LEGAL NOTICE NO. 34

THE CONSTITUENCIES DEVELOPMENT FUND ACT:
(No. 10 of 2003)

IN EXERCISE of the powers conferred by section 49 (1) of the Constituencies Development Fund Act, the Minister for Finance makes the following Regulations:


1. These Regulations may be cited as the Constituencies Development Fund Regulations, 2004.

2. In these Regulations, unless the context otherwise requires—
   “Act” means the Constituencies Development Fund Act, 2003;
   “Clerk” means the Clerk of the National Assembly;
   “Constituency Development Committee” means the committee established under section 23 of the Act;
   “constituency account” means the account maintained for every constituency in accordance with section 45 of the Act;
   “District Projects Committee” means the committee established under section 39 of the Act;
   “financial year” means the period of twelve months ending on 30th June in each year;
   “Fund” means the Constituencies Development Fund established under section 4 of the Act;
   “National Committee” means the Constituencies Development Fund Management Committee established under section 5 of the Act.

3. The initial capital of the Fund shall be the sum of one billion two hundred and sixty million shillings appropriated by Parliament in the Revised Estimates in the 2003/2004 financial year.

4. All disbursements from the fund shall be approved by the National Committee and shall be made through the constituency bank account opened and maintained for every constituency in accordance with section 45 of the Act.

5. (1) The first meeting of the National Committee, shall be convened by the Minister and subsequently, the National Committee shall meet as often as necessary for the transaction of its business.
(2) The members of the National Committee shall at a meeting convened pursuant to subparagraph (1), elect a vice-chairman from among their number.

(3) The chairman shall preside at every meeting of the National Committee and in the absence of the chairman, the vice-chairman shall preside.

(4) In the absence of both the chairman and the vice-chairman the members of the National Committee shall elect one from among their number to preside.

(5) Notice of every meeting of the National Committee shall be given in such manner as the National Committee may deem appropriate so as to bring it to the attention of all members of the Committee.

(6) The National Committee shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the National Committee at the next meeting of the Committee and signed by the Chairman or the person presiding at the meeting.

(7) The Chairman of the National Committee shall submit to the Minister a copy of the minutes of each meeting of the Committee as soon as the minutes have been confirmed.

6. (1) If a member of the National Committee, District Projects Committee or a Constituency Development Committee has a direct or indirect personal interest in a matter being considered or is to be considered by the Committee he or she shall as soon as possible after the relevant facts concerning the matter have come to his knowledge, disclose the nature of the interest to the relevant Committee to which he or she belongs.

(2) A disclosure of interest made by a member of the Committees under sub-paragraph (1) shall be recorded in the minutes of the meeting of the committees and the member shall, not unless the committees otherwise determines, in respect of that matter—

(a) be present during any deliberation on the matter by the Committees; or

(b) take part in the decision of the Committees on the matter.

(3) For the purpose of the Committees making a determination under sub-paragraph (2) in relation to a member who has made a disclosure under sub-paragraph (1), such member shall not—

(a) be present during the deliberations of the Committees nor take part

(b) influence any other member to take part in the making of such determination by the Committees.

7. (1) The term of office of the members of National Committee appointed pursuant to section 5 (2) (f) of the Act shall be three years.
(2) The members of the National Committee appointed pursuant to section 5 (2) (f) of the Act shall not serve more than two consecutive terms.

8. A member of the National Committee other than an *ex officio* member, may—

(a) at any time resign from office by notice in writing to the Minister;

(b) be removed from office by the Minister if the member—

(i) has been absent from three consecutive meetings of the National Committee without permission from the chairman; or

(ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or

(iii) is convicted of an offence involving dishonesty, fraud or moral turpitude; or

(iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings or to both; or

(v) is incapacitated by prolonged physical or mental illness; or

(vi) is otherwise unable or unfit to discharge his functions.

9. (1) This paragraph provides for the appointment of a member of the National Committee nominated by the organisations provided for under section 5 (3) of the Act.

(2) The nominating bodies specified in the Schedule to the Act shall each submit names of two nominees to the Minister.

(3) The Minister shall submit the names of the eight nominees to the National Assembly for approval within seven sitting days after receiving the nominations.

(4) Notwithstanding the provisions of subparagraph (3), once the Minister is satisfied that he has received nominees sufficient to form a quorum as stipulated in the Act, the Minister shall submit the names of the nominees to the National Assembly for approval as he awaits further nominations by the organisations specified in the First Schedule.

(5) The National Assembly shall, within fourteen days after it first meets after receiving the names of the nominees—

(a) consider the nominees and either approve or reject the nominees; and

(b) notify the Minister as to its approval or rejection under subparagraph (a).
(6) If the National Assembly approves the nominees, the Minister shall, within fourteen days after receiving the notification of the National Assembly, cause the names of the approved persons to be published in the Gazette.

(7) If the National Assembly rejects any nominees submitted by any nominating body, the Minister shall, within fourteen days after receiving the notification of the National Assembly, request the nominating body to submit a new nominee to the Minister and subparagraphs (3), (4), and (5) and this sub-paragraph shall apply with necessary modifications with respect to that new nominee.

(8) In nominating and approving persons to be members of the National Committee, the nominating body and the National Assembly shall have regard to—

(a) the honesty and integrity of the person's nominated;
(b) the knowledge and experience of the persons nominated; and
(c) importance of representing Kenya's diversity on the National Committee.

(9) Within twenty-one days after any vacancy arises in the membership of the National Committee, the Minister shall request the nominating body to submit nominees under subparagraph (2) and the nominating body shall do so within twenty-one days after being requested to do so.

10. (1) The first meeting of the District Projects Committee shall be convened by the District Development Officer of the district and subsequently the Committee shall meet at least once every three months.

(2) The first meeting of the Constituency Development Committee shall be convened by the elected member of Parliament and subsequently the committee shall meet at least once every month.

(3) At the first meeting of the Constituency Development Committee convened pursuant to sub-paragraph (2) the committee shall in addition to electing a vice-chairman, also appoint a Secretary and Treasurer of the Committee.

(4) The provisions of sub-paragraphs (2), (3), (4), (5) and (6) of paragraph 5 of these Regulations shall apply with necessary modifications to the Constituency Development Committee and the District Projects Committee.

11. The members of the Constituency Development Committee other than members of Parliament, councillors and ex officio members shall hold office for a period not exceeding two years and shall be eligible for re-appointment for one further term of two years.

12. (1) Any member of the Constituency Development Committee, other than a member of Parliament, a councillor or an ex
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officio member, may resign his or her office by written notification under his or her hand addressed to the chairman of the Committee.

(2) Any member of the Constituency Development Committee may be removed from office by the Committee if the member—

   (i) has been absent from three consecutive meetings of the Committee without permission from the chairman; or

   (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or

   (iii) is convicted of an offence involving dishonesty, fraud or moral turpitude; or

   (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings or to both; or

   (v) is incapacitated by prolonged physical or mental illness; or

   (vi) is otherwise unable or unfit to discharge his functions.

13. (1) In nominating members of the Constituency Development Committee the elected members of Parliament shall have regard to—

   (a) the honesty and integrity of the person’s nominated;

   (b) the ability of the person’s nominated to read and write;

   (c) the knowledge and experience of the person’s nominated; and

   (d) the importance of representing the political, gender and ethnic diversity on the Constituency Development Committee.

(2) The names of persons nominated for appointment pursuant to section 23 of the Act and this paragraph shall be submitted to the National Committee through the Clerk of the National Assembly.

(3) Within twenty-one days after any vacancy arises in the membership of the Constituency Development Committee, the elected member of Parliament shall nominate another person to fill the vacancy, taking into consideration the provisions of the sub-paragraph (1) and thereafter submit the name to the National Committee in the manner provided for under sub-paragraph (2).

14. No act or proceedings of the National Committee, the District Projects Committee or the Constituency Development Committee shall be invalid by reason only of a vacancy or defect in the composition of the National Committee, the District Projects Committee or the Constituency Development Committee.
15. (1) A bank account shall be opened in a commercial bank for every constituency in accordance with section 45 of the Act.

(2) The Minister shall approve the bank in which the account shall be opened and maintained.

(3) All funds accruing to any constituency shall be disbursed to the account opened and maintained pursuant to sub-paragraph (1)

(4) The signatories to the account shall be—

(i) two nominees of the District Projects Committee one of whom shall be the District Accountant whose signature on every cheque shall be mandatory;

(ii) the Treasurer of the Constituency Development Committee and;

(iii) the Secretary to the Constituency Development Committee.

16. (1) The Minister shall, after consultation with the Constituency Development Committee, designate an officer to ordinate the activities of the Constituency Development Committee.

(2) The officer designated by the Minister under subparagraph (1) shall ensure the proper management of the Constituency Development Committee offices.

17. Sitting and other allowances for members of the District Projects Committee and the Constituency Development Committee shall be determined by the Minister in consultation with the National Committee.

18. Any surplus realised as a result of non-utilization of funds in any financial year shall be retained in the Fund account.

19. 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.

20. Existing Government Financial and Procurement Regulations and procedures shall apply with respect to any procurements made during the implementation of projects under the Act.

21. In the event of the winding up of the Fund, any balance and assets standing to the credit of the Fund shall be credited to the Exchequer.


DAVID MWIRIARA,
Minister for Finance.