

SPECIAL ISSUE

Kenya Gazette Supplement No. 216 (Acts No. 52)



REPUBLIC OF KENYA

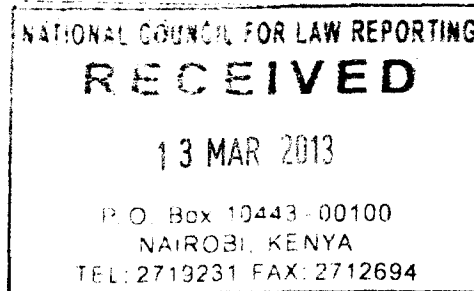
KENYA GAZETTE SUPPLEMENT

ACTS, 2012

NAIROBI, 4th January, 2013

CONTENT

Act—	PAGE
The Human Resource Management Professionals Act, 2012	2065



**THE HUMAN RESOURCE MANAGEMENT
PROFESSIONALS ACT**

No. 52 of 2012

Date of Assent: 31st December, 2012

Date of Commencement: 4th January, 2013

ARRANGEMENT OF SECTIONS

Section

PART I - PRELIMINARY

1—Short title.

2—Interpretation.

**PART II – THE INSTITUTE OF HUMAN RESOURCE
MANAGEMENT**

3—Establishment of the Institute.

4—Membership of the Institute.

5—Honorary fellows.

6—Functions of the Institute.

7—Council of the Institute.

8—Executive Director.

9—Staff.

10—Experts and Consultants.

11—Delegation of the Council.

12—Remuneration of the Council members.

13—Conduct of business and affairs of the Council.

14—Common seal.

15—Protection of Council from liability.

16—Examinations Board.

17—Functions of the Examinations Board.

**PART III-REGISTRATION OF HUMAN RESOURCE
MANAGEMENT PROFESSIONALS**

- 18—Registration Committee.
- 19—Qualification for registration as a human resource professional.
- 20—Disqualification from registration.
- 21—Registration of human resource firms.
- 22—Application for registration.
- 23—Certificate of registration.
- 24—Removal of names from the register.
- 25—Register.
- 26—Correction of the register.
- 27—Reinstatement to the register.
- 28—Use of title.

PART IV-PRACTICING CERTIFICATE

- 29—Application for a practicing certificate.

PART V – DISCIPLINARY PROVISIONS

- 30—Professional misconduct.
- 31—The Disciplinary Committee.
- 32—Reference of matters to the Committee.
- 33—Inquiry by the Disciplinary Committee.
- 34—Powers of the Disciplinary Committee.
- 35—Lifting of suspension.

PART VI- FINANCIAL PROVISIONS

- 36—Funds of the Council.

- 37—Financial year.
- 38—Annual estimates.
- 39—Accounts and Audit.

PART VII – MISCELLANEOUS

- 40—Offences by persons not eligible to be registered.
- 41—Offences by persons eligible to be registered.
- 42—Falsification or register or records.
- 43—General penalty.
- 44—Regulations.
- 45—Transitional provisions.

FIRST SCHEDULE - PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL

THE HUMAN RESOURCE MANAGEMENT PROFESSIONALS ACT, 2012

An Act of Parliament to provide for the establishment of the Institute of Human Resource Management and the Human Resource Management Professionals Board; to provide for the examination, registration and regulation of the standards and practice of human resource management professionals 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 Human Resource Management Professionals Act, 2012.

Interpretation. 2. In this Act, unless the context otherwise requires –

“Cabinet Secretary” means the Cabinet Secretary responsible for labour and human resource development;

“Council” means the Council of the Institute constituted pursuant to section 7;

“Disciplinary Committee” means the committee established under section 31;

“Examinations Board” means the Human Resource Management Professionals Examinations Board established under section 16;

“Executive Director” means the person appointed as the Executive Director of the Institute under section 8;

“Institute” means the Institute of Human Resource Management established under section 3;

“practicing certificate” means a practicing certificate issued by the Registration Committee pursuant to section 29;

“Register” means the register kept pursuant to section 25; and

“Registration Committee” means the committee established under section 18.

PART II – THE INSTITUTE OF HUMAN RESOURCE MANAGEMENT

Establishment of Institute.

3. (1) There is established an institute to be known as the Institute of Human Resource Management.

(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) purchasing, acquiring, holding or disposing of property;
- (c) borrowing money; and
- (d) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate;

(3) The Headquarters of the Institute shall be in Nairobi, but the Institute may establish offices at any place in Kenya.

4. (1) A person who is registered under this Act shall be a member of the Institute.

Membership of
the Institute

(2) The members of the Institute shall be classified into the following categories-

- (a) Fellows, comprising those persons who become fellows-pursuant to an invitation under subsection (3) each of whom shall be titled "Fellow of the Institute of Human Resource Management" (designatory letters F.I.H.R.M);
- (b) members, comprising those members of the Institute who are registered under section 19, each of whom shall be titled "Member of the Institute of Human Resource Management" (designatory letters M.I.H.R.M);

- (c) associate members, comprising persons eligible to be registered under section 19 but who do not meet the requirements prescribed under subsection (1) of that section.

(3) Where the Council considers that a member of the Institute has rendered outstanding services to the human resource profession, the Council may invite the member to become a Fellow.

Honorary fellows.

5. (1) Where the Council considers that a person, not being a member of the Institute has rendered exceptional services to the Institute or the human resource management profession, the council may invite the person to become an Honorary Fellow of the Institute.

(2) An Honorary Fellow shall not be a member of the Institute.

Functions of the Institute

6. (1) The functions of the Institute shall be to-

- (a) establish, monitor and publish the standards of professional competence and practice amongst human resource professionals;
- (b) register persons who meet the required professional and ethics standards;
- (c) promote research in human resource practice and related matters,
- (d) publish books, periodicals, journals and articles on human resource;
- (e) provide a medium for communication and exchange of information, knowledge and ethical standards for those persons engaged in the field of human resources management;
- (f) network with regional and international related bodies to promote and develop progressive

human resource management practices;

- (g) hold examinations and prescribe tests of competency deemed appropriate to qualify for membership and certification by the Institute;
- (h) advise the Examinations Board on matters relating to examination standards and policies;
- (i) advise the Registration Committee on matters relating to registration;
- (j) regulate the practice, competence and professional conduct of human resource professionals;
- (k) promote and protect the welfare and interests of the human resources profession;
- (l) promote inter-professional collaboration with other professional bodies; and
- (m) carry out any other functions prescribed for it under any of the provisions of this Act or under any written law.

7. (1) The management of the Institute shall vest in a Council which shall comprise of-

Council of the
Institute.

- (a) a chairperson who shall be a qualified human resource professional with at least five years experience in human resource management, elected by the members of the Institute in the manner prescribed by regulations.
- (b) the Principal Secretary of the Ministry for the time being responsible for public service or a representative designated in writing by the Principal Secretary;

- (c) the Principal Secretary of the Ministry for the time being responsible for labour and human resource development or a representative designated in writing by the Principal Secretary;
- (d) six other members, who shall be persons with knowledge and experience in human resource management, elected by the human resource professionals in the manner prescribed under Regulations.
- (e) the Executive Director;

(2) A member appointed to the Institute under paragraph (1)(a) and (d) shall hold office for a period of three years and shall be eligible for re-appointment for a further and final term of three years.

(3) An appointment under subsection (1) (a) and (d) shall be by name and notice in the Gazette

Executive
Director.

8. (1) There shall be an Executive Director of the Institute who shall be competitively appointed by the Council, and whose terms and conditions of service shall be determined by the Council in the instrument of appointment or otherwise in writing from time to time.

(2) A person shall not be appointed as an Executive Director under this section unless such person-

- (a) is a registered human resource professional;
- (b) has had at least five years proven experience in human resource management; and
- (c) meets the requirements of Chapter Six of the Constitution

(3) The Executive Director shall—

- (a) be an *ex-officio* member of the Council but shall have no right to vote at any meeting of the Council;
- (b) be the secretary to the Council;
- (c) subject to the directions of the Council, be responsible for the day to day management of the affairs of the Institute; and
- (d) be responsible to the Council generally for the implementation of this Act.

9. The Council may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the Institute and the Council under this Act, upon such terms and conditions of service as the Council may determine.

Staff of the Institute.

10. The Council may, on the advice of the Executive Director, engage on behalf of the Institute, the services of experts and consultants in respect of any of the functions of the Institute in connection with which they are considered to have special competence.

Experts and consultants.

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

Delegation by the Council.

12. The members of the Council shall be paid such, fees, allowances and disbursements for expenses as may be determined by the Council upon the advice of the Salaries and Remuneration Commission.

Remuneration of the Council members.

13. (1) The conduct and regulation of the business and

Conduct and regulation of the

business and
affairs of the
Council.

affairs of the Council shall be as provided in the Schedule

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

Common seal.

14. (1) The common seal of the Institute shall be kept in the custody of the Executive Director or of such other person as the Council may direct, and shall not be used except upon the order of the Council.

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

Protection from
personal liability

15. No matter or thing done by a member of the Council or by any officer, member of staff, or agent of the Council shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Council under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Examinations
Board.

16. (1) There is hereby established a Board to be known as the Human Resource Management Professionals Board Examinations Board.

(2) The Examination Board 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) purchasing, acquiring, holding or disposing of property;
- (c) borrowing money; and
- (d) doing or performing all such other things or

acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

(3) The Examinations Board shall consist of-

- (a) four persons who shall be qualified human resource professionals nominated by the Council, one of whom shall be appointed by the Council from amongst the members of the Institute as Chairperson of the Board.
- (b) two persons nominated by the Cabinet Secretary of the Ministry for the time being responsible for education, one of whom shall be from Kenya Institute of Education and one from the Kenya National Examination Council
- (c) the Director of Personnel Management or a representative designated in writing by the Director of Personnel Management;
- (d) one person nominated by the Commission for Higher Education; and
- (e) one person nominated by the Attorney General.

17. The functions of the Examination Board shall be to—

- (a) prescribe and regulate syllabuses of instruction for human resource management professionals examinations;
- (b) prepare and conduct examinations for persons seeking registration under the Act;
- (c) make rules with respect to examinations;

Functions of the Examination Board.

- (d) prescribe the fees and other charges payable with respect to such examinations;
- (e) issue certificates to candidates who have satisfied examination requirements;
- (f) make rules with respect to examinations;
- (g) issue professional qualifying certificates and other awards to candidates who have satisfied examination requirements;
- (h) investigate and determine cases involving indiscipline by students registered with the Examination Board;
- (i) promote recognition of its examinations locally and internationally;
- (j) remit a proportion of not less than thirty percent of the fees collected under paragraph (d) to the Institute to support continuing human resource professional development; and
- (k) do anything incidental or conducive to the performance of any of the preceding functions.

PART III - REGISTRATION OF HUMAN RESOURCE MANAGEMENT PROFESSIONALS

Registration
Committee.

18. (1) There is hereby established a committee to be known as the Registration Committee.

(2) The Committee shall consist of-

- (a) a chairperson appointed by the Council from

amongst members of the Council;

- (b) one person nominated by the Federation of Kenya Employers;
- (c) one person nominated by the Examination Board;
- (d) one person nominated by the Kenya National Examination Council; and
- (e) the Attorney General or his representative designated by him in writing.

(3) The functions of the registration Committee shall be-

- (a) receive applications for registration and grant practicing certificates in accordance with the provisions of this Act;
- (b) monitor compliance with professional quality assurance and other standards published by the Council for observance by the members of the Institute;
- (c) prescribe regulations to govern quality assurance programmes, including actions necessary to rectify deviations from standards;
- (d) where appropriate and based on the results of a quality assurance investigation recommend to the Council that a member's conduct be referred for inquiry under section 23;
- (e) advise the Council on matters pertaining to professional and other standards necessary for the achievement of quality assurance; and
- (f) perform any other functions connected therewith or incidental thereto.

(4) The Secretary to the Council shall serve as the secretary to the Registration Committee, and may, with the consent of the person presiding at a meeting, take part in the deliberations on any matter arising at the meeting, but shall not be entitled to vote on any such matter.

Qualifications for registration as a human resource management professional.

19. (1) Subject to the provisions of this Act, a person shall be eligible to be registered as a human resource management professional if such person-

- (a) is of good conduct;
- (b) has paid the prescribed fees;
- (c) has successfully undergone a prescribed certificate, diploma, degree or research course of instruction and has passed the appropriate examination conducted or prescribed by the Institute; or
- (d) has undergone a certificate, diploma, degree or research course of training and passed an examination elsewhere than in Kenya, which the Institute recognizes as equivalent to the training and instruction required in the case of persons trained in Kenya and as equivalent to the qualifications required under the Act; and
- (e) holds such other qualifications as the Council may prescribe.

(2) The Council may from time to time, by notice in the Gazette, approve qualifications, which it considers sufficient to allow a person to be registered, and may, in the same manner, withdraw that approval.

20.(1) Subject to this section, a person is disqualified from being registered if the person-

Disqualification from registration.

- (a) is convicted by a court of competent jurisdiction in Kenya or elsewhere of any offence involving fraud or dishonesty;
- (b) is a undischarged bankrupt;
- (c) is of unsound mind and has been certified to be so by a medical practitioner; or
- (d) is found by the Council to be guilty of professional misconduct in accordance with this Act; and
- (e) he does not meet the requirements of Chapter Six of the Constitution.

21. Subject to the provisions of this Act, a person may register a human resource firm if -

Registration of human resource firms.

- (a) the firm has a certificate of registration of a business name or certificate of incorporation;
- (b) the firm has at least one partner or principle shareholder who is registered as a human resource professional and who has a valid practicing certificate; and
- (c) the person fulfills any other condition as may be stipulated by the Council.

22. (1) A person wishing to be registered as a Human Resource Management Professional shall apply to the Registration Committee.

Application for registration

(2) An application under this section shall be made in the prescribed manner and form and shall be accompanied by the prescribed fee.

(3) Where an application is made by a person in accordance with this section, the Registration Committee shall approve the application if it is satisfied that the applicant meets the requirements specified under section 19.

Certificate of registration.

23. The Registration Committee shall issue to every person registered under this Act a certificate of registration in the prescribed form.

Removal of names from the register.

24. (1) The Registration Committee may, at any time, direct that the name of a person be removed from the register where such person-

- (a) is of unsound mind;
- (b) requests that the name be removed from the register;
- (c) is convicted of an offence under this Act;
- (d) has been found guilty and his registration suspended or revoked through disciplinary proceedings under section 34;
- (e) has failed to renew a membership;
- (f) is declared bankrupt; and
- (g) any circumstances arises which, if the member were then a person applying for registration, would disqualify him under section 20 from being registered.

Register.

25. (1) The Secretary to the Registration Committee shall cause to be kept a register which shall contain –

- (a) the names of persons registered under this Act;
- (b) the names of all persons issued with a practicing certificate;
- (c) particulars of the cancellation of the registration of any person; and
- (d) such other details as the Council may direct

(2) The Secretary to the Registration Committee shall keep up to date or cause to be kept up to date the register and records required to be kept under or for the purposes of this Act, subject to any directions which may from time to time be issued to him by the Council.

(3) The secretary to the Registration Committee shall remove from the register –

- (a) the names of a deceased person; and
- (b) any entry which has been incorrectly or fraudulently made.

(4) The secretary to the Registration Committee shall cause the name and address of every person whose name is removed from the register under this section, to be published in the Gazette within one month from the date of such removal.

(5) Subject to the provisions of this Act, the removal of a person's name from the Register shall be notified by the secretary to the Registration Committee to the person by registered mail addressed to the address appearing in the register against his name immediately before such removal.

(6) Where the name of any person has been removed from the register under this Act, such name shall not be reinstated except by the direction of the Council.

(7) A person whose name has been removed from the register shall cease to be registered for the purpose of this Act from the date of such removal.

Correction of Register.

26. The secretary to the Registration Committee shall from time to time make any necessary alteration or correction in the register in relation to any entry therein.

Reinstatement to the Register.

27. Where the name of any person has been removed from the register, the Council may, either of its own motion or on the application by the person concerned made in the prescribed manner, and in either case after holding such inquiry as the Council thinks fit, direct that-

- (a) the removal of such person's name from the register be confirmed; or
- (b) the name of the persons be restored in the register.

Use of title.

28. A person registered under this Act shall-

- (a) by virtue of being so registered, be entitled to take and use the title and description of a human resource professional.
- (b) Not take or use, or affix to or use in connection with his premises, any title or description, in addition to that of a human resource professional, other than as indicated by the particulars relating to his qualifications entered in the register.

PART IV-PRACTICING CERTIFICATE

Applications for practicing certificate

29. (1) No person shall practice as a human resource management professional unless the person has been issued with a valid practicing certificate.

(2) A person wishing to obtain a practicing

certificate shall apply to the Registration Committee.

(3) An application under this section shall be in the prescribed form and shall be accompanied by the prescribed fee.

(4) Where an application is made by a person in accordance with this section, the secretary to the Registration Committee shall issue such a person a practicing certificate if satisfied that the person-

- (a) is registered under this Act ; and
- (b) meets such other requirements as may be prescribed and if not satisfied, shall refuse the application.

(5) A practicing certificate remains in force unless its holder-

- (a) is removed from the register; or
- (b) has been suspended under section 34.

(6) Where a practicing certificate ceases to be in force under subsection (5), the person to whom the certificate was issued shall deliver it to the Council within thirty days from the date on which he ceases to be registered.

(7) Any person who, without reasonable excuse contravenes subsection (6) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings.

PART V – DISCIPLINARY PROVISIONS

30. (1) A person registered under this Act is guilty of professional misconduct if the person-

Professional
misconduct.

- (a) deliberately fails to follow the laid down human resource procedures of his employer or client save those which are in violation of law;
- (b) refuses, fails or neglects to apply established human resource principles in the course of discharging his professional functions;
- (c) engages himself in corrupt activities or practices;
- (d) is guilty of gross negligence in the conduct of his professional duties;
- (e) engages himself in negative practices such as nepotism, tribalism, racism and other acts of discrimination in the discharge of his professional functions;
- (f) discloses information acquired in the course of his duties to any person without the consent of his employer or client or otherwise than required by law;
- (g) uses his position to obtain favours of a sexual kind or other benefits for which he is not entitled to in the discharge of his professional functions;
- (h) engages in activities which are in conflict with those of his employer or client or activities which are contrary to those for which he is registered as a human resource professional;
- (i) is found guilty of fraud or any dishonest act allows any person to practice in his name as a Human Resource Professional unless such a person is the holder of a practicing certificate and is in partnership with him or employed by him;

- (j) allows any person to practice in his name as a Human Resource Professional unless such a person is the holder of a practicing certificate and is in partnership with him or employed by him;
- (k) enters for the purpose of or in the course of practicing as a human resource professional, into partnership with a person who does not hold a practicing certificate or secures any professional business through the service of such a person or by means not open to a Human Resource Professional;
- (l) pays or allows or agrees to pay or allow directly or indirectly, to any person (other than a person who holds a practicing certificate, is a retired partner or the legal representative of such a partner) any share, commission or brokerage out of the fees for, or profits of, his professional services;
- (m) expresses an opinion on any matter with which he is concerned in a professional capacity without obtaining sufficient information on which to base the opinion;
- (n) fails to keep the funds of a client in a separate banking account or to use any such funds for purposes for which they are intended; and
- (o) does or fails to do any other act which may be prescribed.

31. (1) There shall be a Committee to be known as the Disciplinary Committee.

The Disciplinary
Committee

(2) The Disciplinary Committee shall consist of five members appointed by the Council, from among the members of the council.

(3) Members of the Disciplinary Committee shall appoint one of their numbers to be the Chairperson.

Reference of matters to the committee.

32. Where the Council has reason to believe that a registered person may have been guilty of professional misconduct it shall refer the matter to the Disciplinary Committee which shall inquire into the matter.

Inquiry by the Disciplinary Committee.

33.(1) Upon inquiry held by the Disciplinary Committee, the person whose conduct is being inquired into shall be afforded an opportunity to be heard in person.

(2) For the purpose of proceedings at any inquiry held by the Disciplinary Committee, the Committee may administer oaths, and may subject to any regulations made under this Act, enforce attendance of persons as witnesses and the production of books and documents.

(3) The Disciplinary Committee shall, have power to regulate its own procedure.

Powers of the Disciplinary Committee.

34.(1) Where, on recommendation of the Disciplinary Committee, the Council is satisfied that a Human Resource Professional is in breach of any of the terms or conditions prescribed by the Council under section 27, the Council may –

- (a) issue the human resource professional with a letter of admonishment;
- (b) suspend the registration of the human resource professional for a specified period not exceeding twelve months;

- (c) withdraw or cancel the practicing certificate of the human resource professional for such period not exceeding five years as may be appropriate;
- (d) impose a fine which the Council deems appropriate in the circumstances; or
- (e) remove the name of the human resource professional from the register.

(2) The Council shall as soon as practically possible inform the human resource professional of the action to be taken against him.

(3) Any person whose name has been removed from the register or whose practicing certificate has been suspended shall forthwith surrender to the Council his or her certificate of registration or practicing certificate.

(4) Any person being a registered human resource professional who refuses or fails to surrender his or her certificate of registration or practicing certificate to the Council shall be guilty of professional misconduct and shall be liable to a fine not exceeding one hundred thousand shillings.

(5) Any person aggrieved by the decision of the Council in the exercise of its powers under this section may within sixty days from the date of the decision of the Council, appeal to the High Court and in any such appeal, the High Court may annul or vary the decision as it finds necessary.

35.(1) Where a human resource professional has been suspended from practicing; he or she may appeal to the Council for the lifting of the suspension at any time before the expiry thereof.

Lifting of
suspension.

(2) Where the Council is satisfied in respect of any human resource professional that he or she should have

his or her suspension lifted, the Council shall, upon the receipt of the prescribed fee, lift the suspension and restore to the human resource professional, his or her registration and practicing certificate.

PART VI – FINANCIAL PROVISIONS

Funds of the
Council

36. (1) The funds of the Council shall consist of—

- (a) such monies or assets as may accrue to or vest in the Council in the course of the exercise of its powers or performance of its functions under this Act;
- (b) such monies as may be payable to the Council pursuant to this Act or any other written law;
- (c) donations, gifts and endowments from lawful organizations or sources;
- (d) proceeds of any investments by the Council; and
- (e) grants.

Financial year

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

Annual estimates

38.(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 Council for that financial year.

(2) The annual estimates shall make provisions for all estimated expenditure of the Council for the financial

year concerned, and in particular shall provide for the—

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

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

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Council given with prior written

approval of the Cabinet Secretary.

Accounts and
audit.

39.(1) The Council shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Council.

(2) Within a period of three months after the end of each financial year, the Council shall submit to the Auditor-General the accounts of the Council, in respect of that year, together with —

- (a) a statement of income and expenditure during that financial year; and
- (b) a statement of the assets and liabilities of the Council on the last day of that financial year.

No. 12 of 2003

(3) The accounts of the Council shall be examined, audited and reported upon annually by the Auditor-General in accordance with the provisions of the Public Audit Act, 2012.

PART VII – MISCELLANEOUS

Offences by
persons not
eligible to be
registered.

40. (1) A person who, not being eligible to be registered under this Act, uses any title appropriate to a person so registered, or holds himself out directly or indirectly as being so registered, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

(2) A person who, not being eligible to be registered under this Act, practices for gain as a human resource professional, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

41. A person who, though eligible to be registered or licensed under this Act, is not so registered or licensed but practices as such, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding two years, or to both.

Offences by persons eligible to be registered.

42. A person who wilfully makes or causes to be made any false entry in, or falsification of, any register or record kept under this Act, or who presents or attempts to present himself or any person to be registered under this Act by making or producing or causing to be made or produced a 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 two hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

Falsification of registers or records.

43. A person convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

General penalty.

44. The Council may, with the approval of the Cabinet Secretary, make regulations generally for the better carrying out of the provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations –

Regulations.

- (a) prescribing the curriculum and the courses of study to be pursued by the students and candidates in order to satisfy the academic requirements of any particular registration;
- (b) prescribing the experience criteria to be met by candidates for registration;
- (c) prescribing a code of ethics, rules of professional conduct and standards of practice;
- (d) providing for the suspension, expulsion or other penalty for professional misconduct, incapacity or incompetence;
- (e) prescribing fees payable to the Association;
- (f) governing the calling, holding and conducting of meetings of the board and of the members of the association; and
- (g) authorizing the making of grants for any purpose that may tend to advance knowledge of human resources management or improve standards of practice.

Transitional provisions.

45. (1) The Governing Council of the Institute of Human Resource Management professionals existing before the enactment of this Act shall assume the responsibilities imposed on the Council and Registration Committee by this Act as an Interim Council and Interim Registration Committee until the first elections held under this Act.

(2) The chairperson elected at the last annual general meeting of the former Institute shall continue to act as chairperson of the Institute until the first elections held under this Act.

(3) The Interim Council to facilitate the registration of members of the Institute and the convening

of the first annual general meeting at which Council members shall be elected.

(4) The first annual general meeting of the Institute shall be convened by the Interim Council within a period of twelve months of the commencement of this Act.

(5) Any human resource professional carrying out any business contrary to this Act shall ensure that the business is compliant with the Act within twelve months of the commencement of this Act.

(6) Any examinations currently being conducted by any statutory body for the purpose of qualifying as a human resource professional shall be transferred to the Examinations Board within twelve months of the commencement of this Act.

(7) "former institute" means the institute of Human Resource Management professionals existing before the enactment of this Act.

(s.13)

**SCHEDULE - PROVISIONS AS TO THE
CONDUCT OF BUSINESS AND AFFAIRS OF THE
COUNCIL**

1. An office of a member of the Council shall become vacant if the member –

Vacation of
office.

- (a) dies;
- (b) becomes subject to any of the disqualifications referred to in paragraph 2;
- (c) resigns the office by writing under his hand delivered to the chairperson of the Council;
- (d) is absent without the permission of the

chairperson from three or more consecutive meetings of the Council;

- (e) is convicted of an offence and sentenced to imprisonment for a term of six months or more without the option of a fine;
- (f) is found guilty of an offence under section 31 of the Act which in the opinion of the Council renders him unsuitable to continue to hold office;
- (g) becomes for any reason including infirmity of body or mind, incompetent or incapable of performing the functions of the office; or
- (h) is otherwise unable to discharge his functions.

Filling of
vacancy.

2. A vacancy in the office of a member under paragraph 3 shall be filled, by a person appointed by the Cabinet Secretary in accordance with the provisions of this Schedule.

Vice chairperson.

3. The Council shall, at its first meeting, elect a vice chairperson from amongst the persons appointed under section 7(1) (e) of this Act.

Meetings of the
Council.

4. The Council shall meet at least four times in each year.

Special meetings.

5. The Chairperson may at any time convene a special meeting of the Council and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

Chairperson to
preside.

6. (1) The Chairperson shall preside at all meetings of the Council, which he is present and in the case of his absence, the Vice Chairperson shall preside.

(2) At a meeting of the Council at which neither the

Chairperson or Vice chairperson is present, the members of the Council present shall elect one of their number to preside, and the person so elected shall have all the powers of the chairperson with respect to that meeting and the business transacted thereat.

7. The quorum for the conduct of the business of the Council shall be nine members.

Quorum.

8. The decisions of the Council shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

Voting procedure.

9. The validity of any proceedings of the Council shall not be affected by any vacancy among the membership thereof, or by any defect in the appointment of a member thereof.

Validity of proceedings.

10. Minutes of the proceedings at meetings of the Council shall be kept in such a manner as the Council directs, and, on the written request of the Cabinet Secretary, shall be made available to him or any person nominated by him.

Minutes.

11. The Council may establish such committees as may be necessary for the performance of the functions of the Council and may, subject to the provisions of this Act, delegate powers conferred on it to any such committee.

Committees of the Council.

12. Subject to the provisions of this Schedule, the Council shall regulate its own procedure.

Power of the Council to regulate own procedure.

13.(1) If a member of the Council 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, he shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose the fact and

Disclosure of interest.

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 paragraph shall be recorded in the minutes of the meeting at which it is made.