



LAWS OF KENYA

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## **THE STATE CORPORATIONS ACT**

### **CHAPTER 446**

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**CHAPTER 446**

## THE STATE CORPORATIONS ACT

## ARRANGEMENT OF SECTIONS

## PART I—PRELIMINARY

*Section*

- 1—Short title and commencement.
- 2—Interpretation.

PART II—ESTABLISHMENT AND POWERS OF  
STATE CORPORATIONS

- 3—Establishment of state corporations by the President.
- 4—Ministerial responsibility for state corporations.
- 5—Powers generally of state corporations.
- 5A—Exemption.

PART III—BOARDS AND MANAGEMENT OF  
STATE CORPORATIONS

- 6—Composition of Boards.
- 7—Power to issue directions and to remove Boards.
- 8—Meetings and procedure of Boards.
- 9—Committees.
- 10—Remuneration and expenses of chairman and members.
- 10A—Financial year.

PART IV—CONTROL OF THE FINANCES, ETC. OF  
STATE CORPORATIONS

- 11—Annual estimates.
- 12—Expenditure not included in annual estimates.
- 13—Dealing with assets.
- 14—Books of accounts, records and audits.
- 15—Accountability.
- 16—Renewal of depreciating assets, etc. and disposal of

surplus funds.

17–Restriction on loans to Board members and staff.

18–Inspector-General (Corporations).

19–Powers of Inspector-General (Corporations) after investigations.

20–Application for written reasons of Inspector-General (Corporations)'s decision.

21–Appeals against decision of Inspector-General (Corporations).

22–The State Corporations Appeal Tribunal.

23–Appeals to the High Court.

24–Payment and recovery of sums certified to be due.

25–Expenses of Inspector-General (Corporations).

#### PART V–THE STATE CORPORATIONS ADVISORY COMMITTEE

26–Establishment of the Committee.

27–Functions of the Committee.

#### PART VI–MISCELLANEOUS PROVISIONS

28–Dissolution of State Corporations.

29–Offences and penalty.

30–Regulations.

31–(*spent*).

**CHAPTER 446****THE STATE CORPORATIONS ACT**

*Commencement: 1st November, 1986*

11 of 1986, 18 of 1986, L.N. 248/1986, 13 of 1988, 11 of 1992, L.N. 56/2002, 2 of 2002, 12 of 2003, 3 of 2005.

**An Act of Parliament to make provision for the establishment of state corporations; for control and regulation of state corporations; and for connected purposes**

**PART I—PRELIMINARY****Short title.**

L.N. 248/1986.

1. This Act may be cited as the State Corporations Act.

**Interpretation.**

2 of 2002, Sch.

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

“Board” means the Board constituted in accordance with section 6 (1) or the body or person, by whatever name called, carrying out or empowered to carry out functions relating to the overall direction and management of a state corporation;

“chief executive” means the person appointed and employed as such under section 5 (3) or the person for the time being exercising the executive powers of a state corporation;

“Committee” means the State Corporations Advisory Committee established by section 27;

“Inspector” means the Inspector-General (Corporations) appointed as such under section 18;

“the Minister” means the Minister for the time being assigned ministerial responsibility for a state corporation and matters relating thereto by the President under section 4 and “parent

Ministry” shall be construed accordingly;

“state corporation” means—

- (a) a state corporation established under section 3;
- (b) a body corporate established before or after the commencement of this Act by or under an Act of Parliament or other written law but not—
  - (i) the Permanent Secretary to the Treasury incorporated under the Permanent Secretary to the Treasury (Incorporation) Act Cap. 101;
  - (ii) a local authority established under the Local Government Act Cap. 265;
  - (iii) a co-operative society established under the Co-operative Societies Act Cap. 490;
  - (iv) a building society established in accordance with the Building Societies Act Cap. 489;
  - (v) a company incorporated under the Companies Act Cap. 486 which is not wholly owned or controlled by the Government or by a state corporation;
  - (vi) the Central Bank of Kenya established under the Central Bank of Kenya Act Cap. 491;
  - (vii) (*Deleted by 2 of 2002, Sch.*).
- (c) a bank or a financial institution licensed under the Banking Act Cap. 488 or other company incorporated under the Companies Act, the whole or the controlling majority of the shares or stock of which is owned by the Government or by another state corporation;
- (d) a subsidiary of a state corporation.

“Tribunal” means the State Corporations Appeal Tribunal established by section 22.

PART II—ESTABLISHMENT AND POWERS OF  
STATE CORPORATIONS

**Establishment of state corporations by the President.**

3. (1) The President may, by order, establish a state corporation as a body corporate to perform the functions specified in the order.

(2) A state corporation established under this section shall—

- (a) have perpetual succession;
- (b) in its corporate name be capable of suing and being sued;
- (c) subject to this Act, be capable of holding and alienating movable and immovable property.

**Ministerial responsibility for state corporations.**

4. The President shall assign ministerial responsibility for any state corporation and matters relating thereto to the Vice-President and the several Ministers as the President may by directions in writing determine.

**Powers generally of state corporations.**

5. (1) Subject to this Act, every state corporation shall have all the powers necessary or expedient for the performance of its functions.

(2) After the commencement of this Act and notwithstanding subsection (1), the power of a state corporation to borrow money in Kenya or elsewhere shall be exercised only with the consent of the Minister and subject to such limitations and conditions as may be imposed by the Treasury with respect to state corporations generally or specifically with respect to a particular state corporation.

(3) A state corporation may engage and employ such number of staff, including the chief executive, on such terms and conditions of service as the Minister may, in consultation with the Committee, approve.

(4) A state corporation may, with the approval of the Minister in consultation with the Treasury and the Committee, establish pension, gratuity, superannuation, provident or other funds for the state corporation's employees and their dependants.

**Exemption.**

2 of 2002, Sch., 12 of 2003, 3rd Sch.

**5A.** (1) Subject to subsection (2), the President may, by notice in the Gazette, exempt a state corporation, not being a state corporation established under section 3, from any of the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1), an exemption granted under this section shall not exempt a state corporation from the provisions of sections 5, 10A, 11, 13, 14, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28 or 29.

(3) Any state corporation eligible for exemption under this section which, immediately before the commencement of this section, was not subject to the provisions of this Act by virtue of—

(a) the provisions of the written law under which such state corporation is established; or

(b) a declaration in that behalf under paragraph (b) (vii) of section 2 (now repealed),

shall, subject to subsection (2), be deemed to be exempt from the provisions of this Act.

**Composition of Boards.**

6. (1) Unless the written law by or under which a state corporation is established or the articles of association of a state corporation otherwise require, a Board shall, subject to subsection (4), consist of—

- (a) a chairman appointed by the President who shall be non-executive unless the President otherwise directs;
- (b) the chief executive;
- (c) the Permanent Secretary of the parent Ministry;
- (d) the Permanent Secretary to the Treasury;
- (e) not more than seven other members not being employees of the state corporation, of whom not more than three shall be public officers, appointed by the Minister.

(2) Every appointment under subsection (1)(a) and (e) shall be by name and by notice in the Gazette and shall be for a renewable period of three years or for such shorter period as may be specified in the notice, but shall cease if the appointee—

- (a) serves the Minister with written notice of resignation; or
- (b) is absent, without the permission of the Minister notified to the Board, from three consecutive meetings; or
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding two thousand shillings; or
- (d) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Board; or
- (e) conducts himself in a manner deemed by the Minister, in consultation with the Committee, to be inconsistent



with membership of the Board.

(3) No person whose membership of a Board has ceased in accordance with paragraphs (b), (c) or (e) of subsection (2) shall be eligible for appointment to any Board thereafter.

(4) Unless the written law under which a state corporation is established or the articles of association of a state corporation otherwise require, the Minister may, in consultation with the Committee, appoint one or more duly qualified persons, not being members of the Board, to be alternate members, and any one alternate member may attend a meeting of a Board in place of a substantive member who is unable to attend; and every alternate member shall, when attending a meeting, be deemed for all purposes to be a member of the Board.

**Power to issue directions and to remove Board.**

2 of 2002, Sch.

7. (1) The President may give directions of a general or specific nature to a Board with regard to the better exercise and performance of the functions of the state corporation and the Board shall give effect to those directions.

(2) Notwithstanding subsection (1), directions under this section may require that the memorandum and articles or any other documents establishing a state corporation, be amended to conform with any requirement of this Act where the same is inconsistent therewith.

(3) Notwithstanding the provisions of any other written law or the articles of association establishing and governing a Board, the President may, if at any time it appears to him that a Board has failed to carry out its functions in the national interest, revoke the appointment of any member of the Board and may himself nominate a new member for the remainder of the period of office of that member or he may constitute a new Board for such period as he shall, in consultation with the Committee, determine.

**Meetings and procedure of Boards.**

2 of 2002, Sch.

**8.** (1) After the commencement of this Act—

- (a) the Board of every state corporation 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;
- (b) 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 chairman in consultation with the chief executive shall decide that a meeting is necessary, on a date and at a time determined by the chairman;
- (c) no meeting of a Board shall be held at any place other than the registered or principal office of the state corporation except with the prior written approval of the Committee;
- (d) 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;
- (e) 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;

Provided that where within half an hour after the time appointed for the meeting a quorum is not present, the meeting shall be adjourned to the same day in the next week, at the same time and place, or at such other place and at such time as the members may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be deemed to be a quorum.

- (f) the chairman of a Board shall preside at all meetings of the Board but in the absence of the chairman the members present shall appoint one of their number to preside at the meeting;
- (g) unless a unanimous decision is reached, a decision on any matter before a Board shall be by a majority of votes of the members present and in the case of an equality of votes, the chairman or the person presiding shall have a casting vote;
- (h) every member of a Board who is likely to be interested, otherwise than as a member of that Board or who participates or is or may become entitled to participate directly or indirectly, in the profits from any contract or proposed contract or work done or proposed to be done for the state corporation, shall, on the matter coming before a meeting of the Board for consideration, immediately declare his interest therein and shall, unless the meeting otherwise agrees, retire from the meeting and shall in any case not be entitled to vote on the matter.

(2) The chief executive of a state corporation or an officer instructed by the chief executive in that behalf, present at a meeting of a Board or a committee thereof, 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's or officer's opinion, is contrary to his advice or contrary to law.

#### **Committees.**

9. A state corporation may establish committees consisting of members of the Board to deal with such matters as the Board may specify and notice of establishment of any committee in accordance with this section whether established before or after the commencement of this Act shall be served on the State Corporations Advisory Committee.

#### **Remuneration and expenses of chairman and members.**

2 of 2002, Sch.

**10.** (1) The chairman and members of a Board, other than the chief executive, shall be paid out of the funds of the state corporation such sitting allowances or other remuneration as the Board may, within the scales of remuneration specified from time to time by the Committee, approve.

(2) A Board may, within the scales specified by the Committee, refund travelling and other expenses incurred by the chairman or members of the Board in the performance of their duties.

**Financial year.**

12 of 2003, 3rd Sch.

**10A.** Notwithstanding anything to the contrary in any written law, the financial year of every state corporation shall be from the 1st of July in a year to the 30th of June in the next year.

PART IV—CONTROL OF THE FINANCES, ETC. OF  
STATE CORPORATIONS

**Annual estimates.**

**11.** (1) Every state corporation shall cause to be prepared and shall, not later than the end of February in every year, submit to the Minister and to the Treasury for approval, estimates of the state corporation's revenue and expenditure for the following financial year accompanied by proposals for funding all projects to be undertaken by the state corporation, or the implementation of which will continue during the financial year to which those estimates relate.

(2) No annual estimates and proposals for funding projects shall be implemented until they have been approved by the Minister with the concurrence of the Treasury.

**Expenditure not included in annual estimates.**

**12.** No state corporation shall, without the prior approval in writing of the Minister and the Treasury, incur any expenditure for which provision has not been made in an annual estimate prepared and approved in accordance with section 11.

**Dealing with assets.**

3 of 2005, 4th Sch.

**13.** (1) The assets of a state corporation may be disposed of—

- (a) if they are current assets in the normal course of business carried on by that state corporation;
- (b) where the disposal and the utilization of the proceeds have been taken into account in an annual estimate prepared and approved in accordance with section 11;
- (c) by way of sale or otherwise with the approval of the Minister and the Treasury where such disposal has not been taken into account in the estimates.

(2) Subject to subsection (1), the Minister for the time being responsible for finance may, in consultation with the Committee, make rules for the acquisition and disposal of assets by state corporations and different rules may be made with respect to different state corporations; and such rules shall be brought to the notice of the state corporations and other persons affected thereby, but it shall not be necessary to publish the rules in the Gazette.

(4) This section does not apply with respect to procurements or disposals to which the Public Procurement and Disposal Act, 2005 applies.

**Books of accounts, records and audits.**

2 of 2002, Sch.

**14.** (1) Every state corporation shall keep or cause to be kept proper books recording all the property, undertakings, funds, activities, contracts, transactions and other business of the state corporation.

(2) The Minister for the time being responsible for finance may prescribe the form of any book required to be kept under subsection (1) and unless a form has been prescribed, a form suitable for the purpose shall be used.

(3) The accounts of every state corporation shall be audited and reported on annually in accordance with the Public Audit Act, 2003.

**Accountability.**

2 of 2002, Sch., 12 of 2003, 3rd Sch.

**15.** (1) A Board shall be responsible for the proper management of the affairs of a state corporation and shall be accountable for the moneys, the financial business and the management of a state corporation.

(2) The chief executive of a state corporation may be summoned by the Public Investments Committee to answer on behalf of the Board any question arising from a report, including a special report, of the Controller and Auditor-General concerning the state corporation.

**Renewal of depreciating assets, etc. and disposal of surplus funds.**

**16.** (1) Every state corporation shall make provision for the renewal of depreciating assets by the establishment of sinking funds and for contributions to such reserve and stabilization funds as may be required.

(2) Where there are any surplus moneys after making the provision required by subsection (1) the surplus moneys shall be disposed of in such manner as the Minister, in consultation with the Board, may in writing, direct.

(3) Notwithstanding subsection (2), the Minister for the time being responsible for finance may require the whole or any part of the surplus moneys to be paid into the Consolidated Fund where the exigencies of the financial situation so require.

**Restriction on loans to Board members and staff.**

**17.** Notwithstanding any other written law establishing a state corporation or its memorandum and articles of association, no state corporation shall grant to a member of the Board or staff any loan or advance or arrange any credit facility for him except in accordance with regulations made by the state corporation under

this section and approved by the Treasury, but in the absence of those regulations such loan, advance or credit facility may be granted in accordance with terms and conditions approved by the Committee.

**Inspector-General (Corporations).**

2 of 2002, Sch.

**18.** (1) There shall be an Inspector-General (Corporations) whose office shall be an office in the public service and whose duties shall be—

- (a) to advise the Government on all matters affecting the effective running of state corporations;
- (b) to report periodically to the Minister on management practices within any state corporation;
- (c) to report to the Controller and Auditor-General any cases where moneys appropriated by Parliament are not being applied by state corporations for the purposes for which they were appropriated.

(2) For the purposes of carrying out his duties under subsection (1) the Inspector-General (Corporations) shall have the following powers—

- (a) to call for and inspect all books, records, returns and documents which in his opinion relate to the accounts of, or to execution of the functions of, any state corporation;
- (b) to enter and inspect the premises, including any plant and installation thereon, of any state corporation;
- (c) to attend meetings of any state corporation or of a Board or committee thereof if in his opinion it is necessary to do so for the effective carrying out of his duties under this section.

(3) The Committee, or the Controller and Auditor-General may, if they consider it desirable, require the Inspector-General

(Corporations) to conduct special investigations of any state corporation on their behalf and to report the findings to them.

(4) There may be appointed such staff whose offices shall be offices in the public service as are necessary to assist the Inspector-General (Corporations) in the performance of his duties under this Act.

**Powers of Inspector-General (Corporations) after investigations.**

2 of 2002, Sch.

**19.** (1) In any investigation conducted under this Act, the Inspector-General (Corporations) shall have power—

- (a) to disallow any item of account which is contrary to the law or to any direction lawfully given to a state corporation;
- (b) to surcharge the amount of any expenditure so disallowed upon the person responsible for incurring or authorizing the expenditure;
- (c) to surcharge any sum which has not been duly brought to account upon the person by whom that sum ought to have been brought into account;
- (d) to surcharge the amount of any loss or deficiency upon any person by whose negligence or misconduct the loss or deficiency has been incurred;
- (e) to certify the amount due from any person upon whom he has made a surcharge.

(2) The Inspector-General (Corporations) shall, as soon as practicable after certifying the amount of surcharge, furnish the person surcharged with a certificate of surcharge in the prescribed form.

(3) For the purposes of this section, a member of the Board shall be deemed to be responsible for incurring or authorizing an



expenditure if, being present when the resolution of the Board or committee thereof incurring or authorizing the expenditure was passed—

(a) he voted in favour of it; or

(b) he did not cause his vote against the resolution to be recorded in the minutes.

(4) A person shall not be freed from liability to surcharge under this section by reason only of the fact that, in the matter giving rise to the liability, he acted in pursuance of any resolution of a Board, or of any committee thereof, if that resolution was contrary to law.

**Application for written reasons for Inspector-General (Corporations)'s decision.**

2 of 2002, Sch.

**20.** The Inspector-General (Corporations) shall, on the application of any person aggrieved by a disallowance or surcharge made under section 19, within fourteen days of the application furnish the person with reasons in writing for the decision.

**Appeals against decision of Inspector-General (Corporations).**

2 of 2002, Sch.

**21.** (1) Any person who is aggrieved by a disallowance or surcharge, may, within thirty days of the date of the certificate of surcharge, appeal by written memorandum to the Tribunal.

(2) The Tribunal shall, on appeal, have power to confirm, vary or quash the decision of the Inspector-General (Corporations), and to remit the case to the Inspector-General (Corporations) with such directions as the Tribunal thinks fit for giving effect to the decision on appeal.

**The State Corporations Appeal Tribunal.**

**22.** (1) There shall be a Tribunal, to be known as the State Corporations Appeal Tribunal, which shall consider and determine appeals under section 21.

(2) The Minister for the time being responsible for finance shall provide the Tribunal with such facilities, material and funds as are necessary for the proper conduct of its functions.

(3) The Tribunal shall consist of—

(a) a chairman who shall be a person qualified by law to be appointed a judge, appointed by the President;

(b) two other members appointed by the Minister for the time being responsible for matters relating to finance each nominated by—

(i) the Council of the Law Society of Kenya from amongst advocates of not less than seven years' standing; and

(ii) the Council of the Institute of Certified Public Accountants of Kenya from amongst accountants of not less than seven years' standing.

(4) The Attorney-General shall appoint a public officer to be secretary to the Tribunal.

(5) There may be appointed such staff of the Tribunal whose offices shall be offices in the public service, as may be necessary.

(6) For the purposes of the hearing and determination of any appeal by the Tribunal the secretary may, under the direction of the Tribunal, administer oaths.

(7) The chairman, may by notice under his hand, summon any person to attend and give evidence and to produce any relevant book or document; and a person who fails to attend when so summoned shall be guilty of an offence and liable to a fine of two thousand shillings or imprisonment for one month.

(8) The Tribunal shall have power to make such order as to costs, including—

(i) an order for the deposit by an appellant of money as

security for costs before proceeding upon an appeal;  
and

(ii) an order that the expenses incurred by an appellant or any other party to the proceedings shall be paid by the state corporation concerned in the proceedings;  
and

(iii) orders as to taxation of costs in accordance with any scale prescribed for suits in the High Court,

as appears to it just.

(9) Any costs not recovered from security ordered under paragraph (a) (i) of subsection (8) shall be recoverable as a civil debt.

(10) A person shall not be qualified to be appointed the chairman, or a member of the Tribunal if he is an employee of, or a member of the Board of, a state corporation.

(11) Every appointment under this section other than an appointment under subsection (5) shall be by name and by notice in the Gazette and shall be for a renewable term of not less than five years with respect to the chairman and not more than three years with respect to the members.

(12) The sessions of the Tribunal shall, unless the special circumstances of an appeal require, be in Nairobi, convened by the chairman as occasion requires.

(13) The record of the proceedings and of every decision of the Tribunal shall be authenticated by the signature of the chairman and shall be kept by the secretary.

(14) The chairman and members of the Tribunal, other than public officers in receipt of a salary, shall be paid out of public funds such sitting allowances or other remuneration as the Committee may, in consultation with the Treasury approve.

(15) Subject to this section, the Tribunal may, with the approval of the Chief Justice, regulate its own procedures and the conduct of proceedings before it.

**Appeals to the High Court.**

2 of 2002, Sch.

**23.** (1) The Inspector-General (Corporations) or the person surcharged may, if aggrieved by the decision of the Tribunal, within thirty days appeal to the High Court which shall have power to confirm, vary or annul the decision of the Tribunal.

(2) The procedure in and relating to appeals in civil matters from subordinate courts to the High Court and the powers of the High Court in such appeals shall govern appeals from the Tribunal to the High Court under this Act.

(3) The decision of the High Court under this section shall be final and shall not be subject to further appeal.

**Payment and recovery of sums certified to be due.**

2 of 2002, Sch.

**24.** (1) Every sum certified by the Inspector-General (Corporations) to be due from a person shall be paid by that person to the state corporation within thirty days after it has been so certified or, if an appeal with respect to the sum has been made, within fourteen days after the appeal has been disallowed, abandoned or has failed by reason of the non-prosecution thereof.

(2) The Inspector-General (Corporations) shall take all necessary steps in any competent court to recover from the persons surcharged any sum which is not paid in accordance with subsection (1).

(3) In any proceedings for the recovery of any sum which is not paid in accordance with subsection (1) the certificate of the Inspector-General (Corporations) shall be conclusive evidence that the sum is due and payable by the person surcharged.

(4) On the production of the Inspector-General (Corporations) certificate the Court shall give a decree for the sum sued for and

the decree shall have the effect of a decree under the Civil Procedure Act Cap. 21 and any rules made thereunder.

**Expenses of the Inspector-General (Corporations).**

2 of 2002, Sch.

**25.** (1) Any expenses incurred by the Inspector-General (Corporations) in the defence of any allowance, disallowance or surcharge shall, so far as not recovered from any other party and except as may otherwise be ordered by the High Court or the Tribunal, be reimbursed to him by the state corporation the subject of investigation.

(2) The costs and expenses incurred by the Inspector-General (Corporations) in any legal proceedings taken under section 24 (2) shall, if not recovered from any other source, be borne by the state corporation the subject of investigation.

PART V—THE STATE CORPORATIONS ADVISORY COMMITTEE

**Establishment of the Committee.**

18 of 1986, Sch., 2 of 2002, Sch.

**26.** (1) There shall be a Committee to be known as the State Corporations Advisory Committee which shall consist of—

(a) a chairman to be appointed by the President;

(b) the Permanent Secretary to the Treasury;

(c) the Director of Personnel Management;

(d) the Inspector-General (Corporations);

(e) eight other members appointed by the President.

(2) The Committee may co-opt any person for such purpose and for such period as it may determine.

(3) The President shall appoint a public officer to be secretary to the Committee.

(4) Subject to directions by the President, the Committee shall determine its own procedure.

(5) The members and the secretary of the Committee shall be paid out of public funds such remuneration and in such manner as the President may approve.

**Functions of the Committee.**

27. (1) The Committee shall advise on the matters and perform any functions it is required by this Act to perform and in addition shall—

- (a) with the assistance of experts where necessary, review and investigate the affairs of state corporations and make such recommendations to the President as it may deem necessary;
- (b) in consultation with the Attorney-General and the Treasury, advise the President on the establishment, reorganization or dissolution of state corporations;
- (c) where necessary, advise on the appointment, removal or transfer of officers and staff of state corporations, the secondment of public officers to state corporations and the terms and conditions of any appointment, removal, transfer or secondment;
- (d) examine any management or consultancy agreement made or proposed to be made by a state corporation with any other party or person and advise thereon;
- (e) examine proposals by state corporations to acquire interests in any business or to enter into joint ventures with other bodies or persons or to undertake new business or otherwise expand the scope of the activities and advise thereon.

**Dissolution of state corporations.**

28. Where the Committee advises that a state corporation shall be dissolved then nothing in this Act shall be construed as derogating from the procedure by which the state corporation would be dissolved under the law by or under which it was established.

**Offences and penalty.**

29. A state corporation which, or an officer thereof who, fails to render or submit or make available for inspection any record, book, account or information required by or pursuant to this Act, or which or who restricts the Inspector in the performance of his duties shall be guilty of an offence cognizable to the police and punishable by a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding three years or both and section 23 of the Penal Code Cap. 63 shall, where the offence is committed by state corporation, apply *mutatis mutandis*.

**Regulations.**

30. The President may make regulations generally for the better carrying into effect of the provisions of this Act and the powers conferred by this section may be assigned in accordance with section 18 of the Constitution.

31. (*Spent*).

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[Subsidiary]

## SUBSIDIARY LEGISLATION

L.N. 109/1987.

### THE KENYATTA NATIONAL HOSPITAL BOARD ORDER, 1987

#### Citation.

1. This Order may be cited as the Kenyatta National Hospital Board Order, 1987.

#### Establishment and incorporation of the Board.

2 (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 or an officer designated by him in writing;
- (e) the Principal of the College of Health Sciences of the University of Nairobi;
- (f) the Principal of the College of Health Professions;
- (g) Not more than five other members, of whom not more than two shall be public officers, appointed by the Minister;

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



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**[Subsidiary]****The Director.**

3. 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 Minister for the time being responsible for matters relating to health on such terms and conditions of service as the Minister shall, in consultation with the Board, determine.

**Powers and functions of the Board.**

4. (1) The Board shall, under the control of the Minister for the time being responsible for matters relating to health, be responsible for the administration, management and development of the hospital established in Nairobi 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 Minister 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 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 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 and staff of the Hospital;

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**[Subsidiary]**

- (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.

**Functions of the Hospital.**

5. 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.

**Finances.**

6. 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 Minister 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.

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[Subsidiary]

L.N. 14/1997.

**THE KENYA TOURIST BOARD ORDER, 1997**

**Citation.**

1. This Order may be cited as the Kenya Tourist Board Order, 1997.

**Establishment of the Board.**

2. 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.

**Constitution of the Board.**

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

- (a) a non-executive chairman appointed by the president;
- (b) a managing director appointed by the President;
- (c) the Permanent Secretary to the Ministry for the time being responsible for the development of tourism;
- (d) the Permanent Secretary responsible for Provincial Administration and Internal Security, Office of the President;
- (e) the Permanent Secretary to the Treasury;
- (f) the Chairman, Kenya Association of Tour Operators;
- (g) the Chairman, Kenya Association of Hotel Keepers and Caterers;
- (h) the Chairman, Kenya Association of Travel Agents;
- (i) the Chairman, Mombasa Coast Tourist Association;
- (j) the Managing Director, African Tours and Hotels;
- (k) the Director, Kenya Wildlife Service;

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**[Subsidiary]**

(l) the Managing Director, Kenya Airways;

(m) the Executive Chairman, Block Hotels.

**Headquarters.**

4. The headquarters of the Board shall be in Nairobi.

**The managing director.**

5 (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.

**Functions of the Board.**

6. The Board shall, under the general direction of the Minister 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;
- (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 issues that adversely affect Kenya's image in the tourism industry;

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**[Subsidiary]****Powers of the Board.**

7. 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.

**Fund and banking accounts.**

8. (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 Minister;
- (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.

**Protection from personal liability.**

9. No matter or thing done by the chairman 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 provision of this Order render the chairman, member, officer, employee or

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**[Subsidiary]**

agent or any person acting by these directions personally liable to any action, claim or demand.

**Liability of the Board for damages.**

10. 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.

**Delegation by the Board.**

11. 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 authorised by this Order to exercise or perform.

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[Subsidiary]

L.N. 78/1998.

**THE MOI TEACHING AND REFERRAL HOSPITAL  
BOARD ORDER, 1998**

**Citation.**

1. This order may be cited as the Moi Teaching and Referral Hospital Board Order, 1998.

**Establishment and Incorporation of the Board.**

2. 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.

The Board shall consist of—

- (a) a non-executive chairman appointed by the president;
- (b) the Permanent Secretary in the Ministry of Health or an officer designated by him in writing;
- (c) the Permanent Secretary in the Ministry of Finance or an officer designated by him in writing.
- (d) the Permanent Secretary Ministry of Education and Human Resource Development or an officer designated by him in writing;
- (e) the Vice-Chancellor, Moi University;
- (f) the Director of Medical Services;
- (g) the Principal of the College of Health Sciences, Moi University;
- (h) not more than five other members of whom not more than two, shall be public officers, appointed by the Minister for Health;
- (i) the Director, Moi Teaching and Referral Hospital.

(3) Members of the Board appointed under sub paragraph 2 (a) and (h) shall hold office for a term of five years from the date of their

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**[Subsidiary]**

appointment and shall be eligible for re-appointment.

**The Director.**

3. There shall be a Director of the Moi Teaching and Referral Hospital who shall be the Chief Executive and Secretary to the Board and shall be appointed by the President.

**Deputy Directors.**

4. (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 Minister for Health.

(b) the Deputy Director, Clinical and Academic Affairs who shall be the Principal, College of Health services who shall be responsible for all clinical teaching, research and academic matters and shall be appointed by the Board in consultation with the Minister 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.

**Powers and Functions of the Board.**

5. (1) The Board shall, under the direction of the Minister 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 the 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



**[Subsidiary]**

reference to the Government or the Minister for Health or the Permanent Secretary, Ministry of Health or the Permanent Secretary/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 therefrom;
- (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.

**Functions of the Hospital.**

6. It is hereby declared that the hospital is established for the

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**[Subsidiary]**

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.

**Finance.**

7. 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 the parliament for the purpose of carrying out the functions of the hospital, such sum as the Minister 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.

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[Subsidiary]

L.N. 170/1999, L.N. 4/2000, L.N. 78/2004, L.N. 156/2009.

### **THE NATIONAL AIDS CONTROL COUNCIL ORDER, 1999**

#### **Citation.**

1. This Order may be cited as the National AIDS Control Council Order, 1999.

#### **Establishment of the Council.**

2. There is established a State Corporation to be known as the National AIDS Control Council (hereinafter called " the Council" ) 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.

#### **Constitution of the Council.**

L.N. 4/2000, L.N. 156/2009.

3. (1) The Council shall consist of—

- (a) a Chairman appointed by the President;
- (b) the Director of the Council;
- (c) the following persons or their representatives—
  - (i) the Permanent Secretary, Office of the President;
  - (ii) the Permanent Secretary, Ministry of State for Special Programmes;
  - (iii) the Permanent Secretary, Ministry of Finance;
  - (iv) the Permanent Secretary, Ministry of Medical Services;
  - (v) the Permanent Secretary, Ministry of Public Health and Sanitation;
  - (vi) the Chairman, National Council of Non-Governmental Organizations;
  - (vii) the Executive Director, Women Fighting AIDS in Kenya;

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**[Subsidiary]**

- (viii) the National Chairperson, Maendeleo ya Wanawake Organization;
  - (ix) the Chairperson, Federation of Kenya Employers;
  - (x) the Chairman, Supreme Council of Kenya Muslims of Kenya;
  - (xi) the Chairman, National Council of Churches;
  - (xii) the Chairman, Kenya Episcopal Conference; and
- (d) not more than three members appointed by the Minister”.

**The Director.**

4. (1) There shall be a Director of the Council who shall be appointed by the Minister on such terms and conditions as the Council shall determine.

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

**Deputy Director.****L.N. 78/2004.**

5. (1) There shall be three Deputy Directors of the Council who shall be under the direction of the Director.

(2) The three Deputy Directors of the Council shall be appointed by the Council as follows—

- (a) the Deputy Director, Policy, Strategy and Communication who shall be responsible for the development of policy and strategy, research and communication;
- (b) the Deputy Director, Co-ordination and Support who shall be responsible for co-ordination and support of the Council's activities; and
- (c) the Deputy Director, Finance and Administration who shall be responsible for all administrative and financial matters.

(3) The Council may employ such other officers, staff or agents as it

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**[Subsidiary]**

deems necessary for the discharge of its functions and duties under this Order upon such terms and conditions as it may determine.

**Functions of the Council.**

L.N. 4/2000, L.N. 156/2009.

6. The Council shall, under the general direction of the Minister for the time being responsible for matters relating to HIV and AIDS—

- (a) develop policies and guidelines relevant to the prevention and control of Acquired Immune Deficiency Syndrome (hereinafter referred to as AIDS);
- (b) mobilize resources for AIDS control and prevention and provide grants to implementing agencies;
- (c) co-ordinate and supervise implementation of AIDS programmes in the country;
- (d) collaborate with local and international agencies which work in AIDS control;
- (e) facilitate the setting up of multi-sectoral and inter-sectoral programmes on AIDS;
- (f) mobilize Government Ministries and institutions, Non-Governmental organizations, community based organizations, research bodies, the private sector and universities to participate in AIDS control and prevention;
- (g) develop strategies to deal with all aspects of the AIDS epidemic;
- (h) develop national management information systems for AIDS control;
- (i) identify sector specific training needs and device appropriate manpower development strategies;
- (j) develop appropriate mechanisms for the monitoring and evaluation of AIDS and sexually transmitted diseases (STDS) programmes; and

**[Subsidiary]**

- (k) take a leadership role in advocacy and public relations for the AIDS Council programme.

**Powers of the Council.**

7. 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.

**Council to establish and control Fund.**

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

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**[Subsidiary]****Protection from personal liability.**

9. No matter or thing done by the chairman 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 chairman, member, officer, employee or agent or any person acting under the directions of those persons personally liable to any action, claim or demand.

**Liability of the Council.**

10. 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.

**Delegation by the Council.**

11. 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 of the performance of any of the functions or duties the Council is authorized by this Order to exercise or perform.

**Finance.**

12. 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 Minister 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.

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**[Subsidiary]**

L.N. 17/2000, L.N. 54/2009.

**THE KENYA MEDICAL SUPPLIES AGENCY ORDER, 2000****Citation.**

1. (1) This Order may be cited as the Kenya Medical Supplies Agency, 2000.

(2) This Order shall come into effect on a date to be specified by the Board.

**Objects.**

L.N. 54/2009.

2. The objects for which the agency is established are to—

- (i) develop and operate a viable commercial service for the procurement and sale of drugs and medical supplies;
- (ii) provide a secure source of drugs and medical supplies to public health institutions;
- (iii) advice the Health Boards and the general public on matters relating to the procurement, cost effectiveness and use of drugs and other medical supplies in conjunction with other agencies.

**Establishment.**

3. There is established a state corporation to be known as the Kenya Medical Supplies Agency (hereinafter called “the Agency”) 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.

**Incorporation of the Board.**

L.N. 54/2009.

4. (1) The Agency shall be run by a Board (hereinafter called the “Board”).

(2) The Board shall consist of—



**[Subsidiary]**

- (a) a non-executive Chairman appointed by the President by virtue of his knowledge and expertise in matters relating to healthcare or business;
- (b) the Permanent Secretary, Ministry of Medical Services;
- (c) the Permanent Secretary, Ministry of Public Health and Sanitation;
- (d) the Permanent Secretary, Ministry of Finance;
- (e) the Attorney-General;
- (f) the Director of Medical Services;
- (g) one procurement or supply chain management specialist nominated by the Kenya Institute of Supply Management and appointed by the Minister;
- (h) one pharmacist with experience in drug and medical supplies management nominated by the Pharmaceutical Society of Kenya and appointed by the Minister;
- (i) one person from the private sector with expertise in business or finance appointed by the Minister;
- (j) two persons from level four health management committees, appointed by the Minister, one of whom shall be a woman;
- (k) the chief executive of the Agency.

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

(4) The Board may co-opt any person whose skills, knowledge or experience may be useful to the Board or to any Committee of the Board.

(5) The Board shall pay to the members of the Board such remuneration or fees as it may determine.

**Removal of member of the Board.**

5. (1) Notwithstanding anything to the contrary in this Order a

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**[Subsidiary]**

person shall cease to be a member of the Board—

- (a) upon receipt by the Minister of his resignation in writing; or
- (b) upon his death; or
- (c) if he is certified insane, temporary or permanently incapacitated by illness or is otherwise prevented from performing his duties as a member of the Board; or
- (d) if he is absent, without the permission of the Chairman of the Board for three consecutive meetings of the Board; or
- (e) if he is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or
- (f) if he is convicted of an offence involving dishonesty or fraud; or
- (g) if he is sentenced by a court to imprisonment for a term of six months or more.

**Meetings.****L.N. 54/2009.**

6. (1) The Board shall meet at least once every three months.
- (2) The Board shall elect a Vice-Chairman from amongst its members.
- (3) The Chairman or, in his absence the Vice-Chairman shall preside at all meetings of the Board and, in the absence of both the Chairman and the Vice-Chairman, the members of the Board who are present at any meeting shall choose one of the members to act as the Chairman at the meeting.
- (4) Any Person appointed to act as Chairman under subparagraph (2) or (3) shall have all the powers and privileges of the Chairman at and in respect of any meeting at which he presides.
- (5) Each member of the Board shall have a deliberative vote and the Chairman for the time being at any meeting of the Board shall, in addition to the deliberative vote have a casting vote.

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**[Subsidiary]**

(6) Five members of the Board including the Chairman shall constitute a quorum at any meeting of the Board, and all acts, matters or things authorized or required to be done by the Board may be decided at any meeting at which a quorum is present.

(7) The powers of the Board shall not be affected by any vacancy in membership thereof.

(8) Subject to the provisions of this Order, the Board may regulate its own procedure.

**Disclosure of interest.**

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

Provided that if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberation of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose.

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

**The Chief Executive.**

8. (1) There shall be a Chief Executive of the Agency who shall be the secretary to the Board and who shall, under the direction of the Board, manage the operations of the Agency.

(2) The Chief Executive shall be appointed by the Board on such terms and conditions as the Board may determine.

(3) Subject to this Order, the control and executive management of the Agency shall vest in the Chief Executive.

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**[Subsidiary]****Staff of the Agency.**

9. (1) The Board shall appoint such officers to head the departments responsible for finance, administration, legal affairs, pharmaceutical services, sales and marketing services and any other senior officers as may be deemed necessary on such terms and conditions as the Board may determine.

(2) The Board may employ such other suitable 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.

**Internal audit.**

10. The Board shall establish a department of Internal Audit to monitor and evaluate the financial transactions of the Agency and report to the Board.

**Powers of the Board.**

11. (1) The Board shall be responsible for the administration, management and development of the Agency.

(2) (a) The Board shall be the successor of the Government in respect of all rights, duties, obligations, assets and liabilities concerning the Agency existing at the publication of this Order.

(b) All such rights, duties, obligations and liabilities shall be fully transferred to the Board and any reference to the Government or the Minister for Health or the Permanent Secretary to the Treasury or the Chief Executive of the Kenya Medical Supplies Agency in connection with the Agency in any written law or 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 Agency in such manner and for such purposes as will promote the best interest of the Agency and in accordance with this Act;

(b) receive gifts, donations, grants or other money and equipment and make legitimate disbursements therefrom;

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**[Subsidiary]**

- (c) raise funds and fees for services rendered as may be determined from time to time by the Board for the furtherance of the purposes for which the Agency is established;
- (d) promote the general welfare of the consumers and users of medical drugs and supplies and members of the public in general;
- (e) enter into association with District or Hospital Management Boards, agencies, health institutions, institutions of higher learning and research organisations within or outside Kenya as the Board may consider desirable or appropriate and in furtherance of the purposes for which the Agency is established;
- (f) establish a control mechanism within the department(s) responsible for finance and administration whose functions shall include monitoring the efficiency and cost effectiveness of the transactions of the Agency;
- (g) make rules and regulations for the proper and efficient management of the Agency which rules and regulations shall be issued by the Chief Executive on behalf of the Board and be brought to the attention of those affected by them.

**Functions of the Agency.**

12. Under the general direction of the Minister for the time being responsible for health, the Agency is established for the following purposes—

- (a) to procure drugs and medical supplies, offer for sale and supply the same to public health institutions on such terms as the Board may from time to time prescribe;
- (b) to establish warehouse facilities in Nairobi or any other towns of Kenya for the purposes of storage, packaging or sale of drugs and medical supplies to health institutions;
- (c) to carry out or cause to be carried out technical and or laboratory analysis of drugs and medical supplies to determine their suitability for procurement, sale, use, storage or disposal

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**[Subsidiary]**

by the Agency;

- (d) to advise the consumers and health providers on the rational and cost effective use of drugs and medical supplies in consultation with other agencies;
- (e) to use guidelines on the procurement, storage, use and disposal of pharmaceutical products within public health institutions in consultation with other agencies;
- (f) to sub-contract any of the above functions to competent agents or institutions as may be determined by the Board, without prejudice to the objects for which the Agency is established;
- (g) to make available its facilities for use for educational purposes on such terms and conditions as the Board may deem necessary.

**Finances.**

13. (1) In addition to any gifts, grants, donations or other money which the Board may receive on behalf of the Agency, 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 Minister may determine as being necessary to enable the Board to carry out its functions, having regard to the estimates for the year approved under section 11 of the Act.

**Accounts.**

14. (1) The Board shall ensure that proper books and records of accounts in relation to the Funds of the Agency are kept and maintained, and those accounts shall be audited by the Auditor-General (Corporations) and by a reputable audit firm appointed by the Board.

(2) The Board shall publish or cause to be published the accounts of the Agency.

**Annual report.**

15. (1) The Chief Executive shall each year cause to be prepared and submitted to the Board a report showing the activities of the Board in the past year, including a report of the auditors on the accounts of the Agency.

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**[Subsidiary]**

(2) The Board shall submit a report of its activities, operations and performance to the Minister every six months.

**Funds and banking accounts.**

16. (1) The Board shall establish a "Kenya Medical Supplies Agency Fund" hereafter called "the Fund" into which all moneys received by the Board shall be paid and out of which all payments 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 and in such institutions as may be decided upon by the Board in consultation with the Minister for Finance;
- (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 or requirements concerning such use or expenditure.

**Protection from personal liability.**

17. No matter or thing done by the Chairman 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 Chairman, member, officer, employee or agent or any person acting by these directions personally liable to any action, claim or demand.

**Delegation by the Board.**

18. 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 functions or duties the Board is authorized by this Order to exercise or perform.

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**[Subsidiary]**

L.N. 59/2001.

**THE STATE CORPORATIONS APPEAL TRIBUNAL RULES,  
2001**

**Citation.**

1. These Rules may be cited as the State Corporations Appeal Tribunal Rules, 2001.

**Interpretation.**

2. In these Rules, unless the context otherwise requires—

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

“chairman” means the Chairman 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.

**Quorum.**

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



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**[Subsidiary]**

(2) The Chairman 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.

**Form of Appeal.**

4. (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.

**Register of Appeals.**

5. 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.

**Filing of Memorandum.**

6. 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.

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**[Subsidiary]****Amendment of Memorandum.**

7. 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.

**Service of Memorandum.**

8. 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 or in such manner as the Tribunal may direct on application made to it by any party.

**Service of notice of hearing.**

9. As soon as may be practicable after the lodging of the Memorandum of Appeal, the Chairman 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.

**Withdrawal of appeal.**

10. 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.

**Appearance.**

11. 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.

**Hearing.**

12. (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.

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**[Subsidiary]**

(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 circumstance 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 circumstance existing at the date of the hearing of the appeal where any change of circumstances has occurred since the lodging thereof.

**Summoning of witnesses.**

13. (1) The provisions of Order XV of the Civil Procedure Rules (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

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**[Subsidiary]**

as provided in Rule 12.

(3) When in the opinion of the Chairman 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 Chairman.

(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.

**Power to adjourn hearing.**

14. (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 chairman 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.

**Ruling.**

15. (1) At the conclusion of a hearing under these Rules, the Chairman 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 Chairman 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.

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**[Subsidiary]****Procedure.**

16. (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 Chairman 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.

**Costs.**

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

[Subsidiary]

FIRST SCHEDULE

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 .....

.....  
*Chairman,*  
*State Corporations Appeal Tribunal.*

[Subsidiary]

## SECOND SCHEDULE

(r.17)

## TRIBUNAL FILING FEES

DOCUMENT	FEES(KSHS)
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
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 the amount	69,690.00 plus 1.5% of
5,000,001.00 - 100,000,000.00 amount	69,690.00 plus 1% of the
100,000,001.00 - 1,000,000,000.00 the amount	69,690.00 plus 0.5% of
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

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**[Subsidiary]**

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



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[Subsidiary]

L.N. 30/2002.

**THE NYAYO TEA ZONES DEVELOPMENT CORPORATION  
ORDER, 2002**

L.N. 265/1986.

**Citation.**

1. This Order may be cited as the Nyayo Tea Zones Development Corporation Order, 2002.

**Establishment of the Corporation.**

2. 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.

**Powers and Function of Corporation.**

**Cap. 318 sub-leg.**

3. (1) (a) The Corporation shall, in consultation with the Chief Conservator of Forests, create tea and fuel wood growing zones to be known as "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, 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 sub-paragraph (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—

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**[Subsidiary]**

- (a) establish, manage and develop tea and fuel wood plantations;
- (b) establish and manage nurseries for 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 paragraph 3 (1) (a) but it shall only buy and process tea from areas where the Kenya Tea Development Agency operates with the consent of the Agency, which consent shall not be unduly withheld.

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

(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 better performance of its functions under this Order.

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[Subsidiary]

L.N. 77/2004.

**THE KENYATTA INTERNATIONAL CONFERENCE  
CENTRE ORDER, 2004**

1. This Order may be cited as the Kenyatta International Conference Centre Order, 2004.

2. 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. The headquarters of the Corporation shall be in Nairobi.

4. The Corporation, under the general direction of the Minister 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 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. The Corporation shall have a Board of Directors constituted in accordance with section 6 (1) of the State Corporations Act 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;

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**[Subsidiary]**

- (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 Minister for the time being responsible for Tourism.

6. 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;
- (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. The Corporation shall engage and employ such number of staff including the Chief Executive Officer on such terms and conditions of service as the Minister may, in consultation with the State Corporations Advisory Committee, approve.

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

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**[Subsidiary]**

L.N. 79/2004.

**THE KENYA MARITIME AUTHORITY ORDER, 2004****Citation.**

1. This Order may be cited as the Kenya Maritime Authority Order, 2004.

**Establishment of the Authority.**

2. 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.

**Constitution of the Authority.**

3. (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 Minister.

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

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**[Subsidiary]**

(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 Minister 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 Minister as soon as a vacancy occurs in the membership of the Board, and the Minister shall appoint a member to fill such vacancy within one month of receiving the notice.

**Director-General.**

4. (1) There shall be a Director-General of the Authority who shall be appointed by the Minister, 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 Minister, is sufficient to enable the person so appointed to carry out his or her duties as the Director-General.

(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.

**Staff of the Authority.**

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

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**[Subsidiary]**

upon such terms and conditions as it may determine.

**Corporation Secretary.**

6. (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.

**Principal objects of Authority.**

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

**Function of the Authority.**

8. (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”;

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**[Subsidiary]**

- (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 Minister 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



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**[Subsidiary]**

foregoing, the Authority may impose fees or charges as may be prescribed by the Minister from time to time for the use of any service provided by the Authority.

**Powers of the Authority.**

9. 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.

**Authority to establish and control Fund.**

10. (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

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**[Subsidiary]**

requirements concerning such use or expenditure.

**Protection from personal liability.**

11. 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 bonafide 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.

**Liability for Damages.**

12. 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.

**Delegation by the Authority.**

13. 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.

**Finance.**

14. 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 Minister 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.

L.N. 93/2004.

**THE STATE CORPORATIONS (PERFORMANCE  
CONTRACTING) REGULATIONS, 2004**

**Citation.**

1. These Regulations may be cited as the State Corporations (Performance Contracting) Regulations, 2004.

**Definitions.**

2. In these Regulations, except where the context otherwise requires—

“Act” means the State Corporations Act;

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

“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 corporation;

“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 graduated or monetary reward for good performance based on performance evaluation;

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

“Minister” means the Minister for the time being assigned ministerial responsibility over a state corporation and “parent Ministry” shall be construed accordingly;

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**[Subsidiary]**

“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.

**Application.**

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

**Autonomy and responsibility of Boards of Directors.**

4. (l) 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 budgets approved by the Treasury and the parent Ministry;
- (b) recruit staff including the chief executive officer of the state corporation;
- (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 corporation;
- (e) manage the assets of the state corporation;
- (f) enter into and implement performance contracts with the chief

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**[Subsidiary]**

executive of the state corporation;

(g) submit quarterly reports on the performance of the state corporation to the parent Ministry, the 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 Treasury for approval not later than the end of February in every year and the parent Ministry and the Treasury shall grant such approval not later than 30th of 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 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.

**Responsibility of parent Ministry.**

5. 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.

**Negotiations.**

6. 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 the manner provided for in regulation 4 (4) of these Regulations.

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**[Subsidiary]****Signing of performance contracts.**

7. (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 Treasury every last month of the financial year in order to become effective on the first month of the financial year.

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

**Responsibility of parent Ministry and the Treasury.**

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

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

**Responsibility of Inspector-General (Corporations).**

9. For the purposes 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) determine methods for evaluating performance on the basis of specified and agreed targets;
- (c) develop evaluation criteria;
- (d) submit results of evaluation to the Treasury and the parent Ministry within three months after the end of the financial year; and
- (e) advise on the administration of the performance contracts.

**Minister to submit report.**

10. The Minister shall submit the results of evaluation of state

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**[Subsidiary]**

corporations to the Controller and Auditor-General, the National Assembly and the President.

**Removal of Director.**

11. Subject to the provisions of any other Act, the Minister may, in consultation with the Committee, and based on results of evaluation, remove a Director of a state Corporation whose performance is unsatisfactory.

**Incentives and bonuses.**

12. (1) The Minister 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 Minister 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.

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**[Subsidiary]**

L.N. 120/2004.

**THE NATIONAL CO-ORDINATING AGENCY FOR  
POPULATION AND DEVELOPMENT ORDER, 2004**

**Citation and Commencement.**

1. This Order may be cited as the National Co-ordinating Agency for Population and Development Order, 2004.

**Definition.**

2. In this Order—

“Agency” means the National Co-ordinating Agency for Population and Development established under paragraph 3.

**Establishment.**

3. There is hereby established a State Corporation to be known as the National Co-ordinating Agency for Population and Development.

**Functions of the Agency.**

4. (1) The following are the functions of the Agency—

- (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—



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**[Subsidiary]**

“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.

**National Council for Population and Development.**

5. (1) There is established a Council, to be known as the National Council for Population and Development, which shall be responsible for the overall direction and management of the Agency.

(2) The Council 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 Permanent Secretary in the ministry responsible for the Agency;
  - (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 Episcopal Conference;
  - (viii) the Chairman, Supreme Council of Kenya Muslims;
  - (ix) the Secretary-General, National Council of Churches of Kenya;
  - (x) the Executive Director, International Federation of Women

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**[Subsidiary]**

Lawyers (FIDA) (Kenya Chapter); and

(xi) the Director-General, National Environment Management Authority;

(c) not more than two other members appointed by the Minister.

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

**Annual Report.**

6. (1) The Agency shall prepare an annual report for each financial year and submit it to the Minister.

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

(3) The Agency shall publish the annual report after submitting it to the Minister.

L.N. 10/2005.

**THE KENYA FILM COMMISSION ORDER, 2005.****Citation.**

1. This Order may be cited as the Kenya Film Commission Order, 2005.

**Interpretation.**

2. In this Order—

“Commission” means the Kenya Film Commission established under paragraph 3;

“Minister” means the Minister responsible for matters relating to films.

**Establishment and composition of Commission.**

3. (1) There is hereby established a state corporation known as the

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**[Subsidiary]**

Kenya Film Commission, which shall be a body corporate in accordance with section 3 of the Act.

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

- (a) a non-executive chairman appointed by the President;
- (b) the Chief-Executive of the Commission;
- (c) the Permanent Secretary to the Treasury;
- (d) the Permanent Secretary in the Ministry for the time being responsible for films;
- (e) four members, nominated by the following bodies, and appointed by the Minister—
  - (i) the Kenya Film and Television Professionals Association;
  - (ii) the Media Owners Association;
  - (iii) the Kenya National Film Association; and
  - (iv) the Performing Arts Coalition;
- (f) three other members who shall be public officers, appointed by the Minister.

(3) Each appointment under subparagraph (2) (a), (b), (e) and (f) shall be by name and by notice in the Kenya Gazette and shall be for a renewable period of three years.

**Functions of the Commission.**

4. The following are the functions of the Commission—

- (a) to advise the Government on all relevant matters pertaining to development, co-ordination, regulation and promotion of the film industry in Kenya;
- (b) to facilitate the provision of content development, funding and investment for film projects;

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**[Subsidiary]**

- (c) to facilitate the proper keeping of film archives in Kenya;
- (d) to market Kenya as a centre of excellence in film production;
- (e) to facilitate the investment in the development of the infrastructure of the film industry.

**Headquarters.**

5. The Headquarters of the Commission shall be in Nairobi.

**Funds of the Commission.**

6. The funds of the Commission shall include—

- (a) monies from any source donated, granted or lent to the Commission;
- (b) such monies as may accrue or vest in the Commission in the course of the exercise of its functions under this Order.

**Financial year.**

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

**Annual Report.**

8. (1) The Commission shall prepare an annual report for each financial year and submit the report to the Minister.

(2) The Annual Report for each year shall include the financial statements of the Commission.

(3) The Commission shall publish the Annual Report after submitting the report to the Minister.

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[Subsidiary]

L.N. 26/2007.

**THE KENYA INFORMATION AND COMMUNICATIONS  
TECHNOLOGY BOARD ORDER, 2007**

**Citation.**

1. This Order may be cited as the Kenya Information Communications and Technology Board Order, 2007.

**Interpretation.**

2. In this Order unless the context otherwise requires—

“Board” means the Kenya Information and Communications Technology Board established under paragraph 3.

“Minister” means the Minister responsible for matters relating to information and communications technology.

**Establishment of composition of the Board.**

3. (1) There is established a state corporation to be known as the Kenya Information and Communications Technology 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 Minister;
- (c) the Permanent Secretary to the Treasury;
- (d) the Permanent Secretary in the Ministry for the time being responsible for information and communications technology;
- (e) three members who are public officers, appointed by the Minister; and
- (f) not more than four members, not being public officers, appointed by the Minister by virtue of their knowledge or experience in matters relating to information and communications technology or related consumer interests.

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**[Subsidiary]****Functions of the Board.**

4. The functions of the Board shall be to—
- (a) advise the Government on all relevant matters pertaining to the development, co-ordination and promotion of information and communications technology industries in the country;
  - (b) promote both locally and internationally the opportunities for investment in information and communications technology;
  - (c) facilitate and manage information and communications technology, industrial incubation parks and technology parks together with associated facilities on sites, estates and land;
  - (d) appoint agents within and without the country to carry out such functions, as it may consider necessary, in accordance with this Order;
  - (e) carry out any other activity as, in the Board's opinion, will promote and facilitate the development of information and communications technology products and services.

**Headquarters.**

5. The Headquarters of the Board shall be in Nairobi.

**Funds for the Board.**

6. The funds of the Board shall consist of—
- (a) such moneys as may be provided by Parliament for the purposes of the Board;
  - (b) such moneys or assets as may accrue or vest in the Board in the course of the performance of its functions under this Order; and
  - (c) such moneys as may be payable to the Board pursuant to this order or any written law or pursuant to any gift or trust.

**Financial year.**

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

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**[Subsidiary]****Annual estimates.**

8. (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 sub paragraph (3) or in pursuance of an authorization of the Board.

**Accounts and audit.**

9. (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

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**[Subsidiary]**

year, the Board shall submit to the Auditor-General or to an auditor appointed under sub paragraph (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 sub paragraph (3) and the auditor shall comply with those directions.

(6) An Auditor appointed under sub paragraph (3) shall report directly to the Auditor-General on any matter relating to the directions given under sub paragraph (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 Minister, and in the case of an auditor appointed under sub paragraph (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 Minister shall lay the annual report before the National Assembly as soon as reasonably practicable after the report is submitted to him under this paragraph.

**Investment of funds.**

10. (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.



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**[Subsidiary]**

(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.

**Annual report.**

11. (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 annual report before the National Assembly within three months of the day the Assembly next sits after the report is presented to him.

L.N. 63/2007.

**THE YOUTH ENTERPRISE DEVELOPMENT  
FUND ORDER, 2007****Citation.**

1. This Order may be cited as the Youth Enterprise Development Fund Order, 2007.

**Interpretation.**

2. In this Order unless the context otherwise requires—

“Board” means the Youth Enterprise Development Fund Board established under Regulation 3;

“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;

“Minister” means the Minister for the time being responsible for youth affairs;

“youth” means any person aged between 18 and 35 years.

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**[Subsidiary]****Establishment of the Fund.**

3. (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.

**Objects and purposes of the Fund.**

4. 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 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;

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**[Subsidiary]**

- (g) facilitate employment of youth in the international labour market; and
- (h) carry out any other activities relevant to its principal mandate.

**Establishment and composition of the Board.**

5. (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.

- (2) The Board shall consist of—
  - (a) a non-executive chairman appointed by the President;
  - (b) a chief executive of the Board who shall also be the secretary to the Board;
  - (c) the Permanent Secretary in the Ministry for the time being responsible for youth affairs;
  - (d) the Permanent Secretary in the Ministry for the time being responsible for finance;
  - (e) seven persons appointed by the Minister, 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 Minister.

(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 Minister, determine.

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**[Subsidiary]****Functions of the Board.**

6. 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.

**Headquarters.**

7. The Headquarters of the Board shall be in Nairobi.

**Expenses of administering the Fund.**

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

**Financial year.**

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

**Annual estimates.**

10. (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;

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**[Subsidiary]**

- (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 sub paragraph (3) or in pursuance of an authorization of the Board.

**Accounts and audit.**

11. (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 sub paragraph (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

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**[Subsidiary]**

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 sub paragraph (3) and the auditor shall comply with those directions.

(6) An Auditor appointed under sub paragraph (3) shall report directly to the Auditor-General on any matter relating to the directions given under sub paragraph (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 Minister, and in the case of an auditor appointed under sub paragraph (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 Minister shall lay the annual report before the National Assembly as soon as reasonably practicable after the report is submitted to him under this paragraph.

**Investment of funds.**

12. (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.

**Annual Report.**

13. (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 annual report before the National

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**[Subsidiary]**

Assembly within three months of the day the Assembly next sits after the report is presented to him.

**Savings and transitional.**

L.N. 167 of 2006.

14. 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 (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

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**[Subsidiary]**

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.

**Repeal of L.N. 167 of 2006.**

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

L.N. 140/2007.

**THE NATIONAL CAMPAIGN AGAINST DRUG ABUSE  
AUTHORITY, ORDER, 2007****Citation.**

1. This Order may be cited as the National Campaign against Drug Abuse Authority Order, 2007.

**Interpretation.**

2. 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;

“Minister” means the Minister for the time being responsible for matters relating to drug abuse;

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

**Establishment of the Authority.**

3. (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—



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**[Subsidiary]**

- (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.

**Composition of the Authority.**

4. 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 Minister; and
- (c) such other staff or bodies, for the time being formally collaborating with the Authority, from time to time.

**Functions of the Authority.**

5. (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;

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**[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.

**Headquarters.**

6. The Headquarters of the Authority shall be in Nairobi.

**The National Co-ordinator.**

7. (1) There shall be a National Co-ordinator of the Authority appointed by the Minister 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

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**[Subsidiary]**

(c) chairman 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 eligible for re-appointment.

**Board of the Authority.**

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

(a) a chairman appointed by the President;

(b) the Permanent Secretary, in the Ministry for the time being responsible for Provincial Administration and Internal Security or his representative;

(c) the Permanent Secretary in the Ministry of Finance or his representative;

(d) the Permanent 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 minister on the recommendations by their respective organizations;

(g) one representative of the youth appointed by the Minister in consultation with the Minister in charge of youth affairs;

(h) one person nominated by the Medical Practitioners and Dentists Board; and

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**[Subsidiary]**

(i) not more than three members co-opted by the Board by virtue of their expertise in matters relating to young persons, delinquency and drugs abuse.

(2) Subject to subparagraph (3) a member of the Board, other than an *ex officio* member, shall hold office for 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* may—

(a) resign from office by a notice written under his hand addressed to the chairman;

(b) be removed from office by the Minister if the member—

(i) has been absent from three consecutive meetings of the Board without the permission of the chairman;

(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.

**Powers of the Board.**

9. 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

**[Subsidiary]**

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.

**Funds of the Authority.**

10. 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.

**Financial year.**

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

**Annual estimates.**

12 (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

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**[Subsidiary]**

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 Minister 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 Minister, and the Permanent Secretary to the Treasury.

**Accounts and audit.**

13. (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 Controller and Auditor-General or to an auditor appointed under subparagraph (3), the accounts of the Authority, in respect of that year, together with—

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**[Subsidiary]**

- (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.

**No. 12 of 2003.**

(3) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2003.

**Investment of funds.**

14. (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 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.

**Annual report.**

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

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

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**[Subsidiary]**

L.N. 165/2007.

**THE KENYA COCONUT DEVELOPMENT AUTHORITY ORDER,  
2007****PART I—PRELIMINARY****Citation.**

1. This Order may be cited as the Kenya Coconut Development Authority Order, 2007.

**Interpretation.**

2. 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;

“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;

“Minister” means the Minister for the time being responsible for matters relating to agriculture;

“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



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**[Subsidiary]**

vegetative part of a plant in a coconut nursery.

**PART II—ESTABLISHMENT OF THE AUTHORITY****Establishment of the Authority.**

3. 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.

**Board of the Authority.**

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

- (a) a chairman appointed by the President;
- (b) the Permanent Secretary of the Ministry for the time being responsible for agriculture;
- (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 regional development authorities;
- (e) the Permanent 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 Minister and who have an interest in the coconut industry and other relevant qualification or experience.

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

(3) The chairman and members of the Board appointed under sub-paragraph 1 (g) shall cease to hold office if one—

- (a) resigns his office as such in writing to the appointing authority;

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**[Subsidiary]**

- (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.

**Functions of the Authority.**

5. 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.

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**[Subsidiary]****Powers of the Board.**

6. 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 coconuts 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 Minister after consultation with the Minister 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.

**Meetings of the Board.**

7. (1) The chairman 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 chairman at that meeting.

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**[Subsidiary]**

(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 chairman or the person appointed to be the chairman under sub-paragraph (1) shall have a casting as well as a deliberative vote.

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

**Managing Director.**

8. (1) There shall be a Managing Director appointed by the Minister 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.

**Appointment of staff.**

9. 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.

**Remuneration.**

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

**Delegation of Powers.**

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

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**[Subsidiary]****Execution of documents.**

12. (1) The seal of the Authority shall be authenticated by the signature of the chairman 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 chairman, 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****Funds of the Authority.**

13. 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 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.

**Financial year.**

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

**Annual estimates.**

15. (1) At least three months before the commencement of each

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**[Subsidiary]**

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 Minister 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 Minister, and the Permanent Secretary to the Treasury.

**Accounts and audit.**

16. (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 Controller and Auditor-General or to an

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**[Subsidiary]**

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.

No. 12 of 2003.

(3) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2003.

**Investment of funds.**

17. (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 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 Board.

**Annual report.**

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

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

**PART IV—QUALITY ASSURANCE IN PRODUCTION AND MARKETING****Establishment of coconut nursery committee.**

19. (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;

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**[Subsidiary]**

- (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.

**Registration of nursery.**

20. (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.

**Conditions before registration.**

21. 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.

**Certificate not transferable.**

22. (1) No person to whom a certificate of registration is issued



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**[Subsidiary]**

under paragraph 20 shall sell, lend, transfer or otherwise dispose 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.

**Restriction on transfer of planting materials.**

23. 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.

**Approved source of seeds.**

24. (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.

**Approved planting material.**

25. (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 sub-paragraph (1).

(3) A person who fails to comply with sub-paragraph (2) commits an offence.

**Records of sale.**

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

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**[Subsidiary]****Restriction on sale of planting materials.**

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

(2) Any person who contravenes sub-paragraph (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.

**Compensation.**

28. (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.

**Selection of production sites.**

29 (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.

**No. 8 of 1999.**

(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.

(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

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**[Subsidiary]**

commits an offence.

30. 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.

**Coconut produce and by-products traceability.**

31. (1) 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.

**General provisions for produce handling facility.**

32. Every producer, dealer and processor shall undertake periodic residue analysis 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.

**Waste disposal.**

33. (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 approximately 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.

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**[Subsidiary]****Waste disposal.**

34. 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.

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

35. (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 of 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 sub paragraph (1) commits an offence and shall be liable to a fine not exceeding six thousand or to imprisonment for a term not exceeding six months or to both.

**Restrictions on registration.**

36. (1) No registered dealer shall—

- (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;

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**[Subsidiary]**

(e) return produce collected from the farmers or suppliers contrary to the contract agreement as per 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.

**General penalty.**

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

[Subsidiary]

FIRST SCHEDULE

FORM A:

(para. 20 (2))

PART I

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

[Subsidiary]

- 12. I confirm that I shall abide by the regulations and ensure that all seed material for planting has been inspected and approved.
- 13. Applicant's 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.**

[Subsidiary]

FORM B

(Para. 20 (3))

Certificate of Registration of Coconut Nursery

Messrs .....of
P. O. Box .....
is/are registered to operate a Coconut nursery for the year 20
.....

Located at..... sub-location .....

LR No.....

The following planting materials will be produced

Table with 2 columns: Types, Number of planting stock. Includes dotted lines for data entry.

Registration No. ....

Signed .....
(Managing Director)
Kenya Coconut Development Authority

Date: .....

CONDITIONS



[Subsidiary]

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.
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.

**FORM C**

**(Para. 23)**

**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 .....

[Subsidiary]

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.....

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

[Subsidiary]

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

**[Subsidiary]**

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** .....

**Signature**

**Approval by Kenya Coconut Development Authority**

**Approved/Not approved**

**Signature  
Managing Director**

[Subsidiary]

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)**

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**[Subsidiary]****SECOND SCHEDULE****(Para. 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 construed for receiving produce at field level.
8. The collection shed shall—
  - (a) be accessible to both buyers and farmers;
  - (b) be designated to allow for a store, an office and working area;
  - (c) the floors, doors, wall surfaces 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.

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[Subsidiary]

THIRD SCHEDULE

(Para 33 (1))

**MINIMUM CONDITIONS APPLICABLE TO PACKHOUSES  
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 Factories Act Cap. 514.
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 Factories Act.
10. The produce handling facility shall be designed and constructed to prevent entry of domestic animals, rodent, 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

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**[Subsidiary]**

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****(Para. 33 (3))****PACKAGING, TRANSPORTATION AND STORAGE MINIMUM REQUIREMENTS**

1. The packaging shall protect the produce from mechanical and physiological damages to minimize 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.
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.



[Subsidiary]

FIFTH SCHEDULE

(Para 36 (1))

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

**CONTRACT 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**

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**[Subsidiary]**

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 to 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.

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**[Subsidiary]**

- (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) Contract should specify a minimum quantity of produce to be provided by the dealer (i.e. quantity below which no collection will be effected.)
- (iii) 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 buyer requires the use of approved seeds/planting materials by the seller, it shall be specified in the contract.

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**[Subsidiary]**

- (iii) 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: date and weather conditions.

**(e) Field Support and Training:-**

- (i) Every dealer shall provide 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 harvesting and handling of produce, which will ensure high quality levels.
- (ii) These practices include:

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**[Subsidiary]**

- use of clean containers from heat and direct sunlight;
- protection of produce from heat and direct sunlight;
- use of clean water for washing of produce where necessary.

**(g) Inspection and Grading:—**

Dealer and producer shall agree 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) Contract shall specify which party is obligated to supply packaging materials;
- (ii) Packaging procedures such as condition and quantity of produce, grade and type of produce, placement within a container.

**(j) Conditions of Collection and/or Delivery:—**

- (i) The contract shall specify the collection periods of produce (time and year);
- (ii) Specify conditions for the events of non-collection;
- (iii) If 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.

**(k) Rejected Produce:—**

- (i) 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;

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**[Subsidiary]**

- (iv) Any produce which the dealer has accepted delivery of shall not be returned to the producer.

**(j) Payment Terms and Mechanism:—**

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

**(m) 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.

**(n) Termination Clause:—**

- (i) Conditions for termination of 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.

**(o) 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.

[Subsidiary]

SIGNED for and on behalf of the

Dealer

Producer

Name: ..... Name: .....

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

Witness:..... Witness: .....

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

Witness: .....KCDA

Witness: .....KCDA

Date:.....

Date: .....

L. N. 187/2007.

**THE KENYA YEARBOOK ORDER, 2007**

**Citation.**

- 1. This Order may be cited as the Kenya Year book Order, 2007.

**Interpretation.**

- 2. In this Order, unless the context otherwise requires—

“Board” means the Kenya Yearbook Editorial Board established under paragraph 3.

“Minister” means the Minister responsible for matters relating to information and communications.

- 3. (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—

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**[Subsidiary]**

- (a) a non-executive chairman appointed by the President;
- (b) a chief executive of the Board who shall be appointed by the Minister;
- (c) the Permanent Secretary to Treasury;
- (d) the Permanent Secretary in the Ministry for the time being responsible for information;
- (e) the Permanent Secretary in the Ministry for the time being responsible for provincial administration and internal security;
- (f) the Permanent Secretary, Ministry of Trade and Industry;
- (g) the Permanent secretary, Ministry of Planning and National Development;
- (h) the Permanent Secretary, Ministry of Tourism and Wildlife;
- (i) the Permanent Secretary, Ministry of Science and Technology;
- (j) three other members, nominated by the following bodies and appointed by the Minister—
  - (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* shall hold office for a period of three years and shall be eligible for reappointment once.

(4) 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



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**[Subsidiary]**

and speed up progress towards the kind of society Kenyans desire;

(d) convey in the Yearbook immense resources Kenya and the potential still to be tapped.

(5) The Headquarters of the Board shall be in Nairobi.

(6) 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.

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

8. (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

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**[Subsidiary]**

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 Minister 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 Minister, and the Permanent Secretary to the Treasury.

9. (1) The Board shall cause to be kept proper books 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 Controller and 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 Audits Act, 2003.

10. (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

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**[Subsidiary]**

securities which the 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 monies not immediately required for the purposes of the Board.

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

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

L.N. 38/2008,

L.N. 119/2010.

## **THE BRAND KENYA BOARD ORDER, 2008**

### **PART I—PRELIMINARY**

#### **Citation.**

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

#### **Interpretation.**

2. 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; and

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

### **PART II—ESTABLISHMENT OF THE BOARD**

#### **Establishment of the Board.**

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

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**[Subsidiary]**

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.

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**[Subsidiary]****Objectives of the Board.**

4. The principal objectives of the Board shall be to-
- (a) co-ordinate initiatives for marketing the country in order to maximize their efficiency; and
  - (b) create and maintain the Kenya brand to identify and distinguish Kenyan products, services and concepts.

**Functions of the Board.**

5. 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.

**Staff of the Board.**

6. The Board may employ such number of staff on such terms and

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**[Subsidiary]**

conditions of service as the Board may deem fit.

**PART III—FINANCIAL PROVISIONS****Funds of the Board.**

7. 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.

**Annual estimates.**

8. (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.

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**[Subsidiary]**

(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.

**Accounts and audit.**

9. (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,

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**[Subsidiary]**

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.

**Investment of funds.**

10. (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****Annual report.**

11. (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.



L.N. 55/2009.

## THE KENYA ACCREDITATION SERVICE ORDER, 2009

### Citation.

1. This Order may be cited as the Kenya Accreditation Service Order, 2009.

### Interpretation.

2. 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 document, 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;

“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

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**[Subsidiary]**

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;

“Minister” means the Minister for the time being responsible for industrialization matters;

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

**Establishment of KENAS.**

3. 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. (1) KENAS shall perform the following functions—

- (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;

**[Subsidiary]**

- (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.

**Composition of the Board.**

5. The KENAS shall have a Board of Directors which shall consist of-

- (a) a non-executive chairman appointed by the President;

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**[Subsidiary]**

- (b) the Permanent Secretary of the Ministry for the time being responsible for industrialization matters;
- (c) the Permanent 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 Minister to represent regulatory bodies;

**Functions of the Board.**

6. (1) The Board shall—

- (a) advise and consult the Minister 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.

(4) The Board shall, in consultation with the Minister, 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.

(5) KENAS shall engage and employ such number of staff, as may

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**[Subsidiary]**

be necessary for the proper performance of its functions.

**Composition of the Accreditation Committee.**

7. KENAS shall have an Accreditation Committee which shall consist of—

- (a) the Director of Industries who shall be the Chairman;
- (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 Minister; and
- (f) one person representing the manufacturing and production industries appointed by the Minister.

**Functions of the Accreditation Committee.**

8. (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;

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**[Subsidiary]**

- (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.

**Board committees.**

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

**Accreditation of persons and bodies.**

10. (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.

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

**Fees.**

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

**Certificates.**

12. (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.

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**[Subsidiary]**

(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.

**Publication.**

13. 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.

**Accreditation mark.**

14. 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.

**Financial Provisions.**

15. (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, 2003 No. 12 of 2003.

**Protection from personal liability.**

16. (1) No matter or thing done by Board or any officer or employee or agent of KENAS shall, if the matter or thing 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 this 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

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**[Subsidiary]**

wholly or partially of its officers or employees.

**Confidentiality.**

17. 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.

**Appeals.**

19. An 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.



L.N. 120/2010.

## THE KENYA A INSTITUTE OF EDUCATION ORDER, 2010

### PART I—PRELIMINARY

2. This Order may be cited as the Kenya Institute of Education Order, 2010.

3. In this Order, except where the context otherwise requires—

‘Minister’ means the Minister 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

#### **Establishment of Kenya Institute of Education.**

4. (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—

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**[Subsidiary]**

- (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.

**Functions of the Institute.**

4. 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;
- (d) initiate and conduct curriculum based research to inform curriculum development;

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**[Subsidiary]**

- (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.

**Powers of the Institute.**

5. 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

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**[Subsidiary]**

- (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

**The establishment of the Council.**

6. (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 Permanent Secretary in the Ministry responsible for education;
- (c) the Permanent Secretary in the Ministry responsible for higher education, science and technology;
- (d) the Permanent 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 Minister, 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.

**Qualifications for appointment.**

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

- (a) in the case of the chairman, 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.

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**[Subsidiary]****Term of office.**

8. (1) 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.

**General functions of the Council.**

9. 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.

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**[Subsidiary]****Director.**

10. (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 Minister 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.

**Committees of the Council.**

11. (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 sub-paragraph (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.

**Academic Committee.**

12. (1) The Academic Committee shall consist of—

- (a) the Education Secretary who shall be the chairman; 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;

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**[Subsidiary]**

- (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.

**Course, subject research and evaluation panels.**

13. (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,

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**[Subsidiary]**

(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



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**[Subsidiary]**

- (c) give general guidance and support to the curriculum-based research and evaluation programmes of the Institute.

**Secretariat Services.**

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

**Delegation by Council.**

15. 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.

**Vacancy in office.**

16. 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 chairman, to the President, and in the case of any other member, to the Minister, 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 Minister, as the case may be;
- (b) when the appointment is revoked by the Minister 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.

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**[Subsidiary]**

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

**Frequency of meetings and special meetings.**

17. (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 sub-paragraph (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).

**Quorum.**

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

**Chairing of meetings.**

19. (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.

**Decisions of the Council.**

20. 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.

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**[Subsidiary]****Disclosure of interest.**

21. (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 sub paragraph (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.

**Common Seal.**

22. (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.

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**[Subsidiary]****Remuneration.**

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

**Appointment of staff.**

24. 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 Minister.

**Protection from personal liability.**

25. 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

**Funds of the institute.**

26. (1) 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.

**Financial year.**

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

**Annual estimates.**

28. (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.

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**[Subsidiary]**

(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 Minister for approval.

**Books of accounts records, audit and reports.**

29. (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, 2003 Cap. 12 of 2003.

**Investments of funds.****Repeal of L.N. 105/1976 and savings.**

30. (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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**[Subsidiary]**

(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. (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 Minister 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 Minister 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,

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**[Subsidiary]**

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.

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**[Subsidiary]**

L.N. 6/2011.

**THE KENYA TRADE NETWORK AGENCY ORDER, 2010****Citation.**

1. This Order may be cited as the Kenya Trade Network Agency Order, 2010.

**Interpretation.**

2. 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;

“Kenya Shippers Council” means the Kenya Shippers Council registered under the Societies Act Cap. 108;

“Minister” means the Minister for the time being responsible for matters relating to finance;

“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.

**Establishment of the Agency.**

3. (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.



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**[Subsidiary]****Objectives of the Agency.**

4. (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.

**Functions of the Agency.**

5. The functions of the Agency shall be to—

- (a) implement, in consultation with the Minister, 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;
- (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 Minister may, from time to time, assign

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**[Subsidiary]**

to the Agency.

**Board of Directors.**

6. (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 Permanent Secretary in the Ministry for the time being responsible for matters relating to finance;
- (d) the Permanent Secretary in the Ministry for the time being responsible for matters relating to trade;
- (e) the Permanent 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 Minister by virtue of their knowledge and experience in matters relating to—
  - (i) trade logistics;
  - (ii) information communication technology; or
  - (iii) finance or administration.

(3) 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.

**Powers of the Board.**

7. (1) The Board shall, under the general direction of the Minister, 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

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**[Subsidiary]**

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 Minister, from time to time, for the use of any services provided by the Agency.

**Delegation by the Board.**

8. 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.

**Chief executive officer.**

9. (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.

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**[Subsidiary]****Staff.**

10. 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 Minister may, in consultation with the Board determine.

**Funds of the Agency.**

11. 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.

**Financial Year.**

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

**Annual estimates.**

13. (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

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**[Subsidiary]**

approved, the sum provided in the estimates shall be submitted to the Minister 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 Minister.

**Accounts and Audit.**

14. (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.

**Protection from personal liability.**

15. 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.

**Liability for damages.**

16. 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.

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[Subsidiary]

