

**SPECIAL ISSUE**

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*Kenya Gazette Supplement No. 244 (Acts No. 21)*



REPUBLIC OF KENYA

# ***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2023**

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**NAIROBI, 15th December, 2023**

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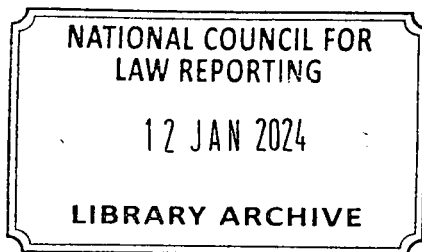
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**THE NATIONAL GOVERNMENT  
CONSTITUENCIES DEVELOPMENT FUND  
(AMENDMENT) ACT, 2023**

**No. 21 of 2023**

*Date of Assent: 11th December, 2023*

*Date of Commencement: 29th December, 2023*

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

**ENACTED** by the Parliament of Kenya, as follows—

**1.** This Act may be cited as the National Government Constituencies Development Fund (Amendment) Act, 2023.

Short title.

**2.** Section 3 of the National Government Constituencies Development Fund Act (hereinafter referred to as “the principal Act”) is amended—

Amendment of section 3 of No. 30 of 2015.

- (a) in paragraph (h) by deleting the word “specified” and substituting therefor the word “exclusive”; and
- (b) in paragraph (k) by inserting the word “exclusive” immediately after the words “matters falling within the”.

**3.** Section 4 of the principal Act is amended by deleting subsection (3).

Amendment of section 4 of No. 30 of 2015.

**4.** Section 15 of the principal Act is amended—

Amendment of section 15 of No. 30 of 2015.

- (a) in subsection (1) (e) by inserting the words “in accordance with the recommendations of the Public Service Commission and” immediately after the word “Cabinet Secretary”;
- (b) in subsection (2) by inserting the words “the Public Service Commission” immediately after the words “Cabinet Secretary”;
- (c) by deleting sub-section (4).

**5.** The principal Act is amended by repealing section 19 and substituting therefor the following sections—

Repeal and replacement of section 19 of No. 30 of 2015.

Vacancy.

19. The office of the chairperson or member of the Board falls vacant if the holder—

- (a) dies;
- (b) resigns in writing, by a notice addressed to the Cabinet Secretary;
- (c) is convicted of a felony and sentenced to imprisonment;
- (d) is absent from three consecutive meetings of the Board without good cause; or
- (e) is removed from office in accordance with the procedure set out in any written law.

Filling of vacancy.

19A. (1) Whenever a vacancy arises in the Board, the Public Service Commission shall, within fourteen days—

- (a) invite applications from persons who qualify for nomination and appointment by advertisement in at least two daily newspapers with nationwide circulation;
- (b) consider the applications received to determine their compliance with the requirements set out in this Act;
- (c) shortlist the applicants;
- (d) conduct interviews for the shortlisted persons; and
- (e) recommend three qualified persons for each vacancy to the Cabinet Secretary for nomination for appointment.

(2) The Cabinet Secretary shall within fourteen days of the receipt of the names of the persons recommended for nomination under sub-section 1(e), nominate one person for each vacancy and forward the names to the National Assembly for approval.

(3) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of an applicant under subsection (2), vet and consider the applicant, and may approve or reject applicants for any or all vacancies in the Board.

(4) Where the National Assembly Approves of an applicant, the Speaker of the National Assembly shall forward the name of the approved applicant to the Cabinet Secretary for appointment.

(5) The Cabinet Secretary shall, within seven days of receipt of the name of the approved applicant from the National Assembly, by notice in the *Gazette* appoint the applicant to the Board.

(6) Where the National Assembly rejects any nomination, the Speaker shall within three days communicate its decision to the Cabinet Secretary and request the Cabinet Secretary to submit fresh nominations.

(7) Where a nominee is rejected by the National Assembly under subsection (6), the Cabinet Secretary shall within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the Public Service Commission under subsection (1)(e).

(8) If the National Assembly rejects any or all of the subsequent nominees submitted by the Cabinet Secretary for approval under subsection (1), the provisions of subsections (1) and (2) shall apply.

(9) In short listing, nominating or appointing persons to fill a vacancy in the Board, the Public Service Commission, the National Assembly and the Cabinet Secretary shall ensure that not more than two-thirds of the members are of the same gender.

**No. 21 National Government Constituencies Development Fund (Amendment) 2023**

**6.** The principal Act is amended by repealing section 24 and substituting therefor the following new section—

Repeal and replacement of section 24 of No. 30 of 2015.

Projects to be in respect of national government functions.

**24.** A project under this Act shall only be in respect of works and services falling within the exclusive functions of the national government as provided in the Constitution.

**7.** Section 25 of the principal Act is amended—

Amendment of section 25 of No. 30 of 2015.

(a) by inserting the following new subsection immediately after subsection (2)—

“(2A) Notwithstanding subsection (2), a sum not exceeding three per centum of the total annual allocation to a constituency may be used for the payment of recurrent utilities costs and maintenance of constituency digital hubs.”

(b) by deleting subsection (8); and

(c) by deleting subsection (10) and substituting therefor the following new subsections—

“(10) Climate change mitigation activities including afforestation, reafforestation, grassroot sensitisation and tree seedling production may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed five per centum of the total allocation to the constituency in that financial year.”

(10A) The provisions of subsection (10) shall lapse ten years after the effective date of this sub-section.”

Amendment of section 34 of No. 30 of 2015.

**8.** Section 34 of the principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (b)—

“(ba) An amount that ensures that the total allocation to a constituency is not less than the amount allocated to the constituency in the preceding financial year.”

**2023 National Government Constituencies Development Fund (Amendment) No. 21****9. Section 43 of the principal Act is amended—**Amendment of  
section 43 of No.  
30 of 2015.**(a) in subsection (2)—**

- (i) by deleting the word “two” appearing in paragraph (b) and substituting therefor the word “three”;
- (ii) by deleting the word “two” appearing in paragraph (c) and substituting therefor the word “three”;
- (iii) by deleting paragraph (e).

**(b) by deleting sub-section (6) and substituting therefor the following new sub-section—**

(6) The first meeting of the Constituency Committee shall be convened by the officer of the Board seconded to the constituency within one hundred and twenty days from the date of the holding of a general election as contemplated in Article 101(1) of the Constitution.

**10. Section 48 of the principal Act is amended by deleting the words ‘thirty-five’ and substituting therefor the word ‘forty’.**Amendment of  
section 48 of No.  
30 of 2015.**11. The principal Act is amended by repealing section 48A and substituting therefor the following new section—**Repeal and  
replacement of  
section 48A of  
No. 30 of 2015.

**“48A. (1)** Notwithstanding section 48, a Constituency Committee shall, with the approval of the Board, allocate funds to cater for education bursary schemes and education days, teaching and learning activities and other learners’ social support programmes.

**(2)** The Board shall in consultation with the Committee provide guidelines on the implementation of this section.”

**12. The principal Act is amended by repealing section 52.**Repeal of section  
52 of No. 30 of  
2015.**13. The principal Act is amended by repealing section 53.**Repeal of section  
53 of No. 30 of  
2015.**14. The principal Act is amended by repealing section 53A.**Repeal of section  
53A of No. 30 of  
2015.

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**15.** Section 54 of the principal Act is amended by deleting subsection (2).

Amendment of  
section 54 of No.  
30 of 2015.

**16.** The consequential amendments set out in the Schedule to the Act shall take effect on the commencement date of this Act.

Consequential  
amendments.

**SCHEDULE****CONSEQUENTIAL AMENDMENTS**

<b>Act</b>	<b>Provision</b>	<b>Amendment</b>
National Government Co-ordination Act, No. 1 of 2013.	s.14(1)	Insert the following new sub-section immediately after sub-section (1)-  (1A) Despite sub-section (1), all the constituencies established under Article 89 of the Constitution are hereby recognized and established as national government service delivery units.
	s.14(4)	Insert the word “constituencies” immediately after the words “For purposes of this section, the”.



