

LEGAL NOTICE NO. 172

THE CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS

ARRANGEMENT OF CODE

Preamble.

PART I — PRELIMINARY

1—Citation.

2—Interpretation.

3—Application of Code.

PART II — REQUIREMENTS

4—Compliance with General Code.

5—Integrity and impartiality.

6—Political affiliation.

7—Comments.

8—Responsibility to organisation.

9—Efficiency

10—Canvassing for favours.

11—Harambees.

12—Conflict of interests.

13—Gifts, etc.

14—Conduct of private affairs.

15—Safeguarding of information.

16—Appropriate authority for reporting.

17—Breach of Code.

Appendix — General Code of Conduct and Ethics.

THE PUBLIC OFFICER ETHICS ACT, 2003

(No. 4 of 2003)

IN EXERCISE of the powers conferred by section 5 (1) of the Public Officer Ethics Act, 2003, the Ethics Commission for Co-operative Societies establishes the following Code of Conduct and Ethics:—

THE CO-OPERATIVE SOCIETIES CODE OF CONDUCT AND ETHICS

Preamble.

The Co-operative movement in Kenya plays a major role in the socio-economic development of the people. By definition, a co-operative society is an autonomous association of persons united voluntarily to meet their common economic, social and cultural needs and aspirations through a jointly-owned and democratically-controlled enterprise. A co-operative society is based on the ethical values of self-help, self-responsibility, democracy, equality, equity and solidarity founded on the philosophy of "All for one and one for all". The management of co-operative societies is vested in the duly elected committees and officers who are expected to perform their duties prudently and diligently on behalf of the members to whom they stand accountable and responsible.

This Code is intended to establish standards of ethical conduct and behaviour for co-operative society officers, members, members of the management committee and of the supervisory committee.

This Code contains general rules of conduct and ethics to be observed by the said officers and members so as to maintain integrity and impartiality in the co-operative movement.

Officers and members should adhere to this Code in both their public and private lives so as not to bring the committee and the co-operative society into disrepute and dishonour. It is imperative, therefore, that every officer should observe this Code with scrupulous care and diligence.

PART I — PRELIMINARY

Citation.

1. This Code may be cited as the Co-operative Societies Code of Conduct and Ethics.

Interpretation.

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

"Commission" means the Ethics Commission for Co-operative Societies established under the Public Officer Ethics Regulations, 2003;

"officer" means an officer or employee to whom this Code applies under paragraph 3 of this Code.

Application of Code.

3.(1) This Code applies to all officers and employees of co-operative societies.

(2) For the purposes of this paragraph, "officer" includes any committee member, member of a supervisory committee or other person concerned in the management of a co-operative society.

PART II — REQUIREMENTS

Compliance with General Code.

4. (1) An officer shall comply with all the requirements of the General Code of Conduct and Ethics set out in Part III of the Act.

(2) The General Code of Conduct and Ethics set out in Part III of the Act is set out in the Appendix to this Code and shall form part of this Code.

Integrity and impartiality.

5. Regardless of his political opinions, an officer shall serve with courtesy, honesty, integrity, probity and objectivity.

Political affiliation.

6. An officer is entitled to his own views on political matters but shall not be permitted, in the course of the performance of his duties, to express those views publicly or seek to influence his colleagues or those who seek his services to subscribe to his political beliefs.

Comments.

7. An officer shall not—

(a) make public comments that support or criticise a political party;

(b) make public comments that may compromise, or may reasonably be seen to compromise, the political neutrality of his office;

(c) except in furtherance of official duties, publicly comment on matters in relation to which he has been professionally involved; or

(d) expressly or by implication, represent that any public comments he makes reflect the views or opinions of his organisation if that is not the case. 8. An officer shall ensure that he carries out his duties in a way that is consistent with his being part of his organisation.

Responsibility to organisation.

8. An officer shall ensure that he carries out his duties in a way that is consistent with his being part of his organisation.

Efficiency.

9. An officer shall perform his duties with diligence, prudence and efficiency.

Canvassing for favours.

10. An officer shall not canvass either directly or indirectly for any favours in the committee or in the organisation.

Harambees.

11. (1) An officer may contribute towards or attend a harambee but shall not—

(a) conduct himself in such a way as to reflect adversely on his integrity or impartiality or to interfere with his official duties; or

(b) play a central role in its organization or preside over it or be guest of honour.

(2) The Controller and Auditor-General shall not use his office to solicit for funds for a harambee or any other purpose.

Conflict of interests.

12. An officer is required to observe the following requirements in relation to his private interests—

(a) he shall ensure that he does not subordinate his official duties to his private interests or put himself in a position where there is conflict between his official duties and his private interests;

(b) he shall not associate outside his official duties with any financial or other activities in circumstances where there could be suspicion that his official position or official information available to him was being turned to his private gain or that of his associates;

(c) he shall not engage in any Occupation or business which might prejudice his status as an officer or bring the co-operative society into dispute;

(d) he shall maintain at all times the ethical standards which the public expects of him in transacting official business with efficiency, integrity and impartiality.

Gifts, etc.

13. (1) An officer shall neither ask for or accept any property or benefit of any kind for himself or for any person, on account of anything to be done, or omitted to be done by him in the discharge of his duties by virtue of his official position.

(2) An officer who is given a gift described in section 11 (2) of the Act shall, even where the gift is not deemed, by the operation of Part III of the Act, to be a gift to the organisation—

(a) report the matter to the person who is, in accordance with the administrative procedures of the Commission, the authorised officer, who shall direct the appropriate mode of disposal of the gift; and

(b) comply with any such direction. (3) A gift referred to in section 11 (4) of the Act shall not be accepted by an officer on the premises of the organisation.

Conduct of private affairs.

14. (1) An officer shall not neglect his financial and other obligations to his family and other persons or organisations.

(2) An officer shall live within his means and avoid incurring any financial liability that he cannot satisfy.

(3) An officer shall manage his finances prudently to avoid financial embarrassment to himself or his employer.

(4) An officer shall be a role model to his colleagues and other people around him and shall therefore refrain from activities that may bring the committee into disrepute.

(5) An officer shall not engage in private business during official working hours.

Safeguarding of information

15. An officer shall ensure that confidential or secret information or documents entrusted to his care are adequately protected from improper or inadvertent disclosure.

Appropriate authority for reporting.

16. For the purposes of section 25 of the General Code of Conduct and Ethics set out in the Appendix to this Code, the appropriate authority to whom an officer shall report a matter under that section is the Administrator of the Commission.

Breach of Code.

17. Where an officer has committed a breach of this Code, appropriate action will be taken in accordance with the Act and other applicable laws.

APPENDIX (Paragraph 4(2))

PART III - GENERAL CODE OF CONDUCT AND ETHICS

Part sets out general Code.

7. This Part sets out a general Code of Conduct and Ethics for public officers.

Performance of duties, general.

8. A public officer shall, to the best of his ability, carry out his duties and ensure that the services that he provides are provided efficiently and honestly.

Professionalism.

9. A public officer shall—

(a) carry out his duties in a way that maintains public confidence in the integrity of his office;

- (b) treat the public and his fellow public officers with courtesy and respect;
- (c) to the extent appropriate to his office, seek to improve the standards of performance and level of professionalism in his organisation;
- (d) if a member of a professional body, observe the ethical and professional requirements of that body;
- (e) observe official working hours and not be absent without proper authorization or reasonable cause;
- (f) maintain an appropriate standard of dress and personal hygiene; and
- (g) discharge any professional responsibilities in a professional manner.

Rule of law.

10. (1) A public officer shall carry out his duties in accordance with the law.

(2) In carrying out his duties, a public officer shall not violate the rights and freedoms of any person under Part V of the Constitution.

No improper enrichment.

11. (1) A public officer shall not use his office to improperly enrich himself or others.

(2) Without limiting the generality of subsection (1), a public officer shall not—

(a) except as allowed under subsection (3) or (4), accept or request gifts or favours from a person who —

(i) has an interest that may be affected by the carrying out, or not carrying out, of the public officer's duties;

(ii) carries on regulated activities with respect to which the public officer's organisation has a role; or

(iii) has a contractual or similar relationship with the public officer's organisation;

(b) improperly use his office to acquire land or other property for himself or another person, whether or not the land or property is paid for; or

(c) for the personal benefit of himself or another, use or allow the use of information that is acquired in connection with the public officer's duties and that is not public. (3) A public officer may accept a gift given to him in his official capacity but, unless the gift is a non-monetary gift that does not exceed the value prescribed by regulation, such a gift shall be deemed to be a gift to the public officer's organisation.

(4) Subsection (2)(a) does not prevent a public officer from accepting a gift from a relative or friend given on a special occasion recognized by custom.

(5) Subsection (2)(c) does not apply to the use of information for educational or literary purposes, research purposes or other similar purposes.

Conflict of interest.

12. (1) A public officer shall use his best efforts to avoid being in a position in which his personal interests conflict with his official duties.

(2) Without limiting the generality of subsection (1), a public officer shall not hold shares or have any other interest in a corporation, partnership or other body, directly or through another person, if holding those shares or having that interest would result in the public officer's personal interests conflicting with his official duties.

(3) A public officer whose personal interests conflict with his official duties shall—

(a) declare the personal interests to his superior or other appropriate body and comply with any directions to avoid the conflict; and

(b) refrain from participating in any deliberations with respect to the matter.

(4) Notwithstanding any directions to the contrary under subsection (3) (a), a public officer shall not award a contract, or influence the award of a contract, to—

(a) himself;

(b) a spouse or relative;

(c) a business associate; or

(d) a corporation, partnership or other body in which the officer has an interest.

(5) The regulations may govern when the personal interests of a public officer conflict with his official duties for the purposes of this section.

(6) In this section, "personal interest" includes the interest of a spouse, relative or business associate.

Collections and harambees.

13. (1) A public officer shall not—

(a) use his office or place of work as a venue for soliciting or collecting harambees; or

(b) either as a collector or promoter of a public collection, obtain money or other property from a person by using his official position in any way to exert pressure.

(2) In this section, "collection", "collector" and "promoter" have the same meanings as in section 2 of the Public Collections Act.

Acting for foreigners.

14. (1) No public officer shall, in a manner that may be detrimental to the security interests of Kenya, be an agent for, or further the interests of, a foreign government, organisation or individual.

(2) For the purposes of this section—

(a) an individual is foreign if the individual is not a citizen of Kenya;

(b) an organisation is foreign if it is established outside Kenya or if it is owned or controlled by foreign governments, organisations or individuals.

Care of property.

15. (1) A public officer shall take all reasonable steps to ensure that property that is entrusted to his care is adequately protected and not misused or misappropriated.

(2) A person who contravenes subsection (1) shall be personally liable for losses resulting from the contravention.

Political neutrality.

16. (1) A public officer shall not, in or in connection with the performance of his duties as such—

(a) act as an agent for, or so as to further the interest of, a political party; or

(b) indicate support for or opposition to any political party or candidate in an election.

(2) A public officer shall not engage in political activity that may compromise or be seen to compromise the political neutrality of his office.

(3) This section does not apply to a member of the National Assembly or a councillor of a local authority.

Nepotism, etc.

17. A public officer shall not practice nepotism or favoritism.

Giving of advice.

18. A public officer who has a duty to give advice shall give honest and impartial advice without fear or favour.

Misleading the public, etc.

19. A public officer shall not knowingly give false or misleading information to members of the public or to any other public officer.

Conduct of private affairs

20.(1) A public officer shall conduct his private affairs in a way that maintains public confidence in the integrity of his office.

(2) A public officer shall not evade taxes.

(3) A public officer shall not neglect his financial obligations or neglect to settle them.

Sexual harassment.

21. (1) A public officer shall not sexually harass a member of the public or a fellow public officer.

(2) In subsection (1), "sexually harass" includes doing any of the following, if the person doing it knows or ought to know that it is unwelcome —

(a) making a request or exerting pressure for sexual activity or favours;

(b) making intentional or careless physical contact that is sexual in nature; and

(c) making gestures, noises, jokes or comments, including innuendoes, regarding another person's sexuality.

Selection, etc. of public officers.

22. A public officer shall practice and promote the principle that public officers should be —

(a) selected on the basis of integrity, competence and suitability; or

(b) elected in fair elections.

Submitting of declarations, etc.

23. A public officer shall submit any declaration or clarification required under Part IV to be submitted or made by him.

Acting through others.

24. (1) A public officer contravenes the Code of Conduct and Ethics if

(a) he causes anything to be done through another person that would, if the public officer did it, be a contravention of the Code of Conduct and Ethics; or

(b) he allows or directs a person under his supervision or control to do anything that is a contravention of the Code of Conduct and Ethics.

(2) Subsection (1) (b) does not apply with respect to anything done without the public officer's knowledge or consent if the public officer took reasonable steps to prevent it.

Reporting improper orders.

25. If a public officer considers that anything required of him is a contravention of the Code of Conduct and Ethics or is otherwise improper or unethical, he shall report the matter to an appropriate authority.

Dated the 24th October, 2003.

H. M. MWANGI,

Chairman,

Ethics Commission for Co-operative Societies.