

THE CENTRAL BANK (AMENDMENT) BILL, 2012

A Bill for

AN ACT of Parliament to amend the Central Bank of Kenya Act and for connected purposes

ENACTED by the Parliament of Kenya, as follows —

Short title.

1. This Act may be cited as the Central Bank of Kenya (Amendment) Act, 2012.

Amendment Section 11 of Cap.491

2. Section 11 of the Central Bank of Kenya Act, in this Act referred to "the principal, Act", is amended —

(a) in subsection (1), by —

(i) deleting paragraph (i) and (ii) and substituting therefor the following Paragraphs —

(a) a Chairperson;

(b) a Governor.

(ii) deleting the word "five" appearing in paragraph (d) and substituting therefor the word "eight";

(b) in subsection (2), by inserting the words "chairperson and" immediately before the word "directors".

(c) by inserting the following new subsection immediately after subsection (2) —

(2A) The chairperson shall be appointed by the President through a transparent and competitive process and with the approval of Parliament, and shall hold office for a term of four years but shall be eligible for reappointment for one further term.

Amendment of section 12 of Cap.491.

3. Section 12 of the principal Act is amended by inserting a new subsection immediately after subsection

(1B) as follows —

(1C) The directors appointed under section 11(1)(d) shall elect one from amongst their number to preside at the meetings of the Board until a chairperson is appointed.

Amendment of section 13 of Cap.491.

4. The principal Act is amended by repealing section 13 and replacing it with the following new section-

Governor

13. (1) There shall be a Governor who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.

(2) The Governor shall hold office for a term of four years, but shall be eligible for reappointment for one further term of four years.

(3) The Governor shall be the chief executive officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank, including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board, and the Governor shall have authority to incur expenditure for the Bank within the administrative budget approved by the Board.

(4) .The Governor shall be the principal representative of the Bank and shall, in that capacity have authority -

- (a) to represent the Bank in its relations with other public entities, persons or bodies;
 - (b) to represent the Bank, either personally or through counsel, in any legal proceedings to which the Bank is a party;
 - (c) to sign individually or jointly with other persons contracts concluded by the Bank, notes and securities issued by the Bank reports, balance sheets, and other financial statements, correspondence and other documents of the Bank.
- (5) The Governor may delegate any of his powers provided for in this section to other officers of the Bank.

Insertion of new section in Cap.491.

5. The principal Act is amended by inserting the following new section immediately after section 13B —

Qualifications for Governor and Deputy Governor

13C. The Governor and Deputy Governors shall be fit and proper persons of recognized professional standing and over ten years' experience at senior management level in the field of economics, banking, finance, law or other fields relevant to the functions of the Central Bank.

(2) For the purposes of this section, "fit and proper" means possessing all the attributes to be taken into account in determining the suitability of a person to be appointed as Governor, including the person's general probity, competence and soundness of judgment for the fulfillment of the responsibilities of office and the diligence with which the person is likely to fulfill those responsibilities.

Amendment of section 14 of Cap.491.

6. Section 14 of the principal Act is amended —

(a) in subsection (1) by inserting the word

"Chairperson", immediately before the word "Governor";

(b) in subsection (2) by inserting the word "Chairperson" immediately before the word "Governor".

MEMORANDUM OF OBJECTS AND REASONS

The object of this bill is to amend the Central Bank of Kenya Act to provide the procedure for the appointment of the Chairperson of the board and set out the working relationship with the Governor and the Deputy Governors.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided for through the estimates.

Dated the 14th June, 2012.

ROBINSON GITHAE,

Minister for Finance.

Section 11 of Cap. 491 which it is intended to amend

11. (1) The Board shall consist of-

(i) a Chairperson;

(ii) a Governor;

(c) the Permanent Secretary to the Treasury or his representative who shall be a non-voting member;

(d) five other non-executive directors.

Section 13 of Cap. 491 which it is intended to amend

13. (1) There shall be a Governor who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.

(2) The Governor shall hold office for a term of four years, but shall be eligible for reappointment for one further term of four years.

(3) The Governor shall be the chief executive officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank, including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board, and the Governor shall have authority to incur expenditure for the Bank within the administrative budget approved by the Board.

(2) The Governor shall be the principal representative of the Bank and shall, in that capacity, have authority —

(a) to represent the Bank in its relations with other public entities, persons or bodies;

(b) to represent the Bank, either personally or through counsel, in any legal proceedings to which the Bank is a party;

(c) to sign individually or jointly with other persons contracts concluded by the Bank, notes and securities issued by the Bank, reports, balance sheets, and other financial statements, correspondence and other documents of the Bank.

(4) The Deputy Governor shall act for the Governor and shall exercise all the powers and shall perform all of the functions conferred on the Governor under this Act whenever the Governor is temporarily absent, and shall perform such other functions as the Governor may from time to time assign to him.

(5) The Governor may delegate any of his powers provided for in this section to other officers of the Bank.

Section 14 of Cap. 491 which it is intended to amend

14. (1) No person shall be appointed as Governor, Deputy Governor or a director who is —

(a) a member of the National Assembly, or a member of a local authority established under the Local Government Act;

(b) a salaried employee of any public entity (except on a secondment basis);

(c) a director, officer, employee, partner in or shareholder of any specified bank or specified financial institution:

Provided that —

(i) paragraph (b) shall not apply in the case of the representative of the Treasury; and

(ii) the President may in exceptional cases waive any of the above provisions with respect to any director (other than the Governor or Deputy Governor) if it is in the interests of the Bank and likely to promote the objects of the Bank under section 4.

(2) The President shall terminate the appointment of a Governor, Deputy Governor or a director who —

(a) becomes subject to any of the disqualifications described in subsection (1);

(b) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;

(c) is convicted of an offence involving dishonesty or fraud or moral turpitude;

(d) is adjudged or otherwise declared to be of unsound mind;

(e) is absent, without the leave of the Board from three consecutive meetings of the Board;

(f) becomes, for any reason, incapable or incompetent of properly performing the functions of his office:

Provided that the appointment of the Governor, 'shall not be terminated under this paragraph until the question of his removal from office has been referred to a tribunal appointed under subsection (3) and the tribunal has recommended to the President that the Governor ought to be removed for incapability or incompetence as aforesaid.