

THE PUBLIC FINANCE MANAGEMENT ACT

(No.18 of 2012)

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

ARRANGEMENT OF REGULATIONS

Regulation

PART 1 PRELIMINARY

- 1-Citation
- 2-Interpretation
- 3-Purpose of the Fund

PART II – THE WILDLIFE CONSERVATION TRUST FUND

- 4-Initial Capital
- 5-Appportionment of funds
- 6-Sources of funds

PART III – MANAGEMENT OF THE FUND

- 7-Establishment of Fund
- 8-Members of the Governing Board
- 9-Functions of the Governing Board
- 10-Chief Executive Officer of the Fund
- 11-Tenure of the Chief Executive Officer
- 12-Administrator of the Fund
- 13-Functions – Chief Executive Officer
- 14-Secretariat of the Fund
- 15-Disbursements are to be made as per funding agreements

PART IV – FINANCIAL PROVISIONS

- 16-Application of government regulations and procedures
- 17-Financial year of the Fund
- 18-Preparation and submission of a work plan
- 19-Quarterly and annual reports
- 20-Record of disbursements
- 21-Administration costs of the Fund
- 22-Expenditure of the Fund
- 23-Investment of surplus funds
- 24-Retention of receipts, earnings, and accruals

25-Annual reports

26-Audited accounts

PART V – MISCELLANEOUS PROVISIONS

27-Conflicts of interest

28-Conflict resolution mechanism

29-Winding up of the Fund

30-Effect of winding up of the Fund

THE PUBLIC FINANCE MANAGEMENT ACT

(No.18 of 2012)

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

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

PART 1 PRELIMINARY

1. These Regulations may be cited as the Public Finance Management (Wildlife Conservation Trust Fund) Regulations, 2024. Citation

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

“Administrator” means the person designated as the Administrator of the Fund under Regulation 10;

“beneficiary” means a legal entity that is a recipient of financial support from the Fund;

“Governing Board” means the governing board of the Wildlife Conservation Trust Fund established under Section 23(2) of the Wildlife Conservation and Management Act, 2013;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to finance unless where specified;

“Ecosystem service” means any positive direct or indirect benefit that wildlife or the environment provides to people;

“Fund” means the Wildlife Conservation Trust Fund established as a body corporate under Section 23(2) of the Wildlife Conservation and Management Act, 2013;

“grantee” means a person or institution to whom a grant is made out of funds from the Fund.

3. The purpose of the Fund shall be as specified in Section 23(4) of the Wildlife Conservation Management Act, 2013. Purpose of the Fund

4. The initial capital for the Fund shall be two hundred million shillings provided out of the voted funds of the State Department for Wildlife in the 2020/2021 financial year. Initial Capital

5. The Fund shall consist of sums of money paid into the Fund from various sources including – Sources of Funds

- (i) money appropriated by Parliament for purposes of the Fund;
- (ii) one percent (1 %) of revenues realized from conservation;
- (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;
- (viii) philanthropic donations by individuals or private charities, legacy giving, and bequeath;
- (ix) income generated from investments of the Fund; and
- (x) any money accruing to or received by the Fund from any other source as may be approved by the Cabinet Secretary.

6. (1) The funds paid into Fund shall be apportioned for the following purposes among others as listed in Section 23(4) of the Wildlife Conservation and Management Act, 2013 –

- (a) wildlife conservation for terrestrial and marine national parks, national reserves, community conservancies and sanctuaries;
- (b) conservation of endangered and endemic species;
- (c) Education awareness including advocacy for wildlife research policies
- (d) Wildlife conservation and national wildlife research priorities; and
- (e) Support initiatives to mitigate human-wildlife conflict.

(2) The funds apportioned under sub-regulation (1) shall be disbursed

by a criterion on reporting and monitoring requirements to be determined by the Governing Board

(3) Notwithstanding the provisions of sub-regulation (1), the Governing Board may, with the approval of the Cabinet Secretary, reallocate resources based on the activities approved by the Board.

PART III – GOVERNANCE AND MANAGEMENT OF THE FUND

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

Members of
the Governing
Board No.47
of 2013

8. The Governing Board shall –

Functions of
the Board

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

- (n) approve the criteria for funding requirements.

9. (1) There shall be a Chief Executive Officer of the Fund who shall be competitively recruited and appointed by the Governing Board.

Chief
Executive
Officer of the
Fund

(2) A person shall be qualified to be appointed as the Chief Executive Officer if that person –

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

(3) A person is not qualified to be appointed as the Chief Executive Officer if that person –

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

10. The Chief Executive Officer shall serve for a term of three years and shall, upon satisfactory performance, be eligible for reappointment for only one further term of three years.

Tenure of the
Chief
Executive
Officer

11. The Chief Executive Officer shall be the Administrator of the Fund.

Administrator
of the Fund

12. (1) The Chief Executive Officer shall, subject to the direction of the Governing Board, be responsible for the day-to-day management of the Fund.

Functions of
the Chief
Executive
Officer

(2) The Chief Executive Officer shall -

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

13. (1) The Fund shall have a secretariat known as the Wildlife Conservation Trust Fund Secretariat, which shall provide secretariat and support services to the Fund and shall be headed by the Fund's Chief Executive Officer.

Secretariat of
the Fund

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

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

14. (1) The Governing Board shall establish a mechanism for evaluating proposals for funding –

Disbursements
are to be made
in accordance
with funding
agreements

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

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

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

(a) the purpose for which the funds were not undertaken;

(b) the purpose for which the funds were disbursed was undertaken but the funds were not fully utilized;

(c) savings have been realized as a result of a change in circumstances; or

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

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

(7) Grantees who fail to comply as per sub-regulation (6) shall be subjected to sanctions and penalties to be determined by the Board.

PART IV – FINANCIAL PROVISIONS

15. Further to the provisions of the Public Financial Management Act 2012, all relevant existing Government Regulations and procedures shall apply in the administration of the Fund’s financial resources.

Application of Government Regulations and Procedures

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

Financial year of the Fund

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

Preparation and submission of a work plan

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

Quarterly and annual reports

(2) The reports under sub-regulation (1) shall contain –

- (a) in the case of a quarterly report, a summary of the proposals approved, rejected, or deferred by the governing board in the preceding quarter as recommended by the Administrator and indicating the funding status of such proposals, if any;
- (b) in the case of an annual report, a summary of all the proposals that were received, approved, rejected, and deferred, the reasons for thereof, and the funding status of any proposals that were approved, including any funds that have been paid back to the Fund;
- (c) a summary of the status of disbursements from the Fund for the implementation of any proposals financed out of the Fund;
- (d) any restrictions imposed on a non-compliant beneficiary or grantee; and

information on the financial and non-financial performance of the Fund;

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

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

Record of disbursements

20. The administration costs of the Fund shall not exceed three percent of the approved annual budget of the Fund.

Administration costs of the Fund

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

Expenditure of the Fund

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

(3) Any revision of the approved annual work plans and of any cost estimate shall be referred to the Governing board for approval subject to the provisions of the Public Finance Management Act, 2012.

22. The Administrator may, with the approval of the governing board and the Cabinet Secretary responsible for matters of wildlife conservation, invest any funds of the Fund that are not immediately required for the Fund's purposes.

Investment of surplus funds

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

Retention of receipts, earnings, and accrual

24. (1) The Administrator shall prepare annual financial and non-financial reports in accordance with the provisions of the Public Finance Management Act, 2012.

Annual reports

(2) In addition to the reports prepared under sub-regulation (1), the Administrator shall prepare an annual general performance report of the Fund that shall be submitted to the governing board together with the annual report

under sub-regulation (1).

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

PART V – MISCELLANEOUS PROVISIONS

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

Audited
accounts
No.34 of

27. The Board will put in place a conflict resolution mechanism for anyone who does agree with the decision made by the Fund or penalties levied against any institution or grantee.

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

Conflict of
interest

(2) Where the Fund is wound up, the cash balances shall be

29. (1) On winding up of the Fund –

Winding up of
the Fund

(a) the Administrator of the Fund shall compile with any valid outstanding obligations and commitments for payment;

(b) the Administrator of the Fund shall pay any amount remaining in the Fund into the National Exchequer Account for the credit of the national government;

(c) the Cabinet Secretary shall pay any deficit in the Fund from the funds of the national government in the National Exchequer Account with the approval of the National Assembly; and

Effect of
winding up of
the Fund

(d) assets, equipment, and properties other than cash of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to wildlife conservation;

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

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

(3) Upon approval under paragraph (2) (a), the Administrator shall submit the final financial and non-financial statements to the Cabinet Secretary. No. 34 of 2023

30. The Public Finance Management (Wildlife Conservation Management Fund) Regulations, 2023 is hereby revoked

Dated2024

HON. CPA JOHN MBADI NG'ONGO, EGH
Cabinet Secretary for National Treasury and Economic Planning