



THE REPUBLIC OF KENYA

LAWS OF KENYA

THE CENTRAL BANK OF KENYA ACT

CHAPTER 491

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CHAPTER 491

CENTRAL BANK OF KENYA ACT

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SCHEDULE —

SPENT

CHAPTER 491

CENTRAL BANK OF KENYA ACT

[Date of assent: 24th March, 1966.]

[Date of commencement: 29th March, 1966.]

An Act of Parliament to establish the Central Bank of Kenya and to provide for the operation thereof; to establish the currency of Kenya and for matters connected therewith and related thereto

[Act No. 15 of 1966, Act No. 56 of 1968, Act No. 13 of 1972, Act No. 13 of 1978, Act No. 10 of 1980, Act No. 14 of 1982, Act No. 12 of 1984, Legal Notice 218 of 1986, Act No. 9 of 1989, Legal Notice 342 of 1989, Act No. 20 of 1989, Act No. 13 of 1995, Act No. 10 of 1995, Act No. 9 of 1996, Act No. 4 of 2001, Act No. 15 of 2003, Act No. 8 of 2004, Act No. 10 of 2006, Act No. 9 of 2007, Act No. 8 of 2008, Act No. 8 of 2009, Act No. 10 of 2010, Act No. 4 of 2012, Act No. 36 of 2012, Act No. 57 of 2012, Act No. 41 of 2013, Act No. 14 of 2015, Act No. 10 of 2018, Act No. 15 of 2021, Act No. 10 of 2023.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Central Bank of Kenya Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"authorized bank" means a specified bank licensed by the Bank under section 33B;

"authorized bureau" means a foreign exchange bureau licensed by the Bank under section 33B;

"authorized dealer" means an authorized bank, authorized bureau, authorized mortgaged finance company, an authorized money remittance provider or an authorized microfinance bank licensed by the Bank under section 33B;

"authorized microfinance bank" means a microfinance bank licensed by the Bank under section 33B;

"authorized money remittance provider" means a money remittance operator licensed by the Bank under section 33B to carry out the business of money remittance;

"authorized mortgage finance Company" means a mortgage finance company licensed by the Bank under section 33B;

"The Bank" means the Central Bank of Kenya (or the Banki Kuu ya Kenya) established under section 3;

"Bank" means a body corporate or other body of persons, carrying on, whether on their own behalf or as agent for another, banking business within the meaning of the Banking Act (Cap. 488), whether in Kenya or elsewhere;

"beneficial owner" has the meaning assigned to it under the Companies Act (Cap. 486);

"Board" means the Board of Directors of the Bank appointed under Part IV of this Act;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for finance;

"convertible", in relation to any exchange, means exchange which is freely negotiable and transferable in international exchange markets at exchange rate margins consistent with the Articles of Agreement of the International Monetary Fund;

"currency" means the currency of Kenya or foreign currency;

"currency of Kenya" means bank notes and coins issued by the Bank under section 22(1) and any right to receive such bank notes or coins in respect of any credit or balance at a bank or financial institution located within or outside Kenya;

"digital channel" means the internet, mobile devices, computer devices, applications and any other digital systems as may be prescribed by The Bank;

"digital credit" means a credit facility or arrangement where money is lent or borrowed through a digital channel;

"digital credit business" means the business of providing credit facilities or loan services through a digital channel;

"digital credit provider" means a person licensed by The Bank to carry on digital credit business;

"financial institution" means a body corporate or other body of persons, carrying on, whether on their own behalf or as agent for another, financial business within the meaning of the Banking Act (Cap. 488), whether in Kenya or elsewhere;

"foreign currency" means bank notes or coins which are or have at any time been legal tender in any territory outside Kenya and any right to receive such bank notes or coins in respect of any credit or balance at a bank either within or outside Kenya;

"foreign exchange bureau" means a company incorporated in Kenya whose liability is limited by shares, with the main object of buying and selling foreign currency;

"foreign exchange business"—

- (a) in relation to a specified bank, means—
 - (i) buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;
 - (ii) settling payments to or from Kenya or in Kenya between residents and non-residents;
- (b) in relation to a foreign exchange bureau, means the business of—
 - (i) buying or selling foreign currency; or
 - (ii) settling payments to or from Kenya as prescribed by the Bank;
- (c) in relation to an authorised money remittance provider, means the business of foreign exchange transfers consisting of the acceptance of monies for the purpose of transmitting them to persons resident in Kenya or another country as prescribed by the Bank;

- (d) in relation to a microfinance bank, the business of—
 - (i) buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;
 - (ii) settling payments to or from Kenya or in Kenya between residents and non-residents;
- (e) in relation to a specified mortgage finance company, the business of—
 - (i) buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;
 - (ii) settling payments to or from Kenya or in Kenya between residents and non-residents;
- (f) in relation to any other person or body of persons granted a permit by the Bank under section 63(3), means engagement in such limited foreign exchange transactions as the Bank may permit;

"microfinance bank" means an institution licensed under the Microfinance Act (Cap. 493C);

"money remittance operator" means a company incorporated in Kenya whose main object consists of the acceptance of monies for the purpose of transmitting them to persons resident in Kenya or another country as prescribed by the Bank by regulations;

"mortgage refinance business" means the business of providing long term financing to primary mortgage lenders for housing finance and any other activity that the Bank may from time to time prescribe;

"mortgage refinance company" means a non-deposit taking company established under the Companies Act (Cap. 493C) and licensed by the Bank to conduct mortgage refinance business;

"non-resident" means a person or body of persons other than a resident;

"payment" means the transfer of currency for the purpose of discharging a liability, making a gift or donation or for creating a balance at a bank, financial institution or a microfinance bank which can be drawn upon;

"payment for current transaction" means a payment other than a payment for transferring capital and includes—

- (a) a payment due in connection with trade;
- (b) a payment due as interest or as net income or return from other investment;
- (c) a payment for amortization of a loan or for depreciation of direct investment; or
- (d) a remittance for family living expenses;

"public entity" means the Government, the Organization, the Authority, any local authority or any public body specified by the Cabinet Secretary, on the recommendation of the Bank, as a public entity for the purposes of this Act;

"resident" means—

- (a) an individual who has been present in Kenya continuously for a period of at least one year or who has declared his intention to reside in Kenya for a period of at least one year to Kenyan immigration authorities;

- (b) the Government of Kenya or any accredited official of its diplomatic missions residing outside Kenya;
- (c) a company or other body of persons whose principal place of business is located in Kenya and branches of such company or body located in Kenya;
- (d) branches of a company or other body of persons carrying on business in Kenya whose principal place of business is located outside Kenya,

but excludes any foreign diplomatic mission or any of its accredited officials or any organization established in or outside Kenya by international treaty or any of its accredited officials;

"shilling" means a Kenya shilling as provided in section 19 of this Act, or a shilling issued by the East African Currency Board for so long as it is legal tender in Kenya in accordance with this Act;

"significant shareholder" has the meaning assigned to it under the Banking

Act;

"specified bank" means any bank within the meaning of such expression in the Banking Act (Cap. 488) which is specified by the Bank for the purposes of this Act;

"specified digital credit provider" means a licensed digital credit provider within the meaning of section 33R;

"specified financial institution" means a financial institution or mortgage finance company within the meaning of the Banking Act which is specified by the Bank for the purposes of this Act;

"specified microfinance bank" means a licensed microfinance bank within the meaning of the Microfinance Act (Cap. 493C) which is specified by the Bank for the purposes of this Act;

"specified mortgage refinance company" means a licensed mortgage refinance company within the meaning of section 33P, which is specified by the Bank for the purposes of the Act.

[Act No. 9 of 1989, 2nd Sch., Act No. 10 of 1995, s. 2, Act No. 10 of 2010, s. 71, Act No. 57 of 2012, s. 52, Act No. 41 of 2013, Sch., Act No. 10 of 2018, s. 66, Act No. 15 of 2021, s. 2, Act No. 10 of 2023, Sch.]

PART II – ESTABLISHMENT, CONSTITUTION AND OBJECTS

3. Establishment of Bank and legal status

(1) There is hereby established a bank which shall be known as the Central Bank of Kenya and which shall also be known by the alternative corporate name of the Banki Kuu ya Kenya.

(2) The Bank shall be a body corporate with perpetual succession and a common seal, with power to acquire, own, possess and dispose of property, to contract, and to sue and to be sued in its own name.

(3) The Bank shall exercise any type of central banking function unless specifically excluded under this Act, and shall enjoy all the prerogatives of a central bank.

(4) The Bank may make its own rules of conduct or procedure, not inconsistent with the provisions of this Act, for the good order and proper management of the Bank.

(5) The Bank shall not be subject to the Companies Act (Cap. 486) or the Banking Act (Cap. 488).

[Act No. 14 of 1982, s. 30, Act No. 18 of 1986, Sch.]

4. Principal object of the Bank

(1) The principal object of the Bank shall be to formulate and implement monetary policy directed to achieving and maintaining stability in the general level of prices.

(2) The Bank shall foster the liquidity, solvency and proper functioning of a stable market-based financial system.

(3) Subject to subsections (1) and (2), the Bank shall support the economic policy of the Government, including its objectives for growth and employment.

(4) The Cabinet Secretary may by notice in writing to the Bank, specify for purposes of this sections—

- (a) the price stability targets of the government; and
- (b) the economic policy to be taken by the Government.

(5) The Cabinet Secretary shall specify at least in every period of 12 months, the price stability target in consultation with the Bank and economic policies to be taken by the Government; provided that the first such specification shall be made at the beginning of the financial year next following the commencement of this section.

(6) Where the Cabinet Secretary gives notice under this section, the Cabinet Secretary shall—

- (a) publish the notice in such a manner as the Cabinet Secretary consider fit; and
- (b) lay a copy of the notice before the appropriate committee of the National Assembly.

[Act No. 10 of 1995, s. 3, Act No. 9 of 1996, s. 2, Act No. 9 of 2007, s. 67.]

4A. Other objects of the Bank

(1) Without prejudice to the generality of section 4 the Bank shall—

- (a) formulate and implement foreign exchange policy;
- (b) hold and manage its foreign exchange reserves;
- (c) license and supervise authorised dealers;
- (d) formulate and implement such policies as best promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement systems;
- (da) license and supervise digital credit providers not regulated under any other written law;
- (e) act as banker and advisor to, and as fiscal agent of the Government;
- (f) issue currency notes and coins; and
- (g) license and supervise mortgage refinance companies.
- (h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A), regulate and supervise, for anti-money laundering and combating the financing

of terrorism and countering proliferation financing purposes, the following institutions—

- (i) banks and their agents;
- (ii) mortgage finance companies and their agents;
- (iii) mortgage refinance companies and their agents;
- (iv) microfinance banks and their agents;
- (v) money remittance providers and their agents;
- (vi) foreign exchange bureaus and their agents;
- (vii) digital credit providers and their agents;
- (viii) payment service providers; and
- (ix) any other entity licensed by the Central Bank under any written law

(2) In subsection (1)(d)—

"clearing" means the process of transmitting, reconciling and confirming payments prior to settlement, including the netting of payments and the establishment of net positions for settlement;

"payment system" means a system of instruments, procedures and rules for the transfer of funds among system participants;

"settlement" means an act that discharges financial obligations between two or more parties.

[Act No. 9 of 1996, s. 2, Act No. 15 of 2003, s. 52, Act No. 10 of 2018, s. 67, Act No. 15 of 2021, s. 3, Act No. 10 of 2023, Sch.]

4B. Monetary policy statements

(1) The Bank shall at intervals of not more than six months, submit to the Cabinet Secretary a monetary policy statement for the next twelve months which shall—

- (a) specify the policies and the means by which the Bank intends to achieve the policy targets;
- (b) state the reasons for adopting such policies and means;
- (c) contain a review and assessment of the progress of the implementation by the Bank of monetary policy during the period to which the preceding policy statement relates.

(2) The Cabinet Secretary shall lay every statement submitted under subsection (1) before the appropriate committee of the National Assembly not later than the end of the subsequent session of Parliament after the statement is so submitted.

(3) The Bank shall—

- (a) cause—
 - (i) every monetary policy statement submitted under subsection (1); and
 - (ii) its monthly balance sheet, to be published in the *Gazette*; and
- (b) disseminate key financial data and information on monetary policy to the public.

(4) In subsection (2), the expression "appropriate committee" means the committee of the National Assembly appointed to investigate and inquire into matters relating to monetary policy.

[Act No. 9 of 1996, s. 2.]

4C. Consultations on monetary policy

(1) There shall be regular consultations on monetary policy between the Cabinet Secretary and the Bank.

(2) Where in exceptional circumstances and after consultation with the Bank, the Cabinet Secretary is of the opinion that the monetary policy adopted by the Bank is inconsistent with the principal object of the Bank, the Cabinet Secretary may, upon resolution by Cabinet, direct the Bank in writing to adopt such monetary policy as the Cabinet Secretary may specify for a period of six months or for such shorter period as the Cabinet Secretary may specify, and the Bank shall, upon receipt of a directive under this section, adopt and implement the monetary policy so directed notwithstanding any other provision of this Act.

(3) The Cabinet Secretary shall cause every directive issued under subsection (2) to be published in the *Gazette*.

[Act No. 9 of 1996, s. 2.]

4D. Monetary Policy Advisory Committee

(1) There shall be a committee of the Bank, to be known as the Monetary Policy Committee of the Central Bank of Kenya, which shall have the responsibility within the Bank for formulating monetary policy.

(2) The Committee shall consist of the following members—

- (a) the Governor, who shall be the Chairperson;
- (b) the Deputy Governors, who shall be deputies to the Chairperson;
- (c) two members appointed by the Governor from among the staff; and
- (d) four other members who have knowledge, experience and expertise in matters relating to finance, banking, and fiscal and monetary policy, appointed by the Cabinet Secretary;
- (e) the Principal Secretary to the National Treasury, or his representative, who shall be a non-voting member.

(2A) Of the two members appointed under subsection (2)(c)—

- (a) one shall be a person with executive responsibility within the Bank for monetary policy analyses; and
- (b) one shall be a person with responsibility within the Bank for monetary policy operations.

(3) At least two of the members appointed under subsection (2)(d) shall be women.

(4) Each member appointed under subsection (2)(d) shall hold office for a term of three years and shall be eligible to be appointed for one additional term.

(5) The Chairperson of the Committee shall convene a meeting of the Committee at least once every two months and shall convene an additional meeting if requested by at least four members in writing.

(6) At least once every six months the Committee shall submit a report to the Cabinet Secretary with respect to its activities and the Cabinet Secretary shall lay a copy of each report before the National Assembly.

(7) The quorum of the Committee shall be five members, one of whom must be the Chairperson or vice-Chairperson.

(8) The Bank shall provide staff to assist the Committee.

[Act No. 8 of 2004, s. 2, Act No. 9 of 2007, s. 68, Act No. 8 of 2008, s. 73.]

5. Head office and branches

(1) The Bank shall have its head office in Nairobi but during a time of national emergency the Bank may, unless the President otherwise directs, establish its head office temporarily or permanently in any other place within Kenya or elsewhere.

(2) The Bank may establish or close branches in any place within Kenya and may, with the prior approval of the Cabinet Secretary, open or close branches outside Kenya.

6. Agents

The Bank may, with the prior approval of the Cabinet Secretary, appoint, on such terms as it considers appropriate, or cancel the appointment of, agents, both within and outside Kenya.

7. Exemption from tax

(1) The Bank shall not be liable to any taxation imposed by any law in respect of income or profits.

(2) No duty shall be chargeable under the Stamp Duty Act (Cap. 480) in respect of any instrument executed by or on behalf of or in favour of the Bank in any case where, but for this exemption, the Bank would be liable to pay such duty.

(3) The Cabinet Secretary may, whether for the purpose of removing any doubt as to the extent of the foregoing provisions of this section or for the purpose of extending the immunities of the Bank, by order published in the *Gazette* specify any tax, duty, fee, rate, levy, cess or other impost as one to which the Bank shall not be liable, and the law relating thereto shall have effect accordingly.

PART III – CAPITAL AND RESERVES

8. Authorized capital of Bank

(1) The authorized capital of the Bank shall be five billion shillings which may be increased by such amount as shall be determined by the Board in consultation with the Cabinet Secretary.

(2) The ownership of the entire paid up capital of the Bank shall be vested in the Principal Secretary to the National Treasury.

(3) The Bank may, having regard to the amount by which the value of the assets of the Bank exceeds its liabilities, increase its paid up capital by such amount, payable out of the General Reserve Fund, as the Board shall direct.

(4) The paid up capital of the Bank shall not be reduced.

[Act No. 13 of 1978, Sch., Act No. 9 of 1996, s. 3.]

9. General Reserve Fund

(1) The Bank shall establish and maintain a fund designated as the General Reserve Fund, to which shall be transferred at the end of each financial year at least ten per centum or any other amount as the Board, in consultation with the Cabinet Secretary, may determine, of the net annual profits of the Bank after allowing for the expenses of operation and after provision has been made for bad and doubtful

debts, depreciation in assets, contributions to staff benefit funds, and such other contingencies and accounting provisions as the Bank deems appropriate.

(2) Subject to subsection (1), and section 51, the net annual profits of the Bank, calculated in accordance with this section, shall be paid into the Consolidated Fund.

(3) The amount of any net losses of the Bank in any financial year which is in excess of the sums standing to the credit of the general reserve fund of the Bank shall be charged upon and paid out of the Consolidated Fund without further appropriation than this Act.

[Act No. 13 of 1978, Sch., Act No. 9 of 1996, s. 4.]

PART IV – MANAGEMENT

10. Board of Directors

There shall be a Board of Directors of the Bank, constituted as provided in section 11 which shall, subject to the provisions of this Act, be responsible for—

- (a) determining the policy of the Bank, other than the formulation of monetary policy;
- (b) determining the objectives of the Bank, including oversight for its financial management and strategy;
- (c) keeping under constant review the performance of the Bank in carrying out its functions;
- (d) keeping under constant review the performance of the Governor in discharging the responsibility of that office;
- (e) keeping under constant review the performance of the Governor in ensuring that the Bank achieves its objectives;
- (f) determining whether the policy statements made pursuant to section 4B are consistent with the Bank's primary function and policy objectives under section 4; and
- (g) keeping under constant review the use of Bank's resources.

[Act No. 9 of 2007, s. 69.]

11. The Board of Directors

(1) The Board shall consist of—

- (a) a Chairperson appointed by the President;
- (b) a Governor;
- (c) the Principal Secretary to the National Treasury or his representative, who shall be a non-voting member;
- (d) eight other non-executive directors.

(2) The chairperson and directors appointed under paragraph (d) of subsection (1) shall be appointed by the President with the approval of Parliament and shall hold office for a period of four years but shall be eligible for re-appointment for one further term of four years.

(2A) The chairperson shall be appointed by the President through a transparent and competitive process and with the approval of Parliament, and shall hold office for a term of four years but shall be eligible for reappointment for one further term.

(3) The members of the Board shall be appointed at different times so that the respective expiry dates of the members' terms of office shall fall at different times.

(4) A member of the Board may resign his office by writing under his hand addressed to the President which resignation shall take effect one month from the date of receipt of the letter of resignation by the President.

(5) If the Chairperson, Governor or a director dies or resigns or otherwise vacates office before the expiry of his term of office, the President shall appoint another person in his place.

(6) Where the Chairperson, the Governor or a director is unable to perform the functions of his office due to any temporary incapacity which is likely to be prolonged, the President may appoint a substitute for that member of the Board to act with the full powers of the member until such time as the President determines that his incapacity has ceased.

(7) A person shall be eligible to be appointed a Director if he—

- (a) is a citizen of Kenya; and
- (b) is knowledgeable or experienced in monetary, financial, banking and economic matters or other disciplines relevant to the functions of the Bank.

[Act No. 9 of 1996, s. 5, Act No. 10 of 2006, s. 49, Act No. 4 of 2012, s. 45, Act No. 36 of 2012, s. 2, Act No. 14 of 2015, s. 44.]

12. Meetings of Board

(1) The Chairperson shall convene meetings of the Board not less than once in every two months, or whenever the business of the Bank so requires, or whenever he is so requested in writing by at least three directors.

(1A) The Chairperson shall preside at all meetings of the Board.

(1B) In the absence of the Chairperson at a meeting, the members present shall elect one of the members appointed under paragraph (d) of section 11(1) to preside at that meeting of the Board.

(1C) The directors appointed under section 11(1)(d) shall elect one from amongst their number to preside at the meetings of the Board until a chairperson is appointed.

(2) A quorum for any meeting of the Board shall be the Chairperson, the Governor and three directors.

(3) Decisions of the Board shall be adopted by a majority of the votes of those present at that meeting, and in case of an equality of votes Chairperson or the person presiding at the meeting shall have a second or casting vote.

(4) The validity of any proceedings of the Board shall not be affected by any vacancy in the membership of the Board, or by any defect in the appointment or disqualification of any member which is discovered subsequent to those proceedings.

(5) A director who is interested in any matter involving the Bank, or in the exercise or proposed exercise by the Bank of a power, shall declare that interest at every meeting of the Board at which that matter or the exercise or proposed exercise of the power, is considered by the Board, and the director shall not be entitled to attend and vote, or be counted in a quorum present, at a meeting at which the matter or the exercise or proposed exercise of the power in which the Director has interest is considered.

(6) *Deleted by Act No. 9 of 1996, s. 6.*

[Act No. 9 of 1996, s. 6, Act No. 4 of 2012, s. 46, Act No. 36 of 2012, s. 3.]

12A. Delegation by the Board

The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board, or to any member thereof, or to any officer, employee or agent of the Bank the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or any other written law.

[Act No. 9 of 1996, s. 7.]

13. Governor

(1) There shall be a Governor who shall be appointed by the President through a transparent and competitive process and with the approval of the National Assembly.

(2) The Governor shall hold office for a term of four years, but shall be eligible for re-appointment for one further term of four years.

(3) The Governor shall be the chief executive officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank, including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board, and the Governor shall have authority to incur expenditure for the Bank within the administrative budget approved by the Board.

(4) The Governor shall be the principal representative of the Bank and shall, in that capacity have authority—

- (a) to represent the Bank in its relations with other public entities, persons or bodies;
- (b) to represent the Bank, either personally or through counsel, in any legal proceedings to which the Bank is a party;
- (c) to sign individually or jointly with other persons contracts concluded by the Bank, notes and securities issued by the Bank reports, balance sheets, and other financial statements, correspondence and other documents of the Bank.

(5) The Governor may delegate any of his powers provided for in this section to other officers of the Bank.

[Act No. 4 of 2012, s. 47, Act No. 36 of 2012, s. 4, Act No. 14 of 2015, s. 45.]

13A. Common seal and power of attorney

(1) The affixing of the common seal of the Bank shall be authorized by the signature of the Governor and of some other person or persons authorized by the Governor in that behalf.

(2) The Governor may, under the common seal of the Bank, empower any person to execute or authenticate on behalf of the Bank any documents on its behalf.

[Act No. 13 of 1978, Sch.]

13B. Deputy Governor

(1) There shall be two Deputy Governors who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.

(2) The Deputy Governors shall hold office for a term of four years, but shall be eligible for re-appointment for one further term of four years.

(3) The Deputy Governors shall perform such functions as the Governor may from time to time assign to them.

(4) The Board shall appoint one of the Deputy Governors to act in the office of Governor whenever—

- (a) the position of Governor falls vacant in the period before a substantive appointment is made; or
- (b) the Governor is temporarily absent from office.

(5) A Deputy Governor appointed under subsection (4) shall, during the period of appointment, exercise all the powers and perform all the functions conferred on the Governor under this Act under any other law.

[Act No. 10 of 2006, s. 50, Act No. 4 of 2012, s. 48.]

13C. Qualifications for Governor and Deputy Governor

(1) The Governor and Deputy Governors shall be fit and proper persons of recognized professional standing and over ten years' experience at senior management level in the field of economics, banking, finance, law or other fields relevant to the functions of the Central Bank.

(2) For the purposes of this section, "fit and proper" means possessing all the attributes to be taken into account in determining the suitability of a person to be appointed as Governor, including the person's general probity, competence and soundness of judgment for the fulfillment of the responsibilities of office and the diligence with which the person is likely to fulfill those responsibilities.

[Act No. 36 of 2012, s. 5.]

14. General disqualifications for all Board members

(1) No person shall be appointed as Chairperson, Governor, Deputy Governor or a Director who is—

- (a) a member of the National Assembly or a member of a local authority established under the Local Government Act (Cap. 265);
- (b) a salaried employee of any public entity (except on a secondment basis);
- (c) a director, officer, employee, partner in or shareholder of any specified bank or specified financial institution:

Provided that—

- (i) paragraph (b) shall not be applicable to the representative of the National Treasury; and
- (ii) the President may in exceptional cases waive any of the above provisions with respect to any Director (other than the Governor or Deputy Governor) if it is in the interests of the Bank and likely to promote the objects of the Bank under section 4.

(2) The President shall terminate the appointment of a Chairperson, Governor, Deputy Governor or a director who—

- (a) becomes subject to any of the disqualifications described in subsection (1);
- (b) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
- (c) is convicted of an offence involving dishonesty or fraud or moral turpitude;

- (d) is adjudged or otherwise declared to be of unsound mind;
- (e) is absent, without the leave of the Board from three consecutive meetings of the Board;
- (f) becomes, for any reason, incapable or incompetent of properly performing the functions of his office:

Provided that the appointment of the Governor shall not be terminated under this paragraph until the question of his removal from office has been referred to a tribunal appointed under subsection (3) and the tribunal has recommended to the President that the Governor ought to be removed for incapability or incompetence as aforesaid.

(3) If the President considers that the question of terminating the appointment of the Governor under subsection (2)(f) ought to be investigated, then—

- (a) the President shall appoint a tribunal which shall consist of a chairman and two other members selected by the President from among persons—
 - (i) who hold or have held office as judges of the High Court or the Court of Appeal; or
 - (ii) who are qualified to be appointed as judges of the High Court under section 61(3) of the Constitution;
- (b) the tribunal shall inquire into the matter and report on the facts to the President and recommend to him whether the Governor ought to be removed.

(4) Where the question of removing the Governor has been referred to the tribunal under this section, the President may suspend the Governor from the exercise of the functions of his office and any such suspension may at any time be revoked by the President, and shall in any case cease to have effect if the tribunal recommends to the President that the Governor should not be removed.

[Act No. 9 of 1996, s. 8, Act No. 36 of 2012, s. 6.]

15. Special disqualifications for Governor and Deputy Governor

(1) The Governor and the Deputy Governor shall owe their allegiance entirely to the Bank and shall not engage in any paid employment or business or professional activity outside the duties of their respective offices:

Provided that nothing in this subsection shall prevent the Governor or Deputy Governor from accepting or holding any academic office or position in an institution of higher learning or any advisory position or membership in any committee or commission with public responsibility, or from serving in any international financial institution of which Kenya is a member or with which Kenya is associated, or any specialized financial institution established by the Government.

(2) If the Governor or the Deputy Governor engages in any paid employment or business or professional activity outside the duties of his office contrary to subsection (1), the President shall terminate his appointment:

Provided that in the case of the Governor, the provisions of section 14 shall apply.

(3) The President may specifically exempt any transactions or activities from the restrictions of this section.

[Act No. 9 of 1996, s. 9.]

16. Remuneration

(1) The Governor, the Deputy Governor, and any substitute appointed under section 11(4) of this Act shall be paid by the Bank such salaries and allowances as may be determined from time to time by the President, but such salaries and allowances shall not be altered to the detriment of any person during his term of office.

(2) The directors and any substitute appointed under section 11(4) shall be paid by the Bank such allowances as may from time to time be determined by the President.

17. Preservation of secrecy

(1) Except for the purpose of the performance of his duties or the exercise of his powers, the Governor, the Deputy Governor, any Director or any other officer or employee of the Bank shall not disclose any information which he has acquired in the performance of his duties or the exercise of his powers.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year, or to both in addition to any disciplinary action which may be taken by the Board.

18. Declaration of interest

The Governor, the Deputy Governor, and any Director shall declare his interest in any specific proposal being considered or to be considered by the Board.

PART V – CURRENCY**19. Currency of Kenya**

(1) The unit of currency of Kenya shall be the Kenya shilling, which shall be divided into one hundred cents.

(2) Twenty shillings shall equal one Kenya pound.

20. External value of the shilling

The external value of the Kenya shall be determined by the market.

[Act No. 13 of 1978, Sch., Act No. 20 of 1989, Sch., Act No. 9 of 1996, s. 10.]

21. Use of Kenya shilling

All monetary obligations or transactions entered into or made in Kenya shall be deemed to be expressed and recorded, and shall be settled, in Kenya currency unless otherwise provided for by law or agreed upon between the parties.

22. Issue of notes and coins, legal tender, and withdrawal

(1) The Bank shall have the sole right to issue notes and coins in Kenya and, subject to subsection (4), only those notes and coins shall be legal tender in Kenya:

Provided that coins of a denomination of fifty cents shall be legal tender only for payments up to twenty shillings, and coins of a denomination of less than fifty cents shall be legal tender only for payments up to five shillings.

(2) The denominations, inscriptions, forms, material and other characteristics of the notes and coins issued by the Bank shall be determined by the Bank in consultation with the Cabinet Secretary, and shall be notified in the *Gazette* and in other media of public information likely to bring them to the attention of the public.

(3) The Bank shall have power to withdraw any notes or coins issued by the Bank, and the procedure for and effect of any such withdrawal shall be as follows—

- (a) a notice published in the *Gazette*, and in such other manner as the Bank considers likely to bring that notice to the attention of the public, shall specify the issues, and the denominations forming part of the issues, of notes or coins that are to be withdrawn, the places where those notes or coins may be taken for exchange, and the date on which those notes or coins shall cease to be legal tender;
- (b) the notice given under the foregoing paragraph may provide that, after such period as may be specified in the notice, the notes or coins to which the notice applies shall only be exchanged at the head office of the Bank;
- (c) the notes or coins specified in a notice given under paragraph (a) shall be exchanged at their face value for legal tender at the places and for the periods (which shall be of reasonable duration) specified in relation to those places in the notice, and shall cease to be legal tender on the date specified in the notice;
- (d) the Bank may, by notice published in the same manner as notice given under paragraph (a), specify a period during which notes or coins which have ceased to be legal tender may nevertheless be exchanged at the head office of the bank, and after which those notes or coins shall no longer be exchanged.

[Act No. 9 of 1996, s. 11.]

23.

[Spent]

24. Exchange of mutilated notes and coins

The Bank shall not be obliged to exchange any note or coin which is mutilated, defaced, soiled or otherwise defective, and the conditions subject to which the Bank may as a matter of grace exchange any such note or coin shall be within the absolute discretion of the Bank.

25. Bills of exchange, promissory notes, etc

(1) The Cabinet Secretary may, if the Bank so recommends, by regulations published in the *Gazette* prohibit the issue by any person other than the Bank of any bill of exchange, promissory note or similar instrument for the payment of money to the bearer on demand, and any such regulations may make different provision for different cases or classes of case, and may impose penalties for any offence under the regulations of a fine not exceeding ten thousand shillings or of a term of imprisonment not exceeding two years, or of both such fine and imprisonment.

(2) Subject to any regulations made under this section the issue of any such bill, note or instrument referred to in subsection (1) shall not be deemed to contravene the sole right of the Bank to issue notes in Kenya.

[Act No. 9 of 1996, s. 12.]

PART VI – EXTERNAL RELATIONS

26. Reserve of external assets

(1) The Bank shall at all times use its best endeavours to maintain a reserve of external assets at an aggregate amount of not less than the value of four months

imports as recorded and averaged for the last three preceding years; and subject to subsection (3) the reserve shall consist of any or all of the following—

- (a) gold;
- (b) convertible foreign exchange in the form of—
 - (i) demand or time deposits with foreign central banks or with the Bank's agents or correspondents outside Kenya;
 - (ii) documents and instruments customarily used for the making of payments or transfers in international transactions;
 - (iii) notes or coins;
- (c) convertible and marketable securities of, or guaranteed by, foreign governments or international financial institutions:

Provided that if, at any time, the Bank is unable to maintain the reserve of external assets required under this subsection, it shall provide the Cabinet Secretary with a timebound remedial plan.

(2) The Bank shall from time to time determine the type and form of convertible foreign exchange and the kinds of securities which may be held in the reserve of external assets pursuant to subsection (1).

(3) The Bank may include in its reserve of external assets any liquid external asset not included in subsection (1), or any readily available international drawing facility, which the Bank, after consultation with the International Monetary Fund and with the approval of the Cabinet Secretary, considers suitable for inclusion in the reserve.

[Act No. 8 of 2009, s. 62.]

27. Dealings in gold and foreign exchange

(1) The Bank may buy, sell, import, export, hold or otherwise deal in gold or foreign exchange under such terms and conditions as it shall determine:

Provided that the buying and selling rates involved in such transactions shall be in accordance with international agreements to which Kenya is a party, or with which Kenya is associated.

(2) The Bank may hold balances, denominated in foreign currencies, with foreign central banks or with the Bank's agents or correspondents abroad and, in its discretion, may invest such balances in marketable foreign securities denominated in convertible currencies.

[Act No. 10 of 2006, s. 51.]

28. Institutions with which Bank may deal in foreign exchange

The Bank may engage in foreign exchange transactions only with—

- (a) authorized dealers;
- (b) public entities;
- (c) foreign central banks, foreign banks, or foreign financial institutions;
- (d) foreign Governments or agencies of foreign Governments;
- (e) international financial institutions;
- (f) any other person or body of persons whom the Bank may, by notice in the *Gazette*, prescribe for the purposes of this section.

[Act No. 10 of 1995, s. 4.]

29. Relations with foreign central banks, foreign banks and foreign financial institutions

The Bank may open accounts for and accept deposits from, collect money and other monetary claims for and on account of, foreign central banks, foreign banks and foreign financial institutions, and may generally act as banker to those banks or institutions.

30.

[Repealed by Act No. 10 of 1995, s. 5]

31.

[Repealed by Act No. 8 of 2008, s. 74]

32. Fiscal agent for Government's transactions with international financial institutions

The Bank shall be the fiscal agent for all of the Government's transactions with international financial institutions of which Kenya is a member or with which Kenya is associated.

33. Depository

The Bank shall act as depository for Kenya currency holdings owned by international financial institutions of which Kenya is a member or with which Kenya is associated.

PART VIA – REGULATIONS OF FOREIGN EXCHANGE DEALINGS**33A. Authorized dealers**

(1) Subject to subsection (3), no person shall, in Kenya, transact foreign exchange business except an authorized dealer.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall, on conviction be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

(3) Notwithstanding the provisions of subsection (1), the Bank may permit such person or class of persons as it may specify, to transact foreign exchange business without a licence, subject to such conditions as it may impose.

33B. Licensing of authorized dealers

(1) A person proposing to transact foreign exchange business shall, before commencing such business, apply to the Bank for a licence.

(2) An application under this section shall be made in the prescribed form and shall be forwarded to the Bank together with the prescribed fee.

(3) In considering an application for a licence, the Bank may require to be satisfied as to the financial condition and history of the applicant, the character of its management, the adequacy of its capital structure and the convenience and needs of the area to be served and the public interest which will be served by granting of the licence.

(4) The Bank may, subject to the payment of the prescribed fee and to such conditions as it may consider necessary, grant a licence to the applicant.

(5) Where a licence has been granted under this section, the Bank may add, vary, or substitute any conditions attached thereto.

(6) A licence issued under this section shall, unless earlier revoked, expire on the 31st December next following the date of issue:

Provided that where an application for renewal is made under section 33C, the licence shall be deemed to continue in force until the application for renewal is determined.

[Act No. 10 of 1995, s. 6, Act No. 4 of 2012, s. 49.]

33C. Renewal of licence

(1) A licence issued under section 33B may on expiry be renewed for a further period of twelve months:

Provided that where an authorized dealer fails to commence business in Kenya within six months of the grant of a licence, the authorized dealer shall, if still intending to transact foreign exchange business in Kenya, apply for a licence as though the first licence had never been granted.

(2) An application for the renewal of a licence shall—

- (a) be made in the prescribed form and forwarded to the Bank together with the prescribed fee;
- (b) be lodged with the Bank at least two months prior to the expiry of the licence.

(3) An application for renewal of a licence shall be considered in accordance with the provisions of section 33B.

[Act No. 10 of 1995, s. 6.]

33D. Revocation or suspension of licence

(1) Subject to subsection (2) the Bank may, by notice in writing to an authorized dealer, revoke or suspend a licence for such period as it may specify, if the authorized dealer—

- (a) ceases to carry on business in Kenya or goes into liquidation or is wound up, or is otherwise dissolved; or
- (b) fails to comply with the provisions of this Act or any condition attached to a licence.

(2) Before revoking or suspending a licence under this section, the Bank shall give an authorized dealer not less than fourteen days notice in writing and shall consider any representations made to it in writing by the authorized dealer within that period.

[Act No. 10 of 1995, s. 6.]

33E. Duties of authorized dealers

Every authorized dealer shall—

- (a) maintain such books, accounts, records or other documents as the Bank may specify, and shall furnish the same to the Bank at such time and in such manner as the Bank may specify;
- (b) maintain such levels of foreign currency assets or liabilities as the Bank may specify;
- (c) comply with such requirements regarding the establishment, maintenance and operation of foreign currency accounts as the Bank may impose; and

- (d) comply with such measures to improve the management or its business methods as the Bank may impose.

[Act No. 10 of 1995, s. 6.]

33F. Inspection of dealers

(1) The Bank may, at any time and from time to time cause an inspection to be made by any person authorized by it in writing, of any authorized dealer and of its books, accounts and records.

(2) Subject to subsection (4), when an inspection is made under subsection (1), the authorized dealer concerned and every officer or employee thereof shall produce and made available to the person making the inspection, all books, accounts, records and other documents of the authorized dealer and such correspondence, statement and information relating to the authorized dealer, its business and the conduct thereof as the person making the inspection may require, within such period as he may specify in writing.

(3) Any failure to produce any books, accounts, records, documents, correspondence, statement or information within the period specified in the relevant direction shall constitute an offence under this Part.

(4) Notwithstanding the provisions of subsection (2)—

- (a) any books, accounts, records and other documents required to be produced under this section shall not, in the course of the inspection, be removed from the premises of the authorized dealer or other premises at which they are produced;
- (b) the person making the inspection may make copies of any books, accounts and other documents required for the purposes of his report;
- (c) all information obtained in the course of the inspection shall be treated as confidential and used solely for the purposes of this Part.

(5) A person who makes an inspection shall submit a report of his findings to the Bank indicating—

- (a) any breach or failure to observe the requirements of this Part and any orders or directions made thereunder;
- (b) any irregularity in the manner of conduct of the business of the authorized dealer inspected;
- (c) any apparent mismanagement of business or lack of management skills in that authorized dealer;
- (d) any other matter revealed or discovered in the course of the inspection warranting, in the opinion of the person making the inspection, remedial action or further investigation.

(6) The Central Bank may publish in whole or in part, at such times and in such manner as it deems fit, any information furnished to it under this Part:

Provided that the information so furnished shall not be published if it would disclose the financial affairs of any person, unless the consent, in writing, of that person has first been given.

(7) Except as provided in the Act, no person shall disclose or publish any information which comes into his possession as a result of the performance of his duties or responsibilities under this Act.

(8) Notwithstanding the provisions of this section, the Central Bank may disclose any information referred to in subsection (7) to any monetary authority,

financial regulatory authority, fiscal or tax agency, or fraud investigation agency within or outside Kenya, where such information is reasonably required for the proper discharge of the functions of the Central Bank or the requesting authority, financial regulatory authority, fiscal or tax agency or fraud investigation agency:

Provided that the sharing of information with any authority or agency outside Kenya shall be on reciprocal basis.

[Act No. 10 of 1995, s. 6, Act No. 10 of 2010, s. 72.]

33G. Powers of Bank to advise and direct dealers

(1) If at any time or upon an inspection under section 33F, the Bank has reason to believe that the business of an authorized dealer is being conducted in a manner contrary to any of the requirements of this Part or any regulations made thereunder, or in a manner detrimental to or not in the best interests of the public, the Bank may—

- (a) give advice and make recommendations to the authorized dealer with regard to the conduct of business generally;
- (b) issue directions regarding measures to be taken to improve the management business methods of or the authorized dealer, or to secure compliance with the requirements of this Part or any other written law;
- (c) appoint a person suitably qualified and competent in the opinion of the Bank, to advise and assist the authorized dealer generally, or for the purposes of implementing any directions issued under paragraph (b), and the advice of a person so appointed shall have the same force and effect as a direction issued under paragraph (b) and shall be deemed to be a direction of the Bank under this section.

(2) No direction shall be issued under paragraph (b) or (c) of subsection (1) unless the Bank has given the authorized dealer an opportunity to present its views.

(3) An authorized dealer shall, on receipt of any direction under this section, comply with the direction within such period as may be specified in the direction, and if so required, produce evidence to the Bank that it has done so.

[Act No. 10 of 1995, s. 6.]

33H. Regulation of payments between residents and non-residents

(1) Except with the permission of the Bank, every payment made—

- (a) in Kenya, to or for the credit of a person outside Kenya; or
- (b) outside Kenya, to or for the credit of a person in Kenya; or
- (c) in Kenya (other than a payment for a current transaction) between a resident and non-resident, shall be effected through an authorized Bank or an authorized microfinance bank.

(2) A person who contravenes any of the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

[Act No. 10 of 1995, s. 6, Act No. 41 of 2013, Sch.]

33I. Imposition of restrictions to meet treaty obligations

The Bank may, in consultation with the Cabinet Secretary, impose restrictions on payment for the purposes of enabling the Government of Kenya meet its obligations under any international treaty.

[Act No. 10 of 1995, s. 6.]

33J. Permissions by the Bank

Any permission granted by the Bank under this Part may be—

- (a) either general or special;
- (b) revoked by the Bank at any time;
- (c) absolute or conditional;
- (d) limited so as to expire on a specified date unless renewed;
- (e) published in such a manner as is in the opinion of the Bank appropriate.

[Act No. 10 of 1995, s. 6.]

33K. Instructions or directions

(1) Subject to section 33G, the Bank may issue such instructions or directions to authorized dealers as it may consider necessary.

(2) Any instruction or direction under this section may—

- (a) be either general or special;
- (b) be revoked or varied by subsequent instruction or direction;
- (c) be given to such persons and in such manner as is in the opinion of the Bank appropriate.

(3) A person who fails to comply with instruction or direction issued by the Bank under this section commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

[Act No. 10 of 1995, s. 6.]

33L. General penalty under Part

A person convicted of an offence under this Part for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

[Act No. 10 of 1995, s. 6, Act No. 8 of 2009, s. 63.]

33M. Protection from liability

Neither the Bank nor any officer or employee thereof nor any other person appointed by the Bank under the provisions of this Part shall be liable in respect of any act or omission done in good faith by such officer, employee or other person in the execution of the duties undertaken by him.

[Act No. 10 of 1995, s. 6.]

33N.

[Repealed by Act No. 9 of 1996, s. 13.]

33O. Transitional and saving

A person who, immediately before the commencement of this Part was authorized to transact foreign exchange business by virtue of the provisions of the Exchange Control Act (Cap. 113) (repealed), shall, within ninety days of the commencement, apply for a licence in accordance with section 33B and shall, notwithstanding the provisions of that section, be deemed to be an authorized dealer for the purposes of this Part until such application is determined.

[Act No. 10 of 1995, s. 6.]

PART VIB – MORTGAGE FINANCING BUSINESS**33P. Licensing**

(1) A person shall not engage in mortgage refinance business unless that person has been licensed by the Bank.

(2) An application for a licence under in subsection (1) shall be made to the Bank in the prescribed form and accompanied by the prescribed fee.

(3) A person who contravenes the provision of subsection (1) commits an offence.

[Act No. 10 of 2018, s. 68.]

33Q. Powers of the Bank

The Bank shall have the following powers with respect to the regulation of mortgage refinance companies—

- (a) to license mortgage refinance companies;
- (b) to determine the capital adequacy standards and requirements for mortgage refinance companies;
- (c) to prescribe the minimum liquidity requirements and permissible investments for mortgage refinance companies;
- (d) to supervise mortgage refinance companies, including—
 - (i) conducting both on-site and off-site supervision;
 - (ii) assessing professional and moral suitability of persons managing or controlling the mortgage refinance companies;
 - (iii) approving the Board and management of the mortgage refinance companies;
 - (iv) approving the appointment of the external auditors;
 - (v) collecting regular data from mortgage refinance companies;
 - (vi) approving the annual audited accounts of mortgage refinance companies before publication and presentation at the annual general meetings;
- (e) to revoke or suspend a licence;
- (f) to direct or require such changes as the Bank may consider necessary; and
- (g) to take any other action as the Bank may consider necessary.

[Act No. 10 of 2018, s. 68.]

PART VIC – REGULATION OF DIGITAL LENDERS

[Act No. 15 of 2021, s. 4.]

33R. Regulation of digital lenders

Without prejudice to the generality of section 4A(da), The Bank shall have power to—

- (a) license digital credit providers;
- (b) approve digital channels through which digital credit business may be conducted;
- (c) determine parameters for pricing of digital credit;
- (d) supervise digital credit providers;
- (e) suspend or revoke a license; and
- (f) direct or require such changes as The Bank may consider necessary.

[Act No. 15 of 2021, s. 4.]

33S. Licensing

(1) A person shall not carry on any digital credit business unless that person has been licensed by The Bank under this Act or is permitted to do so under any other written law.

(2) An application for a license under subsection (1) shall be made to The Bank in such form and shall be accompanied by such information and fee as may be prescribed.

(3) An application under subsection (2) shall be accompanied by—

- (a) a copy of the certificate of incorporation under the Companies Act;
- (b) a certified copy of the applicant's memorandum and articles of association;
- (c) a notification of the company's registered address;
- (d) a certificate issued pursuant to section 19 of the Data Protection Act;
- (e) a statement as to compliance with the provisions of Part VII of the Consumer Protection Act; and
- (f) such other documents as may be prescribed by the Bank.

(4) Without prejudice to subsection (3)(e), an applicant shall provide the terms and conditions applicable to the digital credit and which must be accepted by the borrower before activation of a mobile loan account.

(5) The Bank may grant or reject an application for a licence by written notice addressed to the applicant within sixty days from the date of receipt of an application.

(6) A licence granted under this section shall remain valid unless suspended or revoked by The Bank in accordance with this Act, but upon expiry of the prescribed period may be renewed.

(7) The Bank may suspend or revoke a licence by written notice to the holder of the licence, if —

- (a) the licensee does not meet the conditions prescribed by The Bank;
- (b) the licensee is in breach of subsection (3) or the conditions of the Data Protection Act or the Consumer Protection Act;

- (c) the licensee is found to have given false information during the application;
- (d) the licensee goes into liquidation or an order for winding up is issued;
- (e) the licensee carries out activities outside the scope of the licensed activities;
- (f) the licensee is in breach of any of the provisions of this Act and the regulations made thereto relating to digital lending.

(8) Without prejudice to subsection (6), an applicant may apply for renewal of the licence at least three months before expiry of the licence.

(9) The Bank shall cause to be published in the *Gazette* and The Bank's website

- (a) before the thirtieth day of March in each year, the names and addresses of all licenced digital lenders under this section;
- (b) within thirty days of suspension or revocation of a license, the name and address of the digital lenders whose licences have been suspended or revoked.

(10) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings or to both.

[Act No. 15 of 2021, s. 4.]

33T. Consultation

The Bank shall consult with other regulators including but not limited to the—

- (a) the Office of the Data Protection Commissioner; and
- (b) the Communications Authority.

[Act No. 15 of 2021, s. 4.]

33U. Disclosure of credit information

Notwithstanding the provisions of this section, a digital lender shall disclose any positive or negative information of its customers to the licensed credit reference bureaus, where such information is reasonably required for the discharge of the functions of the digital lenders and the licensed credit reference bureaus.

[Act No. 15 of 2021, s. 4.]

PART VII – RELATIONS WITH SPECIFIED BANKS AND MICROFINANCE BANKS

[Act No. 41 of 2013, Sch.]

34. Banker to institutions

(1) The Bank shall open accounts for and accept deposits from, collect monetary claims for and on account of institutions and generally act as banker to institutions.

(2) The Bank may provide any additional services or facilities that it considers desirable including facilities for clearing financial instruments to institutions operating in Kenya.

(3) For the purposes of this section, "institution" includes—

- (a) a specified bank;
- (b) a specified financial institution;
- (c) a specified microfinance bank;

- (d) any other person or body of persons which the Cabinet Secretary may, on the recommendation of the Bank, and by notice in the *Gazette*, prescribe.

[Act No. 13 of 1995, Sch. 1, Act No. 41 of 2013, Sch.]

35.

[Repealed by Act No. 9 of 1996, s. 14.]

36. Loans

(1) The Bank may grant loans or advances for fixed periods not exceeding six months to specified banks and specified microfinance banks which pledge treasury bills or other Government securities specified by the Bank.

(2) Except as provided in this section, the Bank shall not extend credit directly, or indirectly to specified banks or specified microfinance banks.

(3) The Bank may determine the general terms and conditions under which it extends credit to specified banks and specified microfinance banks, and in particular, the Bank shall determine and announce the rates of interest or return it shall charge for granting loans or advances to specified banks and specified microfinance banks in accordance with this section, and may determine different rates of interest or return for different classes of transactions or maturities.

(4) The Bank shall publish the lowest rate of interest it charges on loans to banks and microfinance banks, and that rate shall be known as the central bank rate.

[Act No. 9 of 1996, s. 15, Act No. 8 of 2004, s. 3,
Act No. 10 of 2010, s. 73, Act No. 41 of 2013, Sch.]

36A. Publication and sharing of information

(1) The Central Bank shall publish in the *Gazette*, the Central Bank website and two daily newspapers of national circulation the following information—

- (a) the weighted average lending and deposit rates for all banks and financial institutions;
- (b) the interest rate spread and its composition;
- (c) a simplified version of the balance sheets and income statements.

(2) Notwithstanding the provisions of this section, a bank shall disclose any positive or negative information of its customers to the licensed credit reference bureaus, where such information is reasonably required for the discharge of the functions of the banks and the licensed credit reference bureaus.

[Act No. 4 of 2012, s. 50.]

36B. Reports to Parliament

The Central Bank shall, on a quarterly basis, make and present to Parliament a report on the key economic and banking sector aggregate.

[Act No. 4 of 2012, s. 51.]

37.

[Repealed by Act No. 9 of 1996, s. 16.]

38. Reserve requirement

(1) The Bank may from time to time require institutions to maintain minimum cash balances on deposit with the Bank as reserves against their deposit and other liabilities.

(2) The Bank may specify ratios for different types of liabilities and may further specify the method of computing the amount of the total liabilities of an institution but the ratios specified shall be the same for all institutions:

Provided that nothing in this subsection shall be construed to prevent the Bank from allowing an institution or group of institutions upon which the provisions of subsection (1) are applied for the first time, a period within which to comply with the cash reserve ratio requirements as may be prescribed by the Bank.

(3) Any specification of, or increase in the minimum reserve requirements under subsection (1) or subsection (2) shall take effect only after the expiration of thirty days' notice to the institution of the Bank's intention to take action.

(4) The Bank may impose on any institution which fails to maintain the sufficient minimum cash balances required under this section, a penalty charge not exceeding one percent per day on the amount of the deficiency or ten thousand shillings, whichever is the higher for each day for which the deficiency continues.

(5) The Bank may, if in its opinion circumstances of an unusual nature render it desirable so to do, pay a return and subject to such qualifications as it may determine on minimum cash balances deposited with the Bank under this section.

(6) For the purposes of this section, "institution" includes—

- (a) a bank licensed under the Banking Act (Cap. 488);
- (b) a financial institution licensed under the Banking Act (Cap. 488);
- (c) any other person or body of persons which the Cabinet Secretary, on the recommendation of the Bank may by notice in the *Gazette* prescribe.

[Act No. 10 of 1980, s. 9, Act No. 13 of 1995, Sch. 1, Act No. 9 of 2007, s. 70, Act No. 10 of 2010, s. 74.]

39.

[Repealed by Act No. 8 of 2004, s. 4.]

39A.

[Repealed by Act No. 8 of 2004, s. 5.]

40.

[Repealed by Act No. 9 of 1996, s. 17.]

41.

[Repealed by Act No. 9 of 1996, s. 17.]

42.

[Repealed by Act No. 56 of 1968, s. 33.]

43. Information to be furnished by specified banks, etc

(1) Every specified bank, specified financial institution, specified microfinance bank, specified mortgage refinance companies and specified digital credit providers shall furnish to the Bank, at such time and in such manner as the Bank may prescribe, any information and data the Bank may reasonably require for the proper discharge of its functions under this Act.

(2) The Bank may publish in whole or in part, at such times and in such manner as it may decide, any information or data furnished under this section:

Provided that no such information shall be published which would disclose the financial affairs of any person or undertaking unless the prior consent in writing of such person or undertaking has first been obtained by the Bank.

[Act No. 41 of 2013, Sch., Act No. 10 of 2018, s. 69, Act No. 15 of 2021, s. 5.]

PART VIII – RELATIONS WITH PUBLIC ENTITIES

44. Fiscal agent and banker to public entities

(1) The Bank shall act as fiscal agent of and banker to the Government.

(2) The Bank may also perform the functions of fiscal agent and banker for any other public entity in accordance with, and within the scope determined by, any special arrangements made between the Bank and the public entity concerned.

45. Functions as fiscal agent

The Bank in its capacity as fiscal agent and banker to any public entity may, subject to the instructions of that public entity, have power—

- (a) be the official depository of the public entity concerned and accept deposits and effect payments for the account of that public entity:

Provided that the Bank may, after consultation with the Cabinet Secretary, select any specified bank to act in its name and for its account as the official depository of that public entity in places where the Bank has no office or branch;

- (b) maintain and operate special official accounts in accordance with arrangements made between the Bank and the public entity concerned;
- (c) as an agent of the Government, administer the public debt including the issuance of, payment of return on, and redemption of, bonds and other securities of the Government;
- (d) pay, remit, collect or accept for deposit or custody funds in Kenya or abroad;
- (e) purchase, sell, transfer or accept for custody cheques, bills of exchange and securities;
- (f) collect the proceeds, whether principal or interest or return, resulting from the sale for, or accruing to the interest of, a public entity of securities or other property;
- (g) purchase, sell, transfer or accept for custody gold or foreign exchange.

[Act No. 10 of 2010, s. 75.]

46. Direct advances to Government

(1) Subject to the provisions of this section, the Bank may make direct advances to the Government for the purpose of offsetting fluctuations between receipts from the budgeted revenue and payments of the Government.

(2) Each advance made to the Government under this section shall—

- (a) be secured with negotiable securities issued by the Government which mature not later than twelve months;
- (b) bear interest at market rate; and
- (c) be made solely for the purpose of providing temporary accommodation to the Government.

(3) The total amount outstanding at any time of advances made under this section shall not exceed five per centum of the gross recurrent revenue of the Government as shown in the Appropriation Accounts for the latest year for which those Accounts have been audited by the Controller and the Auditor-General:

Provided that this subsection shall not apply in respect of advances made by the Bank to the Government prior to the commencement of this section.

(4) Any advance made by the Bank to the Government which is outstanding at the commencement of this section shall be deemed to be a loan granted by the Bank to the Government on such terms and conditions as may be determined by the Bank in consultation with the Cabinet Secretary.

(5) Any advance deemed to be a loan under subsection (4) shall be secured with such Government securities as the Bank may specify.

(6) For the purposes of subsection (3), the recurrent revenue of the Government shall include revenue from taxes, customs, excise and other duties, fees, rents, profits and income from any investment or undertaking, but shall not include proceeds from grants, or loans or disposal of assets for purposes of privatisation or any form of borrowing whether short-term or long-term.

[Act No. 9 of 1996, s. 18.]

46A. Loans and advances to Deposit Protection Fund Board

Subject to section 37(1) of the Banking Act (Cap. 488), the Bank may grant loans or advances for fixed periods, not exceeding three years, to the Deposit Protection Fund Board on the security of Treasury Bills or other Government securities specified by the Bank.

[Act No. 15 of 2003, s. 53.]

47. Open market operations

(1) For purposes of regulating the money supply, the Bank may with the approval of the Board—

- (a) purchase, hold or sell negotiable securities of any maturity issued by the Government or any other negotiable securities specified by the Bank;
- (b) issue or hold Central Bank of Kenya bills and purchase or sell outright or by way of repurchase agreement, Central Bank of Kenya Bills;
- (c) accept money as deposit from commercial banks and microfinance banks on such terms as may be specified by the Bank.

(2) The total amount of securities held by the Bank at any time under subsection (1) of this section shall be excluded in the computation of the limit prescribed in subsection (3) of section 46.

[Act No. 9 of 1996, s. 19, Act No. 8 of 2008, s. 75, Act No. 41 of 2013, Sch.]

48.

[Repealed by Act No. 9 of 1996, s. 20.]

49. Prohibition of lending to public entities

Except as provided in accordance with sections 36, 46, 46A and 47 the Bank shall not extend any credit directly or indirectly to any public entity.

[Act No. 9 of 1996, s. 21, Act No. 15 of 2003, s. 54.]

50. Adviser to Government

(1) It shall be the duty of the Bank to advise the Cabinet Secretary on any matter which in its opinion is likely to affect the achievement of the principal objects of the Bank as specified in section 4.

(2) The Bank may tender advice to the Cabinet Secretary on any matter in which the Bank is concerned.

(3) The Cabinet Secretary may request the Bank to give its advice on any particular measures, situations or transactions, or on monetary, banking and credit conditions in or outside Kenya, and the Bank shall give its advice accordingly.

PART IX – MISCELLANEOUS PROVISIONS**51. Revaluation profits or losses**

(1) Profits or losses which are attributable to any revaluation of the Bank's net assets or liabilities in gold, foreign exchange or foreign securities, made as a result of any change in the value of any currency unit, shall be taken into account in the computation of the annual profits and losses of the Bank:

Provided that the accounts of the Bank shall distinguish the profits or losses arising from normal operations of the Bank and those resulting from profits or loss from exchange fluctuations.

(2) The balance outstanding in the Revaluation Account existing immediately before the commencement of this section shall be repaid from the net annual profits of the Bank by instalments of such amount as the Board, in consultation with the Cabinet Secretary, may determine.

[Act No. 9 of 1996, s. 22.]

51A. Powers on anti-money laundering, combating the financing of terrorism and countering proliferation financing matters

(1) Pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A), the Central Bank shall regulate, supervise and enforce compliance for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes by all reporting institutions regulated and supervised by the Central Bank and to whom the provisions of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) apply.

(2) In undertaking its mandate under subsection (1), the Central Bank may -

- (a) vet proposed significant shareholders, proposed beneficial owners, proposed directors and senior officers of a reporting institution;
- (b) conduct onsite inspection;
- (c) conduct offsite surveillance;
- (d) undertake consolidated supervision of a reporting institution and its group;
- (e) compel the production of any document or information the Central Bank may require for the purpose of discharging its supervisory mandate under the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A);
- (f) impose monetary, civil or administrative sanctions for violations related to anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;

- (g) issue regulations, guidelines, directions, rules or instructions for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes;
- (h) cooperate and share information for anti-money laundering, combating the financing of terrorism and countering proliferation financing purposes; and
- (i) take such action as is necessary to supervise and enforce compliance by reporting institutions in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A) and any regulations, guidelines, rules, instruction or direction made or issued thereunder.

(3) For purposes of this section, “reporting institution” has the meaning assigned to it under section 2 of the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A).

[Act No. 10 of 2023, Sch.]

51B. Penalties for violations relating to money laundering, terrorism financing.

(1) No money remittance, foreign exchange bureau, digital credit provider, director, officer, employer, agent or any other person shall violate or fail to comply with any provision of the Proceeds of Crime and Anti-Money Laundering Act, 2009, or any regulation, guideline, rule, direction or instruction issued under the said Act or under this section.

(2) A person who violates or fails to comply with the provisions of subsection (1) shall be liable—

- (a) in case of a legal person, to a penalty not exceeding five million shillings;
- (b) in the case of a natural person, to a penalty not exceeding one million shillings; and
- (c) to additional penalties not exceeding one hundred thousand shillings in each case for each day or part thereof during which such violation or non-compliance continues.

[Act No. 10 of 2023, Sch.]

51C. Rights and fundamental freedoms

All persons subject to this Act shall enjoy all rights and fundamental freedoms enshrined in the Constitution unless limited to the extent specified in Article 24 of the Constitution, this Act or any other Act.

[Act No. 10 of 2023, Sch.]

51D. Limitation of right to privacy

(1) The right to privacy guaranteed under Article 31 of the Constitution is hereby limited under Article 24 of the Constitution only to the nature and extent contemplated under subsection (2).

(2) Where a person is suspected or accused of an offence under this Act —

- (a) the person’s home or property may, with a warrant be searched;
- (b) the person’s possessions may be seized;
- (c) information relating to that person’s financial, family or private affairs where required may be revealed; or

- (d) the privacy of a person's communications may be investigated or otherwise interfered with.

(3) A limitation of a right under subsection (1) shall apply only for the purpose of the prevention, detection, investigation and prosecution of proceeds of crime, money laundering and financing of terrorism.

[Act No. 10 of 2023, Sch.]

52. Prohibited operations

The Bank shall not—

- (a) save as expressly authorized by this Act, engage in trade, or own or acquire any direct interest in any commercial, agricultural, industrial or similar undertaking, except in the course of obtaining satisfaction for any debt due to the Bank, and any such interest shall be disposed of at the earliest suitable opportunity;
- (b) purchase, acquire or lease immovable property for commercial purposes or as an investment except for its own business requirements or for the use of its employees;
- (c) draw or accept bills payable otherwise than on demand; or
- (d) guarantee any loan, advance or investment.

53. Financial year

The financial year of the Bank shall be the same as the Government's financial year and the accounts of the Bank shall be closed at the end of each financial year.

54. Annual reports

Within three months after the close of each financial year the Bank shall submit to the Cabinet Secretary a report on the Bank's operations throughout that year, together with the balance sheet and the profit and loss account as certified by auditors appointed by the Bank and approved by the Cabinet Secretary.

55. Publication of reports, etc

(1) After submission to the Cabinet Secretary the Bank shall publish the annual report referred to in section 54.

(2) The Bank may also issue such other publications as it considers to be in the public interest.

56. Audit by Controller and Auditor-General

The Cabinet Secretary may, in addition to the audit carried out under section 54, if he thinks fit, require the Controller and Auditor-General to audit the accounts of the Bank.

56A. General Penalty

A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

[Act No. 8 of 2009, s. 64.]

57. Regulations by the Bank

(1) The Bank may make regulations, issue guidelines, circulars and directives for the purpose of giving effect to the provisions of this Act and generally for the better carrying out of the objects of the Bank under this Act.

(2) Without prejudice to the generality of subsection (1), the Bank may, in regulations, prescribe penalties to be paid by authorised dealers who fail or refuse to comply with any guidelines or directions of the Central Bank under this Act, which penalties shall not exceed five hundred thousand shillings in the case of an authorised dealer, or two hundred thousand shillings in the case of a natural person and may prescribe additional penalties, not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues.

(3) Without prejudice to the generality of subsection (1), The Bank may make Regulations as are necessary or expedient to give full effect to the provisions of this Act including—

- (a) the licensing requirements for digital credit businesses;
- (b) permissible and prohibited activities;
- (c) anti-money laundering and measures for countering financing terrorism;
- (d) credit information sharing;
- (e) data protection;
- (f) consumer protection;
- (g) reporting requirements for digital credit providers;
- (h) offences and penalties;
- (i) dispute resolution mechanisms; and
- (j) such other measures necessary for regulation of digital lending.

(4) Without prejudice to the generality of subsection (3)(h), The Bank may, in regulations, prescribe penalties to be paid by digital lenders who fail or refuse to comply with the provisions of this Act and the regulations made thereunder relating to digital credit, which penalties shall not exceed five hundred thousand shillings, and may prescribe additional penalties, not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues.

[Act No. 9 of 1996, s. 23, Act No. 8 of 2008, s. 76.,
Act No. 10 of 2018, s. 70, Act No. 15 of 2021, s. 6.]

PART X – TRANSITIONAL PROVISIONS**58. Repeal**

(1) The Currency Notes Act (Cap. 417), and the Kenya and Uganda (Currency) Order, 1921 (O.I.C Group 17), in so far as they apply to Kenya, are hereby repealed.

(2) The East African Currency Board Regulations, 1955, in so far as they apply to Kenya, may be repealed by the Cabinet Secretary, by notice in the *Gazette*, in whole or in part, as and when he considers necessary.

59. Transitional clause

(1) Any Regulations required to be made under this Act, to give effect to the provisions on digital lending, shall be made within three months of the coming into force of this Act.

(2) Any person who before the coming into force of this Act was in digital credit business and is not regulated under any other law, shall apply for a licence in accordance with section 33S, within six months of publication of the regulations under subsection (1).

[Act No. 15 of 2021, s. 7.]

SCHEDULE

SPENT