

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT

(No. 47 of 2013)

IN EXERCISE of the powers conferred by section 23 of the Wildlife Conservation and Management Act, 2013, the Cabinet Secretary for Environment, and Natural Resources, makes the following Regulations:-

WILDLIFE CONSERVATION AND MANAGEMENT (WILDLIFE ENDOWMENT FUND) REGULATIONS, 2016

PART 1- PRELIMINARY

Short title and commencement

1. (1) These Regulations may be cited as the Wildlife Conservation and Management (Wildlife Endowment Fund) Regulations, 2016
- (2) These Regulations shall come into force on the date of their publication in the Kenya Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires

“Act” means the Wildlife Conservation and Management Act, No. 47 of 2013;

"authorized officer" includes a member of, the Service, a forest officer, a fisheries officer, a police officer, a customs officer, an administrative officer, or any person so designated under this Act;

“Board” means the Kenya Wildlife Service Board of Trustees established under section 8 of the Act;

“Capital Funds” means the principal amount of any money at any time paid or transferred into the Fund from any source and does not include any interest, dividends, income or realized capital gains arising from the principal amount;

“community” means the a group of individuals or families who share a common heritage, interest or stake in unidentifiable land, land based resources or benefits that may derive therefrom;

“Director General” means the Director General of the Service;

“Fund” means the Wildlife Endowment Fund established under section 23 of the Act;

“Fund Manager” means a fund manager appointed under Regulation 6;

“Service” means the Kenya Wildlife Service established under section 6 of the Act; and

“Tribunal” means the National Environmental Tribunal established under section 125 of the Environment Management and Coordination Act, No. 8 of 1999.

PART II – ESTABLISHMENT AND ADMINISTRATION OF THE ENDOWMENT FUND

Establishment of the Fund

3. (1) There is hereby established a Fund which shall be known as the Wildlife Endowment Fund which shall be vested in the Board of Trustees.

(2) There shall be paid into the Endowment Fund —

- (a) moneys appropriated by Parliament for purposes of the Endowment Fund;
- (b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors as a contribution towards the Endowment Fund as the Cabinet Secretary may, upon the recommendation of the Service, determine;
- (c) income from investments made by the Board of Trustees of the Endowment Fund; and such grants, donations, bequests or other gifts as may be made to the Endowment Fund; and
- (d) such grants, donations, bequests or other gifts as may be made to the Endowment Fund.

(3) The functions of the Wildlife Endowment Fund shall be to-

- (a) develop wildlife conservation initiatives;
- (b) manage and restore protected areas and conservancies;
- (c) protect endangered species, habitats and ecosystems;
- (d) support wildlife security operations;
- (e) facilitate community based wildlife initiatives; and
- (f) such other purposes as may be provided for by rules made under the Act

Responsibility of the Board of Trustees with respect to the Fund

4. The Board of Trustees shall be responsible for the general supervision and oversight of the Fund and their duties shall include –

- (a) Fundraising
- (b) Appointing of the Fund Manager
- (c) providing policy oversight for the proper management of the Fund;
- (d) protecting the financial integrity of the Fund
- (e) appointing Fund Ambassadors;
- (f) Reviewing and approving requests for disbursement of funds

- (g) disbursing funds as provided for in the Act and in these Regulations;
- (h) approving and publishing audited accounts of the Fund.

Duration of the Fund

- 5. The Fund shall subsist in perpetuity.

PART III – APPOINTMENT OF FUND MANAGER

Appointment of the Fund Manager

- 6. (1) The Board shall appoint a Fund Manager who shall hold office on such terms and conditions of Service as maybe specified in the instrument of appointment.
- (2) The Fund Manager shall be the Chief Executive Officer of the Fund and responsible to the Board of Trustees for its management.
- (3) The Fund Manager shall be an ex officio member and secretary to the Board.
- (4) The Fund Manager shall be selected through a competitive process and shall be accountable to the Board in the performance of duties.
- (5) The Fund Manager shall, unless prematurely terminated, serve for a term of four years and shall be eligible for re-appointment for one further term of four years.
- (6) The terms and conditions referred to under sub-regulation (1) shall be specified by the Board in the instrument of appointment.
- (7) A person is not qualified for appointment under this Regulation unless that person-
 - (a) holds a Masters degree in a relevant field of study as may be specified by the Board from a University recognized in Kenya;
 - (b) has not less than seven years of working experience at managerial level in a relevant field specified by the Board and must be registered with a recognized professional body; and
 - (c) meets the requirement of Chapter six and thirteen of the Constitution, 2010.
- (8) The Fund Manager shall under the general direction of the Board-
 - (a) oversee the development of the wildlife conservation initiatives;
 - (b) administer the implementation of the resolutions of the Board;
 - (c) prepare and implement the strategic plans of the Fund;
 - (d) ensure the collection of all moneys due to the Fund;

- (e) with the approval of the Board, initiate programmes and strategies for advancing the objects of the Fund in general or for educating and mobilizing members of the public in wildlife conservation;
- (f) ensure the proper management of reciprocal agreements entered into by the Fund;
- (g) advise the Board from time to time to adopt policies intended to enable the Board to effectively raise money for the Fund;
- (h) be in charge of all the staff of the Fund;
- (i) facilitate the preparation of the budget, strategies, operational proposals, annual plans and corporate policies for discussion by the Board and implement decisions and resolutions adopted by the Board;
- (j) ensure the effective management of the Fund, foster a conducive corporate culture that promotes ethical practices in respect to the Fund;
- (k) be answerable in the performance of all duties and functions to the Board;
- (l) be the accounting officer of the Fund and, in that capacity, keep proper books of account and cause, under the general guidance of the Board, the annual accounts of the Fund to be prepared in accordance with the provisions of this Act; and
- (m) perform such other functions as assigned by the Board from time to time.

(9) Subject to the term limit under sub-regulation (5), the Fund Manager may cease to be a Fund Manager upon-

- (a) death;
- (b) resignation;
- (c) bankruptcy;
- (d) insanity;
- (e) conviction of any criminal offence; is adjudged bankrupt or enters into a composition or arrangement with creditors;
- (f) incapacitated on any ground; or
- (g) by operation of any written law.

(10) The Board may remove the Fund Manager from office on any of the following grounds-

- (a) incompetence;
- (b) insubordination;
- (c) corruption;
- (d) failure to observe any of the terms and conditions of appointment;
- (e) gross misconduct;
- (f) violation of the Constitution; or
- (g) inability to discharge duties.

(11) Before the Fund Manager is removed from office under sub-regulation (10) the fund manager -

- (a) may be suspended from office by the Board ;
- (b) shall be informed in writing of the reasons for the intended removal;

- (c) shall be given an opportunity to put in a defense against any such allegations;
and
- (d) shall be afforded ample opportunity to be heard.

Appointment of staff

- 7. (1) The Board may appoint such officers and other staff of the Fund as are necessary for the proper discharge of the functions of the Fund under the Act, upon such terms and conditions of service as it may determine.
- (2) The Board may, subject to such terms and conditions as the Board may think fit and by direction in writing, delegate any of its powers under this Act to any one or more of the Trustees, the Managing Trustee or any officer of the Fund.

PART IV – FUND AMBASSADORS

Designation as Fund Ambassadors

- 8. (1) The Board may appoint suitable persons to be Fund Ambassadors.
- (2) For any person to be appointed as a Fund Ambassador, the person must –
 - (a) be a person of good repute;
 - (b) demonstrate an active commitment to conserving wildlife;
 - (c) communicate effectively and passionately;
 - (d) be capable of acting as an influential advocate for wildlife conservation; and
 - (e) demonstrate leadership in his profession

Functions of the Fund Ambassador

- 9. The Fund Ambassador shall perform the following functions –
 - (a) create public awareness about the Fund;
 - (b) carry out fundraising activities;
 - (c) advocate wildlife conservation issues to the public;
 - (d) educate the public on wildlife conservation through media and events; and
 - (e) participate in functions relating to the Fund.

Tenure of Fund Ambassadors

- 10. A Fund Ambassador shall hold office for a period to be agreed upon between the Fund Manager and the Board which period shall be not less than six months.

Removal of a Fund Ambassador

11. (1) A Fund Ambassador may at any time after the expiry of six months of designation resign by giving notice in writing to the Board.

(2) A Fund Ambassador may be removed from office by the Board if the fund ambassador –

- (a) is unwilling or unable to carry out the required functions under these Regulations;
- (b) engages in any activity incompatible with the designation as a Fund Ambassador;
- (c) becomes physically or mentally incapable of handling functions as a Fund Ambassador;
- (d) is convicted of an offense involving fraud, dishonesty or moral turpitude;
- (e) is guilty of financial impropriety;
- (f) is found to have acted in a manner prejudicial to the Fund, these Regulations or the Act; or
- (g) is otherwise unfit or unable to discharge the functions of a Fund Ambassador.

PART V – DISBURSEMENT OF FUNDS

Capital Funds

12. Save as specifically resolved by the Board the capital funds shall not be available for disbursement.

Disbursement of Funds

13. (1) The Fund Manager shall recommend to the Board annually the amount of income of the Fund including interests, dividends, rent and realized capital gains, which are available for disbursement.

(2) The Fund Manager shall, in recommending the amount of income to be disbursed, take into consideration that the value of the capital funds after inflation should not diminish over time.

(3) Undisbursed income shall be re-invested in accordance with the advice of the Fund Manager.

Procedure for disbursement of funds

14. (1) Any person engaged in wildlife conservation activities in Kenya may apply to the Board for disbursement of funds in the form prescribed in the First Schedule.

(2) The Board shall consider all applications and shall approve or reject any application or request for more information.

(3) The Board shall scrutinize all applications and if approved authorize disbursement of funds or reject the application.

(4) Where the Board authorizes disbursement of funds, it shall notify the Fund Manager who shall release the funds to the applicant.

(5) Where an application for disbursement of funds is rejected, the Fund Manager shall inform the applicant in writing of the reasons for the rejection.

(6) The beneficiary of funds shall be required to account for all funds received.

(7) Any Funds of above One Million Shillings disbursed to an individual beneficiary shall be subject to audit by an independent auditor appointed by the Board for that purpose.

(8) The Fund Manager shall monitor and document all activities which are supported by the Fund.

Purposes for which Funds may be disbursed

15. Funds may only be disbursed to –

- (a) develop wildlife conservation initiatives;
- (b) manage protected areas and conservancies;
- (c) restore protected areas and conservancies;
- (d) protect endangered species, habitats and ecosystems;
- (e) support wildlife security operations;
- (f) facilitate community based wildlife initiatives;
- (g) develop management plans for protected areas and conservancies;
- (h) facilitate biodiversity research and monitoring;
- (i) enhance conservation education and extension services and to create public awareness; and
- (j) train and build the capacity of community wildlife scouts.

Windows for disbursement of funds

16. (1) There shall be one disbursement window in each quarter of the year during which funds may be disbursed to the successful applicants.

(2) Beneficiaries shall give quarterly progress reports and render quarterly accounts of the utilization of the monies disbursed to them from the Fund.

PART VI – INVESTMENT OF FUNDS

Fundraising Strategy

17. The Board shall develop a fundraising strategy which shall include but not be limited to-
- (a) annual fundraising targets;
 - (b) potential donors and sources of funding;
 - (c) proposed fundraising activities; and
 - (d) fundraising budget.

Investment of Funds

18. (1) The Board shall in consultation with the Fund Manager prepare-
- (a) an annual investment policy for the Fund;
 - (b) annual portfolio performance review; and
 - (c) review of performance of the financial consultant and or investment managers
- (2) The annual investment policy shall take into account costs of investment management and investment portfolios based on their returns, nature of risk and duration of the investment.

Maintenance of Records

19. (1) The Fund Manager shall maintain clear records of all matters relating to the investment of the Fund.
- (2) The Fund Manager shall submit annual returns of the investment of the funds to the Fund Trustees and the Board.

PART VII – ACCOUNTS, AUDIT AND REPORTS

Accounts

20. The Fund Manager shall cause to be kept all proper books and other records of accounts of the income, expenditure and assets of the Fund.

Audit

21. The Accounts of the Fund shall be audited in accordance with the provisions of the Act and of the Public Finance Management Act, No. 18 of 2012.

Reporting

22. (1) The Fund Manager, under the direction of the Board shall cause an annual report to be prepared for each financial year.

(2) The Fund Manager shall submit the annual report to the Board within three months after the end of the year to which it relates.

(1) The annual report shall contain, in respect of the year to which it relates –

- (a) the financial statement of the Fund;
- (b) a description of the activities of the Fund;
- (c) the fundraising activities of the Board, the Fund Trustees and the Fund Ambassadors;
- (d) geographically disaggregated data on disbursement of funds;
- (e) investments by the Fund Manager; and
- (f) such other statistical information as the Board may require.

PART VIII – FINAL

Appeals to the Tribunal

23. Any person who is aggrieved by any decision of the Board under these Regulations may prefer an appeal to the Tribunal within a period of sixty days from the date of such decision:

provided that the Tribunal may entertain any appeal after the expiry of the said period of the sixty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.