



THE REPUBLIC OF KENYA

LAWS OF KENYA

LAW SOCIETY OF KENYA ACT

NO. 21 OF 2014

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LAW SOCIETY OF KENYA ACT
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SCHEDULE – BRANCHES OF THE SOCIETY

NO. 21 OF 2014

LAW SOCIETY OF KENYA ACT

[Date of Assent: 24th December, 2014.]

[Date of Commencement: 14th January, 2015.]

AN ACT of Parliament to establish the Law Society of Kenya, to provide for the objects, and conduct of the affairs of the Society; to provide for the establishment of the Advocates Client Compensation Fund and for connected purposes

[Act No. 21 of 2014.]

PART I — PRELIMINARY

1. Short title

This Act may be cited as the Law Society of Kenya Act, 2014 and shall come into operation in accordance with the Constitution.

2. Interpretation

In this Act, unless the context otherwise requires—

"**advocate**" has the meaning assigned to it in the Advocates Act (Cap. 16);

"**Certified Public Secretary**" has the meaning assigned in the Certified Public Secretaries Act (Cap. 534);

"**client**" has the meaning assigned to it in the Advocates Act (Cap. 16);

"**costs**" includes fees, charges, disbursements, expenses and remuneration;

"**Council**" means the Council of the Society established by section 17;

"**Disciplinary Committee**" means the Disciplinary Committee established under section 57 of the Advocates Act (Cap. 16);

"**Independent Electoral and Boundaries Commission**" means the Independent Electoral and Boundaries Commission established by Article 88 of the Constitution;

"**ordinary general meeting**" means a meeting of the Society held in terms of section 30;

"**practising certificate**" means a certificate issued under section 21 of the Advocates Act (Cap. 16);

"**prescribed**" means prescribed by the Council with the approval of the general meeting;

"**paralegal**" means a person offering support services to legal practice;

"**Roll of Advocates**" means the Roll of Advocates kept under section 16 or the Roll of Senior Counsel kept under section 18 of the Advocates Act (Cap. 16);

"**Secretary**" means the Secretary of the Society appointed by the Council under section 26;

"**Society**" means the Law Society of Kenya established under section 3.

PART II — ESTABLISHMENT OF THE LAW SOCIETY OF KENYA

3. Establishment of the Law Society of Kenya

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

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

- (a) suing and be sued;
- (b) taking, purchasing or otherwise acquiring, holding, developing or disposing of movable and immovable property;
- (c) borrowing or raising money;
- (d) invest and deal with monies of the Society not immediately required in such manner as may from time to time be determined by the Society; and
- (e) doing or performing all such other things or acts, which may, lawfully, be done by a body corporate.

(3) The Society shall be the successor of the Law Society of Kenya established under the Law Society of Kenya Act (Cap. 18), and subject to this Act, all rights, duties, obligations, assets and liabilities of the Law Society of Kenya existing at the commencement of this Act shall be automatically and fully transferred to the Society and any reference to the Law Society of Kenya in any contract or document shall for all purposes be deemed to be a reference to the Society established under subsection (1).

4. Functions and objects of the Society

The objects and functions of the Society are to—

- (a) assist the Government and the courts in matters relating to legislation, the administration of justice and the practice of law in Kenya;
- (b) uphold the Constitution of Kenya and advance the rule of law and the administration of justice;
- (c) ensure that all persons who practise law in Kenya or provide legal services in Kenya meet the standards of learning, professional competence and professional conduct that are appropriate for the legal services they provide;
- (d) protect and assist the members of the public in Kenya in matters relating to or ancillary or incidental to the law;
- (e) set, maintain and continuously improve the standards of learning, professional competence and professional conduct for the provision of legal services in Kenya;
- (f) determine, maintain and enhance the standards of professional practice and ethical conduct, and learning for the legal profession in Kenya;
- (g) facilitate the acquisition of legal knowledge by members of the Society and ancillary service providers, including paralegals through promotion of high standards of legal education and training;
- (h) represent, protect and assist members of the legal profession in Kenya in matters relating to the conditions of practice and welfare;

- (i) formulate policies that promote the restructuring of the legal profession in Kenya to embrace the spirit, principles, values and objects the Constitution of Kenya;
- (j) facilitate the realization of a transformed legal profession that is cohesive, accountable, efficient and independent;
- (k) establish mechanisms necessary for the provision of equal opportunities for all legal practitioners in Kenya;
- (l) protect and promote the interests of consumers of legal services and the public interest generally, by providing a fair, effective, efficient and transparent procedure for the resolution of complaints against legal practitioners;
- (m) develop and facilitate adequate training programmes for legal practitioners; and
- (n) do all such other things as are incidental or to the foregoing functions.

5. General powers of Society

The Society shall have the powers to do all things necessary for the proper and effective achievement of its objects and the performance of its functions.

6. Guiding principles

(1) In carrying out its functions and in the exercise of its powers under this Act, the Society shall have regard to the following principles—

- (a) the maintenance and advancement of constitutionalism, justice and the rule of law;
- (b) the facilitation of access to justice;
- (c) the protection of public interest;
- (d) the maintenance of integrity and professionalism; and
- (e) the promotion of cross border legal practice, inclusivity and equity.

PART III — MEMBERSHIP OF THE SOCIETY

7. Membership

(1) The membership of the Society shall consist of—

- (a) any person who has been admitted as an advocate and whose name has been entered into the Roll of Advocates kept under section 16 of the Advocates Act (Cap. 16);
- (b) any person admitted to membership under section 8 of this Act; and
- (c) any person elected as an honorary member of the Society under section 9 of this Act.

(2) Notwithstanding subsection (1), a member of the Society whose name has been, as a result of disciplinary proceedings, struck off the Roll of Advocates shall not be a member of the Society during the period of expulsion.

(3) A person who has been expelled from membership of the Society shall not be re-admitted as a member of the Society without the authority of a special resolution.

8. Special membership

Any person to whom section 10 of the Advocates Act applies may, upon application, in the prescribed manner be admitted as a member of the Society by the Council.

9. Honorary membership

The Council may elect any person whom it considers fit to so honour, to be an honorary member of the Society either for life or for such period as the Council may specify.

10. Regulations for non-Practising members

The Council may make Regulations prescribing matters relating to non practising membership that may be necessary for the promotion of the objects and the regulation of the affairs of the Society.

11. No entrance fee payable

No entrance fee shall be payable by any person for becoming a member of the Society.

12. Membership rights

The members of the Society shall have the following rights—

- (a) a paid up member with a practicing certificate shall have all rights of a member;
- (b) a non-practicing member shall have all the rights except that such member shall have no right to practice or vote or vie for office in any election or matter;
- (c) a honorary member have all rights of a member but shall have no right to practice or vote or vie for office in any election or matter;
- (d) a special member shall have the right to—
 - (i) vote at any election of the Society or on any matter of the Society;
 - (ii) vie for any office of the Society;
 - (iii) be nominated by the Society to any Constitutional or statutory body.

13. Termination of membership

(1) Any member of the Society, other than an honorary member, may be suspended or expelled from the Society upon such grounds as are set out in the Advocates Act (Cap. 16).

(2) A person shall not be suspended or expelled from membership of the Society unless the person has been given reasonable opportunity to answer all allegations made against him or her.

(3) The regulations regarding the manner and the grounds upon, which a member may be suspended or expelled from the Society shall be made in consultation with the Chief Justice and shall be subject to section 81 of the Advocates Act.

(4) A person who has been expelled from membership of the Society shall not be re-admitted as a member of the Society without the authority of a special resolution.

14. Non member to cease to practice, etc.

A member who is suspended or expelled from the Society shall, from the date of suspension or expulsion, cease to be qualified to practice as an advocate and if such member holds a practising certificate, the practising certificate shall where the member is—

- (a) suspended, be suspended for the duration for which that person suspended; or
- (b) expelled, cease to be valid.

PART IV — GOVERNANCE OF THE SOCIETY

15. Organs of the Council

For the effective governance of the Society there shall be the following organs of the Society—

- (a) the general meeting;
- (b) the Council;
- (c) the secretariat; and
- (d) the branches.

16. The general meeting

(1) The general meeting shall be the supreme authority of the Society which shall approve all resolutions and important decisions of the Society.

(2) The general meeting shall consist of all the members of the Society.

(3) The secretary shall be the secretary to the general meeting.

(4) The expenses of the annual general meeting shall be defrayed from the general funds of the Society.

(5) The quorum of the general meeting shall be at least five percent of all the members of the Society.

(6) The president of the Council shall preside at the general meeting and in the absence of the president, the vice-president shall preside at the meeting.

(7) In the absence of both the president and the vice president, the Council shall nominate one among its members to preside.

17. The Council

(1) The Council shall be the governing body of the society.

(2) The Council of the Society shall consist of—

- (a) the president;
- (b) the vice-president;
- (c) three representatives of the general membership of the Society, one of whom shall be an advocate of at least twenty-five years' standing;
- (d) four up-country representatives, who shall be persons who do not ordinarily practise in Nairobi or at the coast; and

- (e) three Nairobi representatives who shall be persons who ordinarily practises in Nairobi; and
- (f) one coast representative, who shall be a person who ordinarily practises at the coast.

(3) The members of the Council shall be elected by all the members of the Society in accordance with this Act.

18. Eligibility of election as member of the Council

(1) A person is eligible for election as the president or vice-president if the person—

- (a) is a member or former member of the Council: or
- (b) is qualified to be a Judge of the Supreme Court.

(2) A person is eligible for election as a member of the Council if the person—

- (a) is a member of the Society;
- (b) has been practise for at least two years, from the date of admission;
- (c) has not been found liable for professional misconduct by the Disciplinary Committee established by the Advocates Act (Cap.16), in the three years immediately preceding the election; and
- (d) meets the requirements of Chapter Six of the Constitution.

19. Election of the members of the Council

The election of the president, vice-president and members of the Council shall be—

- (a) conducted in a transparent and fair manner;
- (b) in every second year after the election of the Council;
- (c) by secret ballot;
- (d) conducted on the same day by the members physically present.

20. Supervision of elections

The elections for the membership of the Council shall be conducted by such body as the Council may propose and approved by the general meeting preceding the election.

21. Assumption and term of office

(1) The president, the vice-president and the members of the Council shall assume office immediately after the ordinary general meeting of the Society next following an election of the members Council, and shall hold office for a period of two years, ending at the conclusion of the annual general meeting held in the second year, after their election.

(2) A person who has been elected as president shall serve for one term and shall not be eligible for election for another term.

(3) Where the president, the vice-president or member of the Council dies, resigns or is removed from office before the expiry of the term of office, the vacancy created shall be filled in such manner as provided in the regulations.

22. Removal from office

(1) The president, the vice-president and a member of the Council may be removed from office by a general meeting by a vote of at least two thirds of all members present and eligible to vote on grounds of—

- (a) inability to perform the functions of office arising from mental or physical infirmity;
- (b) suspension or expulsion as provided under the Act;
- (c) bankruptcy; or
- (d) failure to attend four consecutive Council meetings, without reasonable grounds acceptable to the Council.

(2) Before removal under subsection (1), the president, the vice-president and the member of the Council shall be—

- (a) informed of the reasons for the intended removal, in writing;
- (b) given an opportunity to put in a defence against any allegations, either in person or through an advocate.

23. Committees of the Council

(1) The conduct of proceedings of the Council, and of every committee of the Council, shall be as may be prescribed from time to time by the Council.

(2) The Council may establish such committees consisting of members of the Council as it may consider necessary for the discharge of its functions.

(3) The Council may, by resolution, engage any person who is not a member of the Council to provide such expertise as may be required for the better discharge of its functions, and the attainment of the objects, of the Society.

24. Branches of the Society

(1) There shall be the following eight branches of the Society consisting of the centres set out in the Schedule—

- (a) Coast;
- (b) Rift Valley;
- (c) North Rift;
- (d) West Kenya;
- (e) South West Kenya;
- (f) Mount Kenya;
- (g) South Eastern; and
- (h) Nairobi.

(2) The branches shall—

- (a) deal with issues that regarding practise within their centres;
- (b) address issues relating to the welfare of the members practising in their centres;
- (c) inform the Council of any matters that affect members within the branches that require the Council's engagement with other stakeholders on behalf of the branch.

25. Nomination and recall of Society's representatives to statutory bodies

(1) The Council shall nominate the Society's representatives to statutory or public bodies to serve and articulate the objects of the Society.

(2) A person who has been nominated to a statutory body shall seek guidance and directions from the Council on matters affecting the Society and shall, regularly and when required by the Council, report to the Council, the deliberations of the statutory or public body that affect the Society.

(3) A person who has been nominated to serve on any statutory or public body may, at any time, be recalled by the Council notwithstanding that the position has been gazetted and the Council shall replace the vacant position within fourteen days. The person nominated to fill the vacant position shall serve for the unexpired term.

(4) The provisions of this section shall prevail where there is a conflict with any other Act or Subsidiary Legislation that provides for the nomination of the Society's representative.

PART V — THE SECRETARY AND THE SECRETARIAT

26. The secretary

(1) There shall be a secretary to the Council who shall be the chief executive of the Society and in charge of the secretariat of the Society.

(2) The secretary shall be appointed by the Council through a transparent and competitive recruitment process.

(3) The secretary shall be responsible to the Council for the day-to-day administration and management of the Secretariat and the affairs and functions of the Society as the Council shall determine.

(4) A person shall be eligible for appointment as the secretary to the Society if that person—

- (a) is an advocate of the High Court of Kenya with at least ten years experience; and
- (b) meets the requirements of Chapter Six of the Constitution.

(5) A person appointed secretary shall hold office for a period of three years and shall be eligible for reappointment for a further term of three years.

(6) The secretary may be removed from office by the Council with the support of at least two thirds of the members of the Council and on the following grounds—

- (a) inability to perform the functions of office arising from mental or physical infirmity;
- (b) gross misconduct;
- (c) bankruptcy;
- (d) incompetence; or
- (e) desertion of duty.

(7) The Council shall, before removing the secretary under subsection (6)—

- (a) inform the secretary, in writing, of the reasons for the intended removal; and
- (b) give the secretary an opportunity to put in a defence against any such allegations, either in person or through an advocate.

27. The secretariat

(1) There shall be a secretariat of the Society to be headed by the secretary.

(2) The secretariat shall be responsible for the day to day management of the affairs of the Society.

(3) The secretariat shall, from time to time receive such general or specific instructions from the Council through the secretary.

28. Structure of the secretariat

(1) The secretariat shall be structured in a manner that promotes the commitment to practice excellence and client care in the profession.

(2) Without prejudice to subsection (1), the secretariat shall consist of the following directorates—

- (a) the practice standards directorate which shall be responsible for the promotion of excellence in practice, client care and the achievement of full compliance with the rules of good practice in the profession through advice, support and other forms of assistance to advocates and law firms;
- (b) the compliance and ethics directorate which shall be responsible for the receipt and evaluation of complaints against advocates and the prosecution of matters before the Disciplinary Committee;
- (c) the continuing professional development directorate which shall be responsible for ensuring compliance of members with the relevant regulations;
- (d) the public interest directorate which shall be responsible for the identification of public interest issues' legislation and litigation; and
- (e) any other directorate that the Council may from time to time deem necessary to establish.

29. Liability of Council members officers and employees

(1) No matter or thing done by a member of the Council or by any officer, member of staff, 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 or the objects of the Society under this Act or for any neglect or default in the performance or exercise in good faith of any such duty or power render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Council, shall, if the court holds that such act was done bona fide, be paid out of the funds of the Society, if such expenses are not recovered by the person in such suit or prosecution.

(3) The provisions of subsection (1) shall not relieve the Society of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

PART VI— MEETINGS OF THE SOCIETY**30. Ordinary general meeting**

(1) The Council shall, convene an ordinary general meeting of the Society in the month of March of every year at such venue as may be determined by the Council.

(2) The Council shall present to the ordinary general meeting a full report of the activities of the Society in the immediately preceding year.

31. Requisitioning a special general meeting

(1) A special general meeting shall be convened at any time—

- (a) if requisitioned by at least five percent of the members from each branch; or
- (b) by the Council on its own motion after giving a thirty days notice.

(2) The notice requisitioning a special general meeting under subsection (1) (a) shall—

- (a) be in writing;
- (b) be signed by the members from all the branches as specified in subsection (1);
- (c) specify the object of the proposed meeting;
- (d) be submitted to the secretary to the Society.

(3) The Council shall, within fourteen days of receiving a requisition submitted under subsection (2), convene a special general meeting of the Society.

(4) If the Council fails, within fourteen days after the requisition, to convene a general meeting in accordance with the requisition, and specifying that it shall be held within thirty days, the members may themselves convene that general meeting to be held at any time within two months after such requisition.

32. Convening and procedure of meetings

Subject to the provisions of this Act, the manner of convening general meetings of the Society and the procedure at a general meeting shall, be as may be prescribed, from time to time, by the Council.

33. Resolutions of the Society

(1) Except for any purpose for which a special resolution is expressly required by this Act or by any regulation made under this Act, all resolutions of the Society in general meeting shall be by simple majority vote.

(2) In this Act a "special resolution" means a resolution passed by not less than two-thirds of such members of the Society as may be present and vote thereon at a general meeting of the Society, duly convened with notice of the intention to propose such resolution.

34. Voting

Every member present at a general meeting of the Society shall have one vote, and the president of that Council shall also have a casting vote.

35. Voting procedure

Subject to the provisions of this Act, the procedure of voting at the general meetings, shall, be as may be prescribed, from time to time, by the Council.

36. Alteration of resolutions

A resolution of the Society in a general meeting shall not be altered or rescinded within nine months after the passage of the resolution without a special resolution of the Society.

37. Minutes to be recorded etc

The Council shall cause proper minutes of all meetings of the Council and of the general meeting to be taken and recorded.

PART VII — MISCELLANEOUS PROVISIONS

38. Records of accounts

(1) The Council shall cause proper books and records of accounts of all funds, property, assets and liabilities of the Society to be kept, and to be audited as of the 31st December of every year.

(2) The Council shall present the audited accounts of the immediately preceding year at every the ordinary general meeting.

39. The common seal

The common seal of the Society shall be kept in such custody and used in such manner as may be prescribed from time to time.

40. Committees of society members

(1) The Council may establish such thematic committees comprising members of the Society for the purpose of assisting the Society perform, or to advise the society on any matter relating to the performance of its functions.

(2) Without prejudice to the generality of sub-section (1), there shall be a standing committee of the Society to be known as the Budget and Finance Committee.

41. Regulations

The Council may, subject to the provisions of this Act and with the approval by a resolution of members, make regulations, which shall be binding on all members of the Society, prescribing any of the following matters—

- (a) annual subscriptions;
- (b) manner of application for membership of the Society;
- (c) grounds for, and procedure relating to, suspension or expulsion of members of the Society;
- (d) resignation of members from the Society;
- (e) regulation of powers exercisable by the Council and any committees or subcommittees of the Council, and delegation of powers;
- (f) manner of convening meetings of the Council and the committees of the Council, and quorums and procedure of meetings of the Council;
- (g) manner of convening general meetings of the Society, and quorum and procedure of general meetings;
- (h) manner of election, removal and replacement of the president, the vice-president and the other members of the Council, and of representatives of the Society on the Disciplinary Committee;
- (i) the functions and powers of the branches and sources of funding of the activities of the branches;
- (j) the membership, governance of the branches and the regulation of the conduct of business by branches;
- (k) recognition and competencies of chapters of the members of the Society or other local formations within branches;
- (l) manner of election of the branch representatives in the Council;
- (m) the manner of election, removal and replacement of a person nominated by the Society to any constitutional or statutory body;

- (n) recognition, regulation and membership status of non-practising members;
- (o) recognition and regulation of paralegals;
- (p) custody and use of the common seal;
- (q) alternative forms of dispute resolution, including reconciliation, mediation and arbitration;
- (r) professional conduct and etiquette by the members; and the regulation of marketing and advertising by members of their services;
- (s) reciprocal recognition of qualification with the other bar associations; and
- (t) any other matters as may be necessary for the promotion of the objects and the regulation of the affairs of the Society.

PART VIII — REPEALS AND SAVINGS

42. Repeal of Cap. 18

The Law Society of Kenya Act (Cap. 18) is repealed.

43. Savings and Transitional provisions

(1) The Council of the Society under the repealed Act shall continue in office for their unexpired term and elections held subsequent to the expiry of the term of that Council shall be held under this Act.

(2) A person who is not eligible for election by virtue of having served as a member of the Council under the repealed Act shall not be eligible to vie for election as a member of the Council under this Act.

(3) A person who was immediately before the commencement of this Act serving as the Secretary or an employee of the Society under the repealed Act shall continue in office until the expiry of their term.

(4) Any rule or regulation made, order or directive issued, notification given or any administrative act undertaken under the repealed Act, shall be deemed to have been made, issued, given or undertaken under this Act and shall continue in force and have effect as if it had been so made, issued, given or undertaken under this Act.

SCHEDULE

[Section 26.]

***Branches of the Society and respective
centres of practice comprising the branches***

COAST BRANCH

Mombasa

Malindi/Kwale

Lamu

Taveta

MOUNT KENYA BRANCH

Meru
Nyeri
Maua
Nanyuki
Embu
Kerugoya
Karatina
Othaya
Muranga
Chuka
Isiolo

NORTH RIFT BRANCH

Eldoret
Kapsabet
Iten
Kapenguria
Kitale
Lodwar

NAIROBI BRANCH

Nairobi City
Thika

RIFT VALLEY BRANCH

Nakuru
Kericho
Naivasha
Laikipia
Kabarnet
Maralal
Bomet
Narok
Nyahururu
Molo
Sotik

SOUTH EASTERN BRANCH

Machakos
Kitui
Mwingi
Kagundo
Makueni
Kajiado/Kitengela

WEST KENYA BRANCH

Kisumu
Bungoma
Kakamega
Bondo
Mumias
Busia
Webuye
Siaya
Maseno
Vihiga

SOUTH WEST KENYA BRANCH

Migori
Rongo
Kisii
Homa Bay
Oyugis
