

**THE KENYA INSTITUTE OF CURRICULUM
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**THE KENYA INSTITUTE OF CURRICULUM
DEVELOPMENT ACT**

AN ACT of Parliament to establish the Kenya Institute of Curriculum Development; to establish the governing Council for the Institute and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Kenya Institute of Curriculum Development Act, 2013.

Interpretation.

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

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to education and training;

“Council” means the Council established by section 5;

“curriculum” means all planned learning programmes that facilitate formal, non-formal and informal learning;

“curriculum support materials” means materials used to facilitate curriculum implementation and includes both electronic and non-electronic form;

“Director ” means the Director of the Institute appointed under section 14;

‘Director General’ means the Director-General responsible for matters relating to education;

“former Institute” means the Kenya Institute of Education established by the Kenya Institute of Education Order, 2010;

L.N. 120/2010.

“Institute” means the Kenya Institute of Curriculum Development established under section 3;

“member” means a member of the Council; and

“tertiary” means all post-secondary school education and training programmes, but does not include any training undertaken in a university.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE INSTITUTE

Establishment of the Institute.

3. (1) There is established an Institute to be known as the Kenya Institute of Curriculum Development.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, borrowing, holding, charging or disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act.

(3) The Institute shall be the successor to the Institute known as the Kenya Institute of Education existing immediately before the commencement of this Act.

(4) The headquarters of the Institute shall be in Nairobi, but the Institute may devolve its functions to the counties progressively.

Functions of the Institute.

4. The functions of the Institute shall be to—

- (a) advise the Government on matters pertaining to curriculum development;
- (b) evaluate, vet and approve, for application in Kenya, any local and foreign curricula and curriculum support materials in relation to the levels of education and training referred to in paragraph (d);
- (c) implement the policies relating to curriculum

development in basic and tertiary education and training;

- (d) develop, review and approve programmes, curricula and curriculum support materials that meet international standards for—
 - (i) early childhood care, development and education;
 - (ii) pre-primary education;
 - (iii) primary education;
 - (iv) secondary education;
 - (v) adult, continuing and non-formal education;
 - (vi) teacher education and training;
 - (vii) special needs education; and
 - (viii) technical and vocational education and training.
- (e) initiate and conduct research to inform curriculum policies, review and development;
- (f) collect, document and catalogue information on curricula, curriculum support materials and innovations to create a data bank and disseminate the information to educational institutions, learners and other relevant organisations;
- (g) print, publish and disseminate information relating to curricula for basic and tertiary education and training;
- (h) collaborate with other individuals and institutions in organizing and conducting professional development programmes for teachers, teacher trainers, quality assurance and standards officers

and other officers involved in education and training on curriculum programmes and materials;

- (i) develop, disseminate and transmit programmes and curriculum support materials through mass media, electronic learning, distance learning and any other mode of delivering education and training programmes and materials;
- (j) promote equity and access to quality curricula and curriculum support materials;
- (k) promote appropriate utilisation of technology to enhance innovations and achievement of a knowledge based economy;
- (l) offer consultancy services in basic and tertiary education and training;
- (m) incorporate national values, talent development and leadership values in curriculum development;
- (n) receive, consider, develop and review curriculum proposals; and
- (o) perform such other function as may be assigned to it under this Act or any other written law.

PART III—THE COUNCIL OF THE INSTITUTE

Establishment of the Council.

5. (1) There is established a council to be known as the governing Council of the Institute.

(2) The Council shall consist of—

- (a) a chairperson who shall be appointed by the Cabinet Secretary;
- (b) the Principal Secretary responsible for education and training;

- (c) the Principal Secretary to the Treasury;
- (d) one person to represent the Kenya National Examinations Council;
- (e) one person to represent the Teachers Service Commission;
- (f) one person to represent public Universities;
- (g) two members, from the private sector;
- (h) the Director of the Institute; and
- (i) one person nominated by the national parents association.

(3) The chairperson and members of the Council shall be appointed in accordance with the procedure set out in the First Schedule.

(4) The Director of the Institute shall be the Secretary to the Council.

(5) The members referred to in subsection (2) (b) and (c) may, designate an officer, in writing to represent them on the Council.

(6) The membership of the Council shall be such as to ensure that not more than two thirds will be of the same gender and shall reflect the regional and ethnic diversity of the people of Kenya.

Qualifications for appointment.

6. (1) A person shall be qualified for appointment as the chairperson of the Council if that person—

- (a) holds a masters degree from a recognized university;
- (b) has at least ten years' experience in matters related to education; and

- (c) meets the requirements of Chapter Six of the Constitution.

(2) A person shall be qualified for appointment as a member of the Council if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has experience of at least ten years in matters relating to any of the following fields—
 - (i) education;
 - (ii) curriculum development;
 - (iii) economics or finance;
 - (iv) industry;
 - (v) media;
 - (vi) law; or
 - (vii) public administration;

- (c) meets the requirements of Chapter Six of the Constitution.

(3) A person shall not be qualified for appointment as a member of the Council if that person—

- (a) is a State officer;
- (b) is declared to be of unsound mind;
- (c) is undischarged bankrupt; or
- (d) has been found in accordance with any law to have misused or abused a State office or public office or in any way to have contravened Chapter Six of the Constitution.

Vacancy in office.

7. (1) The office of the chairperson or a member of the Council, other than an *ex officio* member, shall become vacant—

- (a) if the member resigns by giving notice in writing to the Cabinet Secretary, which notice shall take effect on the date specified therein, and, where no date is specified, on the date of receipt of the notice by the Cabinet Secretary, as the case may be;
- (b) is adjudged bankrupt or enters into a scheme of arrangement for the benefit of his or her creditors;
- (c) is convicted of an offence by a court of competent jurisdiction and sentenced to imprisonment for a period exceeding six months without the option of a fine;
- (d) is incapacitated by reason of infirmity of body or mind;
- (e) is absent from three consecutive meetings of the Council without the permission of the chairperson;
- (f) is otherwise unable or unfit to discharge the functions of the Council; or
- (g) dies.

(2) Where the office of the chairperson or a member of the Council becomes vacant, the Cabinet Secretary may appoint another person to replace the person vacating office following the procedure specified in section 8.

Filling in a vacancy.

8. Where a vacancy occurs in the membership of the Council, the Cabinet Secretary shall, within fourteen days of notification of the vacancy, convene a selection panel for purpose of selecting a suitable person to fill the vacancy.

Term of office.

9. Subject to the provisions of this Act, the chairperson and members of the Council shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

Powers of the Council.

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

- (a) create, develop, apply for and hold intellectual property rights and enter into agreements or arrangements for their commercial exploitation or otherwise as the Council may consider appropriate;
- (b) enter into any arrangement with education and training institutions or professional organizations, whether within or outside Kenya;
- (c) manage, supervise and administer the assets of the Institute in such a manner as best promotes the purpose for which the Institute is established;
- (d) determine the provisions to be made for capital, recurrent expenditure and for reserves of the Institute;
- (e) receive any grants, gifts, donations or endowments on behalf of the Institute and make legitimate disbursements therefrom;
- (f) enter into association with such other bodies or organizations within or outside Kenya as the Council may consider desirable or appropriate and in furtherance of the purpose for which the Institute is established;
- (g) open a banking account or bank accounts for the funds of the Institute;
- (h) constitute working panels and committees for the purpose of the performance of the functions of the Institute;
- (i) approve all curricula developed or vetted by the Institute; and

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- (j) do any other thing which is necessary or convenient to be done in connection with or incidental to its functions.

Delegation by Council.

11. The Council may, by resolution either generally or in any particular case, delegate to any committee of the Council or to any member, officer, employee or agent of the Institute, the exercise of any of the powers or the performance of any of its functions or duties.

Procedures of the Council.

12. (1) The business and affairs of the Council shall be conducted in accordance with the Second Schedule.

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

Decisions of the Council.

13. Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of the votes of the members present and voting, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

Director of the Institute.

14. (1) There shall be a Director of the Institute who shall be appointed by the Council through a competitive, fair and open process.

(2) A person shall be qualified for appointment as a Director to the Institute if the person—

- (a) is a citizen of Kenya;
- (b) holds at least a postgraduate degree in education from a university recognized in Kenya;
- (c) has at least ten years experience in management level in matters related to education ; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) The Director shall be the Chief Executive Officer of the Institute and shall be responsible for the day-to-day management of the affairs of the Institute.

Term of office of the Director.

15. Subject to the provisions of this Act, the Director shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

Removal of Director.

16. (1) The Director may be removed from office by the Council in accordance with the terms and conditions of service for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty;
- (d) violation of the Constitution; or
- (e) any other ground that would justify removal from office under the terms and conditions of service.

(2) Where the Director is to be removed under subsection (1), the Director shall be given—

- (a) not less than thirty days' notice of the allegations made against her or him; and
- (b) an opportunity to present her or his defence against the allegations.

PART IV—CURRICULUM DEVELOPMENT

Academic Committee and panels.

17. (1) The Council shall have an Academic Committee, course panels, subject panels and a research, monitoring and evaluation panel to perform such functions and discharge such responsibilities as the Council may determine.

(2) The Director shall be the Secretary to the Academic Committee and the panels established under subsection (1).

Composition and functions of the Academic Committee.

18. (1) The Academic Committee shall consist of not fewer than thirteen and not more than twenty- three members appointed by the Council.

(2) The Director-General responsible for education will be the Chairperson of the Academic Committee.

(3) The members of the Academic Committee referred to in subsection (1) shall include representatives from—

- (a) the Ministry responsible for education and training;
- (b) the Teachers Service Commission;
- (c) the Kenya National Examinations Council;
- (d) an institution mandated by law to train teachers for special needs education;
- (e) the schools of Education in a public and a private university respectively;
- (f) Kenya Federation of Employers;
- (g) Kenya Accountants and Secretaries National Examinations Board;
- (h) Micro and Small Enterprises Federation;
- (i) registered Teachers' Professional Associations;
- (j) registered Teachers' Unions;
- (k) umbrella bodies of registered religious organizations;
- (l) not more than four co-opted members not being public officers; and
- (m) one person nominated by the national parents association.

(4) The functions of the Academic Committee shall be to—

- (a) keep under constant review the curricula and curriculum support materials at different levels of education and training as provided for in section 4 (c);

- (b) ensure the quality of educational programmes developed by the Institute;
- (c) coordinate and guide the activities of subject and course panels established under section 17;
- (d) review broad issues relating to curriculum and education policy and make recommendations to the Council; and
- (e) recommend for approval by the Council, educational programmes and curricula developed or vetted by the Institute.

(5) The Committee may co-opt not more than three other persons whose knowledge and experience it may find necessary for the performance of its functions.

(6) The Academic Committee may establish its own rules of procedure and shall submit the proceedings of its meetings to the Council for approval.

PART V—FINANCIAL PROVISIONS

Funds of the Institute.

- 19.** (1) The funds of the Institute shall comprise of—
- (a) monies allocated by Parliament for the purposes of the Institute;
 - (b) such monies as may accrue to or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law; and
 - (c) all monies from any other source provided for, donated or lent to the Institute.

Financial year.

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

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Annual estimates.

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

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

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Institute;
- (b) the payment of pensions, gratuities and other charges in respect of the staff of the Institute; and
- (c) the proper maintenance of the buildings and grounds of the Institute.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

Books of accounts and audit.

22. (1) The Council shall cause to be kept proper books of accounts of all the income and expenditure, assets and liabilities, undertakings, funds, activities, contracts, transactions and other business of the Institute.

(2) The Council shall ensure that all money received is properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets and liabilities.

(3) The accounts of the Institute shall be audited in accordance with the Public Audit Act, 2003 and any other law relating to the management of public funds.

PART VI—GENERAL PROVISIONS

Common seal.

23. All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of the Council—

- (a) where they are required to be under seal, if sealed with the common seal of the Council and authenticated by the Chairperson or the Director;
- (b) where they are not required to be under seal, if executed in that behalf by a member authorized by the Council for that purpose;
- (c) a deed, instrument, contract or other document executed in accordance with subsection (b) shall be effective in law to bind the Council and its successors and may be varied or discharged in the same manner as that in which it was executed.

Remuneration.

24. The members of Council shall be paid such allowances as the Council may, in consultation with the Salaries and Remuneration Commission, determine.

Appointment of staff.

25. (1) The Council may appoint such staff or engage such consultants and experts as may be necessary for the proper discharge of its functions under this Act.

(2) The staff appointed under subsection (1) shall serve on such terms and conditions as the Council may, in consultation with the Salaries and Remuneration Commission, determine.

Protection from personal liability.

26. The chairperson, members, secretary or staff of the Institute shall not be personally liable for any act or omission done or omitted to be done in good faith in carrying out the functions of the institute under this Act.

Offences.

27. (1) Except as provided for under this Act, no person or institution shall develop or implement any curriculum or curriculum materials in respect to any education institution to which this Act applies, without approval and accreditation in accordance with the provisions of this Act or any other written law.

(2) A person who—

- (a) purports to develop any curriculum in respect of any institution to which this Act applies;
- (b) applies in Kenya, any local or foreign curriculum or curriculum support materials in relation to the

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levels of education and training to which this Act applies without approval of the council; or

(c) contravenes any of the provisions of this Act,

commits an offence and shall be liable on conviction for imprisonment for a period not exceeding three years or to a fine not exceeding one million shillings, or to both.

PART VII—TRANSITIONAL PROVISIONS

Revocation of
L.N.120/2010.

28. (1) The Kenya Institute of Education Order, 2010 is revoked.

(2) Despite subsection (1), upon the commencement of this Act—

- (a) all the rights, duties, obligations, assets and liabilities of the former Institute existing at the commencement of this Act shall be automatically and fully transferred to the Institute;
- (b) any reference to the former Institute in any contract or document shall, for all purposes, be deemed to be a reference to the Institute;
- (c) any person who is an employee of the former Institute immediately before the commencement of this Act shall upon such commencement be deemed to be an employee of the Institute;
- (d) the annual estimates of the former Institute for the financial year in which this Act commences shall be deemed to be the annual estimates of the Institute for the remainder of that financial year;
- (e) the administrative directions made by the former Institute or by the Minister which were in force immediately before the commencement of this Act shall, have force as if they were directions made by the Council or the Cabinet Secretary under this Act, and as long as they are consistent with this Act;

- (f) any donation or government funding of a continuing nature administered by the former Institute or its Council and existing immediately before the commencement of this Act shall be administered by the Institute, but otherwise in accordance with the terms and conditions to which it was subject immediately before that date;
- (g) all contracts, deeds, bonds, agreements, arrangements, guarantees and other instruments made or entered into, on behalf of shall, or in relation to the former Institute or its Council have effect as if made or entered into by, on behalf of, or in relation to, the Institute;
- (h) all actions, claims, arbitrations, applications and other proceedings (including proceedings on appeal or review) pending or existing immediately before the commencement of this Act, by, against, or in relation to the former Institute shall have effect as if they were proceedings by, against, or in relation to the Institute, and may be continued and completed accordingly; and
- (i) the members of the Council of the former Institute immediately before the commencement of this Act shall be deemed to be members of the Council appointed under this Act.

Regulations.

29. (1) The Council may make regulations generally for the better carrying out of the provisions of this Act, and in particular to prescribe—

- (a) the procedures to be followed in the review and development of curricula and curriculum support materials;
- (b) information management systems for the Institute; and
- (c) anything which is required to be prescribed or is necessary or desirable for the better giving effect to this Act.

FIRST SCHEDULE**s. (5(2))****PROCEDURE OF APPOINTMENT OF CHAIRPERSON OR
MEMBER OF THE COUNCIL**

1. (1) The Cabinet Secretary shall, within fourteen days after the commencement of this Act and whenever it becomes necessary to appoint new members of the Council, as contemplated under section 8, request the Public Service Commission to constitute a selection panel comprising—

- (a) one representative of the Ministry responsible for education;
- (b) one representative of the Public Service Commission;
- (c) three persons with proven business experience who meet the requirements of Chapter Six of the Constitution.

(2) The Public Service Commission shall—

- (a) convene the first meeting of the selection panel, at which the members of the selection panel shall elect a chairperson from among themselves; and
- (b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

(3) Subject to this Act, the selection panel shall, within seven days of convening, by advertisement in the media, invite applications from persons who qualify for nomination and appointment for the position of chairperson and members.

(4) The selection panel shall—

- (a) consider the applications received under subsection (3) to determine their compliance with the provisions of the Constitution and this Act;

- (b) short list the applicants;
- (c) publish the names of the short listed applicants and the qualified applicants in the media;
- (d) conduct interviews of the short listed persons;
- (e) shortlist three qualified applicants for the position of chairperson;
- (f) shortlist double the number of required members qualified applicants for the position of the members; and
- (g) forward the names of the qualified persons to the Cabinet Secretary.

(5) The Cabinet Secretary shall, within fourteen days of receipt of the names forwarded under subsection (4) (g), appoint the chairperson and members of the Council from among the successful applicants.

(6) In nominating and appointing persons as chairperson and members of the Council, the selection panel and the Cabinet Secretary shall ensure that the Board reflects the regional and ethnic diversity of the people of Kenya and that not more than two-thirds of the members are of the same gender.

(7) The selection panel may, subject to this section, determine its own procedure for the conduct of meetings and business affairs.

(8) The selection panel shall stand dissolved upon the appointment of the chairperson and members under paragraph (6)

(9) Despite the foregoing provisions, the Cabinet Secretary may, by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.

SECOND SCHEDULE**(s. 12)****MEETINGS AND PROCEDURES OF THE COUNCIL**

Meetings.

1. (1) The Council shall hold not less than four meetings in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The notice for a meeting of the Council shall be in writing, and shall be for a period of fourteen days, except for special meetings.

(3) The chairperson shall preside over all meetings and in the absence of the Chairperson, by a person elected by the Council at the meeting for that purpose.

(4) The Council may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Council.

Conflict of interest and disclosure.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Council and is present at a meeting of the Council at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Council who contravenes sub section (1) commits an offence and shall be liable to prosecution.

(4) No member of the Council or staff shall transact any business or trade with the Institute.

Quorum. **3.** The quorum for the conduct of business at a meeting of the Council shall be half the number of the members of the Council.

Voting. **4.** A decision of the Council shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

Rules of procedure and minutes. **5.** The Council shall—
(a) determine rules of procedure for the conduct of its business; and
(b) cause to be kept records of minutes of its proceedings and decisions.