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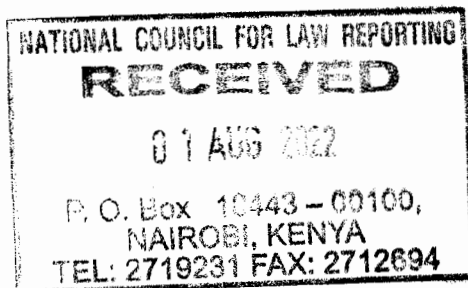
NAIROBI, 27th June, 2022

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**THE NATIONAL GOVERNMENT
CONSTITUENCIES DEVELOPMENT FUND
(AMENDMENT) ACT, 2022**

No. 24 of 2022

Date of Assent: 21st June, 2022

Date of Commencement: 11th July, 2022

AN ACT of Parliament to amend the National Government Constituencies Development Fund Act, 2015

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Government Constituencies Development Fund (Amendment) Act, 2022.

Short title.

2. The National Government Constituencies Development Fund Act, (hereinafter referred to as the “principal Act”) is amended in section 2—

Amendment of section 2 of No. 30 of 2015.

(a) by deleting the definition of “constituency account”; and

(b) by inserting the following new definitions in their proper alphabetic sequence—

“constituency operations account” means the accounts maintained for every constituency in accordance with section 12;

“third party monies” means any monies withheld by the constituency in respect of retention monies for construction projects, accumulated gratuity or service pay and any other monies withheld by the constituency in relation to implementation of projects under this Act;”

3. Section 3 of the principal Act is amended—

Amendment of section 3 of No. 30 of 2015.

(a) in paragraph (e) by inserting the word “equity” immediately after the words “human dignity”;

(b) by inserting the following new paragraph immediately after paragraph (o)—

“(p) provide for a public finance system that promotes an equitable society and in particular expenditure that promotes equitable

development of the country by making special provisions for marginalized groups and areas pursuant to Article 201(b)(iii) of the Constitution;”

4. Section 5 of the principal Act is amended by inserting the word “operations” immediately after the words “through the constituency” appearing in subsection (3).

Amendment of section 5 of No. 30 of 2015.

5. Section 6 of the principal Act is amended—

Amendment of section 6 of No. 30 of 2015.

(a) by deleting subsection (3) and inserting the following new subsection—

“(3) If for any reason a particular project is cancelled or discontinued during the financial year, the funds allocated for such a project shall be returned to the constituency operations account of the constituency from which the funds were withdrawn.”

(b) by inserting the following new subsection immediately after subsection (3)—

“(3A) The funds in respect of a particular cancelled or discontinued project referred to in subsection (3) that were yet to be disbursed for implementation, shall be retained in the constituency operations account.”

6. Section 7 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

Amendment of section 7 of No. 30 of 2015.

“(1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund, and applied in accordance with this Act.”

7. Section 12 of the principal Act is amended by—

Amendment of section 12 of No. 30 of 2015.

(a) deleting subsection (1) and inserting the following new subsections—

“(1) For the purpose of disbursement of funds under this Act there shall be opened and maintained a constituency operations account for every constituency at any commercial bank, which account shall be approved by the

National Treasury and into which all funds shall be kept and such an account shall be known by the name of the constituency for which it is opened.

(1A) Each constituency shall open one deposit bank account for holding third party monies which shall so be designated and such an account shall be known by the name of the constituency for which it is opened.

(1B) For the purposes of this Act, each constituency shall maintain one deposit account and one constituency operations account.”

(b) deleting subsection (2) and substituting therefor the following new subsection—

“(2) At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from the constituency operations account and the constituency deposit account.”

(c) inserting the following new subsections after the new subsection (2)—

“(2A) The signing instructions for the constituency operations account shall be such that there shall be at least one signature of an officer seconded by the Board for that purpose and, at least one signature of a member of the constituency Committee, and the signature of the sub-county accountant in charge of the Fund.”

“(2B) The signing instructions for the constituency deposit account shall be such that there shall be at least one signature of an officer seconded by the Board for that purposes and, at least one signature of a member of the constituency Committee who shall not be a signatory to the constituency operations account and the signature of the sub-county accountant in charge of the Fund.”

8. Section 13 of the principal Act is amended in subsection (3) by deleting the words “and/or instruments

intended for actual release of money from the fund, plus and two” and substituting therefor the words “or, instruments intended for actual release of money from the Fund and at least one”.

9. The principal Act is amended by deleting section 16 and substituting therefor the following new section—

Insertion of new section 16 in No. 30 of 2015.

Functions of the Board.

“16. The functions of the Board shall be to—

- (a) consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency operations account of the approved projects;
- (b) ensure timely and efficient disbursement of funds to every constituency;
- (c) ensure efficient management of the Fund;
- (d) co-ordinate the implementation of projects at the inter-constituency level;
- (e) receive and address complaints that may arise from the implementation of the Act;
- (f) encourage best practices in the implementation of projects;
- (g) administer the funds and assets of the Board in such manner and for such purpose as shall promote the best interest of the Board in accordance with the Act to ensure efficient management of the Fund; and
- (h) perform such other duties as the Board may deem necessary from

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time to time for the proper management of the Fund.

10. Section 19 of the principal Act is amended by deleting subsection (1) and inserting the following new subsection—

Amendment of section 19 of No. 30 of 2015.

“(1) The office of a member of the Board for a member appointed under paragraphs (e) and (f) of section 15(1) shall become vacant if the member—

- (a) resigns by giving written notice to the Cabinet Secretary; or
- (b) is removed from office on any one or more of the following grounds—
 - (i) serious violation of the Constitution or any other law;
 - (ii) gross misconduct, whether in performance of the member’s or office holder’s functions or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence;
 - (v) bankruptcy;
 - (vi) engaging in active politics; or
 - (vii) absence from three consecutive meetings of the Board without the permission of the Chairperson.”

11. Section 28 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection—

Amendment of section 28 of No. 30 of 2015.

“(1) Every constituency shall within three months of the official release of the budget ceilings for the constituencies or such other time as may be determined by the Board, submit a list of the ongoing and proposed constituency projects to the Board.”

12. The principal Act is amended by deleting section 32 and substituting therefor the following new section—

Deletion of section 32 of No. 30 of 2015.

Constituency Committee to determine quantum of instalments.

“**32.** The constituency Committee shall determine the quantum of installments for disbursement to projects within the constituency, taking into account, the disbursement received and, the projects requirements.”

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13. The principal Act is amended by inserting the following new section immediately after section 32—

Insertion new section in No.30 of 2015.

Constituency Committee to inform the Board of allocation.

“32A. The constituency Committee shall within forty-five days of allocating funds under section 32, inform the Board of such allocation.”

14. The principal Act is amended by deleting section 34 and inserting the following new section—

Amendment of section 34 of No. 30 of 2015.

Basis for budget ceiling.

34. (1) The budget ceiling for each constituency shall be—

- (a) three quarters of the amount specified in section 4(1) divided equally among all constituencies;
- (b) an amount equal to a quarter of the amount specified in section 4(1) divided among all constituencies taking into account the number of wards in each constituency; and
- (c) subject to the provisions of section 8(1) and 23(1).

(2) The Chairperson of the National Assembly Committee shall table in the National Assembly a schedule showing the ceiling for each constituency, which shall be determined in accordance with subsection (1).

(3) Despite subsection (1), the National Government may, through the National Government Constituency Development Fund Committees established under section 43, where necessary, facilitate other projects or programmes falling within the purview of the National Government with funds other than the funds specified in section 4(1).

15. Section 36 of the principal Act is amended in subsection (1) by inserting the words “government registered private practitioners procured in accordance with the Public Procurement and Asset Disposal Act, 2015” immediately after the words “department of Government”.

Amendment of section 36 of No. 30 of 2015.

16. Section 43 of the principal Act is amended by—

Amendment of section 43 of No. 30 of 2015.

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- (a) deleting subsection (6) and inserting the following new subsection—

“(6) The first meeting of the Constituency Committee shall be convened within one hundred and twenty days of the commencement of a new term of Parliament or the date of the holding of a by-election, by the national government official at the constituency or in his or her absence, by an officer of the Board seconded to the constituency.”

- (b) deleting the word “thirty” appearing in subsection (10) and substituting therefor the words “one hundred and twenty”; and
- (c) deleting subsection (12).

17. Section 46 of the principal Act is amended in subsection (1) by inserting the words “or legally procured government registered private practitioners” immediately after the words “Government departments”.

Amendment of section 46 of No. 30 of 2015.

18. The principal Act is amended by inserting the following new section immediately after section 48—

Insertion of new section in No. 30 of 2015.

Education Bursary Schemes and Education Days.

“**48A.** Despite section 48, a Constituency Committee may, with the approval of the Board, allocate additional funds to cater for education bursary schemes and education days and other teaching and learning related activities.”

19. The principal Act is amended by inserting the following new section immediately after section 53—

Insertion of new section in No. 30 of 2015.

Facilitation of Constituency Oversight Committee.

53A. In discharging its obligations, the Constituency Oversight Committee shall be facilitated by funds set aside by the constituency, provided that such allocation does not exceed one per centum of the total allocation of the constituency in that financial year.

20. Section 56 of the principal Act is amended in subsection (4) by deleting the words “reconsider the Board’s decision and determine the matter” and substituting therefor the words “direct the Board in collaboration with the Office of the Attorney General to commence arbitration”.

Amendment of section 56 of No. 30 of 2015.

