



LEGAL NOTICE NO.....

THE PUBLIC FINANCE MANAGEMENT ACT, 2012
(No. 18 of 2012)

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

ARRANGEMENT OF THE REGULATIONS

PART I—PRELIMINARY

- 1—Citation
- 2—Interpretation
- 3—Objects of the Fund

PART II—THE WILDLIFE CONSERVATION TRUST FUND

- 4—Initial capital and sources of funds for the Fund
- 5—Apportionment of funds

PART III—MANAGEMENT OF THE FUND

- 6— Members of the governing board
- 7—Functions of the governing board
- 8—Administrator of the Fund
- 9—Functions of the Administrator
- 10—Secretariat support for the Administrator of the Fund
- 11—Disbursements to be made in accordance with funding agreements

PART IV—FINANCIAL PROVISIONS

- 12—Application of Government regulations and procedures
- 13—Financial year of the Fund
- 14—Preparation and submission of a work plan
- 15—Quarterly and annual reports
- 16—Record of disbursements

- 17—Administration costs of the Fund
- 18—Expenditure of the Fund
- 19—Investment of surplus funds
- 20—Retention of receipts, earnings and accruals
- 21—Annual reports
- 22—Audited accounts

PART V—MISCELLANEOUS PROVISIONS

- 23—Conflicts of interest
- 24—Winding up of the Fund
- 25—Effect of winding-up of the Fund

THE PUBLIC FINANCE MANAGEMENT ACT, 2012

(No. 18 of 2012)

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

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

PART I—PRELIMINARY

Citation. **1.** These Regulations may be cited as the Public Finance Management (Wildlife Conservation Trust Fund) Regulations, 2023.

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

“Administrator/C.E.O.” means the person designated as the Administrator/Chief Executive Officer of the Fund under sub regulation 10 and Section 24 (5) of the Public Finance Management Act, 2012;

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

No. 47 of 2013. “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 the finance;

“Fund” means the Wildlife Conservation Trust Fund established under Section 23 (1) of the Wildlife Conservation and Management Act, 2013 and Section 24 (4) of the Public Finance Management Act, 2012; and

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

Objects of the Fund. **3.** The purpose of the Fund shall be 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 established by the governing board; and
- (g) such other purposes as may be provided by the governing board.

PART II—THE WILDLIFE CONSERVATION TRUST FUND

Initial Capital and sources of funds for the Fund.

- 4.** The initial capital and sources of funds for the Fund shall be-
- (a) two hundred million shillings which has already been provided for out of the voted funds of the State Department for Wildlife in the 2020/2021 financial year being the initial capital.

The Fund shall consist of-

- (b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors;
- (c) moneys for payment of environmental services and biodiversity offset schemes;
- (d) moneys from debt-for-nature transactions;
- (e) income from investments; and
- (f) such grants, donations, bequests or other gifts as may be made to the Fund.

Apportionment of funds.

- 5. (1)** The funds paid into Fund shall be apportioned for the following purposes—
- (a) wildlife conservation initiatives for terrestrial and marine national parks and sanctuaries;
 - (b) wildlife conservation initiatives for terrestrial and marine national reserves;
 - (c) wildlife conservancies;
 - (d) national wildlife research priorities; and

(e) subject to sub regulation 5, such other purposes as may be provided by the governing board.

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

(3) Notwithstanding the provisions of sub regulation (1), the Cabinet Secretary may, on the recommendation of the governing board, vary the apportionment of funds in sub regulation (1) in favour of conservation and mitigation in any particular year.

PART III—MANAGEMENT OF THE FUND

Members of the governing board.
No. 47 of 2013.

6. The governing board of the Fund shall consist of the persons specified in Section 23 (2) of the Wildlife Conservation and Management Act, 2013.

Functions of the governing board.

7. The governing board shall—

- (a) set up administrative, governance and financial management structures of the Fund;
- (b) formulate the Fund's strategic direction and policies to achieve the objects for which the Fund is established with concurrence of the Cabinet Secretary responsible for Wildlife;
- (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 Administrator/C.E.O;
- (f) consider, review and approve estimates of revenue and expenditure of the Fund for each financial year;
- (g) consider and approve the opening of a bank account or bank accounts for the purposes of the Fund and submit the proposal to open the bank account or bank accounts to the Cabinet Secretary for approval;
- (h) receive, review and approve statutory and management reports of the Fund before the reports are submitted to the

Office of the Auditor-General, the National Treasury, Commission for Revenue Allocation and Controller of Budget;

- (i) approve, monitor and evaluate the programmes and activities of the Fund;
- (j) set fundraising targets and mobilise resources for the Fund;
- (k) approve, with concurrence of the Cabinet Secretary, the investment policy, investment plan and risk threshold of the Fund;
- (l) receive and review reports on the performance of the Fund and make recommendations thereon;
- (m) review the Fund's policies on the management of the Fund's assets, equipment and properties of the Fund;
- (n) approve the criteria for funding requirements; and
- (o) perform such other functions as may be necessary for the purpose of achieving the objects for which the Fund is established.

Administrator of the Fund.

8. There shall be an Administrator of the Fund who shall be the Chief Executive Officer responsible for matters relating to Wildlife Conservation Fund.

Functions of the Administrator.

9. (1) The Administrator/C.E.O shall, subject to the direction of the governing board, be responsible for the day-to-day management of the Fund.

(2) The Administrator/C.E.O shall—

- (a) open and operate a bank account or bank accounts with the approval of the governing board and the Cabinet Secretary;
- (b) supervise and control the administration of the Fund;
- (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 Public Finance Management Act, 2012 and as may be prescribed by the Public Sector Accounting Standards Board and submit the report 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 assets, equipment and property of the Fund;
- (h) engage the Fund's stakeholders to secure funding commitments;
- (i) develop, for the approval of the governing board, the Fund's operational and strategic documents including strategic plans, communication materials, grant-making frameworks and operation manuals;
- (j) facilitate the recruitment or secondment of the Fund staff;
- (k) supervise and monitor utilisation of funds by beneficiaries and grantees;
- (l) communicate effectively and in a timely manner to the contributors and beneficiaries of the Fund; and
- (m) perform such other functions as directed by the governing board that may be necessary for the achievement of the objects for which the Fund is established.

Secretariat
support for the
Administrator
of the Fund.

10. (1) There shall be a secretariat to be known as the Wildlife Conservation Trust Fund Secretariat which shall provide secretarial support services to the operations of the Fund and shall be headed by the Administrator 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.

Disbursements to be made in accordance with funding agreements.

11. (1) The Administrator/C.E.O with approval of the Board shall enter into funding agreements with beneficiaries and grantees who receive disbursements for the purposes of these Regulations from the Fund.

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

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

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

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

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

PART IV—FINANCIAL PROVISIONS

Application of Government Regulations and procedures.

12. Subject to the provisions of the Public Finance Management Act, 2012, relevant existing Government Regulations and procedures shall apply in the administration of the Fund's financial resources.

Financial year of the Fund.

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

Preparation and submission of a work plan.

14. The Administrator/C.E.O shall prepare a work plan in respect of a financial year and submit it to the governing board for approval.

Quarterly and annual reports.

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

(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;
- (e) information on the financial and non-financial performance of the Fund; and
- (f) such other relevant information that may inform the Cabinet Secretary responsible for wildlife as to the financial and non-financial performance of the Fund.

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

Record of disbursements.

16. The Administrator/C.E.O shall keep and maintain an accurate record of disbursements from and payments into the Fund which shall updated at least once in every month.

Administration costs of the Fund.

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

Expenditure of the Fund.

18. (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.

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

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

Investment of surplus funds.

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

Retention of receipts, earnings and accruals.

20. 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.

Annual reports.

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

(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).

Audited accounts.
No. 34 of 2015.

22. 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

Conflicts of interest.

23. 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.

Winding up of the Fund.

L.N. 34/2015.

24. (1) The life of the Fund shall be ten years and on the elapsing of that period, the Fund shall be wound up in accordance with regulation 209 of the Public Finance Management (National Government) Regulations, 2015.

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

Effect of winding-up of the Fund.

25. (1) On winding up of the Fund—

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

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

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

No. 34 of 2015.

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

Made on the, 2023

NJUNGUNA NDUNG’U, CBS
*Cabinet Secretary for
The National Treasury and Economic Planning*