LEGAL NOTICE NO. 14

THE STATE CORPORATIONS ACT
(Cap. 446)

IN EXERCISE of the powers conferred by section 3 (1) of the State Corporations Act, I, Uhuru Kenyatta, President of the Republic of Kenya and Commander-in-Chief of the Kenya Defence Forces, make the following Order—

THE KENYA NATIONAL PUBLIC HEALTH INSTITUTE ORDER, 2022

PART I—PRELIMINARY

1. This Order may be cited as the Kenya National Public Health Institute Order, 2022.

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

“Board” means the Board of the Institute established under paragraph 6;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to health;

“Director-General” means the Director-General of the Institute appointed under paragraph 12;

“Institute” means the Kenya National Public Health Institute established under paragraph 3;

“public health” means the art and science of preventing disease, prolonging life and promoting health through the organized efforts of society; and

“surveillance” means epidemiological practice by which the spread of disease is monitored to establish patterns of progression.

PART II—ESTABLISHMENT OF THE KENYA NATIONAL PUBLIC HEALTH INSTITUTE

3. (1) There is established the Kenya National Public Health Institute.

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

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
(c) receiving, investing, borrowing and lending money; and

(d) doing or performing any such other things or acts, including entering into such contracts as may be necessary or expedient, for the furtherance of the provisions of this Order which may be done by a body corporate.

4. (1) The headquarters of the Institute shall be in Nairobi but the Institute may establish branch offices in other counties.

(2) The Institute shall ensure access to its services in all parts of the Republic in accordance with Article 6(3) of the Constitution.

5. (1) The functions of the Institute shall be to—

(a) establish mechanisms to facilitate quick detection of outbreaks and emergencies;

(b) build appropriate response capacity to outbreaks and emergencies at the national, county, sub-county and community levels;

(c) facilitate appropriate laboratory capacity to detect and confirm conditions of concern for each level of the public health system;

(d) establish Emergency Operation Centres to coordinate information and resources for emergency response;

(e) manage critical public health functions during non-emergency times;

(f) conduct surveillance for priority conditions through data collection, analyses, interpretation and monitoring the implementation of public health policies and recommendations;

(g) develop and disseminate key messages to the public in response to public health events;

(h) conduct vulnerability and risk assessment, and mitigate various health-threatening issues in collaboration with non-health entities including Ministries responsible for matters relating to environmental health, animal health, and trade; academic institutions and non-governmental organizations;

(i) facilitate capacity building for the public health professionals through the identification of capacity gaps and the development of relevant training programs, in collaboration with universities and other training institutions;

(j) conduct monitoring and evaluation projects and research to identify ways to improve the public health system, including emergency response and surveillance, and to prevent public health problems from occurring including by conducting research as part of an outbreak investigation;

(k) identify the highest priority public health research questions and ensure these are addressed in collaboration with the Ministry of Health and internal and external partners;
(l) ensure research results are used to inform policy development, program decisions, resource prioritization and service delivery;

(m) support operational research on new research methodology and use of innovative technologies for improving public health; and

(n) such other functions as the Board, with the approval of the Cabinet Secretary, may determine.

PART III—BOARD OF THE INSTITUTE

6. (1) There shall be a Board of Directors of the Institute which shall consist of—

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

(b) the Principal Secretary in the Ministry for time being responsible for health;

(c) the Principal Secretary in the Ministry for time being responsible for finance;

(d) the Principal Secretary in the Ministry for time being responsible for livestock development;

(e) the Principal Secretary in the Ministry for time being responsible for defence;

(f) the Attorney General;

(g) two persons, appointed by the Cabinet Secretary; and

(h) the Director-General, who shall be an ex-officio member of the Board.

(2) The members of the Board under subparagraphs (1)(b), (c), (d), (e) and (f) may appoint a person, in writing, to represent them in the Board.

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

(4) An appointment under subparagraph (1)(a) or (g) shall be by notice in the Gazette.

7. A person shall be eligible to be appointed as the chairperson or a member of the Board under paragraph 6(1)(a) or (g) if that person—

(a) is citizen of Kenya;

(b) holds a degree in a relevant field from a university recognized in Kenya;

(c) has proven professional knowledge and experience of not less than seven years in matters relating to public health, research, finance, wildlife management, business management, economics, or law or any other relevant field;
(d) has not served in the same entity as an employee in the preceding five years;

(e) does not hold a public office; and

(f) meets the requirements of Chapter Six of the Constitution.

8. (1) The chairperson and members of the Board appointed under paragraph 6(1)(g) shall hold office for a term of three years which may be renewed only once for a further term of three years.

(2) The office of the chairperson or member of the Board shall become vacant if the holder of that office—

(a) resigns from office, by a notice, in writing, addressed to the appointing authority;

(b) is incapacitated by prolonged physical or mental illness or is otherwise unable to discharge the functions of a member of the Board;

(c) is absent from three consecutive meetings of the Board without good cause and prior apology;

(d) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or

(e) is sentenced by a court to imprisonment for a term of six months or more.

9. (1) The Board shall be responsible for the management and administration of the Institute.

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

(a) manage, supervise and administer the assets of the Institute in such a manner as best promotes the purpose for which the Institute is established;

(b) recruit the Director-General of the Institute and other staff on such terms and conditions as may be approved by the relevant government organs;

(c) establish operational and administrative units for the effective functioning of the Institute;

(d) determine the provisions to be made for capital, and recurrent expenditure and for reserves of the Institute;

(e) receive any grants, gifts, donations or endowments on behalf of the Institute and make legitimate disbursements therefrom;

(f) enter into association with such other bodies or organizations locally and internationally as the Board may consider desirable or appropriate and in furtherance of the purpose for which the Institute is established;

(g) open a banking account or bank accounts for the funds of the Institute; and
(h) perform any other function that enhances or adds value to the proper performance of the functions of the Institute.

10. (1) The Institute shall have power to do all things that may lawfully be done by a body corporate.

(2) Without prejudice to the generality of subparagraph (1), the Board shall have the power to—

(a) acquire such land or assets for the proper performance of the functions of the Institute;

(b) open a bank account for the funds of the Institute into which all moneys received by the Institute shall be paid in the first instance and out of which all payments made by the Institute shall be made;

(c) enter into any agreement or partnership with any public sector agencies and other parties for the operation of facilities, equipment or services of the Institute as necessary, in furtherance of the discharge of the functions of the Institute;

(d) invest any of the Institute funds not immediately required for performance of the objects and purposes for which the Institute is established in accordance with the provisions of paragraph 20;

(e) enter into partnerships and collaborations with bodies and institutions locally or internationally;

(f) with the written prior approval of the Cabinet Secretary, carry out any other activity that in the opinion of the Board will promote and facilitate the realization of the objects and purposes for which the Institute is established; and

(g) such other things that are necessary or desirable to carry out its functions.

11. The Board may by resolution, in writing, either generally or for a particular case, delegate to any committee of the Board or Institute management, the exercise of any of the powers or the performance of any of the functions of the Board under this Order or any other written law.

12. (1) The Board shall through a competitive recruitment process, and subject to approval by the Cabinet Secretary, appoint a suitably qualified person to be the Director-General of the Institute.

(2) A person shall qualify for appointment as the Director-General if that person—

(a) is a citizen of Kenya;

(b) holds at least a master’s degree in public health or any other health related field from a university recognized in Kenya;

(c) has at least ten years’ experience in a senior management position in the management of health services, five of which must be in public health; and
(d) meets the requirements of Chapter Six of the Constitution of Kenya.

(3) The Director General shall be responsible to the Board for—
(a) the day to day operations of the Institute;
(b) supervision, management and discipline of the staff of the Institute;
(c) executing the policies of the Board in respect of the mandate of the Institute;
(d) reporting to the Board on the performance of the Institute; and
(e) performing any other functions as may be assigned by the Board from time to time.

(4) The Director-General shall hold office for a term of three years but shall be eligible for re-appointment for one further term of three years.

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

(2) The Secretary to the Board shall—
(a) in consultation with the Chairperson of the Board, issue notices for meetings of the Board;
(b) keep, in custody, the records of the deliberations, decisions and resolutions of the Board;
(c) transmit decisions and resolutions of the Board to the Director General for execution, implementation and other relevant action;
(d) provide guidance to the Board on their duties and responsibilities on matters relating to governance; and
(e) perform such other duties as the Board may direct.

14. The Board may appoint such number of professional, technical and administrative staff for the Institute as it may consider necessary for the discharge of its functions and duties under this Order, on such terms and conditions as the Board may determine, in consultation with the relevant Government agencies.

15. The Board may make policies for the carrying into effect the provisions of this Order, and in particular, but without prejudice to the foregoing, make policies—
(a) with respect to the procedure for the appointment of all members of staff or officers of the Institute;
(b) with respect to the performance parameters and targets for any department, section, officer or member of staff of the Institute; and
(c) outlining the Service Charter and deliverables of the Institute.

PART IV—FINANCIAL PROVISIONS

16. The funds of the Institute shall consist of—

(a) monies appropriated by Parliament for the purposes of the Institute;

(b) such monies as may accrue to the Institute in the performance of its functions under this Order;

(c) such gifts as may be donated to the Institute; and

(d) all monies from any other source granted, donated, or lent to the Institute.

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

18. The annual estimates of the Institute shall be prepared in accordance with the Public Finance Management Act, 2012.

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

(2) The accounts of the Institute shall be audited and reported upon in accordance with the Public Finance Management Act, 2012 and the Public Audit Act, 2015.

20. The Institute may invest any of its funds which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

PART V—MISCELLANEOUS PROVISIONS

21. (1) The common seal of the Institute shall be kept in the custody of the Corporation Secretary.

22. No matter or thing done by the Board, chairperson, any member of the Board, or any officer, employee or agent of the Institute shall, if the matter or thing is done in good faith and for the purposes of executing any provisions of this Order, render the Board, chairperson, Board member, or any officer, employee or agent of the Institute or any person acting under the direction of those persons personally liable for any action, claim or demand arising from the same.
23. The provisions of this Order shall not relieve the Institute of the liability to pay compensation or damages to any person for any injury to that person or his interests caused by the exercise of any power conferred by this Order or by failure, whether wholly or partially, of any works.

24. The Board shall, on receipt of audited accounts for the preceding year, submit to the Cabinet Secretary an annual report in respect of that financial year, containing—

(a) the accounts of the Institute and statements referred to in paragraph 19(1);
(b) the Institute’s performance indicators and any other related information;
(c) a report on the operations of the Institute during that year; and
(d) such other information as the Cabinet Secretary may request.

25. (1) A person who immediately before the commencement of this Order was an employee of the Government serving in the Ministry of Health in the following shall at the commencement of this Order serve as a member of staff of the Institute—

(a) Division of Disease Surveillance and Response;
(b) Division of Vector Borne and Neglected Tropical Diseases;
(c) Division of Zoonotic Diseases;
(d) Division of National Public Health Laboratories;
(e) Division of Quality Improvement Infection Prevention Control and Antimicrobial Resistance;
(f) Division of Health Emergencies and Disaster Risk Management;
(g) Division of Monitoring and Evaluation;
(h) Division of Health Informatics;
(i) Division of Research & Innovation;
(j) Division of Port Health;
(k) Division of Food Safety;
(l) Public Health Emergency Operations Centre; and
(m) Field Epidemiology & Laboratory Training Program.

(2) The employees under subparagraphs (1) shall be assessed, using the criteria determined by the Board, for appropriate placement in the organizational structure of the Institute.

(3) Despite subparagraph (1) all the employees of the Government who were serving in the Ministry of Health in the Divisions set out in subparagraph (1) shall upon the publication of this Order be given an option to elect to serve in the Institute or be redeployed in the public service.
26. All property acquired by the Government for use of the Divisions set out in paragraph 25(1) shall subject to the rights, liabilities, obligations, agreements and other arrangements existing at the commencement of this Order become property of the Institute.

Made on the 18th January, 2022.

UHURU KENYATTA,

President.