

THE COUNCIL OF LEGAL EDUCATION ACT, 1995

No. 12 of 1995

Date of Assent: 20th December, 1995

Date of Commencement: 27th December, 1995

ARRANGEMENT OF SECTIONS

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SCHEDULES.

An Act of Parliament to provide for the establishment and incorporation of the Council of Legal Education and for connected purposes

ENACTED by the Parliament of Kenya as follows:—

Short title.

1. This Act may be cited as the Council of Legal Education Act, 1995.

Interpretation.

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

Cap. 16.

“advocate” has the meaning assigned to it in section 2 of the Advocates Act;

“the Council” means the Council of Legal Education established by section 3;

Cap. 18.

“the Council of the Society” means the Council of the Society elected under section 13 of the Law Society of Kenya Act;

“Fund” means the Legal Education Fund established by section 16;

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

“para-legal” means any person who has successfully completed a course for para-legals prescribed under section 6 (2) and holds a certificate of attendance awarded by the Council;

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

“Senior Counsel” has the meaning assigned to it in section 2 of the Advocates Act.

Establishment and membership of the Council.

3. (1) There is established a Council to be known as the Council of Legal Education which shall consist of—

- (a) the Chief Justice who shall be chairman;
- (b) one judge of the Court of Appeal to be appointed by the Chief Justice;
- (c) one judge of the High Court to be appointed by the Chief Justice;
- (d) the Attorney-General or his representative;
- (e) five advocates nominated by the Council of the Society;

- (f) the head of the faculty of law of any recognized University in Kenya whose law degree is approved by the Council for the purposes of section 13 of the Advocates Act;
- (g) the head of any training institution established by the Council under section 6;
- (h) a Senior Counsel appointed by the Attorney-General;
- (i) one person associated with the teaching of law in Kenya appointed by the Attorney-General;
- (j) the Permanent Secretary of the Ministry for the time being responsible for higher education or his representative.

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

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

(3) The conduct and regulation of the business and affairs of the Council shall be as provided for in the First Schedule.

4. The Headquarters of the Council shall be in Nairobi. Headquarters.

5. The members of the Council nominated under paragraph (e) of section 3 (1) shall hold office for four years but shall be eligible for renomination. Duration of membership of the Council.

6. (1) The object and purpose for which the Council is established is to exercise general supervision and control over legal education in Kenya and to advise the Government in relation to all aspects thereof. Objects and functions of the Council.

(2) Without prejudice to the generality of the foregoing, the Council shall—

(a) establish, manage and control such training institutions as may be necessary for—

(i) organizing and conducting courses of instruction for the acquisition of legal knowledge, professional skills and experience by persons seeking admission to the Roll of Advocates in Kenya, in such subjects as the Council may prescribe;

(ii) organizing and conducting courses in legislative drafting;

(iii) organizing and conducting courses for magistrates and for persons provisionally selected for appointment as such;

(iv) organizing and conducting courses for officers of the Government with a view to promoting a better understanding of the law;

(v) organizing and conducting such courses for paralegals as the Council may prescribe;

(vi) organizing and conducting continuing legal education courses;

(vii) holding seminars and conferences on legal matters and problems;

(viii) organizing and conducting such other courses as the Council may from time to time prescribe;

(b) conduct examinations for the grant of such academic awards as may be prescribed;

(c) award certificates, fellowships, scholarships, bursaries and such other awards as may be prescribed.

**Powers of
the Council.**

7. The Council shall have all the powers necessary or expedient for the performance of its functions under this Act and in particular, the Council shall have power to—

(a) control, supervise and administer the assets of the Council in such manner and for such purposes as best promote the purpose for which the Council is established;

(b) control and administer the Fund;

- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) enter into association with 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 Council is established;
- (e) open a banking account or banking accounts for the funds of the Council;
- (f) invest the funds of the Council not currently required for its purposes in the manner provided in section 17.

8. 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 Council, the exercise of any of the powers or the performance of any of the functions or duties of the Council under this Act.

Delegation
by the
Council.

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

The common
seal of
the Council.

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

10. No matter or thing done by a member of the Council or any officer, employee or agent of the Council shall, if the matter or thing 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 by his directions personally liable to any action, claim or demand whatsoever.

Protection from
personal
liability.

11. The provisions of this Act 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 Act or by the failure, whether wholly or partially, of any works.

Liability of the
Council for
damages.

12. The Council shall appoint a secretary to the Council.

The Secretary.

Staff of the
Council.

13. The Council may appoint such officers or servants as are necessary for the proper discharge of its functions under this Act upon such terms and conditions of service as the Council may determine.

Regulations.

14. The Council, with the approval of the Minister, may make regulations for the purposes of giving effect to the provisions of this Act, and in particular, the regulations may—

- (a) make provision with respect to the engagement and training of pupils by advocates and their respective conduct, duties and responsibilities;
- (b) make different provisions for different circumstances;
- (c) authorize the charging by the Council of fees;
- (d) make provision for the establishment of training institutions by the Council;
- (e) prescribe the requirements for the award of diplomas, certificates and other academic awards of the Council;
- (f) provide for the description of diplomas, certificates and other academic awards of the Council;
- (g) provide for the settlement of the terms and conditions of service, including the appointment, dismissal, remuneration and retiring benefits of the members of staff of the Council; and
- (h) prescribe anything which may be prescribed under this Act.

Legal
education levy.

15. (1) The Minister may, on the recommendation of the Council and in consultation with the Council of the Society, by order published in the Gazette, impose a legal education levy on any or all services rendered by advocates deemed under section 30A of the Advocates Act to be practising in their professional capacity which shall be collected by such advocates.

(2) A levy imposed under this section shall be payable at such rate as may be specified in the order.

(3) An order under this section may contain provisions as to the time at which any amount payable by way of the levy shall become due and the penalty for nonpayment.

(4) All moneys received in respect of the levy shall be paid into the Fund and if not paid on or before the date prescribed by the order, the amount due and any penalty prescribed under subsection (3) shall be a civil debt recoverable summarily by the Council.

16. (1) There is established a fund to be known as the Legal Education Fund which shall vest in the Council.

The Legal
Education Fund.

(2) There shall be paid into the Fund--

(a) all proceeds of the legal education levy established by section 15;

(b) such moneys as may accrue to or vest in the Council in the course of the exercise of its powers or the performance of its functions under this Act;

(c) such sums as may be payable to the Council pursuant to this Act or any other written law, or pursuant to any gift or trust;

(d) such sums as may be granted to the Council by the Minister pursuant to subsection (3); and

(e) all moneys from any other source provided for or donated or lent to the Council.

(3) There shall be made to the Council, out of monies provided by Parliament for that purpose, grants towards the expenditure incurred by the Council in the exercise of its powers or the performance of its functions under this Act.

(4) There shall be paid out of the Fund any expenditure incurred by the Council in the exercise of its powers or the performance of its functions under this Act.

17. (1) The Council may invest any of its funds 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 Council may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Council.

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

Financial year.

**Annual
estimates.**

19. (1) Before the commencement of every financial year, the Council shall cause to be prepared estimates of revenue and expenditure of the Council for that year.

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

- (a) for the payment of the salaries, allowances and other charges in respect of the staff of the Council;
- (b) for the payment of pensions, gratuities and other charges in respect of the retirement benefits which are payable out of the funds of the Council;
- (c) for the proper maintenance of the buildings and grounds of the Council;
- (d) for the maintenance, repair and replacement of the equipment and other property of the Council;
- (e) all expenditure incurred in relation to the establishment, equipment or management of any training institution by the Council; and
- (f) for 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 matter as the Council may deem appropriate.

(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 and after his approval, the Council shall not increase the annual estimates without the consent of the Minister.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under this section or in pursuance of an authorization of the Council given with the prior approval of the Minister.

**Accounts and
audit.**

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

(2) Within a period of four months from the end of each financial year, the Council shall submit to the Auditor-General (Corporations) or an auditor appointed under this section, the accounts of the Council together with—

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

(3) The accounts of the Council shall be audited and reported upon in accordance with sections 29 and 30A of the Exchequer and Audit Act by the Auditor-General (Corporations) or by an auditor appointed by the Council under the authority of the Auditor-General (Corporations) given in accordance with section 29 (2) (b) of the Exchequer and Audit Act.

Cap. 412.

21. The Advocates Act is amended—

- (a) by deleting the definition of “the Council of Legal Education” and inserting the following new definition “the Council of Legal Education” means the Council of Legal Education established by section 3 of the Council of Legal Education Act, 1995;
- (b) by repealing Part II;
- (c) by repealing the First Schedule to the Act.

Amendment of
Cap. 16.

22. Without prejudice to the generality of the application of subsection (3) of section 23 and section 24 of the Interpretation and General Provisions Act, the transitional and saving provisions set out in the Second Schedule shall come into effect upon the repeal of Part II of the Advocates Act.

Transitional and
saving
provisions.
Cap. 2.

FIRST SCHEDULE

s. 3 (3)

PROCEEDINGS OF THE COUNCIL OF LEGAL EDUCATION

1. The Council shall meet not less than four times in every financial year and not more than four months shall elapse between the date of the one meeting and the date of the next meeting.

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

3. The chairman shall, on the application of at least six members, convene a special meeting of the Council.

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

5. The quorum for the conduct of business at a meeting of the Council shall be eight.

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

7. Unless a unanimous decision is reached, a decision on any matter before the Council 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.

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

9. The seal of the Council shall be authenticated by the signature of the chairman and the secretary and any document required by law to be made under seal and all decisions of the Council may be authenticated by the chairman and the secretary:

Provided that the Council shall, in the absence of either the chairman or the secretary, in any particular case or for any particular matter, nominate one member to authenticate the seal of the Council on behalf of either the chairman or the secretary.

10. All instruments made by and decisions of the Council not required to be under seal shall be signified under the hand of the chairman and the secretary.

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

12. Except as provided by this Schedule, the Council may regulate its own proceedings.

SECOND SCHEDULE

(s. 22)

TRANSITIONAL AND SAVING PROVISIONS

1. The person who, immediately before the commencement of this Act was the secretary to the Council of Legal Education then existing shall be deemed to be the secretary to the Council for the purposes of section 12 of this Act.

2. The Kenya School of Law existing immediately before the commencement of this Act shall be deemed to be an institution established, managed and controlled by the Council under section 6.

3. For the avoidance of doubt, the Advocates (Admission) Regulations made before the commencement of this Act by the Council of Legal Education then existing shall remain in force until revoked by regulations under section 14 of this Act and shall be deemed for all purposes to have been made under this Act.

Cap. 16.
(Sub-Leg).