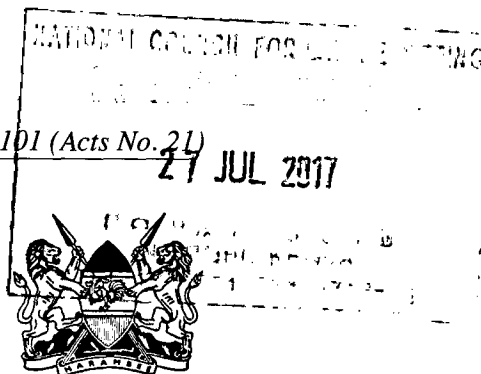


SPECIAL ISSUE

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REPUBLIC OF KENYA

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CONTENT

Act—

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The Health Act, 2017415

27. (1) The Forum shall—

Purpose of the Forum.

- (a) develop criteria and framework for determining matters requiring inter-governmental consultation; and
- (b) develop inter-governmental agreements for joint implementation of any activities for health service delivery.
- (c) be a platform for mutual consultation, coordination and collaboration between the national and county governments on all matters related to health.

28. The Forum shall meet at least twice a year.

Meetings of the Forum.

29. The Forum shall regulate the conduct and regulation of the business and affairs of the Forum.

Conduct of Business.

**PART V—ESTABLISHMENT OF THE KENYA
HEALTH HUMAN RESOURCE ADVISORY
COUNCIL**

30. (1) There is established a Kenya Health Human Resource Advisory Council which shall consist of—

Establishment of the Council.

- (a) a Chairperson, who shall be appointed by the Cabinet Secretary;
- (b) the Principal Secretary for the time being responsible for matters relating to health or a representative designated by the Principal Secretary;
- (c) one person, not being a governor, nominated by the Council of Governors;
- (d) the Attorney General or a representative designated by the Attorney General;
- (e) the Director-General for health or a representative designated by the Director-General;
- (f) one representative nominated by the Public Service Commission;
- (g) one person nominated by the county directors of health;

- (h) one person nominated by the county public service boards;
- (i) three persons nominated by the public universities, private universities and mid-level institutions; and
- (j) the Chief Executive Officer who shall be an *ex officio* member and secretary to the Council.

(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) acquiring, holding and disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts as may be lawfully done by a body corporate.

31. The Council shall review policy and establish uniform norms and standards for—

Functions of the Council.

- (a) posting of interns to National Government and County Government facilities;
- (b) inter county transfer of healthcare professionals;
- (c) transfer of healthcare professionals from one level of Government to another;
- (d) the welfare and the scheme of service for health professionals;
- (e) management and rotation of specialists; and
- (f) the maintenance of a master register for all health practitioners in the counties.

32. The Council shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Council shall have power to—

Powers of the Council.

- (a) control, supervise and administer the assets of the Council in such manner and for such purpose as best promotes the purposes for which the Council is established;
- (b) determine the provision to be made for capital and recurrent expenditure and for the reserves of the Council;

- (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; and
- (f) invest any funds of the Council not immediately required for its purposes as may be permitted by law for the time being in force.

33. (1) The Public Service Commission shall, through an open and transparent process, recruit a Chief Executive Officer who shall be appointed by the Council.

Chief Executive
Officer.

(2) A person is qualified for appointment as the Chief Executive Officer to the Council if the person—

- (a) holds at least a degree in medicine from a university recognized in Kenya, and is registered by the Medical Practitioners and Dentists Board;
- (b) has at least ten years' experience in the practice of medicine, five of which shall be experience at a senior management level; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall serve the Council for a term of five years and shall be eligible, subject to satisfactory performance of his or her functions, for reappointment for one further term.

(4) A person shall not be appointed as the Chief Executive Officer or an officer of the Council if such person has any direct or indirect interest in the health sector.

(5) The Chief Executive Officer may be removed from office for gross misconduct, violation of the Constitution or any other law or any other ground as may be provided for in the contract of employment.

(6) The Chief Executive Officer shall be responsible for the day to day operations of the Council.

34. (1) The conduct and regulation of the Business and affairs of the Council shall be as provided in the Second Schedule.

Conduct of business and affairs of the Council.

(2) Except as provided in the Second Schedule, the Council may regulate its own procedure.

35. The Council may, by resolution 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.

36. (1) The chairperson and the members of the Council, other than the *ex-officio* members, shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

Tenure of office.

(2) The members of the Council shall be appointed in such a manner that the respective expiry dates of their terms of office fall at different times.

37. (1) The Council may competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Council.

Staff of the Council.

(2) In the appointment of the staff of the Council, the Council shall comply with the values and principles set out in the Constitution and in particular—

- (a) afford adequate and equal opportunities for appointment and advancement at all levels, of men and women, members of all ethnic groups and persons with disabilities;
- (b) exercise transparency in the recruitment process; and
- (c) ensure competitive recruitment and selection on the basis of personal integrity, competence and suitability.

38. The staff of the Council shall serve on such terms of service as the Council, on recommendation of the Salaries and Remuneration Commission may determine.

Terms and conditions of service.

39. (1) A member of the Council or any person working under the instructions of the Council shall not be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of carrying on the functions of, or exercising of powers conferred upon the Council under this Act.

Protection from liability.

(2) Despite subsection (1), the Council shall not be relieved of its liability to pay compensation to any person for any injury to him or her, his or her property or to any of his or her interest caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

40. The funds of the Council shall comprise—

Funds of the Council.

- (a) such funds as may be appropriated by the Parliament.
- (b) such monies or assets as may accrue to or vest in the Council in the performance of its functions or exercise of its powers under this Act or any other written law; and
- (c) all monies from any other source provided for, donated or lent to the Council.

41. The Financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in every year.

Financial year.

42. (1) The Council shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Council for that financial year.

Annual estimates.

(2) The annual estimates shall make provisions for all the 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 members of staff or agents of the Council;
- (b) payment of pensions, gratuities and other charges in respect of members and other staff of the Council;

- (c) proper maintenance of buildings and grounds of the Council;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Council; and
- (e) 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 commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after approval, the Council shall not increase annual estimates without the consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorizations by the Cabinet Secretary.

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

Accounts and audit.

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

No. 12 of 2003

(3) The Council shall, within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Council together with—

- (a) a statement of income and expenditure during the year;
- (b) a statement of the assets and liabilities of the Council as of the last day of that year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Council.

44. The Council may, subject to the approval of the Cabinet Secretary for the time being responsible for matter relating to finance invest any of the funds of the Council in securities in which, for the time being, trustees may by law invest funds or any other securities which the Treasury may, from time to time approve for that purpose.

Investment of funds.

PART VI—ESTABLISHMENT OF THE KENYA HEALTH PROFESSIONS OVERSIGHT AUTHORITY

45. (1) There is established an Authority known as the Kenya Health Professions Oversight Authority.

Establishment of the Authority.

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

- (a) suing and being sued;
- (b) acquiring, holding and disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts as may be lawfully done by a body corporate.

46. (1) The Authority shall be administered by a Board which shall consist of—

Board of the Authority.

- (a) a chairperson appointed by the Cabinet Secretary who shall be a health professional who meets the requirements of Chapter six of the Constitution of Kenya;
- (b) the Principal Secretary in the Ministry for the time being responsible for health or a designated representative;
- (c) the Director-General for health or a designated representative;
- (d) the Attorney General or a designated representative;
- (e) two representatives nominated by the health regulatory bodies established under an Act of Parliament;
- (f) two representatives nominated by the Council of Governors;