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THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE PUBLIC FINANCE MANAGEMENT (WILDLIFE
CONSERVATION TRUST FUND) REGULATIONS, 2023

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THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by Section 24 (4) of the Public Finance Management Act, 2012, the Cabinet Secretary for National Treasury and Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (WILDLIFE CONSERVATION TRUST FUND) REGULATIONS, 2023

PART I—PRELIMINARY

1. These Regulations may be cited as the Public Finance Management (Wildlife Conservation Trust Fund) Regulations, 2023. Citation.
2. In these Regulations, unless the context otherwise requires— Interpretation.
- “Administrator” means the person designated as the Administrator of the Fund under regulation 10;
- “beneficiary” means a legal entity that is a recipient of financial support from the Fund;
- “Governing Board” means the governing board of the Wildlife Conservation Trust Fund established under section 23(2) of the Wildlife Conservation and Management Act, 2013; No. 47 of 2013.
- “Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to finance;
- “ecosystem service” means any positive direct or indirect benefit that wildlife or environment provides to people;
- “Fund” means the Wildlife Conservation Trust Fund established under section 23(1) of the Wildlife Conservation and Management Act, 2013; and
- “grantee” means a person or institution to whom a grant is made out of the Fund.
3. The purpose of the Fund shall be as specified in section 23(4) of the Act. Purpose of the Fund.
- PART II—THE WILDLIFE CONSERVATION TRUST FUND
4. The initial capital for the Fund shall be two hundred million shillings provided out of the voted funds of the State Department for Wildlife in the 2020/2021 financial year. Initial capital.
5. (1) The funds paid into Fund shall be apportioned for the following purposes— Apportionment of funds.
- (a) wildlife conservation initiatives for terrestrial and marine national parks, national reserves, community conservancies and sanctuaries;
- (b) conservation of endangered and endemic species;
- (c) education awareness including advocacy for wildlife policies;

- (d) wildlife conservation and national wildlife research priorities; and
- (e) subject to subregulation 3, such other purposes as may be provided by the Governing Board.

(2) The funds apportioned under subregulation (1) shall be disbursed in accordance with the terms and conditions of the agreement between the Fund and the entity receiving the funds.

(3) Notwithstanding the provisions of subregulation (1), the Governing Board may, with the approval of the Cabinet Secretary, vary the apportionment of funds in subregulation (1) in favour of conservation and mitigation in any particular year.

PART III—MANAGEMENT OF THE FUND

6. The Governing Board of the Fund shall consist of the persons specified in section 23(2) of the Wildlife Conservation and Management Act, 2013 who shall serve as a public-private partnership in respect of the Fund.

Members of the Governing Board. No. 47 of 2013.

7. The Governing Board shall—

Functions of the Governing Board.

- (a) formulate the Fund's strategic direction including strategic plans, investment plans and policies;
- (b) set up administrative, governance and financial management structures of the Fund;
- (c) consider and approve the procedures relating to eligibility criteria, processes, and access to the Fund;
- (d) oversee the administration and management of the Fund;
- (e) supervise the performance of the chief executive officer of the Fund;
- (f) consider, review and approve the estimates of revenue and expenditure of the Fund for each financial year;
- (g) consider and approve the opening of a bank account or bank accounts for the purposes of the Fund and submit the proposal to open the bank account or bank accounts to the Cabinet Secretary for approval;
- (h) receive, review and approve statutory and management reports of the Fund before the reports are submitted to the Auditor-General, Cabinet Secretary, Commission for Revenue Allocation and Controller of Budget;
- (i) approve, monitor and evaluate the programmes and activities of the Fund;
- (j) set fundraising targets and mobilise resources for the Fund;
- (k) approve, with the concurrence of the Cabinet Secretary, the investment policy, investment plan and risk threshold of the Fund;

- (l) receive and review reports on the performance of the Fund and make recommendations thereon;
- (m) review the Fund's policies on the management of the Fund's assets, equipment and properties of the Fund;
- (n) approve the criteria for funding requirements; and
- (o) perform such other functions as may be necessary for the purpose of achieving the objects for which the Fund is established.

8. (1) There shall be a chief executive officer of the Fund who shall be competitively recruited and appointed by the Governing Board.

Chief executive officer of the Fund.

(2) A person shall be qualified to be appointed as the chief executive officer if that person—

- (a) is a Kenyan citizen;
- (b) possesses a Bachelor's degree from a university recognised in Kenya;
- (c) possesses at least ten years' relevant experience in financial management and resource mobilisation; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) A person is not qualified to be appointed as the chief executive officer if that person—

- (a) is a member of any legislature in Kenya;
- (b) has been adjudged bankrupt by a court of competent jurisdiction;
- (c) is a member of the governing body of a political party;
- (d) has been convicted of an offence the penalty of which is imprisonment for a term of at least six months without the possibility of a fine;
- (e) has been found to have violated any provision of the Constitution; or
- (f) has been removed from any public office because of a conviction for an offence or violation of the Constitution.

9. The chief executive officer shall serve for a term of three years and shall, upon satisfactory performance, be eligible for reappointment for only one further term of three years.

Tenure of the chief executive officer.

10. The chief executive officer shall be the Administrator of the Fund.

Administrator of the Fund.

11. (1) The chief executive officer shall, subject to the direction of the Governing Board, be responsible for the day-to-day management of the Fund.

Functions of the chief executive officer.

(2) The chief executive officer shall—

- (a) open and operate a bank account or bank accounts with the approval of the governing board and the Cabinet Secretary;
- (b) consult with the Governing Board on matters relating to the administration of the Fund;
- (c) cause to be kept proper books of account and records in relation to the Fund;
- (d) prepare, sign and submit to the Governing Board, in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund for consideration and approval;
- (e) prepare quarterly reports on financial and non-financial activities of the Fund in accordance with the provisions of the Act and as may be prescribed by the Public Sector Accounting Standards Board, and submit the reports to the Governing Board for approval and transmission to the Cabinet Secretary, the Auditor-General, Commission for Revenue Allocation and Controller of Budget;
- (f) be the custodian of the assets, equipment and property of the Fund;
- (g) engage the Fund's stakeholders to secure funding commitments;
- (h) develop, with the approval of the Governing Board, the operational and strategic documents of the Fund including strategic plans, communication materials, grant-making frameworks and operation manuals;
- (i) facilitate the recruitment or secondment of the staff of the Fund;
- (j) supervise and monitor utilisation of funds by beneficiaries and grantees;
- (k) communicate effectively and in a timely manner to the contributors and beneficiaries of the Fund;
- (l) provide leadership for the programmes and operations of the Wildlife Conservation Trust Fund; and
- (m) perform such other functions as directed by the Governing Board that may be necessary for the achievement of the objects for which the Fund is established.

12. (1) There shall be a secretariat of the Fund to be known as the Wildlife Conservation Trust Fund Secretariat which shall provide secretariat and support services to the Fund and shall be headed by the chief executive officer of the Fund.

Secretariat of the Fund.

(2) The Secretariat shall consist of such staff as the Governing Board may consider necessary for the proper performance of the functions of the Fund under these Regulations.

(3) The staff of the Fund shall be recruited and appointed by the Governing Board on such terms of service as may be determined by the

Governing Board on the advice of the Salaries and Remuneration Commission.

13. (1) The Governing Board shall establish a mechanism for evaluating proposals for funding for the purposes of these Regulations.

Disbursements to be made in accordance with funding agreements.

(2) The chief executive officer shall enter into funding agreements with beneficiaries and grantees who receive disbursements for the purposes of these Regulations from the Fund.

(3) The beneficiary or grantee to whom funds are disbursed under these Regulations, upon receipt of the funds, shall utilise those funds in accordance with the funding agreement.

(4) A beneficiary or grantee who enters into a funding agreement under this regulation shall return to the Fund any unutilised funds disbursed under these Regulations if—

- (a) the purpose for which the funds were disbursed was not undertaken;
- (b) the purpose for which the funds were disbursed was undertaken but the funds were not fully utilised;
- (c) savings have been realised as a result of a change in circumstances; or
- (d) any other circumstances that may result in the non-utilisation of the funds.

(5) Funds returned under subregulation (3) shall be recorded by the Administrator as receipts of the Fund.

(6) A beneficiary or grantee who fails to comply with the provisions of this regulation shall not be eligible to receive funds from the Fund until that beneficiary or grantee has fully complied with the provisions of this regulation or any other provision of these Regulations.

PART IV—FINANCIAL PROVISIONS

14. Subject to the provisions of the Act, relevant existing Government Regulations and procedures shall apply in the administration of the Fund's financial resources.

Application of Government Regulations and procedures.

15. The financial year of the Fund shall be the period of twelve months ending on the 30th June of every year.

Financial year of the Fund.

16. The Administrator shall prepare a work plan in respect of a financial year and submit it to the governing board for approval.

Preparation and submission of a work plan.

17. (1) The governing board shall submit quarterly and annual reports to the Cabinet Secretary responsible for matters relating to wildlife conservation.

Quarterly and annual reports.

(2) The reports under subregulation (1) shall contain—

- (a) in the case of a quarterly report, a summary of the proposals approved, rejected, or deferred by the governing board in the

preceding quarter as recommended by the Administrator and indicating the funding status of such proposals, if any;

- (b) in the case of an annual report, a summary of all the proposals that were received, approved, rejected and deferred, the reasons for thereof, and the funding status of any proposals that were approved, including any funds that have been paid back to the Fund;
- (c) a summary of the status of disbursements from the Fund for the implementation of any proposals financed out of the Fund;
- (d) any restrictions imposed on a non-compliant beneficiary or grantee;
- (e) information on the financial and non-financial performance of the Fund; and
- (f) such other relevant information that may inform the Cabinet Secretary responsible for wildlife as to the financial and non-financial performance of the Fund.

(3) The Board shall prepare and submit annual monitoring and evaluation reports for the Cabinet Secretary responsible for wildlife conservation.

18. The Administrator shall keep and maintain an accurate record of disbursements from and payments into the Fund which shall be updated at least once in every month.

Record of disbursements.

19. The administration costs of the Fund shall not exceed three per cent of the approved annual budget of the Fund.

Administration costs of the Fund.

20. (1) There shall be paid out of the Fund payments in respect of any expenses incurred in furtherance of the objects for which the Fund is established.

Expenditure of the Fund.

(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual work plans and cost estimates which shall be prepared by the Administrator and approved by the governing board at the beginning of the financial year to which they relate.

(3) Any revision of the approved annual work plans and of any cost estimate shall be referred to the governing board for approval subject to the provisions of the Act.

21. The Administrator may, with the approval of the governing board and the Cabinet Secretary, invest any funds of the Fund which are not immediately required for the Fund's purposes.

Investment of surplus funds.

22. All receipts, earnings and accruals to the Fund and the balance of the Fund at the close of each financial year shall be retained by the Fund for use for the purpose for which the Fund is established.

Retention of receipts, earnings and accruals.

23. (1) The Administrator shall prepare annual financial and non-financial reports in accordance with the provisions of the Act.

Annual reports.

(2) In addition to the reports prepared under subregulation (1), the Administrator shall prepare an annual general performance report of

the Fund that shall be submitted to the governing board together with the annual report under subregulation (1).

24. The accounts of the Fund shall be audited and reported on in accordance with the provisions of the Public Audit Act, 2015.

Audited accounts.
No. 34 of 2015.

PART V—MISCELLANEOUS PROVISIONS

25. No member of the governing board shall hold any interest in any property of the Fund otherwise than in the member's capacity as a member of the governing board nor receive remuneration nor be interested in the supply of work, goods or services to the Fund or any other non-pecuniary conflict of interest.

Conflicts of
interest.

26. (1) In the case of the winding up of the Fund, the winding up shall be undertaken in accordance with regulation 209 of the Public Finance Management (National Governments) Regulations, 2015.

Winding up of the
Fund.

L.N. 34/2015.

(2) Where the Fund is wound up, the cash balances shall be transferred to the Exchequer and the other assets of the Fund shall be transferred to the national government.

27. (1) On winding up of the Fund—

Effect of winding-
up of the Fund.

- (a) the Administrator of the Fund shall compile any valid outstanding obligations and commitments for payment;
- (b) the Administrator of the Fund shall pay any amount remaining in the Fund into the National Exchequer Account for the credit of the national government;
- (c) the Cabinet Secretary shall pay any deficit in the Fund from the funds of the national government in the National Exchequer Account with the approval of the National Assembly; and
- (d) assets, equipment and properties other than cash of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to wildlife conservation.

(2) Within three months after the decision to wind up the Fund, the Administrator of the Fund shall prepare final financial and non-financial statements of the Fund and submit them—

- (a) to the Cabinet Secretary responsible for matters relating to wildlife conservation; and
- (b) to the Auditor-General to be audited and reported on in accordance with the Public Audit Act, 2015.

No. 34 of 2015.

(3) Upon approval under paragraph (2) (a), the Administrator shall submit the final financial and non-financial statements to the Cabinet Secretary.

Made on the 6th December, 2023.

NJUGUNA NDUNG'U,
*Cabinet Secretary for the
National Treasury and Economic Planning.*