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LEGAL NOTICE NO. 3

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE PUBLIC FINANCE MANAGEMENT (KAKAMEGA COUNTY YOUTH AND SPORTS FUND) REGULATIONS, 2018

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THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)
PUBLIC FINANCE MANAGEMENT (KAKAMEGA COUNTY YOUTH AND SPORTS SUPPORT FUND) REGULATIONS, 2018

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, the Committee Member for Finance makes the following Regulations—

PART I—PRELIMINARY

1. These Regulations may be cited as the Public Finance Management (Kakamega County Youth and Sports Fund) Regulations, 2018.

2. In these Regulations unless the context otherwise requires—

“Administrator” means the Administrator of the Fund appointed under Regulation 10;

“Accounting Standards Board” means the Public Sector Accounting Standards Board established under section 192 of the Public Finance Management Act;

“Advisory Committee” means the Advisory Committee for the Fund established under Regulation 5;

“County” means Kakamega County;

“County Assembly” means County Assembly of Kakamega;

“County Exchequer Account” means the county Revenue Fund established pursuant to Article 207 of the Constitution of Kenya, 2010;

“County Government” means the County Government of Kakamega;

“Executive Committee” means County Executive Committee pursuant to Article 179 of the Constitution of Kenya;

“Executive Committee Member” means the County Executive Committee Member for Finance;

“Fund” means the Kakamega County Youth and Sports Fund established under Regulation 4;

“Local sports team” means a sports team that is domiciled in the County with not more than seventy percent of its members being residents of the county and is affiliated to a recognised federation or association;

“Sport” includes all forms of physical or mental activity which, through casual or organized participation, or through training activities, aims at expressing or improving physical and mental well-being, forming social relationships or obtaining results in competition at all level; and
“Youth” means any Kenyan citizen who has attained the age of eighteen but has not attained the age of thirty-five years.

3. The object of these Regulations is to—

(a) provide for the establishment of a Fund to enable the county Government support youth, sports activities and local teams within the County; and

(b) attract lawful paid activities at sports facilities belonging to the county government for purposes of raising revenue to sustain the facilities.

PART II—ESTABLISHMENT AND ADMINISTRATION OF THE FUND

4. There is established a Fund known as Kakamega County Youth and Sports Fund to support local youth and sports activities in the county.

5. (1) There is established an Advisory Committee for the Fund.

(2) The Committee shall consist of—

(a) a chairperson who has the following qualifications appointed by the Executive Committee Member for sports—

(i) a bachelor’s degree or its equivalent from a university recognized in Kenya;

(ii) with at least five years experience; and

(iii) a professional background in management;

(b) the chief officer for finance;

(c) the county stadium manager who shall be the Administrator and secretary to the Advisory Committee;

(d) the chief officer responsible for sports;

(e) the youth co-ordinator;

(f) the county attorney; and

(g) one representative of local sports federations or associations recognized by the Fund and elected by the federations or associations.

(3) In making appointments under Regulation (2) (a) Executive Committee Member shall ensure there is gender parity and regional balance.

6. (1) The Advisory Committee shall—

(a) consider, verify and approve funding for local sports teams and youth activities;

(b) receive any gifts, grants, donation or endowments made to the Fund and make disbursements therefrom in
accordance with the provisions of these Regulations;

(c) attract lawful paid activities at the county sports facilities for purposes of raising revenue to sustain the facilities;

(d) raise funds through sports lotteries, investments or any other lawful means;

(e) ensure that any sport activity carried out for the purposes of the Fund complies with the law;

(f) formulate guidelines to achieve the objects of the Fund;

(g) provide oversight on the administration and management of the Fund;

(h) approve the opening and operation of bank accounts for the Fund;

(i) ensure that money held in the Fund, including any earnings or accruals is spent only for the purposes for which the Fund is established; and

(j) perform such other functions as the committee may deem necessary for the proper discharge of its mandate.

7. (1) The Executive Committee Member for sports may remove from office a member of the Advisory Committee of the Fund under Regulation 5 (2)(a) and (g) from office—

(a) for gross misconduct or misbehaviour;

(b) violation of the Constitution or any other law;

(c) inability to perform the functions of the office arising out of physical or mental incapacity;

(d) incompetence or negligence of duty;

(e) absence from three consecutive meetings of the Committee without a reasonable explanation.

(2) Before a decision is made under sub-regulation (1), a member shall be given an opportunity to provide a defence against any allegation.

8. (1) There is a vacancy in the Advisory Committee if a person—

(a) resigns in writing;

(b) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months;

(c) declared bankrupt;

(d) is removed from office under Regulation 7;
(e) is unable to perform the functions of their office by reason of mental or physical infirmity; or

(f) dies.

9. Where a vacancy occurs in the membership of the Committee under Regulation 8, the appointing authority shall appoint a new member in accordance with the provisions of these Regulations.

10. (1) The Executive Committee Member shall designate the County Stadium Manager to be the Administrator of the Fund.

(2) The Administrator shall be responsible for the running of the day-to-day activities of the Fund.

(3) The Administrator shall —

(a) prepare accounts for the Fund for each financial year;

(b) not later than three months after the end of each financial year submit financial statements relating to those accounts to the Auditor-General which shall include—

(i) the date and amount of each payment made from the Fund;

(ii) the person to whom the payment was made;

(iii) the purpose for which the payment was made; and

(iv) whether the person to whom the payment was made has spent the money for that purpose and a statement made to that effect.

(c) present the financial statements to the County Assembly;

(d) manage, control and administer the assets of the Fund in such manner and for such purposes as to best promote the purpose for which the Fund is established;

(e) manage county sports facilities;

(f) receive from local sports teams, at least six months before the commencement of every financial year, an annual sports programme outlining a comprehensive plan of action for the development, rehabilitation and maintenance of sports projects or programmes of the team and the estimated costs of every activity;

(g) ensure that the earnings of, or accruals to the Fund are retained in the Fund unless the Executive Committee Member directs otherwise;

(h) maintain proper records of the Committee’s affairs and books of accounts;

(i) submit quarterly returns and reports of the Committee operations to the Executive Committee;

(j) make periodic payments to eligible local youth and sports
teams for activities sponsored by the County Government;
(k) enter into contracts on behalf of the Fund;
(l) supervise and manage the operations of the Fund; and
(m) perform any other function that may be assigned by the Advisory Committee.

11. (1) The secretariat of the Advisory Committee shall be based at the department of sports or other relevant department within the county government.

(2) The officers referred to under sub-regulation (1) shall ensure proper management of records of the Fund.

12. (1) A local sports team or youth group seeking support from the Fund shall be registered in accordance with the relevant law and be recognised by the respective sports federation or association.

(2) A local sports team or youth group sponsored by the Fund shall submit to the Advisory Committee the record of expenditure of amounts received from the Fund once every quarter.

13. (1) All disbursement from the Fund shall be approved and minuted by the secretary of the Advisory Committee.

(2) The Board may impose reasonable conditions, on a particular local sports team or youth group.

14. A local sports team or youth group shall qualify for sponsorship if the team or group—
(a) is registered under the relevant law;
(b) has a bank account in its name;
(c) must have been active and in existence for at least one year; and
(d) has at least seventy percent of its membership drawn from the county.

(2) An application for the funds shall be accompanied by a resolution of a properly constituted meeting of the team or the group and the resolution shall be minuted.

PART III—FINANCIAL PROVISIONS

15. (1) The sources of monies for the Fund shall include—
(a) revenue collected for use of sports facilities belonging to the county government;
(b) monies appropriated by the County Assembly for purposes of the Fund;
(c) interest accruing from bank deposits in respect of the Fund;
(d) donations, grants and endowments; and
(e) monies from any source provided or donated or lent to the Fund.

(2) Any unused monies at the end of the financial year shall not be paid to the county revenue account but shall be retained in the Fund and carried forward to the next financial year as provided for in section 116(3) of the Public Finance Management Act.

(3) Monies retained in the Fund under this Regulation shall not form part of the annual allocation for the Fund.

16. (1) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the object for which the Fund is established.

(2) The expenditure incurred on the Fund shall be on the basis of, and limited to, annual work programmes and cost estimates which shall be prepared by the Administrator, and approved by the Advisory Committee at the beginning of the financial year to which they relate.

(3) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Advisory Committee for approval.

(4) Funds provided under these Regulations shall only be used for the purpose for which they were disbursed.

17. (1) At least three months before the commencement of each financial year, the Advisory Committee shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Fund for the financial year concerned and in particular shall provide for the—

(a) payments to local sports teams;
(b) operations of the Fund;
(c) maintenance of assets of the Fund;
(d) payment of allowances;
(e) compensation for claims; and
(f) such other matters as the Advisory Committee, in consultation with the Executive Committee, may consider fit.

(3) The annual estimates shall be approved by the Advisory Committee before the commencement of the financial year in which they relate and shall be submitted to the Executive Committee for approval and after the Executive Committee has given its approval, the Advisory Committee shall not increase any sum provided in the estimates without the consent of the Executive Committee.
(4) Expenditure of the Fund shall not be incurred for the purposes of the Fund except with the funds appropriated by County Assembly.

18. (1) The Advisory Committee shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund.

(2) Within a period of three months after the end of each financial year the Executive Committee Member shall in addition to the requirement of Regulation 10(1)(b) submit to the Auditor-General the accounts of the Fund in respect of that year together with—

(a) a statement of income and expenditure of the Fund for that year; and

(b) a statement of the assets and liabilities of the Fund on the last day of that financial year.

(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act.

19. Accounts for the Fund and the annual financial statements relating to those accounts shall comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.

20. (1) The Executive Committee Member may wind up the Fund with the approval of the County Assembly—

(2) Upon winding up of the Fund as provided under sub-regulation (1)—

(a) the Administrator shall ensure payment of any amount remaining in the Fund into the county exchequer account;

(b) the Executive Committee Member shall, with the approval of the County Assembly, pay any deficit in the Fund from the exchequer account; and

(c) all assets of the Fund will be taken over by the county government.

PART IV—MISCELLANEOUS PROVISIONS

21. (1) The Advisory Committee shall meet at least once every three months.

(2) Despite sub-regulation (1), the Administrator may request for a special meeting and the chairperson shall convene the meeting.

(3) The chairperson shall preside at every meeting and in the absence of the chairperson, the members present shall elect one of their members to preside.

(4) The Advisory Committee may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Advisory Committee.
22. Members of the Advisory Committee may be paid such allowances as may be determined by the Executive Committee in line with existing guidelines of the Salaries and Remuneration Commission.

23. (1) The Advisory Committee shall regulate and make its own rules of procedure.

(2) To transact any business of the Advisory Committee at least any five members of the Advisory Committee who shall include the Administrator must be present.

24. No matter or anything done by a member of the Advisory Committee, employee or agent of the Fund shall, if the matter or thing is done in good faith for executing the functions, powers and duties of the Fund, render a member of the Advisory Committee, employee or agent of the Fund personally liable to any action, claim or demand whatsoever.

25. The provisions of these Regulations shall not relieve the Fund of the liability to pay compensation or damages to any person for any injury to the person, the person’s property or any of the person’s interests caused by the exercise of or any power conferred by these Regulations.

Made on the 28th May, 2018

ROBERT KUNDU MAKHANU,
County Executive Committee Member for Finance.