an *ex officio* member of the Board authorized, in writing, by the Board in that behalf.

(2) Any document, other than a document which is required by any law to be made under seal, and any decision of the Board, may be signified under the hand of the Chairperson, or the Chief Executive Officer or any other member of the Board or any other person authorized in writing by the Board in that behalf.

16. Chief Executive Officer of the Board and the Secretariat

(1) There shall be a Chief Executive Officer to the Society who shall be appointed by Cabinet Secretary on the recommendation of the Board following a competitive recruitment process.

(2) A person shall qualify for appointment as a Chief Executive Officer if that person-

- (a) holds at least a Bachelor's degree in social work and a relevant Masters degree from a recognised university;
- (b) has at least ten years' post-qualification experience in the field of child welfare; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be the secretary to the Board, and shall be responsible for the day-to-day operations and administration of the Society.

(4) The Chief Executive Officer shall hold office for such period and on such terms and conditions of employment as the Board shall, with the approval of the Cabinet Secretary, determine.

17. Officers

(1) The Board shall employ and appoint such number of child welfare officers to undertake duties relating to the care, protection and control of children and other senior officers as may be necessary to assist the Chief Executive Officer in carrying out the purposes of this Order.

(2) The Society shall upon the appointment of the child welfare officers publish the names of the officers in the *Gazette*.

(3) The child welfare officers appointed under this paragraph shall perform the functions conferred on them by this Order and such other duties as the Chief Executive Officer may from time to time direct.

PART III – FINANCIAL PROVISIONS

18. Funds of the Society

The funds of Society shall comprise of-

- (a) such sums as may be provided by Parliament;
- (b) monies held in the Endowment Fund;
- (c) such monies as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Order or under any other written law; and
- (d) all monies from any other source provided or donated or lent to the Society.

19. Financial year

The financial year of the Society shall be the period of twelve months ending on the thirtieth day of June in each year.

20. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Society for the financial year concerned, and in particular shall provide for-

- (a) the undertaking of welfare, emergency, education, skills development, local and international tracing and reunification, psychosocial support, maintenance of children, separated children, foster care, adoption, guardianship, custody, programmes for orphans and other vulnerable children and vulnerable young persons, capacity building, institutional strengthening and other programmes of the society;
- (b) the maintenance of temporary places of safety;
- (c) the payment of the salaries, allowances, consultancy fees and other charges;
- (d) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Society;
- (e) the proper maintenance of the buildings and grounds of the Society;
- (f) the proper maintenance, repair and replacement of the equipment and other movable property of the Society;
- (g) the development of temporary places of safety, schools, health facilities, housing and educational institutions;
- (h) the development of children and vulnerable young persons;
- (i) running and operating livelihood programmes for children and vulnerable young persons and families; and
- (j) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Board may consider necessary.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved the estimates shall be submitted to the Cabinet Secretary for approval.

(4) Any balance of grant may be carried forward in the accounts of the Society from one year to the next and be expended as the Board may determine, or be put into a reserve account of the Society.

21. Maintenance of records and books of account

The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Society.

22. Investments by the Board.

(1) The Board may invest any of the funds of the Society which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Society.

23. Audit

The accounts of the Society shall be audited in accordance with the Public Audit Act (Cap. 412B).

24. Annual report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediately preceding year.

(2) The Cabinet Secretary shall submit the annual report to the National Assembly as soon as reasonably practicable after the report is submitted to him or her under this paragraph.

[Subsidiary]

25. Protection from liability

No matter or thing done by the Chairperson or any other member of the Board or any officer, employee or agent of the Society shall, if the matter or thing is done in good faith for the purpose of executing any provisions of this Order, render the Chairperson, member, officer, employee or agent or any person acting under the directions of those persons, personally liable to any action, claim or demand.

26. Liability for Damages

The provisions of this Order shall not relieve the Society of the liability to pay compensation or damages to any person for any injury to him or his property or any of his interests caused by the exercise of any power conferred by this Order or by the failure, whether wholly or partially, of any action.

27. Transitional provisions

(1) In this section-

"former Society" means the Child Welfare Society of Kenya operating as an exempted society under the Societies Act vide *Gazette* Notice No. 1536 of 1955, approved as a society working for the purpose of care, protection and control of children vide *Gazette* Notice No. 1768 of 1955, and approved as an adoption society vide *Gazette* Notice No. 1356 of 1969 as read with section 200 of the Children Act (Cap. 141) and paragraph 9(1) of the Seventh Schedule to the Children Act (Cap. 141).

(2) Every person who at the commencement of this Order is an employee of the former Society shall, subject to this Order, be deemed to be an employee of the Child Welfare Society of Kenya established by paragraph 4.

(3) A person who at the commencement of this Order is the Chief Executive Officer of the former Society shall, on that day and subject to this Order, be deemed to have been appointed as Chief Executive Officer under this Order.

(4) All the land, the developments and fixtures therein held in the name of the former Society by the Trustees shall vest in the Child Welfare Society of Kenya established by this Order.

(5) All projects previously undertaken as income generating activities by the Trustees including any property held thereunder shall continue to be presided over by the Trustees under the Trust Deed of the 12th June, 1970.

(6) The Endowment and Trust Funds established under an irrevocable Trust Deed of the 12th June, 1970 of the former Society and in existence immediately before commencement of this Order shall continue to be managed by the Board of Trustees and shall be used to supplement the operations of the Society to enable it meet its objectives.

(7) Any reference to the Child Welfare Society of Kenya in any contract or document shall, for all purposes, be deemed to be a reference to the Child Welfare Society of Kenya established under this Order.

KENYA FILM COMMISSION ORDER

ARRANGEMENT OF ORDERS

Order

1. Citation
 2. Interpretation
 3. Establishment of the Commission
 4. Functions of the Commission
 5. Headquarters
 6. Board of the Commission
 7. Powers of the Board
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 10. Meetings and Procedure of Board
 11. Chief Executive
 12. Corporation Secretary
 13. Staff of the Commission
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 17. Accounts and audit
 18. Annual Report
 19. Transition
 20. Transfer of assets, *etc.*
 21. *[Spent]*
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KENYA FILM COMMISSION ORDER

[Legal Notice 147 of 2015]

1. Citation

This Order may be cited as the Kenya Film Commission Order.

2. Interpretation

In this Order unless the context otherwise requires—

"Board" means the Board of the Kenya Film Commission constituted in accordance with paragraph 6;

"Commission" means the Kenya Film Commission established by paragraph 3;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to film;

"film" means any sequence of visual images recorded in such a manner that by using such recording, such images will be capable of being seen as moving pictures, series of images, with or without associated sounds, which is intended for distribution and exhibition.

3. Establishment of the Commission

(1) There is established a state corporation to be known as the Kenya Film Commission.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) doing or performing such other things or acts necessary for the proper performance of the functions of the Commission under the Order and which may lawfully be done or performed by a body corporate.

(3) *Spent.*

(4) Subject to this Order, all the rights, duties, obligations, assets and liabilities of the Kenya Film Commission existing immediately before the commencement of this Order shall be automatically and fully transferred to the Commission.

4. Functions of the Commission

The Commission shall—

- (a) develop, promote and market the film industry locally and Commission internationally;
- (b) identify and facilitate growth of the film industry;
- (c) generate, manage and disseminate film industry research, information and market data, and act as a repository and archive of Kenya's film records;
- (d) promote and facilitate the development of local content;
- (e) establish incubation centres for the film industry in Kenya;
- (f) coordinate and certify persons, associations and organizations participating in the production of film, photography, video, stills, animation, new media and related media;
- (g) establish and administer a film promotion fund;
- (h) provide liaison services for government departments on matters relating to the promotion, marketing and development of the film industry;
- (i) promote and market Kenya, locally and internationally, as a filming destination;

[Subsidiary]

- (j) develop fiscal and other incentives to promote investment in the film industry; and
- (k) partner, develop and create linkages with county, national and international organizations, both public and private, to improve and facilitate investment in the film industry.

5. Headquarters

The Commission shall have its headquarters in Nairobi but the Commission may, in furtherance of its objectives, establish regional offices in such other places as the Board may determine.

6. Board of the Commission

(1) The management of the Commission shall vest in a Board which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for the film industry;
- (c) the Principal Secretary to the National Treasury;
- (d) a Chief Executive Officer of the Commission;
- (e) five other persons, who in the opinion of the Cabinet Secretary, possess skills and experience that will benefit the work of the Commission appointed by the Cabinet Secretary.

(2) A person is qualified for appointment as the Chairperson or a member of the Board if such person—

- (a) holds a Bachelor's degree from a university recognized in Kenya;
- (b) has in the case of the Chairperson, at least eight years, or in the case of a member, at least six years professional experience in the film industry;
- (c) has, within the preceding five years, been a member of a Board in another public or private body;
- (d) meets the requirements of Chapter Six of the Constitution; and
- (e) has not, at any time within the preceding five years, served as an employee of the Commission.

(3) The Chairperson and members of the Board, other than the Chief Executive, shall be paid out of expenses of the funds of the Commission such sitting allowances or other remuneration as the Board members may, within the scales of remuneration specified from time to time by the Committee, approve.

7. Powers of the Board

The Board—

- (a) shall have all the powers necessary to manage and administer the Commission in a manner that enables the Commission to realize the objects and purposes for which the Commission is established;
- (b) may enter into association with such other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects and purposes of the Commission; and
- (c) may, by resolution either generally or in any particular case, delegate to any committee of the Board of Directors or to any member, officer, employee or agent of the Film Commission, the exercise of any of the powers or, the performance of any of the functions or duties of the Board under this Order.

8. Committees

The Board may establish the committees to deal with matters relating to—

- (a) audit and risk;

- (b) governance and human resource;
- (c) technical development;
- (d) finance and investments; and
- (e) such other matters as the Board may specify.

9. Tenure

(1) The Chairperson and members of the Board other than the Chief Executive Officer shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) The terms of the members of the Board shall be staggered to ensure a smooth transition.

(3) The Chairperson and the member of the Board may—

- (a) at any time resign from office by a notice in writing addressed to the President or Cabinet Secretary;
- (b) be removed from office if the Chairperson or a member of the Board—
 - (i) has been absent, from three consecutive meetings of the Board without the permission of the Chairperson;
 - (ii) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding two hundred thousand shillings;
 - (iii) is incapacitated by prolonged physical or mental illness; or
 - (iv) conducts himself or herself in a manner considered by the Cabinet Secretary to be inconsistent with membership of the Board.

10. Meetings and Procedure of Board

The conduct of the meetings of the Board of Directors shall be in accordance with the section 8 of the State Corporations Act (Cap. 446).

11. Chief Executive

(1) There shall be a Chief Executive Officer of the Commission who shall be appointed by the Board, through a competitive process, and on such terms and conditions of service as the Cabinet Secretary may, in consultation with the Committee, approve.

(2) A person is qualified for appointment as the Chief Executive Officer if such person—

- (a) holds a Bachelor's degree from a university recognized in Kenya;
- (b) has at least eight years professional experience in the film industry; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be responsible for the day to day administration of the affairs of the Commission and the performance of its functions under this Order.

(4) The Chief Executive Officer shall serve for a term of four years and shall be eligible for re-appointment for a further term of four years.

12. Corporation Secretary

(1) The Board shall competitively recruit a suitably qualified person, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Commission.

(2) The Corporation Secretary shall be the Secretary to the Board shall be responsible for arranging the business of the Board, Board meetings, the keeping of records of the Board meetings, keeping records of the proceedings of the Board, and shall perform such other duties as the Board may direct.

[Subsidiary]

13. Staff of the Commission

The Board shall employ such other staff of the Commission as the Board may consider necessary on such terms and conditions of service as the Board may, with the approval of the Cabinet Secretary, determine.

14. Funds of the Commission

The funds of the Commission shall consist of—

- (a) such moneys as may from time to time be provided by Parliament for the purposes of the Commission;
- (b) moneys donated, granted or lent to the Commission with the approval of the Cabinet Secretary and subject to such limitations and conditions as may be imposed by the National Treasury;
- (c) such monies as may accrue or vest in the Commission in the course of the exercise of its functions under this order; and
- (d) any moneys accruing to the Commission from any other source.

15. Financial year

The financial year of the Commission shall be the period of twelve months ending on the thirtieth June in each year.

16. Investment of funds

(1) The Board may invest any of the funds of the Commission which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Commission.

17. Accounts and audit

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Commission.

(2) The accounts of the Commission shall be audited in accordance with the Public Audit Act (Cap. 412B).

18. Annual Report

(1) The Board shall within a period of six months after the end of the financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Commission for the immediately preceding year.

(2) The annual reports for the Commission shall include the financial statements of the Commission.

(3) The Commission shall publish the reports submitted to the Cabinet Secretary.

19. Transition

(1) The members of the Kenya Film Commission existing immediately before the commencement of this Order shall continue in office for the unexpired period of the term of the member.

(2) A person who immediately before the commencement of this Order was an officer or member of staff of the Kenya Film Commission existing immediately before the commencement of this Order shall be an officer of the Commission.

20. Transfer of assets, etc.

All property, assets, rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Order and vested in the Commission existing immediately before the commencement of this Order, shall upon the commencement of this Order be vested in the Commission.

21.

[Spent]

**REGIONAL CENTRE ON GROUNDWATER RESOURCES
EDUCATION, TRAINING AND RESEARCH IN EASTERN AFRICA ORDER**

ARRANGEMENT OF ORDERS

Order

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2. Interpretation

PART II – ESTABLISHMENT AND FUNCTIONS OF THE CENTRE

3. Establishment of the Centre
4. Functions of the Centre
5. Composition of the Board
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PART III – THE BOARD OF THE CENTRE

7. Qualifications for appointment
8. Term of office
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PART IV – FINANCIAL PROVISIONS

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21. Audit
22. Investment of funds

**REGIONAL CENTRE ON GROUNDWATER RESOURCES
EDUCATION, TRAINING AND RESEARCH IN EASTERN AFRICA ORDER**

[Legal Notice 252 of 2015]

1. Citation

This Order may be cited as the Regional Centre on Groundwater Resources Education, Training and Research in Eastern Africa Order.

2. Interpretation

In this Order, except where the context otherwise requires—

"Board" means the managing Board of the Centre constituted under paragraph 5;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to Water;

"Centre" means the Regional Centre on Groundwater Resources Education, Training and Research in Eastern Africa established under paragraph 3;

"Director" means the Director of the Centre appointed under paragraph 9.

PART II – ESTABLISHMENT AND FUNCTIONS OF THE CENTRE

3. Establishment of the Centre

(1) There is hereby established a Centre to be known as the Regional Centre on Groundwater Resources Education, Training and Research in Eastern Africa.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; and
- (c) doing or performing such other things or acts necessary for the proper performance of its functions which may lawfully be done by a body corporate.

4. Functions of the Centre

The functions of the Centre shall be to—

- (a) initiate and conduct research in mapping and assessment of aquifer systems;
- (b) management, conservation, protection and governance of groundwater resources;
- (c) offer training programmes, workshops, seminars in groundwater resource management and development;
- (d) provide a forum for effective collaboration with the public, private sectors and all other persons, whether local or foreign for the development of groundwater resources;
- (e) promote civic education through public awareness programme in relation to groundwater management;
- (f) prepare, disseminate and transmit scientific and technical information through the mass media, e-learning, distance learning and any other mode especially with regard to local and regional scientific, technical and management knowledge in the various domains of groundwater management and development;
- (g) initiate and propose policy review on groundwater conservation;
- (h) offer consultancy services in groundwater management; and
- (i) undertake any functions, as may be directed by the Cabinet Secretary.

[Subsidiary]

5. Composition of the Board

(1) The Centre shall be managed by a Board, which shall consist of—

- (a) a Chairperson, appointed by the President;
- (b) the Principal Secretary in the Ministry responsible for education;
- (c) the Principal Secretary in the Ministry responsible for water;
- (d) the Principal Secretary in the National Treasury;
- (e) the Director of the Kenya Water Institute;
- (f) not more than three other members, not being employees of the Centre and of whom not more than two shall be public officers, appointed by the Cabinet Secretary; and
- (g) the Director of the Centre, who shall be the Secretary.

(2) Despite the provisions of subsection (1), the Cabinet Secretary may appoint a representative of a partner supporting any programme at a meeting of the Board specifically for matters relating to the programme supported by the partner.

(3) The persons appointed under paragraphs (1)(f) and (2) shall be appointed by the Cabinet Secretary and the Cabinet Secretary shall, in appointing such members have regard to the principle of gender equity.

(4) The members of the Board appointed under paragraphs (1)(b), (c) and (d) may designate a person to attend and participate in a meeting of the Board.

6. Powers of the Centre

(1) The Board shall have all the powers necessary for the proper performance of its function under this Order, and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) manage, supervise and administer the assets of the Centre in such a manner as best promotes the purpose for which the Centre is established;
- (b) determine the provisions to be made for capital, recurrent expenditure and for reserves of the Centre;
- (c) receive any grants, gifts, donations or endowments on behalf of the Centre and make legitimate disbursements therefrom;
- (d) enter into association with such other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Centre is established;
- (e) open a bank account or bank accounts for the Funds of the Centre;
- (f) approve the annual work-plan including the short and long term programs of the Centre; and
- (g) perform any other function that enhances or adds value to the proper performance of the Centre.

(2) In the performance of its functions under paragraph 4, the Centre may—

- (a) create, develop, apply for and hold intellectual property rights and enter into agreements or arrangements for their commercial exploitation or otherwise as the Board may consider appropriate;
- (b) enter into partnerships with other similar institutions or professional organizations, whether within or outside Kenya; and
- (c) do any other thing which is necessary or convenient to be done in connection with or the incidental to its functions.

PART III – THE BOARD OF THE CENTRE

7. Qualifications for appointment

A person shall be eligible for appointment as the Chairperson or member of the Board, if such person—

- (a) in the case of the Chairperson, holds a post graduate degree in Water related field from a university recognized and has at least five years experience in the matters related to water science: and
- (b) in the case of a member, holds a degree from a recognized university in his area of specialization.

8. Term of office

Subject to the provisions of this Order, the Chairperson and members of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

9. Director

(1) There shall be a Director of the Centre who shall be appointed by the Cabinet Secretary on recommendation by the Board and on such terms and conditions as may be specified in the instrument of appointment.

(2) The Director shall be the chief executive officer of the Centre and shall be responsible to the Board for the day-to-day management of the affairs of the Centre.

(3) A person shall be qualified to be appointed as a Director, if that person—

- (a) has at least a masters degree in water science, preferably hydrology, water engineering and hydrogeology; and
- (b) has at least five years experience in management.

10. Committees of the Board

(1) The Board may establish such committees as it may consider appropriate.

(2) Without prejudice to paragraph (1), the Board shall constitute a—

- (a) research committee; and
- (b) training committee.

(3) The Board may from time to time co-opt into its membership one or more persons to assist it in any particular matter for the time being before the Board.

11. Delegation by Board

The Board may, by resolution either generally or in any particular case delegate any committee of the Board or to any member, officer, employee or agent of the Centre, the exercise of any of the powers or the performance of any of its functions or duties.

12. Vacancy in the Board

(1) The office of a member of the Board, other than an *ex officio* member shall become vacant, if—

- (a) a member resigns by giving notice in writing to the Chairperson, to the President, and in the case of any other member to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the President of the Cabinet Secretary, as the case may be;
- (b) when the appointment is revoked by the Cabinet Secretary; where the member—
 - (i) becomes insolvent or enters into a composition or scheme of arrangement for the benefit of his creditors;
 - (ii) is convicted of any offence by a court of competent jurisdiction;

[Subsidiary]

- (iii) is incapacitated by reason of infirmity of body or mind;
- (iv) is absent from three consecutive meetings of the Board without the leave of the Chairperson; or
- (v) is otherwise unable or unfit to discharge the functions of the Board.

(2) Where the office of the Chairperson or a member of the Board becomes vacant under this paragraph, the President or the Cabinet Secretary as the case may be, may appoint another person as a replacement of the person vacating office.

13. Meetings

The Board shall not meet less than four times in every financial year and not more than four months shall lapse between the date of one meeting and the date of the next meeting.

14. Remuneration

The members of the Board shall be paid such remuneration or allowances as the Board may, with the approval of the Cabinet Secretary determine.

15. Appointment of staff

The Board may employ such staff or engage such consultants or experts or approve such secondment as may be necessary for the proper performance of its functions, on such terms and conditions as may be approved by the Cabinet Secretary.

16. Protection from liability

Nothing done by a member of the Board or any officer, employee or agent of the Board shall if it is done *bona fide* for executing the functions, powers or duties of the Board, render the member, officer, employee or agent or any person acting on the directions of the Board personally liable to any action, claim or demand whatsoever.

PART IV – FINANCIAL PROVISIONS

17. Funds of the Centre

The funds of the Centre shall comprise of—

- (a) such sums as may be appropriated by Parliament for the purposes of the Centre;
- (b) such monies as may accrue to or vest in the Centre in the course of the exercise of its powers or the performance of its functions under this Order or under any other written law; and
- (c) all monies from any other sources provided for or donated or lent to the Centre.

18. Financial year

The financial year of the Centre shall be the period of twelve months ending on the thirtieth day of June in every year.

19. Annual estimates

(1) At least four months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Centre for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Centre for the financial year, and in particular the estimates shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the Board and staff of the Centre;
- (b) provision of funds for the functions of the Centre;
- (c) the payment of pensions, gratuities and other charges in respect of the staff of the Centre; and

(d) the proper maintenance of the buildings and ground of the Centre;

(3) The annual estimates shall be approved by the Board at least two months before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

20. Books of accounts

The Board shall cause to be kept proper books and records of accounts of all the income and expenditure, assets and liabilities of the Centre.

21. Audit

(1) The Board shall ensure that all money received is properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets and liabilities.

(2) The accounts of the Centre shall be audited in accordance with the Public Audit Act (Cap. 412B).

22. Investment of funds

(1) The Board may from time to time invest any of the funds of the Centre in any securities in which trust funds are authorized by law subject to approval by the Cabinet Secretary of National Treasury.

(2) The Board may, subject to the approval of the National Treasury, place on deposit with such bank or banks as the Board may determine, any monies not immediately required for the purposes of the Centre.

THE ANTI-DOPING AGENCY OF KENYA ORDER, 2015

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

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2. Interpretation

PART II – ESTABLISHMENT OF THE AGENCY

3. Establishment and composition of Agency.
3. Headquarters of the Agency.
4. Functions of the Agency.
5. Board of the Agency.
6. Qualifications for Appointment.
7. Term of office
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9. Functions of the Board.
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11. Missing Title
12. Meetings of the Board.
13. Chief Executive Officer.
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15. Remuneration.
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PART III – FINANCIAL PROVISIONS

21. Financial year
 22. Funds of the Agency.
 23. Annual estimates
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-

THE ANTI-DOPING AGENCY OF KENYA ORDER, 2015

[Legal Notice 256 of 2015]

IN EXERCISE of the powers conferred by section 3(1) of the State Corporations Act, I, Uhuru Kenyatta, President and Commander in Chief of the Kenya Defence Forces, make the following Order —

PART I – PRELIMINARY**1. Citation**

This Order may be cited as the Anti-Doping Agency of Kenya Order.

2. Interpretation

In this Order, unless the context otherwise requires —

“Agency” means the Anti-doping Agency established under paragraph 3;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to sports; and

“Chief Executive Officer” means the Chief Executive Officer appointed under paragraph 13.

PART II – ESTABLISHMENT OF THE AGENCY**3. Establishment and composition of Agency.**

There is established a body known as the Anti-Doping Agency of Kenya, which shall be a body corporate with perpetual succession and a common seal and which shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding charging or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing such other things or acts necessary for the proper performance of the functions of the Agency and which may be lawfully done or performed by a body corporate.

3. Headquarters of the Agency.

The headquarters of the Agency shall be in Nairobi.

4. Functions of the Agency.

The functions of the Agency shall be —

- (a) to advise the Government on all relevant matters relating to anti-doping;
- (b) in consultation with the Regional Anti-Doping Organization, the World Anti-Doping Agency and any other anti-doping organizations undertake anti-doping activities in Kenya;
- (c) to ensure the enforcement of the regulations made by the Agency and the World Anti-Doping Agency;
- (d) to undertake doping control;
- (e) to oversee the prosecution of anti-doping offences before the Sports Tribunal or any other judicial body exercising jurisdiction in such matters;
- (f) to undertake research related to the mandate of the Agency;
- (g) to create awareness and implement programs aimed at fighting doping;

[Subsidiary]

- (h) to liaise with other government agencies in eradicating the use of performance enhancing substances amongst sports persons; and
- (i) to promote the integrity of a drug-free sport; and
- (j) to perform any other function as may be lawfully assigned to the Agency by the Cabinet Secretary.

5. Board of the Agency.

(1) The Board of the Agency shall consist of —

- (a) a Chairperson appointed by the President;
- (b) the Chief Executive of the Agency appointed under paragraph 13;
- (c) the Principal Secretary to the National Treasury or a representative;
- (d) the Principal Secretary for matters relating to sports or a representative;
- (e) not more than six persons appointed by virtue of their knowledge and experience in sports, appointed by the Cabinet Secretary.

(2) The Cabinet Secretary shall in appointing members of the Board ensure the representation of women, youth and persons with disabilities.

(3) The appointment of members under paragraph 1 (a) and (e) shall be by name and by notice in the Kenya *Gazette*.

6. Qualifications for Appointment.

A person shall be qualified for appointment as a member of the Agency if such person—

- (a) holds a degree from a recognized university;
- (b) has at least ten years post qualification professional experience; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

7. Term of office

The Chairperson and members of the Agency appointed under paragraph 6 (1) (a), (b) and (e) shall serve for a term of three years and shall be eligible for re-appointment for one further term.

8. Vacancy of office

(1) The office of a member of the Board, other than an exofficio member, shall become vacant—

- (a) if the member resigns by giving notice in writing, in the case of the Chairperson, to the President and in the case of any other member, to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the President or the Cabinet Secretary, as the case may be.
- (b) if the appointment is revoked by the President or Cabinet Secretary;
- (c) if the member—
 - (i) becomes insolvent or enters into a scheme of arrangement for the benefit of his or her creditors;
 - (ii) is convicted of any offence by a court of competent jurisdiction;
 - (iii) is incapacitated by reason of infirmity of body or mind;
 - (iv) is absent from three consecutive meetings of the Board without the leave of the Chairperson;
 - (v) is otherwise unable or unfit to discharge the functions of the Board; or
 - (vi) dies.

(2) Where the office of the Chairperson or a member of the Agency becomes vacant under this paragraph, the President or the Cabinet Secretary, as the case may be, may

appoint another person as a replacement of the person vacating office in accordance with paragraphs 6 and 7.

9. Functions of the Board.

The Board shall be responsible for the administration and management of the Agency.

10. Powers of the Board.

The Board shall have all powers necessary for the proper performance of its functions under this Order and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to —

- (a) administer its assets in such manner that best promotes the purpose for which the Agency is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Agency;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) open such banking accounts for its funds as may be necessary;
- (e) invest any funds of the Agency not immediately required for its purposes in the manner provided under this Act;
- (f) enter into association with such other persons, bodies or organizations within or outside Kenya as the Agency may consider appropriate in furtherance of the purposes for which the Agency is established; and

11. Missing Title

Gather relevant information, including requisition of reports, records, documents or any information from any source, including governmental authorities, and maintain a database on anti-doping.

12. Meetings of the Board.

(1) The Chairperson shall preside over all meetings of the Board and in the absence of the Chairperson, the other members present at the meeting shall appoint one of the members to act as Chairperson for the purpose of that meeting.

(2) The quorum for a meeting shall be two thirds of the members of the Board.

(3) The Board may co-opt, for such period as it may consider necessary, not more than three persons whose assistance or advice it may require, but the persons so co-opted shall not be considered as members for the purpose of forming a quorum and shall not be entitled to vote at any meeting of the Board.

(4) Every decision of the Board shall be by a simple majority of the members present and voting but the Chairperson or the person appointed to be the Chairperson under subparagraph (1) shall have a casting vote.

(5) Subject to this Order, the Board may regulate its own proceedings.

13. Chief Executive Officer.

(1) There shall be a Chief Executive Officer of the Agency who shall be recruited and appointed by the Cabinet Secretary on the recommendation of the Board.

(2) The Chief Executive Officer shall be the secretary to the Board and shall be responsible for the day to day operations and administration of the Agency.

(3) The Chief Executive Officer shall hold office for such period and on such terms and conditions of employment as the Board may determine with the approval of the Cabinet Secretary.

(4) No person shall be qualified for appointment as a Chief Executive Officer unless that person—

- (a) holds at least a degree from a recognised university;

[Subsidiary]

- (b) has at least ten years' post-qualification experience in a relevant field; and
- (c) meets the requirements of Chapter Six of the Constitution.

14. Staff.

The Agency may employ such officers and other staff or agents as it may consider necessary for the discharge of its functions and duties under this Order, upon such terms and conditions of service as the Board may determine.

15. Remuneration.

The Agency shall pay such remuneration, fees, allowances and such other reimbursement to members of the Board as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

16. Delegation of the Agency.

The Board may, by resolution either generally or in any particular case, delegate to a committee of the Board, member, officer, employee or agent of the Agency, the exercise of any powers or the performance of any of the functions or duties of the Agency.

17. Execution of Documents.

(1) The common seal of the Agency shall be authenticated by the signature of the Chairperson and the Chief Executive Officer, or by either the Chairperson or the Chief Executive Officer, together with one member other than an *ex officio* member of the Board authorized in writing by the Board in that behalf.

(2) Any document, other than a document which is required by any law to be made under seal, and any decision of the Board, may be signified under the hand of the Chairperson, or the Chief Executive Officer or any other member of the Board or any other person authorized in writing by the Board in that behalf.

18. Protection from liability.

No matter or anything done by the Chairperson or any other member of the Agency or any officer, employee or agent of the Agency shall, if the matter or thing is done in good faith for the purpose of executing any provision of this Order, render the Chairperson, member, officer, employee or agent or any person acting under the directions of those persons, personally liable to any action, claim or demand.

19. Liability of damages.

The provisions of this Order shall not relieve the Agency of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Order or by the failure, whether wholly or partially, of any action.

PART III – FINANCIAL PROVISIONS

21. Financial year

The financial year of the Agency shall be the period of twelve months ending on the thirtieth of June each year.

22. Funds of the Agency.

The funds and assets of the Agency shall consist of—

- (a) such monies or assets as may accrue to or vest in the Agency, in the course of the exercise of its powers or the performance of its functions under this Order;
- (b) any monies which may in any manner become payable to or vested in the Agency in respect of any matter incidental to the carrying out of its functions;
- (c) any gifts as may be given to the Agency; such monies as may be appropriated by Parliament for the purposes of the Agency; and

- (d) all monies from any other source provided, donated or lent to the Agency.

23. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Agency for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Agency for the financial year concerned, and in particular shall provide for the —

- (a) payment of salaries, allowances and other charges in respect of the Board members and the staff of the Agency;
- (b) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Agency; and
- (c) proper maintenance, repair, and replacement of the equipment and other movable property of the Agency.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Agency except in accordance with the annual estimates approved under subparagraph (3) or with the authorization of the Agency given with prior written approval of the Cabinet Secretary.

24. Accounts and Audit.

(1) The Board shall cause to be kept, proper books and other records of accounts of the income, expenditure, assets and liabilities of the Agency.

(2) The accounts of the Agency shall be audited and reported upon in accordance with the provisions of the Public Audit Act (412B).

25. Investment of funds.

(1) The Board may invest any of the funds of the Agency in securities in which the Agency may by law invest trust funds, or in any other securities which the National Treasury may, from time to time, approve.

26. Annual Report.

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary, a report on the operations of the Agency for the immediately preceding financial year.

(2) The Cabinet Secretary shall present the annual report to the President.

**THE NATIONAL LIVESTOCK DEVELOPMENT
AND PROMOTION SERVICE ORDER**

ARRANGEMENT OF SECTIONS

1. Citation
 2. Interpretation
 3. Establishment of the Service
 4. Function of the Service
 5. Headquarters
 6. Board of the Service
 7. Powers of the Board
 8. Meetings and Procedure of the Board
 9. Remuneration
 10. Chief Executive Officer
 11. Corporation Secretary
 12. Staff of the Board
 13. Funds of the Service
 14. Financial year
 15. Annual estimates
 16. Investment of funds
 17. Accounts and audit
 18. Annual Report
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THE NATIONAL LIVESTOCK DEVELOPMENT AND PROMOTION SERVICE ORDER

[Legal Notice 87 of 2016]

1. Citation

This Order may be cited as the National Livestock Development and Promotion Service Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Act" means the State Corporations Act (Cap. 446).

"Board" means the Board of the National Livestock Development and Promotion Service constituted in accordance with paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to livestock;

"Committee" means the State Corporations Advisory Committee as established under Section 27 of the Act;

"Ministry" means the Ministry for the time being responsible for livestock; and

"Service" means the National Livestock Development and Promotion Service established under paragraph 3.

3. Establishment of the Service

(1) There is established a state corporation to be known as the National Livestock Development and Promotion Service.

(2) The Service 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 or disposing of movable and immovable property;
- (c) doing or performing such other things or acts necessary for the proper performance of the functions of the Service under the Order and which may lawfully be done or performed by a body corporate.

4. Function of the Service

The Service shall—

- (a) be responsible for coordinating matters relating to the development, promotion and marketing of livestock and livestock products within and outside Kenya;
- (b) advise the national government generally and the Ministry in particular on matters relating to the development, promotion and marketing of livestock and livestock products in the country including apportionment of resources;
- (c) maintain a liaison between the national government, the private sector and other interested agencies in matters relating to the development, promotion and marketing of livestock and livestock products in order to limit duplication of effort and to ensure optimal use of the available resources;
- (d) prepare and maintain an up to date national livestock development and promotion plan for the country and coordinate implementation of the activities identified from the plan;

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- (e) coordinate national donor funded projects relating to the development, promotion and marketing of livestock and livestock products in the country;
- (f) coordinate and facilitate related national livestock production, development and marketing schemes including disease free zones in the country;
- (g) facilitate the marketing and distribution of livestock and livestock products through the monitoring and dissemination of market information, including the identification of the local supply-demand status, domestic market, matching and overseas market intelligence and promotion activities on livestock;
- (h) undertake programmes for the monitoring and evaluation the performance of national livestock projects in order to improve the performance, establish responsibilities thereof and improve future planning;
- (i) establish linkages with various research institutions for the conduct of studies and researches designed to promote livestock and livestock products production, marketing and processing;
- (j) promote and advise on strategies for value addition before the export of livestock products from Kenya;
- (k) develop and promote national good practices in livestock production and livestock products processing, marketing, grading, storage, collection, and transportation;
- (l) collect and maintain a database on livestock and livestock products, document and monitor market trends for purposes of national livestock products development, promotion and marketing;
- (m) advise the Cabinet Secretary and the county governments on matters relating to; national and county livestock policies, policy development and policy implementation in perpetuation of food security;
- (n) coordinate the promotion and improvement of livestock management systems in the country for sustainable development of the livestock industry; and perform any other functions as may be necessary to achieve the objectives of the Service under this Order.

5. Headquarters

- (1) The Service shall have its headquarters in Nairobi.
- (2) The Service shall, for furtherance of its objectives, establish regional offices in such other places as may be determined by the Board, with the approval of the Cabinet Secretary.
- (3) The regional offices established under paragraph (2) shall be organized for the purposes of—
 - (a) representing the Service on matters relating to livestock development, promotion and marketing policies;
 - (b) providing the link between the Ministry, the Service and the county governments in matters relating to livestock;
 - (c) liaising with the responsible county government personnel responsible for livestock and matters relating to identification and formulation of policy at the county level;
 - (d) escalating the identified policy gaps to the national level for ultimate policy development; and
 - (e) performing any other function relevant to the mandate of the Service.

6. Board of the Service

The management of the Service shall vest in a Board which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary of the Ministry for the time being responsible for Livestock;

- (c) the Principal Secretary to the National Treasury;
- (d) a Chief Executive Officer of the Service;
- (e) five other persons, who in the opinion of the Cabinet Secretary, possess skills and experience that will benefit the work of the Service appointed by the Cabinet Secretary.

7. Powers of the Board

The Board—

- (a) shall have all the powers necessary to manage and administer the Service in such a manner that enables the Service to realize the objects and purposes for which the Service is established;
- (b) may enter into association with such other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects, and purposes of the Service; and
- (c) shall carryout any other activity that, is in, the opinion of the Board, will promote and facilitate realization of the objects and purposes for which the Service is established.

8. Meetings and Procedure of the Board

(1) The Board shall meet at least four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) A meeting of the Board shall be held on, such date and at such, time as the Board shall decide or, in the absence of such decision or on any other occasion which the Chairperson in consultation with the Chief Executive Officer shall decide that a meeting is necessary, on a date and at a time determined by the Chairperson.

(3) A meeting of the Board shall not be held at any place other than the registered or principal office of the Service except with the prior written approval of the Committee.

(4) Unless three-quarters of the total membership of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(5) The Chief Executive Officer of the Service shall have the right to require his opinion to be recorded in the minutes if the Board or the, committee, as the case may be, passes a resolution, which in the Chief Executive Officer's opinion, is contrary to his advice or the law.

9. Remuneration

(1) The Chairperson and members of the Board, other than the Chief Executive Officer, shall be paid out of expenses of the funds of the Service such sitting allowances or other remuneration as the Board members may, within the scales of remuneration specified from time to time by the Committee, approve.

(2) The Service may, within the scales specified by the Government, refund travelling and other expenses incurred by the Chairperson or members. of the Board in the performance of their duties.

10. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Service, who, shall be appointed by the Board, through a competitive process, on such terms and conditions of service as the Cabinet Secretary may, in consultation with the Committee, approve.

(2) A person is qualified for appointment as the Chief Executive Officer if such person—

- (a) has relevant qualification, expertise and experience in livestock development, promotion, and marketing;
- (b) meet the requirements of Chapter Six of the Constitution of Kenya.

(3) The Chief Executive Officer shall serve for a term of, four years and shall be eligible for re-appointment for a further term of four years.

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- (4) The Chief Executive Officer may—
- (a) at any time resign from office by a notice in writing addressed to the Cabinet Secretary;
 - (b) be removed from office by the Board if the chief executive officer—
 - (i) has been absent, from three consecutive meetings of the Board without the permission of the Chairperson;
 - (ii) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding two hundred thousand shillings;
 - (iii) is incapacitated by prolonged physical or mental illness; or
 - (iv) conducts himself or herself in a manner deemed by the Cabinet Secretary to be inconsistent with membership of the Board.

11. Corporation Secretary

(1) The Board shall competitively recruit a suitably qualified person, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Service.

(2) The Corporation Secretary shall be the Secretary to the Board and shall be responsible for arranging the business of the Board, keeping records of the meetings and proceedings of the Board, and shall perform such other duties as the Board may direct.

12. Staff of the Board

The Board shall employ such other staff as the Board may consider necessary on such terms and conditions of service as the Board may, with the approval of the Cabinet Secretary, determine.

13. Funds of the Service

The funds of the Service shall consist of—

- (a) such moneys as may from time to time be provided by Parliament for the purposes of the Service;
- (b) moneys borrowed by the Service with the approval of the Cabinet Secretary and subject to such limitations and conditions as may be imposed by the National Treasury; and any moneys accruing to the Service from any other source.

14. Financial year

The financial year of the Board shall be the period of twelve months ending on the thirtieth June in each year.

15. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure for that year.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the members and the staff of the Service;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Service;
- (c) the proper maintenance of the buildings and grounds of the Service;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Service; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or

equipment or in respect of such other matters as the Service may consider necessary.

(3) The annual estimates shall be submitted to the Board for approval before the commencement of the financial year to which they relate:

Provided that once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

(4) Expenditure shall not be incurred for the purposes of the Service except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of an authorization of the Board.

16. Investment of funds

(1) The Board may invest any of the funds of the Service which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Service.

17. Accounts and audit

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Service.

(2) The accounts of the Service shall be audited in accordance with the Public Audit Act (Cap. 412B).

18. Annual Report

(1) The Board shall within a period of six months after the end of the financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the immediately preceding year.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly within three months of the day the Assembly next sits after the report was presented.

**THE NAIROBI METROPOLITAN AREA
TRANSPORT AUTHORITY ORDER**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Application
 4. Establishment of the Authority
 5. Functions of the Authority
 6. The Council
 7. Functions of Council
 8. Board of the Authority
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 15. Funds of the Authority
 16. Financial Year
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 20. Protection from personal liability
 21. Liability for damages
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THE NAIROBI METROPOLITAN AREA TRANSPORT AUTHORITY ORDER

[Legal Notice 18 of 2017]

1. Citation

This Order may be cited as the Nairobi Metropolitan Area Transport Authority Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Act" means the State Corporations Act (Cap. 446);

"Authority" means the Nairobi Metropolitan Area Transport Authority established by paragraph 4;

"Board" means the Nairobi Metropolitan Area Transport Authority Board constituted in accordance with paragraph 8;

"Council" means the Nairobi Metropolitan Area Council constituted in accordance with paragraph 6;

"declared transport corridor" means a corridor comprising of a number of individually stated sections of roads or railways which the Authority requires in the discharge of its functions and which has been brought under the jurisdiction of the Authority in order for its quality to be maintained to published standards from the Authority;

"Metropolitan Area" means the Nairobi Metropolitan Area and includes the counties of Nairobi City, Kiambu, Machakos, Kajiado and Murang'a.

3. Application

This Order shall apply to the Metropolitan Area.

4. Establishment of the Authority

(1) There is established an Authority to be known as the Nairobi Metropolitan Area Transport Authority.

(2) The Authority shall be 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 or disposing of movable and immovable property; and
- (c) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(3) The Authority shall be a joint authority in accordance with Article 189(2) of the Constitution.

(4) The headquarters of the Authority shall be in Nairobi, and it shall establish such other sub-offices in any location in the Metropolitan Area, as it may consider necessary for the discharge of its functions.

5. Functions of the Authority

(1) The Authority shall oversee the establishment of an integrated, efficient, effective and sustainable public transport system within the Metropolitan Area.

(2) Without prejudice to the generality of the provisions of subparagraph (1), the Authority shall—

- (a) develop a sustainable integrated public transport strategy for the Metropolitan Area;

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- (b) develop a sustainable urban mobility plan for the Metropolitan Area derived from the strategy;
- (c) formulate and oversee the development of a sustainable, evidentially based, Integrated Mass Rapid Transit System Strategy;
- (d) plan, regulate and co-ordinate the supply of adequate and effective Mass Rapid Transit System;
- (e) formulate and implement programmes and policies for the overall improvement of public transportation systems within the Metropolitan Area;
- (f) provide an enabling environment for orderly and structured development of the mass transit system, including both bus rapid transit and commuter rail within the Metropolitan Area;
- (g) coordinate with other government agencies and other parties for the development and operation of transport infrastructure, facilities and works necessary for the discharge of the functions of the Authority;
- (h) develop an inventory and undertake continuous evaluation of the declared road network status within the Metropolitan Area;
- (i) formulate strategies to ensure overall improvement in traffic flow, planned and programmed traffic engineering and traffic management works within the Metropolitan Area;
- (j) ensure optimal utilisation of intermodal means of transport including air, road, rail and non-motorised transport and any other modes targeting mass movement within the Metropolitan Area;
- (k) assist in poverty alleviation by increasing economic efficiency through lower transport costs and prices within the Metropolitan Area;
- (l) improve the environmental sustainability of the transport system in the Metropolitan Area;
- (m) facilitate the integration of transport and land use planning in the Metropolitan Area;
- (n) make better use of existing road space for all modes and reduce the need for the construction new roads within the Metropolitan Area;
- (o) regulate both on street and off-street parking on declared corridors and impose fees and penalties with respect thereto;
- (p) conduct studies and research for, amongst other things, identification of the Mass Rapid Transit System routes, corridors, network and service levels;
- (q) develop appropriate and sustainable funding mechanisms in order to achieve the objectives of the Authority; and
- (r) perform the any other functions vested upon the Authority under this Order.

6. The Council

- (1) There shall be a Council for the Nairobi Metropolitan Area which shall consist of—
 - (a) the Cabinet Secretary responsible for transport;
 - (b) the Cabinet Secretary responsible for finance;
 - (c) the Governor of Nairobi City County;
 - (d) the Governor of Kiambu County;
 - (e) the Governor of Machakos County;
 - (f) the Governor of Kajiado County; and
 - (g) the Governor of Murang'a County.
- (2) The Cabinet Secretary responsible for transport shall be the chairperson of the Council.
- (3) The Governor of Nairobi City County shall be the deputy chairperson of the Council.

(4) In the absence of both the chairperson and deputy chairperson, the members of the Council present shall nominate a member from their number, to preside over the meeting.

(5) The secretary to the Board appointed under paragraph 12(1) shall provide secretarial services to the Council.

7. Functions of Council

The Council shall—

- (a) be responsible for the development of policy and directions for purposes of this Order;
- (b) set goals and objectives and priorities for the Metropolitan Area;
- (c) determine the financial contribution of each county to the funds of the Authority;
- (d) approve both the master plan and strategic plan prepared by the Authority;
- (e) declare, by Notice in the *Gazette*, transport corridors within the Metropolitan Area;
- (f) approve external funding and bilateral agreements in line with the national financial and fiscal policies; and
- (g) perform such other functions as are assigned under this Order.

8. Board of the Authority

(1) There shall be a Board of Directors of the Authority which shall consist of—

- (a) the chairperson of the Board, appointed by the President;
- (b) the Principal Secretary responsible for transport;
- (c) the Principal Secretary responsible for finance;
- (d) the County Executive Committee Member responsible for transport in each of the five counties of the Metropolitan Area;
- (e) the Director-General appointed under paragraph 13; and
- (f) three independent person who shall be appointed by virtue of their knowledge and experience in—
 - (i) transport;
 - (ii) law;
 - (iii) intelligent transport systems;
 - (iv) civil engineering;
 - (v) traffic engineering;
 - (vi) economics;
 - (vii) urban design, planning and management; or
 - (viii) any other relevant field.

(2) The appointment of the members of the Board under subparagraph (1)(f) shall be by the Council.

(3) Every appointment under paragraph (1)(a) and (f) shall conform to sections 6(2) and (3) of the Act.

9. Functions of the Board

(1) The Board of the Authority shall be responsible for the management and administration of the Authority and oversee the planning, development, maintenance and operation of an integrated and sustainable public transport network including, infrastructure and services that affect delivery of the Authority's mandate within the Nairobi Metropolitan Area.

(2) Without prejudice to the generality of the provisions of subparagraph (1), the Board shall—

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- (a) approve and oversee the implementation of an Integrated Transport Master Plan;
- (b) oversee the development of a sustainable, evidentially based, Integrated Mass Rapid Transit System Strategy;
- (c) oversee the implementation of a comprehensive traffic management plan and strategy;
- (d) formulate additional standards and requirements for Mass Rapid Transit System and monitor their delivery;
- (e) enter into any agreement or partnership with any public sector agencies and other parties for the development and operation of transportation infrastructure, services or facilities, works, and equipment necessary for the discharge of the functions of the Authority;
- (f) regulate and enter into agreements with Mass Rapid Transit System Operators and Service Providers including—
 - (i) companies or owners of Mass Rapid Transit System rolling stock and service providers;
 - (ii) Mass Rapid Transit System operators;
 - (iii) Mass Rapid Transit System routes;
- (g) recommend to the Council, transport corridors to be declared as part of the Authority's Strategic Transport Network under this Order;
- (h) ensure compliance of any law or regulation on the functions of the Authority;
- (i) approve traffic management schemes and accesses along the declared corridors; and
- (j) perform the functions vested upon the Board under this Order.

10. Powers of the Board

The Board shall have all the powers necessary to manage and administer the Authority in a manner that shall enable the Authority to realize the objects and purposes for which the Authority is established and in particular, but without prejudice to the generality of the foregoing, the Board shall have the power to—

- (a) open a bank account for the funds of the Authority into which all moneys received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made.
- (b) in consultation with the Council, enter into enter into contracts or association with such other persons, bodies or organizations within or outside Kenya as the Board may consider appropriate in furtherance of the objects and purposes of the Authority; and
- (c) determine, impose and levy rates, charges, dues or fees for any services performed by the Authority, or for the grant, renewal or validation of a licence, permit or certificate;
- (d) acquire such land or assets for the proper performance of its functions in accordance with the Constitution and laws of Kenya;
- (e) invest any of the Authority's funds not immediately required for the purposes of this Order; and
- (f) in consultation with the Council, carryout any other activity that is in the opinion of the Board, will promote and facilitate realization of the objects and purposes for which the Authority is established.

11. Delegation by the Board

The Board may by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Authority, the

exercise of any of the powers or the performance of any of the functions of the Board under this Order or under any other written law.

12. Corporation Secretary

(1) The Board shall competitively recruit a suitably qualified person, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Authority.

(2) The Corporation Secretary shall be the Secretary to the Board and shall be responsible for arranging the business of the Board, Board meetings, the keeping of records of the Board meetings, the keeping of records of the proceedings of the Board, and perform such other duties as the Board may direct.

13. Director General

(1) There shall be a Director-General of the Authority appointed by the Board, who shall be the Chief Executive Officer of the Authority and shall be responsible for the day to day operations and administration of the Authority.

(2) A person shall qualify for appointment as a Director-General, if that person—

- (a) holds a degree in any relevant field from a university recognized in Kenya;
- (b) has knowledge and experience in any of the following fields—
 - (i) transport economics;
 - (ii) civil engineering;
 - (iii) traffic engineering;
 - (iv) urban planning and management; or
 - (v) any other relevant field.
- (c) has a distinguished career in a senior management position in either private or public sector;
- (d) holds at least ten years' post qualification professional experience; and
- (e) satisfies the requirements of Chapter Six of the Constitution.

(3) A person shall not be qualified for appointment as a Director-General under subparagraph (1), if that person—

- (a) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
- (b) is convicted of an offence involving dishonesty or fraud;
- (c) fails to comply with the requirements of Chapter Six of the Constitution; or
- (d) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings.

(4) The Director-General shall serve on such terms and conditions as specified in the instrument of appointment.

(5) The Director-General shall be appointed for a term of three years and shall be eligible for reappointment for one further term.

14. Staff

The Authority may employ such other officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order, and upon such terms and conditions as the Board may, in consultation with the relevant government institutions, determine.

15. Funds of the Authority

The funds of the Authority shall consist of—

- (a) monies allocated by Parliament for the purposes of the Authority;

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- (b) such monies or assets as may accrue to the Authority in the course of the exercise of its powers or in the performance of its functions under this Order;
- (c) all monies from any other source provided, donated or lent to the Authority;
- (d) contributions from the counties in the Metropolitan Area; and
- (e) any other funds approved by law.

16. Financial Year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

17. Annual estimates

(1) The Board shall, cause to be prepared estimates of revenue and expenditure of the Authority for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year concerned, and in particular, shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the Council members, Board members and the staff of the Authority;
- (b) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Authority; and
- (c) proper maintenance, repair, and replacement of the equipment and other movable property of the Authority.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3) or with the authorization of the Board given with prior written approval of the Council.

18. Accounts and Audit

(1) The Board shall cause to be kept all proper books and other records of accounts of income, expenditure, assets and liabilities of the Authority.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Authority, in respect of that year together with—

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

19. Annual report

The Board shall, on receipt of audited accounts for the preceding year, submit to the Council an annual report in respect of that year containing—

- (a) the accounts of the Authority and statements referred to under paragraph 18(2)(a);
- (b) the Authority's performance indicators and any other related information;
- (c) a report on the operations of the Authority during that year; and
- (d) such other information as the Council may request.

20. Protection from personal liability

No matter or thing done by the Council, chairperson or any other member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith for the purposes of executing any provisions of this Order, render the chairman, member, officer, employee or agent or any person acting under the direction of those persons personally liable to any action, claim or demand.

21. Liability for damages

The provisions of this Order shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

22. Dispute resolution mechanism

The mode of dispute resolution for any matter arising under this Order shall be dealt with in accordance with the provisions of Part IV of the Intergovernmental Relations Act (Cap. 265F).

THE KENYA SPACE AGENCY ORDER

ARRANGEMENT OF ORDERS

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THE KENYA SPACE AGENCY ORDER

[Legal Notice 22 of 2017]

1. Citation

This Order may be cited as the Kenya Space Agency Order.

2. Interpretation

In this Order—

"Act" means the State Corporations Act (Cap. 466);

"Agency" means the Kenya Space Agency established under paragraph 3;

"Board" means the Board of the Agency appointed under paragraph 6;

"Director-General" means the person appointed under paragraph 11;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for Defence;

"Committee" means the State Corporations Advisory Committee;

"member" means a person appointed to the Board under paragraph 6(1)(i).

PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF KENYA SPACE AGENCY**3. Establishment of the Agency**

(1) There is hereby established a state corporation to be known as the Kenya Space Agency.

(2) The Agency 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 or disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing any such other thing or act, including entering into such contracts as may be necessary or expedient, for the furtherance of the provision of this Order which may lawfully be done by a body corporate.

(3) The Agency shall be the successor to the National Space Secretariat existing immediately before the commencement of this Order, and upon such commencement and subject to this Order, all rights, duties, assets and liabilities held by Government on account of that Secretariat shall be automatically and fully transferred to the Agency, and any reference to the National Space Secretariat in any contract or document shall, for all purposes, be deemed to be a reference to the Agency.

(4) The headquarters of the Agency shall be in Nairobi, but the Agency may establish branches at any place in Kenya.

(5) The Cabinet Secretary shall have ministerial responsibility with respect to the Agency.

4. Functions of the Agency

The functions of the Agency shall be to—

- (a) co-ordinate and regulate space related activities in the country;
- (b) implement the Kenya space policy and any related programmes;
- (c) recommend and advise the Government on the development of relevant legislation to facilitate the successful implementation of Kenya space programme;

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- (d) advise the government on the legislative and other measures necessary for the implementation of the relevant Conventions, Treaties and Agreements that Kenya is a party;
- (e) recommend national space policies, strategies and programmes;
- (f) promote capacity building in space science and technology and its applications;
- (g) establish centres of excellence in space science;
- (h) enter into mutually beneficial bilateral and multilateral agreements with persons, agencies, governments or bodies in furtherance of its mandate;
- (i) identify, prepare and facilitate the implementation of inventions and innovations in space technologies;
- (j) provide leadership in coordinating and supporting research in space science and technology;
- (k) liaise with the relevant institutions and Government agencies to ensure funding and implementation of space programmes;
- (l) promote awareness and appreciation at all levels of Kenyan society on the relevance and benefits of space science and technology; and
- (m) perform such other functions as the Cabinet Secretary may, from time to time, assign the Agency.

5. Powers of the Agency

In the performance of its functions the Agency shall have powers—

- (a) to establish advisory space committees from time to time to assist in any specified duties in carrying out its function;
- (b) to manage, control and administer the assets of the Agency in such manner and for such purposes as best promote the purpose for which the Agency is established;
- (c) to determine the provisions to be made for capital and recurrent expenditure and for reserves of the Agency;
- (d) to enter into association with any persons, agencies, governments or bodies within or outside Kenya as the Agency may consider appropriate and in furtherance of the purpose for which the Agency is established;
- (e) to receive any gift, grant, donation or endowments made to the Agency or any other moneys in respect of the Agency and make legitimate disbursements there from in accordance with the provisions of this Order;
- (f) to open and maintain a bank account for the funds of the Agency; and
- (g) to offer its services to any person, organisation or institution upon such terms as the Agency may from time to time determine.

6. The Board

(1) The Agency shall be managed by a Board which shall consist of—

- (a) Chairperson, who shall be a person with demonstrated knowledge and experience in defence, security, agriculture, mining, environmental management or space science, appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for defence;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance;
- (d) the Principal Secretary in the Ministry for the time being responsible for science and technology;
- (e) the Principal Secretary in the Ministry for the time being responsible for information, Communication and Technology;

- (f) the Principal Secretary in the Ministry for the time being responsible for environment;
- (g) the Chief of the Defence Forces or his representative;
- (h) the Attorney-General or his representative;
- (i) three persons, not being public officers or employees or directors of any public company, appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters relating to defence, security, agriculture, mining, environmental management or space activities; and
- (j) the Director-General, who shall be the Secretary to the Board.

(2) The appointment of members under paragraph 6(1)(a) and (i) shall be by name and by notice in the *Kenya Gazette*.

(3) The Cabinet Secretary shall ensure that the principle of gender parity is observed in making appointments under this Order.

(4) The Chairperson and members of the Agency appointed under paragraph 6(1)(a) and (i) shall serve for a term of three years and shall be eligible for re-appointment for one further term.

7. Meetings of the Board

(1) The Board shall meet at least four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall preside over all meetings of the Board and in the absence of the Chairperson, the other members present at the meeting shall appoint one of the members to act as Chairperson for the purpose of that meeting.

(3) The quorum for a meeting shall be two thirds of the members of the Board.

(4) The Board may from time to time co-opt into its membership any person whose skills and experience are necessary for the performance of the functions of the Board to assist in any specified matter on need basis.

(5) A person co-opted under subparagraph (3) shall not have powers to vote on any matter before the Board.

(6) Subject to the provisions of this Order, the Board may regulate its own procedure.

8. Remuneration

The Agency shall pay such remuneration, fees, allowances and such other reimbursement to members of the Board as may be approved by the Committee.

9. Vacancy in office

(1) The office of a member of the Board, other than an *ex officio* member, shall become vacant—

- (a) if the member resigns by giving notice in writing, in the case of the Chairperson, to the President, and in the case of any other member, to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the President or the Cabinet Secretary, as the case may be;
- (b) if the member—
 - (i) is declared bankrupt or enters into a composition or scheme of arrangement for the benefit his creditors;
 - (ii) is convicted of a criminal offence and sentenced to a term of imprisonment;
 - (iii) is incapacitated by reason of infirmity of body or mind;
 - (iv) is absent from three consecutive meetings of the Board without the leave of the Chairperson; or

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- (v) is removed from the Board by the President or the Cabinet Secretary, as the case may be, where the member is found to be otherwise unable or unfit to discharge the duties of a member of the Board;

- (c) upon the death of the member.

(2) Where the office of the Chairperson or a member of the Board becomes vacant under this paragraph, the President or the Cabinet Secretary, as the case may be, may appoint another person as a replacement of the person vacating office in accordance with this Order.

10. Staff of the Agency

(1) The Board may appoint such professional, technical and administrative staff as may be necessary for the proper discharge of its functions under this Order, and upon such terms and conditions of service as the Agency may determine.

(2) The staff appointed under subparagraph (1) shall serve on such terms and conditions as the Board, in consultation with the Salaries and Remuneration Commission may determine.

(3) The Public Service Commission may, upon request by the Board second to the Agency such number of public officers as may be necessary for the proper performance of the functions of the Agency.

(4) A public officer seconded to the Agency shall, during the period of secondment, be deemed to be an officer of the Agency and shall be subject only to the direction and control of the Board.

(5) The Board shall prescribe a Code of Conduct for members of the Board and the staff of the Agency.

11. Director-General

(1) There shall be a Director-General who shall be the Chief Executive Officer of the Agency, who shall be appointed by the Board on such terms and conditions as may be specified in the instrument of appointment.

(2) A person shall be qualified to be appointed as the Director-General if the person—

- (a) is a citizen of Kenya;
- (b) possesses a post-graduate degree from a university recognised in Kenya;
- (c) has at least fifteen years demonstrable knowledge and experience in matters related to space science;
- (d) has at least ten years management experience at a senior level in the public or private sector; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be responsible to the Board for the day-to-day management of the affairs of the Agency.

PART III – FINANCIAL PROVISIONS

12. Financial year

The financial year of the Agency shall be the period of twelve months ending on the thirtieth June in the next year.

13. Sources of funds

The funds of the Service shall consist of—

- (a) funds provided by the National Assembly;
- (b) such monies as may accrue to the Agency in the performance of its functions under this Order;
- (c) such monies from any other source granted, donated or lent to the Agency.

14. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Agency for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Agency for the financial year concerned, and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the Board members and staff of the Agency;
- (b) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Agency; and
- (c) proper maintenance, repair and replacement of the equipment and other movable property of the Agency.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall be submitted to the Cabinet Secretary for approval.

(4) Expenditure shall not be incurred for the purpose of the Agency except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of an authorization of the Board given with the prior approval of the Cabinet Secretary.

15. Investment of Funds

The Board may invest any of the funds of the Agency which are not immediately required for its purposes for the time being trustees may by law invest trust funds, or in such other securities as the National Treasury may from time to time approve for the purpose.

16. Bank Accounts

The Board may place on deposit with such banks as it may determine any moneys not immediately required for the purposes of the Agency.

17. Accounts and Audit

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Agency.

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

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

(3) The accounts of the Agency shall be audited in accordance with the Public Audit Act (Cap. 412B).

(4) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Agency to the Board and to the Cabinet Secretary.

(5) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Agency's accounts or records when it appears to him desirable and the Auditor-General shall carry out such an inspection at least once every six months.

18. Annual Report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Agency for the immediately preceding year.

(2) The Agency shall, every twelve months, prepare and publish a report to the public intended to—

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- (a) inform the public about space, science and technology related programmes undertaken, including future programmes, by the Agency; and
- (b) encourage the public to contribute to the achievement of the objectives of those programmes.

(3) Subject to Article 35 of the Constitution, the Agency may decline to give information to an applicant where—

- (a) the request is considered unreasonable in the circumstances;
- (b) the information requested is at a deliberative stage within the Agency;
- (c) the prescribed fee is not paid; or
- (d) the applicant fails to satisfy any confidentiality requirements required by the Agency.

(4) Every member of the Board and member of staff of the Agency shall sign a confidentiality agreement.

PART IV – MISCELLANEOUS PROVISIONS

19. Protection from personal liability

No matter or anything done by the Chairperson or any other member of the Agency or any officer, employee or agent of the Agency shall, if the matter or thing is done in good faith for the purpose of executing any provisions of this Order, render the Chairperson, member, officer, employee or agent or any person acting under the directions of those persons, personally liable to any action, claim or demand.

20. Liability for Damages

The provisions of this Order shall not relieve the Agency of the liability to pay compensation or damages to any person for any injury to him or his property or any of his or her interests caused by the exercise of any of the power conferred by this Order or by failure, whether wholly or partially, of any action.

21. Delegation of duties by the Board

The Board may, by resolution, either generally or in any particular case, delegate to a Committee of the Agency or to any member of the Board, officer or agent of the Agency the exercise of any of the powers or the performance of any of the function or duties the Agency is authorized by this Order to exercise or perform.

22. Signification of documents

All the documents of the Agency shall be under the hand of the Chairperson.

23. Common seal

(1) Subject to this Order, the common seal of the Agency shall be kept in such custody as the Board may direct and shall not be used except in the manner authorized by the Board.

(2) All deeds, instruments, contracts or other documents shall be deemed to be duly executed by or on behalf of the Board—

- (a) where they are required to be under seal, if sealed with the common seal of the Board and authenticated by the signature of the Chairperson and the Secretary; and
- (b) where they are not required to be under seal, if executed in that behalf by the Chairperson or the Secretary.

24. Transitional Provision

Subject to this Order, any person who is an employee of the National Space Secretariat immediately before the commencement of this Order shall upon such commencement be deemed to be an employee of the Agency.

KENYA FISHING INDUSTRIES CORPORATION ORDER

ARRANGEMENT OF PARAGRAPHS

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KENYA FISHING INDUSTRIES CORPORATION ORDER

[Legal Notice 214 of 2018, Legal Notice 110 of 2020]

1. Citation

This Order may be cited as the Kenya Fishing Industries Corporation Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the Kenya Fishing Industries Corporation Board established under paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to fisheries;

"Chief Executive Officer" means the Chief Executive Officer of the Corporation appointed under paragraph 12;

"fish" has the meaning assigned to it under the Fisheries Management and Development Act (Cap. 378);

"fishery resources" has the meaning assigned to it under the Fisheries Management and Development Act (Cap. 378);

"fishing" has the meaning assigned to it under the Fisheries Management and Development Act (Cap. 378);

"fishing related activity" has the meaning assigned to it under the Fisheries Management and Development Act (Cap. 378);

"high seas" has the meaning assigned to it under the Fisheries Management and Development Act (Cap. 378); and

"Kenya fishery waters" has the meaning assigned to it under the Fisheries Management and Development Act (Cap. 378).

3. Establishment of the Corporation

(1) There is established a state corporation to be known as the Kenya Fishing Industries Corporation.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of moveable and immovable property; and
- (c) doing or performing such other things or acts necessary for the proper performance of its functions which may lawfully be done by a body corporate.

4. Headquarters of the Corporation

The headquarters of the Corporation shall be in Mombasa but the Corporation may establish branches at any other place within or outside Kenya as may be necessary for the effective implementation of its mandate.

[L.N. 110/2020, r. 2.]

5. Functions of the Corporation

(1) The Corporation shall—

- (a) exploit fishery resources in the Kenya fishery waters and high seas by promoting the establishment, development and efficiency of businesses engaged in the fishing and fishing related activities;

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- (aa) exploit, buy, process, market and sell marine resources and products including aquatic plants;
- (ab) facilitate and promote the development and trade of fish and other marine products;
- (ac) establish and manage an auction centre for fish and other marine resources;
- (b) develop and operate facilities and establishments for the exploitation of fishery resources;
- (c) acquire, hold or dispose of assets including equipment and accessories necessary for the capture, preservation, processing, selling and marketing of fish and fish products;
- (d) formulate mechanisms for carrying out the functions under subparagraphs (a), (b) and (c); and
- (e) undertake any other activities necessary or incidental to achieving the functions of the Corporation.

(2) In carrying out its functions, the Corporation shall, in addition to the national values and principles of governance set out in Article 10 of the Constitution, be guided by other principles including efficiency, effectiveness, value for money and environmental protection.

(3) The Corporation shall comply with the relevant laws and policies relating to fisheries and fishing related activities.

[L.N. 110/2020, r. 3.]

6. Board of the Corporation

(1) The management of the Corporation shall vest in a Board which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary responsible for matters related to fisheries or a representative nominated in writing;
- (c) the Principal Secretary responsible for the National Treasury or a representative nominated in writing;
- (d) the Attorney-General or his representative;
- (e) not more than four other members, not being public officers, appointed by the Cabinet Secretary; and
- (f) the Chief Executive Officer who shall be an *ex officio* member of the Board.

(2) A person is qualified for appointment under subparagraph (1)(a) and (e) if such person—

- (a) possesses a degree from a university recognized in Kenya in—
 - (i) natural resource or environmental management, development or science;
 - (ii) fisheries studies including fisheries governance, management, development or science;
 - (iii) marine affairs;
 - (iv) port management;
 - (v) aquatic science; or
 - (vi) any other matters related to the functions of the Corporation;
- (b) has knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;
- (c) has proven business management or other relevant professional experience;
- (d) has served in a position of senior management for a period of at least six years; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) A member of the Board shall, subject to such conditions as may be specified in their instrument of appointment, hold office for a term not exceeding three years and shall be eligible for reappointment for one further term

7. Vacancy in the Board

(1) The office of the Chairperson or a member shall become vacant if the holder—

- (a) dies;
- (b) is absent from three consecutive meetings of the Board without reasonable cause;
- (c) resigns from office by notice in writing addressed to the appointing authority;
- (d) is unable to perform the functions of the office arising out of physical or mental infirmity;
- (e) is negligent or incompetent in the performance of his or her functions;
- (f) is adjudged or otherwise declared bankrupt by a competent court;
- (g) violates Chapter Six of the Constitution; or
- (h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.

(2) Where a vacancy occurs in the membership of the Board under subparagraph (1), the appointing authority shall appoint a new member in accordance with the provisions of this Order.

(3) An appointment to fill a vacancy shall be for the remainder of the term of the member being replaced and the new member shall be eligible for reappointment.

8. Functions of the Board

The functions of the Board shall be to—

- (a) monitor and evaluate the implementation of strategies, policies and plans of the Corporation;
- (b) ensure that a proper and functional management structure is in place and that the structure maintains corporate integrity, reputation and responsibility;
- (c) ensure that the Corporation complies with all the relevant laws, regulations, governance practices, accounting procedures and auditing standards;
- (d) monitor performance and ensure effective and efficient utilization of the Corporation's resources;
- (e) consider and approve the Corporation's budget;
- (f) approve the appointment criteria and the terms and conditions of service of staff; and
- (g) carry out any other activity which in the Board's opinion, will promote and facilitate the development of the objects of the Corporation.

9. Powers of the Board

The Board shall have all the powers necessary for the proper performance of the functions of the Corporation and, in particular, the Board shall have powers to—

- (a) administer the property and funds of the Corporation in a manner and for the purposes which shall promote the interests of the Corporation but the Board shall not charge or dispose of immovable property of the Corporation except in accordance with the Public Procurement and Asset Disposal Act (Cap. 412C);
- (b) receive on behalf of the Corporation, donations, endowments, gifts, grants or other moneys and make disbursements there from to the Corporation or other bodies or persons;
- (bb) establish subsidiaries as wholly owned government entities or through joint ventures with other local or foreign entities within or outside the country.

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- (c) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Corporation is established;
- (d) open a banking account or banking accounts for the funds of the Corporation;
- (e) invest any moneys of the Corporation not immediately required in furtherance of its objects;
- (f) appoint, train, discipline, remove and make provision for the welfare of members of staff of the Corporation;
- (g) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board; and
- (h) undertake any other activities as may be necessary for the performance of its functions and the attainment of the purposes of the Corporation.

[L.N. 110/2020, r. 4.]

10. Meetings of the Board

(1) The business and affairs of the Board shall be conducted in accordance with section 8 of the Act.

(2) Except as provided in the Act, the Board may regulate its own procedure.

11. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Corporation who shall be appointed after a competitive recruitment process on such terms and conditions as shall be determined the Board.

(2) A person is qualified for appointment as the Chief Executive Officer of the Corporation if such person—

- (a) possesses a degree from a recognized university in—
 - (i) natural resource or environmental management, development or science;
 - (ii) fisheries studies, including fisheries governance, management, development or science;
 - (iii) aquatic science; or
 - (iv) any other related field;
- (b) has a least seven years working experience in a senior position in matters relevant to the functions of the Corporation; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall—

- (a) subject to the direction of the Board, be responsible for the overall direction, organization and management of the affairs of the Corporation; and
- (b) be responsible for the supervision and discipline of the staff of the Corporation.

(4) The Chief Executive Officer shall hold office for a term not exceeding three years and shall be eligible for reappointment for a further term.

12. Corporation Secretary

(1) There shall be a Corporation Secretary of the Corporation who shall, subject to this section, be appointed by the Board, on such terms and conditions of service as the Board may determine.

(2) A person shall not be appointed as Corporation Secretary unless such person meets the requirements set out in the law governing the practice of public secretaries.

(3) The Corporation Secretary shall, subject to the direction of the Board be responsible for—

- (a) coordinating and circulating the preparation of Board papers to members of the Board;
- (b) taking minutes in meetings of the Board and ensuring the implementation of resolutions of the Board;
- (c) ensuring safe custody of the minutes, decisions and documents of the Board;
- (d) ensuring the safe custody of the seal of the Corporation;
- (e) drafting legal documents on behalf of the Corporation;
- (f) attending proceedings on behalf of the Corporation;
- (g) advising the Board on any legal matters; and
- (h) any other matter that the Board may direct.

13. Staff of the Corporation

(1) The Corporation shall employ such professional, technical and administrative officers and support staff, as the Board may consider necessary for the discharge of its functions under this Order.

(2) The Board may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person, committee, or body, the power to appoint any member of the staff of the Corporation.

(3) All members of staff of the Corporation shall be subject to the general direction of the Board and the Chief Executive Officer.

14. Common Seal

(1) The common seal of the Corporation shall be kept in the custody of the Corporation and shall not be affixed to any instrument or document except as may be generally or specifically authorised by the Board.

(2) The common seal of the Corporation shall be authenticated by the signature of the Chief Executive Officer and the Chairperson or of one other member of the Board authorized by the Board on their behalf.

(3) All documents, other than those required by law to be under seal and all decisions of the Board, may be authenticated by the signature of the Chairperson or, in the case of a decision taken at a meeting at which the Chairperson was not present, by the signature of the person presiding at such meeting.

15. Funds of the Corporation

The funds of the Corporation shall include—

- (a) monies appropriated by Parliament for purposes of the Corporation;
- (b) monies that accrue or vest in the Corporation in the course of the performance of its functions under this Order;
- (c) gifts, grants or donations made to the Corporation; and
- (d) such amounts from any public funds that may be created by law for the purposes of the promotion of any and all of the objects and functions of this Corporation.

16. Financial year

The financial year for the Corporation shall be a period of twelve months ending on the thirtieth June in each year.

17. Annual estimates

The annual estimates of the Corporation shall be prepared in accordance with the Public Finance Management Act (Cap. 412A).

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18. Accounts and audit

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Corporation.

(2) The accounts of the Corporation shall be audited and reported upon in accordance with the Public Audit Act (Cap. 412B) and the Public Finance Management Act (Cap. 412A).

19. Investment of funds

(1) The Board may invest any of the funds of the Corporation which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Corporation.

20. Annual report

(1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Corporation for the immediately preceding financial year.

(2) The Cabinet Secretary shall cause to be laid the annual report before the National Assembly within three months of the day the National Assembly sits after the report is presented to the Cabinet Secretary.

THE BANDARI MARITIME ACADEMY ORDER

ARRANGEMENT OF ORDERS

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THE BANDARI MARITIME ACADEMY ORDER

[Legal Notice 233 of 2018]

1. Citation

This Order may be cited as the Bandari Maritime Academy Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Act" means the State Corporations Act (Cap. 446);

"Academy" means the Bandari Maritime Academy established under paragraph 3;

"Authority" means the Kenya Ports Authority established under section 3 of the Kenya Ports Authority Act (Cap. 391);

"Bandari College" means the institute known as the Bandari College established by the Kenya Ports Authority to provide training in maritime transport;

"Board" means the board of the Academy established under paragraph 5;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to maritime transport; and

"Director" means the Director of the academy appointed under paragraph 10.

3. Establishment of the Academy

(1) There is established an Academy to be known as the Bandari Maritime Academy.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of moveable and immovable property; and
- (c) doing or performing such other things or acts necessary for the proper performance of its functions which may lawfully be done by a body corporate.

(3) The Academy shall be a successor to the Bandari College established by the Kenya Ports Authority pursuant to the powers of the Authority under the Kenya Ports Authority Act (Cap. 391).

4. Functions of the Academy

The Academy shall—

- (a) be an institution of excellence in teaching, training, scholarship, innovation and research in maritime skills;
- (b) provide and advance education and training to appropriately qualified candidates, leading to the award of diplomas and certificates and such other qualifications as the Board may, from time to time prescribe;
- (c) conduct examinations for such academic awards as the Board may, from time to time prescribe;
- (d) implement government policy on maritime education and training;
- (e) ensure the highest international maritime standards in maritime human resource development;
- (f) recommend and advise the Government on the development of relevant legislation to facilitate successful implementation of maritime education and training;

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- (g) serve as the regional maritime centre of excellence for training for ports, terminals, logistics and maritime transport skills;
- (h) establish centres of excellence in maritime education and training based on international maritime standards in maritime human resource development;
- (i) partner with other institutions in furtherance of maritime education and training;
- (j) serve as a national centre for motion simulator training for seagoing competencies; and
- (k) perform any other functions necessary or incidental to achieving the functions of the Academy.

5. Board of the Academy

- (1) The management of the Academy shall vest in a Board which shall consist of—
- (a) a Chairperson appointed by the President;
 - (b) the Principal Secretary responsible for matters relating to maritime education and training or a representative nominated in writing;
 - (c) the Principal Secretary responsible for matters relating to technical and vocational education or a representative nominated in writing;
 - (d) the Principal Secretary responsible for the National Treasury or a representative nominated in writing;
 - (e) the Managing Director of the Kenya Ports Authority;
 - (f) the Director who shall be an *ex officio* member of the Board; and
 - (g) not more than four other members, not being public officers, appointed by the Cabinet Secretary.
- (2) A person is qualified for appointment under subparagraph (1)(a) and (g) if such person—
- (a) has a degree from a recognized university in the following fields—
 - (i) maritime training and transport;
 - (ii) finance;
 - (iii) law;
 - (iv) engineering;
 - (v) environmental science;
 - (vi) port management;
 - (vii) any other matters related to the functions of the Academy;
 - (b) has at least ten years experience in the relevant field, for the Chairperson, and five years experience for a member of the Board; and
 - (c) meets the requirements of Chapter Six of the Constitution.
- (3) In appointing the members under paragraph (1)(g), the Cabinet Secretary shall—
- (a) ensure that not more than two-thirds of the members are of the same gender; and
 - (b) observe the principle of regional and ethnic balance.
- (4) A member of the Board appointed under paragraph (1)(a) and (g) shall serve for a term of three years, renewable once upon satisfactory performance of his or her duties.
- (5) The appointment of the Chairperson and members of the Board appointed under paragraph (1)(g) shall be by notice in the *Gazette*.
- (6) A member of the Board shall be paid such allowances as the Cabinet Secretary may in consultation with the Salaries and Remuneration Commission determine.

6. Vacancy in the Board

- (1) The office of the Chairperson or a member shall become vacant if the holder—

- (a) dies;
- (b) is absent from three consecutive meetings of the Board without reasonable cause;
- (c) resigns from office by notice in writing addressed to the appointing authority;
- (d) is unable to perform the functions of the office arising out of physical or mental infirmity;
- (e) is negligent or incompetent in the performance of his or her functions;
- (f) is adjudged or otherwise declared bankrupt by a competent court;
- (g) violates Chapter Six of the Constitution; or
- (h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.

(2) Where a vacancy occurs in the membership of the Board under subparagraph (1), the appointing authority shall appoint a new member in accordance with the provisions of this Order.

(3) An appointment to fill a vacancy shall be for the remainder of the term of the member being replaced and the new member shall be eligible for reappointment.

7. Functions of the Board

(1) The functions of the Board shall be to—

- (a) monitor and evaluate the implementation of strategies, policies and plans of the Academy;
- (b) ensure that the Academy complies with all the relevant laws, regulations, governance practices, accounting procedures and auditing standards;
- (c) monitor performance and ensure effective and efficient utilization of the resources of the Academy;
- (d) consider and approve the budget of the Academy;
- (e) approve the appointment criteria and the terms and conditions of service of staff; and
- (f) carry out any other activity which in the Board's opinion, will promote and facilitate the development of the objects of the Academy.

(2) In the performance of its functions under this paragraph, the Academy may—

- (a) create, develop, apply for and hold intellectual property rights and enter into agreements or arrangements for their commercial exploitation or otherwise as the Board may consider appropriate; and
- (b) do any other thing which is necessary or convenient to be done in connection with or incidental to its functions.

8. Powers of the Board

The Board shall have all the powers necessary for the proper performance of the functions of the Academy and, in particular, the Board shall have powers to—

- (a) manage, control and administer the property and funds of the Academy in a manner and for the purposes which shall promote the interests of the Academy;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Academy;
- (c) receive on behalf of the Academy, donations, endowments, gifts, grants or other moneys and make disbursements there from in accordance with the law;
- (d) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Academy is established;
- (e) open a banking account or banking accounts for the funds of the Academy;

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- (f) invest any moneys of the Academy not immediately required in furtherance of its objects; and
- (g) perform any other functions as may be conferred on it by the Cabinet Secretary or by any other written law.

9. Meetings of the Board

(1) The business and affairs of the Board shall be conducted in accordance with section 8 of the Act.

(2) Except as provided in the Act, the Board may regulate its own procedure.

10. Delegation

The Board may, by resolution either generally or in any particular case delegate to any committee of the Board or to any member, officer, employee or agent of the Academy, the exercise of any of the powers or the performance of any of its functions or duties.

11. Director

(1) There shall be a Director of the Academy who shall be appointed by the Cabinet Secretary on the recommendation of the Board and on such terms and conditions as the Board may determine.

(2) A person is qualified to be appointed as the Director, if that person—

- (a) is a citizen of Kenya;
- (b) possesses a post graduate degree in maritime, economics, management or other related field from a university recognized in Kenya;
- (c) has at least fifteen years' demonstrable knowledge and experience in matters related to maritime affairs, logistics, academic affairs or related field, five of which must be at a senior managerial level;
- (d) is a member of a recognized professional body; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) The Director shall be the chief executive officer of the Academy and shall be responsible to the Board for—

- (a) the day-to-day management of the Academy;
- (b) managing the funds, property and affairs of the Academy;
- (c) the management of the staff of the Academy;
- (d) implementation of the policies, programmes and objectives of the Academy;
- (e) preparation of the strategic plan, annual plan, budget and audited accounts of the Academy for the approval of the Board; and
- (f) perform such other duties as may be assigned by the Board.

(4) The Director shall hold office for a term not exceeding three years and shall be eligible for reappointment for one further term.

(5) The Board may terminate the appointment of the Director in accordance with his terms and conditions of service for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify the removal from office under the terms and conditions of service.

12. Secretary

(1) There shall be a Secretary to the Board who shall be appointed by the Board, on such terms and conditions of service as the Board may determine.

(2) The Secretary shall be responsible for arranging the business of the Board, keeping records of the proceedings of the Board and shall perform such other duties as the Board may direct.

(3) In the performance of his or her duties under this Order, the Secretary shall be responsible to the Director.

(4) The Board may in the absence of the Secretary appoint any member of the Board or staff of the Academy to temporarily perform the functions of the Secretary under subparagraph (2).

(5) Any functions delegated under subparagraph (4) may be so delegated subject to such conditions or restrictions as the Board may either generally or specifically determine.

13. Staff of the Academy

(1) The Academy shall employ such professional, technical and administrative officers and support staff, as the Board may consider necessary for the discharge of its functions under this Order.

(2) The Public Service Commission may, upon request by the Board second to the Academy such number of public officers as may be necessary for the proper performance of the functions of the Academy.

(3) A public officer seconded to the Academy shall, during the period of secondment, be deemed to be an officer of the Academy and shall be subject only to the direction and control of the Board.

14. Terms and conditions of service for staff of the Service

(1) The Board shall, on the advice of the Salaries and Remuneration Commission, determine the salaries of the staff of the Service who are employed, seconded or deployed to the Service.

(2) The Board shall, in consultation with the Public Service Commission, determine other terms and conditions of service of the staff of the Service who are either employed, seconded or deployed to the Service.

15. Funds of the Academy

The funds of the Academy shall include—

- (a) such sums as may be appropriated by Parliament for the purposes of the Academy;
- (b) such monies as may accrue or vest in the Academy in the course of the exercise of its powers or the performance of its functions under this Order or any other written law;
- (c) gifts, grants or donations made to the Academy; and
- (d) such amounts from any public funds that may be created by law for the purposes of the promotion of any and all of the objects and functions of the Academy.

16. Financial year

The financial year for the Academy shall be a period of twelve months ending on the thirtieth June in each year.

17. Annual estimates

The annual estimates of the Academy shall be prepared in accordance with the Public Finance Management Act (Cap. 412A).

18. Accounts and audit

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Academy.

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(2) The accounts of the Academy shall be audited and reported upon in accordance with the Public Audit Act (Cap. 412B) and the Public Finance Management Act (Cap. 412A).

19. Investment of funds

(1) The Board may invest any of the funds of the Academy which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Academy.

20. Annual report

The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Academy for the immediately preceding financial year.

21. Offences

Any person who, without the written consent of the Board, uses the words "Bandari Maritime Academy" in furtherance of, or as, or in connection with, any advertisement for any trade, business, profession or calling, commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or a fine not exceeding fifty thousand shillings or both.

22. Transitional arrangements

(1) Any person who, immediately before the commencement of this Order, was a member of staff of the Bandari College shall be deemed to be a member of staff of the Academy for the unexpired period of his or her service and in accordance to his or her terms of service:

Provided that a member of staff of the Bandari College may exercise the option not to continue in the service of the Academy.

(2) The person who immediately before the commencement of this Order, was the Principal of Bandari College shall oversee the transition of the Academy for a period to be determined by the Board but not exceeding twelve months.

(3) All rights, obligations, powers and duties whether arising under any written law or otherwise which immediately before such day were vested in or imposed on Bandari College shall, by virtue of this subparagraph, be deemed to be vested in or imposed on the Academy.

(4) All the funds, assets and other movable and immovable property including land, buildings, machinery, apparatus and materials, which immediately before the coming into operation of this Order, were held by or on behalf of the Bandari College shall by virtue of this subparagraph be vested in the Academy.

(5) All actions, suits or legal proceedings by or against the Bandari College shall be carried on or prosecuted by or against the Authority and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of this Order.

(6) The administrative directions made by the Bandari College or by the Cabinet Secretary which were in force immediately before the coming into operation of the Order shall, on and after such day, have force as if they were directions made by the Board or the Cabinet Secretary under this Order.

(7) Any reference in any written law or in any document or instrument to the Bandari College shall on and after the commencement of this Order, be construed to be a reference to the Academy.

**THE KENYATTA UNIVERSITY TEACHING,
REFERRAL AND RESEARCH HOSPITAL ORDER**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
 2. Interpretation
 3. Establishment of the Referral Hospital
 4. Aim and objective of the Hospital
 5. Functions of the Referral Hospital
 6. Board of the Referral Hospital.
 7. Functions of the Board
 8. Powers of the Board
 9. Delegation by the Board
 10. Chief Executive Officer
 11. Corporation Secretary
 12. Staff
 13. Funds of the Referral Hospital
 14. Financial year
 15. Annual estimates
 16. Accounts and audit
 17. Protection from personal liability
 18. Liability for damages
 19. Policies
 20. Protection from personal liability
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THE KENYATTA UNIVERSITY TEACHING, REFERRAL AND RESEARCH HOSPITAL ORDER

[Legal Notice 4 of 2019, Legal Notice 39 of 2021]

1. Citation

This Order may be cited as the Kenyatta University Teaching, Referral and Research Hospital Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Act" means the State Corporations Act (Cap. 446) ;

"Board" means the Board of Directors of the Kenyatta University Teaching, Referral and Research Hospital Board constituted in accordance with paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for health;

"Chief Executive Officer" means the person appointed in accordance with paragraph 10;

"Board Member" means a member of the Board of Directors of the Kenyatta University Teaching, Referral and Research Hospital;

"Referral Hospital" means the Kenyatta University Teaching, Referral and Research Hospital established under paragraph 3 of this Order.

3. Establishment of the Referral Hospital

(1) There is established a state corporation to be known as the Kenyatta University Teaching, Referral and Research Hospital.

(2) The Referral Hospital 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 or disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing all other things or acts, including entering into for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(3) The hospital shall be a level 6 tertiary hospital within the meaning of section 25(1) as read with the First Schedule of the Health Act (Cap. 241).

4. Aim and objective of the Hospital

The aim and objective of the Referral Hospital shall be—

- (a) to provide highly specialized services, including—
 - (i) general specialization;
 - (ii) discipline specialization; and
 - (iii) geographical or regional specialization including highly specialized healthcare for an area or region; and
- (b) to provide training and research services for issues of national importance.

5. Functions of the Referral Hospital

The Referral Hospital shall—

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- (a) receive patients on referral from other hospitals or institutions within, or outside Kenya for specialized health care;
- (b) provide facilities for medical education for the Kenyatta University and for research either directly or through other co-operating health institutions;
- (c) provide facilities for education and training in nursing and other health and allied institutions;
- (d) participate, as a national referral hospital, in national health planning;
- (e) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of cancer and other chronic diseases;
- (f) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with chronic diseases, including those controlled and managed by the national government;
- (g) advise the Cabinet Secretary on matters relating to the treatment and care of persons with cancer and chronic diseases and to advise on the relative priorities to be given to the implementation of specific measures; and
- (h) doing or performing all other necessary functions or activities of a National Teaching, Research and Referral Hospital, including undertaking ventures for the purposes of raising revenues for the purposes of funding its activities wholly or in part.

6. Board of the Referral Hospital.

- (1) There shall be a Board of Directors of the Referral Hospital which shall consist of—
 - (a) a non-executive Chairperson appointed by the President;
 - (b) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her representative, appointed in writing;
 - (c) the Principal Secretary in the Ministry for the time being responsible for health, or his or her representative, appointed in writing;
 - (d) the Principal Secretary in the Ministry for the time being responsible for university education, or his representative, appointed in writing;
 - (e) the Attorney-General or his representative appointed in writing;
 - (f) *deleted by L.N. 39/2021, r. 2(a)*;
 - (g) the Principal of the College of Health Sciences of Kenyatta University;
 - (h) *deleted by L.N. 39/2021, r. 2(b)*;
 - (i) *deleted by L.N. 39/2021, r. 2(c)*;
 - (j) the Chief Executive Officer; and
 - (k) two other members, not being public officers, appointed by the Cabinet Secretary by virtue of their knowledge and experience in matters relating to finance, management, economics, law or any other relevant field.
- (2) The Board may co-opt any other person with necessary expertise and on temporary basis as it considers necessary to assist the Board in discharging its duties and responsibilities.
- (3) The office of the Chairperson or a Board member shall become vacant if the holder—
 - (a) by a notice, in writing, addressed to the appointing authority, resigns from office;
 - (b) is removed from office, by the appointing authority, on grounds of incapacity due to mental or physical illness or is otherwise unable to discharge the functions of a member of the Board or continue to serve in the Board;
 - (c) is absent from three consecutive meetings of the Board without good cause and prior apology;

- (d) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (e) is sentenced by a Court to imprisonment for a term of six months or more;
- (f) or is convicted of an offence involving dishonesty or fraud.

[L.N. 39/2021, r. 2.]

7. Functions of the Board

(1) The Board shall be responsible for the management and administration of the Referral Hospital.

(2) Without prejudice to the generality of subparagraph (1), the Board shall—

- (a) receive patients on referral from other hospitals or institutions within or outside Kenya for specialized health care;
- (b) provide facilities for medical education for the Kenyatta University and for research either directly or through other co-operating health institutions;
- (c) provide facilities for education and training in nursing and other health and allied institutions;
- (d) participate, as a national referred hospital, in national health planning;
- (e) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of cancer and other chronic diseases;
- (f) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with chronic diseases, including those controlled and managed by the Government;
- (g) administer the property and funds of the Referral Hospital in such a manner and for such purposes as will, in the opinion of the Board, promote its best interests;
- (h) receive on behalf of the Referral Hospital grants in aid, gifts, donations, fees, subscriptions or other moneys and approve disbursement;
- (i) advise the Cabinet Secretary on policy matters relating to the treatment and care of persons with cancer and chronic diseases and to advise on the relative priorities to be given to the implementation of specific measures; and
- (j) do or perform all other necessary functions or activities of a National Teaching, Research and Referral Hospital, including undertaking of any ventures for the purposes of raising revenues for the purposes of funding its activities wholly or in part.

8. Powers of the Board

(1) The Board shall have all the powers necessary to manage and administer the Referral Hospital in a manner that shall enable the realization the objects and purposes for which the Referral Hospital is established.

(2) Without prejudice to the generality of subparagraph (1), the Board shall have the power to—

- (a) open a bank account(s) for the funds of the Referral Hospital into which all moneys received by the Referral Hospital shall be paid in the first instance and out of which all payments made by the Referral Hospital shall be made;
- (b) enter into any agreement or partnership with any public sector agencies and other parties for the operation of facilities, equipment or services of the Referral Hospital as necessary, in furtherance of the discharge of the functions of the Referral Hospital;
- (c) acquire such land or assets for the proper performance of the functions of the Referral Hospital;

[Subsidiary]

- (d) invest any of the Referral Hospital's funds not immediately required for performance of the objects and purposes for which the Referral Hospital is established; and
- (e) with the written prior approval of the Cabinet Secretary, carry out any other activity that in the opinion of the Board will promote and facilitate the realization of the objects and purposes for which the Referral Hospital is established.

9. Delegation by the Board

The Board may by resolution, in writing, either generally or for a particular case, delegate to any committee of the Board or Hospital management, the exercise of any of the powers or the performance of any of the functions of the Board under this Order or any other written law.

10. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Referral Hospital who shall be appointed by the Board on such terms and conditions of service as the Cabinet Secretary may in consultation with the Committee, approve.

(2) A person shall qualify for appointment as the Chief Executive Officer if that person—

- (a) is a registered medical practitioner who holds a Master's degree in a health related field;
- (b) has had a distinguished career in a senior management position in either the private or public sector for at least ten years;
- (c) holds at least ten years' post qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) person shall not be qualified for appointment as the Chief Executive Officer under subparagraph (1) if that person—

- (a) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
- (b) is convicted of an offence involving dishonesty or fraud;
- (c) fails to comply with the requirements of Chapter Six of the Constitution; or
- (d) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months.

(4) The Chief Executive Officer shall be responsible for the day-to-day operations and administration of the Referral Hospital, under the general direction and supervision of the Board.

(5) The Chief Executive Officer shall be appointed for a term of three years and shall be eligible for reappointment for one further term of three years.

11. Corporation Secretary

(1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Referral Hospital.

(2) The Corporation Secretary shall be the Secretary to the Board and shall be responsible for arranging the business and meetings of the Board, the keeping of records of the Board's meetings, the keeping of the records of the proceedings of the Board, and perform such other duties as the Board may direct.

12. Staff

The Referral Hospital may employ such other officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions as the Board may, in consultation with the relevant government institutions, determine.

13. Funds of the Referral Hospital

The funds of the Referral Hospital shall consist of—

- (a) monies appropriated by Parliament for the purposes of the Referral Hospital;
- (b) such monies or assets as may accrue to the Referral Hospital in the course of the exercise of its powers or in the performance of its functions under this Order;
- (c) monies from any other source provided, donated, lent or given as a grant to the Referral Hospital; and
- (d) any other funds designated for or accruing to the Referral Hospital by operation of the law.

14. Financial year

The financial year of the Referral Hospital shall be the period of twelve months ending on the thirtieth day of June in each year.

15. Annual estimates

The annual estimates of the Referral Hospital shall be Annual estimates. prepared in accordance with the Public Finance Management Act (Cap. 412A)

16. Accounts and audit

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Referral Hospital.

(2) The accounts of the Referral Hospital shall be audited and reported upon in accordance with the Public Finance Management Act (Cap. 412A) and the Public Audit Act (Cap. 412B)

17. Protection from personal liability

No matter or thing done by the Board, Chairperson, any Board member, or any officer, employee or agent of the Referral Hospital shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, Chairperson, Board member, or any officer, employee or agent of the Referral Hospital or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.

18. Liability for damages

The provisions of this Order shall not relieve the Referral Hospital of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

19. Policies

The Board may make policies for the carrying into effect the provisions of this Order, and in particular, but without prejudice to the foregoing, make policies—

- (a) with respect to the procedure for the appointment of all members of staff or officers of the Referral Hospital;
- (b) with respect to the performance parameters and targets for any department, section, officer or member of staff of the Referral Hospital;
- (c) with respect to fees and charges to be levied by the Referral Hospital with respect to its services; and
- (d) outlining the Service Charter and deliverables of the Referral Hospital.

[Subsidiary]

20. Protection from personal liability

No matter or thing done by the Board, Chairperson, any other member of the Board, or any officer, employee or agent of the Referral Hospital shall, if the matter or thing is done in good faith and for the purposes of executing any provisions Of this Order, render the Board, Chairperson, any other member of the Board, or any officer, employee or agent of the Referral Hospital or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.

21. Annual report

The Board shall, on receipt of audited accounts for the preceding year, submit to the Cabinet Secretary an annual report in respect of that financial year, containing—

- (a) the accounts of the Referral Hospital and statements referred to under paragraph 15(1);
 - (b) the Referral Hospital's performance indicators and any other related information;
 - (c) a report on the operations of the Referral Hospital during that year; and
 - (d) such other information as the Cabinet Secretary may request.
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THE KENYA EXPORT PROMOTION AND BRANDING AGENCY ORDER

ARRANGEMENT OF ORDERS

PART I – PRELIMINARY

Order

1. Citation
2. Interpretation

PART II – KENYA EXPORT PROMOTION AND BRANDING AGENCY

3. Establishment of the Agency
4. Functions of the Agency

PART III – BOARD OF DIRECTORS OF THE AGENCY

5. Board of Directors of the Agency
6. Functions of the Board
7. Qualification for appointment to the Board
8. Chief Executive Officer
9. Corporation Secretary
10. Staff of the Agency

PART IV – FINANCIAL PROVISIONS

11. Funds of the Agency
12. Financial year
13. Annual estimates
14. Investment of surplus funds
15. Books of accounts
16. Accounts and audit

PART V – GENERAL PROVISIONS

17. Revocation of L.N. No. 38 of 2008
18. Revocation of G.N No. 4342 of 1992
19. Transitional and saving provisions

THE KENYA EXPORT PROMOTION AND BRANDING AGENCY ORDER

[Legal Notice 110 of 2019]

PART I – PRELIMINARY**1. Citation**

This order may be cited as the Kenya Export Promotion and Branding Agency Order.

2. Interpretation

In this order, unless the context otherwise requires—

"Agency" means the Kenya Export Promotion and Branding Agency established under paragraph 3;

"Board" means the Board of Directors of the Agency established under paragraph 5; and

"Cabinet Secretary" refers to the Cabinet Secretary for the time being responsible for matters relating to export promotion and branding.

PART II – KENYA EXPORT PROMOTION AND BRANDING AGENCY**3. Establishment of the Agency**

(1) There is established an agency to be known as the Kenya Export Promotion and Branding Agency.

(2) The Agency shall be a body corporate in accordance with section 3 of the Act.

(3) The Agency shall be the successor to—

- (a) the Brand Kenya Board established by the Brand Kenya Board Order, 2008; and
- (b) the Export Promotion Council established on the 19th August, 1992 through *Gazette Notice No. 4342 of 1992*.

4. Functions of the Agency

(1) The functions of the Agency shall be—

- (a) to advocate, coordinate, harmonise and implement export promotion and Nation branding initiatives and policies to promote Kenyan goods and services in export markets;
- (b) to collect, collate, disseminate and serve as a repository of trade and Kenya brand information;
- (c) to provide nation branding guidelines for stakeholders's initiatives including Kenya missions abroad;
- (d) to advocate, promote and facilitate the development and diversification of Kenya's export trade;
- (e) to promote and brand Kenyan exports through knowledge-based support and information to exporters and producers including export procedures and documentation, market entry requirements, and marketing techniques;
- (f) to encourage and monitor the observance of international standards and specifications by exporters;
- (g) to provide cooperation to the export inspection agencies on quality control and pre-shipment inspection of export products to ensure observance of international standards and specifications;
- (h) to promote and brand Kenya as a supplier of high quality goods and services;
- (i) to ensure the harmonised application of the national mark of identity for Kenyan goods and services;

State Corporations

[Subsidiary]

- (j) to formulate and implement strategies for improved balance of trade, foreign exchange earnings and retention;
 - (k) to offer advice to Kenyan exporters including in technology upgrading, quality and design improvement, standards and product development, and innovation;
 - (l) to provide export assistance services, such as distribution of trade-related information to exporters, foreign country market research, and counselling to exporters;
 - (m) to co-ordinate Kenya's participation in trade promotion events including trade fairs and buyer-seller meets;
 - (n) to provide market intelligence through research, analysis and monitoring of trends and opportunities in international markets that Kenyan exporters can take advantage of to increase or diversify exports;
 - (o) to provide Kenyans with positive information about Kenya in order to promote national unity, patriotism and national pride;
 - (p) to establish an integrated approach within Government and private sector towards international marketing and branding of Kenya;
 - (q) to build national support for the nation brand with other Government Agencies, non-governmental organizations and the private sector;
 - (r) to provide customised advisory services; and
 - (s) to do any other thing necessary or expedient for the discharge of its functions under this order.
- (2) In the performance of its functions under paragraph (1), the Agency shall be guided—
- (a) by market development, promotion and national branding;
 - (b) by trade information and business counselling services;
 - (c) by enterprise and product development; and
 - (d) by research and policy facilitation.

PART III – BOARD OF DIRECTORS OF THE AGENCY

5. Board of Directors of the Agency

- (1) There is established a Board of Directors of the Agency which shall consist of—
- (a) a non-executive Chairperson appointed by the President;
 - (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to export promotion and branding;
 - (c) the Attorney-General or his representative;
 - (d) the Principal Secretary for the National Treasury;
 - (e) three persons from the private sector who shall be appointed by the Cabinet Secretary;
 - (f) the Chief Executive Officer who shall be an *ex officio* member without the right to vote at the meetings of the Board; and
 - (g) the Corporation Secretary who shall be an *ex officio* member without the right to vote at the meetings of the Board.
- (2) The appointments under subparagraphs (1)(a) and (e) shall be by notice in the *Gazette*.
- (3) The tenure of the members of the Board and the Chief Executive Officer shall each be for a period not exceeding three years which may be renewed only once for a period not exceeding three years.

6. Functions of the Board

The functions of the Board shall be to—

- (a) provide strategic advice and direction to the Agency;
- (b) approve policies that shall facilitate the development of the Agency;
- (c) recruit and appoint the Chief Executive Officer on such terms and conditions as the Board shall determine with the advice of the Salaries and Remuneration Commission;
- (d) receive, on behalf of the Agency, grants-in-aid, gifts, donations, fees, subscriptions or monies;
- (e) administer the property and funds of the Agency in such a manner and for such purpose as shall promote the functions of the Agency; and
- (f) perform such other functions as may be incidental to the foregoing.

7. Qualification for appointment to the Board

A person shall be eligible to be appointed as the Chairperson or a member of the Board if that person—

- (a) holds a degree in a relevant field from a university recognized in Kenya;
- (b) has proven business management or other relevant professional experience;
- (c) has served in a senior management position for a period of at least six years;
- (d) has not served in the Brand Kenya Board or the Export Promotion Council as an employee in the preceding five years;
- (e) meets the requirements of Chapter Six of the Constitution; and
- (f) meets the requirements of fit and proper test.

8. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Agency who shall be competitively recruited and appointed by the Board on such terms as shall be determined by the Board on the advice of the Salaries and Remuneration Commission.

(2) A person shall be qualified to be appointed as the Chief Executive Officer if that person—

- (a) holds a degree in a relevant field from a university recognized in Kenya;
- (b) has at least ten years' knowledge and experience in trade or export promotion;
- (c) meets the requirements of Chapter Six of the Constitution;
- (d) has served in a senior management position for a period of at least five years; and
- (e) meets the requirements of fit and proper test.

(3) The Chief Executive Officer shall be responsible for—

- (a) the day to day operations of the Agency;
- (b) supervision, management and discipline of the staff of the Agency;
- (c) executing the policies of the Board in respect of the mandate of the Agency;
- (d) reporting to the Board on the performance of the Agency; and
- (e) performing any other functions as may be assigned to him or her by the Board from time to time.

9. Corporation Secretary

(1) There shall be a Corporation Secretary to the Board who shall be competitively recruited and appointed by the Board on such terms as shall be determined by the Board on the advice of the Salaries and Remuneration Commission.

(2) A person shall be qualified to be appointed as the Corporation Secretary if that person—

- (a) holds a degree in a relevant field from a university recognised in Kenya;

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- (b) is a certified public secretary and has been a member in good standing of the Institute of Certified Public Secretaries of Kenya for at least five years;
 - (c) has previously held the position of a corporation secretary for a period of at least five years;
 - (d) meets the requirements of Chapter Six of the Constitution; and
 - (e) meets the requirements of the fit and proper test.
- (3) The Corporation Secretary shall be responsible for—
- (a) providing guidance to the Board on the Board's duties, responsibilities and powers;
 - (b) ensuring that Board follows its procedures and complies with the respective laws and regulations;
 - (c) assisting the Chairperson to organise the Board's activities including meetings, agendas of meetings and issuing notices to other members of the Board;
 - (d) taking and keeping the minutes of the meetings of the Board, and circulating the minutes to the members of the Board;
 - (e) preparing the Board's work plans, circulating Board papers before meetings, keeping a record of attendance at meetings, keeping in safe custody the seal of the Board and a record of the seal's usage, and preparing the annual meetings of the Board;
 - (f) keeping a record of the appointment letters, Notices of appointment and the written acceptance of appointment by members of the Board; and
 - (g) keeping a record of conflicts of interest declared by each member of the Board.

10. Staff of the Agency

(1) The Board may appoint such number of professional, technical and administrative staff for the Agency.

(2) Without prejudice to the generality of subparagraph (1), the Board shall, with the final approval by the Cabinet Secretary, recruit Commercial Attaches through a competitive process.

(3) Any person appointed under subparagraphs (1) and (2) shall serve on such terms and conditions as the Board may, with the advice of the Salaries and Remuneration Commission, determine.

PART IV – FINANCIAL PROVISIONS

11. Funds of the Agency

The funds of the Agency shall consist of—

- (a) such monies as may be appropriated by Parliament for the purposes of the Agency;
- (b) such monies or assets as may accrue to the Agency in the course of the performance of its functions; and
- (c) any monies from any other source provided or donated to the Agency.

12. Financial year

The financial year of the Agency shall be the period of twelve months ending on the 30th June in each year.

13. Annual estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of its revenue and expenditure for that year.

(2) The annual estimates shall make provision for the estimated expenditure of the Agency for the financial year concerned and, in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Agency;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Agency;
- (c) the proper maintenance of the buildings and grounds of the Agency;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Agency; and
- (e) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Agency may deem fit.

(3) The annual estimates shall be submitted to the Cabinet Secretary for approval before the commencement of the financial year to which they relate, and once approved, the sum provided in the estimates shall not be increased without the prior consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Agency except in accordance with the annual estimates approved under this paragraph.

14. Investment of surplus funds

(1) The Agency may invest any of its funds which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Agency may place on deposit with such bank or banks which are licensed to operate in Kenya by the Central Bank of Kenya any monies not immediately required for its purposes.

15. Books of accounts

The Agency shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Board.

16. Accounts and audit

(1) The accounts of the Agency shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.

(2) Within a period of three months after the end of each financial year, the Agency shall submit to the Auditor-General or to an auditor appointed under subparagraph (1) the accounts of the Agency together with—

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

(3) The accounts of the Agency shall be audited in accordance with the provisions of the Public Audit Act (Cap. 412B).

(4) The appointment of an auditor under subparagraph (1) shall not be terminated by the Agency without the prior written consent of the Auditor-General.

(5) The Auditor-General may give general or special directions to an auditor appointed under subparagraph (1) and the auditor shall comply with those directions.

(6) An auditor appointed under subparagraph (1) shall report directly to the Auditor-General on any matter relating to the directions given by the Auditor-General.

(7) Within six months after the end of each financial year, the Auditor-General shall report on the examination and audit of the accounts to the Agency to the Cabinet Secretary and, in the case of an auditor appointed under subparagraph (1), the auditor shall transmit a copy of the report to the Auditor-General.

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(8) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Agency's accounts or records whenever it appears desirable and the Auditor-General shall carry out such an inspection at least once every six months.

(9) The Cabinet Secretary shall lay the report prepared under subparagraph (6) before the National Assembly as soon as reasonably practicable after the report has been submitted to him or her.

PART V – GENERAL PROVISIONS

17. Revocation of L.N. No. 38 of 2008

The Brand Kenya Board Order, 2008 is revoked.

18. Revocation of G.N No. 4342 of 1992

The *Gazette* Notice No. 4342 of 1992 establishing the Export Promotion Council is revoked.

19. Transitional and saving provisions

Despite the provisions of paragraphs 17 and 18—

- (a) any order, direction or appointment issued under the Brand Kenya Board Order, 2008 or made by the Export Promotion Council and every office created under the Brand Kenya Board Order shall remain valid until otherwise cancelled, revoked, varied or abolished;
 - (b) any person who immediately before the commencement date of this Order held or was acting or was an employee or staff in the office established by the Brand Kenya Board Order, 2008, or in the Export Promotion Council, so far as shall be consistent with this Order, shall continue to hold or act or work in that office;
 - (c) any contract, project, memorandum of understanding or any other binding instrument entered into by the Export Promotion Council or by Brand Kenya Board before the commencement of this Order shall continue to hold and be implemented by the Agency for the remainder of the instrument's term or for a maximum period of eighteen months whichever is later; and
 - (d) the assets and liabilities of the Export Promotion Council and Brand Kenya Board that were acquired before the commencement of this Order shall be transferred to and vest in the Agency.
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**THE KENYA TRADE NETWORK AGENCY ORDER—REVOCATION OF
USER FEES OF KENYA NATIONAL ELECTRONIC SINGLE SYSTEM**

[Legal Notice 62 of 2020]

The Kenya Trade Network Agency, with the approval of the Cabinet Secretary for National Treasury and Planning, revokes the Legal Notice No. 203 of 2019, with effect from the 14th February, 2020.

THE RAILWAY CITY DEVELOPMENT AUTHORITY ORDER

ARRANGEMENT OF ORDERS

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THE RAILWAY CITY DEVELOPMENT AUTHORITY ORDER

[Legal Notice 88 of 2020]

PART I – PRELIMINARY**1. Citation**

This Order may be cited as the Railway City Development Authority Order.

2. Interpretation

In this Order unless the context otherwise requires—

"Area" means all the land measuring one hundred and seventy two hectares consisting of the Nairobi Central Railway Station and the surrounding land;

"Authority" means the Railway City Development Authority established under paragraph 5(1);

"Board" means the Railway City Development Authority Board established under paragraph 7;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to urban development.

"Chief Executive Officer" means the Chief Executive Officer appointed under paragraph 15(1);

"Corporation Secretary" means the Corporation Secretary to the Board appointed under paragraph 19; and

3. Application

This Order shall apply to the Area.

4. Purpose and object of the Authority

The purpose and object of the Authority shall be to—

- (a) co-ordinate the development and re-development of the Area in accordance with an approved master plan and any other statutory planning documents; and
- (b) co-ordinate investment in the development and re-development of the Area.

PART II – ESTABLISHMENT OF THE AUTHORITY**5. Establishment of Authority**

(1) There shall be established an authority to be known as the Railway City Development Authority.

(2) The Authority 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 or disposing of movable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing such other things or acts necessary for the proper performance of the functions of the Authority under the Order and which may lawfully be done or performed by a body corporate.

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6. Headquarters of Authority

The headquarters of the Authority shall be in Nairobi but it may establish such other offices under its authority in any location as may be necessary for the performance of its functions.

7. Board of Authority

The Authority shall be managed by a Board comprising of—

- (a) a non-executive Chairperson appointed by the President by notice in the *Gazette*;
- (b) the Principal Secretary to the National Treasury or a representative designated in writing by the Principal Secretary;
- (c) the Principal Secretary in the Ministry responsible for matters relating to urban development or a representative designated in writing by the Principal Secretary;
- (d) the Attorney-General or a representative designated in writing by the Attorney-General;
- (e) the Chairperson of the Board of Directors of the Nairobi Area Metropolitan Authority;
- (f) four other members not being employees of the Authority or public officers, appointed by the Cabinet Secretary by notice in the *Gazette*; and
- (g) the Chief Executive Officer who shall be an *ex officio* member without the right to vote at the meetings of the Board.

8. Qualifications of Chairperson and members

A person shall be qualified to be appointed as the Chairperson or a member of the Board under paragraph 7(a) or (f) respectively if that person—

- (a) is a Kenyan citizen;
- (b) has at least ten years' relevant professional and academic experience;
- (c) is not an undischarged bankrupt;
- (d) is not a member of the governing organ of a political party;
- (e) is not a member of Parliament or a county assembly;
- (f) does not hold a public office;
- (g) has not been convicted of an offence for which the penalty is a term of imprisonment of at least six months; and
- (h) satisfies the requirements of Chapter Six of the Constitution.

9. Vacancy

The office of Chairperson or member of the Board appointed under paragraph 7(a) or (f) shall fall vacant if the holder of that office—

- (a) dies;
- (b) resigns from office in writing;
- (c) is absent without reasonable excuse from three consecutive meetings of the Board; or
- (d) is otherwise removed from office in accordance with this Order or any other written law.

10. Removal from office

(1) The Chairperson or member of the Board appointed under paragraph 7(a) or (f) may be removed from office—

- (a) if he or she is convicted of an offence for which the penalty is imprisonment for a term of at least six months;
- (b) if he or she is found to have contravened any provision of the Constitution;

- (c) for gross misconduct;
- (d) is unable to perform the functions of the office due to incapacity occasioned by prolonged illness;
- (e) is adjudged bankrupt by a court of competent jurisdiction; or
- (f) is otherwise unwilling or unable to perform the functions of the office.

(2) Before the Chairperson or member appointed under paragraph 6(h) is removed from office, he or she shall be given a reasonable opportunity to make representations, adduce evidence and call witnesses against the decision to remove him or her from office.

11. Tenure

The Chairperson and members of the Board appointed under paragraph 7(a) and (f) shall serve for a term of three years and shall be eligible for appointment for one further term.

12. Powers of the Board

The Board shall have all the powers necessary to manage and administer the Authority and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) open a bank account in a bank licensed by the Central Bank of Kenya for the funds of the Authority;
- (b) enter into association with such other persons, bodies or organisations as may be appropriate in furtherance of the objects and purposes for which the Authority has been established; and
- (c) in consultation with the relevant ministries, departments and agencies, carry out any other activity that shall promote and facilitate the realisation of the objects and purposes for which the Authority is established.

13. Functions of the Board

The Board shall—

- (a) consider and approve the annual estimates of the Authority;
- (b) oversee the development and management of the Area including the development and management of integrated infrastructure;
- (c) consider and approve the annual reports of the Authority;
- (d) establish a system for receiving and reviewing development applications before the applications are submitted to the Cabinet Secretary responsible for matters relating to physical planning for approval;
- (e) liaise with relevant ministries, departments and agencies to ensure effective regulation of building works and development activities within the Area;
- (f) establish a system for monitoring and evaluating the performance of projects within the Area;
- (g) liaise with the private sector and relevant ministries, departments and agencies in the development of the Area for the purposes of maximising resource utilisation;
- (h) initiate studies and surveys of the Area as may be necessary for the purpose of improving the performance of projects undertaken in the Area; and
- (i) perform any other functions as may be required to achieve the objects and purpose for which the Authority has been established.

14. Meetings of the Board

(1) The quorum for the meetings of the Board shall be two-thirds of the members.

(2) The Board may co-opt, for such period as it may deem fit, not more than three persons whose assistance or advice it may require, but the persons so co-opted shall not

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be considered as members for the purpose of forming a quorum and shall not be entitled to vote at any meeting of the Board.

(3) The decisions of the Board shall be by a simple majority of the members present and voting but the Chairperson or the person acting as the Chairperson shall have a deciding vote in the case of a tied vote.

(4) Subject to this Order, the Board may regulate its own proceedings.

15. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Authority appointed by the Cabinet Secretary in consultation with the Board.

(2) The Chief Executive Officer shall hold office on such terms as the Board may determine with the advice of the Salaries and Remuneration Commission.

16. Qualifications of the Chief Executive Officer

A person shall be qualified to be appointed as the Chief Executive Officer if that person—

- (a) is a Kenyan citizen;
- (b) has at least ten years' relevant academic, professional and managerial experience;
- (c) is not a member of Parliament or a county assembly;
- (d) is not a member of the governing body of a political party; and
- (e) satisfies the requirements of Chapter Six of the Constitution.

17. Functions of the Chief Executive Officer

The Chief Executive Officer shall, on such general or particular directions of the Board—

- (a) oversee and co-ordinate the development, review and maintenance of a development plan for the Area;
- (b) receive and review applications with respect to proposed projects in the Area and recommend the same for approval by the Cabinet Secretary responsible for matters relating to physical planning;
- (c) co-ordinate studies within the Area to ensure that human, land, energy, water and other resources are utilised to the best advantage;
- (d) monitor the design and execution of approved projects within the Area;
- (e) be responsible for monitoring and evaluating the performance of projects within the Area in order to improve performance, establish responsibility and improve planning;
- (f) oversee the construction of any works necessary for the protection and preservation of natural resources within the Area;
- (g) liaise with ministries, departments and agencies, the County Government of Nairobi City and the private sector in matters relating to the development of the Area in order to maximise resource utilisation and benefits;
- (h) promote and mobilise investment in development projects in the Area;
- (i) oversee the management of public spaces and public facilities within the Area;
- (j) ensure the preservation of heritage and historical sites in the Area in consultation and collaboration with the National Museums of Kenya; and
- (k) perform any other function as may be required by the Board for the purpose of achieving the objects for which the Authority is established.

18. Corporation Secretary

(1) There shall be a Corporation Secretary who shall be appointed by the Board in consultation with the Cabinet Secretary.

(2) The Corporation Secretary shall hold office on such terms as the Board may determine with the advice of the Salaries and Remuneration Commission.

19. Functions of the Corporation Secretary

The Corporation Secretary shall—

- (a) in consultation with the Chairperson of the Board, issue notices for the meetings of the Board;
- (b) keep in custody the records of the deliberations, decisions and resolutions of the Board;
- (c) transmit the decisions and resolutions of the Board to the Chief Executive Officer for execution, implementation or other relevant action; and
- (d) perform such other functions as are necessary for the purposes for which the Board was established.

20. Qualifications of the Corporation Secretary

A person shall be qualified to be appointed as the Corporation Secretary if that person—

- (a) possesses the qualifications of a member in good standing of the Institute of Certified Public Secretaries of Kenya;
- (b) has at least ten years' professional experience;
- (c) is not a member of the governing body of a political party;
- (d) is not a member of Parliament or any county assembly; and
- (e) satisfies the requirements of Chapter Six of the Constitution.

21. Staff of the Authority

The Board may appoint other officers and staff for the Authority as may be necessary to achieve the objects and purposes for which the Authority is established upon such terms as may be determined by the Board on the advice of the Salaries and Remuneration Commission.

22. Committees

The Board may establish such committees comprising members of the Board for the purposes of performing any function of the Board or for some such similar purpose.

23. Delegation

The Board may delegate the exercise of any of its powers or the performance of any of its functions to any of its committees or the Chief Executive Officer.

24. Common seal

(1) The common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer, or by either the Chairperson or the Chief Executive Officer, together with one member other than an *ex officio* member of the Board authorised in writing by the Board in that behalf.

(2) Any document, other than a document which is required by any law to be under seal, made and any decision of the Board, may be signified under the hand of the Chairperson, or the Chief Executive Officer or any other member of the Board or any other person authorised in writing by the Board in that behalf.

25. Personal liability

(1) A Board member or any other member or officer, employee or servant of the Authority shall not be personally liable for an act which is done or purported to be done in good faith by such person in the exercise of any power or performance of any function under this Order.

(2) Notwithstanding subparagraph (1), nothing in this Order shall relieve the Board of the liability to pay compensation or damages to any person for an injury to him or her, his or her property or any of his or her interests caused by the exercise of the powers conferred on the Board by this Order or by any other written law or by the failure, whether wholly or partially, of any works.

[Subsidiary]

26. Fees and charges

The Board may impose fees or charges on any person undertaking any development in the Area.

PART III – FINANCIAL PROVISIONS

27. Funds of the Authority

The funds of the Authority shall consist of—

- (a) such moneys as may be provided allocated by Parliament for the purposes of the Authority;
- (b) such moneys or assets as may accrue or vest in the Authority in the course of the exercise of its powers or performance of its functions;
- (c) such moneys as may be payable to the Authority under this Order or any other written law; and
- (d) all monies from any other source pursuant to any gift or trust, or lent to the Authority.

28. Financial year

The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

29. Annual estimates

(1) The estimates of revenue and expenditure of the Authority should be submitted to the National Treasury on or before 31st January each year for the succeeding year for consideration and approval.

(2) The annual estimates shall make provision for all estimated expenditure of the Authority for the financial year concerned, and in particular shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the members of the Board and the staff of the Authority;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Authority;
- (c) the proper maintenance of the buildings and ground of the Authority;
- (d) the proper maintenance of the public spaces and public facilities of the Area;
- (e) the proper maintenance, repair and replacement of the equipment and other movable property of the Authority; and
- (f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Board may consider necessary.

(3) The annual estimates shall be submitted to the Board for approval before the commencement of the financial year to which they relate:

Provided that once approved, the sum provided in the estimates shall not be increased without the prior consent of the Board.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3) or in pursuance of an authorization by the Board.

30. Accounts and audit

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

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

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

(3) The accounts of the Authority shall be audited in accordance with the Public Audit Act (Cap. 412B).

(4) The Auditor General shall submit the audited financial statement to Parliament with a copy to the National Treasury and the Controller of Budget.

31. Investment of funds

(1) The Board may invest any of the funds of the Authority which are not immediately required for its purposes in such securities as the Cabinet Secretary responsible for matters relating to finance may approve.

(2) The Board may place on deposit with such bank or banks licensed by the Central Bank of Kenya as shall be approved by the Cabinet Secretary responsible for matters relating to finance any money not immediately required for the purposes of the Authority.

**THE MATHARI NATIONAL TEACHING
AND REFERRAL HOSPITAL ORDER**

ARRANGEMENT OF ORDERS

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THE MATHARI NATIONAL TEACHING AND REFERRAL HOSPITAL ORDER

[Legal Notice 165 of 2020]

1. Citation

This Order may be cited as the Mathari National Teaching and Referral Hospital Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Act" means the State Corporations Act (Cap. 446);

"Board" means the Board of Directors of the Mathari National Teaching and Referral Hospital constituted in accordance with paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for health;

"Chief Executive Officer" means the person appointed in accordance with paragraph 10; and

"Referral Hospital" means the Mathari National Teaching and Referral Hospital established under paragraph 3.

3. Establishment of the Referral Hospital

(1) There is established a state corporation to be known as the Mathari National Teaching and Referral Hospital.

(2) The Referral Hospital 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 or disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing all other things or acts, including entering into contracts for the proper performance of its functions under this Order, which may be lawfully done or performed by a body corporate.

(3) The Referral Hospital shall be a level 6 tertiary hospital within the meaning of section 25(1) as read with the First Schedule of the Health Act (Cap. 241).

4. Objective of the Referral Hospital

The objective of the Referral Hospital shall be—

- (a) to provide highly specialized services, including—
 - (i) specialized psychiatry services;
 - (ii) forensic psychiatry services;
 - (iii) child and adolescent mental health services; and
 - (iv) receiving and managing referrals of persons with mental disorders from other facilities for specialized care; and
- (b) to provide training and research facilities in the field of psychiatry and mental health for doctors, nurses, clinical officers and other allied health workers.

5. Functions of the Referral Hospital

The Referral Hospital shall—

- (a) receive patients on referral from other hospitals or institutions within or outside Kenya for specialized psychiatry services;

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- (b) provide training in behavioral sciences for both public and private institutions;
- (c) participate, as a national referral hospital, in national health planning;
- (d) receive mentally ill offenders from courts, prisons and the police department for assessment and forensic mental health care;
- (e) provide substance abuse related and addictive disorders treatment and rehabilitation services;
- (f) give integrated outpatient healthcare services such as maternal and child health, non-communicable diseases, communicable disease management including HIV comprehensive care clinics, dental and physiotherapy, with related imaging and radiological services, medical laboratory and other diagnostic services;
- (g) offer disability and other medical assessments;
- (h) undertake community psychiatry, psychosocial rehabilitation services, counselling, psychotherapy and psycho-trauma management;
- (i) offer liaison psychiatry, neurological and geriatric psychiatric services, neurophysiological and neuropsychological services;
- (j) collect, analyze and disseminate all data useful in the prevention, diagnosis and treatment of mental disorders;
- (k) advise the Cabinet Secretary on matters relating to the treatment and care of persons with mental disorders and the relative priorities to be given for the implementation of specific measures;
- (l) provide facilities for medical education and for research either directly or through other co-operating health institutions;
- (m) provide access to available information and technical assistance to all institutions, associations and organizations concerned with the welfare and treatment of persons with mental disorders, including those controlled and managed by the Government; and
- (n) doing or performing all other necessary functions or activities of a National Teaching and Referral Hospital, including undertaking ventures for the purposes of raising revenues for the purposes of funding its activities wholly or in part.

6. Board of the Referral Hospital

(1) There shall be a Board of Directors of the Referral Hospital which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the Ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (d) the Principal Secretary in the Ministry for the time being responsible for correctional services, or his or her representative, appointed in writing;
- (e) the Attorney-General or his representative, appointed in writing;
- (f) the Chief Executive Officer who shall be an *ex officio* member of the Board; and
- (g) three other members, not being public officers appointed by the Cabinet Secretary by virtue of gender disability, regional balance and their knowledge and experience in matters relating to finance, management, economics, law or any other relevant field.

(2) The Board may co-opt any other person with necessary expertise and on temporary basis as it considers necessary to assist the Board in discharging its duties and responsibilities.

(3) The Chairperson and Board members shall hold office for a term of three years renewable once.

(4) The office of the Chairperson or a Board member shall become vacant if the holder—

- (a) by a notice, in writing, addressed to the appointing authority, resigns from office;
- (b) is removed from office, by the appointing authority on grounds of incapacity due to mental or physical illness or is otherwise unable to discharge the functions of a member of the Board or continue to serve in the Board;
- (c) is absent from three consecutive meetings of the Board without good cause and prior apology;
- (d) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (e) is sentenced by a court to imprisonment for a term of six months or more; or
- (f) is convicted of an offence involving dishonesty or fraud.

7. Functions of the Board

(1) The Board shall be responsible for the management and administration of the Referral Hospital.

(2) Without prejudice to the generality of subparagraph (1), the Board shall—

- (a) administer the property and funds of the Referral Hospital in such a manner and for such purposes as will, in the opinion of the Board, promote its best interests;
- (b) receive on behalf of the Referral Hospital grants in aid, gifts, donations, fees, subscriptions or other moneys and approve disbursement;
- (c) advise the Cabinet Secretary on policy matters relating to the treatment and care of persons with mental disorders; and
- (d) do or perform all other necessary functions or activities of a National Teaching and Referral Hospital, including undertaking of any ventures for the purposes of raising revenues for the purposes of funding its activities wholly or in part.

8. Powers of the Board

(1) The Board shall have all the powers necessary to manage and administer the Referral Hospital in a manner that shall enable the realization of the objects and purposes for which the Referral Hospital is established.

(2) Without prejudice to the generality of subparagraph (1), the Board shall have the power to—

- (a) open a bank account(s) for the funds of the Referral Hospital into which all moneys received by the Referral Hospital shall be paid in the first instance and out of which all payments made by the Referral Hospital shall be made;
- (b) enter into any agreement or partnership with any public sector agencies and other parties for the operation of facilities, equipment or services of the Referral Hospital as necessary, in furtherance of the discharge of the functions of the Referral Hospital;
- (c) acquire such land or assets for the proper performance of the functions of the Referral Hospital;
- (d) invest any of the Referral Hospital's funds not immediately required for performance of the objects and purposes for which the Referral Hospital is established; and
- (e) with the written prior approval of the Cabinet Secretary, carry out any other activity that in the opinion of the Board will promote and facilitate the realization of the objects and purposes for which the Referral Hospital is established.

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9. Delegation by the Board

The Board may by resolution, in writing, either generally or for a particular case, delegate to any committee of the Board or Hospital management, the exercise of any of the powers or the performance of any of the functions of the Board under this Order or any other written law.

10. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Referral Hospital who shall be appointed by the Board on such terms and conditions of service as the Cabinet Secretary may in consultation with the Committee, approve.

(2) A person shall qualify for appointment as the Chief Executive Officer if that person—

- (a) is a registered medical practitioner who holds a Master's degree in a health related field;
- (b) has had a distinguished career in a senior management position in either the private or public sector for at least ten years; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be responsible for the day-to-day operations and administration of the Referral Hospital, under the general direction and supervision of the Board.

11. Corporation Secretary

(1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Referral Hospital.

(2) The Corporation Secretary shall be the Secretary to the Board and shall be responsible for arranging the business and meetings of the Board, the keeping of records of the Board's meetings, the keeping of the records of the proceedings of the Board, and perform such other duties as the Board may direct.

12. Staff

The Referral Hospital may employ such other officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions as the Board may determine, in consultation with the relevant Government agencies.

13. Funds of the Referral Hospital

The funds of the Referral Hospital shall consist of—

- (a) monies appropriated by Parliament for the purposes of the Referral Hospital;
- (b) such monies or assets as may accrue to the Referral Hospital in the course of the exercise of its powers or in the performance of its functions under this Order;
- (c) monies from any other source provided, donated, lent or given as a grant to the Referral Hospital; and
- (d) any other funds designated for or accruing to the Referral Hospital by virtue of the operation of law.

14. Financial year

The financial year of the Referral Hospital shall be the period of twelve months ending on the thirtieth day of June in each year.

15. Annual estimates

The annual estimates of the Referral Hospital shall be prepared in accordance with the Public Finance Management Act (Cap. 412A).

16. Accounts and Audit

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Referral Hospital.

(2) The accounts of the Referral Hospital shall be audited and reported upon in accordance with the Public Finance Management Act (Cap. 412A) and the Public Audit Act (Cap. 412B)

17. Protection from personal liability

No matter or thing done by the Board, Chairperson, any Board member, or any officer, employee or agent of the Referral Hospital shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, Chairperson, Board member, or any officer, employee or agent of the Referral Hospital or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.

18. Liability for Damages

The provisions of this Order shall not relieve the Referral Hospital of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

19. Policies

The Board may make policies for the carrying into effect the provisions of this Order, and in particular, but without prejudice to the foregoing, make policies—

- (a) with respect to the procedure for the appointment of all members of staff or officers of the Referral Hospital;
- (b) with respect to the performance parameters and targets for any department, section, officer or member of staff of the Referral Hospital;
- (c) with respect to fees and charges to be levied by the Referral Hospital with respect to its services; and
- (d) outlining the Service Charter and deliverables of the Referral Hospital.

20. Annual report

The Board shall, on receipt of audited accounts for the preceding year, submit to the Cabinet Secretary an annual report in respect of that financial year, containing—

- (a) the accounts of the Referral Hospital and statements referred to under paragraph 15(1);
- (b) the Referral Hospital's performance indicators and any other related information;
- (c) a report on the operations of the Referral Hospital during that year; and
- (d) such other information as the Cabinet Secretary may request.

THE KENYA MEDICAL RESEARCH INSTITUTE ORDER

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THE KENYA MEDICAL RESEARCH INSTITUTE ORDER

[Legal Notice 35 of 2021]

PART I – PRELIMINARY

1. Citation.

This order may be cited as the Kenya Medical Research Institute Order.

2. Interpretation.

In this order, unless the context otherwise requires—

"biomedical research" means—

- (a) research in the biomedical sciences relevant to human and animal health; and
- (b) research into the causes, effects, diagnosis, treatment, prevention, and control of human health related conditions;

"Board" means the Board of Directors of the Kenya Medical Research Institute constituted in accordance with paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to health;

"Director-General" means the person appointed as such in accordance with the provisions of paragraph 11;

"health research" means research that seeks to understand the impact on health, policies, programmes, processes, actions or events originating in any sector and which—

- (a) contributes to knowledge of the biological, clinical, psychological or social processes in human beings or animals;
- (b) uses scientific methods to generate information to deal with health and disease;
- (c) improves scientific methods for provision of health services and human pathology;
- (d) investigates causes of disease and the effects of the environment on the human body; and
- (e) develops new applications of pharmaceuticals and diagnostics, health technology and products;

"incubation centre" means a designated location for nurturing or mentoring scientists to move basic research to product development;

"intellectual property rights" means exclusive rights granted to inventors and owners of works that are the result of human intellectual creativity;

"public health research" means research into factors that influence the health of a population, and includes—

- (a) research into health systems and health services;
- (b) research into the environmental, socio-economic, cultural, and behavioural factors that determine health status; and
- (c) research on any other factors related to public health; and

"research" means a systematic investigation, experimentation, testing, exploration, analysis, fact-finding, examination, scrutiny, and evaluation, designed to develop or contribute to generalizable knowledge, for decision making, policy-development and practice.

[Subsidiary]

PART II – ESTABLISHMENT OF THE KENYA MEDICAL RESEARCH INSTITUTE

3. Establishment of the Institute.

(1) There is established an institute to be known as the Kenya Medical Research Institute (hereinafter referred to as the "Institute") which shall be a research institute within the meaning of section 16 (2) and section 53 as read with the Fourth Schedule of the Science, Technology and Innovation Act (Cap. 511).

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing all other things or acts, including entering into contracts for the proper performance of its functions under this Order, which may be lawfully done or performed by a body corporate.

4. Objective of the Institute.

The objective of the Institute shall be to carry out health research, innovation, capacity-building and service delivery for the improvement of human health and quality of life, and advice the Government on matters related thereto.

5. Functions of the Institute.

The Institute shall—

- (a) conduct health, biomedical and public health research for human health;
- (b) build human health research capacity;
- (c) collaborate and partner with other local and international research bodies and institutions in carrying out human health research and capacity building;
- (d) advise the responsible Ministry in matters pertaining to health research policies and priorities;
- (e) undertake scientific and technological innovation as well as in the discovery, transmission and enhancement of knowledge and stimulate the intellectual life in the economic, social, cultural, scientific, and technological development;
- (f) establish incubation centres for innovation, and link research, policymakers, academia and industry in the health products value chain; and
- (g) to do all such things that are necessary or desirable to carry out its functions.

PART III – BOARD OF DIRECTORS OF THE INSTITUTE

6. Board of the Institute.

(1) There shall be a Board of Directors of the Institute which shall consist of —

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the Ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative, appointed in writing;
- (e) four other members, not being public officers, appointed by the Cabinet Secretary; and
- (f) the Director-General who shall be an *ex officio* member of the Board.

(2) The persons to be appointed under subsection (1)(a) and (e) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) The appointments under subparagraphs (1)(a) and (e) shall be by notice in the *Gazette*.

(4) The Board may co-opt any other person with necessary expertise and on temporary basis as it considers necessary to assist the Board in discharging its duties and responsibilities.

7. Qualifications for appointment to the Board.

A person shall be eligible to be appointed as the Chairperson or a member of the Board if that person —

- (a) holds a degree in a relevant field from a university recognized in Kenya;
- (b) has proven professional knowledge and experience in matters relating to research, finance or audit, medicine, business management, economics, or law;
- (c) has served in a senior management position for a period of at least six years;
- (d) has not served in the same entity as an employee in the preceding five years; and
- (e) meets the requirements of Chapter Six of the Constitution.

8. Tenure and vacation of office.

(1) The tenure of office for the Chairperson and members of the Board appointed under paragraph 6(1)(e) shall be for a term of three years which may be renewed only once for a further term of three years.

(2) The office of the Chairperson or member of the Board shall become vacant if the holder—

- (a) by a notice, in writing, addressed to the appointing authority, resigns from office;
- (b) is removed from office, by the appointing authority, on grounds of incapacity due to mental or physical illness or is otherwise unable to discharge the functions of a member of the Board or continue to serve in the Board;
- (c) is absent from three consecutive meetings of the Board without good cause and prior apology;
- (d) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (e) is sentenced by a court to imprisonment for a term of six months or more; or
- (f) is convicted of an offence involving dishonesty or fraud.

9. Functions of the Board.

(1) The Board shall be responsible for the management and administration of the Institute.

(2) Without prejudice to the generality of subparagraph (1), the Board shall—

- (a) manage, supervise and administer the assets of the Institute in such a manner as best promotes the purpose for which the Institute is established;
- (b) determine the provisions to be made for capital, and recurrent expenditure and for reserves of the Institute;
- (c) establish operational and administrative units for the effective functioning of the Institute;
- (d) recruit the Director-General for the Institute and other staff on such terms and conditions as may be approved by the relevant government organs;

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- (e) receive any grants, gifts, donations or endowments on behalf of the Institute and make legitimate disbursements therefrom;
- (f) enter into association with such other bodies or organizations locally and internationally as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Institute is established;
- (g) open a banking account or bank accounts for the funds of the Institute; and
- (h) perform any other function that enhances or adds value to the proper performance of the functions of the Institute.

10. Powers of the Board.

(1) The Institute shall have power to do all things that may lawfully be done by a body corporate and may —

- (a) create, develop, apply for and hold intellectual property rights and enter into agreements or arrangements for their commercial exploitation or otherwise as the Board may consider appropriate;
- (b) enter into partnerships and collaborations with bodies and institutions locally or internationally;
- (c) obtain and maintain experimental laboratory animals for research purposes; and
- (d) to do all things that are necessary or desirable to carry out its functions.

(2) Without prejudice to the generality of subparagraph (1), the Board shall have the power to —

- (a) open a bank account for the funds of the Institute into which all moneys received by the Institute shall be paid in the first instance and out of which all payments made by the Institute shall be made;
- (b) enter into any agreement or partnership with any public sector agencies and other parties for the operation of facilities, equipment or services of the Institute as necessary, in furtherance of the discharge of the functions of the Institute;
- (c) acquire such land or assets for the proper performance of the functions of the Institute;
- (d) invest any of the Institute's funds not immediately required for performance of the objects and purposes for which the Institute is established in accordance with the provisions of paragraph 19; and
- (e) with the written prior approval of the Cabinet Secretary, carry out any other activity that in the opinion of the Board will promote and facilitate the realization of the objects and purposes for which the Institute is established.

11. Delegation by the Board.

The Board may by resolution, in writing, either generally or for a particular case, delegate to any committee of the Board or Institute management, the exercise of any of the powers or the performance of any of the functions of the Board under this Order or any other written law.

12. Director-General.

(1) There shall be a Director-General who shall be the Chief Executive Officer of the Institute appointed by the Board on such terms and conditions of service as the Cabinet Secretary may, in consultation with relevant government organs, approve.

(2) A person shall qualify for appointment as the Director-General if that person —

- (a) has a degree in a health related field, finance or audit, business management, economics, law or any other relevant field;
- (b) has had a distinguished career in a senior management position in either the private or public sector for at least ten years; and
- (c) satisfies the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be responsible —

- (a) for the day to day operations of the Institute;
- (b) for supervision, management and discipline of the staff of the Institute;
- (c) for executing the policies of the Board in respect of the mandate of the Institute;
- (d) for reporting to the Board on the performance of the Institute; and
- (e) for performing any other functions as may be assigned to him or her by the Board from time to time.

(4) The Director-General shall hold office for a term of three (3) years but shall be eligible for re-appointment for one further term of three (3) years.

13. Corporation Secretary.

(1) There shall be a Corporation Secretary to the Institute who shall be competitively recruited and appointed by the Board.

(2) A person shall be qualified to be appointed as the Corporation Secretary if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) is a Certified Public Secretary (CPS) and a member of the Institute of Certified Public Secretaries of Kenya in good standing;
- (c) has previously held the position of corporation secretary or in a similar governance role for a period of at least five years; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) The Corporation Secretary shall be the Secretary to the Board and shall be responsible—

- (a) for providing guidance to the members of the Board on their duties, responsibilities and powers and how these should be exercised in the best interests of the Institute;
- (b) for ensuring that Board procedures are followed and reviewed regularly, and that the Board complies with the law, rules and regulations;
- (c) for assisting the Chairperson in organising Board activities, including providing information, preparing agenda, issuing notices and preparing for meetings, Board evaluations and Board development programmes;
- (d) for providing secretarial services to the Board, including ensuring that the Board work plan is prepared and adhered to, circulating Board papers in advance of the meeting, keeping the record of attendance of the meetings and preparing the Board for annual general meeting, where applicable;
- (e) for ensuring that the minutes of the Board and Board committees are promptly prepared and circulated;
- (f) for keeping the Board abreast of and informed on, current governance thinking and practise;
- (g) for keeping a record of conflicts of interest declared by each member of the Board; and
- (h) for co-ordinating the governance audit process.

14. Staff of the Institute

(1) The Board may appoint such number of professional, technical and administrative staff for the Institute as it may consider necessary.

(2) The staff appointed under subparagraph (1) shall serve on such terms and conditions as the Board may, with the advice of the Salaries and Remuneration Commission, determine.

[Subsidiary]

15. Policies.

The Board may make policies for the carrying into effect the provisions of this Order, and in particular, but without prejudice to the foregoing, make policies —

- (a) with respect to the procedure for the appointment of all members of staff or officers of the Institute;
- (b) with respect to the performance parameters and targets for any department, section, officer or member of staff of the Institute;
- (c) with respect to fees and charges to be levied by the Institute with respect to its services; and
- (d) outlining the Service Charter and deliverables of the Institute.

PART IV – FINANCIAL PROVISIONS**16. Funds of the Institute.**

The funds of the Institute shall consist of—

- (a) monies appropriated by Parliament for the purposes of the Institute;
- (b) such monies or assets as may accrue to the Institute in the course of the exercise of its powers or in the performance of its functions under this Order;
- (c) monies from any other source provided, donated, lent or given as a grant to the Institute; and
- (d) any other funds designated for or accruing to the Institute by virtue of the operation of law.

17. Financial year.

The financial year of the Institute shall be the period of twelve months ending on the thirtieth day of June in each year.

18. Annual estimates.

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of its revenue and expenditure for that year.

(2) The annual estimates shall make provision for the estimated expenditure of the Institute for the financial year concerned and, in particular, shall provide for—

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Institute;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Institute;
- (c) the proper maintenance of the buildings and grounds of the Institute;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Institute; and
- (e) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Institute may deem fit.

(3) The annual estimates shall be approved in accordance with the provisions of Public Finance Management Act (Cap. 412A) before the commencement of the financial year to which they relate, and once approved, the sum provided in the estimates shall not be increased without the prior consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Institute except in accordance with the annual estimates approved under this paragraph.

19. Investment of surplus funds.

(1) The Institute may invest any of its funds which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Institute may place on deposit with such bank or banks which are licensed to operate in Kenya by the Central Bank of Kenya any monies not immediately required for its purposes.

20. Books of accounts.

The Institute shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Board.

21. Accounts and audit.

(1) The accounts of the Institute shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.

(2) Within a period of three months after the end of each financial year, the Institute shall submit to the Auditor-General or to an auditor appointed under subparagraph (1) the accounts of the Institute together with —

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

(3) The accounts of the Institute shall be audited in accordance with the provisions of the Public Audit Act (Cap. 412B)

22. Accounts and audit.

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Institute.

(2) The accounts of the Institute shall be audited and reported upon in accordance with the Public Finance Management Act (Cap. 412A) and the Public Audit Act (Cap. 412B).

(3) The appointment of an auditor under subparagraph (1) shall not be terminated without the prior written consent of the Auditor-General.

(4) The Auditor-General may give general or special directions to an auditor appointed under subparagraph (1) and the auditor shall comply with those directions.

(5) An auditor appointed under subparagraph (1) shall report directly to the Auditor-General on any matter relating to the directions given by the Auditor-General.

(6) Within six months after the end of each financial year, the Auditor-General shall report on the examination and audit of the accounts to the Institute to the Cabinet Secretary and, in the case of an auditor appointed under subparagraph (1), the auditor shall transmit a copy of the report to the Auditor-General.

(7) Nothing in this Order shall be construed to prohibit the Auditor-General from carrying out an inspection of the Institute's accounts or records whenever it appears desirable and the Auditor-General shall carry out such an inspection at least once every six months.

(8) The Cabinet Secretary shall lay the report prepared under subparagraph (6) before the National Assembly as soon as reasonably practicable after the report has been submitted to him or her.

PART V – TRANSITIONAL, SAVINGS AND GENERAL PROVISIONS

23. Transitional and saving provisions.

(1) For avoidance of doubt, a person who immediately before the commencement date of this Order holds or is acting or is an employee or staff of the Kenya Medical Research Institute referred to under the Fourth Schedule to the Science, Technology and Innovation Act (Cap. 511) shall be deemed to hold the same office or its equivalent under the Institute on the terms and conditions as may be determined by the Board.

(2) Any contract, project, memorandum of understanding or any other binding instrument entered into by the Kenya Medical Research Institute referred to under the Fourth Schedule to the Science, Technology and Innovation Act (Cap. 511) before the commencement of this Order shall continue to hold and be implemented by the Institute.

[Subsidiary]

24. Protection from personal liability.

No matter or thing done by the Board, Chairperson, any member of the Board, or any officer, employee or agent of the Institute shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, Chairperson, Board member, or any officer, employee or agent of the Institute or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.

25. Liability for damages.

The provisions of this Order shall not relieve the Institute of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

KENYA NATIONAL PUBLIC HEALTH INSTITUTE ORDER

ARRANGEMENT OF ORDERS

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KENYA NATIONAL PUBLIC HEALTH INSTITUTE ORDER

[Legal Notice 14 of 2022]

PART I – PRELIMINARY

1. Citation

This Order may be cited as the Kenya National Public Health Institute Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Board" means the Board of the Institute established under paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to health;

"Director-General" means the Director-General of the Institute appointed under paragraph 12;

"Institute" means the Kenya National Public Health Institute established under paragraph 3;

"public health" means the art and science of preventing disease, prolonging life and promoting health through the organized efforts of society; and

"surveillance" means epidemiological practice by which the spread of disease is monitored to establish patterns of progression.

PART II – ESTABLISHMENT OF THE KENYA NATIONAL PUBLIC HEALTH INSTITUTE

3. Establishment of the Institute

(1) There is established the Kenya National Public Health Institute.

(2) The Institute 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 or disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing any such other things or acts, including entering into such contracts as may be necessary or expedient, for the furtherance of the provisions of this Order which may be done by a body corporate.

4. Headquarters of the Institute

(1) The headquarters of the Institute shall be in Nairobi but the Institute may establish branch offices in other counties.

(2) The Institute shall ensure access to its services in all parts of the Republic in accordance with Article 6(3) of the Constitution.

5. Functions of the Institute

The functions of the Institute shall be to—

- (a) establish mechanisms to facilitate quick detection of outbreaks and emergencies;
- (b) build appropriate response capacity to outbreaks and emergencies at the national, county, sub-county and community levels;
- (c) facilitate appropriate laboratory capacity to detect and confirm conditions of concern for each level of the public health system;

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- (d) establish Emergency Operation Centres to coordinate information and resources for emergency response;
- (e) manage critical public health functions during non emergency times;
- (f) conduct surveillance for priority conditions through data collection, analyses, interpretation and monitoring the implementation of public health policies and recommendations;
- (g) develop and disseminate key messages to the public in response to public health events;
- (h) conduct vulnerability and risk assessment, and mitigate various health-threatening issues in collaboration with non health entities including Ministries responsible for matters relating to environmental health, animal health, and trade; academic institutions and non-governmental organizations;
- (i) facilitate capacity building for the public health professionals through the identification of capacity gaps and the development of relevant training programs, in collaboration with universities and other training institutions;
- (j) conduct monitoring and evaluation projects and research to identify ways to improve the public health system, including emergency response and surveillance, and to prevent public health problems from occurring including by conducting research as part of an outbreak investigation;
- (k) identify the highest priority public health research questions and ensure these are addressed in collaboration with the Ministry of Health and internal and external partners;
- (l) ensure research results are used to inform policy development, program decisions, resource prioritization and service delivery;
- (m) support operational research on new research methodology and use of innovative technologies for improving public health; and
- (n) such other functions as the Board, with the approval of the Cabinet Secretary, may determine.

PART III – BOARD OF THE INSTITUTE

6. Board of the Institute

(1) There shall be a Board of Directors of the Institute which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for time being responsible for health;
- (c) the Principal Secretary in the Ministry for time being responsible for finance;
- (d) the Principal Secretary in the Ministry for time being responsible for livestock development;
- (e) the Principal Secretary in the Ministry for time being responsible for defence;
- (f) the Attorney-General;
- (g) two persons, appointed by the Cabinet Secretary; and
- (h) the Director-General, who shall be an *ex officio* member of the Board.

(2) The members of the Board under sub paragraphs (l)(b), (c), (d), (e) and (f) may appoint a person, in writing, to represent them in the Board.

(3) The persons to be appointed under subsection (l)(a) and (g) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(4) An appointment under subparagraph (l)(a) or (g) shall be by notice in the *Gazette*.

7. Qualifications for appointment to the Board

A person shall be eligible to be appointed as the Chairperson or a member of the Board under paragraph 6(1)(a) or (g) if that person—

- (a) is citizen of Kenya;
- (b) holds a degree in a relevant field from a university recognized in Kenya;
- (c) has proven professional knowledge and experience of not less than seven years in matters relating to public health, research, finance, wildlife management, business management, economics, or law or any other relevant field;
- (d) has not served in the same entity as an employee in the preceding five years;
- (e) does not hold a public office; and
- (f) meets the requirements of Chapter Six of the Constitution.

8. Tenure and vacation office

(1) The Chairperson and members of the Board appointed under paragraph 6(1)(g) shall hold office for a term of three years which may be renewed only once for a further term of three years.

(2) The office of the Chairperson or member of the Board shall become vacant if the holder of that office—

- (a) resigns from office, by a notice, in writing, addressed to the appointing authority;
- (b) is incapacitated by prolonged physical or mental illness or is otherwise unable to discharge the functions of a member of the Board;
- (c) is absent from three consecutive meetings of the Board without good cause and prior apology;
- (d) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or
- (e) is sentenced by a court to imprisonment for a term of six months or more.

9. Functions of the Board

(1) The Board shall be responsible for the management and administration of the Institute.

(2) Without prejudice to the generality of subparagraph (1), the Board shall—

- (a) manage, supervise and administer the assets of the Institute in such a manner as best promotes the purpose for which the Institute is established;
- (b) recruit the Director-General of the Institute and other staff on such terms and conditions as may be approved by the relevant government organs;
- (c) establish operational and administrative units for the effective functioning of the Institute;
- (d) determine the provisions to be made for capital, and recurrent expenditure and for reserves of the Institute;
- (e) receive any grants, gifts, donations or endowments on behalf of the Institute and make legitimate disbursements therefrom;
- (f) enter into association with such other bodies or organizations locally and internationally as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Institute is established;
- (g) open a banking account or bank accounts for the funds of the Institute; and
- (h) perform any other function that enhances or adds value to the proper performance of the functions of the Institute.

10. Powers of the Board

(1) The Institute shall have power to do all things that may lawfully be done by a body corporate.

(2) Without prejudice to the generality of subparagraph (1), the Board shall have the power to—

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- (a) acquire such land or assets for the proper performance of the functions of the Institute;
- (b) open a bank account for the funds of the Institute into which all moneys received by the Institute shall be paid in the first instance and out of which all payments made by the Institute shall be made;
- (c) enter into any agreement or partnership with any public sector agencies and other parties for the operation of facilities, equipment or services of the Institute as necessary, in furtherance of the discharge of the functions of the Institute;
- (d) invest any of the Institute funds not immediately required for performance of the objects and purposes for which the Institute is established in accordance with the provisions of paragraph 20;
- (e) enter into partnerships and collaborations with bodies and institutions locally or internationally;
- (f) with the written prior approval of the Cabinet Secretary, carry out any other activity that in the opinion of the Board will promote and facilitate the realization of the objects and purposes for which the Institute is established; and
- (g) such other things that are necessary or desirable to carry out its functions.

11. Delegation by the Board

The Board may by resolution, in writing, either generally or for a particular case, delegate to any committee of the Board or Institute management, the exercise of any of the powers or the performance of any of the functions of the Board under this Order or any other written law.

12. Director-General

(1) The Board shall through a competitive recruitment process, and subject to approval by the Cabinet Secretary, appoint a suitably qualified person to be the Director-General of the Institute.

(2) A person shall qualify for appointment as the Director-General if that person—

- (a) is a citizen of Kenya;
- (b) holds at least a master's degree in public health or any other health related field from a university recognized in Kenya;
- (c) has at least ten years' experience in a senior management position in the management of health services, five of which must be in public health; and
- (d) meets the requirements of Chapter Six of the Constitution of Kenya.

(3) The Director General shall be responsible to the Board for—

- (a) the day to day operations of the Institute;
- (b) supervision, management and discipline of the staff of the Institute;
- (c) executing the policies of the Board in respect of the mandate of the Institute;
- (d) reporting to the Board on the performance of the Institute; and
- (e) performing any other functions as may be assigned by the Board from time to time.

(4) The Director-General shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

13. Corporation Secretary

(1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Secretary to the Institute Board.

(2) The Secretary to the Board shall—

- (a) in consultation with the Chairperson of the Board, issue notices for meetings of the Board;

- (b) keep, in custody, the records of the deliberations, decisions and resolutions of the Board;
- (c) transmit decisions and resolutions of the Board to the Director General for execution, implementation and other relevant action;
- (d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
- (e) perform such other duties as the Board may direct.

14. Staff

The Board may appoint such number of professional, technical and administrative staff for the Institute as it may consider necessary for the discharge of its functions and duties under this Order, on such terms and conditions as the Board may determine, in consultation with the relevant Government agencies.

15. Policies

The Board may make policies for the carrying into effect the provisions of this Order, and in particular, but without prejudice to the foregoing, make policies—

- (a) with respect to the procedure for the appointment of all members of staff or officers of the Institute;
- (b) with respect to the performance parameters and targets for any department, section, officer or member of staff of the Institute; and staff.
- (c) outlining the Service Charter and deliverables of the Institute.

PART IV – FINANCIAL PROVISIONS

16. Funds of the Institute

The funds of the Institute shall consist of—

- (a) monies appropriated by Parliament for the purposes of the Institute;
- (b) such monies as may accrue to the Institute in the performance of its functions under this Order;
- (c) such gifts as may be donated to the Institute; and
- (d) all monies from any other source granted, donated, or lent to the Institute.

17. Financial year

The financial year of the Institute shall be the period of twelve months ending on the thirtieth day of June in each year.

18. Annual estimates

The annual estimates of the Institute shall be prepared in accordance with the Public Finance Management Act (Cap. 412A).

19. Accounts and audits

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Institute.

(2) The accounts of the Institute shall be audited and reported upon in accordance with the Public Finance Management Act (Cap. 412A) and the Public Audit Act (Cap. 412B).

20. Investment of surplus funds

The Institute may invest any of its funds which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

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PART V – MISCELLANEOUS PROVISIONS

21. Common seal of the Institute

(1) The common seal of the Institute shall be kept in the custody of the Corporation Secretary.

(2) The common seal shall not be affixed to any instrument or document unless as authorised by the Board.

(3) All instruments and documents issued under the common seal of the Institute shall be authenticated under the hand of the Director General and the Chairperson or any other member of the Board appointed by the Chairperson.

(4) The common seal of the Institute when affixed to a document instrument and duly authenticated shall be judicially and officially noticed and unless the contrary is proved any necessary authorisation by the Board shall be presumed to have been duly given.

22. Protection from personal liability

No matter or thing done by the Board, Chairperson, any member of the Board, or any officer, employee or agent of the Institute shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, Chairperson, Board member or any officer, employee or agent of the Institute or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.

23. Liability for damages

The provisions of this Order shall not relieve the Institute of liability for damages to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

24. Annual report

The Board shall, on receipt of audited accounts for the preceding year, submit to the Cabinet Secretary an annual report in respect of that financial year, containing—

- (a) the accounts of the Institute and statements referred to in paragraph 19(1);
- (b) the Institute's performance indicators and any other related information;
- (c) a report on the operations of the Institute during that year; and
- (d) such other information as the Cabinet Secretary may request.

25. Transition of staff

(1) A person who immediately before the commencement of this Order was an employee of the Government serving in the Ministry of Health in the following shall at the commencement of this Order serve as a member of staff of the Institute—

- (a) Division of Disease Surveillance and Response;
- (b) Division of Vector Borne and Neglected Tropical Diseases;
- (c) Division of Zoonotic Diseases;
- (d) Division of National Public Health Laboratories;
- (e) Division of Quality Improvement Infection Prevention Control and Antimicrobial Resistance;
- (f) Division of Health Emergencies and Disaster Risk Management;
- (g) Division of Monitoring and Evaluation;
- (h) Division of Health Informatics;
- (i) Division of Research & Innovation;
- (j) Division of Port Health;
- (k) Division of Food Safety;

- (l) Public Health Emergency Operations Centre; and
- (m) Field Epidemiology & Laboratory Training Program.

(2) The employees under subparagraphs (1) shall be assessed, using the criteria determined by the Board, for appropriate placement in the organizational structure of the Institute.

(3) Despite subparagraph (1) all the employees of the Government who were serving in the Ministry of Health in the Divisions set out in subparagraph (1) shall upon the publication of this Order be given an option to elect to serve in the Institute or be redeployed in the public service.

26. Transition of assets

All property acquired by the Government for use of the Divisions set out in paragraph 25(1) shall subject to the rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Order become property of the Institute.

KENYA TISSUE AND TRANSPLANT AUTHORITY ORDER

ARRANGEMENT OF ORDERS

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KENYA TISSUE AND TRANSPLANT AUTHORITY ORDER

[Legal Notice 142 of 2022]

PART I – PRELIMINARY

1. Citation

This Order may be cited as the Kenya Tissue and Transplant Authority Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Authority" means the Kenya Tissue and Transplant Authority established by paragraph 3;

"Board" means the Board of Directors of the Kenya Tissue and Transplant Authority constituted in accordance with paragraph 6;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for health; and

"Chief Executive Officer" means the person appointed in accordance with paragraph 11.

PART II – ESTABLISHMENT OF THE KENYA TISSUE AND TRANSPLANT AUTHORITY

3. Establishment of the Kenya Tissue and Transplant Authority

(1) There is established a state corporation to be known as the Kenya Tissue and Transplant Authority.

(2) The Kenya Tissue and Transplant Authority 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 or disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing all other things or acts, including entering into contracts for the proper performance of its functions under this Order, which may be lawfully done or performed by a body corporate.

(3) The Kenya Tissue and Transplant Authority shall be the successor to the Department of the National Blood Transfusion, Tissue and Human Organ Transplant Services existing at the Ministry of Health at the commencement of this Order.

4. Objective of the Authority

The objective of the Kenya Tissue and Transplant Authority shall be to ensure access to safe and ethical use of human cells, tissues and organs and the safety, biosafety and wellbeing of donors and recipients in medical services relating to human derived medical products through the establishment and maintenance of systems that comply with safety and legal requirements.

5. Functions of the Authority

(1) The Kenya Tissue and Transplant Authority shall—

- (a) regulate all services relating to human cells, tissue and organ transplant in accordance with the Health Act (Cap. 241);
- (b) register and license facilities and establishments dealing with human cells, tissues and organs and transplant services;
- (c) maintain a registry of transplant service providers, donors and recipients;

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- (d) establish an equitable mechanism for matching and allocation of cells, tissue and organs;
 - (e) oversee the implementation of policies, guidelines, procedures and standards relating to human tissues and organs;
 - (f) provide support services for transfusion and transplant systems including testing, grouping, typing, banking, processing, distribution, manufacturing and quality control;
 - (g) develop a national emergency response mechanism including maintenance of strategic reserves for human tissues and organs;
 - (h) mobilize, educate and sensitize the members of the public to foster voluntary donations of cells, tissues and organs;
 - (i) collaborate, within agreed reciprocal arrangements, with other established organ exchange organizations in other countries, for the exchange of tissue and organs, where appropriate;
 - (j) conduct, and collaborate with other stakeholders, in conducting research on human cells, tissues and organs and related services;
 - (k) advise the Cabinet Secretary, National and County Governments and all the stakeholders on ethical, legal and clinical issues related to services for human cells, tissue and organ transplant; and
 - (l) such other functions as the Board, with the approval of the Cabinet Secretary, may determine.
- (2) In the discharge of the mandate under subparagraph (1), the Authority may—
- (a) establish and maintain linkages with the relevant regulatory and service bodies on matters related to cells, tissues and human organ medical services;
 - (b) make and enforce directions to ensure compliance with this Order and with the conditions of licences thereof;
 - (c) inspect hospitals periodically for examination of the quality of transplantation and the follow-up medical care to persons who have undergone transplantation and persons from whom organs are removed;
 - (d) summon of any person who is in possession of any information relating to violation of the provisions of this Order;
 - (e) enter, search and inspect any place suspected to be indulging in unauthorised removal, procurement or transplantation of human cells, organs or tissues; or
 - (f) order the production of any document or material object suspected to be used in relation to unauthorised removal, procurement or transplantation of human cells, organs or tissues.

PART III – BOARD OF DIRECTORS OF THE AUTHORITY

6. Board of the Authority

(1) There shall be a Board of Directors of Kenya Tissue and Transplant Authority which shall consist of—

- (a) a non-executive Chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for finance, or his or her representative, appointed in writing;
- (c) the Principal Secretary in the Ministry for the time being responsible for health, or his or her representative, appointed in writing;
- (d) the Attorney-General or his representative, appointed in writing;
- (e) one person, not being a governor, nominated by the Council of Governors;
- (f) three other members, not being public officers, appointed by the Cabinet Secretary by virtue of gender, disability, regional balance and their knowledge and experience in matters relating to haematology, pathology, transplant

medicine, finance, management, economics, law or any other relevant field;
and

(g) the chief executive officer who shall be an *ex officio* member of the Board.

(2) The persons to be appointed under subsection (1)(a) and (g) shall be selected through conventional board resourcing procedures including through applications, referrals and knowledge of the market and industry actors.

(3) The appointments under subparagraphs (1)(a) and (g) shall be by notice in the *Gazette*.

(4) The Board may co-opt any other person with necessary expertise and on temporary basis as it considers necessary to assist the Board in discharging its duties and responsibilities.

7. Tenure and vacation

(1) The Chairperson and members of the Board appointed under paragraph 6(1)(g) shall hold office for a term of three years which may be renewed only once for a further term of three years.

(2) The office of the Chairperson or a Board member shall become vacant if the holder—

- (a) resigns from office, by a notice, in writing, addressed to the appointing authority;
- (b) is incapacitated by prolonged physical or mental illness or is otherwise unable to discharge the functions of a member of the Board;
- (c) is absent from three consecutive meetings of the Board without good cause and prior apology;
- (d) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors;
- (e) is sentenced by a court to imprisonment for a term of six months or more.

8. Functions of the Board

(1) The Board shall be responsible for the management and administration of the Authority.

(2) Without prejudice to the generality of subparagraph (1), the Board shall—

- (a) administer the property and funds of the Authority in such a manner and for such purposes as will, in the opinion of the Board, promote its best interests;
- (b) receive on behalf of the Authority grants in aid, gifts, donations, fees, subscriptions or other moneys and approve disbursement;
- (c) advise the Cabinet Secretary on policy matters relating to tissue and human organ transplant;
- (d) do or perform all other necessary functions or activities of a Kenya Tissue and Transplant Authority, including undertaking of any ventures for the purposes of raising revenues for the purposes of funding its activities wholly or in part.

9. Powers of the Board.

(1) The Board shall have all the powers necessary to manage and administer the Authority in a manner that shall enable the realization of the objects and purposes for which the Authority is established.

(2) Without prejudice to the generality of subparagraph (1), the Board shall have the power to—

- (a) open a bank account(s) for the funds of the Authority into which all moneys received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made;
- (b) receive any grants, gifts, donations or endowment and make legitimate disbursements therefrom;

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- (c) acquire such land or assets as are necessary for the proper performance of the functions of the Authority;
- (d) invest any funds of the Authority not immediately required for performance of the objects and purposes for which the Authority is established;
- (e) determine fees for services rendered by the Authority from time to time;
- (f) enter into any agreement or partnership with any public sector agencies and other parties for the operation of facilities, equipment or services of the Authority as necessary, in furtherance of the discharge of the functions of the Authority; and
- (g) with the written prior approval of the Cabinet Secretary, carry out any other activity that in the opinion of the Board will promote and facilitate the realization of the objects and purposes of the Authority.

10. Delegation by the Board

The Board may by resolution, in writing, either generally or for a particular case, delegate to any committee of the Board, the management of the Authority, the exercise of any of the powers or the performance of any of the functions of the Board under this Order or any other written law.

11. Chief Executive Officer

(1) The Board shall through a competitive recruitment process, and subject to approval by the Cabinet Secretary, appoint a suitably qualified person to be the Chief Executive Officer of the Authority.

(2) A person shall qualify for appointment as the Chief Executive Officer if that person—

- (a) is a Kenyan Citizen;
- (b) has at least an advanced degree from a university recognized in Kenya;
- (c) has at least ten years' experience at a senior management level with skills related to health systems, haematology, laboratory service, transplant medicine, pathology, finance, management, economics, law or any other relevant field; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall be responsible for the day-to-day operations and administration of the Authority, under the general direction and supervision of the Board.

12. Corporation Secretary

(1) The Board shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Corporation Secretary of the Authority.

(2) The Corporation Secretary shall be the Secretary to the Board and shall be responsible for arranging the business and meetings of the Board, the keeping of records of the Board's meetings, the keeping of the records of the proceedings of the Board, and perform such other duties as the Board may direct.

13. Staff

The Authority may employ such other officers, staff or agents as it considers necessary for the discharge of its functions and duties under this Order, upon such terms and conditions as the Board may determine, in consultation with the Cabinet Secretary and on the advice of the Salaries and Remuneration Commission.

PART IV – FINANCIAL PROVISIONS

14. Funds of the Authority

The funds of the Authority shall consist of —

- (a) monies appropriated by Parliament for the purposes of the Authority;

- (b) such monies or assets as may accrue to the Authority in the course of the exercise of its powers or in the performance of its functions under this Order;
- (c) monies from any other source provided, donated, lent or given as a grant to the Authority; and
- (d) any other funds designated for or accruing to the Authority by virtue of the operation of law.

15. Financial Year

The financial year of the Kenya Tissue and Transplant Authority shall be the period of twelve months ending on the thirtieth day of June in each year.

16. Annual estimates

The annual estimates of the Kenya Tissue and Transplant Authority shall be prepared in accordance with the Public Finance Management Act (Cap. 412A)

17. Accounts and audit

(1) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Kenya Tissue and Transplant Authority.

(2) The accounts of the Kenya Tissue and Transplant Authority shall be audited and reported upon in accordance with the Public Finance Management Act (Cap. 412A) and the Public Audit Act (Cap. 412B).

PART V – MISCELLANEOUS PROVISIONS

18. Protection from personal liability

No matter or thing done by the Board, Chairperson, any Board member, or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, Chairperson, Board member, or any officer, employee or agent of the Authority or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.

19. Liability for damages

The provisions of this Order shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

20. Policies

The Board may make policies for the carrying into effect the provisions of this Order, and in particular, but without prejudice to the foregoing, make policies—

- (a) with respect to the procedure for the appointment of all members of staff or officers of the Authority;
- (b) with respect to the performance parameters and targets for any department, section, officer or member of staff of the Authority;
- (c) with respect to fees and charges to be levied by the Authority with respect to its services; and
- (d) outlining the Service Charter and deliverables of the Authority.

21. Annual report

The Board shall, on receipt of audited accounts for the preceding year, submit to the Cabinet Secretary an annual report in respect of that financial year, containing—

- (a) the accounts of the Kenya Tissue and Transplant Authority and statements referred to under paragraph 15;

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- (b) the Kenya Tissue and Transplant Authority performance indicators and any other related information;
- (c) a report on the operations of the Kenya Tissue and Transplant Authority during that year; and
- (d) such other information as the Cabinet Secretary may request.

22. Transition of staff

(1) A person who immediately before the commencement of this Order was an employee of the Government serving in the Ministry of Health in the Department of Kenya National Blood Transfusion, Tissue and Human Organ Transplant Services shall at the commencement of this Order serve as a member of staff of the Authority.

(2) The employees under subparagraph (1) shall be assessed using the criteria determined by the Board, for appropriate placement in the organizational structure of the Authority.

(3) Despite subparagraph (1), all employees of the Government who were serving in the Ministry of Health in the Department of Kenya National Blood Transfusion, Tissue and Human Organ Transplant Services shall upon publication of this Order be given an option to elect to serve in the Authority or be redeployed in the Public Service.

23. Transition of Assets.

All property acquired by the Government for use of the in the Ministry of Health in the Department of Kenya National Blood Transfusion, Tissue and Human Organ Transplant Services shall be subject to the rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Order become property of the Authority.
