

THE COUNTER-TRAFFICKING IN PERSONS ACT

(No. 8 of 2010)

IN EXERCISE of the powers conferred by section 28(d) of the Counter-Trafficking in Persons Act, 2010, the Cabinet Secretary for Labour and Social Protection, in consultation with the Advisory Committee, makes the following Regulations—

THE COUNTER-TRAFFICKING IN PERSONS (NATIONAL ASSISTANCE TRUST FUND FOR VICTIMS OF TRAFFICKING IN PERSONS) REGULATIONS, 2020

PART I—PRELIMINARY

1. These Regulations may be cited as the Counter-Trafficking in Persons (National Assistance Trust Fund for Victims of Trafficking in Persons) Regulations, 2020. Citation.
2. In these Regulations, unless the context otherwise requires — Interpretation.
 - “Act” means the Counter -Trafficking in Persons Act;
 - “Auditor General” means the Auditor General appointed under Article 229 of the Constitution; No. 8 of 2010
 - “Board of Trustees” has the meaning assigned to it under the Act; and
 - “financial year” means the period of twelve months ending on the thirtieth June in every year.

PART II—CONDUCT OF THE AFFAIRS AND BUSINESS OF THE
BOARD OF TRUSTEES

3. (1) For purposes of section 24 of the Act, not more than two thirds of the members of the Board of Trustees shall be of the same gender. Appointment of Trustees.
- (2) The Chairperson of the Board of Trustees shall be the member appointed under section 24 (1) (e) of the Act.
4. Whenever the office of a member of the Board of Trustees appointed under section 24(1) (e) and (f) of the Act falls vacant, the vacancy shall be filled in the same manner specified for that office under section 24(2). Filling of Vacancy.
5. (1) A person shall not be appointed as a member of the Board of Trustees if the person — Disqualification from appointment.
- (a) is a member of a governing body of any political party;
 - (b) is disqualified under the Constitution or any written law from holding a public office;
 - (c) is adjudged bankrupt or enters into a composition or arrangement with his creditors; and
 - (d) was previously involved in the management or administration of a scheme which was deregistered for any failure on the part of the management or the administration thereof.
6. A member appointed to the Board of Trustees under section 24(1)(e) or (f) of the Act shall cease to be a member of the Board of Trustees if the member— Vacation of office.
- (a) serves the Cabinet Secretary with a written notice of resignation;
 - (b) is absent from three consecutive meetings of the Board of Trustees without the permission of the chairperson;
 - (c) is convicted of a criminal offence and is sentenced to imprisonment for a term exceeding six months or a fine exceeding twenty thousand shillings;
 - (d) is adjudged bankrupt or enters into a composition scheme or arrangement with a creditor;
 - (e) is incapacitated by prolonged physical or mental illness from performing the duties of the office of a member of the Board of Trustees; or
 - (f) fails to comply with the provisions of the Trustee Act. Cap 167
7. (1) The Board of Trustees shall subject to the law relating to Trustees exercise all the powers necessary for the proper performance of its responsibilities under the Act. Powers of the Board of Trustees.
- (2) Without prejudice to the generality of paragraph (1), the Board may—

- (a) acquire, control, and supervise the funds and assets of the Fund in a manner that best promotes the objects for which the Fund is established;
- (b) formulate such policies and guidelines as may be necessary for the proper operations and management of the Fund and for any other matter concerning the Fund;
- (c) receive grants, gifts, donations or endowments and make legitimate disbursements from the Fund;
- (d) approve contracts, undertakings and other activities otherwise undertaken in the name of the Fund;
- (e) invest only such percentage of any funds of the Fund not immediately required for its purposes in the manner prescribed by the Cabinet Secretary responsible for matters relating to finance;
- (f) open and operate an account in the name of the Fund with a reputable bank, registered building society, or any reputable and registered financial institutions as provided in the Trustee Act;
- (g) carry out its functions in consultation with the Advisory Committee; and
- (h) exercise such other powers as may be conferred upon the Board of Trustees by the Act or any other written law.

Cap 167

8. Every member of the Board of Trustees in exercise of their duties shall—

Duties of members of the Board of Trustees.

- (a) observe the provisions of the Constitution and any written law in the performance of their duties under the Act and Regulations;
- (b) act in the best interests of the Fund and disclose any form of conflict of interest;
- (c) act in good faith and with integrity at all times;
- (d) exercise care and skill, due diligence in the conduct of the affairs of the Board of Trustees and demonstrate commitment in serving in the Board; and
- (e) protect the funds, property and assets of the Fund.

9. (1) The Board of Trustees shall meet not less than four times in every financial year to conduct its business and not more than three months shall lapse from the date of one meeting and the date of the next meeting.

Meetings of the Board of Trustees.

(2) Notwithstanding the provisions of subsection (1), the Chairperson may call a meeting at any time where it is considered expedient for the transaction of the business of the Fund, by giving to the members a written notice of not less than seven days.

(3) The quorum for the conduct of the meetings of the Board of Trustees shall be four members.

(4) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a simple majority of the votes of

the members present and voting, and in the case of an equality of votes, the chairperson or person presiding in that capacity shall have a casting vote.

(5) The Chairperson shall preside at every meeting of the Board and in the absence of the Chairperson, members shall elect one of the members to preside with respect to that meeting.

(7) The Board of Trustees may if it deems appropriate, co-opt any person whose expertise is required to attend deliberations of the Board but such person shall not have the right to vote.

(8) Subject to the Act, the Board of Trustees may regulate its own procedures at their meetings.

10. There shall be paid to the members of the Board of Trustees such allowances as determined and approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Remuneration of the Trustees.

11. (1) If a member of the Board of Trustees is present at a meeting of the Board of Trustees where any matter is the subject of consideration and in which matter the member, his spouse, immediate relative or associate is directly or indirectly interested, the member shall as soon as practicable after the commencement of the meeting, disclose such interest and shall not take part in any consideration or discussion, or vote on any question touching on such matter.

Conflict of interest.

(2) A disclosure of interest made under paragraph (1) shall be recorded in the minutes of the meeting.

(3) A member of the Board of Trustees who contravenes the provisions of paragraph (1) commits an offence and is liable under the Anti-corruption and Economic Crimes Act.

Act No. 3 of 2003.

12. (1) The Board of Trustees shall cause to be kept proper books of account and records in relation to the Fund and of all the undertakings, payments, dealings, the Fund's investments and property.

Accounts and Audit.

(2) The accounts of the Trust Fund shall be audited and reported upon in accordance with the Public Audit Act.

No. 34 of 2015

(3) The treasurer of the Board of Trustees shall be the mandatory signatory to all transactions and accounts operated by the Board of Trustees.

(4) The Board of Trustees shall within a period of three months after the end of each financial year, prepare, sign and submit to the Auditor-General—

- (a) a balance sheet showing in detail the assets and liabilities of the Fund;
- (b) a statement of income and expenditure of the Fund; and
- (c) such other statements of account as required by National and International Accounting and Audit Standards.

Dated the 27th July, 2020.

SIMON K. CHELUGUI,
Cabinet Secretary for Labour and Social Protection.