

**LEGAL NOTICE NO...**

**THE WATER ACT, 2016**

*(No. 43 of 2016)*

**IN EXERCISE** of the powers conferred by section 142 of the Water Act, 2016, the Cabinet Secretary makes the following Regulations—

**THE WATER SECTOR TRUST FUND, 2023**

Citation.                    **1.** These Regulations may be cited as the Water Sector Trust Fund, Regulations, 2023.

Interpretation.           **2.** In these Regulations, unless the context otherwise requires—

“Accounting Standards Board” has the meaning assigned to it under section 2 of the Public Financial Management Act, 2012;

No. 18 of 2012.

“Act” means the Water Act, 2016;

“Board” means the Board of Directors as designated under section 115 of the Act;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to water and

Objects and purpose of the Fund.                    **3.** (1) The object and purpose of the Fund is to mobilize and provide conditional and unconditional grants and loans to counties, water sector entities, marginalized areas and other areas considered by the Board of Directors to be underserved, for purposes of financing the development and management water and sanitation infrastructure, water services and resources, research and capacity development, of the Act.

(2) Without prejudice to the generality of Sub Regulation (1) and subject to Section 114 of the Act, the object and purpose of the Fund may include —

- a. Mobilize and generate additional resources.
- b. Manage the resources of the Fund;
- c. Formulate and implement procedures in consultation with the Cabinet Secretary and County Governments for Financing projects, including efficiency and effectiveness of funds;
- d. Implement measures to ensure the efficient and equitable sharing of the resources of the Fund.
- e. Monitor the implementation of projects;
- f. Maintain and make public available information on the projects financed and impact of such projects;
- g. Receive grants and loans for onward lending to water sector institutions at national and county levels and other public and private sector players.
- h. Manage subsidiary funds as may be established from time to time for the sustainable financing towards water services and water resource management; and
- i. Engage in and complement financing to public private partnership initiatives
- j. In collaboration with other relevant institutions develop incentive programmes for water resources management including disaster management, climate change adaptation and mitigation.
- k. Establish, equip and control such other water sector research, innovation and training institutions as it may be necessary upon approval by the Cabinet Secretary;
- l. Formulate sound policies for the regulation and management of the Fund;
- m. Solicit for funds and other assistance to promote the object for which the Fund is established;
- n. Determine the amounts of money payable for the purposes of the Fund and formulate the conditions for disbursement;
- o. Invest any surplus funds not immediately required in securities approved by the Treasury, for the purposes of realizing the objects and purpose for which the Fund is established;
- p. Keep and maintain audited accounts of the Fund and publish the accounts in the manner approved by the Treasury;
- q. Cause to be kept all proper books and records of account

of the income, expenditure, assets and liabilities of the Fund.

- r. Any such other purposes as the Board may recommend with the approval of the Cabinet Secretary for the Purposes of the Fund and the Act.

Fund  
disbursements.

**4.** The funds shall be disbursed under the following conditions—

- (a) all disbursements from the Fund for purposes of the Act shall be based on approved and minuted items of the Board, with the concurrence of the Cabinet Secretary;
- (b) transfers to defray the expenses in respect of the administration of the Fund shall be approved by the Board for the respective financial year;
- (c) transfers towards investment of surplus funds shall be as approved by the Board from time to time; and
- (d) the Fund shall set out other general conditions and requirements for release of funds, to ensure efficient and effective management of resources.

Retention  
of  
receipts.

**5.** All receipts, earnings and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.

Administration  
of the  
Fund.

**6.** (1) The Board shall—

- (a) open and operate a separate bank account or accounts at the Central Bank of Kenya or a bank to be approved by the Cabinet Secretary and the National Treasury in accordance with the Act and these Regulations;
- (b) supervise and control the administration of the Fund;
- (c) consult with the Cabinet Secretary on matters relating to the administration of the Fund;
- (d) cause to be kept proper books of accounts and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund;

- (e) prepare, sign and transmit to the Auditor-General, upon the approval of the Cabinet Secretary, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and submit a copy to the National Treasury and the statements shall be prepared in such a manner as the Accounting Standards Board shall prescribe;
- (f) furnish additional information to the Auditor General as he or she may consider to be proper and sufficient for the purpose of examination and audit by the Auditor-General in accordance with the provisions of the Public Audit Act, 2015; and

No. 34 of 2015.

- (g) prepare a quarterly report on financial and non-financial

Protection  
from personal  
liability.

**7.** No matter or thing done by any public officer working under the authority of the Fund, if done in good faith, for the purposes of executing the powers, functions or duties of the Fund under these Regulations, shall render that public officer personally liable for any action, claim or demand whatsoever.

Preparation and submission of work plans, etc. , **8.** The Board shall prepare a work plan, projects and quarterly reports in respect of a financial year and in preparing the work plan, projects and quarterly reports, and shall ensure that the work plan, projects and quarterly reports—

- (a) contain information on the financial and non-financial performance of the Fund; and
- (b) are in a form that complies with the standards prescribed and published by the Accounting Standards Board from time to time.

Approval of reports. **9.** The work plans, projects and quarterly reports referred to in regulation 8 shall be prepared by the Board before submission to the Cabinet Secretary for approval.

Financial reports. **10.** (1) The Board shall prepare annual financial and non-financial reports in accordance with the provisions of the Public Finance Management Act, 2012 and as may be prescribed from time to time by the Accounting Standards Board.

(2) In addition, the Board shall prepare an annual general performance report of the Fund to be submitted with the report under sub-regulation (1).

(3) The annual financial and non-financial statements under sub-regulation (1) shall be approved by the Cabinet Secretary and submitted to the Auditor-General for audit within three months after the end of the financial year in accordance with the Public Audit Act, 2015 and a copy thereof submitted to the National Treasury.

Investment of  
funds.

**11.** Where in the opinion of the Board it is appropriate to do so, the Board may with the approval of the Cabinet Secretary direct such sums from the Fund as it determines, be invested in government securities.

Dated the                      day of    2023

**MR. ZACHARY NJERU,**  
**CABINET SECRETARY FOR WATER, SANITATION AND IRRIGATION.**