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THE KENYA SCHOOL OF LAW ACT

No. 26 of 2012

Date of Assent: 21st September, 2012

Date of Commencement: By Notice

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A Bill for

**AN ACT of Parliament to provide for the establishment,
powers and functions of the Kenya School of Law
and for connected purposes**

ENACTED by the Parliament of Kenya, as follows –

PART 1 - PRELIMINARY

Short title and
commencement.

1. This Act may be cited as the Kenya School of Law Act, 2011 and shall come into force on such date as the Cabinet Secretary may, by notice in the Gazette, appoint.

Interpretation.

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

“Board” means the Board of Directors of the School established under section 6;

“Director” means the Director appointed under section 14 of this Act.

“financial year” means the period of twelve months ending on the thirtieth June in each year;

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

“Roll” means the Roll of Advocates kept under section 16 of the Advocates Act; and

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“School” means the Kenya School of Law established by section 3.

(2) Until after the first elections under the Constitution, references in this Act to the expression “Cabinet Secretary” shall be construed to mean “Minister” and the expression “Principal Secretary” shall be construed to mean “Permanent Secretary”.

PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE SCHOOL

3.(1) There is established a School to be known as the Kenya School of Law.

Establishment of
the School.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding or disposing of movable and immovable property;

- (c) entering into contracts; and
- (d) doing or performing such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by body corporate.

No. 9 of 1995. (3) The School shall be the successor of the Kenya School of Law established under the Council of Legal Education Act, 1995.

(4) Subject to this Act, all the rights, duties, obligations, assets and liabilities of the Kenya School of Law existing at the commencement of this Act shall be automatically and fully transferred to the School.

(5) The headquarters of the School shall be in Nairobi.

Objects and functions of the School.

4.(1) The School shall be a public legal education provider responsible for the provision of professional legal training as an agent of the Government.

(2) Without prejudice to the generality of subsection (1), the object of the School shall be to-

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- (a) train persons to be advocates under the Advocates Act;
- (b) ensure continuing professional development for all cadres of the legal profession;
- (c) provide train para-legal training;
- (d) provide other specialized training in the legal sector;
- (e) develop curricular, training manuals, conduct examinations and confer academic awards; and
- (f) undertake projects, research and consultancies.

5. The School shall have the power to-

Powers of the
School.

- (a) establish and manage a centre for research and training in legal education for the furtherance of the objects of the School;
- (b) charge reasonable fees and other charges for services rendered and liaise with appropriate bodies to extend loans and other assistance to enable and assist needy student meet their fees obligations;
- (c) regulate and supervise the discipline of the students of the School;
- (d) co-operate with institutions of higher learning in any manner that may be conducive to the objects of the School;
- (e) collaborate with other local and international organizations or bodies in the furtherance of the objects of the School;
- (f) make such regulations as may be considered necessary for regulating the affairs of the School; and
- (g) perform such other acts as are necessary, for the attainment of the objects of the School.

6. (1) There shall be a Board of Directors of the School.

Board of the
School.

(2) The Board shall consist of-

- (a) the Principal Secretary of the Ministry for the time being responsible for legal education;
- (b) the Principal Secretary of the Ministry for the

time being responsible for finance;

- (c) the Attorney-General;
- (d) the Chief Justice ;
- (e) the Secretary to the Commission for Higher Education;
- (f) a representative of the Law Society of Kenya nominated by its Council;
- (g) two others person appointed by the Cabinet Secretary of whom—
 - (i) one shall be a person who teaches law in Kenya, nominated by the universities; and
 - (ii) one shall be a curriculum expert who teaches education in a university in Kenya; and
- (h) the Director.

(3) The Board members referred to in subsection (2)(a), (b), (c), (d) and (e) may, in writing, designate suitable persons to represent them at the meetings of the Board.

(4) The Cabinet Secretary shall appoint the chairperson of the Board from among the members of the Board appointed under subsection (2)(f) and (g).

(5) When appointing members of the Board under subsection (2)(f) and (g), the Cabinet Secretary shall have regard to the principle of gender equity.

Functions of the Board.

7. (1) The Board of Directors shall, subject to this Act, have general control and management of the School.

(2) Notwithstanding the generality of subsection (1), the Board shall-

- (a) provide strategic advice and direction to the School;
- (b) approve study programmes;
- (c) approve the Schedule for examinations;
- (d) monitor the performance of the School and make policy decisions that enhance the performance of the School;
- (e) monitor and evaluate the impact of the School programmes on the legal sector;
- (f) administer the property and funds of the School in a transparent and accountable manner and for such purpose as shall promote the functions of the School;
- (g) approve and submit through the Cabinet Secretary the financial estimates in respect of the School for consideration by the Treasury;
- (h) receive, on behalf of the School, grants-in-aid, gifts, donations, fees, subscriptions or other monies; and
- (i) perform such other function as may be conferred on it by this Act or under any other written law.

8. A member of the Board shall hold office for a term of four years but shall be eligible for re-appointment for one further term.

Term of office.

9. The office of a member of the Board, other than an *ex officio* member, shall become vacant if the member—

Vacation of office.

- (a) resigns his office by notice in writing addressed to the Cabinet Secretary;

- (b) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (c) is convicted of an offence by a court and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (d) is convicted of an offence involving fraud, dishonesty or moral turpitude;
- (e) is unable, by reason of mental or physical infirmity, to discharge his functions as a member of the Board;
- (f) is adjudged bankrupt;
- (g) is otherwise unable or unfit to continue serving as member of the Board; or
- (h) dies.

Conduct of
Business and
affairs of the
Board.

10. (1) The Board shall meet at such times and places as the Board may deem appropriate but shall meet at least once in every three months.

(2) The conduct of business and affairs of the Board shall be in accordance with the First Schedule.

(3) The Board may establish and assign responsibilities to such committees and subcommittees as it considers necessary for the performance of its functions.

(4) The Board may invite any person whose knowledge and experience it considers is likely to be of assistance to the Board to attend any meeting of the Board and take part in the proceedings.

Remuneration of
Board members.

11. There shall be paid to the members of the Board such remuneration, fees or allowances for expenses as the Cabinet Secretary may, in consultation with the Salaries

and Remuneration Commission, approve.

12. The Board may, by resolution, either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act.

Delegation by the Board.

13. (1) The common seal of the School shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

The common seal.

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

14. (1) There shall be a Director of the School, who shall be appointed by the Board, through a competitive recruitment process, on such terms and conditions of employment as the Board may determine, who shall be the Chief Executive of the School and the Secretary to the Board.

The Director

(2) The Director shall be an *ex-officio* member of the Board and shall not have the right to vote.

(3) The Director shall, subject to the direction of the Board, be responsible for the day-to-day management of the affairs of the School.

(4) Notwithstanding the generality of subsection (3), the Director shall—

- (a) ensure the maintenance of efficiency and discipline by all staff of the School;
- (b) conduct examinations in accordance with the Schedule approved by the Board;

- (c) manage the budget of the School to ensure that its funds are properly expended and accounted for; and
- (d) perform such other duties as the Board may, from time to time, assign.

Staff of the
School.

15. The Board shall appoint such other officers and members of staff of the School as are necessary for the proper discharge of the functions of the School under this Act, upon such terms and conditions of service as the Board may determine.

PART III – ADMISSION TO THE SCHOOL

Admission
requirements.

16. A person shall not qualify for admission to a course of study at the School, unless that person has met the admission requirements, set out in the Second Schedule for that course.

Admission.

17. (1) Any person who wishes to be admitted to any course of study at the School shall apply in the prescribed form and pay the prescribed application fees.

(2) The School shall consider an application submitted under paragraph (1) and if it is satisfied that the applicant meets the admission criteria, admit the applicant to the School.

PART IV — ACADEMIC PROGRAMMES, EXAMINATIONS AND CONFERMENT OF ACADEMIC AWARDS

Course
Programmes and
units.

18. The Board shall determine and publish in the Gazette—

- (a) the academic programmes and course units; and

- (b) the academic calendar, including the duration of each course of study.

19. (1) A student shall submit to the authority of the Director and attend the course registered for diligently to the satisfaction of the Director and the Board.

Course
attendance.

(2) The Director shall cause records of attendance to be kept in respect of each course, and the record shall be conclusive evidence of attendance by students at the School.

(3) A student shall not be eligible to sit for any examination in any course of study unless that student has -

- (a) attended at least two thirds of the lectures offered in that course;
- (b) participated in moot courts, clinics and any other practical outputs; and
- (c) undertaken course work and assignments.

(4) The Board may in special circumstances and subject to the requirements of the Advocates Act, exempt a student from the provisions of subsection 3.

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20. (1) The Board may award a certificate, diploma or post-graduate diploma or such other award as it may consider appropriate.

Academic
awards.

(2) The School may withdraw and recall an academic award if the award is found to have been obtained through fraud.

PART VI – FINANCIAL PROVISIONS

21. The funds and resources of the School shall consist of -

Funds of the
School.

- (b) the academic calendar, including the duration of each course of study.

19. (1) A student shall submit to the authority of the Director and attend the course registered for diligently to the satisfaction of the Director and the Board.

Course
attendance.

(2) The Director shall cause records of attendance to be kept in respect of each course, and the record shall be conclusive evidence of attendance by students at the School.

(3) A student shall not be eligible to sit for any examination in any course of study unless that student has -

- (a) attended at least two thirds of the lectures offered in that course;
- (b) participated in moot courts, clinics and any other practical outputs; and
- (c) undertaken course work and assignments.

(4) The Board may in special circumstances and subject to the requirements of the Advocates Act, exempt a student from the provisions of subsection 3.

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PART VI – FINANCIAL PROVISIONS

21. The funds and resources of the School shall consist of -

Funds of the
School.

- (a) such moneys as may be appropriated by Parliament for the purpose;
- (b) all moneys paid to the School by way of grants, subsidies donations, gifts, subscriptions, fees, rent or interest; and
- (c) any moneys or properties which may become payable to or vest in the School in respect of the performance of its functions.

Annual
estimates.

22. (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 School for that financial year.

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

- (a) the payment of the salaries, allowances and other charges in respect to the staff of the School;
- (b) the payment of pensions, gratuities and other charges in respect of the retirement benefits which are payable out of the funds of the School;
- (c) the proper maintenance of the buildings and grounds of the School;
- (d) the maintenance, repair and replacement of the equipment and other property of the School;
- (e) all expenditure incurred in relation to the establishment, equipment or management or any training institution by the School; and
- (f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement

benefits, insurance or replacement of buildings or equipments, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, shall be submitted to the Cabinet Secretary for approval and, after the Cabinet Secretary's approval, the Board shall not increase the annual estimates without the consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the School except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the Board given with prior written approval of the Cabinet Secretary, and the Cabinet Secretary for the time being responsible for finance.

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

Accounts and
audit.

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

No. 12 of 2003.

24.(1) The Board may invest any of the funds of the School in securities in which for the time being trustees may by law invest trust funds or in any other securities which the Treasury may from time to time approve for that purpose.

Investment of
funds.

(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 School.

PART VII – MISCELLANEOUS

25. No matter or thing done by a member of the Board or any officer, employee or agent of the School shall,

Protection from
personal
liability.

if the matter or thing is done in good faith for executing the functions, powers or duties of the School, render the member, officer, employee or agent or any person acting by his directions personally liable to any action, claim or demand whatsoever.

Liability of the Board for damages.

26. The provisions of section 25 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 Act or by the failure, whether wholly or partially, or any works.

Offence and penalty.

27. (1) A person commits an offence if for the purpose of procuring the registration of himself or another person as a student at the School, or for any other purpose under this Act knowingly makes any false statements or representation, or produces or furnishes or causes to be produced or furnished any document or information which he knows to be false in a material particular.

(2) A person who commits an offence under this section is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or both.

Regulations.

28.(1) The Board may, with the approval of the Cabinet Secretary, make regulations generally for the administration and management of the School.

(2) Regulations made under subsection (1) may provide for—

- (a)** the categories of examinations and the manner in which such examinations shall be administered;
- (b)** the settlement of terms and conditions of service, including the appointment, dismissal, remunerations and retirement benefit of members of staff of the School;

- (c) the establishment and management of a centre for research and training in legal education for the furtherance of the objects of the School;
- (d) the determination of fees and other charges for services rendered by the School;
- (e) payment of fees and other charges for services rendered by the School, by installments;
- (f) the supervision and discipline of the students of the School;
- (g) co-operation with institutions of higher learning both within and outside Kenya that have objects similar to those of the School, including the Higher Education Loans Board, in such manner as may be conducive to the objects of the school; and
- (h) such other matters as the Board may consider necessary, conducive or incidental to the attainment of the objects of the School.

29.(1) In this section-

“former School” means the Kenya School of Law established under the Council of Legal Education Act, 1995.

Savings and transition.

No. 9 of 1995.

(2) Upon the coming into force of this Act—

- (a) every agreement, whether in writing or not, and every deed bond or other instrument to which the former School was a party or which affected the former School, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the School were a party thereto or affected

thereby instead of the former School, and as if for every reference (however worded and whether express or implicit) therein to the former School there were substituted in respect of anything to be done on or after such date of coming into operation a reference to the School;

- (b) any proceedings, to which the Council of Legal Education was a party to on behalf of the former School, pending immediately before such date of coming into operation to which the former School was a party shall be continued as if the School was a party thereto in lieu of the former School;
- (c) all officers of the former School shall become the corresponding officers of the School and, subject to the provisions of any rules made under this Act, shall continue in office for the period for which they were appointed or elected as officers of the former School.

(3) Notwithstanding subsection (2) -

- (a) nothing in this Act shall affect any other instrument or thing done in relation to the former School and every such instrument or thing shall continue in force and shall, so far as it would have been made or done under this Act, have effect as if made or done under this Act;
- (b) nothing in this Act shall adversely affect the terms and conditions on and subject to which any person held office or served immediately before the commencement of this Act.

FIRST SCHEDULE**(s. 10)****PROVISIONS AS TO THE CONDUCT OF
AFFAIRS AND BUSINESS OF THE BOARD**

1. A meeting of the Board shall be held on such date and at such time as Board shall decide or, in the absence of such decision or on any occasion on which the chairperson in consultation with the Director shall decide that a meeting is necessary, on a date and a time determined by the chairperson.

2. The chairperson shall, on the application of at least five members, convene a special meeting of the Board.

3. Unless three-quarters of the total membership of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given.

4. The quorum for the conduct of business at a meeting of the Board shall be five.

5. The chairperson shall preside at every meeting of the Board at which he is present and in the absence of the chairperson at a meeting, the members present shall elect one of their own who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

6. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and in the case of a tie, the chairperson shall have a casting vote.

7. Subject to paragraph 5, no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

8. The seal of the School shall be authenticated by the signature of the chairperson and the Director and any document required by law to be made under seal and all

decisions of the Board may be authenticated by the chairperson and the Director.

9. The Board shall cause minutes of all proceedings of meetings of the Board to be entered in books kept for that purpose.

10. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

SECOND SCHEDULE

(s. 16)

The Admission requirements will be as follows:

(a) Admission Requirements into the Advocates Training Programme

(1) A person shall be admitted to the School if:

(a) having passed the relevant examination of any recognized university in Kenya holds, or has become eligible for the conferment of the Bachelor of Laws Degree (LL.B) of that university; or

(b) having passed the relevant examinations of a university, university college or other institutions prescribed by the Council of Legal Education, holds or has become eligible for the conferment of the Bachelor of Laws Degree (LL.B) in the grant of that university, university college or other institution:

(i) attained a minimum entry requirements for admission to a university in Kenya; and

(ii) obtained a minimum grade B (plain) in English Language or Kiswahili and a mean grade of C (plus) in the

Kenya Certificate of Secondary Education or its equivalent; or

2. has sat and passed the Pre-Bar examination set by the School.

(b) Admission Requirements in the Para-Legal Programme

- (1) Must have a mean grade of C (C plain) in the Kenya Certificate of Secondary Education (KCSE) (or equivalent examination) and a minimum grade C+ (C plus) in English.
- (2) At least one principal pass at the Kenya Advanced Certificate of Education (KACE) examinations;
- (3) A distinction or credit pass in the Certificate in Law course conducted at the Kenya School of Law (2000 – 2003) or any other Certificate or Diploma in a relevant field.

(c) Admission Requirements for Continuing Professional Development Programme (CPD).

1. Any person who has undertaken any legal training or any person who possesses relevant professional qualifications may be admitted for Continuing Professional Development courses.
2. Each module shall have specific admission criteria which will be set out in the relevant advertisement or brochure for each course.