



**KERICHO COUNTY ASSEMBLY**  
**SECOND ASSEMBLY**  
**(Second Session)**

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**THE DELEGATED COUNTY LEGISLATION COMMITTEE.**

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**REPORT ON THE KERICHO COUNTY CO-OPERATIVE SOCIETIES RULES**  
**2017**

**(Submitted pursuant to standing order 193)**

**APRIL, 2018**

**CLERK'S CHAMBERS**  
**KERICHO COUNTY ASSEMBLY BUILDING**  
**KERICHO**

## TABLE OF CONTENTS

1.0 PREFACE .....	3
1.1 Mandate of the Committee .....	3
1.2 Committee Membership .....	5
2.0 The Kericho County Co-operative Societies Rules,2017 .....	6
3.0 Committee Observations .....	8
4.0 Committee Recommendations .....	10
5.0 Acknowledgement.....	10

## **1.0 PREFACE**

### **1.1 Mandate of the Committee**

The Committee on Delegated County Legislation is established pursuant to the Kericho County Assembly's Standing Order 193 which states that :

- 1) There shall be a select Committee to be known as the Committee on Delegated Legislation.
- 2) Whenever a statutory instrument is submitted to the County Assembly pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of the relevant Sectoral Committee, or any other member and shall thereafter stand referred to the Committee on Delegated Legislation.
- 3) The Committee shall consider in respect of any statutory instrument whether the statutory instrument:-
  - a) Is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
  - b) Infringes on fundamental rights and freedoms of the public;
  - c) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of the Assembly;
  - d) Contains imposition of taxation;
  - e) Directly or indirectly bars the jurisdiction of the Court;
  - f) Gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;

- g) Involves expenditure from the County Revenue Fund or other public revenues;
- h) Is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- i) Appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- j) Appears to have had unjustifiable delay in its publication or laying before Assembly;
- k) Makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- l) Makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m) Inappropriately delegates legislative powers;
- n) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) Appears for any reason to infringe on the rule of law;
- p) Inadequately subjects the exercise of legislative power to Assembly scrutiny ; and
- q) Accords to any other reason that the Committee considers fit to examine

(4) If the Committee-

- a) resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant County department or the authority that published the statutory instrument;
- b) does not accede to the statutory instrument, or part of a statutory instrument, the Committee may recommend to the County Assembly that the County Assembly resolves that all or any part of the statutory

instrument, as the case may be, be annulled, the instrument or part thereof shall henceforth stand annulled.

## **1.2 Membership of the Committee**

The Committee on Delegated Legislation was constituted on 4<sup>th</sup> October, 2017 and the membership of the Committee is as follows:-

1. Hon. Kipyegon Koech - Chairperson
2. Hon. Ann Cherono - Vice-Chairperson
3. Hon Stanley Bett - Member
4. Hon.Alfred Cheruiyot - Member
5. Hon.Hellen Chepkirui - Member
6. Hon.Milka Wangare - Member
7. Hon.Humphrey Kirui - Member
8. Hon.Ann Kosgey - Member
9. Hon.Philipm Rono - Member
10. Hon.Anthony Ruto- Member
11. Hon.Eric Korir - Member
12. Hon.Annah Tonui - Member
13. Hon.Kassim Abdulrashid - Member
14. Hon.Jackline Chebet - Member
15. Hon.Eric Bii - Member
16. Hon.Hezron Ngetich - Member
17. Hon.Paul Chirchir - Member

## 2.0 The Kericho County Co-operative Societies Rules

The Kericho County Co-operatives Societies Act, 2017 was published on 8<sup>th</sup> June 2017 and it came into force on the date of publication. Section 87 of the said Act provides that:

*'(1) The Executive Committee Member may in consultation with the apex society make regulations for the better carrying out of the provisions and purposes of this Act.*

*(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may –*

- (a) prescribe the forms to be used and conditions to be complied with in making application for the registration of a society and the procedure to be followed;*
- (b) prescribe the matter in respect of which a co-operative society may or shall make by-laws, and the procedure to be followed in making, varying and revoking by-laws, and the conditions to be satisfied before making, varying or revoking by-laws;*
- (c) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and the payments to be made and the interest to be acquired before the exercise of the right of membership;*
- (d) regulate the manner in which funds may be raised whether by means of shares or debentures or otherwise;*
- (e) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;*
- (f) provide for the appointment, suspension and removal of the members of the Committee and other officers, and for the procedure at meetings of the Committee, and for the powers to be exercised and the duties to be performed by the Committee and other officers;*
- (g) prescribe the accounts and books to be kept by a co-operative society;*
- (h) provide for the form of the final accounts and the balance sheet to be prepared annually and any other statements and schedules relating thereto;*

- (i) *provide for the resignation and expulsion of members and for the payments, if any, to be made to members who resign or are expelled, and for the liabilities of past members;*
- (j) *provide for the persons by whom and the form in which copies of entries in books of co-operative societies may be certified;*
- (k) *provide for the inspection of documents and registers at the Director's office and prescribe the fees to be paid thereof and for the issue of copies of such documents or registers;*
- (l) *provide for the formation and maintenance of a register for members and, where the liability of members is limited by shares or limited by guarantee, of the register of shares;*
- (m) *provide for the order in which the value of a deceased member's interest shall be ascertained and subject to section 39 for the nomination of a person to whom such interest may be paid or transferred;*
- (n) *provide for the mode in which the value of the interest of a member who has become of unsound mind or incapable of managing his affairs shall be ascertained and for the nomination of any person to whom such interest may be paid or transferred;*
- (o) *provide for the manner of formation and maintenance of reserve funds and the objects to which such funds may be applied and for the investments of any funds under the control of a co-operative society;*
- (p) *prescribe the procedure to be followed in appeals made to the Executive Committee Member under this Act;*
- (q) *prescribe the returns to be submitted by a co-operative society to the Director and the person by whom and the form in which such returns shall be submitted;*
- (r) *prescribe the fees to be paid on applications, registrations and other acts done by the Director under this Act;*
- (s) *prescribe the procedures to be followed in the liquidation of societies; and*
- (t) *Prescribe anything which under this Act may be prescribed.*

(3) *In any case where the Director is satisfied that a substantial number of members of any co-operative society are unacquainted with the English language, he may cause any rules made under this section to be translated into a language with which such members are acquainted, and to be made known in a manner customary for the community to which such*

*members belong, provided that on any matter of interpretation the English version of the rules shall prevail.'*

On 4<sup>th</sup> September 2017 the County Executive Committee member in charge of Trade Industrialization, Co-operative management, Tourism and wildlife forwarded rules on Co-operative societies to the county Assembly. The said rules were thereafter committed to the Committee on Delegated Legislation on 11<sup>th</sup> October, 2017.

On 15<sup>th</sup> -18<sup>th</sup> March 2018 the said committee had meetings at Joventure Hotel, Kisumu County to deliberate on the said Rules.

### **3.0 Committee Observations**

The Committee observed the following:

1. That Section 87 of the Kericho County Cooperative Societies Act, 2017 provides for the scope of the Executive Member's powers to make rules regarding the cooperative societies;
2. The said regulations conform to the provisions of the Constitution, the Statutory Instruments Act and the Kericho County Assembly Standing Orders.
3. That Rule number 11 be amended by inserting the words **'to which he or she is registered'** immediately after the word **'society'** appearing the third time.

4. That Rule number 17 sub rule 2 paragraph a be amended by deleting the word '**extra**' and '**is**' and replacing them with the words '**extract**' and '**in**' respectively.
5. That rule number 18 Sub rule 1 be amended by inserting the words '**and signatories**' immediately after the word '**bankers**' and further be amended by deleting the word '**addressed**' and inserting the words '**attaching the extracts of minutes**' immediately after the word '**bank**'
6. That Rule 18 sub rule 2 be amended by deleting it in its entirety
7. That Rule 22 sub rule 9 paragraph c be amended by inserting the word '**be**' immediately after the word '**shall**' and deleting the word '**consider**' and replace it with the word '**considered**'
8. That rule 23 sub rule 1 paragraph c be amended by deleting the word '**mandatory**' and replacing it with the word '**signatory**'
9. That rule 35 paragraph a be amended by inserting the word '**and**' immediately after the word '**marketers;**'
10. That Rule 43 sub rule 2 be amended by inserting the word '**from**' immediately after the word '**funds**'
11. That Rule 44 be amended by inserting the word '**Kenya**' immediately after the word '**the**' appearing the second time

12. That the second schedule ,the first row, the second column be amended by deleting the words '**to operate in the county**' and replacing them with the words '**for co-operative societies registered outside the county**'

#### **4.0 Committee Recommendations**

In view of the Committee's considerations and observations, and pursuant to County Assembly's Standing Order 193(4), the Committee recommends The Kericho County Co-operative Societies Rules 2017, be acceded to subject to reprinting of the rules in order to amend the changes made by the committee as earlier stipulated.

#### **5.0 Acknowledgement**

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Assembly for the necessary support extended to it in the execution of its mandate.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 193 (3), to present the Report of the Committee on Delegated County Legislation on **The Kericho County Co-operative Societies Rules 2017** for consideration by the House.

Signed..... Date.....

**Hon.Kipyegon Koech,**

**Chairman-Committee on Delegated County Legislation**