

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM FOR THE PUBLIC FINANCE MANAGEMENT (WILDLIFE CONSERVATION TRUST FUND) REGULATIONS, 2024

PART I

Name of instrument: Public Finance Management (Wildlife Conservation Trust Fund) Regulations, 2024.

Name of Parent Act: The Public Finance Management Act (*No. 18 of 2012*).

Enacted Pursuant to: Section 24(4) of the Public Finance Management Act, 2012

Section 23 (2) of the Wildlife Conservation and Management Act, 2013

Name of Ministry: The National Treasury & Economic Planning/Ministry of Tourism & Wildlife

Gazetted on: Subject to approval by the Cabinet

Tabled on: To be advised by the Clerk of National Assembly.

PART II

1. Purpose of the Statutory Instrument

The purpose of this Statutory Instrument is to operationalize a Fund to be known as **Wildlife Conservation Trust Fund** whose objects and purpose shall be to provide funds to support wildlife conservation in Kenya, and to:

- a. develop wildlife conservation initiatives
- b. manage and restore protected areas and conservancies;
- c. protect endangered species, habitats, and ecosystems;
- d. support wildlife security operations;

- e. facilitate community-based wildlife initiatives;
- f. award wildlife conservation grants based on criteria to be established by the governing board;
- g. develop wildlife conservation initiatives for terrestrial and marine national parks, national reserves, community conservancies and sanctuaries;
- h. conserve endangered and endemic species;
- i. provide education awareness including advocacy for wildlife policies;
- j. provide for wildlife conservation and national wildlife research priorities;
- k. support initiatives to mitigate human-wildlife conflict; and
- l. such other purposes as may be provided by the governing board.

2. Legislative Context

Section 23 (1) of the Wildlife Conservation & Management Act, 2013, provides for the establishment of the Fund. Other relevant statutes include the Wildlife Conservation and Management (Access and Conservation) (Fees) Regulations, 2023. The proposed Public Finance Management (Wildlife Conservation Trust Fund) Regulations, 2024, operationalize the Fund.

The National Assembly approved the duty to establish national public funds to the Cabinet Secretary responsible for finance under Section 24 (4) of the Public Finance Management Act, 2012.

The Regulations are therefore developed within the meaning of Section 24 (4) of the Public Finance Management Act 2012 and the procedure for public participation provided under the Statutory Instrument Act, 2013.

3. Policy Background

Wildlife resources contribute a substantial proportion of the country's earnings through tourism. This is because Kenya's wildlife, particularly the big five, are the most treasured unique selling point for the country's tourism.

Government intervention in wildlife conservation and management dates back to 1898, when the then British East African Protectorate enacted laws to control hunting and trade in wildlife and wildlife products. In 1945, the Royal National Parks of Kenya Ordinance was promulgated to provide for the establishment of national parks. Nairobi National Park was then established on 16th December 1946 as the first National Park for exclusive wildlife protection.

The first post-colonial wildlife policy in Kenya was Sessional Paper No.3 of 1975, titled '*A Statement on Future Wildlife Management Policy in Kenya*'. By the mid-eighties, it had become clear that further policy adjustments were necessary to help deal with the chronic challenges in the sector such as increased human-wildlife conflict, increased poaching, failure to achieve integrated wildlife management approaches, and loss of wildlife populations within and outside the protected areas.

In 1989, the Wildlife Act (Cap 376) and later Wildlife Conservation and Management Act, 2013 were enacted. These created the legal framework for the establishment of various conservation institutions including the Kenya Wildlife Service (KWS), the Wildlife Research and Training Institute (WRTI), Community Wildlife Conservation Committees (CWCC), the Wildlife Compensation Scheme, and the Wildlife Conservation Trust Fund.

In June 2020, the national government through the Ministry responsible for Wildlife developed a Sessional Paper No.01 of 2020 on Wildlife Policy that committed the government to;

- (a) designate wildlife as a strategic national resource and allocate adequate funding from the national budget;
- (b) include the economic value of wildlife in the national income accounting, planning, and budgeting;
- (c) promote retention of the benefits generated from wildlife and their habitats to develop and manage wildlife conservation areas;

- (d) establish a Fund to promote wildlife conservation and management;
- (e) promote access to innovative and sustainable utilization of wildlife as an economic incentive; and
- (f) mainstream wildlife resources into the frameworks of blue and green economies.

4. Source of funds for the Fund

The Fund shall consist of sums of money paid into the Fund from various sources including—

- (i) money appropriated by Parliament for purposes of the Fund;
- (ii) one percent (1%) of revenues realized from fees charged for entrance to parks, reserves, conservancies, and sanctuaries;
- (iii) a proportion of such money as may be levied for the payment of environmental services and biodiversity offsets by beneficiaries in productive and service sectors as a contribution;
- (iv) money secured from debt-for-nature swap transactions;
- (v) percentage of levies from bioprospecting activities and filming;
- (vi) innovative funding arrangements with the private sector;
- (vii) grants or donations from national, international and multi-lateral institutions for wildlife conservation;

5. Guidance

The National Treasury and Economic Planning and Ministry of Tourism & Wildlife shall sensitize the general public, conservation groups, and various stakeholders on the objectives of the Wildlife Conservation Trust Fund.

6. Stakeholder Consultations

The task force responsible for the preparation and development of the Regulations held targeted consultations with key stakeholders and their input was taken into account before the finalization of these draft Regulations.

Some of the key stakeholders engaged in the development of the Regulations include Community Wildlife Conservation Committees, Kenya Wildlife

Services, Wildlife Conservancies, local community, Development Partners, and County Governments.

In line with the provisions of Section 5 of the Statutory Instruments Act, 2014, the National Treasury together with the Ministry of Tourism & Wildlife will undertake public participation before publication of these Regulations.

The mode of public participation included the invitation of key stakeholders via an advertisement posted on the National Treasury website and published in the ***My Gov*** on 26th November 2024. Written submissions on the Regulations were sent to ps@treasury.go.ke and jona.wala@treasury.go.ke.

7. Impact Assessment

An impact assessment has been prepared for this statutory instrument and is appended in **Appendix II**.

8. Review

The National Treasury shall monitor the application of the Regulations. This shall be done through the quarterly and annual reports prepared by the Fund and forwarded to the National Treasury.

9. Contact

The contact person shall be the Cabinet Secretary or Principal Secretary, The National Treasury & Economic Planning.

Made on the....., 2024

HON. CPA JOHN MBADI NG'ONGO, CBS
Cabinet Secretary for the National Treasury & Economic Planning