



**THE REPUBLIC OF KENYA**

LAWS OF KENYA

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**THE CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) ACT**

CAP. 253E

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Kenya

# Clinical Officers (Training, Registration and Licensing) Act

Cap. 253E

Legislation as at 31 December 2022

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# CLINICAL OFFICERS (TRAINING, REGISTRATION AND LICENSING) ACT

## CAP. 253E

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**An Act of Parliament to make provision for the training, registration and licensing of clinical officers; to regulate their practice; to provide for the establishment, powers and functions of the Clinical Officers Council of Kenya and for connected purposes**

### Part I – PRELIMINARY

#### 1. Short title

This Act may be cited as the Clinical Officers (Training, Registration and Licensing) Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“approved training institution” means such training institution within or outside Kenya as may be approved by the Council by notice in the *Gazette* for the purposes of this Act;

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

“certificate” means a certificate of registration issued by the Council to a person entitled to be registered under this Act;

“clinic” means a consulting room, office or a department of a hospital or nursing home without beds used by a clinical officer for the diagnosis and treatment of disease or the giving of medical or dental, instructions or service inspected and approved by the Council;

“clinical officer” means a person who having successfully undergone a prescribed course of training in an approved institution is a holder of a diploma or degree certificate in clinical medicine and community health;

“Council” means the Clinical Officers Council established under [section 3](#);

“Kenya Clinical Officers Association” means the Kenya Clinical Officers Association registered by the Registrar of Societies;

“medical centre” means any such approved health facility operated by a clinical officer with a bed capacity of not more than fifteen to provide preventive, promotive, curative and rehabilitative services;

“private practice” means the practice of medicine, dentistry, orthopaedics or health work by a clinical officer for a fee either in kind or cash;

“register” means the register of clinical officers which the Registrar is required to maintain established under [section 15\(5\)](#);

“Registrar” means the Registrar of clinical officers as provided under [section 15\(1\)](#).

[Act [No. 5 of 2019](#), Sch.]

## Part II – THE CLINICAL OFFICERS COUNCIL OF KENYA

### 3. Establishment of the Council

- (1) There is established a Council to be known as the Clinical Officers Council of Kenya.
- (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 and disposing of moveable and immovable property;
  - (c) borrowing money;
  - (d) entering into contracts;
  - (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

### 4. Composition of the Council

- (1) The Council shall consist of the following persons—
  - (a) a Chairperson appointed by the President and who shall have—
    - (i) a relevant bachelors' degree from a recognised university;
    - (ii) at least ten years' relevant experience;
    - (iii) be registered as a clinical officer under this Act;
  - (b) the Director-General for health or his or her designated representative;
  - (c) the Chief Clinical Officer;
  - (d) one clinical officer elected by members of faculty of Clinical Medicine from Kenya Medical Training College;
  - (e) one clinical officer representing the Kenya Clinical Officers Association who shall be nominated by the Association and appointed by the Cabinet Secretary;
  - (f) one clinical officer representing universities training clinical officers, elected by the teaching staff from among their number;
  - (g) the Registrar who shall be an *ex officio* member and secretary to the Council;
  - (h) two clinical officers, one in public practice and the other in private practice from each gender nominated by the Cabinet Secretary;
    - (i) one person with knowledge and expertise in finance or audit appointed by the Cabinet Secretary; and
    - (j) one person representing the public nominated by consumer organisations and appointed by the Cabinet Secretary.
- (2) All appointments under this section shall be notified in the *Gazette*.

- (3) The Cabinet Secretary shall, in appointing the members of the Council, uphold the principle of one-third and ensure the composition of the Board takes into account the marginalised and those with disabilities.
- (4) A person elected as a Chairperson to the Council shall be—
  - (a) a clinical officer of not less than ten years' standing;
  - (b) registered as a clinical officer under this Act; and
  - (c) one who meets the requirements of Chapter Six of the Constitution.
- (5) The Chairperson and each member elected under subsection (1) shall hold office for a term of three years and shall be eligible for re-appointment for a further term of three years.
- (6) A member of the Council other than an *ex officio* member may—
  - (a) by notice in writing addressed to the Cabinet Secretary, resign from office;
  - (b) be removed from office by the Cabinet Secretary, if the member—
    - (i) is absent from three consecutive meetings of the full Council without permission of the Chairperson;
    - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months; or
    - (iii) is incapacitated by physical or mental illness that leads to inability to perform the functions of the office.

[Act No. 5 of 2019, Sch.]

## 5. Functions of the Council

- (1) The main object and purpose of the Council is the supervision and control of the training and professional practice of clinical officers in Kenya.
- (2) The functions of the Council shall be to—
  - (a) advise the government on policy matters relating to clinical medicine practice;
  - (b) prescribe the minimum educational entry requirements for persons wishing to be trained as clinical officers;
  - (c) approve institutions other than those established or accredited under the Universities Act (Cap. 210) for the training of clinical officers;
  - (d) establish, approve and accredit programs for continuing professional educational programs;
  - (e) register and license clinical officers for the purposes of this Act;
  - (f) maintain a register and records of all clinical officers registered under this Act;
  - (g) cause to be published in the Kenya *Gazette* every calendar year the names of all registered clinical officers;
  - (h) promote development and adoption of codes of practice;
  - (i) regulate the professional conduct and ensure the maintenance and improvement of the standards of practice of clinical medicine;
  - (j) collaborate with other medical professional associations, organisations and other relevant bodies, in the furtherance of the functions of the Council and those bodies;
  - (k) consider and deal with any other matter pertaining to clinical officers including prescribing badges, insignias or uniforms to be worn by clinical officers; and

- (l) carry out other functions related to the implementation of this Act.

## 6. Powers of the Council

- (1) The Council shall have all powers necessary for the proper performance of the functions of the Council under this Act.
- (2) Without prejudice to the generality of the foregoing, the Council shall have power to—
  - (a) control, supervise and administer the assets of the Council in such manner as best promotes the efficient, effective and ethical use of such assets;
  - (b) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
  - (c) invest any funds of the Council not immediately required for its purposes in the manner provided in [section 30](#);
  - (d) impose, waiver, remit, refund or exempt the payment of fees or charges for the services rendered by the Council;
  - (e) recover debts accrued from defaulting entities;
  - (f) establish and maintain bank accounts for the funds of the Council; and
  - (g) collaborate with other bodies or organizations within or outside Kenya in so far as appropriate for the performance of its functions under this Act.

## 7. Conduct of business and affairs of the Council

- (1) The conduct and regulation of the business and affairs of the Council shall be as provided for in the First Schedule.
- (2) Except as provided in the First Schedule, the Council may regulate its own procedure.

## 8. Remuneration of members of the Council

The Council shall pay its members such remuneration as may be approved by the Cabinet Secretary upon the advice of the Salaries and Remuneration Commission.

## 9. Staff of the Council

- (1) The Council may employ such staff as it considers necessary for the proper performance of its functions and exercise of its powers under this Act.
- (2) A staff member shall be employed by the Council upon terms and conditions of service that the Council may determine upon the advice of the Salaries and Remuneration Commission.

## 10. Co-operation with other organisations

The Council may, in the discharge of its functions, consult, collaborate and co-operate with—

- (a) the Commission for University Education and other regulators in the field of education, generally;
- (b) the Medical Practitioners and Dentists Board;
- (c) the Nursing Council of Kenya;
- (d) the Pharmacy and Poisons Board; and
- (e) departments and agencies of Government, statutory bodies, and any other body or institution having functions or objects related to the functions of the Council.

### **11. The common seal of the Council**

- (1) The common seal of the Council shall be kept in the custody of the Registrar or of such other person as the Council may direct, and shall not be used except upon the order 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 the contrary is proved, any necessary order or authorization by the Council under this section shall be presumed to have been given.
- (3) The common seal of the Council shall be authenticated by the signature of the Chairperson of the Council or the Registrar.

### **12. Protection of the Council from liability**

- (1) Liability shall not attach to the Council, or to any of its staff, or to a member of the Council for loss or damage sustained to any person as a result of any act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed or conferred by this Act.
- (2) The provisions of subsection (1) 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 the powers conferred on the Council by this Act or by any written law or by the failure, whether wholly or partially, of any works.

## **Part III – TRAINING AND REGISTRATION OF CLINICAL OFFICERS**

### **13. Approved training institutions**

- (1) The Council shall approve all institutions charged with the training of persons to be registered under this Act.
- (2) A person being in charge of a training institution shall not—
  - (a) admit persons for training with a view to qualifying for registration under this Act; or
  - (b) conduct a course of training or administer the examination prescribed for the purposes of registration under this Act; or
  - (c) issue any document or statement implying that the holder thereof has undergone a course of training or passed the examinations prescribed by the Council for purposes of registration:  
  
unless such institution is established or accredited under the Universities Act (Cap. 210) or the Technical Vocational Education and Training Act (Cap. 210A), and is approved and accredited by the Council for that purpose in accordance with this Act.
- (3) A person who contravenes sub section (2) commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment to a term not exceeding three years or to both.
- (4) The Council shall index all students with minimum entry requirements on admission to an approved training institution and the number of students in each class not to exceed the prescribed and approved number by the Council.
- (5) The Council shall administer a pre-internship assessment.

### **14. Power to enter and inspect**

- (1) The Council shall have power to enter and inspect any institution in charge of training of persons to be registered under this Act.

- (2) A person who obstructs or causes the obstruction of the Council from entering and inspecting such institution, commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

## 15. Registrar and register

- (1) There shall be a Registrar appointed by the Council through a competitive and transparent process, who has served as a clinical officer for a period of not less than ten years.
- (1A) A person shall be qualified for appointment as Registrar if that person—
  - (a) holds a bachelors' degree from a university recognized in Kenya;
  - (b) has at least fifteen years' experience; and
  - (c) is registered as a clinical officer under this Act.
- (1B) The Registrar shall serve for a term of four years and shall be eligible for re-appointment for a further and final term of four years.
- (2) The Registrar shall be the Chief Executive Officer and secretary to the Council.
- (3) The Registrar shall be an *ex officio* member of the Council and shall have no right to vote at any meeting of the Council.
- (4) The Registrar shall manage and control the Council's staff, administration and business.
- (5) The Registrar shall as soon as is practicable after the commencement of the Act, establish and maintain for the purposes of this Act a register containing relevant documents of qualified clinical officers to be known as Clinical Officer's Register.
- (6) The Registrar shall—
  - (a) not later than the 31st March in every year, publish in the *Gazette*, and in the official Council website, a list of names, addresses and qualifications of the registered clinical officers; and
  - (b) subject to the directions of the Council, make any necessary alterations or corrections in the register in relation to an entry therein including the deletion of names of clinical officers who have died and entries which have been fraudulently or incorrectly made.
- (7) Any person may inspect the register and any documents relating to any entry, and may obtain from the Registrar, a copy of, or an extract from the registers on payment of the prescribed fee.

[Act No. 5 of 2019, Sch.]

## 16. Registration and effect of registration

- (1) A person shall be entitled to registration if he satisfies the Council that he—
  - (a) has successfully undergone a prescribed course of training at an approved training institution;
  - (b) has applied for registration in the prescribed form;
  - (c) has paid the prescribed fees for registration;
  - (d) is a fit and proper person to be registered; and
  - (e) has applied for registration and has passed the requisite examinations as prescribed by the Council.

- (2) A person trained from an accredited institution outside Kenya shall be eligible for registration under this Act as a clinical officer if that person—
  - (a) holds a diploma or degree obtained from an institution that is accredited and recognized by the regulating authority responsible for the registration of clinical officers in the country where he studied;
  - (b) has engaged in medical practice under the supervision of a clinical officer registered by the Council for such period, being not less than twelve months, as the Council may approve; and
  - (c) has, to the satisfaction of the Council qualifications that meet such requirements for a course leading to a qualification as a clinical officer as the Council shall from time to time prescribe pursuant to [section 5\(2\)\(b\)](#).
- (3) The Council shall register every qualified person by entering his name, address, professional qualifications and such other particulars as the Council may prescribe, in the appropriate register kept for that purpose pursuant to [Section 15](#).
- (4) Any person who is aggrieved by the decision of the Council not to register him may appeal to the High Court within sixty days of such refusal and the High Court may confirm, annul or vary the Council's decision.
- (5) The Registrar shall, with the approval of the Council, issue to every person registered under this Act, a certificate of registration in the prescribed form.
- (6) A person who has been registered by the Council shall be entitled to render medical services in any medical institution in Kenya approved for the purposes of this section by the Cabinet Secretary by notice in the *Gazette*.

## 17. Unregistered persons rendering medical services

- (1) A person shall not render medical services in Kenya as clinical officer unless he has been registered by the Council under this Act.
- (2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding five years, or to both.
- (3) Any person who attempts to obtain or obtains registration by false pretences or who utters a false certificate with intent to obtain registration shall be liable to a fine of not less than fifty thousand shillings or to imprisonment for six months or to both.

## 18. Surrender of certificates

Every person whose name is deleted from the register for any reason shall within thirty days of publication of the deletion in the *Gazette*, surrender his certificate of registration to the Council for cancellation and where such person has died the deceased's legal representative shall surrender the certificate to the Council.

## 19. Use of titles

The Council shall prescribe such title or titles as may be used to denote that a person is registered under this Act.

## Part IV – PROVISIONS RELATING TO LICENSING AND PRACTICE

### 20. Qualification for private practice

- (1) A person shall not engage in private practice as a clinical officer unless that person holds a valid practicing certificate issued under this Act.
- (2) No person shall engage in private practice as a clinical officer unless such a person—
  - (a) is registered as a clinical officer under this Act;
  - (b) has practiced as a clinical officer under a senior clinical officer or senior medical officer for a period of not less than three years; and
  - (c) holds a valid practicing licence issued under this Act.
- (3) For the purposes of this Act, a person shall be deemed to engage in private practice if the person practices as a clinical officer—
  - (a) on the person's own account and is entitled to receive the entire amount of all fees and charges earned for the person's own financial benefit; and
  - (b) in partnership with others and is entitled to receive a share of the profits earned by such partnership and is liable to bear a share of any losses incurred by such partnership, but no person shall be deemed to engage in full time private practice where he is employed—
    - (i) by the government;
    - (ii) by a state corporation as defined by the State Corporations Act; or
    - (iii) by any person or partnership engaged in his profession where all fees and charges earned by him are to the benefit of his employer.
- (4) A person who engages in private practice as a clinical officer contrary to the provisions of this section commits an offence and shall, on conviction, be liable to a fine not more than five hundred thousand shillings, or to imprisonment for a term not less than one year, or to both.
- (5) The Council shall register and license medical centres and medical clinics for private practice by clinical officers.
- (6) No premises shall be used for the purpose of private practice unless such premises is inspected, registered and licensed by the Council.
- (7) The initial inspection for licensing shall be conducted by a joint inspection team or any relevant authorized body for the purposes of this Act.
- (8) The Council shall have power to enter any practice premises at all times, for the purposes of this Act.
- (9) A clinical officer licensed under this Act may, with respect to patients—
  - (a) examine;
  - (b) diagnose;
  - (c) order laboratory and imaging investigations;
  - (d) prescribe treatment; and
  - (e) perform procedures, as per their scope of training.

[Act No. 5 of 2019, Sch.]

## 21. Application for practicing license

- (1) An application for private practicing licence shall be made to the Registrar in duplicate, in the prescribed form.
- (2) An application under this section shall be accompanied by the prescribed fee.
- (3) The Council shall, where a clinical officer is duly registered under this Act and is not for the time being suspended from practice, within sixty days of receipt by the Council of the application, issue to the applicant a practicing certificate in the prescribed form.
- (4) The Registrar shall keep one copy of every application delivered to him under this section.
- (5) Any person may inspect the register and any documents relating to any entry, and may obtain from the Registrar, a copy of, or an extract from the registers on payment of the prescribed fee.

## 22. Validity of licence

- (1) After the expiry of twelve months from the commencement of this Act, no person shall engage in the practice of clinical medicine unless that person has been duly issued with a registration certificate and a practicing license by the Council in accordance with this Act.
- (2) A licence issued under this Act shall be valid from the date it is issued and shall expire on the 31st December of the year it is issued.
- (3) Subject to subsection (2), where the name of the clinical officer is struck off the register, the licence, if any, shall expire forthwith.
- (4) The Council shall have the power to renew any licence and may, refuse to renew, cancel, withdraw or suspend a licence for a period not exceeding twelve months, if satisfied that the clinical officer is guilty of professional misconduct or is in breach of any provisions of this Act or any regulations made under this Act.
- (5) The Registrar shall enter in the register the date of issue of every licence.
- (6) Any person who is aggrieved by the decision of the Council made under the provisions of this section may appeal within thirty days to the High Court and the High Court may confirm, vary, or annul the decision of the Council.

## 23. Terms and conditions of private practice

The Cabinet Secretary in consultation with the Council shall, in regulations, prescribe the terms and conditions of the business and practice of a clinical officer engaged in private practice.

### 23A. Professional indemnity

Every clinical officer shall in each every year take a professional indemnity cover and every health institution shall in each year insure the health institution against professional liability of its staff.

[Act [No. 5 of 2019](#), Sch.]

## Part V – DISCIPLINE

### 24. Establishment of the Disciplinary Committee

- (1) There is established a Disciplinary Committee.

- (2) The Committee shall consist of—
  - (a) the Chairman of the Kenya Clinical Officers Association who shall be Chairman of the Committee;
  - (b) the Principal Secretary in the ministry responsible for health or a designated representative;
  - (c) two clinical officers not being members of the Council, competitively and transparently appointed by the Cabinet Secretary of whom—
    - (i) one shall be in the public service; and
    - (ii) one shall be from the private practice.
  - (d) the Attorney-General or a designated representative; and
  - (e) the Registrar who shall be an *ex officio* member and the secretary to the Committee.
- (3) The committee shall have powers to—
  - (a) receive and investigate complaints made against clinical officers by the members of the public in accordance with the rules and regulations under this Act;
  - (b) enter upon and inspect any establishment or premises operated by a clinical officer under investigation;
  - (c) seize and remove any object from any premises which may be related to the matter under investigation; and
  - (d) request the Attorney-General and or the Director of Public Prosecutions to provide advice on any recommendation made by the committee in an inquiry.
- (4) The committee may in exercise of its powers under this Act, request and receive assistance from the police or any other governmental body or person as may solely in its own opinion be necessary in the enforcement of its powers.
- (5) Subject to this Act, the Disciplinary Committee shall regulate its own procedures.

## 25. Disciplinary powers of the Committee

- (1) The Disciplinary Committee may, after inquiry, revoke or suspend the registration and practicing license of a clinical officer or impose a fine as may be prescribed by the Council if that officer—
  - (a) has been convicted of an offence punishable by imprisonment, the commission of which in the opinion of the Council has dishonored the profession in the public estimation;
  - (b) has been guilty of negligence or malpractice in respect of his profession; or
  - (c) has been guilty of impropriety or misconduct, whether in respect of his profession or not.
- (2) Upon an inquiry, the person whose conduct is being inquired into shall be afforded an opportunity of being heard either in person or through an advocate.
- (3) For the purposes of proceedings at any inquiry held by the committee, the committee may administer oaths, and may subject to any regulation made under this Act, enforce attendance of persons as witnesses and the production of books and documents.
- (4) Any person whose name has been removed from the register or whose licence has been suspended shall forthwith surrender to the Council his certificate of registration or licence.
- (5) A clinical officer who contravenes subsection (4) commits an offence and upon conviction, shall be liable to a fine not exceeding twenty thousand shillings.

- (6) A clinical officer who is aggrieved by the decision of the Council in the exercise of its powers under this section may, within sixty days from the date of the decision of the Council, appeal to the High Court.

## **Part VI – FINANCIAL PROVISIONS**

### **26. Funds of the Council**

The funds of the Council shall consist of—

- (a) such monies or assets as may accrue to or vest in the Council in the course of the exercise of its powers or performance of its functions under this Act;
- (b) any funds provided by bilateral or multilateral donors, for the purpose of the Council;
- (c) gifts, grants, donations or endowments as may be given to the Council; and
- (d) monies from any other source provided for the Council.

### **27. Financial year**

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

### **28. Annual estimates**

- (1) At least three months before the commencement of each financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the Council for that financial year.
- (2) The annual estimates shall make provisions for all estimated expenditure of the Council for the financial year concerned, and in particular shall provide for the—
  - (a) payment of salaries, allowances and other charges in respect of the staff of the Council;
  - (b) payment of pensions, gratuities and other charges in respect of staff of the Council;
  - (c) proper maintenance of the assets of the Council; and
  - (d) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Council may deem fit.
- (3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

### **29. Accounts and audit**

- (1) The Registrar shall under the direction of the Council keep proper books and records of accounts 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 or to an auditor appointed under this section, the accounts of the Council together with—
  - (a) a statement of the income and expenditure of the Council during that year; and
  - (b) a balance sheet 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 the Public Audit Act (Cap. 412B).

**30. Investment of funds**

The Council may invest any of the funds of the Council in securities, in which for the time being trustees may by law invest trust funds, or in any other securities or banks which the National Treasury may, from time to time, approve for that purpose.

**Part VII – MISCELLANEOUS PROVISIONS****31. Regulations**

- (1) The Cabinet Secretary shall, after consultation with the Council, make rules generally for the better carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing, such rules may provide for—
  - (a) the form and method of keeping the registers and other records under this Act;
  - (b) the conditions under which training institutions other than those established or accredited under the Universities Act (Cap. 210) may be approved;
  - (c) the course content and examination for clinical officers for purposes of registration under this Act;
  - (d) the terms and conditions of professional practice of registered clinical officer;
  - (e) the form and method of conducting any inspection, assessment, evaluation, examination or regulation required under this Act; and
  - (f) prescribing anything required to be prescribed under this Act;

**32. [Spent]**

**33. [Spent]**

**34. [Spent]**

**FIRST SCHEDULE [s. 7(1)]****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL****1. Meetings**

- (1) The Council shall hold as many meetings as may be necessary for the performance of its functions but in each financial year, it shall hold not more than one meeting in a period of three months.
- (2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and upon requisition in writing by at least six members, convene a special meeting of the Council at any time for the transaction of the business of the Council.
- (3) Unless three quarters of the total members 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.
- (4) The Cabinet Secretary, in consultation with the Chairperson shall determine the date, time and place of the first meeting of the Council.
- (5) The quorum for any meeting of the Council shall be seven members including the Chairperson or the person presiding.

- (6) In the absence of the Chairperson or vice-Chairperson, the members present shall elect one of their members to preside, and the person elected shall have all powers of the Chairperson with respect to that meeting and the business conducted.
- (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 voting and, in the case of an inequality of votes, the Chairperson or the person presiding shall have a casting vote.
- (8) Subject to subparagraph (5), no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.

## 2. Vacation of office

A member other than an *ex officio* member may—

- (a) at any time resign from office by notice in writing to the Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary on recommendation of the Council if the member—
  - (i) has been absent from three consecutive meetings of the Council without its permission;
  - (ii) is convicted of a criminal offence that amounts to a felony in Kenya;
  - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months;
  - (iv) is otherwise unable or unfit to discharge his functions;
  - (v) is adjudicated bankrupt;
  - (vi) enters a scheme of arrangement with his or her creditors; and
  - (vii) ceases to be a resident in Kenya.

## 3. Committees of the Council

The Council may establish such committees as may be necessary for the performance of the functions of the Council and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

## 4. Disclosure of interest by Council members

- (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, that member 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 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) If the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Council may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.
- (3) A member of the Council who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

## 5. Execution of instruments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Council by any person generally or specially authorized by the Council for that purpose.

## 6. Minutes

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

**SECOND SCHEDULE [s. 32]**

**TRANSITIONAL PROVISIONS**

*Spent*