

THE KILIFI COUNTY COOPERATIVE SOCIETIES BILL, 2016

ARRANGMENT OF CLAUSES

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Schedules

THE KILIFI CO-OPERATIVE SOCIETIES BILL 2016

Commencement:

An Act of County Assembly of KILIFI to provide for the Constitution, registration and regulation of co-operative societies; promotion and development of cooperatives and purposes incidental thereto

ENACTED by the County Assembly of KILIFI as follows:—

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| | | PART I – PRELIMINARIES |
| Short title | 1 | This Act may be cited as the KILIFI County Co-operative Societies Act. |
| Purpose | 2 | <p>The purpose of this Act is to facilitate the implementation of section 7 (e) of part II of the Fourth Schedule to the Constitution and to provide for the establishment of legal and institutional framework for registration and regulation of cooperative societies in order to –</p> <ul style="list-style-type: none"> (a) Promote growth and development of cooperative societies; (b) Enhance good governance in the cooperative societies; (c) Promote local economic growth and development ; and (d) Promote the realization of Article 36 of the Constitution on freedom of association. |
| Interpretation | 3 | <p>In this Act unless where the context otherwise requires –</p> <p>“By-laws” means the by-laws made by a cooperative society and approved under this Act and includes any amendment of such by-laws.</p> <p>“Agriculture produce” means any produce or article produced or obtained by the work or industry of members of a cooperative society or marketed by a cooperative society whether the produce be of agriculture, animal husbandry, forestry, fisheries, handicrafts or otherwise.</p> <p>“Bonus” in relation to a member of a cooperative society means the member’s share of the surplus of the cooperative society which is divided amongst its members, calculated by reference to the proportion of the member’s volume of business with the cooperative society to the total volume of business done by the cooperative society.</p> |

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| | | <p>“Capital” means the permanent members equity in the form of common stock and includes all disclosed reserves, retained earnings, grants or donations.</p> <p>“Co-operatives society” means a co-operative society registered under section 26 of this of this Act</p> <p>“County” means the County Government of KILIFI.</p> <p>“Executive Committee Member” means the Executive Committee Member for the time being in charge of cooperatives.</p> <p>“Director” means the Director for cooperatives appointed under this Act and includes any person on whom the powers of the Director have been conferred in accordance with this Act.</p> <p>“Share” means the amount represented by a member’s portion in the equity of a cooperative society as a co-owner.</p> <p>“Fund” Means the cooperative Enterprise Development Fund Established under section 15 of this Act.</p> |
| Application | 4 | <p>(1) This Act shall apply to any person operating or intending to operate a cooperative society or a branch of a cooperative society within the County.</p> <p>(2) A person shall not operate a cooperative society or a branch of a cooperative society within the County unless they have been registered and issued with a licence in accordance with this Act.</p> <p>(3) A person who contravenes the provisions of Section(4)(2) commits an offence and is liable on conviction to a fine for a sum not exceeding five million or to imprisonment for a term not exceeding twelve months or to both.</p> |
| | | PART II ADMINISTRATION AND OFFICES |
| Responsibilities of the Executive Committee Member | 5 | <p>(1) The Executive Committee Member shall be responsible for the growth and development of cooperative societies in the County, and in particular –</p> <ol style="list-style-type: none"> a) Develop and oversee the implementation of policies and strategies on cooperatives; b) Promote good governance in cooperative societies; c) Provide liaison with the national government on matters relating to cooperative societies. d) Advise the County on matters relating to the cooperatives; e) On the advice of the Directorate, register or cancel a registration certificate of a cooperative societies; f) Publish regulations for better undertaking of the functions under this Act; and g) Undertake any other function for the effective realization of the objectives of the policies and strategies relating to cooperatives. |
| Establishment of the Directorate | 6 | There is established the Directorate of Co-operative Development, which shall be an office in the county public Service. |
| Functions of the Directorate. | 7 | <p>(1) The directorate shall be responsible for -</p> <ol style="list-style-type: none"> a) promoting and facilitating the establishment, growth |

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| | | <p>and development of co-operative societies;</p> <p>b) supervising co-operative societies and ensuring compliance with the Act and any other written law;</p> <p>c) providing liaison with National Government on any matter related to this Act;</p> <p>d) advise the Executive Member generally on any policy to be adopted or matter necessary to effective achievement of the objectives;</p> <p>(e) Carry out any other function for effective realization of objectives under this Act or any other function assigned by the Executive Member.</p> <p>(2) The directorate shall prepare an annual report on the development and status of co-operative societies which shall provide among others for-</p> <p>a) the status of promotion of formation of cooperative societies;</p> <p>b) the level of growth and development of cooperative societies;</p> <p>c) the challenges faced in implementing the Act and proposed mitigation measures;</p> <p>d) the status of promotion of good corporate governance among co-operative societies;</p> <p>e) the challenges faced by co-operative societies and proposed mitigation measures;</p> <p>f) any other matter as may be prescribed.</p> <p>(3) The directorate shall submit the report to the Executive Member not later than two months after the end of each financial year.</p> <p>(4) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the County Assembly for consideration.</p> |
| Director of the Co-operatives Development | 8 | <p>(1) There shall be a Director of Co-operative Development who shall head the directorate.</p> <p>(2) The director shall be appointed by the County Public Service Board through a competitive process.</p> <p>(3) A person shall not be appointed as the director unless he or she -</p> <p>a) holds a master's degree in business administration, management or co-operatives development;</p> <p>b) has at least ten years' experience in management;</p> <p>c) meets the requirements of Chapter Six of the Constitution; and</p> <p>d) meets any other qualification as the County Public Service Board may stipulate.</p> |
| Powers of the Director. | 9 | <p>(1) The director shall have powers to perform the functions assigned to the directorate in furtherance of the purpose of this Act.</p> |

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| | | (2) The director may delegate in writing any of his powers under this Act generally or specially to officers appointed under section or to any person. |
| | | The County Public Service Board shall appoint such number officers to serve in the directorate for effective carrying out of its functions under this Act. |
| Transitional | 10 | Any Public officer serving in the County Government appointed and working in the co-operatives department before coming to effect of this Act shall be deemed to be in the service of the Directorate of the co-operatives established under section 6 |
| | | PART III-PROMOTION AND DEVELOPMENT |
| Promotion and Development. | 11 | The directorate shall- <ul style="list-style-type: none"> a) mobilize county residents, farmers, traders, business community and any person involved in any enterprise to form co-operative societies; b) facilitate the formation and establishment of cooperative societies; c) supervise co-operative societies registered under this Act; d) promote growth and development of co-operative societies; e) promote and facilitate advancement and integration of good corporate governance in cooperative societies; and f) carry out any other function as may be assigned by the Executive Member for the purposes of implementing this Act. |
| Sub-County Co-operative Societies Leaders' Forum | 12 | <ol style="list-style-type: none"> 1) The directorate shall, at least twice in every financial year organize and convene in each sub-county, the co-operative leaders' forum. 2) The forum shall be open for attendance to all of any registered Co-operative Society operating in the Sub-County. 3) The Director shall chair the Forum 4) The Forum shall address the matters affecting the Co-operative Societies at Sub-County |
| County Co-operative Societies Leaders Forum | 13 | <ol style="list-style-type: none"> 1) The Directorate shall at least once in every financial year organize and convene the County Co-operative Leaders' Forum. 2) The forum shall be open for attendance to all leaders of any registered co-operative society operating in the County. 3) The Director shall chair the Forum. 4) The forum shall address matters affecting co-operatives societies in the County. |
| Sub-County Co-operative Committee | 14 | <ol style="list-style-type: none"> 1) The Executive Committee Member may establish an ad hoc committee in a Sub-County, to act as a link and a medium of coordinating Co-operatives Societies' participating in matters of governance or an event organized by the County Government. 2) The remuneration of such committee shall be subject to recommendation by the Salaries and Remuneration Commission |

| | | PART IV-CO-OPERATIVE SOCIETY ENTERPRISE DEVELOPMENT FUND |
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| Establishment of Co-operative Societies Enterprise Development Fund | 15 | <ol style="list-style-type: none"> 1) There is established a Fund known as the Co-operative Society Enterprise Development Fund which shall consist of:- <ol style="list-style-type: none"> a) Such monies as may be appropriated by the County Assembly b) Such monies as may be realized from repayment of the capital and interest of any loan granted from the fund; c) Any gifts, donations, grants and endowments lawfully granted to the Fund; d) All other sums which may in any manner become lawfully payable to, or vested in the Fund 2) The Fund shall be utilized to advance loans to such Co-operative Societies as may be approved. |
| Funds to Remain in the Fund at the end of a Financial Year | 16 | <ol style="list-style-type: none"> 1) The Fund shall be a revolving fund and all receipts, earnings, accruals and its balances at the close of each financial year shall not be paid into the County revenue Fund but shall be retained in the Fund in accordance with Section 109 (2)(b) of the Public Finance Management Act. 2) Interest accruing to the Fund may be used to defray costs incurred in its administration. |
| Administrator of the Fund | 17 | The Executive Committee Member responsible for Finance shall designate an administrator of the Fund in Accordance with Section 116(2) of the Public Finance Management Act. |
| Loans Appraisal Committee | 18 | <ol style="list-style-type: none"> 1) There is established in the Directorate, the Loans Appraisal Committee comprising of not more than five (5) members who shall be officers in the Directorate designated by the Executive Committee Member. 2) In addition to the five members designated under subsection 1, the Director shall be a member and the Chairperson of the committee while the Administrator designated in accordance with section 17 of this Act, shall be the secretary. |
| Duties of the Committee | 19 | The loans Appraisal Committee shall vet all the loan applications to the Fund and determine the suitability or otherwise of a Co-operative Society to be granted a loan from the Fund |
| Application for a Loan | 20 | An application for a loan under this Act shall be made to the Administrator who shall forward the same to the Loans Appraisal Committee for vetting in accordance with this Act. |
| Eligibility for a Loan | 21 | <ol style="list-style-type: none"> 1) A Co-operative Society shall be eligible to access a loan from the Fund if; <ol style="list-style-type: none"> a) It was registered and has been operating for atleast one year preceding the coming into force of the Act; b) It operates in the County; c) Has atleast two thirds of its members as residents of the County; d) Has audited accounts for atleast one preceding year; e) Has no known history of defaulting debt |

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| | | <p>repayment;</p> <p>f) Meets such other conditions as may be prescribed by the Executive Committee Member.</p> <p>2) Notwithstanding sub-section (1)(a), a Co-operative Society may be eligible to be granted a loan from the Fund if it has been operational for a period of at least one year preceding the application and registered after the coming into force of the Act.</p> |
| Loans to be Secured and Attract interest | 22 | <p>1) A loan advanced from the Fund shall be secured by collateral security whose value shall be more than the amount being advanced.</p> <p>2) The Administrator shall cause to be charged in favor of the County Government, the collateral securing a loan advanced from the fund.</p> <p>3) The Executive Committee Member may, on exceptional circumstance depending on what the loan is applied, exempt a Co-operative Society from proving a collateral security and instead require the Co-operative Society to provide another type of security.</p> <p>4) Notwithstanding sub-section (3), the Executive Committee Member shall not exempt the requirement of collateral security where the loan's repayment period exceeds thirty(30) days.</p> <p>5) The Executive Committee Members shall prescribe the interest rate accrue to loans advance from the Fund.</p> |
| Office of the liquidator | 23 | <p>(1) The Executive Committee Member, may, as it shall be necessary from time to time, on recommendation of the Director and in accordance with procedures that dictate such appointments, appoint one or more persons to be liquidator of a cooperative society under this Act on such terms and conditions as the Executive Committee Member shall determine.</p> <p>(2) Upon appointment, all property of the cooperative society the subject of such appointment shall vest in the liquidator from the date the cooperative society was referred for liquidation</p> <p>(3) A person shall not be appointed as a liquidator unless the person has –</p> <ol style="list-style-type: none"> a) An academic degree in financial or legal matters; b) Has at least five years' work experience in a financial or legal institution; c) Meets the constitutional threshold of integrity; and; d) Is not a member or a past member of the cooperative society under liquidation. <p>(4) The liquidator shall have the powers to-</p> <ol style="list-style-type: none"> a. Schedule the manner and period in which creditors |

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| | | <p>whose claims are not already recorded in the books of the cooperative society shall state and prove their claims for admission;</p> <ul style="list-style-type: none">b. Institute and defend suits and other legal proceedings by and on behalf of the society in the name of the office of the liquidator and appear in the proceedings as a litigant on behalf of the cooperative society;c. Appoint professionals and experts as shall be necessary to execute the functions assigned;d. Determine from time to time the contributions to be made members, past members or estates of deceased members of the cooperative society to the funds of the cooperative society;e. Investigate all claims against the cooperative society and decide questions of priority arising between claimants;f. Call such meeting of members and creditors as may be necessary for the proper conduct of the liquidation;g. Sell the movable and immovable assets and rights of action of the cooperative society in accordance with this Act and transfer rights and title;h. Carry on the business of the cooperative society as far as may be necessary for the proper liquidation of the affairs of the cooperative society;i. Determine from time to time persons who are liable to meet the liquidation expenses and in what proportion;j. Take possession of the books, documents and assets of the cooperative society;k. Arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Director;l. Give such direction in regard to the disposal of books and documents of the society as shall be necessary for the winding up of the affairs of the cooperative society;m. with approval of the Executive Committee Member, Compromise any claim by or against the cooperative society; andn. Apply to the Executive Committee Member for |
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| | | <p>discharge from the duties of liquidator after completion of the liquidation process.</p> <p>(5) The Executive Committee Member may terminate the appointment of a liquidator if the member is satisfied that the liquidator –</p> <ol style="list-style-type: none"> a. Has failed to meet the performance targets set in the Contract of appointment; b. Is suspected of mismanagement or execution of fraudulent transactions in the performance of the functions assigned; c. Tendered false documents to secure the appointment; d. A situation of conflict of interest has arisen; or e. In the interest of the public and maintenance of peace. |
| | | <p>PART V-BOOKS OF ACCOUNTS AND FINANCIAL REPORTS</p> |
| Books of accounts and reports | 24 | <p>1) The Administrator shall :</p> <ol style="list-style-type: none"> a) Maintain accurate books of accounts in respect of the Fund; and b) Submit all financial reports and other reports as required by the Public Finance Management Act to; <ol style="list-style-type: none"> I. County Assembly II. The Office of the Auditor General; and III. The Office of the Controller of Budget |
| Audit of the Fund | 25 | The Fund shall be subject to auditing in accordance with the Public Audit Act. |
| | | <p>PART VI – REGISTRATION OF COOPERATIVES</p> |
| Categories of cooperative societies | 26 | <p>(1) A cooperative society may be registered under this Act either as –</p> <ol style="list-style-type: none"> (a) A limited liability cooperative society which shall be a cooperative society limited by shares; or (b) Unlimited liability cooperative society which shall be a society where members’ liability is limited to the extent set out by the By-laws. <p>(2) Any two or more cooperative societies may apply for to form a cooperative society and shall be known as a “cooperative Union”. The Liability of each cooperative society in a cooperative union shall be spelt out in the By-Laws.</p> |

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| | | <p>3) Any two or more societies may apply amalgamate to form one cooperative society subject to compliance with the regulations guiding amalgamation of cooperative societies as shall be set out in accordance with this Act.</p> <p>4) A cooperative society may apply to divide into more than one cooperative society subject to compliance with the regulations governing division of cooperative societies as shall be set out in accordance with this Act.</p> <p>(5) An application under Section 9(1) this Act shall clearly specify the kind of cooperative society intended to be incorporated.</p> |
| Eligibility and application procedure | 27 | <p>1) Any group of at least fifteen persons associated for any lawful purpose who intends to operate a cooperative society or a branch of a cooperative society within the County may apply to the Director for registration in the form set out in the First Schedule to this Act.</p> <p>(2) The Director shall assess the application to confirm that persons who have applied for registration under this Act;</p> <ol style="list-style-type: none"> a. Have access to this Act and any other regulations and guidelines emanating from this Act; b. Are capable or promoting the principles of cooperative society; c. Meets the requirements set out in the Second Schedule; and d. Have paid the requisite fees set out in the third schedule. <p>(3) The Director shall, within two months from the date of receipt of an application, either reject the application and give written reason for rejection or make recommendation for registration of the applicants into a cooperative society to the Executive Committee Member.</p> |
| Registration and effects. | 28 | <p>(1) The Executive Committee Member may on recommendation of the Director and on such terms and conditions as the Executive Committee Member deems appropriate grant a Certificate of Registration in the format set out in the First Schedule.</p> <p>(2) A cooperative society registered under this Act shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of –</p> <ol style="list-style-type: none"> (a) Taking , purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; (b) Borrowing money or making investments; (c) Entering into contracts; and (d) Doing or performing all other acts or things for the proper |

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| | | <p>performance of its functions which may lawfully be done of performed by a body corporate.</p> <p>(3) The particulars of cooperative society registered under this Act shall be published in the County Gazette and its name entered in the register of Cooperative Societies.</p> <p>(4) A cooperative society registered under this Act may establish a branch or other offices other than its registered headquarters and file a notification of such establishment with the Director subject to payment of requisite fees.</p> |
| Registration of existing cooperative societies | 29 | <p>(1) Any cooperative society existing before the commencement of this Act which has an office, a branch or such other form of existence within the County and intends to continue operating within the County shall within six months from the commencement of this Act apply for registration in Accordance with the procedure set out in this Act.</p> <p>(2) A cooperative society or a branch of a cooperative society which fails to comply with the provisions of Sub section (1) shall be guilty of an offence and is liable upon conviction to a fine not exceeding five million Kenya Shillings or to imprisonment for a term not exceeding twelve months or to both.</p> |
| Licensing of a branch of a cooperative society registered under other laws. | 30 | <p>(1) A cooperative society which is not registered within the County intending to operate a branch or an office or establish any other form of existence within the County shall apply for licensing as a branch in the format set out in the First Schedule and pay the requisite fees.</p> <p>(2) An application under this section shall be considered in the same manner as an application for registration and licensing of a cooperative society.</p> <p>(3) The Executive Committee Member may, on recommendations of the Director and, on such conditions as the Executive Committee Member deem appropriate, issue a branch of the cooperative society with a license under this Act and have its name be entered in the register of cooperatives and marked "Branch".</p> |
| | | <p>(4) A license issued under this section or any action taken in respect of a branch of a cooperative society shall not be deemed to confer any legal personality to the branch of the cooperative society.</p> <p>(5) A branch of a cooperative society recognized under this Act shall comply with the regulations and requirement set out to be observed by the registered cooperative societies under this Act.</p> |
| Issuance of license | 31 | <p>(1) A cooperative society registered under this Act shall be issued with a license to carry out the business of cooperatives within the County in the format set out in the First Schedule.</p> <p>(2) A license issued under this Act shall be valid for a period of one year, but may be renewed on an annual basis on application of the cooperative society in the format set out in the First Schedule and</p> |

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| | | <p>payment of the requisite fee.</p> <p>(3) A license shall not be renewed unless the cooperative society has –</p> <ol style="list-style-type: none"> a. Continued to comply the provisions of this Act and relevant laws, regulations and guidelines emanating therefrom; b. Adheres to the directives issued by the Director implementing this Act; c. Continues to promote the principles of cooperatives; and d. There is no valid objection from its members for renewal of the registration certificate. <p>(4) If a cooperative society fails to apply for renewal of license or where in accordance with this Act the renewal of the licence is declined, the cooperative society shall cease to carry out the business of a cooperative society within the County.</p> <p>(5) Notwithstanding the generality of the foregoing the Executive Committee Member may, on recommendation by the Director withdrawal the license of a cooperative society for gross violation of the provisions of this Act for such period as shall be necessary to ensure that the cooperative society has duly complied with the law.</p> <p>(6) The Director may in addition to any other cause of action available under this Act order the closure of an office, or a branch, or such other form of existence within the County of a cooperative society that does not have a valid license or whose license has been withdrawn.</p> |
| <p>Display of Certificate of Registration and license</p> | <p>32</p> | <p>(1) A cooperative society or branch of a cooperative society shall display the Certificate of Registration and the license granted under this Act at strategic positions at its registered office and at its branch offices or places that it carries on its business.</p> <p>(2) A cooperative society that fails to display the Certificate of Registration and license shall be guilty of an offence and liable to a fine not exceeding one hundred thousand.</p> |
| | | <p>PART VII - MANAGEMENT OF COOPERATIVE SOCIETIES</p> |
| <p>Promoting good governance in cooperative societies</p> | <p>33</p> | <p>(1) A cooperative society shall promote the principles of good governance, accountability and democracy in addition to other principles of cooperatives in its operations.</p> <p>(2) Notwithstanding subsection (1) a cooperative society shall ensure that-</p> <ol style="list-style-type: none"> (a) Officers and committee members are elected in accordance with the Act and the by-laws of the cooperative society. (b) The right of members to vote and participate in meeting and operations of the cooperative societies is upheld; |

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| | | <p>(c) Funds are utilized only in accordance with this Act and its by-laws and where so required, the cooperative society secures prior approvals or authorization from its members or the Director as the case may be;</p> <p>(d) Cooperates with any person appointed to undertake an inquiry or such other function as the Director may direct; and</p> <p>(e) Updates the Director on its operations as required under this Act and the Regulations.</p> |
| Annual General meeting | 34 | <p>(1) The Annual general meeting of a cooperative society shall be supreme authority of the cooperative society.</p> <p>(2) The annual general meeting shall be held within four months from end of each financial year of the cooperative society and shall be convened by written notice of at least fifteen days to the date of the meeting.</p> <p>(3) In the first year after registration of a cooperative society, the annual general meeting shall be held not later than one month from the date of registration during which meeting the members shall-</p> <p>(a) Elect the cooperative society's office bearer</p> <p>(b) Consider and approve the estimates of income and expenditure for the ensuing financial year or part thereof;</p> <p>(c) Determine the maximum borrowing powers of the cooperative society'</p> <p>(d) Appoint the cooperative society's bankers and auditors; and</p> <p>(e) Decide on such matters as may be necessary for the better conduct of the cooperative's business.</p> <p>(4) The quorum for an annual general meeting shall be fifty plus one of the voting members.</p> <p>(5) The proceedings of the annual general meeting shall be in accordance with the Third Schedule.</p> |
| General and special meetings | 35 | <p>(1) A cooperative society may convene a general meeting for purposes of discussing a matter which by agreement of members was set to be discussed at such a meeting during the Annual General Meeting.</p> <p>(2) A cooperative society may convene a special general meeting to-</p> <p>(a) discuss a matter which in the opinion of the Executive Committee is of an urgent nature;</p> <p>(b) To receive the report of the supervisory committee; or</p> <p>(c) To address any directive issued by the Director which may not wait for the Annual General Meeting.</p> |
| Committees of | 36 | <p>(1) A cooperative society shall establish the following</p> |

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| <p>a cooperative society</p> | | <p>committees:</p> <p>(a) An Administration Committee which shall be responsible for giving directions in regard to the business of the cooperative; and</p> <p>(b) Supervisory Committee which be responsible for verification of all the transactions of the cooperative society and report to the Annual General Meeting and the Director.</p> <p>(2) Members of the committees may be remunerated for only four sittings in a year at such rate the members in an annual general meeting shall determine subject to approval by the Director.</p> <p>(3) Notwithstanding the generality of the foregoing, in circumstances warranting special sittings, the members of the committees may be remunerated for the special sittings subject to prior sanction of such meetings by the Annual General Meeting and approval by the Director.</p> <p>(4) The conduct of business of the committees and their functions shall be as spelt out in the By-laws.</p> |
| <p>Election and tenure of Committee members</p> | <p>37</p> | <p>(1) A person shall not be elected as a committee member of a cooperative society unless that person-</p> <p>(a) has attained the minimum basic education;</p> <p>(b) has met the constitutional threshold of integrity;</p> <p>(c) is a member of the cooperative society;</p> <p>(d) has held an elective position for two terms; and</p> <p>(e) has met such other requirements as may be set out in the cooperatives' By-laws.</p> <p>(2) The tenure of an elected committee member shall be as set out in the By-laws but shall not exceed three years subject to renewal of such term once.</p> <p>(3) A member of a committee shall be removed from his position if –</p> <p>(a) Following an audit, is under investigation for mismanaged of the affairs of the cooperative society or committing a fraudulent transaction or was negligent in the conduct of business to the financial detriment of the cooperative society;</p> <p>(b) Is under investigation for a criminal offense not related to the cooperative society's operations; or</p> <p>(c) Is under bankruptcy proceedings.</p> <p>(4) The position of any member of the committee shall become vacant if the member-</p> <p>(a) Is found guilty of any criminal offence punishable by imprisonment exceeding 6 months;</p> <p>(b) is adjudged bankrupt;</p> <p>(c) is found guilty of negligence to the extent that it has cost the cooperative society financial loss;</p> <p>(d) is unable to conduct his or her business due to ill health;</p> <p>(e) has held the office for a period of two terms; or</p> |

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| | | <p>(f) dies.</p> <p>(5) If a vacancy in the position of a member of the committee falls before the next annual general meeting, the Members of the Committee shall nominate one of the members as an interim member to transact business until the next annual general meeting and such member shall not be deemed an elected member for purposes of this Act.</p> |
| Declaration of wealth of a member of a committee | 38 | A person appointed as a member of a committee shall within thirty days of such appointment and not later than thirty days after ceasing to be such a member submit with the Director a declaration of his or her wealth. |
| | | PART VIII- RIGHTS AND OBLIGATIONS OF COOPERATIVE SOCIETIES |
| By-laws and rules of a cooperative society | 39 | <p>(1) A cooperative society shall be governed by the provisions of its By-laws developed in accordance with the schedule and approved by the Director.</p> <p>(2) A cooperative may from time to time amend its by-laws subject to approval by the Annual general meeting and the Director.</p> <p>(3) A cooperative society may develop rules for better carrying out of the functions set out in the by-laws subject to approval by the Annual general meeting and the Director.</p> <p>(4) The by-laws and rules developed in accordance with this section shall bind the cooperative society and the members to the same extent as if they were signed by each member and contained covenants on the part of each member and their representatives to observe all the provisions of the by-laws.</p> <p>(5) The By-laws of a cooperative society may subject to this Act provide for the imposition of fines not exceeding fifty thousand shillings on its members for any infringement of the by-laws.</p> |
| Recruitment of members | 40 | <p>(1) A cooperative society or a branch of a cooperative society may recruit persons to their membership provided the person has attained the age of fifteen years and either -</p> <p>(a) Is employed or his occupation or profession falls within the category of description of those for which the cooperative society is formed; or</p> <p>(b) Is a resident within or occupies land within the area of operation of the cooperative society.</p> <p>(c) who must meet the criteria set out in the Regulations under this Act.</p> <p>(2) Notwithstanding subsection (1), no cooperative society shall fix any limit to the number of its</p> |

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| | | <p>members.</p> <p>(3) No cooperative society shall recruit into its membership more than a third of non-Kenyan nor shall non Kenyan members be allocated more than a third of the total shares.</p> <p>(4) A cooperative society shall promote the well- being of its members in its operations including facilitating the acquisition or transfer of shares, savings or grant of credit facilities to its members in accordance with this Act and its by-laws.</p> |
| Keeping and access to records of cooperative society | 41 | <p>(1) A cooperative society shall keep at its registered office and at its branch offices –</p> <p>(a) A copy of its by-laws and rules;</p> <p>(b) Books of accounts including the audited accounts in the last five years;</p> <p>(c) Records of members including the members profiles;</p> <p>(d) Minutes of the meetings;</p> <p>(e) Any other documents as may be directed by the Director.</p> <p>(2) Any member of the cooperative or the Director or a person authorized by the Director shall have unlimited access to the records of the cooperative society at reasonable time.</p> |
| Right to trade with members in agricultural products | 42 | <p>(1) A cooperative society which has one of its objects the processing, marketing or selling of any agricultural produce may enter into a contract with its members either in its bylaws or by a separate document binding the members to process, market or sell all their agricultural produce or such amounts or descriptions of the same as may be stated therein to or through the cooperative society.</p> <p>(2) The contract referred to under subsection (1) may-</p> <p>(a) Bind members to produce the quantities of agricultural produce therein specified;</p> <p>(b) Provide for payment of a specific sum per unit of weight or other measure as liquidated damages for any breach of the contract.</p> <p>(3) The sum referred under subsection (2) shall on becoming payable-</p> <p>(a) Be a debt due to the cooperative society; and</p> <p>(b) Be a charge upon the immovable property of the member subject to registration of the charge under the law under which the property is registered and all stock then being thereon.</p> <p>(4) Any such contract as mention in subsection (1) shall</p> |

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| | | <p>have the effect of creating in favour of the cooperative society a charge upon the proceeds of sale of all produce mentioned therein, whether existing or future.</p> <p>(5) A cooperative society may on the authority of the members by a resolution in a general meeting pledge the produce deliverable by members under any such contract as is mentioned in subsection (1) as security for loans made to the cooperative society in all respect as if it were the owner of the produce.</p> <p>(6) No contract entered into under this section shall be contested in any court on the ground that it constitutes a contract in restraint of trade.</p> |
| Right to a first charge over members assets over debts | 43 | <p>(1) Subject to any other written law as to priority of debts, a cooperative society shall have a first charge upon such things or as the case may be upon any agricultural produce, animals or articles produced therewith or therefrom of a member or a past member to whom the society has –</p> <p>(a) Supplied any seeds or manure or animals, feeding stuff, agricultural or industrial implements or machinery or materials for manufacturer of building; or</p> <p>(b) Rendered any services;</p> <p>(c) Lent money to buy any such things as aforesaid or to obtain any such services.</p> <p>(2) The charge shall subsist for such period as the loan of value of the services rendered by a cooperative society shall remain unpaid.</p> |
| Filing of annual report | 44 | <p>(1) A cooperative society shall at the end of every financial year and not later than ninety days from the final day of the financial year submit an annual report detailing-</p> <p>(a) As assessment of the cooperative society operations during the year concluded;</p> <p>(b) Profile of new members of the cooperative society;</p> <p>(c) Any occurrence of vacancy and names or names of nominated committee member;</p> <p>(d) Record of all the resolutions of the cooperative society;</p> <p>(e) Profile of the appointed auditor; and</p> <p>(f) Audited accounts of the year just concluded.</p> <p>(2) A cooperative society that fails to submit its annual report shall not qualify for renewal of license.</p> |
| | | <p>PART IX – RIGHTS AND OBLIGATIONS OF MEMBERS</p> |
| General rights of members | 45 | <p>(1) A member of a cooperative society shall have the right to –</p> <p>a) Attend and participate at all general meetings</p> <p>b) vote in any matter;</p> |

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| | | <p>c) trade with or through the cooperative society in accordance with the by-laws;</p> <p>d) be elected to organs and committees of the cooperative society in accordance with its by-laws;</p> <p>e) enjoy the use of all the facilities and services of the society;</p> <p>f) all legitimate information relating to the cooperative society including internal regulations, registers, minutes of meetings, audited accounts, inventories, investigation reports and any other information that may lawfully be availed to the member.</p> <p>(2) Except in a cooperative union where voting rights shall be as set out in the by-laws, a member of the cooperative society shall have one vote irrespective of the number of shares the member holds.</p> <p>(3) The member of a cooperative society shall have obligation to –</p> <p>(a) Observe and comply with all society by-laws and decisions taken by the relevant organs of the cooperative society ;</p> <p>(b) Buy and pay up for shares or make any other payments as may be provided in the by-laws;</p> <p>(c) Meet the debts of the cooperative society in accordance with the by-laws.</p> |
| Rights to hold shares and invest with the Cooperative society | 46 | A member of a cooperative society may hold such shares, transfer shares or such other manner invest with the cooperative society provided that no member other than a cooperative society may hold more than one fifth of the issued and paid up share capital of a cooperative society. |
| Limitation of right to vote | 47 | No member of a cooperative society shall have the right to vote or in such other manner participate in the operations of the cooperative society unless the member has paid up for his or her dues in respect to membership or has acquired interests in the cooperative society in accordance with its By-laws. |
| Right to appoint an nominee | 48 | <p>(1) A member of a cooperative society shall be entitled to appoint a nominee to whom the cooperative society may transfer the shares or any the member's benefits due under the Act or the by-laws in the event of death or incapacity of the member.</p> <p>(2) A cooperative society shall within sixty days of notice of incapacity or death of a member as certain and pay the shares or benefits payable to a nominee.</p> <p>(3) The Director may issue directives or order the conduct of an inquiry of a cooperative society that fails to comply with this section.</p> |
| Restriction to attachment of member's share | 49 | (1) The share or interest of a member in the capital of a cooperative society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability except such debt or liabilities incurred under this Act and in the event of dissolution of the cooperative society the share or interest of a member or a past member adjudged bankrupt shall vest in the trustee in accordance with the relevant laws. |

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| | | <p>(2) Notwithstanding the generality of the foregoing a cooperative society shall have a first charge upon the share or interest in the capital and on the deposits of a member or a past member and upon any dividend, bonus or accumulated funds payable to a member or a past member in respect of any debt due from such members or past member to the cooperative society and may set off any sum credited or payable to such member or past member in or towards the payment of any such debt.</p> |
| Liability of a past member | 50 | <p>(1) A past member of the cooperative society shall be discharged from any future liabilities of the cooperative society but shall be liable for any debt of the cooperative society existing at the time of termination of membership and proceedings in this respect may be commenced within two years from the date of termination of membership.</p> <p>(2) Notwithstanding subsection (1) where the first audit of the accounts of the cooperative society after the termination of membership discloses that the society is solvent the financial liability of such past member shall cease forthwith.</p> |
| Liability of deceased member | 51 | <p>(1) The estate of a deceased member shall be liable for the debts of the cooperative society as they existed at the time of the death of the member and proceedings in respect thereof may be commenced within one year of the death.</p> <p>(2) Notwithstanding subsection (1) where the first audit of the accounts of the cooperative society from the date of death of the member discloses that the society is solvent the financial liability of such deceased member shall cease forthwith.</p> <p>(3) The estate of the deceased members shall not be liable except in respect of the assets in its possession and control.</p> |
| | | <p>PART X– ACCOUNTS AND FUNDS OF A COOPERATIVE SOCIETIES</p> |
| Financial year | 52 | <p>(2) A cooperative society shall keep proper books of account which shall –</p> <ul style="list-style-type: none"> (a) Be prepared in accordance with international accounting standards; (b) Reflect the true and fair state of the cooperative society’s affairs; and (c) Explain the cooperative society’s transactions including: <ul style="list-style-type: none"> (i) all sums of money received and paid by the cooperative society and the reasons thereto; (ii) all sales and purchases of goods and services by the cooperative society; and (iii) all assets and liabilities of the cooperative society. <p>(3)The books of accounts shall be kept at the registered office of the cooperative society and the offices of the branch of the cooperative society.</p> |

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| | | (4) A member of the cooperative society or the Director or such other person as may be authorized by the Director may have access to the books of account of a cooperative society. |
| Account and audit | 53 | (1) A cooperative society shall during annual general meeting appoint an auditor from among the list of auditors gazetted by the Director to audit its accounts. (2) A cooperative society shall cause its audited accounts to be published in the County gazettee. |
| Personal liability for failure to ensure audit. | 54 | (1) Each member of the Administration Committee shall be personally liable for failure to ensure that the books of accounts of a cooperative society are audited and submitted to the Director within the timelines set out in this Act and shall be liable to a fine not exceeding one hundred thousand shillings for every month of the delay. (2) Notwithstanding the generality of the foregoing, the members of the Administration Committee shall not be liable if the delay in auditing is due to an act of God or act beyond the control of the members as certified by the Director. |
| Funds of a cooperative society | 55 | (1) A cooperative society may receive funds from- a. Members contributions b. Members deposits c. Donations d. Loans and other borrowings e. Grants from government f. Investments (g) Any other source approved by the members. (2) The funds and property of the cooperative society shall only be utilized for the benefit of the cooperative society and its members in accordance with the by-laws. |
| Restriction on giving loans to non-members | 56 | A cooperative society shall not give a loan nor allow credit to non-member except by a resolution of the members in an annual general meeting and to the extent spelt out by the by-laws. |
| Restriction on receiving deposit or loans from non-members | 57 | A cooperative society shall not receive deposits or loans from non-members except by a resolution of the members in a general meeting in accordance with the by-laws. |
| Limitation of powers to borrow | 58 | A cooperative society with powers to borrow under its by-laws shall from time to time at an annual general meeting fix the maximum liability which it may incur in loans or deposits from non-members subject to approval by the Director. |
| Registration of a charge property of cooperative society | 59 | (1) A cooperative society may charge the whole or part of its property in accordance with its by-laws subject to a resolution by the annual general meeting and prior approval of the Director. (2) In addition to complying with provisions of other laws applicable to the particular type of charge the cooperative society shall register the particular charge with the Director in accordance with the format set out in the first schedule and pay the requisite fee. (3) The registration of a charge under this section may be effected by any other persons who may recover any fees properly paid for the registration from the cooperative society. |
| Investment of funds of | 60 | (1) A cooperative society may invest or deposit its funds – |

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| a cooperative society | | <p>a. In securities authorized for the investment of trust funds;</p> <p>b. In shares of other registered cooperative societies;</p> <p>c. With a licensed bank or licensed financial institution;</p> <p>d. In stock of a company listed in the Nairobi stock exchange or its successor or assignee or such stock exchange company approved by the County Government.</p> <p>(2) A cooperative society which intends to invest its funds other than as spelt out in this section shall seek the approval of the Director prior to making such investment.</p> <p>(3) The Director shall not issue any approval under this section unless the members have by resolution in an annual general meeting sanctioned the investment proposal and the same is in the interest of the members and is within the County investment plan.</p> |
| Declaration of bonus | 61 | <p>(1) A cooperative society shall in each year declare the bonus due to its members and pay at such rate as shall be approved by the annual general meeting.</p> <p>(2) Where a cooperative society requires to re-invest the bonuses declared for capital development the cooperative society shall issue bonus certificates to its members in lieu of cash payments which may be redeemed from a revolving fund established by the cooperative society for that purpose.</p> |
| Reserve fund | 62 | <p>(1) A cooperative society which derives surplus from its transactions shall maintain a reserve fund.</p> <p>(2) A cooperative society shall within thirty days of declaration of surplus deposit to the reserve fund at least ten per cent of the declared surplus.</p> <p>(3) The reserve fund of a cooperative society shall be indivisible and no member shall be entitled to claim a specific any share of it.</p> <p>(4) Upon dissolution of a cooperative society the funds under reserve funds shall first be applied to discharge the liabilities of the society.</p> |
| Front office services | 63 | <p>(1) A cooperative society operating or intending to operate front office services shall apply to the Director for license to operate a front office in the format set out in the first schedule and pay the requisite fee.</p> <p>(2) A license to operate a front office shall not be issued to a cooperative society unless the cooperative society-</p> <p>a. Has for the last three years maintained a minimum liquidity at ten per cent of the deposits;</p> <p>b. Maintains a minimum capital adequacy and reserves as ten per cent of its total liabilities;</p> <p>c. Has made provisions for bad and doubtful debts in accordance with guidelines prescribed by the Director before declaring any surplus; and</p> <p>d. Has maintained such other standards as the</p> |

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| | | Executive Committee Member may from time to time publish in the County Gazette. |
| Supervision of front office services | 64 | The Director may, in respect to a cooperative society operating front office services– (a) Require the cooperative society to submit accounts, cooperatives records and any other relevant statistics regularly; (b) Collect such data and other information as may necessary for the protection of the members funds; and (c) Regularly inspect the operations of front office as may be necessary. |
| | | PART XI- INSPECTION, INQUIRY AND WINDING UP |
| Conduct of routine inspection | 65 | The Director or its authorized officer shall on reasonable notice and at least once every year at the expense of the cooperative society carry out routine inspection into the affairs of a cooperative society to confirm that the cooperative society is complying with the law. |
| Conduct of an inquiry | 66 | (1) The Director may of its own accord or on direction of the Executive Committee Member or on the application of at least one third of the members present and voting at a meeting of the cooperative society hold an inquiry or direct any person to hold an inquiry into the operations, management or financial conditions of a cooperative society. (2) The Director shall consider the findings of the inquiry and may- (a) Direct the cooperative society to take measures to remedy a finding; (b) Adopt the report with no recommendations if no negative findings are made; or (c) Recommend the Cancellation of registration certificate to the Executive Committee Member. |
| Inspection of books of Indebted society | 67 | (1) The Director may if it deems appropriate on the application of a creditor of a cooperative society inspect or direct a person to inspect the books of the cooperative society if – (a) The creditor is satisfies the Director that the debt in a sum then due and that the creditor has demanded payments thereof and has not received satisfaction within a reasonable time; and (b) The applicant deposits with the Director such sum as security for the expense of the inspection as the Director may require. (2) The Director shall inform the creditor of the results of the inspection. |
| Expense of the inquiry or inspection | 68 | Where an inquiry or an inspection is held under this Act the Director may by a certificate make an order apportioning the expenses or such part of the expenses incurred between the cooperative society the member or creditor demanding the inquiry or inspection and the officers or former officers of the cooperative society and the decision of the Director shall be final. |

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| Cancellation of certificate of registration | 69 | <p>(1) The Executive Committee Member may on the recommendation of the Director by notice in the County Gazette cancel a registration certificate of a cooperative society if the Executive Committee Member is satisfied that the business of the cooperative society –</p> <p>(a) Is fraudulent;</p> <p>(b) Insolvent;</p> <p>(c) Against the principles of cooperative society;</p> <p>(d) Is not promoting or likely to promote the economic wellbeing of its members; or</p> <p>(e) Is prejudicial to the general public interest.</p> <p>(2) No certificate of registration of a cooperative society may be cancelled unless-</p> <p>(a) The cooperative society has been notified in writing on the reasons for proposed cancellation and within six months has failed to attend to the reasons raised to the satisfaction of the Director; and</p> <p>(b) The cooperative society has been given an opportunity to be heard.</p> <p>(3) A cooperative society whose registration certificate has been cancelled shall be subject to the winding up process in accordance with this Act.</p> <p>(4) The name of a cooperative society which has been wound up shall be struck off the register of cooperatives and a notice published in the County Gazettee.</p> |
| Winding up | 70 | <p>(1) The Executive Committee Member shall in accordance with this Act appoint a liquidator to undertake the winding up process of any cooperative society whose registration certificate has been cancelled.</p> <p>(2) Upon appointment of a liquidator, the members of Administration shall within fourteen days from the date of appointment hand over the assets and operations of the cooperative society to the liquidator.</p> <p>(3) The liquidator shall have power to summon and enforce the attendance of witnesses and to compel the production of documents as shall be necessary.</p> |
| Limitations of liquidators powers | 71 | <p>(4) The liquidator shall be subject to guidance and control of the Director and to any limitations imposed by the Director and the Director may-</p> <p>(a) Rescind or vary any order made by the liquidator and make any new order as shall be appropriate;</p> <p>(b) Recommend to the Executive Committee Member the termination of a contract of the liquidator;</p> <p>(c) Call for all books, documents and assets of the cooperative society;</p> <p>(d) Procure auditing of the liquidator's accounts;</p> <p>(e) Require any member or past member of a cooperative society and any trustee, banker,</p> |

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| | | <p>receiver or agent to pay, deliver, convey, surrender or transfer forthwith or within such time as the Director shall set, to the liquidator any money, property, books or papers in the hands of the member to which the cooperative society appears to be entitled to; and</p> <p>(f) Take appropriate action as shall be necessary to safeguard all interests represented in the winding up process.</p> |
| Cooperatives liquidation accounts | 72 | (1) An account to be called the Cooperative Societies Liquidation Account shall be kept by the Director with such bank as approved by the Executive Committee Member and shall be administered in the manner approved by regulations. |
| | | PART XII – GENERAL PROVISIONS |
| Principles of cooperatives | 73 | <p>(1) A cooperative society operating under this Act shall adhere to the following principles:</p> <ol style="list-style-type: none"> a) Voluntary and open membership; b) Democratic governance; c) Corporate governance; d) Pursuit of common lawful interests; e) Benefits to members as a core purpose; f) Desire to improve the economic and social welfare of its members; g) Education and training of its members; h) Cooperation; and i) Free participation of members in the activities of the society. <p>(2) The Directorate shall ensure that a cooperative society operating under this Act adheres to the principles of Cooperatives.</p> |
| Protection of the words “Cooperative society” | 74 | <p>(1) The word “cooperative” and “society” shall form part of the name of every cooperative society registered under this Act.</p> <p>(2) No person shall use the words “cooperative society” as part of the name of a business within the County unless they are registered under this Act.</p> <p>(3) A person who contravenes the provisions of this section commits an offence liable to a fine of the sum not exceeding five million or to imprisonment for a term not exceeding twelve months or to both.</p> |
| Protection of the name of a registered cooperative society | 75 | <p>(1) The Director shall ensure that no cooperative society is registered in the name -</p> <ol style="list-style-type: none"> (a) Of a registered cooperative society within Kenya; (b) Which is identical or similar to or bears close semblance to a name of a cooperative society or is likely to mislead members of the public as to its identity; (c) Consists of a abbreviations or initials; or (d) In the opinion of the Director is undesirable in the public interest. |

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| | | (2) The Director shall publish the name of a cooperative society registered under this Act in the County Gazettee within thirty days from the date of grant of a certificate of registration. |
| Application for change of name of a cooperative society | 76 | <p>(1) The Executive Committee Member may on recommendation of the Director issue a Certificate of Change of Name to a cooperative society that has made an application for change of name under this Act.</p> <p>(2) The Director shall enter the new name in the cooperatives register and publish the same in the County Gazette .</p> <p>(3) Application under this section shall be in the format set out in the first schedule to the Act subject to payment of the requisite fee.</p> <p>(4) No person shall use the words “cooperative society” as part of the name of a business within the County unless they are registered under this Act.</p> <p>(5) The change of name of the cooperative society shall not-</p> <p>(a) affect any rights or obligations of the cooperative society ; or</p> <p>(b) render defective any legal proceedings by or against the cooperative society.</p> |
| Publication of regulations | 77 | <p>(1) The Executive Committee Member may from time to time by a notice in the County gazettee publish regulations for the better carrying out of the objects of this Act, in particular to provide for-</p> <p>(a) The winding up process of a cooperative society;</p> <p>(b) Conduct of an inquiry or an inspection;</p> <p>(c) Prescribing fees for services rendered;</p> <p>(d) Conduct and procedure of meeting of cooperatives;</p> <p>(e) Transfer of shares and rights of members of cooperative society; and</p> <p>(f) Any other regulations deemed necessary for better implementation of this Act.</p> <p>(2) The Regulations set out in the second schedules are deemed to be published in accordance with this section and may be amended from time to time.</p> |
| Power to surcharge of person | 78 | <p>(1) The Director may if it considers appropriate make an order requiring a person to repay or restore the money or property or any part thereof to the cooperative society together with interest at such rate as the Director thinks just or to contribute such sum to the assets of the cooperative society by way of compensation as the Director deems just where it appears that any person who has taken part in the organization or management of a cooperative society or any past or present officer or a member of the society-</p> <p>(a) Has misapplied or retained or become liable or accountable for any money or property of the society; or</p> <p>(b) Has been found guilty of misfeasance or breach of trust in relation to the society.</p> |

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| | | (2) This section shall apply notwithstanding that the act or default by reason of which the order is made may constitute an offence under another law for which the person has been prosecuted or is being or is likely to be prosecuted. |
| Appeals | 79 | Any person aggrieved by the decision of the Director or a liquidator may appeal in writing to the Executive Committee Member within thirty days from the date of communication of the decision of the Director or liquidator and the decision of the Executive Committee Member shall be final. |
| Remuneration of members of a cooperative society | 80 | No member of a cooperative society shall receive remuneration, salary, commission or any other payment from the society for services rendered save by resolution of the members in an annual general meeting and approved by the Director. |
| Other powers of the Director | 81 | (1) Without prejudice to any other powers under this Act the Director may- (a) Call for elections in any cooperative society that has failed to undertake this function in accordance with its by-laws; (b) Attend meetings of a cooperative society and require a cooperative society to send within proper time a notice and agenda of every meeting and all minutes and communications in respect thereof; (c) Require that cooperative societies update their by- laws; and (d) Exercise such other powers consistent with this Act. |
| Offences | 82 | (1) It shall be an offence under this Act if- (a) A cooperative society or a member of a cooperative society fails to do or to cause to be done any act or thing which is required by or under this Act or any Regulations made thereunder to be done; or (b) A cooperative society or a member thereof does anything which is prohibited by or under this Act or any Regulations made thereunder; or (c) A cooperative society or a member thereof willfully neglects or refuses to do any act or to furnish any information required for the purposes of this Act by the Director or any person duly authorized in that behalf by the Director; or (d) A cooperative society or member thereof willfully makes a false return or furnishes false information with respect to any return or information in or which is required by or under this Act or any Regulations made thereunder; or (e) Any person willfully and without reasonable excuse disobeys any summons requirements or lawful order issues under this Act or fails to furnish any return or information lawfully required from him by a persons authorized to do so or which he is required to furnished by or under this Act or any Regulations made thereunder; or (f) Any person acts or purports to act as an officer of a cooperative society when not entitled to do so. (2) Any person who commits an offence under this section shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both. (3) The Executive Committee Member may recommend to the Director of Public Prosecution persons who may be appoint public |

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| | | prosecutors for cases arising under the provisions of this Act. |
| Certain laws not to apply | 83 | <p>(1) The provisions of the Companies Act other than those referred to in this Act and the Registration of Business Name Act shall not apply to the cooperative society.</p> <p>(2) Notwithstanding the provisions relating to employees no cooperative society shall be taken to a trade union.</p> |
| Savings | 84 | <p>(1) A cooperative society existing before the enactment of this Act shall within one year from the date of enactment ensure that it is in compliance with the provisions of this Act and in particular –</p> <p>(a) Hold fresh elections to comply with the law at the annual general meeting of the following financial year. Person holding office shall continue to be in office until such elections are held.</p> <p>(b) Amend its by-laws and any rules enacted therefrom to align them with the provisions of this Act; and</p> <p>(c) Undertake such other actions as shall be necessary to align the cooperative society to this Act.</p> <p>(2) Any member of a cooperative society existing before the enactment of this Act, shall retain his or her rights, assets and liabilities in the cooperative society as if such rights, assets and liabilities were held under this Act.</p> <p>(3) Any contract or obligation of a cooperative society existing before the enactment of this Act and duly registered under this Act shall continue in force as if the contract or obligation was under this Act.</p> |

SCHEDULE ONE

FORM I

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT APPLICATION FOR REGISTRATION OF A CO-OPERATIVE SOCIETY

FORM II A

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

CERTIFICATE OF REGISTRATION

REGISTRATION NO.....

I hereby certify that the co-operative Society under the name of

.....

.....

..

and its by-laws have this day been provisionally registered by me in the Register of Co-operative Societies, in pursuance to the provisions of the Act and the Rule made there under.

Given under my hand at Nairobi,

this.....

Day of20.....

.....

Executive Committee Member

FORM IIB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

CERTIFICATE OF AMALGAMATION

REGISTRATION NO.....

Thereby certify that the Co-operative Society under the name of.....
.....

...and its by-laws have this day been provisionally registered by me .in the Register of Co-
operative Societies, in pursuance to the provisions of the Act and the Rules made there under.

Given under my hand at Nairobi, this
day of.....20.....

.....

Executive Committee Member

FORM III

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

CERTIFICATE OF AMENDMENT OF BY-LAWS

We.....

..

Chairman and secretary of.....

Co-operative Society Limited hereby certify:

- i. that the enclosed amendment for the by-laws was made at a general meeting held On.....
- ii. that on that date there were members voted society of whom were present in the meeting;
- iii. that..... members voted for the amendment
- iv. that proper notice of the meeting and the proposed amendment were issued to all members of the society;
- v.
- vi. that a voting paper was duly issued to every member;

that the amendment has received the prior approval of the Director of Co-operative Development.

Date

.....

Chairman

.....

.....

Secretary

insert name of society to be deleted in all cases except those in which voting papers have been used by society of limited liability.delete if not applicable.

FORM IVA

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

ANNUAL RETURN FOR THE YEAR

(to be submitted within four months of the end of the financial year)

Name of the co-operative society

Registration number.....Date of registration

.....

Registered address

.....

Type of society

.....

The liability of members

is*

(a) Limited to a nominal value for each share held;

(b) Limited to Times the nominal value of each share held;

(c) Unlimited

The number of members of the society is

The number of shares issued

is.....

The nominal value of one share is Kshs..... The

maximum liability which the society may incur in loans or deposits is Kshs.....

.....

The total indebtedness of the society secured by registered charges is Kshs.....

The date the last annual general meeting was held

.....

Particulars of offices for the financial year from toare

as follows:

Title of Office

Name of Holder

Chairman

Vice – Chairman

Committee members

(a)

(b)

(c)

A certified true copy of the audited accounts and balance sheet is filed herewith.

Dated this day of.....

20..... (Signed):

Secretary/ Manager,

FORM V

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

INDEMNITY TO A CO-OPERATIVE SOCIETY

TO:
.....
.....

.....In consideration of
your giving or continuing to give an indemnity of
Kshs.....

I

jointly and severally for myself and my legal personal representatives, successors and assigns hereby:-

- a) agree to keep you indemnified against all actions, proceedings, liability, Claims, losses, damages, costs and expenses arising from action and omissions as a consequence of my role in the mismanagement of the resources of the co-operative society in my capacity as a member of the Committee/Board.
- b) irrevocably authorize you to offset the liability, losses, damages, costs and expenses by attaching my shares, deposits, personal property and other personal assets without prior reference to me;
- c) irrevocably authorize you to make any payments and comply with any demands which may be claimed from or made upon you under the said indemnity without any further reference to or further authority from me and agree that it shall not be incumbent upon you to inquire whether or not any dispute exists between myself and the beneficiary of the said indemnity and further agree that any payment in accordance or purporting to be in accordance with the said indemnity shall be binding on me and shall be accepted by me as conclusive evidence, that you were liable to make such payments or comply with such demands and further that you may at any time determine the said indemnity and
- d) Irrevocably authorize you to :debit my share/deposit account with Kshs.and to hold this amount as security margin against your liability under the said indemnity until such time as the same may discharge;

and/or, agree to undertake to deposit with you upon request made by you at any time until the same indemnity shall have been released such or other securities as may be acceptable to you in full or part of your liability under the same indemnity.

Signed this day of 20.....

Deponed by me

Before.....

Director for Oaths.....

FORM VI A

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

DEDUCTION AUTHORIZATION FORM

TO:

Date:

DEDUCTION FROM MY SALARY/PROCEEDS

I I/D NO. P/NO

Of P.O Box..... Hereby authorize you to make deductions from my salary/proceeds of Kshs..... to be remitted to

.....Co-operative Society Ltd.-to be credited towardsmy shares account from time to time the said society may advise you on any other deductions The society’s instruction shall be taken as if they given under my hand. These instructions shall, remain in force unless altered by me in Concurrence with thesaid society.

Given under my hand this day of 20.....

.....

Name

I/D NO

Signature

Chairman

..... Co-operative society Ltd

P.O Box

.....

FORM VIB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

REMITTANCE RETURNS

TO: The Director of Co-operative Societies

P.O. Box 519-80108

KILIFI

- 1. Name of the co-operative society.....
- 2. Registration number.....
- 3- Type of society.....
- 4; Province/District.....
- 5. Name of employer
- 6. Last payroll deduction remitted (month& year)
- 7. Number of months in arrears.....
- 8. Amount expected for current payroll deduction Ksh.....
- 9. Amount remitted as per (8) above Ksh.....
- 10. Shortage Excess (8-9) Ksh.....
with employer (cumulative) Ksh.....

Dated

Signed

Chairman/Manager

FORM VII

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

NOMINATION FORM

The Chairman,

..... Co-operative Society Ltd.

P.O. Box.....

.....

I I/D No..... of Post

office

Box

member of Co-operative Society

Ltd;being member No..... hereby nominate the following nominee(s) to inherit my shares or interest in the said Society in the following manner.

| <i>Name of nominee (s)</i> | <i>Relationship</i> | <i>% of share/Interest</i> |
|----------------------------|---------------------|----------------------------|
| 1. | | |
| 2. | | |
| 3. | | |
| 4. | | |

Witnessed by:-

1. I/D NO.
Address Signature

2. I/D NO.
Address Signature.....

Given under this hand this Day of

20..... Signature

FORM VIII

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

NOTIFICATION OF LIMITATION OF BORROWING POWERS

TO: The Director of Co-operative Societies

P.O. Box 519-80108

KILIFI

Name of the co-operative society

Registration Number

This is to inform you that at a duly convened annual general meeting of the above society held on the day of.....20.....

the following resolution was passed: -

That the maximum liability which the society may incur in loans or deposits from non members shall be shillings (in words)

On the date of the annual general meeting members the society had

fully paid members and there were members present at the meeting of whom voted in favor of the resolution and Against.

I hereby certify that the particulars contained above are correct.

Signed.....

Secretary/Manager

FORM IX

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

PARTICULARS OF CHARGE CREATED BY A CO-OPERATIVE SOCIETY

To: The Director of Co-operative Societies

P.O Box 519-80108

KILIFI

Name of Co-operative Society

Registration Number

Date and description of the instrument creating or evidencing mortgage or charge
.....

Land registrar particulars

Name, address and description of the mortgage on persons entitled to the charge:
.....
.....
.....

Dated this Day of 20

Secretary/Manager

FORM XB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

REGISTER OF CHARGES

Name of the co-operative society.....

Registration number.....

Date of charge

Date of acquisition of property.....

Amount secured by charge.....

particulars of properties charged

Person entitled to

charge.....

Date of resolution authorizing issue of series debentures.....

Date of covering deed

Names of trustees of debenture holders:

Date of registration Signature.....

Memorandum of satisfaction.....

Date of discharge.....

Dated this day of..... 20.....

.....
Director

FORM XB

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

CHRONOLOGICAL INDEX OF CHARGES

Serial No

Register of charges folio No.

Date charged

Amount of charge.....

Particulars of charge

Person entitled to charge.....

Name of society creating the charge

.....

.....

Date of registration.....

Remarks.....

.....

.....

.....

FORM XI

THE KILIFI COUNTY CO-OPERATIVE SOCIETIES ACT

CERTIFICATE OF REGISTRATION OF A CHARGE

To:

.....

.....

Name of the co-operative society

Registration number

Date and description of the instrument creating or evidencing the mortgage or charge

.....

Amount secured by the mortgage or charge Kshs.

.....

Short particulars of the property mortgaged or charged

.....

...

.....

....

Land Registry particulars:

.....

.....

Name, addresses and description of the mortgages or persons entitled to the charge:

.....

.....

Dated this day of20

SCHEDULE ON BY LAWS

- (1) A co-operative society shall make by-laws in respect of the following matters-
- a. its name;
 - b. its registered office and postal address;
 - c. its area of operation and membership common bond;
 - d. the objects of the society;
 - e. the purposes to which its funds may be applied;
 - f. the disposal of its accumulated funds;
 - g. the qualification for membership, the terms of admission of members and the mode of their admission;
 - h. the withdrawal and expulsion of members and the payment, if any, to be made to such members and the time within which such payment shall be made;
 - i. the rights, liabilities and obligations of members, including the minimum share-holding and produce delivery;
 - j. the transfer of the shares or interests of the members;
 - k. the manner of raising funds, including the maximum rate of interest on deposits
 - l. its general meetings, the procedure and quorum of such meetings, power of such meetings and representation and voting at such meetings;
 - m. the appointment, suspension and removal of members of the committee and officers and the powers and duties of the committee and officers;
 - n. the period of its financial year;
 - o. the authorization of officers to sign documents on its behalf;
 - p. the settlement of disputes; and
 - q. such other matters as may be expedient for the better carrying out of its objects.
- (2) If the objects of the society include the creation of funds to be lent to its members, by-laws shall also be made in respect of the conditions and other requirements on which loans and advances may be made to members including-
- a. the rate of interest;
 - b. the maximum amount which may be lent to a member;
 - c. the extension, renewal and recovery of loans;
 - d. the period and purpose of loans;
 - e. the security for loans; and
 - f. the consequences of default in the repayment of any sum due.

MEMORUNDUM OF OBJECT AND REASONS

The principal object of this Bill is to provide for the Constitution, registration of Cooperative Societies, promotion and development of Cooperatives.

The structure of the Bill is as follows:

Part I (Clauses 1-4) provides for preliminary matters. It provides for short title, purposes of the Bill, interpretation of terms as used in the Bill and the application of the Act.

Part II (Clause 5-10) of the Bill deals with administration and offices. It provides for the responsibilities of the Executive Committee Member which shall be the growth and development of cooperative societies in the County. It also provides the establishment of the

Directorate of Cooperative development and its functions and it establishes for the director and its powers.

Part III (Clause 11-14) of the Bill deals with promotion and development. It provides for the directorate to organize and convene Sub-County Cooperative Societies leaders' forum and the establishment of the Sub-County Cooperative committee.

Part IV (Clause 15-23) contains the Cooperative Society Enterprise Development Fund. It provides the administration of the fund, loan appraisal committee and their duties and loan application and eligibility and loan security and interest and the office of liquidator.

Part V (Clause 24-25) Contains the Books of Accounts and Financial Reports and Audit of the Fund.

Part VI (Clause 26-32) Deals with Registration of Cooperatives. It provides for the categories of cooperative societies, eligibility and application procedure and registration and effects. It also contains the registration of the existing cooperatives, licensing of branch of a cooperative society registered under the laws and issuance of license with the display of certificate of registration and license.

Part VII (Clause 33-38) Deals with Management of Cooperative Societies. It provides for promotion of good governance and annual general and special meetings. It also provides for committees, the elections and tenure of committee members.

Part VIII (Clause 39-44) contains the rights and obligations of cooperative societies. It establishes the By-Laws and rules of a cooperative society, recruitment of members, keeping and access to records of cooperative society. It also provides the right to trade with members in agricultural products, right to a first charge over members' assets over debts and filing of annual report.

Part IX (Clause 45-51) Deals with rights and obligations of Members. It outlines the general rights of members, rights to hold shares and invest with the cooperative society, limitation of right to vote, right to an nominee and restriction to attachment of members share. It also provides liability of a past member and of a deceased member.

Part X (Clause 52-64) Deals with accounts and funds of a cooperative societies. It provides for the financial year accounts and audit, personal liability for failure to ensure audit and funds of a cooperative society. It also contains the restrictions on giving loans to non-members, restriction on receiving deposit or loans from non-members, limitation of powers to borrow, registration of a charge property of cooperative society and investment of funds of a cooperative society. It provides for declaration of bonus, reserve fund, front office services and supervision of front office services.

Part XI (Clause 65-72) Deals with inspection, inquiry and winding up. It provides for conduct of routine inspection, inquiry, inspection of books of indebted society, expense of the inquiry or inspection, cancellation of certificate of registration, winding up, limitation of

liquidators powers and cooperatives liquidation accounts.

Part XII (Clause 73-84) contains general provisions. It outlines the principles of cooperatives, protection of the words “cooperatives society”, protection of the name of a registered cooperative society, application for change of name of a cooperative society and publication of regulations. It also provides for powers to surcharge of person, appeals, remuneration of members of a cooperative society, powers of the director, offences, certain laws not to apply and savings.