

SPECIAL ISSUE

CLERK
NAIROBI CITY
COUNTY ASSEMBLY
P. O. Box 45844-00100
NAIROBI

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REPUBLIC OF KENYA

**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

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NAIROBI, 1st July, 2016

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**THE NAIROBI CITY COUNTY WARDS DEVELOPMENT FUND
(AMENDMENT) BILL, 2016**

A Bill for

AN ACT of the County Assembly of Nairobi City to amend the Nairobi City County Wards Development Fund Act, 2014

ENACTED by the County Assembly of Nairobi City, as follows—

Section

1. This Act shall be cited as the Nairobi City County Wards Development Fund (Amendment) Bill, 2016.

Amendment of section 2 of No. 1 of 2014

2. Section 2, of the Nairobi City County Wards Development Fund Act, 2014, in this Act referred to as the “Principal Act” is amended as follows —

- (a) by inserting the following new definition in alphabetical sequence;

“Youth” means a person who has attained the age of eighteen years but has not attained the age of thirty five years.

Amendment of section 5 of No. 1 of 2014

3. Section 5, of the Principal Act is amended as follows—

- (a) by deleting sub-clause 5 (2) (c);
- (b) in sub-clause 5 (2) (e) by deleting the expression “Member of the County Executive Committee responsible for legal matters” appearing immediately after the word “the” and substituting with the expression “County Attorney” thereof.

Amendment of section 7 of No. 1 of 2014

4. Section 7 of the Principal Act is amended as follows—

- (a) In sub-clause 7 (a), by deleting the expression “in every ward” appearing immediately after the word “funds in” and substituting with the expression “from the Fund”.

Amendment of section 11 of No. 1 of 2014

5. Section 11, of the Principal Act is amended as follows—

- (a) by deleting subsection 11 (3);
- (b) by deleting subsection 11 (5);

Amendment of section 12 of No. 1 of 2014

6. Section 12, of the Principal Act is amended as follows—

- (a) In subsection 12 (3) by deleting the expression “credited to the account of the Ward from which the funds were withdrawn”

appearing after the expression "to the Fund" and substituting with the expression "shall be allocated to any other project in the same Ward" thereof;

Amendment of section 14 of No. 1 of 2014

7. Section 14 of the Principal Act be deleted.

Amendment of section 17 of No. 1 of 2014

8. Section 17, of the Principal Act is amended as follows –

- (a) In section 17 (4) by deleting the words "separate accounts of the wards and" appearing immediately after the words "shall submit" and substituting with the word "accounts of" thereof.

Amendment of section 20 of No. 1 of 2014

9. Section 20, of the Principal Act is amended as follows –

- (a) In subsection 20 (1) by inserting the words "in concurrence with County Assembly" immediately after the words County Executive Committee".

Amendment of section 33 of No. 1 of 2014

10. Section 33 of the Principal Act be amended as follows-

- (a) in subsection (1) (b) by substituting the expression "two persons" appearing immediately after the word "representing" with the expression "one person" and deleting the expression "of who one shall be a youth".
- (b) in subsection (1) (c) by substituting the expression "two persons" appearing immediately after the word "representing" with the expression "one person" and deleting the expression "of who one shall be a youth".

Amendment of section 36 of No. 1 of 2014

11. Section 36, of the Principal Act is amended as follows—

- (a) By deleting subsection 36 (1) (d).

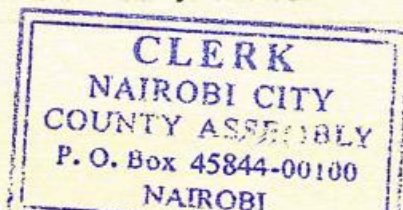
Amendment of section 37 of No. 1 of 2014

12. Section 37, of the Principal Act is amended as follows—

- (a) In subsection 37 (6) by deleting the expression "from whose funds the asset was acquired and such funds shall be reflected and declared as part of the following years Ward fund for that Ward" appearing immediately after the expression "account of the ward" and substituting the expression "account of the Ward" with the expression "bank account of the fund".

Amendment of section 38 of No. 1 of 2014

13. Section 38, of the Principal Act is amended by—



- (a) In subsection 38 (1) by deleting the expression “Public Procurement and Disposal Act, 2005” appearing immediately after the expression “with the provisions of the” and substituting it thereof with the expression “Public Procurement and Disposal Act 2015”.
- (b) In subsection 38 (2) by deleting the expression “Public Procurement and Disposal Act 2005” appearing immediately after the expression “regulations made under the” and substituting it thereof with the expression “Public Procurement and Disposal Act, 2015”.

Section 5 of No. 1 of 2014 which it is proposed to amend—

Establishment of the County management Committee

There is established a committee to be known as the County Wards Development Fund Management Committee.

(2) The County Management Committee shall consist of—

- (a) the Chief Officer of the County Department for the time being responsible for matters relating to finance and economic planning or a designated alternate not being below the level of Deputy Chief Officer;
- (b) the Chief Officer of the County Department for the time being responsible for matters relating to public works or a designated alternate not being below the level of Deputy Chief Officer;
- (c) the Clerk of the County Assembly or a designated alternate not below the level of Deputy Clerk;
- (d) four persons, qualified in matters relating to finance, accounting, engineering, economics, community development, or law, competitively and transparently recruited and appointed by the Member of the County Executive Committee in accordance with subsection (4) taking into account gender balance and the diversity of the County;
- (e) the Member of the County Executive Committee responsible for legal matters who shall be an ex-officio member;
- (f) the Officer Administering the Fund who shall be an ex-officio member.

(3) The Member of the County Executive Committee shall appoint the Chairperson of the County Management Committee from amongst the four persons appointed in accordance with paragraph (d) of subsection (2).

(4) The names and curriculum vitae of the persons competitively and transparently nominated as members of the County Management Committee pursuant to paragraph (d) of subsection (2) shall be submitted to the County Assembly for approval before appointments are made.

Section 7 of No 1 of 2014 which it is proposed to amend –

Functions of the County Management Committee

The functions of the County Management Committee shall be to—

- (a) ensure allocation and disbursement of funds in every ward;
- (b) ensure prudent management of the Fund;
- (c) receive and discuss the annual reports and returns from the Wards;
- (d) ensure the compilation of proper records, returns and reports from the Wards;
- (e) ensure timely submissions to County Assembly of various returns, reports and information as required under this Act;
- (f) consider project proposals submitted for various wards in accordance with this Act and make appropriate recommendations the County Assembly;
- (g) consider and report to the County Assembly with recommendations, names of persons required to be approved by the County Assembly under this Act;
- (h) continually review oversee the implementation, policy framework and legislative matters that may arise in relation to the Fund;
- (i) perform such other functions as may be provided for in this Act.

Section 11 of No. 1 of 2014 which it is proposed to amend –

Disbursement from the Fund

11. (1) Each and every disbursement from the Fund shall be approved and minuted by the County Management Committee.

(2) All disbursements from the Fund shall be for specific projects as submitted by the wards in accordance with the procedures outlines in this Act.

(3) All disbursements shall be made through the Ward bank accounts maintained for every Ward in accordance with section 16 of this Act.

(4) Notwithstanding the provisions of subsection (3), payments for a joint project as outlined in section 29 (4) or a joint procurement, may be made directly to a supplier or to an account established for the purpose with due approval of the County Management Committee.

(5) The record of the amounts received by each Ward and the record of expenditure of amounts so received shall be submitted to the County Management Committee within thirty days after the close of the relevant financial year together with a copy of the relevant bank statements and no

disbursements for the succeeding financial year shall be made into the accounts until the said records are duly received.

(6) The County Management Committee shall set out general conditions and requirements for release of funds, to ensure efficient and effective management of resources.

(7) The County Management Committee may impose reasonable requirements, including restrictions, on a particular Ward and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Member of the County Executive Committee in accordance with this Act.

Section 12 of No. 1 of 2014 which it is proposed to amend—

Allocation of Funds

12. (1) The Member of the County Executive Committee, with the concurrence of the County Management Committee shall for each financial year allocate funds to each Ward

(2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the County Management Committee.

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

(4) Unspent funds shall be allocated to any eligible project and such project may be new or ongoing at the end of the financial year.

(5) For the avoidance of doubt, a return as set out in the Second Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

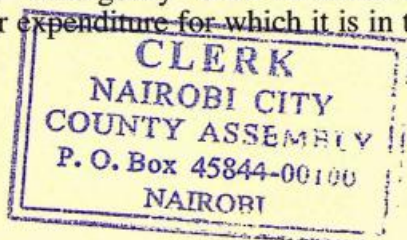
Section 14 of No. 1 of 2014 which it is proposed to amend—

Emergency Reserve

14. (1) A portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve" shall remain unallocated and shall be available for emergencies that may occur within the Ward.

(2) The Ward Development Fund Committee shall determine the allocation of the emergency reserve in accordance with the Act.

(3) "Emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that it



cannot be delayed until the next financial year without harming the public interest of the constituents.

(4) For each project, the Project Management Committee shall set aside a sum of five per centum of the total allocation for the project to cater for the administration expenses of the project.

(5) The sum set aside under subsection (4) shall be properly accounted for and proper books of accounts kept and returns made to the Wards Development Fund Committee for that Ward on how the sum has been used.

Section 17 of No. 1 of 2014 which it is proposed to amend—

Record of disbursements to be kept

17. (1) An accurate record of all disbursements made for projects to every Ward shall be kept and updated every month by the County Management Committee.

(2) The disbursement of funds to the Ward Fund Account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five per centum of the annual allocation for the Ward and thereafter the Ward Fund Account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year.

(3) The Chairperson of the County Management Committee shall submit an annual report on the activities, operations and expenditure under the Act.

(4) At the end of every financial year the County Management Committee shall submit separate accounts of the wards and the County Management Committee to the Auditor-General.

Section 20 of No. 1 of 2014 which it is proposed to amend—

Submission deadline

20. (1) The list of the proposed Ward projects shall be submitted to the County Management Committee before the end of the month of February in each year or such other month as may be determined by the Member of the County Executive Committee in order to ensure timely inclusion of the projects in the annual Government budget of a particular financial year.

(2) Where the chairperson of the Ward Development Fund Committee fails to submit the list of Ward based projects to the County Management Committee within the stipulated time in subsection (1), the list shall be deemed to have been submitted to the County Management Committee upon the lapse of the stipulated time.



Section 33 of No. 1 of 2014 which it is proposed to amend—

Establishment of Ward Development Fund Committee

33. (1) The membership of the Ward Development Fund Committee shall comprise—

- (a) a Chairperson nominated by the elected Member of the County Assembly;
- (b) two persons representing the male in the Ward of whom one shall be a youth;
- (c) two persons representing the female in the Ward of whom one shall be a youth;
- (d) one representative of local non-governmental organizations or religious organizations;
- (e) one member representing special interest groups;
- (f) the Ward Administrator who shall be the Secretary;

(2) The seven persons referred to in subsection (1) (b), (c), (d) and (e) shall be nominated through the following procedure—

- (a) within thirty days of being sworn in, each Member of the County Assembly for a particular Ward shall convene open public meetings of registered voters in each of the elective wards in the Ward;
- (b) each sub-ward shall then elect five persons whose names shall be forwarded to the officer of the Fund in the Ward;
- (c) upon receiving the names from all the sub-wards in the Ward, the Member of the County Assembly in consultation with officer of the Fund and the sub county administrator for the Ward, shall appoint seven persons to the Ward Development Fund Committee, taking into account the geographical diversity within the Ward, communal, religious, social and cultural interests in the Ward and the requirements of gender, youth and representation of persons with disabilities;
- (d) upon conclusion of the election of the chairperson in the manner stipulated in paragraph (d), the officer of the Ward Development Fund Committee shall forward the names of the members of the Ward Development Fund Committee to the Officer Administering the Fund for onward transmission to the Member of the County Executive Committee for gazettment;
- (e) the Member of the County Assembly for the Ward shall be an *ex officio* member of the Committee

(4) The Member of the County Executive Committee shall cause the names of persons appointed as members of the Wards Development Fund

Committee, pursuant to subsection (2) to be published in the Kenya Gazette.

(5) The first meeting of the Ward Development Fund Committee shall be convened within the first sixty days of a new County Assembly or a by-election, by the county government official at the Ward or in his or her absence, by an officer of the Ward Development Fund Committee seconded to the Ward, on such day as may be designated by the Member of the County Executive Committee.

(6) The Chairperson of the Ward Development Fund Committee in consultation with the Member of the County Assembly for the Ward, the sub-county administrator for the Ward, and the ward administrator for every ward shall, within the first year of a new County Assembly and at least once every two years thereafter, convene open forum public meetings at in every ward in the Ward to deliberate on development matters in the ward and the Ward.

(7) Each sub ward shall come up with a list of priority projects to be submitted to the Ward Development Fund Committee.

(9) The term of office of the members of the Ward Development Fund Committee shall be three years irrespective of a county assembly term but shall be renewable and shall come to an end upon the appointment of a new Ward Development Fund Committee in a manner provided in this Act.

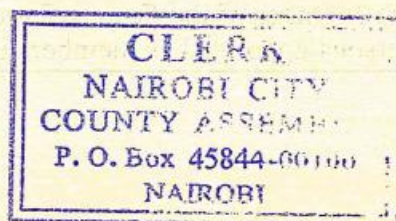
(10) The Officer of the Fund shall be the custodian of all records and equipment of the Ward during the term of the county assembly and during transitions occasioned by general elections or a by-election.

(11) Whenever a vacancy occurs in the Ward Development Fund Committee by reason of resignation, incapacitation or demise of a member then the vacancy shall be filled from the same category of persons where the vacancy has occurred.

(12) The Ward Development Fund Committee shall meet at least six times in a year and not more than twenty four times in every financial year including sub-committee meetings.

(13) The committee may employ staff, not exceeding five in number, and such staff shall have knowledge in information and communications technology, construction and basic accounting.

(14) Staff employed under subsection (13) shall help in project monitoring evaluation, co-ordination and proper keeping of records and such staff shall be remunerated from the funds allocated for administration and recurrent expenses.



Section 36 of No. 1 of 2014 which it is proposed to amend—

Quarterly reports on projects and disbursements

36. (1) The County Management Committee shall, on a monthly basis, submit a report to the County Assembly Select Committee detailing—

- (a) a summary of the project proposals received from the wards in the preceding month and indicating the approval status of such projects;
- (b) a summary of the status of disbursements of funds to the wards for that preceding month;
- (c) a summary of the status of disbursements from the Treasury to the County Account; and
- (d) any restriction imposed on a Ward Fund Account in accordance with the Act.

(2) The County Management Committee shall ensure that the list of projects forwarded to it by each ward is, upon approval, funded in accordance with the Act.

Section 37 of No 1 of 2014 which it is proposed to amend –

Project Management Committee to implement.

37. (1) Projects under this Act shall be implemented with the assistance of the relevant department of County Government and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force.

(2) Where a project in a Ward involves the purchase of equipment, such equipment shall remain for the exclusive use of that Ward.

(3) The Ward Development Fund Committee and the County Management Committee shall be responsible for monitoring the implementation of projects and may designate a sub-committee, a ward committee or a project committee, the functions of monitoring an ongoing project and shall submit a report on the ongoing projects to the ward administrator and sub-county administrator, and the County Assembly committee.

(4) All fixed and movable assets, including equipment bought under this Act for use by the Ward Development Fund Committee shall be the property of the County Government to be insured in the name of the County Government but serialized to reflect the name of the Ward.

(5) No asset or equipment acquired under this section shall be disposed of by the County Government without the prior approval of the County Management Committee.

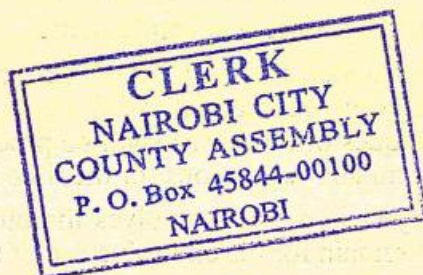
(6) Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (5) shall be credited to the account of the Ward from whose funds the asset was acquired and such funds shall be reflected and declared as part of the following years Ward fund for that Ward.

Section 38 of No 1 of 2014 which it is proposed to amend –

Procurement of services and Works

38. (1) All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposals Act, 2005.

(2) Regulations made under the Public Procurement and Disposals Act, 2005 shall provide for the composition of the ward tender committees for purposes of procurement under this Act.



MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to amend the Nairobi City County Wards Development Fund Bill, 2014, to align it with the relevant Public Finance laws as highlighted by the Controller of Budget. Section 5 of the Act is proposed to be amended to remove the Clerk of the County Assembly from the Membership of the County Management Committee in line with concerns on the separation of powers and functions between the Executive and the Assembly in implementation of the said Act. Section 14 of the Act is proposed to be deleted to conform to Section 110 of the Public Finance Management Act, 2012 on the creation and administration of County Emergency Fund by the County Executive Committee. Section 33 of the Act is proposed to be amended to reduce the Membership of the committee from seven (7) to five (5).

Dated the 21st June, 2016

MAURICE OTIENO GARI,
Chairperson, Select Committee on Wards Development Fund.

