

LAWS OF KENYA

THE GOVERNMENT FINANCIAL MANAGEMENT ACT

CHAPTER 412B

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CHAPTER 412B

10 of 2006.

**THE GOVERNMENT FINANCIAL MANAGEMENT
ACT**

Date of Assent: 31st December, 2004

Date of Commencement: 1st November, 2005.

AN ACT of Parliament to provide for the management of government financial affairs, to make certain provisions with respect to the exchequer account and the Consolidated Fund, to provide for persons to be responsible for government resources and to provide for other related matters

ENACTED by the Parliament of Kenya as follows:-

PART I—PRELIMINARY

Short title and
commencement.
L.N. 126/2005.

1. This Act may be cited as the Government Financial Management Act, 2004 and shall come into operation on 1st November, 2005.

Definitions.

2. In this Act, unless the context otherwise requires-

“accounting officer” means an accounting officer appointed under section 17;

“Consolidated Fund” means the Consolidated Fund of Kenya established by the Constitution;

“exchequer account” means the exchequer account provided for under section 10;

“government” includes the commissions established under the Constitution and the courts;

“government money” means all money held by the government including any trust or other moneys held by a government officer in his official capacity, either alone or jointly with another person;

“government officer” includes any public officer or official or employee of the government;

“government revenue” means all revenue and receipts of the government; and

“receiver of revenue” means a receiver of revenue appointed under section 21.

PART II—OVERALL MANAGEMENT OF GOVERNMENT FINANCE

- 3.** The Minister shall manage the Consolidated Fund and be responsible for all matters relating to public financial affairs that are not assigned to any other Minister. Ministerial responsibility.
- 4.** The Treasury shall- Treasury duties.
- (a) establish procedures and systems for proper and effective management of government money and property;
 - (b) establish accounting procedures and systems for the government to properly account for government money and property;
 - (c) superintend the expenditure of government money to ensure that it can be properly accounted for;
 - (d) prepare and submit accounts for each financial year under the Public Audit Act, 2003 for audit by the Controller and Auditor-General; and No. 12 of 2003.
 - (e) ensure that the accounts prepared under paragraph(d) comply with the provisions of this Act.
- 5.** For the purposes of carrying out the duties of the Treasury, an officer of the Treasury, authorised for the purpose of this section, has the following powers- Treasury powers - government documents, etc.
- (a) the officer shall have access to all books, records, returns, reports and other documents of the government, including electronic documents, or to any government property; and
 - (b) the officer may require any government officer to provide explanations, information and assistance.
- 6.** (1) No expenditure involving a charge on the Consolidated Fund shall be incurred without the general or specific authority of the Treasury. Control of expenditures.
- (2) Notwithstanding any authority the Minister may have given, the Minister may limit or suspend an expenditure if, in the Minister’s opinion, the exigencies of the financial situation render such a limitation or suspension necessary.

Purchase and capacity of official vehicles for certain Government officers.

7. (1) Official vehicles purchased for use by Ministers, the Speaker of the National Assembly, the Chief Justice, the Attorney-General and the Head of the Public Service, shall not exceed 2600 cc for saloon cars and 3000 cc for 4 x 4 utility vehicles.

(2) Official vehicles purchased for use by Permanent Secretaries, Accounting Officers, Court of Appeal Judges, the Controller and Auditor-General, the Chairman of the Public Service Commission, the Chairman of the Electoral Commission of Kenya, Provincial Commissioners and the Commissioner of Police shall not exceed 2400 cc for saloon cars and 3000 cc for 4 x 4 utility vehicles.

(3) Official vehicles purchased for use by officers on Job Group R and above, High Court Judges and Chief Executives of state corporations shall not exceed 2000 cc for saloon cars and 2900 cc for 4 x 4 utility vehicles:

Provided that this section shall not apply in case of vehicles purchased for official use by the President and the Vice-President.

Treasury directions to government officers.

8. (1) For the purposes of carrying out its duties, the Treasury may issue directions to government officers with respect to the management of government financial affairs, including the management of government property.

(2) Directions issued by the Treasury shall be consistent with this Act and the regulations and, to the extent of any inconsistency, this Act and the regulations prevail.

(3) Subject to subsection (2) and without limiting the generality of subsection (1), the Treasury may issue directions relating to matters that are matters with respect to which the Minister may make regulations.

(4) Directions issued by the Treasury shall be published in the Gazette.

Required public service offices.
10 of 2006, s. 53.

9. (1) The following offices shall be established as offices in the public service-

- (a) the Accountant General;
- (b) the Director of the National Budget; and
- (c) the Internal Auditor-General.

(1A) A person shall be qualified for appointment-

(a) under subsection (1)(a) or (c) if such a person is registered as an accountant under the Accountants Act; or Cap. 531.

(b) under subsection (1)(b) if such a person has an advanced degree and professional experience in-

(a) economics;

(b) public finance;

(c) public policy;

(d) management, or

(e) accounting.

(2) The duties and functions of the offices established under subsection (1) shall be prescribed by regulation.

PART III—EXCHEQUER ACCOUNT AND CONSOLIDATED FUND

10. (1) There shall be an account, to be called the exchequer account, to hold the Consolidated Fund. Exchequer account.

(2) The exchequer account shall be kept only at the Central Bank of Kenya.

11. Except as provided under section 46 of the Central Bank of Kenya Act a bank at which the exchequer account is kept shall not allow the exchequer account to be overdrawn. Exchequer account not to be overdrawn. 10 of 2006, s. 54. Cap. 491.

12. A bank at which the exchequer account is kept shall render statements to the Treasury showing payments into and issues from the exchequer account, at such intervals and in such form as the Treasury may direct. Exchequer bank statements.

13. (1) All amounts that form the Consolidated Fund shall be paid into the exchequer account at such times and in such manner as the Treasury may direct. Payments into exchequer account. 10 of 2006, s. 55.

(2) Notwithstanding subsection (1)-

(a) a receiver of revenue may deduct amounts required for drawbacks, repayments or discounts before paying the gross revenues into the exchequer account;

(b) the Treasury may, from time to time, authorize receivers of revenue who are accounting officers to defray in the first instance, from revenue collected by them, expenditure for which they are accountable, and the amount of the revenue so expended shall be subsequently paid to the exchequer account from the moneys provided for such expenditure.

(2A) Where the Treasury directs that any revenue, shall be applied as an appropriation in aid of money provided by Parliament for any purpose, such revenue shall be deemed to be money provided by Parliament for that purpose, and shall be applied, audited and dealt with accordingly, and where it is not so used shall be paid into the exchequer account, and, where the revenue to be applied as appropriations-in-aid of money provided by Parliament for any purpose exceeds in a financial year, the amount sanctioned by Parliament to be applied to such purpose, the excess so realized shall be paid into the exchequer account.

(3) Notwithstanding the foregoing provisions of this section, the Treasury may allow an agent of the Government to retain revenue received by the agent to defray its expenses to the extent that such expenditures are authorized under the Constitution or another Act.

Cap. 422.

(4) Subsection (3) applies with respect to credits obtained outside Kenya under the External Loans and Credits Act but only if the credits are applied in the purchase of goods or services outside Kenya.

Issue from exchequer account.

14. (1) No amount shall be issued from the exchequer account except in accordance with this Act.

(2) An approval by the Controller and Auditor-General of a withdrawal from the Consolidated Fund described in section 15 or 16 together with a direction from the Treasury to issue the approved withdrawal is sufficient authority for a bank at which the exchequer account is held to issue amounts from the exchequer account in accordance with the approval and direction.

(3) The direction from the Treasury referred to in subsection (2) shall specify the bank account or accounts that the issued amounts shall be paid to and the bank at which the exchequer account is held shall pay the amounts in accordance with that specification.

Approval of withdrawals from Consolidated Fund.

15. (1) The Treasury may make a requisition for the approval of the Controller and Auditor-General to a proposed withdrawal from the Consolidated Fund authorised under-

(a) an Act appropriating amounts for a financial year; or

(b) the Constitution or an Act other than an Act appropriating amounts for a financial year.

(2) A withdrawal under the authority of an Act described in subsection (1)(a) is not authorised if the total of the proposed withdrawal and previously approved withdrawals would exceed the amounts appropriated for the financial year.

(3) A withdrawal under the authority of the Constitution or an Act described in subsection (1)(b) is not authorised if the total of the proposed withdrawal and previously approved withdrawals would exceed the total amounts authorised under the Constitution or Act up to the end of the month immediately following the month in which the requisition is made.

16. (1) The Treasury may make a requisition for the approval of the Controller and Auditor-General to a proposed withdrawal from the Consolidated Fund for the following investments-

Approval of withdrawals from Consolidated Fund for investments.

(a) an investment with a bank redeemable at call or upon notice not exceeding twelve months; or

(b) an investment authorized under the Trustee Act for the investment of trust funds.

Cap. 167.

(2) A withdrawal for an investment described in subsection (1) is authorised only if the Minister has authorized the investment.

(3) The proceeds of an investment described in subsection (1) shall be paid to the credit of the exchequer account.

PART IV — ACCOUNTING OFFICERS AND RECEIVERS OF REVENUE

17. (1) The Treasury shall appoint persons, to be known as accounting officers, to be responsible for accounting for such services, as the Treasury may specify, in respect of which money is appropriated by Parliament.

Accounting officers, appointment.

(2) In specifying the services in respect of which an accounting officer is appointed under subsection (1) the Treasury shall ensure that all the services for a ministry, department or commission are specified for the same accounting officer.

18. (1) An accounting officer is responsible to the Treasury to ensure that the resources of his ministry, department or commission are used in a way that is-

Responsibilities of accounting officers.

- (a) lawful and authorised; and
- (b) effective, efficient, economical and transparent.

(2) In carrying out his responsibilities under subsection (1), an accounting officer shall do the following in relation to his ministry, department or commission-

- (a) ensure that no expenditure is made unless it is lawful, authorised, effective, efficient and economical;
- (b) ensure proper financial and accounting records are kept;
- (c) ensure that any financial or accounting records kept in electronic format are adequately protected which shall include ensuring that such records are adequately backed-up and adequately protected against computer viruses;
- (d) prepare and submit accounts for each financial year under the Public Audit Act, 2003 for audit by the Controller and Auditor-General;
- (e) ensure that adequate arrangements are made for the management of liabilities;
- (f) ensure that all contracts are complied with;
- (g) ensure that all applicable procedures are followed in the acquisition or disposal of property and that adequate arrangements are made for the custody, safeguarding and maintenance of property;
- (h) bring any concerns he has that a proposed decision or policy originating from his ministry, department or commission may result in resources being used in a way that is unlawful, unauthorised, ineffective, inefficient, uneconomical or not transparent to the attention of the Minister responsible for the ministry, department or commission of the accounting officer and, if his concerns are not adequately addressed, bring them to the attention of the Treasury; and
- (i) perform such other duties as may be directed by the Treasury.

(3) For the purposes of this section the ministry, department or commission of an accounting officer is the ministry, department or commission that the services, in respect of which the accounting officer is appointed, are for.

No. 12 of 2003.

19. (1) If an accounting officer becomes aware that a government officer of his ministry, department or commission has done something improper, within the meaning of subsection (2), in relation to the resources of the ministry, department or commission of the accounting officer, the accounting officer shall either-

Discipline, reporting of government officers.

- (a) take the appropriate steps to discipline the government officer; or
- (b) if the accounting officer does not have the authority to discipline the government officer, report the government officer to a person who has the authority to discipline the government officer.

(2) For the purposes of subsection (1), a government officer does something improper if the government officer-

- (a) fails to comply with the law or a direction issued by the Treasury;
- (b) undermines any financial management procedures or controls; or
- (c) makes or permits an expenditure that is unlawful or unauthorised or that is not effective, efficient or economical.

(3) A person to whom a report is made under subsection (1)(b) shall take appropriate steps to discipline the government officer.

(4) If the accounting officer believes that a government officer may have committed an offence in relation to the resources of the ministry, department or commission of the accounting officer, the accounting officer shall, in addition to complying with subsection (1), report the offence to the police and to the Treasury.

(5) For the purposes of this section the ministry, department or commission of an accounting officer is the ministry, department or commission that the services, in respect of which the accounting officer is appointed, are for.

20. (1) If the Treasury becomes aware that an accounting officer has done something improper, within the meaning of subsection (2), the Treasury shall-

Discipline, reporting of accounting officers.

- (a) take the appropriate steps with respect to the accounting officer's appointment as an accounting officer which may

include revoking that appointment; and

(b) report the accounting officer to the person who has the authority to discipline the accounting officer.

(2) For the purposes of subsection (1), an accounting officer does something improper if the accounting officer-

(a) fails to comply with the law or a direction issued by the Treasury;

(b) undermines any financial management measures or controls; or

(c) makes or permits an expenditure that is unlawful or unauthorised or that is not effective, efficient or economical.

(3) A person to whom a report is made under subsection (1)(b) shall take appropriate steps to discipline the accounting officer.

(4) If the Treasury believes that an accounting officer may have committed an offence in relation to his duties as an accounting officer, the Treasury shall, in addition to complying with subsection (1), report the offence to the police.

Receivers of revenue,
appointment.

21. (1) The Treasury shall appoint persons, to be known as receivers of revenue, to be responsible for receiving and accounting for such government revenue as the Treasury may specify.

(2) In specifying the revenue in respect of which a receiver of revenue is appointed under subsection (1) the Treasury shall ensure that all the revenue for a ministry, department or commission are specified for the same receiver of revenue.

Responsibilities of
receivers of revenue.

22. (1) A receiver of revenue is responsible to the Treasury to ensure that the revenue in respect of which the receiver of revenue is appointed is collected, received and accounted for.

(2) In carrying out his responsibilities under subsection (1), a receiver of revenue shall prepare and submit accounts for each financial year under the Public Audit Act, 2003 for audit by the Controller and Auditor-General.

No. 12 of 2003.

Receipt of revenue
by government
officers.

23. (1) A government officer who receives government revenue but who is not a person authorised to collect it within the meaning of subsection (2) shall give the revenue to such an authorised person within

seven days after receiving the revenue.

(2) The following are persons who are authorised to collect revenue for the purposes of subsection (1)-

- (a) the receiver of revenue appointed in respect of the revenue;
- (b) a person authorised by the receiver of revenue to collect the revenue;
- (c) a person authorised by a person described in paragraph (b) to assist in the collection of the revenue by the person described in paragraph (b); and
- (d) the Kenya Revenue Authority in respect of the revenue it is authorized to collect under the Kenya Revenue Authority Act.

Cap. 469.

(3) The authorised person to whom government revenue is given by a government officer under subsection (1) shall give the government officer a receipt for the revenue.

24. (1) Government revenue from state corporations in the form of repayments of loans, interest on loans, dividends or other similar amounts, shall be revenue for the ministry responsible for finance.

Revenue from state corporations.

(2) The Investment Secretary shall be the receiver of revenue for the revenue described in subsection (1) and for that purpose shall be deemed to have been appointed under section 21.

(3) Notwithstanding section 21(2), the Treasury may appoint, under section 21, a different receiver of revenue for the ministry responsible for finance in respect of revenue other than the revenue described in subsection (1).

PART V—MISCELLANEOUS PROVISIONS RELATING TO GOVERNMENT FINANCIAL MANAGEMENT

25. (1) The following apply with respect to every appropriation by Parliament for a financial year-

Duration of appropriations.

- (a) the appropriation ceases to have effect at the end of the financial year; and
- (b) any appropriated amounts that have been withdrawn from the exchequer account but that have not been expended at

the end of the financial year shall be paid into the exchequer account.

(2) The application of this section is subject to any specific provision in an Act relating to an appropriation.

Special funds. **26.** (1) If moneys are appropriated by Parliament to establish a fund separate from the Consolidated Fund, the Minister may establish such a fund.

(2) Money in a fund established under this section may be expended for the purposes for which the fund was established.

(3) Unless the Treasury directs otherwise-

(a) earnings or accruals of a fund established under this section shall be retained in the fund; and

(b) section 25 does not apply to an appropriation for a fund established under this section.

(4) The Minister may, by order, wind up a fund established under this section and upon the winding up of such a fund any amounts remaining in the fund shall be paid into the exchequer account.

No. 12 of 2003. (5) A person administering a fund established under this section shall prepare and submit accounts for each financial year under the Public Audit Act, 2003 for audit by the Controller and Auditor-General.

(6) The Minister may make regulations governing funds established under this section.

Administration of money not for government purposes. **27.** Government money that does not form part of the Consolidated Fund because it was raised or received other than for government purposes shall be administered in accordance with the regulations under this Act.

Format of estimates. **28.** The format of the annual estimates of revenues and expenditures of the government shall be in accordance with the directions issued by the Treasury.

Reports on budgetary performance. **29.** (1) For each financial year, the Treasury shall prepare two reports on budgetary performance, the first report covering the first half of the financial year and the second report covering the entire financial year.

(2) A report on budgetary performance shall, for the period it covers, set out the actual expenditures and revenue for the period and compare them with the expenditures and revenues that had been budgeted for that period.

(3) The Minister shall lay each report on budgetary performance before the National Assembly.

(4) For the purpose of enabling the Treasury to prepare a report required under subsection (1) an accounting officer shall prepare a report on budgetary performance for his ministry, department or commission covering the same period as is required for the report prepared by the Treasury under subsection (1).

(5) Subsection (2) applies with respect to a report prepared under subsection (4).

(6) For the purpose of subsection (4) the ministry, department or commission of an accounting officer is the ministry, department or commission that the services, in respect of which the accounting officer is appointed, are for.

30. (1) No bank account for government purposes may be opened without the written authority of the Treasury. Bank accounts.
10 of 2006, s. 56.

(2) For greater certainty, the Treasury may authorise the opening of a foreign currency bank account.

(3) Except as provided under section 46 of the Central Bank of Kenya Act no bank shall allow a bank account for government purposes to be overdrawn. Cap. 491.

31. (1) An accounting officer may authorise the payment of a cash advance to a government officer to be used for payments made by the government officer in the course of his duties. Cash advances
(imprests).

(2) A government officer to whom a cash advance has been made shall account for the use of the cash advance.

(3) A government officer to whom a cash advance has been made shall surrender the cash advance in accordance with any requirement set out in any of the following-

(a) the documents used to apply for or authorise the cash advance;

(b) the directions issued by the Treasury;

(c) the regulations; or

(d) a written notice from the accounting officer.

(4) If a government officer fails to account for the use of a cash advance or fails to surrender it when required the following apply-

(a) the amount of the cash advance not accounted for or not surrendered shall become a debt owed by the government officer;

(b) the debt shall be subject to interest at the rate prescribed by regulation; and

(c) the debt and interest may be recovered from any salary or other amounts owed to the government officer.

Duties of government officers.

32. A government officer shall-

(a) comply with the provisions of this Act, the regulations and any directions issued by the Treasury;

(b) ensure that the resources within his area of responsibility are used in a way that is-

(i) lawful and authorised; and

(ii) effective, efficient, economical and transparent;

(c) ensure that, within his area of responsibility, no expenditure is made unless it is lawful, authorised, effective, efficient and economical;

(d) ensure that, within his area of responsibility, adequate arrangements are made for the custody, safeguarding and maintenance of property; and

(e) use his best efforts, within his area of responsibility, to prevent any prejudice to the financial interests of the government.

Personal liability for losses, etc.

33. A government officer is personally liable to the government for any losses or damages occasioned by any act or omission in contravention of section 32.

34. The admissibility, under section 38 of the Evidence Act, of an entry in a record kept in the performance of a duty under this Act extends to a printout of an entry in such a record kept in electronic format.

Admissibility - printouts from Cap. 80. electronic records.

PART VI—GENERAL

35. (1) The Minister may make regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality of the foregoing, may make regulations-

Regulations.

- (a) prescribing what constitutes proper financial and accounting records for the purposes of section 18 (2)(b);
- (b) requiring that financial and accounting records be retained for specified periods and governing the disposal of such records after the expiry of those specified periods;
- (c) governing how cash advances authorised under section 31 shall be dealt with by the government officers to whom the advances are made.

(2) The Minister shall take all proper steps to ensure that any regulations made under this section are brought to the notice of the persons directly affected by the regulations.

(3) Subject to subsection (2), it shall not be necessary to publish regulations made under this section in the Gazette.

(4) Section 34 of the Interpretation and General Provisions Act shall not apply in respect of regulations made under this section.

Cap. 2.

36. (1) No person shall-

Offence
obstruction, etc.

- (a) obstruct or hinder a person carrying out a duty or function under this Act or exercising a power under this Act;
- (b) knowingly deceive or mislead a person carrying out a duty or function under this Act or exercising a power under this Act; or
- (c) wrongfully destroy or conceal a record required under this Act, the regulations or the directions issued by the Treasury.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

Transitional provisions.

37. The provisions of the First Schedule shall apply.

Exchequer and Audit amendments.

38. The Exchequer and Audit Act is amended in the manner set out in the Second Schedule.

Other consequential amendments and repeals.

39. The Acts identified in the Third Schedule are amended or repealed as indicated in the Third Schedule.

FIRST SCHEDULE

s. 37

TRANSITIONAL PROVISIONS

Existing directions or instructions.
Cap. 412.

1. (1) A direction or instruction of the Treasury under the Exchequer and Audit Act in force immediately before this Act comes into operation shall, so far as it is not inconsistent with this Act, remain in force and be deemed to be a direction of the Treasury under section 8.

(2) A direction or instruction to which subsection (1) applies may be repealed or amended by the Treasury under section 8.

Existing appointments as accounting officer, etc.
Cap. 412.

2. An appointment under the Exchequer and Audit Act as an accounting officer or a receiver of revenue in force immediately before this Act comes into operation shall continue and be deemed to be an appointment under this Act.

Discipline and reporting - past acts.

3. Sections 19 and 20 apply with respect to improper acts that occurred before this Act comes into operation.

Government revenue previously received.

4. Section 23 applies with respect to government revenue received before this Act comes into operation, but a person by whom such revenue was received has until seven days after this Act comes into operation to comply with section 23(1).

Existing public funds.
Cap. 412.

5. A fund established under section 34 of the Exchequer and Audit Act shall be deemed to be a fund established under section 26.

SECOND SCHEDULE

s. 38

AMENDMENTS TO THE EXCHEQUER AND AUDIT ACT (CAP. 412)

Cap. 412.

1. This Schedule amends the Exchequer and Audit Act.

2. Section 2 of the Act is amended by deleting the definitions of “Consolidated Fund” and “exchequer account”.

3. Sections 3, 4 and 5 of the Act are deleted.

4. Section 6 of the Act is deleted.

5. Part IV of the Act, consisting of sections 10 to 17, is deleted.

6. Part VIII of the Act, consisting of sections 33 to 36, is deleted.

THIRD SCHEDULE

s. 39

CONSEQUENTIAL AMENDMENTS AND REPEALS

1.(1) This paragraph amends the Interpretation and General Provisions Act. Cap. 2.

(2) Section 3 (1) of the Act is amended by deleting the definition of “accounting officer” and substituting the following-

“accounting officer” means an accounting officer appointed under the Government Financial Management Act, 2004;

(3) Section 3 (1) of the Act is amended by deleting the definition of “receiver of revenue” and substituting the following-

“receiver of revenue” means a receiver of revenue appointed under the Government Financial Management Act, 2004;

2. The Paymaster-General Act is repealed. Cap. 413.

Definitions in section 2 of Cap. 412 which it is proposed to delete-

“Consolidated Fund” means the Consolidated Fund of Kenya (including the growing produce thereof) constituted by section 11;

“exchequer account” means the account provided for in section 10.

Sections 3, 4 and 5 of Cap. 412 which it is proposed to delete-

3. The Minister shall, subject to this Act, have the management of the Consolidated Fund and the supervision, control and direction of all matters relating to the financial affairs of Kenya which are not assigned to any other Minister by any other Act. Management of public finances.

Powers of Treasury.

4. (1) All persons concerned in the collection, receipt, custody and payment or issue of public moneys, stores, stamps, securities or other Government property shall obey all such instructions as they may from time to time receive from the Treasury in respect of public moneys, stores, stamps, securities or other Government property, or accounting for the same.

(2) The Permanent Secretary to the Treasury, or any officer in the Treasury authorised by him, shall be entitled to inspect all offices and to have such access to all official books, documents and other records as may be necessary for the exercise of the powers and duties of the Treasury under this Act.

(3) The Treasury shall so superintend the expenditure of public moneys as to ensure that proper arrangements for accounting to the National Assembly for such expenditure are made.



Control of expenditure and revenue.

5. (1) No expenditure involving a charge on the Consolidated Fund shall be incurred, and no sums due to the Consolidated Fund shall be remitted, without the general or specific authority of the Treasury.

(2) Notwithstanding any general or specific authority which may have been given by him, it shall be within the discretion of the Minister to limit or suspend any expenditure so authorised if in his opinion the exigencies of the financial situation render such limitation or suspension necessary.

Section 6 of Cap. 412 which it is proposed to delete-
Bank accounts.

6. No public or official account shall be opened in any bank without the authority of the Treasury in writing, and, except as provided in section 15, no bank shall permit an overdraft on any public or official account.

Part IV of Cap. 412 which it is proposed to delete-

PART IV — COLLECTION, ISSUE AND PAYMENT OF PUBLIC MONEYS

Exchequer account.

10. (1) An account styled the exchequer account shall be kept with such bank or banks as the Treasury shall from time to time determine.

(2) Subject to section 13, issues out of the exchequer account for the public service shall be made in accordance with orders directed by the Treasury to such bank or banks.

Consolidated Fund.

11. (1) All revenue, and the proceeds of all loans raised, shall be paid at such times and in such manner as the Treasury may direct, to the credit of the exchequer account, and the moneys so paid shall form the Consolidated Fund:

Provided that-

- (i) receivers of revenue may deduct such sums as may be required for drawbacks, repayments or discounts before paying the gross revenues into the exchequer account;
- (ii) the Treasury may, as it deem fit, from time to time authorise receivers of revenue who are accounting officers to defray in the first instance from revenue collected by them expenditure for which they are accountable, and the amount of such revenue so expended shall be subsequently paid to the exchequer account from the moneys provided for the purposes of such expenditure;
- (iii) where the Treasury directs that any revenue, whether received by way of fee, penalty or proceeds of sale, or by way of an extra or unusual receipt, shall be applied as an appropriation in aid of money provided by Parliament for any purpose, such revenue shall be deemed to be money provided by Parliament for that purpose and shall, without being paid into the exchequer account, be applied, audited and dealt with accordingly, and, so far as it is not in fact so applied, shall be paid into the exchequer account; and, where the revenue so directed to be applied as appropriations in aid of money provided by parliament for any purpose exceeds in a financial year the amount sanctioned by Parliament to be applied to such purpose, the excess so realized shall be paid into the exchequer account.

(2) Subsection (1) shall not apply to-

- (a) any borrowing, including deposits, due for repayment within five years, and any bank overdraft, which the Treasury directs to be paid into or raised in a public account other than the exchequer account; or
- (b) credit obtained outside Kenya under the External Loans and Credits Act and applied directly in the purchase of goods or services outside Kenya.

Cap. 422.

12. Statements showing payments into and issues from the exchequer account shall be rendered by every bank at which such an account is maintained to the Treasury and to the Controller and Auditor-General, at such intervals and in such form as the Treasury may direct.

Bank returns.

Granting of credits
on exchequer
account.

13. (1) The Controller and Auditor-General shall grant to the Treasury from time to time on their requisitions authorizing the grants-

- (a) if satisfied of the correctness thereof, credits on the exchequer account not exceeding the amounts becoming payable during the ensuing month for Consolidated Fund Services; and
- (b) credits on the exchequer account not exceeding in the whole the sums applied by appropriation Acts to the service of the financial year.

(2) Every credit granted under this section shall be sufficient authority to the bank designated therein to issue from the exchequer account, in accordance with the directions of the Treasury, the amount therein specified.

Issues from
exchequer account
to be paid into bank
account.

14. All issues from the exchequer account in terms of this Act shall be paid into such other bank account or accounts as the Treasury may direct.

Overdraft on
exchequer account.

15. The powers conferred by any general or specific Loans Act to borrow money by means of advances from a bank may be exercised by means of fluctuating overdraft on the exchequer account.

Issue from
Consolidated Fund.

16. No part of the Consolidated Fund shall be issued except under and in accordance with this Act.

Investment
of moneys in
Consolidated Fund.

17. (1) The Controller and Auditor-General shall grant to the Treasury from time to time, on their requisitions authorising the grants, credits on the exchequer account for investment with a bank either at call or subject to notice not exceeding twelve months or with the Joint Consolidated Fund or in any of the investments authorised by the Trustee Act for the investment of trust funds, provided he is satisfied that the Minister has authorised the investment in each case.

(2) When any such investment is realised, the proceeds shall be paid by the Treasury to the credit of the exchequer account.

(3) The Controller and Auditor-General shall grant to the Treasury from time to time, on their requisitions authorising the grants, credits on the exchequer account for temporary advances to the Paymaster-General up to and not exceeding the amount of funds currently on deposit with the Joint Consolidated Fund, for the payment to the exchequer account of sums received in the Joint Consolidated Fund due to be paid into the exchequer account in accordance with section 11 (1).

Part VIII of Cap. 412 which it is proposed to delete-

PART VIII—GENERAL

33. Unless special provision to the contrary is made in any appropriation Act, every appropriation by Parliament of public moneys for the service of any financial year shall lapse and cease to have any effect at the close of that year, and, except as otherwise provided in this Act, the unexpended balance of any moneys withdrawn from the exchequer account shall be surrendered to the exchequer account.

Duration of appropriation Act.

34. (1) Whenever moneys are appropriated by Parliament to establish funds, the Treasury may establish funds to which money so appropriated may be credited and from which moneys may be expended for the purposes for which the funds were established.

Establishment of funds.

(2) Unless the Treasury otherwise directs, and notwithstanding the provision of sections 11 and 32, neither the receipts, earnings or accruals of funds established in terms of this sections, nor the balances of such funds at the close of each financial year, shall be paid into the Consolidated Fund, but shall be retained for the purposes of such funds.

35. Nothing in this Act shall extend to abridge or alter the rights and powers of the President to control, suspend or prevent the execution of any process or proceeding for recovering money due to the Government.

Savings.

36. (1) The Minister may make regulations as may appear to him to be necessary or expedient for the proper carrying out of the intent and provisions of this Act.

Regulations.

(2) The Minister shall take all proper steps to ensure that any regulations made under this section are brought to the notice of the persons directly affected thereby, but subject as aforesaid it shall not be necessary to publish such regulations in the Gazette.

(3) Section 34 of the Interpretation and General Provisions Act shall not apply in respect of regulations made under this section.

Cap. 2.

Definitions in section 3 (1) of Cap. 2 which it is proposed to replace-

“accounting officer” means a person appointed to be an accounting officer within the meaning, and for the purposes, of the Exchequer and Audit Act.

[Subsidiary]

SUBSIDIARY LEGISLATION

L.N. 167/2006.

THE GOVERNMENT FINANCIAL MANAGEMENT (YOUTH ENTERPRISE DEVELOPMENT FUND) REGULATIONS, 2006

Citation.

1. These Regulations may be cited as the Government Financial Management (Youth Enterprise Development Fund) Regulations, 2006.

Interpretation.

2. In these Regulations-

“Advisory Board” means the Advisory Board constituted under regulation 5;

“financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Youth Enterprise Development Fund established under regulation 3;

“Minister” means the Minister for the time being responsible for youth affairs;

“officer administering the Fund” means the Permanent Secretary of the Ministry for the time being responsible for youth affairs; and

“youth” means any person aged between 18 and 35 years.

Establishment of the Fund.

3. (1) There is hereby established a Fund to be known as the Youth Enterprise Development Fund, in accordance with section 26 of the Act.

(2) The Fund shall consist of-

(a) monies appropriated by Parliament;

(b) grants and donations;

(c) income generated from the proceeds of the Fund.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the object and purpose for which the Fund is established.

Object and purpose of the Fund.

4. The object and purpose of the Fund is to-

(a) provide loans to existing micro-finance institutions (MFIs), registered non-governmental organisations (NGOs) involved in micro financing, and savings and credit co-operative organisations (SACCOs) for on-lending to youth enterprises;

[Subsidiary]

- (b) attract and facilitate investment in micro, small and medium enterprises oriented commercial infrastructure such as business or industrial parks, markets or business incubators that will be beneficial to youth enterprises;
- (c) support youth oriented micro, small and medium enterprises to develop linkages with large enterprises;
- (d) facilitate marketing of products and services of youth enterprises in both domestic and international markets; and
- (e) facilitate employment of youth in the international labour market.

5. (1) There shall be a Board to be known as the Advisory Board which shall consist of- Advisory Board.

- (a) a chairman, not being a public officer, appointed by the Minister, in consultation with the Minister for the time being responsible for Finance;
- (b) the Permanent Secretary of the Ministry for the time being responsible for youth affairs or his representative duly nominated by him in writing;
- (c) the Permanent Secretary of the Ministry for the time being responsible for Finance or his representative duly nominated by him in writing;
- (d) the Permanent Secretary of the Ministry for the time being responsible for trade and industry or his representative duly nominated by him in writing;
- (e) the Permanent Secretary of the Ministry for the time being responsible for labour and human resource development or his representative duly nominated by him in writing;
- (f) four persons with expertise and experience in financial management, venture capital fund management, or youth development, appointed by the Minister in consultation with the Minister for the time being responsible for Finance;
- (g) a person nominated by the National Youth Council, and appointed by the Minister;
- (h) Director in charge of youth development, who shall be the secretary.

(2) The Advisory Board shall manage the Fund and advise the Minister generally on the operations of the Fund.

[Subsidiary]

(3) A person shall not be appointed as chairman under paragraph (1)(a) unless that person-

- (a) is involved in youth matters;
- (b) holds a university degree, and has at least five years experience, in financial, business, or economic matters.

Initial capital of the Fund and additional contributions.

6. The initial capital of the Fund shall be Kshs. 1 billion appropriated by Parliament in the financial year 2006/2007, and additional contributions to the Fund, if considered necessary, shall be on the basis of appropriations.

Retention of receipts and earnings.

7. 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 purposes for which the Fund is established.

Expenditure on the Fund.

8. (1) The expenditure incurred on the Fund shall be on the basis of, and limited to, annual work programmes and cost estimates which shall be prepared by the officer administering the Fund, and approved by the Advisory Board, at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Advisory Board for approval.

Application of financial and procurement regulations.

9. Existing Government financial and procurement regulations and procedures shall apply in the administration of the Fund.

Administration of the Fund.

10. (1) The officer administering the Fund shall-

- (a) open and operate a bank account at a bank to be approved by the Minister for the time being responsible for Finance;
- (b) supervise and control the administration of the Fund;
- (c) consult with the Advisory Board on matters relating to the administration of the Fund;
- (d) cause to be kept books of accounts and other books and records in relation to the Fund of all activities and undertakings financed from the Fund;

No. 12 of 2003.

- (e) prepare, sign and transmit to the Controller and Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and showing the expenditure incurred from the Fund, and such details as the Minister for the time being responsible for Finance may from time to time direct, in accordance with the provisions of the Public Audit Act; and

(f) furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act.

[Subsidiary]
No. 12 of 2003.

(2) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year concerned.

11. In the event of winding-up of the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Government.

Closure of the Fund.

THE GOVERNMENT FINANCIAL MANAGEMENT (KENYA SLUM UPGRADING, LOW COST HOUSING AND INFRASTRUCTURE TRUST FUND) REGULATIONS, 2006

L.N. 168/ 2006.

1. These Regulations may be cited as the Government Financial Management (Kenya Slum Upgrading, Low Cost Housing and Infrastructure Trust Fund) Regulations, 2006.

Citation.

2. In these Regulations, unless the context otherwise requires-

Interpretation.

“Act” means the Government Financial Management Act, 2004;

No. 5 of 2004.

“financial agreement” means the final document and its annexure on the management of the Fund, signed between the Government of Kenya and any other person or institution;

“financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Kenya Slum Upgrading, Low Cost Housing and Infrastructure Trust Fund established under regulation 3;

“Minister” means the Minister for the time being responsible for matters relating to Housing and “Ministry” shall be construed accordingly;

“officer administering the Fund” means the accounting officer of the Ministry for the time being responsible for matters relating to housing;

“trustee” means a trustee of the Fund appointed under regulation 10.

3. (1) There shall be a Fund known as the Kenya Slum Upgrading, Low Cost Housing and Infrastructure Trust Fund.

Establishment of the Fund.

(2) The Fund shall consist of-

(a) monies appropriated by Parliament;

(b) grants or donations;

[Subsidiary]

(c) any monies from any other source provided for, generated, lent or donated to the Fund.

(3) The Fund shall include the amounts stipulated in the relevant financial agreements, protocols and memoranda of understanding.

Object and purpose of Fund.

4. The object and purpose of the Fund is to provide funds for slum upgrading, low cost housing and infrastructure programmes to support housing development.

Initial capital of the Fund.

5. The initial capital of the Fund shall be the sum of four hundred million shillings appropriated by Parliament in the 2006/2007 financial year.

Surplus and deficient funds.

6. (1) Any surplus funds realised in a financial year from the operations of the Fund shall be retained in the Fund and shall be used by the Fund for the purpose of the Fund.

(2) Any deficiency incurred in a financial year shall, subject to the prior approval of the Treasury be offset against the realized surplus held in the Fund.

Annual approval of budget.

7. (1) The expenditure on activities on housing development programmes shall be paid from the Fund and shall be on the basis of and limited to the annual work programs and cost estimates.

(2) The officer administering the Fund shall submit to the trustees the annual budget based on the annual work programs and cost estimates at least three months to the beginning of the related financial year for consideration and recommendation to the Minister for approval.

(3) The Minister shall consider and approve the budget before the beginning of the related financial year.

(4) Any revision of the approved budget-

(a) within the approved ceiling, shall be referred to the trustees for approval;

(b) above the approved ceiling, shall be referred to the Minister for approval.

Retention of receipts and earnings.

8. All receipts, earnings and accruals of the Fund and the balance of the Fund at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained by the Fund for the purposes of the Fund.

Administration of the Fund.

9. The Officer administering the Fund shall-

(a) supervise and control the administration of the Fund;

(b) consult with the trustees on matters relating to the administration of the Fund;

[Subsidiary]

- (c) impose conditions on the use of any expenditure authorised by him on his own behalf, and may impose any reasonable restriction or other requirement concerning use of expenditure;
- (d) cause to be kept proper books of accounts and other books and records relating to the Fund;
- (e) prepare, sign and transmit to the Controller and Auditor-General within three months after the end of each financial year a statement of accounts relating to the Fund for that year, in accordance with section 18 of the Act; and
- (f) engage such staff as may be necessary to assist in the management of the Fund.

10. (1) The trustees of the Fund shall comprise of-

Trustees.

- (a) the Permanent Secretary in the Ministry for the time being responsible for matters relating to housing or his duly appointed representative;
- (b) the Permanent Secretary to the Treasury or his duly appointed representative;
- (c) the Permanent Secretary in the Ministry for the time being responsible for matters relating to Local Government or his duly appointed representative;
- (d) the Head of the Department for the time being responsible for slum upgrading, low cost housing and infrastructure or his duly appointed representative;
- (e) the Secretary-General of the Association of Local Government Authorities of Kenya;
- (f) two representatives of private sector stakeholder organizations;
- (g) two representatives of non-governmental organizations and community based organizations;
- (h) two representatives of development partners.

(2) The trustees under paragraphs (f), (g) and (h) shall be appointed by the Minister for a period of three years renewable at the discretion of the Minister and the appointments shall conform to the following criteria-

- (a) not more than two-thirds of the appointments shall be from one gender; and
- (b) the persons appointed shall have knowledge and experience in matters relating to housing, slum upgrading, small and micro enterprise finance and development and mainstreaming of poverty reduction strategies in urban development.

[Subsidiary]

Trustees recommend amendments. 11. The trustees may, from time to time, recommend amendments to these Regulations.

L.N. 155/2007. **THE GOVERNMENT FINANCIAL MANAGEMENT (MEMBERS AND STAFF OF THE ELECTORAL COMMISSION CAR LOAN SCHEME FUND) REGULATIONS, 2007**

Citation and commencement. 1. These Regulations may be cited as the Government Financial Management (Members and Staff of the Electoral Commission Car Loan Scheme Fund) Regulations, 2007, and shall be deemed to have come into operation on the 1st July, 2007.

Interpretation. 2. In these Regulations, unless the context otherwise requires-

“Committee” means the Loans Approval Committee established under regulation 6;

“Commissioner” means a member of the Electoral Commission of Kenya;

“financial year” means the period of twelve months ending on the 30th June, in each year;

“Fund” means the Members and Staff of the Electoral Commission Car Loan Scheme Fund established under regulation 3;

“officer administering the Fund” means the Secretary to the Electoral Commission of Kenya; and

“staff” means an employee of the Electoral Commission of Kenya.

Establishment of the Fund. 3. (1) There is hereby established a Fund to be known as the Members and Staff of the Electoral Commission Car Loan Scheme Fund.

L.N. 46/2001. (2) The Fund shall be the successor to the Members of the Electoral Commission Car Loan Scheme Fund established under the Exchequer and Audit (Members of the Electoral Commission Car Loan Scheme Fund) Regulations, 2001 and all rights, duties and obligations of the Members of the Electoral Commission Car Loan Scheme Fund existing on the date of coming into operation of these Regulations shall be transferred to the Fund, and any reference to the Members of the Electoral Commission Car Loan Scheme Fund in a contract or document shall, for all purposes, be deemed to be a reference to the Fund established under this regulation.

Object and purpose of the Fund. 4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase of motor vehicles by Commissioners and staff.

Initial capital. 5. (1) The initial capital of the Fund shall be forty-four million shillings appropriated by Parliament in the 2000/2001 financial year.

[Subsidiary]

(2) All the monies of the Fund shall be paid into a special account operated by the officer administering the Fund.

6. (1) There is established a committee to be known as the Loan Approval Committee which shall consist of - The Loan Approval Committee.

- (a) the vice-chairman of the Electoral Commission of Kenya, who shall be Chairman;
- (b) the Permanent Secretary in the Ministry for the time being responsible for finance or his representative;
- (c) the Clerk of the National Assembly or his representative;
- (d) one Commissioner;
- (e) the Attorney-General or his representative; and
- (f) the Secretary of the Electoral Commission of Kenya, who shall be the Secretary.

(2) The Committee shall meet once every month or at such other time as may be necessary for the discharge of its duties.

(3) The quorum for meetings of the Committee shall be the chairman and any three members.

(4) The Committee shall consider and may approve loan applications presented by the officer administering the Fund.

7. (1) Any Commissioner or staff who wishes to apply for a loan from the Fund shall present to the officer administering the Fund a duly completed application form in such form as the Committee may prescribe. Operation of the Fund.

(2) The officer administering the Fund shall satisfy himself of each applicant's financial status and capacity to repay the loan applied for and where so satisfied shall forward the application form to the Committee for consideration.

8. (1) A loan approved by the Committee under the foregoing regulations shall be released from the Fund in such manner, taking into account the security of the funds, as may be prescribed by the Committee. Conditions for disbursement of funds.

(2) The log-book of a motor vehicle subject to a loan from the Fund shall be issued jointly between the Government and the Commissioner or staff receiving the loan and shall be kept in the custody of the officer administering the Fund until the loan is repaid in full by the Commissioner or staff.

(3) The officer administering the Fund shall issue a caveat prohibiting the transfer of the motor vehicle and shall notify the Registrar of Motor Vehicles accordingly.

[Subsidiary]

(4) The Registrar of Motor Vehicles shall confirm in writing to the officer administering the Fund, that a caveat issued under paragraph (3) has been entered and noted in the appropriate motor vehicle file in the registry of the Registrar of Motor Vehicles.

Loan amount for
Commissioner.

9. (1) The amount of loan which a Commissioner may receive shall be the value of the motor vehicle he proposes to purchase, subject to a maximum amount of two million shillings.

(2) For the purposes of these Regulations, the value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a used vehicle shall be as determined by a report from the body known as the Automobile Association of Kenya or a Government Department dealing with similar matters.

Interest rate.

10. (1) A loan granted to a Commissioner or staff under these Regulations shall carry an initial interest rate of three per cent per annum, which shall be subject to review from time to time by the Treasury.

(2) The interest charged under paragraph (1) shall be utilized to defray the administrative expenses of Fund.

Maximum loan and
deductions for staff.

11. (1) The maximum loan that may be given to a staff shall be one million shillings.

(2) No staff shall receive a loan the repayment of which shall result in a salary deduction exceeding forty per cent of the staff's monthly emoluments.

(3) A loan advanced to a staff shall be repaid over a maximum period of forty-eight months, or the remainder of the staff's term of office, whichever is less.

Loan repayment.

12. (1) A loan advanced under these Regulations shall be paid in full-

- (a) in the case of purchase of a new motor vehicle, over a maximum period of forty-eight months; or
- (b) in the case of purchase of a second hand vehicle, over a maximum period of thirty-six months; and
- (c) in both cases, (a) and (b) above, within the remaining term of office of the Commissioner or staff.

(2) No default in repayment shall be allowed by the Committee except in the event of *force majeure* in which case there shall be a grace period of not more than three months, after which the car which is subject to the loan shall be repossessed and sold to recover the balance of the loan.

(3) For the purposes of this regulation, the term of office of a Commissioner shall be deemed to be five years.

[Subsidiary]

13. (1) A Commissioner or staff shall take out a comprehensive insurance cover in respect of any vehicle purchased through the Fund. Insurance.

(2) Where a Commissioner or staff is unable to raise the funds required for the initial insurance premium, such funds may be advanced from the Fund subject to an approval limit, but subsequent annual premiums shall be paid by the Commissioner or staff concerned.

(3) A Commissioner or staff who is unable to pay the subsequent annual premiums referred to in paragraph (2) may apply to the Fund for a loan for such payment, which shall be repaid within a period of one year or, in the case of a Commissioner, the remainder of the Commissioner's term of office, whichever is less.

(4) Every loan granted under these Regulations shall be insured for the benefit of the Commissioner or staff and the premium in respect thereof shall be debited to the Commissioner's or staff's account.

14. (1) Upon full repayment of the loan, a Commissioner or staff shall receive from the Committee a signed loan discharge form in such form as the Committee may prescribe, which shall have the effect of discharging the Commissioner or staff from any further financial obligation in respect of the loan. Loan discharge.

(2) The Committee shall forward a copy of the loan discharge form referred to in paragraph (1) to the Registrar of Motor Vehicles.

15. (1) The officer administering the Fund shall-

Administration of the Fund.

- (a) supervise and control the administration of the Fund;
- (b) if he thinks fit, impose conditions on the use of any funds under his control and may impose any reasonable restriction or other requirement concerning such use;
- (c) approve such expenditure out of the Fund as may be necessary for the administration of the Fund pursuant to the provisions of these Regulations;
- (d) cause to be kept books of accounts and other books and records in relation to the Fund and the loans financed therefrom;
- (e) prepare, sign and transmit to the Controller and Auditor-General in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him, specifying the income of the Fund and showing the expenditure incurred from the Fund in such details as the Treasury from time to time direct in accordance with the provisions of the Public Audit Act, 2003.

No. 12 of 2003.

[Subsidiary]

No. 12 of 2003.

(f) furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act, 2003.

(2) Every statement of account made under this regulation shall indicate the financial status of the Fund as at the end of the financial year concerned.

Revocation of L.N. 46/2001.

16. The Exchequer and Audit (Members of the Electoral Commission Car Loan Scheme Fund) Regulations, 2001 are hereby revoked.

L.N. 172/2007.

THE GOVERNMENT FINANCIAL MANAGEMENT (COMMUNITY DEVELOPMENT TRUST FUND) REGULATIONS, 2007

Citation.

1. These Regulations may be cited as the Government Financial Management (Community Development Trust Fund) Regulations, 2007.

Interpretation.

2. In these Regulations, unless the context otherwise requires-

“Financial agreement” means the final document and its annextures on the management of the Fund, signed between the Government of Kenya and the Commission of the European Union or between the Government of Kenya and any other person;

“final document” means a legally binding document drawn in accordance with the Lome Convention and the enhancements provided under a memorandum of understanding between the Government of Kenya and the Commission of the European Union and the National Indicative Programme of Kenya or between the Government of Kenya and any other person;

“financial year” means the period of twelve months ending on the 30th June in each year;

“Founders” means the Government of Kenya and the Commission of the European Union;

“Fund” means the Community Development Trust Fund established under regulation 3;

“Lome Convention” means the Trade and Aid Agreement between the European Union and the African, Caribbean and Pacific Countries, first signed in February 1976 in Lome, Togo and any annexes and protocols thereto;

“Officer administering the Fund” means the accounting officer of the Ministry for the time being responsible for matters relating to the Fund;

“Project Management Unit” means the team responsible for the day to day operations of the Fund, recruited by the Trustees;

[Subsidiary]

“Rules and Regulations” means the rules and regulations governing the operations of the Fund;

“Trustee” means a person entrusted and jointly appointed by the Founders to operate the Fund.

3. (1) There shall be a Fund known as the Community Development Trust Fund. Establishment of the Fund.

(2) The Fund shall be the successor to the Community Development Trust Fund established under the Exchequer and Audit (Community Development Trust Fund) Regulations, 1996. L.N. 303/1996.

(3) Subject to these Regulations, all rights, duties and obligations of the Community Development Trust Fund existing at the commencement of these Regulations shall be transferred to the Fund and any reference to the Community Development Trust Fund in a contract or document shall, for all purposes be deemed to be a reference to the Fund established under sub-section (1).

(4) The Fund shall consist of-

(a) monies appropriated by Parliament for that purpose;

(b) grants or donations made to the Fund; or

(c) any monies from any other source provided for, lent or donated to the Fund.

4. The object and purpose of the Fund is to provide funds for development projects addressing basic needs of communities and individuals in Kenya. Object and purpose of the Fund.

5. (1) Any surplus funds realized in a financial year from the operations of the Fund shall be retained in a reserve account of the Fund and shall be used by the Trustees for the purpose of the Fund. Surplus and deficient funds.

(2) Any deficiency realized in a financial year shall, subject to the prior approval of the Treasury, be offset against the realized surplus held in the reserve account of the Fund.

6. (1) The expenditure on development projects shall be paid from the Fund and shall be on the basis of, and limited to, the annual work programs and cost estimates. Annual approval of the budget.

(2) The Project Management Unit shall submit to the Trustees, the annual work program and cost estimates at the beginning of the financial year to which the work program and cost estimates relate.

(3) Any revision of the approved annual work program and cost estimates shall be referred to the Trustees for fresh approval.

7. The Lome Convention in force and any other financial agreement shall govern the procurement of goods and services and the regulations and procedures on procurement of goods and services shall be adhered to. Procurement of goods and service.

[Subsidiary]

Retention of receipts and earnings. 8. All receipts, earnings and accruals of the Fund and the balance of the Fund at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained in a reserve account for the purposes of the Fund.

Administration of Fund. 9. The officer administering the Fund shall-

- (a) supervise and control the administration of the fund;
- (b) consult with the Trustees on matters relating to the administration of the Fund;
- (c) impose conditions on the use of any expenditure authorized by him on his own behalf, and may impose any reasonable restriction or other requirement concerning use of expenditure;
- (d) cause to be kept proper books of account and other books and records relating to the Fund; and
- (e) prepare, sign and transmit to the Controller and Auditor-General within three months after the end of each financial year, a statement of accounts relating to the Fund for that year, in such form as the Treasury may direct.

Revocation of L.N. 303/1996. 10. The Exchequer and Audit (Community Development Trust Fund) Regulations, 1996 are revoked.

L.N. 188/2007. **THE GOVERNMENT FINANCIAL MANAGEMENT (KENYA ENERGY-SECTOR ENVIRONMENT AND SOCIAL RESPONSIBILITY PROGRAMME FUND) REGULATIONS, 2007**

Citation. 1. These Regulations may be cited as the Government Financial Management (Kenya Energy-Sector Environment and Social Responsibility Programme Fund) Regulations, 2007.

Interpretation. 2. In these Regulations, unless the context otherwise requires-

 “financial year” means the period of twelve months ending on the 30th June in each year;

 “Fund” means the Kenya Energy-Sector Environment and Social Responsibility Programme Fund established under regulation 3; and

 “officer administering the Fund” means the Permanent Secretary of the Ministry for the time being responsible for matters relating to energy.

Establishment of the Fund. 3. (1) There is hereby established a Fund to be known as the Kenya Energy-Sector Environment and Social Responsibility Programme Fund.

 (2) The Fund shall consist of-

[Subsidiary]

- (a) monies appropriated by Parliament;
- (b) contributions from-
 - (i) Kenya Petroleum Refineries Limited;
 - (ii) Kenya Power and Lighting Company Limited;
 - (iii) Kenya Electricity Generating Company Limited (KEN-GEN);
 - (iv) Kenya Pipeline Company Limited;
 - (v) National Oil Corporation of Kenya Limited;
 - (vi) Electricity Regulatory Commission;
- (b) grants and donations;
- (c) income generated from the proceeds of the Fund.

4. The object and purpose of the Fund is to finance activities relating to— Object and purpose of the Fund.

- (a) the production of wood fuel, power distribution poles and energy crops for production of bio-fuels; and
- (b) growing of trees in order to conserve soil and preserve catchment areas for hydro-power dams, including provision of a sink for carbon dioxide generated through combustion of fossil fuels.

5. There shall be paid out the Fund payments in respect of any expenses incurred in pursuance of the object and purpose for which the Fund is established. Payments out of the Fund.

6. The expenditure incurred on the Fund shall be on the basis of, and limited to, annual work programmes and cost estimates which shall be prepared by the officer administering the Fund at the beginning of the financial year to which they relate. Expenditure on the Fund.

7. 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 purposes for which the Fund is established. Retention of receipts and earnings.

8. Existing Government financial and procurement regulations and procedures shall apply in the administration of the Fund. Application of financial and procurement regulations.

[Subsidiary]

Administration of the Fund.

9. (1) The officer administering the Fund shall-

- (a) open and operate a bank account at a bank to be approved by the Minister for the time being responsible for finance into which all the monies due to the Fund shall be paid;
- (b) supervise and monitor expenditures to ensure compliance with approved annual budgets;
- (c) cause to be kept books of accounts and other books and records in relation to the Fund of all activities and undertakings financed from the Fund;
- (d) prepare, sign and transmit to the Controller and Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and showing the expenditure incurred from the Fund, and such details as the Minister for the time being responsible for Finance may from time to time direct, in accordance with the provisions of the Public Audit Act, 2003; and
- (e) furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act, 2003.

No. 12 of 2003.

No. 12 of 2003.

(2) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year concerned.

Closure of the Fund.

10. In the event of winding up of the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Government.

THE GOVERNMENT FINANCIAL MANAGEMENT (WOMEN ENTERPRISE FUND) REGULATIONS, 2007

Citation.

1. These Regulations may be cited as the Government Financial Management (Women Enterprise Fund) Regulations, 2007.

Interpretation.

2. In these Regulations, unless the context otherwise requires-

“Advisory Board” means the Advisory Board constituted under regulation 5;

“financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Women Enterprise Fund established under regulation 3;

[Subsidiary]

“Minister” means the Minister for the time being responsible for women affairs;

“officer administering the Fund” means the Permanent Secretary of the Ministry for the time being responsible for women affairs; and

“women” means female persons aged eighteen years and above.

3. (1) There is hereby established a Fund to be known as the Women Enterprise Fund. Establishment of the Fund.

(2) The Fund shall consist of-

- (a) monies appropriated by Parliament;
- (b) grants and donations;
- (c) income generated from the proceeds of the Fund.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the object and purpose for which the Fund is established.

4. The object and purpose of the Fund is to-

Object and purpose of the Fund.

- (a) provide loans to credible micro-finance institutions (MFIs), registered non-governmental organisations (NGOs) involved in micro financing, and savings and credit co-operative organisations (SACCOs) for on-lending to women enterprises;
- (b) attract and facilitate investment in micro, small and medium enterprises oriented infrastructure such as business, markets or business incubators that will be beneficial to women enterprises;
- (c) support women oriented micro, small and medium enterprises to develop linkages with large enterprises;
- (d) facilitate marketing of products and services of women enterprises in both domestic and international markets; and
- (e) support capacity building of the beneficiaries of the Fund and their institutions through Divisional Women Enterprise Fund Committees.

5. (1) There shall be a Board to be known as the Advisory Board which shall consist of- Advisory Board.

- (a) a non-executive chairperson, not being a public officer, appointed by the President;

[Subsidiary]

- (b) the Permanent Secretary of the Ministry for the time being responsible for women affairs;
- (c) the Permanent Secretary of the Ministry for the time being responsible for finance;
- (d) the Permanent Secretary of the Ministry for the time being responsible for trade and industry;
- (e) the Permanent Secretary of the Ministry for the time being responsible for agriculture;
- (f) the Permanent Secretary of the Ministry for the time being responsible for planning and national development;
- (g) five persons with expertise and experience in enterprises development and financial management, appointed by the Minister.

(2) The members of the Advisory Board under paragraph (1) (b) (f) may attend in person or designate a representative to attend on their behalf.

(3) The Advisory Board shall oversee the management of the Fund and advise the Minister generally on the operations of the Fund.

(4) A person shall not be appointed as chairperson under paragraph (1) (a) unless that person-

- (a) is involved in women matters;
- (b) holds a university degree, and has experience in enterprise development and financial management.

Secretariat and Chief Executive of the Fund.

6. There shall be a secretariat of the Fund, headed by a Chief Executive, which shall be responsible for the day-to-day running of the affairs of the Fund, and the Chief Executive and staff of the secretariat shall be appointed competitively.

Initial capital of the Fund and additional contributions.

7. The initial capital of the Fund shall be Kshs.1 billion appropriated by Parliament in the financial year 2007/2008, and additional contributions to the Fund, if considered necessary, shall be on the basis of appropriations.

Retention of receipts and earnings.

8. 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 purposes for which the Fund is established.

Expenditure on the Fund.

9. (1) The expenditure incurred on the Fund shall be on the basis of, and limited to, annual work programmes and cost estimates which shall be prepared by the officer administering the Fund, and approved by the Advisory Board, at the beginning of the financial year to which they relate.

[Subsidiary]

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Advisory Board for approval.

10. Existing Government financial and procurement regulations and procedures shall apply in the administration of the Fund.

Application of financial and procurement regulations.

11. (1) The officer administering the Fund shall-

Administration of the Fund.

(a) open and operate a bank account at a bank to be approved by the Minister for the time being responsible for finance;

(b) supervise and control the administration of the Fund;

(c) consult with the Advisory Board on matters relating to the administration of the Fund;

(d) cause to be kept books of accounts and other books and records in relation to the Fund of all activities and undertakings financed from the Fund;

(e) prepare, sign and transmit to the Controller and Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and showing the expenditure incurred from the Fund, and such details as the Minister for the time being responsible for Finance may from time to time direct, in accordance with the provisions of the Public Audit Act, 2003; and

No. 12 of 2003.

(f) furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act, 2003.

No. 12 of 2003.

(2) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year concerned.

12. In the event of winding up of the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Government.

Closure of the Fund.

THE GOVERNMENT FINANCIAL MANAGEMENT (HEALTH SECTOR SERVICES FUND) REGULATIONS, 2007

L.N. 401/2007.

1. These Regulations may be cited as the Government Financial Management (Health Sector Services Fund) Regulations, 2007.

Citation.

2. In these Regulations, unless the context otherwise requires-

Interpretation.

[Subsidiary]

“Committee” means the respective Committee established under regulation 5;

“financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Health Sector Services Fund established under regulation 3;

“health facility” means a hospital, health centre, dispensary or nursing home and includes registered faith based health institutions;

“Minister” means the Minister for the time being responsible for matters relating to health;

“National Committee” means the Committee established under regulation 6;

“officer administering the Fund” means the accounting officer of the Ministry for the time being responsible for matters relating to health;

“user charges” means cost-sharing charges.

Establishment of the Fund.

3. (1) There is hereby established a Fund to be known as the Health Sector Services Fund.

(2) The Fund shall consist of-

- (a) Monies appropriated by Parliament for that purpose;
- (b) Grants or donations made;
- (c) Monies received as user charges;
- (d) Income generated from the proceeds of the Fund.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the object and purpose for which the Fund is established.

(4) Any expenditure incurred by a health facility on the Fund shall be on the basis of, and limited to, the annual allocation and the Authority to Incur Expenditure.

(5) The receipts, earnings, accruals and the balance of the Fund at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained for the purpose for which the Fund is established.

The objects and purposes of the Fund.

4. The objects and purposes of the Fund are to-

[Subsidiary]

- (a) Provide financial resources for medical supplies, rehabilitation and equipment of health facilities in the country;
- (b) Support capacity building in management of health facilities;
- (c) Support and empower rural communities to take charge of improving their own health;
- (d) Provide grants for strengthening of the faith based health facilities through their respective secretariats; and
- (e) Improve the quality of health care services in the health facilities.

5. (1) There are established Provincial Hospital Management Committees, District Hospital Management Committees, Sub-District Hospital Management Committees, Health Centre Management Committees and Dispensary Management Committees whose composition and functions are as specified in the Schedule. Health Facilities Management Committees.

(2) The Committees established under paragraph (1) shall exercise their specified functions in relation to such public health facilities as may, from time to time, be Gazetted by the Minister.

6. (1) There is hereby established a National Committee to be known as the National Health Services Committee. National Health Services Committee.

(2) The National Committee shall consist of-

- (a) a chairman, not being a public officer, appointed by the Minister;
- (b) the Permanent Secretary in the Ministry for the time being responsible for matters relating to health or his representative duly nominated by him in writing;
- (c) the Permanent Secretary in the Ministry for the time being responsible for finance or his representative duly nominated by him in writing;
- (d) the Director of Medical Services, who shall be the Secretary; and
- (e) three persons appointed by the Minister, of whom two shall be women and of whom-
 - (i) One who shall be appointed by virtue of his knowledge or experience in financial management;
 - (ii) One who shall be appointed by virtue of his experience in health care delivery management; and

[Subsidiary]

(iii) One who shall be appointed by virtue of his expertise and experience as a medical practitioner.

(f) A maximum of three other persons as the Committee may deem necessary to co-opt.

(3) A person shall not be appointed as chairman under paragraph (2) (a) unless that person-

(a) holds a university degree; and

(b) has at least five years experience in financial, business or economic management.

(4) The quorum at any meeting of the Committee shall be five members and the Committee shall meet four times in each financial year.

Functions of the Committee.

7. The National Committee shall-

(a) approve the work plans prepared by a health facility;

(b) ensure equitable distribution of resources to the health facilities; and

(c) review and approve annual expenditure statements of the health facilities.

Fees.

8. The fees payable as user charges under the cost-sharing programme, which shall be notified in the Gazette, shall be reviewed from time to time by the Minister in consultation with the Treasury.

Application of the financial and procurement regulations.

9. The existing Government financial and procurement regulations and procedures shall apply in the administration of the Fund.

Administration of the Fund.

10. The officer administering the Fund shall-

(a) supervise and control the administration of the Fund;

(b) open and operate a bank account at a bank approved by the Minister for the time being responsible for finance;

(c) develop a criteria for the allocation of funds for approval by the National Committee;

(d) prepare annual distribution of resources to facilities;

(e) if he thinks fit, in consultation with the National Committee, impose conditions on the use of the expenditure authorized by him or on his behalf and may impose any reasonable prohibition, restriction or other requirement concerning such use or expenditure;

[Subsidiary]

(f) institute prudent measures for the proper utilization for monies deposited in the Fund using suitable internal controls and appropriate mechanisms for accountability including audit of accounts by internal auditors of the Ministry responsible for matters relating to finance;

(g) cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the Fund and to any other activities and undertakings financed by the Fund;

(h) prepare, sign and transmit to the Controller and Auditor-General in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure incurred from the Fund, and such details as the Treasury may from time to time direct, in accordance with the provisions of the Public Audit Act;

No. 12 of 2003.

(i) furnish such additional information as he may be required that is proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act.

No. 12 of 2003.

11. In the event of winding up of the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to health.

Winding up of the Fund

12. (1) The Exchequer and Audit (Health Care Services Fund) Regulations, 1990 are revoked.

Revocation of L.N. 268/1990.

(2) On coming into operation of these Regulations, all the assets and liabilities of the Health Care Services Fund existing under the Exchequer and Audit (Health Care Services Fund) Regulations, 1990 shall be transferred to and vest in the Fund.

SCHEDULE

(r. 5)

COMPOSITION AND FUNCTIONS OF HEALTH FACILITIES MANAGEMENT COMMITTEES

Provincial Hospital Management Committee

1. The total membership of the Committee shall be at least seven and not more than nine members.

2. (1) The Committee shall consist of-

(a) a chairman appointed by the Minister from the members of the Committee;

(b) the area Provincial Commissioner or his representative;

[Subsidiary]

- (c) the Provincial Medical Officer of Health or his representative;
- (d) the person in charge of the health facility;
- (e) the person in charge of the municipal authority health facilities;
and
- (f) the following persons, who shall be residents of the area of jurisdiction, appointed by the Minister-
 - (i) one person who shall have knowledge and experience in finance and administration;
 - (ii) one person nominated by women groups;
 - (iii) one person nominated by faith based organizations; and
 - (iv) not more than two persons nominated by recognized community based development organizations, of whom one shall be a woman.

(2) A member of the Committee, apart from the ex-officio members, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(3) The Committee may, if necessary, appoint sub-committees that shall carry out specific functions.

(4) The Committee shall meet four times in each financial year and shall maintain records of its deliberations.

(5) The quorum for the meeting of the Committee shall be five of all the members including the secretary.

(6) The committee shall be responsible to the officer administering the Fund.

(7) The hospital administration shall provide the necessary secretarial services to the Committee.

Functions of the Committee.

3. The Committee shall-

- (a) supervise and control the administration of the funds allocated to the facility;
- (b) open and operate a bank account at a bank approved by the Minister for the time being responsible for finance;
- (c) prepare work plans based on estimated expenditures;

[Subsidiary]

- (d) cause to be kept basic books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility as prescribed by the officer administering the Fund;
- (e) prepare and submit certified periodic financial and performance reports as prescribed; and
- (f) cause to be kept a permanent record of all its deliberations.

DISTRICT HOSPITAL MANAGEMENT COMMITTEE OR
SUB-DISTRICT HOSPITAL MANAGEMENT COMMITTEE

1. The total membership of the Committee shall be at least seven and not more than nine members.

2. (1) The Committee shall consist of-

- (a) a chairman appointed by the Minister from the members of the Committee;
- (b) the area District Commissioner or his representative;
- (c) the District Medical Officer of Health or his representative;
- (d) the person in charge of the health facility;
- (e) the person in charge of the local authority health facilities; and
- (f) the following persons, who shall be residents of the area of jurisdiction, appointed by the Minister-
 - (i) one person who shall have knowledge and experience in finance and administration matters;
 - (ii) one person nominated by women groups;
 - (iii) one person nominated by the faith based organizations;
 - (iv) not more than two persons nominated by recognized community based development organizations of whom one shall be a woman.

(2) A member of the Committee, apart from the ex-officio member, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(3) The Committee may, if necessary, appoint sub-committees that shall carry out specific functions.

(4) The Committee shall meet four times in each financial year and shall maintain records of its deliberations.

[Subsidiary]

(5) The quorum for the meeting of the Committee shall be five of all the members including the secretary.

(6) The Committee shall be responsible to the officer administering the Fund.

(7) The hospital administration shall provide the necessary secretarial services to the Committee.

Functions of the committee.

3. The Committee shall-

- (a) supervise and control the administration of the funds allocated to the facility;
- (b) open and operate a bank account at a bank approved by the Minister for the time being responsible for finance;
- (c) prepare work plans based on estimated expenditures;
- (d) cause to be kept basic books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility as prescribed by the officer administering the Fund;
- (e) prepare and submit certified periodic financial and performance reports as prescribed; and
- (f) cause to be kept a permanent record of all its deliberations.

**HEALTH CENTRE MANAGEMENT COMMITTEE OR
DISPENSARY MANAGEMENT COMMITTEES**

1. The total membership of the Committees shall be at least seven and not more than nine members.

2. (1) The Committees shall consists of-

- (a) a representative from the provincial administration in the area of jurisdiction;
- (b) the person in charge of the health facility, who shall be the secretary;
- (c) the District Medical Officer of Health or his representative;
- (d) the person in charge of the local authority health facilities; and
- (e) the following persons, who shall be residents of the area of jurisdiction, appointed by the Minister or any other person authorized by him in writing-

[Subsidiary]

(i) one person who shall have knowledge and experience in finance and administration; and

(ii) four persons of whom two shall be women.

(2) The Committees shall appoint the chairman, who shall not be an ex-officio member, from any of the persons set out in sub-paragraph (1).

(3) A member of the Committees, apart from the ex-officio member, shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(4) The Committees may, if necessary, appoint sub-committees that shall carry out specific functions.

(5) The Committees shall meet four times in each financial year and shall maintain records of its deliberations.

(6) The quorum for the meeting of the Committees shall be five of all the members including the secretary.

(7) The Committee shall be responsible to the officer administering the Fund.

3. The Committee shall-

Functions of the Committees.

(a) supervise and control the administration of the funds allocated to the facilities;

(b) open and operate a bank account at a bank approved by the Minister for the time being responsible for finance;

(c) prepare work plans based on estimated expenditures;

(d) cause to be kept basic books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility as prescribed by the officer administering the Fund;

(e) prepare and submit certified periodic financial and performance reports as prescribed; and

(f) cause to be kept a permanent record of all its deliberations.

**THE GOVERNMENT FINANCIAL MANAGEMENT
(HUMANITARIAN FUND FOR MITIGATION OF EFFECTS AND
RESETTLEMENT OF VICTIMS OF POST-2007 ELECTION VIO-
LENCE) REGULATIONS, 2008**

L.N. 11/2008.

1. These Regulations may be cited as the Government Financial Management (Humanitarian Fund for Mitigation of Effects and Resettlement

[Subsidiary]

of Victims of Post-2007 Election Violence) Regulations, 2008.

2. In these Regulations, unless otherwise requires-

“Board” means the Advisory Board constituted under regulation 6;

“Fund” means the Humanitarian Fund for Mitigation of Effects and Resettlement of Victims of Post-2007 Election Violence established under regulation 3;

“Minister” means the Minister for the time being responsible for special programmes; and

“victim” means a person adversely affected by the post-2007 election violence as the Board may determine.

3. (1) There is hereby established a Fund to be known as the Humanitarian Fund for Mitigation of Effects and Resettlement of Victims of Post-2007 Election Violence.

(2) The object and purpose of the Fund is to provide *ex-gratia* funding for-

- (a) the re-settlement of persons displaced as a result of post-2007 election violence;
- (b) the replacement of basic household effects destroyed as a result of post-2007 election violence;
- (c) enabling the victims of the post-2007 election violence re-start their basic livelihood;
- (d) the reconstruction of basic housing, rehabilitation of community utilities and institutions destroyed as a result of post-2007 election violence.

4. The Fund shall consist of-

- (a) monies appropriated by Parliament;
- (b) grants and donations.

5. The initial capital of the Fund shall be Kshs. 1 billion.

L.N. 17/2008.

6. (1) There is hereby established a Board to be known as the Advisory Board which shall consist of-

- (a) the Permanent Secretary of the Ministry for the time being responsible for special programmes;
- (b) the Permanent Secretary of Ministry for the time being responsible for Finance;

[Subsidiary]

(c) the Permanent Secretary of Ministry for the time being responsible for lands; and

(d) six other persons appointed by the President, one of whom shall be the chairperson.

(2) The Board shall-

(a) report to the Minister for the time being responsible for special programmes;

(b) advise the Minister generally for the effective operations of the Fund.

7. The expenditure incurred on the Fund shall be on the basis of work programmes and cost estimates which shall be prepared by the Permanent Secretary of the Ministry for the time being responsible for special programmes in consultation with the Board.

8. (1) The Permanent Secretary of the Ministry for the time being responsible for special programmes shall-

(a) open and operate a bank account at a bank to be approved by the Treasury;

(b) supervise and control the administration of the Fund;

(c) consult with the Board on matters relating to the administration of the Fund;

(d) cause to be kept books of accounts and other books and records in relation to the Fund of all activities and undertakings financed from the Fund;

(e) prepare, sign and transmit to the Controller and Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and showing the expenditure incurred from the Fund, and such details as the Minister for the time being responsible for finance may from time to time direct, in accordance with the provisions of the Public Audit Act, 2003; and

(f) furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act, 2003.

(2) Every statement of account shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund as at the end of the financial year concerned.

9. Existing Government financial, audit and procurement regulations and procedures shall apply in administration of the Fund.

[Subsidiary]

10. In the event of winding up of the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Government.

L.N. 46/2008.

**THE GOVERNMENT FINANCIAL MANAGEMENT
(PARLIAMENTARY MORTGAGE SCHEME FUND)
REGULATIONS, 2008**

Citation.

1. These Regulations may be cited as the Government Financial Management (Parliamentary Mortgage Scheme Fund) Regulations, 2008.

Interpretation.

2. In these Regulations, unless the context otherwise requires-

“borrower” means a person in receipt of a loan out of the Fund;

“Commission” means Parliamentary Service Commission established under the Constitution;

“Committee” means the Loans Management Committee established by regulation 6;

“financial year” means the period of twelve months ending on the 30th June of each year;

“Member” means a member of the National Assembly and includes a member of staff of the Commission;

“Officer Administering the Fund” means the Clerk of National Assembly;

“Fund” means the Parliamentary Mortgage Scheme Fund established by regulation 3;

“staff” means an employee of the Parliamentary Service Commission who is on permanent and pensionable terms of service;

Cap. 532.

“valuer” means a person registered as a valuer under the Valuers Act.

Establishment of the Fund.

3. There is hereby established a Fund to be known as the Parliamentary Mortgage Scheme Fund.

Objective of the Fund.

4. The objective of the Fund shall be to provide a loan scheme for the purchase, development, renovation or repair of residential property by members.

Capital of the Fund.

5. (1) The initial capital of the Fund shall be the sum of ninety million shillings which shall be paid out of Vote of National Assembly for the 2001/2002 financial year.

(2) Additional capital shall be appropriated in subsequent financial years so as to raise the total capital of the Fund to two billion shillings.

[Subsidiary]

(3) All the monies of the Fund shall be paid into an account operated by the Officer administering the Fund or a mortgage institution appointed under these Regulations.

6. (1) The administration of the Fund shall be carried out by the Loans Management Committee. Management of the Fund.

(2) The Loans Management Committee shall comprise of-

- (a) the vice-chairman of the Commission who shall be the chairman;
- (b) the chairman of the Member's Welfare Sub-Committee of the National Assembly;
- (c) the Government Chief Whip;
- (d) the Opposition Chief Whip;
- (e) the chairman of Staff Welfare Sub-Committee of the National Assembly;
- (f) the Clerk of the National Assembly;
- (g) the Permanent Secretary in the Ministry responsible for finance or a representative appointed by him or her in writing; and
- (h) the Attorney-General or a representative appointed by him or her in writing.

(3) The responsibilities of the Committee shall be to-

- (a) process applications for loans in accordance with the existing terms and conditions of borrowing;
- (b) liaise with the housing company (if any) to set up a revolving fund for the disbursement of the loans; and
- (c) supervise the day-to-day running of the Fund.

(4) The quorum for a meeting of the Committee shall be the chairman and any three members.

7. Notwithstanding regulation 6(3), the Commission may if it considers it appropriate to do so, appoint a mortgage institution to administer the Fund on its behalf. Commission may appoint mortgage institution.

8. (1) A member who wishes to apply for a loan from the Fund shall make such application to the Officer Administering the Fund in such manner as the Committee may prescribe. Utilization of loan monies.

[Subsidiary]

(2) A loan obtained under these Regulations shall be utilized for the purchase, development, renovation or repair of residential property for the occupation of the applicant and his or her immediate family:

Provided that a loan for development of residential property may be granted at the discretion of the Committee to a member who is in possession of a title deed to the land on which the development is intended to be carried out.

Disbursement
of loans for
development.

9. A loan granted for the development of residential property under these Regulations shall be released to the applicant in the following phases-

- (a) the first disbursement based on the value of the land on which the residential property is proposed to be developed; and
- (b) the subsequent disbursements based on the rate of completion of the various phases of development as certified by a qualified valuer at the cost of the applicant.

Application for loan.

10. (1) An application for a loan under these Regulations shall be accompanied by the following documents where appropriate-

- (a) copies of the designs of the proposed residential property duly approved by the local authority within whose area it is to be situated;
- (b) bills of quantities in respect of the proposed development, renovation or repair;
- (c) an official search of the title to the property intended to be purchased;
- (d) a certified copy of the sale agreement relating to the property.

(2) The applicant shall bear the cost of stamp duty and other legal fees.

(3) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the Commission.

Leasehold property.

11. Where the property intended to be purchased through a loan from the Fund is leasehold property, such loan shall be granted where the expiry date of such lease is at least forty-five years beyond the final loan repayment date.

Maximum loan
disbursement.

12. (1) The maximum loan to be granted under these Regulations to a member of the National Assembly shall be a sum equivalent to the member's net emoluments at the time of application multiplied by the number of months remaining for the life of that Parliament but subject to a maximum of forty-eight months.

Provided that-

- (a) loan granted to a member of the National Assembly under these Regulations shall not exceed the sum of fifteen million shillings;

[Subsidiary]

(b) the last twelve months of the final year of the life of Parliament shall not be taken into account when computing the remaining life of Parliament as such period shall be considered as an election year.

(2) A member of the National Assembly shall be required to give prior authority in writing for pension dues to be utilized to clear any outstanding debt in case the member loses the parliamentary seat before fully repaying the loan.

(3) The maximum loan entitlement for a member of staff of the Commission shall be equivalent, to a maximum of ten years house allowance payable to him, but subject to the number of years remaining before retirement or the cost of the property:

Provided that-

(a) such maximum amount shall not exceed the respective amounts set out in the second column of the Schedule in respect of members of staff of the designations of Job Group scales specified in the first column of that Schedule;

(b) for a member of staff to qualify for a loan, such member shall be required to be-

(i) confirmed in appointment and to have served for more than three years; or

(ii) on contract with the Parliamentary Service Commission with the relevant documentation duly completed.

(4) A loan granted to a borrower under these Regulations shall be funded at the rate of-

(a) ninety per centum of the value of the property, where such property is situated in Nairobi; and

(b) eighty per centum of such value where the property is situated in any other area, and the borrower shall be required to deposit the balance thereof with the Fund.

13. A loan granted under these Regulations shall be repayable-

Repayment of loan.

(a) within a maximum period of fifty-four months, for a member of Parliament, provided that the loan shall be fully paid on or before six months to the end of that Parliament; and

(b) within a period of fifteen years or the remaining period of service of the borrower, whichever is less, for a member of staff.

14. (1) The interest chargeable on a loan shall be three per centum per annum on a monthly reducing balance and this rate may be revised from time to time at the discretion of the Commission.

Interest on loans.

[Subsidiary]

(2) A mortgage institution appointed under regulation 7 to administer the Fund may charge an interest of not more than four per centum to cover management costs.

(3) The interest charged under paragraphs (1) and (2) of this regulation shall be met by the borrower.

Lien.

15. (1) The Commission shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property.

(2) The borrower shall-

(a) not mortgage, charge, surrender the lease, or sell or agree to sell or part with possession of the charged property or any part thereof without the prior written consent of the Commission;

(b) meet and pay all rates, rents, insurances and any other outgoings in respect of the property and send the proof of such payments to the Commission; and

(c) provide a transfer deed duly signed by the borrower and a letter authorizing the Commission to sell the property in case of default in payment.

(3) All residential properties purchased through the Fund shall be constructed of such material as may be acceptable to the Commission.

(4) During the loan repayment period, every borrower shall-

(a) ensure that the property is used for residential purposes only;

(b) maintain the property in a satisfactory state of repair; and

(c) not alter or make any structural alteration to the property, carry out any valuation, assessment, or investigation relating to the property or the title thereto, as the case may be, without the approval of the Commission.

(5) No borrower shall be eligible for more than one loan at a time or more than a total of two loans from the Fund.

(6) All legal documentation and disbursement of funds shall be supervised by the Officer Administering the Fund.

Mortgage insurance.

16. (1) A borrower shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by the Commission, the cost of which shall be paid out of the Fund and debited in such borrower's account.

[Subsidiary]

(2) The originals of all documents relating to property financed by a loan from the Fund shall be kept in safe custody by the Officer Administering the Fund.

17. The Commission may call in the loan and in default sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement or the covenant contained in the charge of the mortgage instrument.

Default in repayment.

18. (1) The Officer Administering the Fund shall-

Administration of the Fund.

- (a) supervise and control the administration of the Fund;
- (b) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use;
- (c) cause to be kept books of account and other records in relation to the Fund of all the loans financed from the Fund;
- (d) prepare, sign and transmit to the Controller and Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund, in such details as the Treasury may from time to time direct; and
- (e) furnish such additional information as may be required for examination and audit by the Controller and Auditor-General by or under any law.

19. The responsibilities of the mortgage institution, if any, appointed under these Regulations shall be-

Responsibilities of mortgage institution.

- (a) to operate individual accounts for each borrower, which shall provide details of recoveries of the loan;
- (b) to charge security on properties acquired through loans from the Fund to protect the interests of the Fund and act as custodian of such charges;
- (c) to disburse cheques for newly approved loans to various vendors, after the necessary documentation is completed by the Committee;
- (d) to pay all outgoings and issue demand notices where necessary to members through the officer administering the Fund;
- (e) upon repayment of the loan, interest and other expenses which may be outstanding, to discharge the charge and release the security documents to the borrower; and

[Subsidiary]

(f) upon default, to call in the loan and on behalf of the Commission sell the charged property by public auction or private treaty, in which event the Fund shall meet any shortfall between the loan outstanding and the proceeds of sale.

Supplementary terms. 20. These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the Commission and in the contract between the mortgage institution and the Commission.

Repeal of L.N. 21. (1) The Exchequer and Audit (Parliamentary Mortgage Scheme Fund) 117/2002. Regulations, 2002 are repealed.

(2) All the funds and other assets, rights, powers and liabilities which immediately before the coming into force of these Regulations, were vested in, imposed on or enforceable against the Fund repealed by paragraph (1) shall, by virtue of this paragraph, be vested in, imposed on or enforceable against the Fund.

SCHEDULE

r. 12(3)

Maximum Loan Entitlements for Members of Staff of the National Assembly

<i>Designation/Job Group Scale</i>	<i>Maximum entitlement</i>
Clerk of the National Assembly	Kshs. 10,000,000
PSC 15	Kshs. 10,000,000
PSC 14, 13 and 12	Kshs. 8,000,000
PSC 11, 10 and 9	Kshs. 6,000,000
PSC 8	Kshs. 5,000,000
PSC 7	Kshs. 4,000,000
PSC 6	Kshs. 3,500,000
PSC 5	Kshs. 3,200,000
PSC 4	Kshs. 2,800,000
PSC 3	Kshs. 2,500,000

L.N. 58/2009.

THE GOVERNMENT FINANCIAL MANAGEMENT (THE

LIVESTOCK RESTOCKING AND ENTERPRISES DEVELOPMENT

FUND) REGULATIONS, 2009

Citation. 1. These Regulations may be cited as the Government Financial Management (Livestock Restocking and Enterprises Development Fund) Regulations, 2009.

Interpretation. 2. In these regulations, unless the context otherwise requires-

“Board” means the Supervisory Board constituted under regulation 6;

[Subsidiary]

“Enterprise” means business ventures dealing in production, processing and marketing of livestock and livestock products;

“financial year” means the period of twelve months ending on the 30th of June in each year;

“Fund” means the Livestock Restocking and Enterprises Development Fund established under regulation 3;

“Minister” means the Minister for the time being responsible for livestock development;

“officer administering the Fund” means the Permanent Secretary of the Ministry for the time being responsible for livestock development;

“pastoral and agro-pastoral communities” means communities residing in the Arid and Semi-Arid Lands of Kenya whose main source of livelihood is livestock rearing;

“Restocking” means restoring livestock ownership where they have been lost through disaster.

3. (1) There is established a Fund to be known as the Livestock Restocking and Enterprises Development Fund. Establishment of the Fund.

(2) The Fund shall consist of-

- (a) monies appropriated by parliament;
- (b) grants and donations;
- (c) income generated from the proceeds of the Fund.

4. The object and purpose of the Fund is to provide-

Object and purpose of the Fund.

- (a) grants to livestock producers for emergency interventions;
- (b) loans to livestock producers and pastoralists for restocking after losses occasioned by calamities;
- (c) loans to Medium and Small Enterprises dealing in livestock and livestock products; and
- (d) credit facilities for livestock related micro-enterprises in pastoral and agro-pastoral areas.

5. The initial capital of the Fund shall be two hundred million shillings appropriated by Parliament and additional contributions shall be on the basis of approved estimates.

[Subsidiary]

Establishment and composition of the Board.

6. There is established a Board to be known as the Supervisory Board which shall consist of-

- (a) a chairman who shall be the Permanent Secretary of the Ministry for the time being responsible for Livestock Development;
- (b) the Permanent Secretary of the Ministry for the time being responsible for finance;
- (c) the Permanent Secretary of the Ministry for the time being responsible for Provincial Administration and Internal Security;
- (d) the Permanent Secretary of the Ministry for the time being responsible for Agriculture;
- (e) the Director of Veterinary Services;

Duties of the Board.

7. The Board shall-

- (a) through selection procedure, appoint Credit and Loans; Implementing Agencies under the Fund, from a network of qualifying institutions, thereafter referred to as financial intermediaries;
- (b) determine how much money is to be given out to each financial intermediary to be used as the basic credit or loan fund and the amount of agency fee to be paid to the financial intermediary;
- (c) manage the Fund and advise the Minister generally on the operation of the Fund.

Expenditure on the Fund.

8. (1) The expenditure incurred on the Fund shall be on the basis of, and limited to, annual work programmes and cost estimates which shall be prepared by the officer administering the Fund, and approved by the Board, at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programmes, and of any cost estimates, shall be referred to the Board for approval.

Retention of receipts and earnings.

9. 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 the purpose for which it is established.

Application of the financial and procurement regulations.

10. (1) Existing Government financial and procurement regulations and procedures shall apply in the administration of the Fund.

Administration of the Fund.

11. The officer administering the Fund shall-

- (a) supervise and control the administration of the Fund;

[Subsidiary]

- (b) consult with the Supervisory Board on matters relating to the administration of the Fund;
- (c) cause to be kept books of accounts and other books and records in relation to the Fund of all activities and undertakings financed from the Fund;
- (d) prepare, sign and transmit to the Controller and Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund. The statement shall be prepared in such a manner as the Treasury shall prescribe;
- (e) furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act.

No. 12 of 2003.

12. In the event of winding up the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Ministry for the time being responsible for livestock development.

Winding-up of Fund.

[Subsidiary]
L.N. 155/2009.

**THE GOVERNMENT FINANCIAL MANAGEMENT
(HOSPITAL MANAGEMENT SERVICES) REGULATIONS,
2009.**

Citation. 1. These Regulations may be cited as the Government Financial Citation.
Management (Hospital Management Services) Regulations, 2009.

Interpretation. 2. In these Regulations, unless the context otherwise requires-
Interpretation.

“Committee” means the respective Committee established under
regulation 5;

“financial year” means the period of twelve months ending on the 30th
June, in each year;

“Fund” means Hospital Management Fund established under regulation
3;

“hospital” means gazetted provincial, district or sub-district hospital
including registered faith based equivalent hospitals;

“Minister” means the Minister for the time being responsible for matters
relating to Medical Services;

“National Committee” means the National Hospital Services Committee
established under regulation 6;

“officer administering the fund” means the accounting officer of the
Ministry for the time being responsible for matters relating to Medical Services;
and

“user charges” means cost-sharing charges.

Establishment
of the Hospital
Management
Services. 3. (1) There is established a Hospital Management Services Fund
Establishment of the to consist of-

(a) monies appropriated by Parliament;

(b) grants or donations;

(c) monies received as user charges; and

(d) income generated from the proceeds of the services.

(2) The expenditure incurred by a medical facility on the services shall
be on the basis of, and limited to, the annual allocation or grants and authority
to incur expenditure.

[Subsidiary]

(3) The receipts, earnings, accruals and the balance of the services at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained by the respective hospitals or medical facility for the purpose for which the service is established.

4. The objects and purposes of the hospital services are to-

The objects and purposes of the Fund.

- (a) provide financial resources for medical supplies, rehabilitation and equipment of hospitals in the country;
- (b) support capacity building in management of hospitals;
- (c) give more powers to hospitals and medical facilities to plan and manage the resources under them; and
- (d) improve the quality of health care services in the hospitals.

5. (1) There are established Provincial, District and Sub-District Hospital Management Committees whose composition and functions are as specified in the Schedule.

Health Facilities Management Committees.

(2) The Committees established under paragraph (1) shall exercise their specified functions in relation to such public hospitals as may, from time to time, be Gazetted by the Minister.

6. (1) There is established a National Committee to be known as the National Hospital Services Committee.

National Hospital Services Committee.

(2) The National Committee shall consist of-

- (a) a chairman, not being a public officer, appointed by the Minister;
- (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to Medical Services or his representative duly nominated by him in writing;
- (c) the Permanent Secretary of the Ministry for the time being responsible for finance or his representative duly nominated by him in writing;
- (d) the Director of Medical services who, shall be the secretary; and
- (e) three persons of whom two shall be women appointed by the Minister and of whom-
 - (i) one who shall be appointed by virtue of his knowledge or experience in financial management;

[Subsidiary]

(ii) one who shall be appointed by virtue of his experience in medical care delivery management; and

(iii) one who shall be appointed by virtue of his expertise and experience as a medical practitioner

(f) one person nominated by a health non-governmental organizational network in Kenya appointed by the Minister; and

(g) one person nominated by religious hospital association or network in Kenya appointed by the Minister.

(3) A person shall not be appointed as chairman under paragraph (2) (a) unless that person-

(i) holds a university degree; and

(ii) has at least five years experience in financial, business, or economic administration matters.

Functions of National Committee.

7. The National Committee shall-

(a) approve the work plans prepared by the facilities;

(b) ensure equitable distribution of resources to the medical facilities; and

(c) review and approve annual expenditure statements.

Delegation of functions.

8. The National Committee may delegate its functions specified under Regulation 7 (a) to an appropriate person where it deems necessary.

Fee.

9. The fees payable as user charges under the cost-sharing programme, which shall be notified in the Gazette, shall be reviewed from time to time by the Minister in consultation with the Treasury.

Application of the financial and procurement regulations.

10. The existing Government Financial and Procurement Regulations and procedures shall apply in the administration of the Fund.

Administration of the Fund.

11. The Officer administering the Fund shall-

(a) prepare, sign and transmit to the Controller and Auditor-General in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure incurred from the Fund, and such details as the Treasury may from time to time direct, in accordance with the provisions of the Public Audit Act;

No.12 of 2003.

[Subsidiary]

(b) furnish such additional information as he may be required that is proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act;

No.12 of 2003.

(c) develop the criteria for the allocation of funds for approval by the National Committee;

(d) prepare annual distribution of resources by hospitals;

(e) if he thinks fit, in consultation with the National Committee, impose conditions on the use of expenditure authorized by him or on his behalf and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure;

(f) institute prudent measures for the proper utilization for monies deposited in the Fund using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors of the Ministry responsible for matters relating to finance;

(g) cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the Fund and to any other activities and undertakings financed by the Fund.

12. In the event of winding up of the Services, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the ministry for the time being responsible to the matters relating to Medical Services.

Winding up of the Fund.