

LEGAL NOTICE NO.....

THE PUBLIC FINANCE MANAGEMENT ACT, 2012

(No. 18 of 2012)

**THE PUBLIC FINANCE MANAGEMENT (NATIONAL DROUGHT EMERGENCY
FUND) REGULATIONS, 2017.**

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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 the National Treasury makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (NATIONAL DROUGHT EMERGENCY FUND) REGULATIONS, 2017.

PART 1—PRELIMINARY

Citation. **1.** These Regulations may be cited as the Public Finance Management (National Drought Emergency Fund) Regulations, 2017.

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

No. 4 of 2016. “Act” means the National Drought Management Authority Act, 2016;

No. 18 of 2012. “accounting officer” has the meaning as assigned to it under section 2 of the Public Finance Management Act, 2012;

“Board” means the Board of the National Drought Management Authority constituted under section 8 of the Act;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to Finance;

“County Drought Committee” means the County Drought Committee on Drought and Food Security constituted under regulation 20;

“disaster” means an unpredictable and quick-onset disruption of the functioning of a community or society causing widespread human, material, economic or environmental losses which exceed the ability of the affected community or society to cope using its own resources;

“drought” means a predictable and slow-onset disruption of the functioning of a community or society caused by periods of lower-than-normal precipitation;

“Financial year” means the period of twelve months ending on the thirtieth day of June in each year;

“financing agreement” means any document signed by the Government of Kenya, the Board and any donor, financial partner, financier or such other person, which provides for grant or other financing to the Fund;

“Fund” means the National Drought Emergency Fund established under section 18(1) of the Act;

“Fund bank account” means the Fund’s bank account opened under regulation 10(2) (a) and 37;

“Inter-governmental Technical Committee” means the Intergovernmental Technical Committee on Drought and Food Security established under regulation 19;

“National Steering Committee” means the National Drought and Food Security Steering Committee constituted under regulation 18.

“officer administering the Fund” means an officer designated as the administrator of the fund under regulation 10 (1).

PART II— ESTABLISHMENT AND ADMINISTRATION OF THE FUND

Establishment of the Fund.

3. There is established a Fund to be known as the National Drought Emergency Fund which shall be administered by the officer designated under regulation 10 with the overall guidance and supervision of the Board.

Capital of the Fund.

4. (1) The initial capital of the Fund shall be two billion shillings appropriated by Parliament in the financial year 2016/2017 upon coming into effect of these Regulations.

(2) The Fund shall be financed through the annual appropriations by National Assembly, private sector, donor support and global climate change and disaster risks financing facilities.

(3) All receipts, savings and accruals to the Fund and the balances thereof at the end of each financial year shall be retained by the Fund.

Sources of the Fund.

5. The sources of the Fund shall consist of—

- (a) such monies as may be appropriated by the National Assembly;
- (b) grants and donations ;
- (c) income generated from the proceeds of the Fund; and
- (d) any monies accruing to or received by the Fund from any other lawful source.

Object and purpose of the Fund.

6. Subject to section 18 (3) of the Act, the object and purpose for which the Fund is established is to—

- (a) improve the effectiveness and efficiency of the drought risk management system in the country;
- (b) facilitate resilience building, preparedness and timely response to drought during its different stages in order to reduce and minimise the negative effects of droughts;
- (c) to receive financial resources from development partners who support government on drought risk management interventions;
- (d) provide for—
 - (i) a common basket emergency fund in order to facilitate faster, transparent, predictable, and accountable release of Funds for drought risk management ;
 - (ii) funds for capacity and technical expertise development to improve on drought risk management systems; and
 - (iii) the establishment, management and coordination of programmes, projects or activities to further the foregoing objects and purposes.

Expenditure of the Fund.

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

(2) The expenditure on the Fund shall be on the basis of and limited to annual work programmes and cost estimates which shall be prepared by the administrator of the Fund and approved by the Board at the beginning of the financial year to which they relate.

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

(4) The expenditure of this Fund shall be based on projects and programmes approved by the Board.

(5) Funds provided under these Regulations shall not be used for the purpose of supporting political parties or entities.

Oversight role of the Board.

8. Pursuant to section 18 (1) of the Act, the Board of the National Drought Management Authority shall oversee the administration and management of the Fund.

Functions of the

9. (1) The functions of the Board relating to the oversight role and

Board.

administration of the Fund shall be to —

- (a) formulate policies to achieve the objects of the fund;
- (b) provide oversight on the administration and management of the Fund;
- (c) approve estimates of revenue and expenditure of the Fund for each financial year; and
- (d) receive, review and approve statutory and management reports of the Fund before submission to third parties;
- (e) approve the opening of any bank account of the Fund;
- (f) oversee timely and efficient disbursement of funds from the Fund to finance approved projects and programmes;
- (g) perform such other duties as may be considered necessary by the Cabinet Secretary responsible for matters relating to drought from time to time for the proper administration and management of the Fund and such a duty shall be assigned in writing.

(2) The conduct and regulation of the business and affairs of the Board shall be as provided under section 11 of the Act.

Administrator of the Fund.

10. (1) The Secretary of the National Drought Management Authority may be designated as the administrator of the Fund or any other person designated as such by the Cabinet Secretary in consultation with the Board.

(2) The administrator of the Fund shall—

- (a) open and operate a bank account at the Central Bank of Kenya or a bank to be approved by the National Treasury;
- (b) supervise and control the administration of the Fund;
- (c) consult with the Board and the Cabinet Secretary responsible for matters relating to drought on matters relating to the administration of the Fund;
- (d) cause to be kept proper 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 submit to the Board in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund for approval;
- (f) transmit to the Auditor-General the statement of accounts under paragraph (e), with a copy to the National Treasury and such a statement shall be prepared in the manner prescribed by the Public Sector Accounting Standards Board and audited in accordance with the Public Audit Act, 2015;
- (g) furnish additional information which is proper and

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sufficient for the purpose of examination and audit by the Auditor General in accordance with the provisions of the Public Audit Act, 2015; and

- (h) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Cabinet Secretary for gazettelement by the 21st of every fourth month.

(3) 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.

(4) Each year, five (5%) per centum of the annual budget of the Fund shall be set aside for the Fund Secretariat, of which not more than three (3%) per centum shall be allocated to all County Secretariat's and Committees expenditure in accordance with the set criterion by the Board.

Designation of Administrator of the Fund.

11. (1) Where the Cabinet Secretary designates any other person as the administrator of the Fund under regulation 10, that person shall be designated as provided under this regulation.

(2) A person shall be designated as the administrator of the Fund under this regulation if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has at least ten years' post-qualification experience;
- (c) has at least five years' experience in the relevant field; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) A person designated as the administrator of the Fund under this regulation, shall serve for one term of three years, renewable once.

(4) The administrator of the Fund shall only be subject to the directions of the Board and shall be responsible for the day to day administration of the affairs of the Fund including the staff of the secretariat of the Fund.

Vacancy in the office of the administrator of the Fund.

12. The office of the administrator of the Fund shall become vacant if the holder—

- (a) dies;
- (b) by notice in writing addressed to the Board resigns from office;
- (c) is convicted of an offence and sentenced to imprisonment for a term of more than six months without the option of a fine;
- (d) is absent from three consecutive meetings of the Board without good cause; or
- (e) is removed in accordance with the provisions of the Constitution.

Removal of the administrator of the Fund.

13. (1) The administrator of the Fund may be removed from office by the Board only on grounds of—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) bankruptcy; or
- (d) incompetence.

(2) Prior to removal under paragraph (1), the administrator of the Fund shall be –

- (a) informed, in writing, of the reasons for the intended removal; and
- (b) given an opportunity to put in a defence against any such allegations either in person or through an advocate.

(3) Where the Cabinet Secretary does not intend to designate the administrator of the Fund after the first term, the Cabinet Secretary shall notify the administrator of the Fund of such a decision at least three months before the expiry of the incumbent's term.

Secretariat of the Fund.

14. The secretariat of the National Drought Management Authority established under section 13 (1) of the Act shall be the secretariat of the Fund.

Staff of the Secretariat of the Fund.

15. (1) There shall be a secretariat of the Fund which shall comprise of the administrator of the Fund and staff of the Fund.

(2) The Board may designate the staff of the National drought Management Authority to be the secretariat of the Fund or recruit through a competitive process subject to the provisions of Article 234 (5) of the Constitution.

(3) The Board shall decentralise its services to the county level in so far as possible or as practicable to do so.

- (4) The Board shall ensure that in the appointment of its staff—
 - (a) not more than two-thirds of the staff shall be of the same gender;
 - (b) the regional and other diversity of the people of Kenya is taken into account; and
 - (c) persons with disabilities are afforded adequate and equal opportunities.

- (5) The staff of the Secretariat of the Fund shall –
 - (a) receive investment and contingency plans for review and recommendation to the Board for approval;
 - (b) receive and synthesis drought early warning information for early action;
 - (c) propose the triggers for the funds flow to the various drought stages to be financed from the Fund;
 - (d) propose the triggers for response plans for the activation of the response plans;
 - (e) oversee projects and programmes implemented through

- financing of the Fund;
- (f) establish sound and prudent public financial management systems for the administration of the Fund;
- (g) coordinate monitoring and evaluation of projects financed from the Fund;
- (h) prepare regular communication messages regarding drought risk management with regard to the Fund; and
- (i) maintain proper records of the Fund .

Functions of the secretariat.

16. (1) The secretariat shall —

- (a) be responsible for the day to day administration and management of the Fund;
- (b) develop a predictable , transparent and accountable financial internal control systems for the Fund;
- (c) prepare and submit for approval by the Board estimates of revenue and expenditure, annual work programmes and costs estimates, annual procurement plans and annual cash flow plans;
- (d) implement projects, programmes and coordinate the realization of the objectives and purpose of the Fund;
- (e) prepare statutory and management reports and submit them to the Board for approval;
- (f) monitor and provide reports to the Board, on a quarterly basis, on efficiency and effectiveness of drought risk management supported by the Fund; and
- (g) implement the decisions of the Board.

(2) Despite paragraph (1), the Board may assign any other duty to the Secretariat for the proper administration and management of the Fund through a Board resolution.

Coordination mechanism.

17. The coordination mechanism for the Fund shall be—

- (a) the National Drought and Food Security Steering Committee established under regulation 18;
- (b) the Inter-Governmental Technical Committee on Drought and Food Security established under regulation 19; and
- (c) the County Drought Committee established under regulation 20;
- (d) development partner engagement forums as may be specified

by the Cabinet Secretary from time to time.

Establishment of
the National
Steering
Committee.

18. (1) There is established the National Drought and Food Security Steering Committee comprised of—

(a) the cabinet secretaries responsible for—

- (i) drought management;
- (ii) devolution;
- (iii) planning;
- (iv) finance;
- (v) water;
- (vi) health;
- (vii) education;
- (viii) national government coordination;
- (ix) agriculture and livestock; and

(b) the chairperson, Council of Governors.

(2) The National Steering Committee shall be chaired by the Deputy President.

(3) The Cabinet Secretary responsible for matter relating to drought shall be the Secretary of the Steering Committee.

(4) The functions of the National Steering Committee shall be to—

- (a) provide policy direction on drought response interventions;
- (b) provide leadership and oversight on drought and food security interventions during the alarm and emergency stages;
- (c) receive, consider and make decisions based on reports from the Inter-governmental Technical Committee; and
- (d) mobilize resources for drought response interventions during alarm and emergency stages.

Establishment of
the
Intergovernmental
Technical
Committee.

19. (1) There is established the Inter-Governmental Technical Committee on Drought and Food Security comprised of—

(a) the principal secretaries responsible for—

- (i) drought management;
- (ii) devolution;
- (iii) planning;
- (iv) finance;
- (v) water;
- (vi) health;
- (vii) education;
- (viii) national government coordination;
- (ix) agriculture and livestock; and

(b) two nominees of the Council of Governors who shall be county executive committee members responsible for matters relating to drought and food security.

(2) The Inter-governmental Technical Committee shall be chaired by the Principal Secretary for matters relating to drought and food security.

(3) The administrator of the Fund of the National Drought Management Authority shall be the Secretary of the Inter-governmental Technical Committee.

(4) The functions of the Inter-governmental Technical Committee shall be to—

- (a) prepare the agenda of the National Steering Committee;
- (b) receive, consider and make appropriate recommendations to the national steering committee on the optimal drought response interventions;
- (c) receive, consider and identify resources available in various ministries, state departments and agencies and county governments for drought interventions and make appropriate recommendations;
- (d) oversee the implementation of the decisions of the National Steering Committee; and
- (e) receive, consider and make appropriate recommendations on intervention measures already being undertaken by various government agencies, development partners, faith based organizations and other non-governmental organizations; and

- (f) mobilize resources towards the fulfilment of the objective of the Fund.

Establishment of
the County
Drought
Committee.

20. (1) There is established the County Drought Committee on Drought and Food Security comprised of—

- (a) the officer responsible for coordination of national government functions at the county level;
- (b) the national government officer responsible for drought risk management at the county level;
- (c) the national government officer responsible for education at the county level;
- (d) the county executive committee member responsible for drought risk management or his nominee;
- (e) the county executive committee member responsible for planning or his nominee;
- (f) the county executive committee member responsible for water or his nominee;
- (g) the county executive committee member responsible for finance or his nominee;
- (h) the county executive committee member responsible for health or his nominee;
- (i) the county executive committee member responsible for agriculture and livestock or his nominee;
- (j) two representatives nominated by the caucus of faith based organizations working on matters related to drought and food security at the county level;
- (k) two representatives of non-governmental organizations working on matters related to drought and food security in the respective county; and
- (l) two persons nominated by the Board to represent the marginalised who shall have knowledge on drought and food security in the respective county and shall be a resident of that county.

(2) The County Drought Committee shall be chaired by the County Commissioner.

(3) The National Drought Management Authority shall be the

Secretariat to the County Drought Committee.

(4) The functions of the County Drought Committee shall be to—

- (a) consider drought and food security early warning information for recommendation to the Board;
- (b) coordinate drought risk management plans and ensure their integration into the national and county planning and budgeting processes;
- (c) consider and recommend to the Board for approval projects to be financed by the Fund under the investments in resilience building and drought preparedness;
- (d) consider and recommend to the Board for approval drought response plans and appropriate interventions;
- (e) coordinate and communicate drought interventions measures and share drought risk management information with the public;
- (f) provide recommendations to inform policy formulation and strategy of the Fund;
- (g) ensure projects recommended for funding under paragraph (c) and (d) are not duplicated;
- (h) oversee the monitoring and evaluation of projects and programmes funded under the Fund;
- (i) oversee drought and food security interventions;
- (j) coordinate actors on drought risk management at the county level;
- (k) implement decisions of the Inter-governmental Technical Committee;
- (l) consider and make recommendations on which level of government should intervene on drought and food security matters;
- (m) coordinate resource mobilization at the county level.

(5) The quorum at the meeting of the County Drought Committee shall be one-third of the members of the Committee, and decisions at a meeting of the Committee shall be by majority of those present and voting.

(6) A person appointed under paragraph (1)(e), (f) and (g) shall cease to

be a member of the County Drought Committee—

- (a) if the person resigns from office;
- (b) dies;
- (c) is absent from three consecutive meetings of the Committee without permission from the chairperson;
- (d) is convicted of an offence and sentenced to imprisonment for a term of more than six months without the option of a fine;
- (e) is removed from office by the vote of at least two thirds of the members of the Committee on any one or more of the following grounds—
 - (i) lack of integrity;
 - (ii) gross misconduct;
 - (iii) embezzlement of public funds;
 - (iv) physical or mental infirmity.

(7) Whenever a vacancy occurs in the County Drought Committee by reason of resignation, incapacitation or death of a member appointed pursuant to paragraph (1)(e) (f) and (g), then the vacancy shall be filled from the same category of persons where the vacancy has occurred.

(8) Members of the County Drought Committee shall be appointed by notice in the Gazette by the Cabinet Secretary responsible for matters relating to drought.

(9) A member of the County Drought Committee, other than *ex-officio* member, shall hold office for a term of three years renewable once under paragraph 1(e) (f) and (g).

(10) The Secretariat of the Fund shall keep proper records of the meetings of the County Drought Committee which records shall be shared within fourteen days after confirmation, with the Cabinet Secretary responsible for matters relating to drought with a copy to the Board and the Governor of the respective County.

(11) The secretariat shall prepare and submit reports on the activities of the County Drought Committee to the Board with a copy to the county executive committee responsible for matters relating to drought.

Resource
mobilization.

21. (1) The Committees established under regulations 18,19 and 20 and the Authority shall mobilize resources through—

- (a) engagement with the communities, development partners and private sector;
- (b) engagement with the global disaster risk and climate change funds or entities that finance drought risk management programmes;
- (c) development of bankable proposals for drought early warning, preparedness and resilience.

(2) Any engagement with the development partners, private sector or global funds shall be done within the framework specified by the Cabinet Secretary and in line with the Kenya External Resources Mobilization Policy.

Standard setting and norms.

22. (1) The National Government shall be responsible for policy formulation, norms and standard setting for drought risk management.

(2) The secretariat of the Fund shall consolidate various policies, norms and standards and disseminate them to counties, government agencies and development partners to facilitate their implementation.

(3) County governments shall prepare their drought risk management plans and reports based on national policies, norms and standards set by the National Government including Guidelines which may be issued from time to time.

(4) The national norms and standards shall set sector specific quantifiable indicators for the outputs for each strategic objective, which shall form the basis of reporting on drought and food security for both national and county governments.

PART III—PROJECTS

Intervention areas.

23. The Fund may finance interventions in the following areas to complement existing government programmes—

- (a) water and sanitation;
- (b) agriculture and livestock;
- (c) education;
- (d) health, sanitation and nutrition;
- (e) cash transfers scale ups;
- (f) conflict management and resolution; and
- (g) drought coordination.

Emergencies not handled by the Fund.

24. The Fund shall not finance hazards which may include floods, epidemics, wild fires, terrorism and armed conflict.

Drought recovery.

25. (1) The Secretariat of the Fund may, from time to time, request the Board to approve drought recovery interventions.

(2) Where the Board has approved drought recovery interventions to be undertaken by the Secretariat, the Secretariat shall prepare monthly reports and submit progress reports to the Board.

Criteria for accessing drought resilience and preparedness component funds.

26. (1) The criteria for prioritising access to drought resilience and preparedness component funds shall be as follows—

- (a) the projects shall be either aligned to national development priorities or be included in the county integrated development plan;
- (b) projects contributing significantly to sustainable development to enhance resilience of communities against drought and climate change risks;
- (c) evidence of community participation in drought risk reduction project identification;
- (d) projects sustainability framework after completion;
- (e) satisfy all statutory requirements relating to design and implementation of such projects; and
- (f) recommendation by the County Drought Committee or the Secretariat of the Fund.

(2) The Secretariat shall submit to the Board for approval the scores of the projects evaluated against the criteria set out under paragraph (1).

Project planning.

27. (1) The secretariat of the Fund shall—

- (a) coordinate the development of community drought risk reduction plans;
- (b) receive, review and prioritise project proposals from the communities which are aligned to national development goals or county integrated development plan;
- (c) initiate project proposals to address drought and food insecurity and forward them to the Board for approval;
- (d) prioritise community drought risk reduction interventions;
- (e) prepare and submit plans to the County Drought Committees for review and make recommendations to the Board.

(2) Any project proposals to be implemented by the Fund shall be approved by the Board prior to implementation.

(3) The project proposals under this regulation shall relate to resilience and preparedness stages of drought risk management.

Projects designed by the Fund and financed wholly or jointly by the county governments.

28. (1) The secretariat of the Fund may design a project relating to a devolved function and submit it to a county government for consideration and financing.

(2) Despite paragraph (1), the secretariat may also design a project relating to a devolved function and engage a county government for co-financing.

(3) Where a project has been designed under paragraph (2), the county

government shall contribute a per centum to be agreed in form of a matching grant, from time to time.

(4) Where a county government has accepted to co-finance a project under paragraph (3) that county government shall signify in writing to the administrator of the Fund not later than 31st January of each year.

(5) Where projects are financed under this regulation, the Secretariat of the Fund shall use that project to build the capacity of that county on drought risk management.

Projects financed jointly with faith based organization or non-governmental organization or community based organization.

29. (1) The secretariat of the Fund may design a project relating to a devolved function and submit it to a faith based organization or non-governmental organization or community based organization for consideration and co-financing.

(2) Where a project is co-financed by a faith based organization or non-governmental organization or community based organization, such an institution shall contribute a per centum to be agreed between the organization and the Board, from time to time.

(3) Despite paragraph (1) and (2), the Fund shall secure an inter-governmental agreement pursuant to Article 187 of the Constitution and the Intergovernmental Relations Act, 2012 with the respective county government.

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Joint infrastructure projects by counties.

30. (1) Pursuant to section 146 of the Public Finance Management Act, 2012, the Secretariat of the Fund may prepare project designs for a devolved function as a joint infrastructure project to be financed by more than one county.

(2) Any projects designed under paragraph (1) shall be submitted to the respective county executive committee member responsible for matters relating to drought management, with a copy to the County Governor.

(3) The Secretariat of the Fund shall coordinate meetings among the counties undertaking the joint infrastructure project.

Drought response.

31. (1) The Secretariat of the Fund shall receive the multi-agency rapid assessment report during alert stage or alarm stage as informed by drought early warning information for—

- (a) determining the resource requirements for alert or alarm stage of the drought;
- (b) proposing the agencies to be involved in responding to the drought and food insecurity interventions to be financed by the Fund;
- (c) recommending the funds flow mechanism to the county governments or various agencies and the accountability framework by each agency to the Fund for approval by the Board;
- (d) liaising with the county governments or other agencies approved by the Board to undertake various response interventions in a

timely manner.

(2) The Secretariat of the Fund shall prepare monthly reports during alert and alarm stage of the drought and food insecurity and submit it to the Inter-governmental Technical Committee after thirty days on receipt of the early warning information.

(3) Where drought and food security response interventions require financial resources beyond the capital of this Fund, the Board shall submit a proposal to the National Steering Committee on the financing gap and a request to mobilise more resources to respond to drought and food insecurity.

Rules to access drought response.

32. To access drought response funds the Board shall consider the —

- (a) alert stage of drought cycle as per the Authority's drought phase classifications guided by vegetation condition index and other social economic indicators;
- (b) request received from County Drought Committees or the Secretariat of the Fund on drought response plans;
- (c) evidence of drought rapid assessment by the affected sectors based on early warning trigger indicators;
- (d) response plan based on drought rapid assessment reports and other drought risk secondary data;
- (e) recommendation by the county or national coordination structure;
- (f) procurement plans based on drought and food insecurity response intervention measures;
- (g) cash flow plans supporting the procurements plans on drought and food insecurity response intervention measures.

Submission of project proposals.

33. (1) A community may at any time submit project proposals through the county government, government agency, community based organization or faith based organization, to the Secretariat of the Fund.

(2) Project proposals received by the Secretariat of the Fund by thirtieth November of each year shall be reviewed and appropriate recommendations made to the Board for financing from the Fund.

(3) Any project approved for financing by the Board, which has a co-financing arrangement shall be communicated to the relevant county government or agency co-financing that project by the thirtieth day of January each year for incorporation in their respective budgets.

(4) Any project submitted for approval under this regulation shall be identified through a drought risk management participatory process.

PART IV—FINANCIAL PROVISIONS

Allocation of resources among drought risk management components.

34. (1) The resources of the Fund shall be allocated to the various drought risk management components as follows—

- (a) resilience and preparedness shall be allocated up to fifty per centum (50%) of the total budget of the Fund in each financial year;
- (b) response interventions shall be allocated up to forty per centum (40%) of the total budget of the Fund in each financial year; and
- (c) recovery interventions shall be allocated up to five per centum (5%) of the total budget to be funded every financial year.

(2) Despite paragraph (1), the National Steering Committee may increase the proportion of the Fund allocated to drought response.

Procedures of disbursement and accountability.

35. (1) The Board shall, from time to time, formulate guidelines for disbursements of funds.

(2) Where the Board intends to use faith based organizations or non-governmental organizations or community based organizations it shall ensure that the guidelines for disbursement of funds to these institutions has clear roles and responsibilities for reporting and accounting of the resources disbursed to the institutions.

Quarterly reports on projects and disbursements.

36. The Board shall, on a quarterly basis, submit a report to the Cabinet Secretary responsible for matters relating to drought affairs with a copy to the National Treasury, detailing—

- (a) a summary of the project proposals approved by the Board in the preceding quarter as recommended by the County Drought Committee or the Secretariat of the Fund and indicating the funding status of such projects, if any;
- (b) a summary of the status of disbursements of funds to the various projects and implementation progress;
- (c) a summary of the status of disbursements from the Fund to the respective county governments or any agency involved in implementation of any projects financed from the Fund; and
- (d) any restriction imposed on a county government or any agency involved in the implementation of the projects of the Fund.

Fund bank accounts.

37. (1) All bank accounts of the Fund shall be opened in accordance with the provisions of section 28 of the Public Finance Management Act, 2012 and the Regulations thereof.

(2) Any bank account of the Fund shall be opened upon approval of the Board and the National Treasury and shall be in the name of the Fund and the name of the county to which it relates.

(3) The main Fund bank account shall be opened and maintained at the

Central Bank of Kenya.

(4) The signatories to the main Fund account under paragraph (3) shall be the administrator of the Fund and two other persons authorized by the Board from amongst the staff of the Secretariat of the Fund.

(5) The signing instructions shall be such that the signature of the administrator of the Fund shall be mandatory on all payment cheques or electronic instructions intended for actual release of money from the main Fund account, plus any one of the other two Fund account signatories.

(6) The signatories of any other bank accounts shall be three, one of whom shall be mandatory and approved by the Board.

(7) The signing instructions of any other bank account of the Fund under paragraph (6) shall be such that the signature of the technical officer designated by the administrator of the Fund, shall be mandatory on all payment cheques or electronic instructions intended for actual release of money from that account, plus any one of the other two bank account signatories of that account designated as such.

(8) Every payment or instruction for payment out of the respective bank account shall be fully supported in line with the provisions of the Public Finance Management Act, 2012 and the Regulations thereof.

Record of disbursements to be kept.

38. (1) An accurate record of all disbursements from the Fund Account for financing approved projects shall be kept and updated every month by the Secretariat of the Fund.

(2) The administrator of the Fund shall submit to the Board, quarterly and annual reports on all projects approved and financed from the Fund.

Financial reporting.

39. (1) The Board shall prepare financial and non-financial reports in accordance with the provisions of the Public Finance Management Act, 2012 and as may be prescribed from time to time by the public sector accounting standards board.

(2) The Board shall prepare an annual general performance report of the Fund to be submitted together with the report under paragraph (1).

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(3) The annual financial and non-financial statements prepared under paragraph (1) shall be submitted to the Auditor-General for audit in accordance with the Public Audit Act, 2015.

Management reports.

40. (1) The Board shall prepare monthly management reports which reports shall contain details on—

(a) the severity of the drought prevailing in the country and by county;

- (b) the status report on drought interventions measures undertaken during that financial year;
- (c) status report on county drought and food security intervention measures undertaken during that financial year;
- (d) monitoring and evaluation report ;
- (e) the resources required to mitigate against the drought impact under each of the following stages —
 - (i) resilience and preparedness stage;
 - (ii) response stage;
 - (iii) recovery stage.

(2) The report prepared under paragraph (1) shall be submitted to the Cabinet Secretary with clear recommendations from the Board by the tenth day of the succeeding month.

(3) A county government experiencing drought and food insecurity shall by the fifth day of each month submit a report to the Fund secretariat with the following details—

- (a) status report of the county interventions to mitigate against drought and food insecurity;
- (b) the county drought response plan; and
- (c) resources available by the county government to finance the response plan.

PART V—MISCELLANEOUS PROVISIONS

Application of Government Financial Regulations and procedures.

41. Subject to the provisions of the Public Finance Management Act, 2012, existing Government Financial Regulations and Procedures shall apply in the administration of the Fund.

Costs of running the Fund.

42. (1) The administration costs for running the Fund shall not be more than five per centum (5%) of the total budgetary provision for the Fund.

(2) Despite the provisions under paragraph (1), the costs of running the Secretariat of the Fund and the County Drought Committee expenditure shall not be more than three per centum (3%).

Offence and penalty.

43. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds

otherwise than in the manner provided in the Act and these Regulations, commits an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.

Guidelines on the Fund.

44. The Board shall, in consultation with the Cabinet Secretary, develop guidelines for the proper management of the Fund.

Winding-up of the Fund.

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

Made on the, 2017.

HENRY ROTICH,
Cabinet Secretary for the National Treasury.