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THE COUNSELLORS AND PSYCHOLOGISTS ACT, 2014

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THE COUNSELLORS AND PSYCHOLOGISTS ACT, 2014

AN ACT of Parliament to provide for the training, registration, licensing, practice and standards of counsellors and psychologists and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Counsellors and Psychologists Act, 2014.

Short title.

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

Interpretation.

“Board” means the Counsellors and Psychologists Board established under section 3;

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

“Council” means the Council of the Society provided for in section 19;

“practicum” means an ongoing, supervised and organized practical experience or internship prescribed as part of the qualifications for the award of any degree or diploma and obtained in an integrated training program recognized by the Board;

“private practice” means the practice of the profession of counselling or psychology in a person’s own behalf, for a fee;

“register” means the register of counsellors and psychologists maintained under section 25;

“Registrar” means the Registrar of Counsellors and Psychologists appointed under section 9; and

“Secretary” means the Secretary of the Council appointed under section 22;

“Society” means the Counsellors and Psychologists Society of Kenya established by section 15;

“supervisor” means a more trained, qualified and accredited counsellor or psychologist who is charged with the function of giving professional support to a counsellor or psychologist.

(2) The expressions “legally qualified counsellor or psychologist” and “duly qualified counsellor or psychologist” or any words importing a person recognized by law as a counsellor or psychologist or a member of the professions of counselling and psychology, when used in a written law with reference to that person, shall be construed to mean a person registered as a counsellor or psychologist under this Act or, where the context so admits, a person who is registered by the Board under section 24.

PART II—ESTABLISHMENT OF VARIOUS BODIES

A—The Counsellors and Psychologists Board

3. (1) There is established a board to be known as the Counsellors and Psychologists Board.

Establishment of the Board.

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

- (a) suing and being sued;
- (b) acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other things or acts as may legally be done or performed by a body corporate for the proper discharge of its functions under this Act.

4. (1) The Board shall consist of—

Composition of the Board.

- (a) a chairperson to be appointed by the Cabinet Secretary;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to health or his or her nominee;
- (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to national treasury;
- (d) two persons appointed by the Cabinet Secretary to represent training institutions of learning in Kenya which have power to grant a qualification which is recognized under this Act, one representing institutions of higher learning and the other middle level institutions;

- (e) four persons, of whom two shall be counsellors and two shall be psychologists, elected by licensed counsellors and psychologists, in the manner prescribed by the Board, and appointed by the Cabinet Secretary;
- (f) two persons nominated by the Council;
- (g) one person appointed by the Cabinet Secretary to represent minorities and marginalised groups; and
- (h) the Registrar, who shall be the secretary to the Board.

(2) For the first appointments under subsection (1) (e), upon the coming into force of this Act, the persons shall be elected by the organizations appearing to the Cabinet Secretary to be representative of the professions of counselling and psychology.

(3) All appointments under this section shall be by notice in the Gazette.

(4) A person shall not be appointed a member of the Board under subsection (1) (d), (e), (f) and (g) unless such person—

- (a) is a citizen of Kenya;
- (b) is of good character and good standing;
- (c) meets the requirements of Chapter Six of the Constitution.

(5) A person shall not be appointed as a chairperson of the Board under subsection (1) (a) unless such person—

- (a) has at least five years experience in counselling or psychology;
- (b) meets the requirements of Chapter Six of the Constitution.

(6) In appointing the members of the Board under subsection (1) (d), (e), (f) and (g), the Cabinet Secretary shall take into account the gender, regional and other diversities of the people of Kenya.

5. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the First Schedule.

Conduct of business
and affairs of the
Board.

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

6. The functions of the Board shall be to—

Functions of the Board.

- (a) administer such examinations as may be necessary to determine whether persons are qualified for registration under this Act;
- (b) approve courses for purposes of registration of counsellors and psychologists under this Act;
- (c) register and licence counsellors and psychologists for the purposes of this Act upon payment of the prescribed fees;
- (d) plan, arrange, co-ordinate and oversee continuing professional training and development and facilitate internship of trainee counsellors and psychologists.
- (e) collaborate with training institutions, professional associations, professional organizations and other relevant bodies in matters relating to training and professional development of counsellors and psychologists;
- (f) determine the fees to be charged by professional counsellors and psychologists and firms for professional services rendered from time to time;
- (g) supervise the professional conduct and practice of counsellors and psychologists and to take the necessary disciplinary measures in cases of violations of professional conduct and discipline;
- (h) establish a system of professional supervision of counsellors and psychologists, and the appointment of supervisors for that purpose;
- (i) upon request, to act as an arbitrator in any disputes between a licensed counsellor or psychologist and a client;
- (j) advise the Cabinet Secretary on appropriate policies and programs governing the professions of counselling and psychology in Kenya;
- (l) represent, protect and assist members of the professions of counselling and psychology in

Kenya in respect of conditions of practice and otherwise.

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

Powers of the Board.

- (a) control, supervise and administer the assets of the Board in such manner as best promotes the purpose for which the Board is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) open such banking accounts for its funds as may be necessary;
- (e) invest any funds of the Board not immediately required for its purposes in the manner provided in section 44;
- (f) undertake any activity necessary for the fulfilment of any of its functions.

8. The Board shall pay its members such remuneration, fees or allowances for expenses as it may determine upon the advice of the Salaries and Remuneration Commission.

Remuneration of Board members.

9. (1) There shall be a Registrar of the Board who shall be appointed by the Board through an open, transparent and competitive recruitment process.

Registrar.

(2) The Registrar shall—

- (a) be the chief executive officer of the Board and shall, subject to the direction of the Board, be responsible for the day to day management of the affairs and staff of the Board;
- (b) be an ex-officio member of the Board but shall have no right to vote at any meetings of the Board;
- (c) perform such duties as are prescribed by or under this Act.

(3) The terms and conditions of service of the Registrar shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(4) A person shall not be appointed as a Registrar unless such person is registered as a counsellor or psychologist under this Act and —

- (a) has at least five years proven experience in the fields of counselling or psychology;
- (b) has knowledge and experience in policy formulation, administration and management;
- (c) meets the requirements of Chapter Six of the Constitution.

10. The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under this Act, upon such terms and conditions of service as the Board may determine upon the advice of the Salaries and Remuneration Commission.

Staff of the Board.

11. The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of its functions under this Act or under any other written law.

Delegation by the Board.

12. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

Committees of the Board.

(2) The Board shall appoint the chairperson of a committee established under subsection (1) from amongst its members.

(3) The Board may where it deems appropriate, co-opt any person from outside the Board with knowledge and expertise in specific areas to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

(5) Without prejudice to the foregoing provisions of this section, the Board shall establish the committees set out in the Second Schedule.

Protection from
personal liability.

13. (1) No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done bona fide for the purposes of executing a function, power or duty under the Act render such member, officer, employee, agent or servant personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

14. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except upon the order of the Board.

Common seal.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the chairperson and the Registrar and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the chairperson and the Registrar.

(3) Notwithstanding the provisions of subsection (2) the Board shall, in the absence of either the chairperson or the Registrar in a particular matter, nominate one member to authenticate the seal on behalf of either the chairperson or the Registrar.

(4) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

B—Counsellors and Psychologists Society of Kenya

15. (1) There is established a Society to be known as the Counsellors and Psychologists Society of Kenya.

Establishment of the
Society.

(2) The Society—

(a) is a body corporate, capable of suing and being sued in its corporate name.

- (b) shall have a common seal which shall be kept in such manner as the Council may direct;
- (c) may borrow, lend or otherwise raise money in such usual manner, including by way of executing securities and guarantees, as it may from time to time determine;
- (d) may acquire, hold, develop and dispose of movable or immovable property;
- (e) may acquire, hold and dispose of investments in other enterprises.

(3) All courts, judges and other persons acting judicially shall take judicial notice of the seal of the Society affixed to a document and shall presume that it was duly affixed.

(4) The provisions of the Third Schedule shall have effect with respect to the Society.

16. Each person who is registered under this Act is a member of the Society.

Membership of the Society.

17. (1) There shall be a chairperson of the Society who shall be elected in the manner provided in the Third Schedule.

Chairperson of the Society.

(2) A member seeking election as chairperson shall be a person who—

- (a) has been a member of the Society for a continuous period of not less than five years;
- (b) has served on the Council or its Committees for at least one year; and
- (c) has not been disqualified under the provisions of the Fourth Schedule.

18. The functions of the Society shall be to—

Functions of the Society.

- (a) establish standards of professional competence and practice amongst members of the Society;
- (b) protect, assist and educate the public in Kenya in all matters touching, ancillary or incidental to the professions of counselling and psychology;
- (c) represent, protect and assist members of the professions of counselling and psychology in Kenya in respect of conditions of practice and otherwise;

- (d) promote the international recognition of the Board and the Society;
- (e) advise the Board on matters relating to examination standards and policies;
- (f) carry out any other functions prescribed for it under any of the other provisions of this Act or under any other written law

C—Council of the Society

19. (1) The Society shall be governed by a Council to be known as the Council of the Society.

The Council of the Society.

(2) Subject to this Act, all acts and things done in the name of, or on behalf of, the Society, by the Council or with the authority of the Council shall be deemed to have been done by the Society.

(3) The Council shall issue standards of professional practice which shall form the basis of practice of counselling and psychology for members of the Society.

(4) The Council may with the approval of the Cabinet Secretary, issue by-laws, regulations and guidelines to govern matters affecting the operations of the Society and practice by members of the Society.

20. (1) The Council may establish such committees as are necessary for the performance of the functions of the Society and may, subject to the provisions of this Act, delegate powers conferred on it to such committees.

Committees of the Council.

(2) The provisions of the Fourth Schedule shall have effect with respect to the Council.

21. The Council shall consist of a chairperson and ten other members elected every two years in the manner prescribed in the Fourth Schedule.

Membership of the Council.

22. (1) There shall be a Secretary to the Council who shall be appointed by the Council through an open and competitive process.

Secretary to the Council.

(2) The Secretary to the Council shall hold and vacate the office of Secretary in accordance with the terms of the instrument of appointment to that office.

(3) In addition to the functions which he or she is required to exercise and perform by or under this Act, the Secretary to the Council shall exercise and perform such

other functions as the Council may, from time to time, determine.

PART III—REGISTRATION OF COUNSELLORS AND PSYCHOLOGISTS

23. (1) A person shall be eligible for registration under this Act as a counsellor or psychologist if the person—

Qualifications for registration.

- (a) is, in the case of a counsellor, the holder of at least a bachelor's degree in counselling from a recognised university;
- (b) is, in the case of a psychologist, the holder of at least a bachelor's degree in psychology from a recognised university;
- (c) has passed an examination prescribed by the Board; and
- (d) satisfies the Board that he or she is a person of good moral character and a fit and proper person to be registered under this Act.

24. (1) Every person eligible to be registered as a counsellor or psychologist may apply in the prescribed form to the Registrar for registration in the register, and every such application shall be accompanied by the prescribed fee.

Registration.

(2) Where a person has complied with the provisions of subsection (1) and has been accepted by the Board as being eligible for registration and has satisfied the Registrar that he or she has been so accepted, he or she shall be registered.

(3) The Registrar shall issue to every person registered under this Act, a certificate in the prescribed form.

25. The Registrar shall maintain a register of counsellors and psychologists in the prescribed form in which the name of every person, registered under this Act, shall be entered.

Register of counsellors and psychologists.

26. (1) The Registrar shall, from time to time, in accordance with the directions of the Board, make any corrections in the register in relation to any entry therein.

Alterations to the register.

(2) All changes in the entries under subsection (3) shall be made by the Registrar as soon as is practicable after receipt of the notification thereof.

(3) The Registrar shall remove from the register—

(a) the name of every—

(i) deceased person;

(ii) person convicted of an offence under this Act, and all avenues of appeal have been exhausted;

(iii) person whose name the Board has, under section 34, directed that it should be struck off the Register; and

(b) any entry which has been incorrectly or fraudulently made in the register.

(4) The Registrar may, with the written consent of the person, remove from the register the name of a person who has ceased to practice.

(5) Every person registered under this Act who has obtained a higher qualification than the registered qualification shall, on the payment of the prescribed fee, be entitled to have that additional qualification inserted in the register in addition to the qualification previously registered.

27. (1) The Registrar shall publish in the Gazette as soon as may be practicable after registration the name of every counsellor or psychologist registered under this Act.

Publication of
registration.

(2) It shall be the duty of every counsellor or psychologist to inform the Registrar immediately of any change in the registered address.

(3) The publication of the list of registered counsellors and psychologists in the Gazette shall be *prima facie* evidence that the persons named therein are registered under this Act, and the absence of the name of any person from such list shall be *prima facie* evidence that the person is not so registered.

PART IV—LICENSING OF COUNSELLORS AND PSYCHOLOGISTS

28. (1) A person shall not practise as a counsellor or psychologist unless such person has complied with the requirements for continuing education and supervision, and has been issued with a valid practice license by the Board, in accordance with regulations made under this Act.

Licence to practice.

(2) The Board may issue to a counsellor or psychologist who has applied in the prescribed form, a license to practice on their own behalf or to be employed by a counsellor or psychologist.

29. (1) A licence granted under this Act shall be valid for one year, for the duration between the 1st January and 31st December in every year, and may, upon expiry, be renewed.

Period of validity of licences.

(2) A person whose licence has not been renewed for one year or more and who wishes to have the licence renewed may apply to the Board upon—

- (a) swearing an affidavit in the prescribed form explaining the reasons for non-renewal;
- (b) payment of the license fee for the current license period;
- (c) presentation of evidence to the Board of fulfilment of all applicable conditions for renewal of a license; and
- (d) payment of annual subscription fee for the current licence period.

(3) The Board may refuse to issue or to renew a licence.

(4) A person aggrieved by a decision of the Board under this section may appeal to the High Court, and in any such appeal the High Court may annul or vary the decision as it may determine necessary.

30. (1) The issue and the cancellation, revocation or withdrawal of a licence under this Part shall be published in the Gazette.

Publication of licensing.

(2) The Registrar shall, once in every year, as soon as convenient after 1st January, but not later than 31st March, publish in the Gazette a list containing the names, qualifications and registered addresses of all licensed counsellors and psychologists.

31. A person shall not be entitled to recover a fee for counselling or psychology services, unless such person is licensed under this Act.

No fees for unlicensed persons.

PART V—ENFORCEMENT

32. (1) Any person who wilfully procures or attempts to procure registration or licensing under any of the

False registration or licensing.

provisions of this Act, by making or producing or causing to be made or produced any false or fraudulent representation or declaration either orally or in writing, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both.

(2) If a person convicted of an offence under this section is registered or licensed under this Act, the Registrar shall upon direction from the Board remove such person's name from the register and cancel the licence.

33. A person who is licensed as a counsellor or psychologist commits an act of professional misconduct if such person—

Professional
misconduct.

- (a) deliberately fails to follow the laid down standards of conduct and practice of the profession of counselling or psychology as may be laid down by the Board;
- (b) commits gross negligence in the conduct of his professional duties;
- (c) allows another person to practise in his or her name, where such person—
 - (i) is not a holder of a practising certificate issued under this Act; and
 - (ii) is not in partnership with him or her;
- (d) takes advantage of clients by abusing a position of trust, expertise, or authority;
- (e) is insensitive to clients through a lack of regard or concern for clients' needs, feelings, rights, or welfare of others;
- (f) shows incompetence or inability to render services, for reasons ranging from inadequate training or inexperience, to personal unfitness, such as a character defect or an emotional disturbance;
- (g) evidences irresponsibility including lack of reliable or dependable execution of professional duties, attempts to blame others for one's mistakes, shoddy or superficial professional work, or excessive delays in delivering necessary feedback, assessments, reports, or services; or

- (h) is guilty of abandonment through failure to follow through with his duties or responsibilities, thereby causing clients to become vulnerable or feel discarded or rejected.

34. (1) Any person may, being dissatisfied with any services offered by a counsellor or psychologist or alleging breach of the standards of conduct as may be specified by the Board from time to time, make a written complaint to the Board in the prescribed manner.

Disciplinary
proceedings by the
Board.

(2) Where the Board is satisfied in respect of any person registered or licensed under this Act, that such person—

- (a) has been convicted of an offence under this Act or under any other law punishable by imprisonment, the commission of which in the opinion of the Board has brought the profession to disrepute;
- (b) has committed an act of negligence or malpractice in respect of his or her profession or
- (c) has committed an act of impropriety or misconduct in respect of his or her profession,

the Board may, subject to subsection (10)—

- (i) remove such person's name from the register;
- (ii) suspend such person's licence or registration for a period not exceeding twelve months; or
- (iii) cancel such person's licence.

(3) Upon any inquiry held by the Board to determine a complaint made under subsection (1), the person whose conduct is being inquired into shall be afforded an opportunity of being heard, either in person or by an advocate of his own choice.

(4) For the purpose of proceedings at an inquiry held under this section, the Board may administer oaths and may, subject to the provisions of regulations made under this Act, enforce the attendance of persons as witnesses and the production of books and documents as evidence.

(5) Any person whose name has been removed from a register or whose license has been cancelled or suspended shall forthwith surrender to the Registrar his or her certificate of registration or license, and any person who fails to do so commits an offence and shall be liable on

conviction to a fine not exceeding fifty thousand shillings or imprisonment to term not exceeding two years, or both.

(6) Subject to the provisions of this section and to rules as to procedure made under this Act, the Board may regulate its own procedure in disciplinary proceedings.

(7) The power to direct the removal of the name of a person from the register or to cancel the licence of a person shall include a power exercisable in the same manner to direct that during such period as may be specified in the order, the registration of a person's name in the register or the licence granted to him or her shall not have effect.

(8) The provisions of this section, in so far as they relate to the cancellation or suspension of licenses, shall be in addition to and not in derogation of the provisions of section 26.

(9) A person who fails, when summoned by the Board, to attend as a witness or to produce any books or documents which he is required to produce commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for six months, or both.

(10) Notwithstanding any other provisions of this Act, the Board shall not remove the name of a person from the register, or cancel any licence granted to a person, unless such a decision is supported by a majority of all the Board members.

35. (1) Subject to the provisions of this Act, the removal of a person's name from the register shall be notified by the Registrar to that person by registered mail sent to the address appearing in the register against his or her name immediately before such removal.

Effect of removal,
suspension or
cancellation

(2) Where the name of a person has been removed from the register, the name of that person shall not, subject to the provisions of this Act, be entered again in the register except by order of the Board.

(3) Where an order has been made for the removal of a person's name from the register, or for suspending a person's registration under this Act, or for cancelling or suspending a licence granted to a person under this Act, the Board may either on its own motion or on the application of the person concerned, and in either case after holding

such inquiry as the Board may deem fit, cause the name of that person to be restored to the register or terminate the suspension of the registration, or, as the case may be, grant a new licence or terminate the suspension of the existing licence, in any such case either without fee or on the payment of such fee, not exceeding the appropriate registration or licence fee, as the Board may determine.

(4) Subsection (1) shall not apply when a person's name has been removed from the register at his or her request or with his or her consent in circumstances under which it could not have been removed without consent.

(5) Notwithstanding the provisions of subsection (3) above, a person whose name was removed from the register at his or her request, shall upon application and on payment of the prescribed fee, have his or her name restored on the register.

36. (1) Any person aggrieved by a decision of the Board under this Act may appeal within thirty days to the High Court and in any such appeal the High Court may confirm, annul or vary the decision as it deems fit.

Appeals.

37. (1) Any person who, not being eligible to be licensed or registered under this Act, wilfully and falsely takes or uses any name, title or addition implying a qualification to practice as a counsellor or psychologist, or who, not being registered or licensed under this Act, practises or professes to practice or publishes his or her name as practising as a professional counsellor or psychologist, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or both.

Offences by
unregistered or
unlicensed persons.

(2) Any person who, not being eligible to be licensed or registered under this Act, uses any of the titles "psychologist" or "counsellor" appropriate to a person so registered or licensed, unless such person has acquired a higher academic doctoral qualification which entitles such person to use that title, commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding two years, or both.

(3) This section shall not apply to a duly qualified person employed to work as a psychologist or counsellor by the national or county Government.

38. Any person, being in charge of a training institution which is not approved by the Board as an institution for the training of persons seeking registration under this Act, who—

Offences by persons
or training
institutions.

- (a) admits to the institution under his or her charge any person for the purpose of training in the profession of counselling or psychology;
- (b) purports to be conducting a course of training or examining persons seeking registration under this Act or regulations made thereunder;
- (c) issues any document, statement, certificate or seal implying that the holder thereof has undergone a course of instruction or has passed an examination prescribed by the Board; and
- (d) issues any document, statement, certificate or seal implying that the institution under his or her charge is approved by the Board as an institution for training of persons seeking registration under this Act,

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

39. Any person who obstructs or hinders, or knowingly makes a false or misleading statement to any member, officer, servant or agent of the Board who is carrying out duties under this Act, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding two years, or both.

Obstruction of
officers of the
Board.

PART VI—FINANCIAL PROVISIONS

40. The funds of the Board shall comprise—

Funds of the Board.

- (a) such fees, monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or under any written law; and

- (b) all monies from any other source provided for or donated or lent to the Board.

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

Financial year.

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

Annual estimates.

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

- (a) the payment of the allowances and other charges in respect of members of the Board;
- (b) the payment of salaries, pensions, gratuities and other charges in respect of staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the maintenance, repair and replacement of the equipment and other property of the Board; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary's approval, the Board shall not increase the annual estimates without the consent of the Cabinet Secretary.

Accounts and audit.

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

(2) Within a period of four months from the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Board together with—

- (a) a statement of the income and expenditure of the Board during that year; and

(b) a balance sheet of the Board on the last day of that year.

(3) The accounts of the Board shall be audited and reported upon in accordance with the Public Audit Act, 2003.

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

Investment of funds.

PART VII—MISCELLANEOUS

45. (1) The Cabinet Secretary may, after consultation with the Board, make regulations generally for the better carrying into effect the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of the foregoing, the regulations under this Act may—

- (a) prescribe the form and method of keeping the registers under this Act;
- (b) prescribe forms, methods and regulations concerning conditions for the issuance of licenses;
- (c) prescribe the manner of training, subject matter of training courses, standards of proficiency for the profession of counselling or psychology, including standards for internship and practicum and examinations of persons for whom provision is made under this Act to be regulated;
- (d) prescribe the standards and conditions of professional practice of persons registered or licensed under this Act;
- (e) provide for the procedure to be followed by the Board in a disciplinary inquiry;
- (f) provide for enforcing the attendance of witnesses and the production of books and documents at an inquiry held by the Board;
- (g) prescribe forms to be used in connection with this Act or fees to be charged under this Act;
- (h) prescribe the supervision to be undergone by persons registered under this Act;
- (i) prescribe anything required by this Act to be prescribed.

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act and to enable the Board to discharge its functions more effectively;
- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect provisions of this Act and to fulfilment of the objectives specified under this section;
- (c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

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Transition.

46. Notwithstanding anything in this Act—

- (a) a person who immediately before the date of commencement of this Act was engaged in private practice as a counsellor or psychologist shall be entitled to continue in such practice without a licence under this Act—
 - (i) for a period of one year beginning with the date of the commencement of this Act; and
 - (ii) if before the expiration of six months, the person applies for a licence under this Act, until the licence is granted or finally refused or the application is withdrawn;
- (b) a holder of a diploma in counselling shall continue to practice for one year from the commencement date, but shall do so under the supervision of a registered counsellor;
- (c) a person who, at the commencement date, is a qualified counsellor or psychologist shall be exempted from the requirements of section 23(1)(c) of this Act.

FIRST SCHEDULE(s. 5(1))**PROVISIONS AS TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE BOARD**

1. The chairperson or a member of the Board other than an ex officio member shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term.

Tenure of office.

2. A member, other than an ex officio member, may—

Vacation of office.

(a) at any time resign from office by notice in writing to the Cabinet Secretary;

(b) be removed from office by the Cabinet Secretary on recommendation of the Board if the member—

(i) has been absent from three consecutive meetings of the Board without the Board's permission;

(ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months;

(iv) ceases to be a registered person under this Act; or

(v) is otherwise unable or unfit to discharge his functions.

3. (1) The Board shall, at its first meeting, elect a vice-chairperson from amongst its members.

Meetings.

(2) The Board shall meet not less than four times 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.

(3) Notwithstanding subparagraph (2), the chairperson of the Board may convene a special meeting of the Board at any time for the transaction of the business of the Board, upon requisition in writing by at least five members of the Board.

(4) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written

notice of every meeting of the Board shall be given to every member of the Board.

(5) The quorum for the conduct of the business of the Board shall be seven members.

(6) The chairperson or in his absence, the vice-chairperson, shall preside at every meeting of the Board but the members present shall elect one of their number to preside whenever the chairperson and vice-chairperson are absent, and the person so elected shall have all the powers of the chairperson with respect to that meeting and the business transacted thereat.

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

(8) Subject to subparagraph (5), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(9) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings, and may make standing orders in respect thereof.

4. (1) A member who has an interest in any contract, or other matter, present at a meeting shall, at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof 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.

Disclosure of
interest.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings.

5. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not

Contracts and
instruments.

require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

SECOND SCHEDULE (s. 12(5))

COMMITTEES OF THE BOARD

1. The Examination and Registration Committee
2. The Continuing Education Committee
3. The Disciplinary Committee
4. The Finance and Administration Committee

THIRD SCHEDULE(s. 15(4))

THE SOCIETY

Chairperson of the Society

1. (1) At each annual general meeting of the Society a person shall be elected to the office of chairperson.

(2) Unless he or she earlier vacates the office, a person elected to the office of chairperson shall hold the office until another chairperson is elected.

(3) A person who holds the office of chairperson is eligible for re-election.

(4) A person who holds the office of chairperson may resign the office by writing under his hand delivered to the Council.

2. (1) On the advice of the Council, the Cabinet Secretary may appoint a person to act as chairperson—

(a) during a vacancy in the office of the chairperson;
or

(b) during any period when the chairperson is for any reason unable to exercise and perform, the function of his or her office.

(2) The Cabinet Secretary may, at any time, on the advice of the Council, revoke the appointment of a person to act as chairperson.

(3) The appointment of a person to act as chairperson ceases to have effect—

(a) if made during a vacancy in the office of chairperson, when the vacancy ends by the election of a chairperson;

- (b) if the person appointed resigns the office by writing under his or her hand delivered to the Cabinet Secretary; or
- (c) if the Cabinet Secretary revokes the appointment under subparagraph (2) of this paragraph.

Meetings of the Society

3. Subject to paragraph 4 of this Schedule, an annual general meeting of the Society shall be held not later than six months after the end of each year.

4. A special general meeting of the Society –

- (a) may be held at any time; and
- (b) be held on a written request made to the Council and signed by not less than one hundred members of the Society.

5. (1) A meeting of the Society shall be convened by the Council by giving to every member of the Society a written notice–

- (a) stating the place and time of the meeting; and
- (b) indicating the business which it is proposed to transact at the meeting, which shall include, among other matters, the presentation of the following—
 - (i) a report by the Council covering the past year;
 - (ii) financial statements and the auditor's report thereon;
 - (iii) election of the chairperson and Council members; and
 - (iv) the appointment of the auditor.

(2) Notice of a meeting shall be given not less than fourteen days before the date on which it is to be held to each member of the Society by posting the notice to the address of the member last known to the Society, or by handing the notice to the member in person

(3) The validity of any proceedings of the Society shall not be affected by any failure to comply with the requirement of subparagraph (2) of this paragraph unless it is proved that the failure to comply in relation to any member was a deliberate failure.

6. (1) The chairperson shall preside at all meetings of the Society at which he or she is present.

(2) At a meeting of the Society at which the chairperson is not present, the vice-chairperson shall preside.

(3) At a meeting of the Society at which neither the chairperson nor the vice-chairperson are present, the members of the Society present shall elect one of their members to preside.

7. (1) Subject to this paragraph, the quorum at a meeting of the Society shall be one-third of the registered members.

(2) Where a general meeting of the Society is convened—

(a) otherwise than pursuant to paragraph 4 (b) of this Schedule, and a quorum is not present when the meeting proceeds to business, the meeting shall stand adjourned until another meeting is convened not later than thirty days from the date of the adjourned meeting, and if a quorum is not present, the members present shall constitute a quorum; or;
or

(b) pursuant to paragraph 4 (b) of this Schedule, and a quorum is not present when the meeting proceeds to business the meeting shall be dissolved.

8. (1) No business shall be transacted at a meeting of the Society unless—

(a) the business is indicated in the notice of the meeting as business which it is proposed to transact; or

(b) in the case of business not so indicated, the meeting decides to transact the business and the person presiding at the meeting agrees to the transaction of the business;

(2) Minutes of the proceedings at meetings of the Society shall be kept in such a manner as the chairperson or in his or her absence the person presiding at a particular meeting, directs.

9. The person presiding at a meeting of the Society may adjourn the meeting from time to time and from place to place, with the consent of the meeting.

10. The person presiding at a meeting of the Society may in his or her discretion limit the number of persons permitted to speak in favour of or against any motion and the time any such person may so speak.

11. (1) Questions arising at a meeting shall be determined by a majority of the members of the Society voting on the question.

(2) Voting on any question shall be by a show of hands or such other procedure as may be prescribed in by-laws or regulations published under the provisions of this Act.

(3) Where a ballot is held, voting may be either done personally or by written proxy.

(4) An instrument appointing a proxy shall be in writing and shall be deposited with the Secretary to the Council not less than forty-eight hours before the meeting of the Society at which it is to be used.

(5) A proxy to be used in any ballot at any meeting may be used at the meeting or, if the meeting is adjourned, in any ballot when the meeting is resumed after the adjournment but the holding of a proxy shall not be counted towards the quorum at any stage of any meeting.

(6) The person presiding at a meeting of the Society has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.

(7) A declaration by the person presiding at a meeting of the Society that a resolution has or has not been carried and an entry to that effect in the minutes of the meeting is evidence of that fact.

FOURTH SCHEDULE (s. 20(2))

THE COUNCIL

Members of the Council

1. (1) Each of the ten members of the Council (one of whom shall be the vice-chairperson) shall be elected at an annual general meeting of the Society.

(2) Subject to paragraph 2 of this Schedule, a member of the Council—

(a) elected pursuant to subparagraph (1);

(b) co-opted pursuant to subparagraph (4), shall hold office for the prescribed period, unless he or she earlier ceases to hold office.

(3) A member of the Society shall be disqualified from contesting any position on the Council if within the preceding three years, such member—

- (a) has been found guilty of an act of professional misconduct under section 33 of the Act, which in the opinion of the Council renders him or her unfit to hold the office;
- (b) has been convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (c) has been convicted of an offence involving corruption, dishonesty or abuse of office; or
- (d) has been adjudged bankrupt or has entered into a composition or scheme of arrangement with his or her creditors.

(4) Subject to subparagraph (5), where a member of the Council (including a member co-opted pursuant to this subparagraph) ceases to hold office before the expiration of the prescribed period or otherwise than under the provisions of paragraph 2 of this Schedule (where applicable), the Council may co-opt a person to hold that office.

(6) In this subparagraph, the "prescribed period" means—

- (a) in relation to a member referred to in subparagraph (2) (a), the period beginning with his election and ending at the commencement of the day on which the second annual general meeting after his election is to be held;
- (b) in relation to a member referred to in subparagraph (2) (b), the period beginning with his being co-opted and ending at the commencement of the day on which the first annual general meeting after his being co-opted is to be held.

2. Of the ten members of the Council (including the vice-chairperson) first elected by the Society after the commencement of this Act—

- (a) three (identified by agreement of the members of the Council or by lot) shall cease to hold office at the commencement of the day on which the first annual general meeting of the Society is to be held, save in the case of any such who earlier ceases to hold office;
- (b) three (so identified) shall cease to hold office at the commencement of the day on which the second annual general meeting of the Society is to be held, save in the case of any such member who earlier ceases to hold office; and
- (c) the remaining four members shall cease to hold office at the commencement of the day on which the third annual general meeting of the Society is to be held, save in the case of any such member who earlier ceases to hold office.

3. Notwithstanding paragraph 2, the office of a member of the Council shall become vacant if such member—

- (a) resigns the office by writing under his hand delivered to the Council;
- (b) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
- (c) is absent without the permission of the Council from three or more consecutive ordinary meetings of the Council;
- (d) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (e) is found guilty of an act of professional misconduct under section 33 of the Act, which in the opinion of the Council renders him or her unsuitable to continue to hold office; or
- (f) becomes for any reason, including infirmity of body or mind, incompetent or incapable of performing the functions of his office.

4. (1) Subject to paragraph 1(4) of this Schedule, where a member of the Council ceases to hold office, another member shall be elected to fill the vacancy at the annual general meeting of the Society next following.

(2) A member of the Council who ceases to hold office other than under paragraph 3 (b), (c) or (d) is eligible for re-election or re-appointment.

Vice-Chairperson of the Council

5. (1) There shall be a vice-chairperson of the Council who shall be elected by the Council from amongst its members.

(2) The vice-chairperson shall hold office for the period of one year immediately following his or her election to the office or, if he ceases to hold office as a member of the Council before then, until he so ceases to hold office.

(3) Subject to paragraph 2 of the First Schedule of this Act, the Vice-chairperson may exercise and perform the functions of the chairperson if the chairperson is unable to exercise and perform those functions.

Proceedings

6. The quorum at meetings of the Council and the arrangements relating to meetings of the Council shall be such as the Council may determine.

7. The person presiding at a meeting of the Council has a deliberative vote, and, in the event of an equality of votes, also has a casting vote.

8. Minutes of the proceedings of the Council shall be kept in such manner as the Council directs.

