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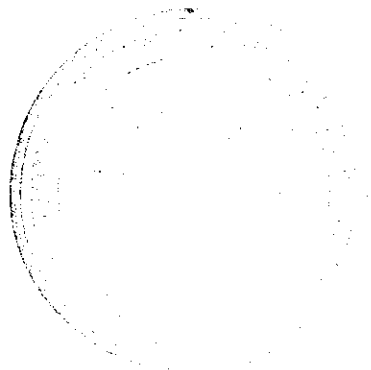
KENYA GAZETTE SUPPLEMENT

ACTS, 2007

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**THE CONSTITUENCIES DEVELOPMENT FUND
(AMENDMENT) ACT**

No. 16 of 2007

Date of Assent: 22nd October, 2007

Date of Commencement: By Notice

**An Act of Parliament to amend the Constituencies
Development Fund Act, 2003**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Constituencies Development Fund (Amendment) Act, 2007, and shall come into operation on such date, being not later than thirty days from the date of assent, as the Minister may, by notice in the Gazette, appoint.

Short title and commencement.

2. The Constituencies Development Fund Act, 2003, in this Act referred to as the “principal Act” is amended in section 2—

Amendment of section 2 of No 10 of 2003.

(a) by inserting the following new definitions in proper alphabetical sequence—

“Board” means the Constituencies Development Fund Board established by section 5 ;

“Chairperson” means the Chairperson of the Board appointed under section 5(4);

“Chief Executive Officer” means the Chief Executive Officer of the Board appointed under section 7;

“National Account” means the Constituencies Development Fund account maintained under section 46”;

“officer of the Board” means an officer of the Board appointed under section 44;

“project” means an eligible development project as described in the Act;

“project committee” means a committee or board of persons elected or nominated to implement a project or manage an institution, including a committee existing prior to the establishment of the Fund, and which is assuming the responsibility of

implementing a project funded under the Act;

“sub-project” means one of similar activities lumped together into one project for purposes of sections 21 and 22 of the Act;

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

- (b) by deleting the definition of “National Committee”;
- (c) by deleting the word “finance” appearing in the definition of “Minister” and substituting therefor the word “planning”;
- (d) by inserting the word “Fund” immediately after the word “Development” in the definition of “Constituency Development Committee”;
- (e) by inserting the word “fund” immediately after the word “constituency” in the definition of “constituency account”.

Amendment of
section 4 of No 10 of
2003.

3. Section 4 of the principal Act is amended—

- (a) in subsection (1) by deleting the words “Officer administering the Fund under the direction of the National Committee” and substituting therefor the word “Board”.
- (b) in subsection (2) by deleting the words “National Committee” and substituting therefor the word “Board”.
- (c) in subsection (3) by deleting the words “for approval in accordance with this Act before the beginning of the financial year to which the budget relates” and substituting therefor the words “by various constituencies in accordance with the Act”.

Replacement of
section 5 of No 10 of
2003.

4. The principal Act is amended by repealing section 5 and replacing it with the following new section—

Establishment of
the Board

5. (1) There is established a Board to be known as the Constituencies Development Fund Board.

(2) The Board shall be a body

corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The Board shall be administered by a Board of Management which shall consist of –

- (a) the Permanent Secretary of the Ministry for the time being responsible for matters relating to economic planning or his designated alternate, not being below the level of Director of Planning;
- (b) the Permanent Secretary of the Ministry for the time being responsible for matters relating to finance or his designated alternate, not being below the level of Director of Budget;
- (c) the Clerk of the National Assembly or his designated alternate not being below the level of Deputy Clerk;
- (d) the Attorney-General or his designated alternate not being below the level of Senior State Counsel;

- (e) eight persons, qualified in matters relating to finance, accounting, engineering, economics, community development, or law, appointed by the Minister in accordance with subsection (5);
- (f) four persons, qualified in accordance with paragraph (e), appointed by the Minister to achieve any regional imbalance that may not be achieved pursuant to the process under subsection (5);
- (g) the Chief Executive Officer who shall be an ex-officio member and secretary to the Board.

(4) The Minister shall appoint the Chairperson of the Board from amongst the eight persons appointed in accordance with paragraph (e) of subsection (3).

(5) The organizations listed in the First Schedule shall each submit names and curriculum vitae of four nominees, two of whom shall be men and two women, and out of the thirty two names submitted, the Minister shall, taking into account regional balance of the people of Kenya, appoint nine persons, at least one from each of the eight organizations and at least a third of the appointees to be from either gender, to be members of the Board.

(6) The names and curriculum vitae of persons nominated to be appointed as members of the Board, pursuant to subsection (5) and the name of the person proposed to be appointed as the Chief Executive Officer shall be submitted to Parliament for approval before the appointments are made.

5. Section 6 of the principal Act is amended—

(a) in subsection (1)—

- (i) by deleting the words “National Committee” and substituting therefor the word “Board”;
- (ii) by deleting the words “allocation and” appearing in paragraph (a) and substituting therefor the words “timely and efficient”;
- (iii) by deleting the word “prudent” appearing in paragraph (b) and substituting therefor the word “efficient”;
- (iv) by deleting paragraph (e) ;
- (v) by deleting paragraph (f);
- (vi) by inserting the following new paragraphs immediately after paragraph (d)-
 - (e) receive and address complaints and disputes and take any appropriate action;
 - (f) to consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act and send funds to the respective constituency fund account of the approved projects;
 - (g) to perform such other duties as the Minister, with the concurrence of the Constituencies Fund Committee, may deem necessary from time to time for the proper management of the Fund.

(b) by deleting subsection (2) and substituting therefor with the following new subsection—

(2) Where any issues of policy arise in the course of the performance of its functions under this Act, the Board shall

refer the same to the Constituencies Fund Committee for directions in accordance with section 27(4) (e).

Insertion of new section 6A into No 10 of 2003.

6. The principal Act is amended by inserting the following new section immediately after section 6-

6A. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Sixth Schedule.

(2) Except as provided in the Sixth Schedule, the Board may regulate its own procedure.

Replacement of section 7 of No 10 of 2003.

7. The principal Act is amended by repealing section 7 and replacing it with the following new section—

Chief Executive
Officer of the
Board.

7 (1) There shall be a Chief Executive Officer of the Board who shall be appointed by the Board on a competitive basis and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall be appointed under this section unless such person—

(a) has a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;

(b) has at least ten years' working experience in the relevant field

(3) The Chief Executive Officer shall—

(a) be the secretary to the Board; and

(b) subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the Board.

Amendment of section 8 of No 10 of 2003.

8. Section 8 of the principal Act is amended—

- (a) by deleting the words “approved by the National Committee” appearing in subsection (1) and substituting therefor the words “minuted by the “Board””;
- (b) by deleting the words “provided for in the printed estimates prepared for projects under ” appearing in subsection (2) and substituting therefor the words “submitted by the constituencies in accordance with the procedures outlined in ”;
- (c) by inserting a new subsection immediately after subsection (3) as follows-
 - (3A) Notwithstanding the provisions of subsection (3), payments for a joint project as outlined in section 22 (4) or joint procurement, may be made directly to a supplier or to an account established for the purpose with due concurrence of the Constituencies Fund Committee”;
- (d) by deleting the words “National Committee” appearing in subsection (4) and substituting therefor the word “Board”;
- (e) by deleting subsection (6).

9. Section 9 of the principal Act is amended—

- (a) by deleting subsection (1) and substituting therefor the following new subsection-
 - (1) The Minister, with the concurrence of the Constituencies Fund Committee, shall for each financial year allocate funds to each constituency in accordance with section 19.
- (b) by inserting the words “without the approval of the “Board” at the end of subsection (2).
- (c) by deleting subsection (3) and substituting therefor the following new subsection-

Amendment of
section 9 of No 10 of
2003.

(3) At the end of each financial year, every constituency shall submit a return in the form set out in the Fourth Schedule showing for each project, the amount allocated, the amount disbursed and any unspent funds no longer needed for that project and intended to be re-allocated.

(d) by inserting the following new subsections immediately after subsection (3)—

(4) Every constituency which has unspent funds at the end of the financial year shall, in the form set out in the Fifth Schedule, submit a request to the Board detailing how they intend to re-allocate the unspent funds.

(5) Unspent funds for re-allocation in accordance with subsections (3) and (4) may be allocated to any eligible project and such project may be new or ongoing at the end of the end of the financial year.

(6) For the avoidance of doubt, a return shall be made for the current financial year and every previous financial year on which some funds remain unspent

Amendment of
section 10 of No 10
of 2003.

10. Section 10 of the principal Act is amended—

(a) by deleting the words “for the purposes for which the Fund is established” appearing in subsection (1) and substituting therefor the words “in the constituency fund account”;

(b) by deleting the words “funds returned into the accounts in accordance with section 9 (3)” appearing in subsection (2) and substituting therefor the words “retained in the account”.

Amendment of
section 11 of No 10
of 2003.

11. Section 11 of the principal Act is amended by renumbering the existing provision as subsection (1) and inserting a new subsection as follows—

(2) The Constituency Development Fund Committee shall determine the allocation of the emergency reserve and may re-allocate such reserve to other projects at the end of the financial year, in accordance with the Act.

12. Section 12 of the principal Act is amended by deleting the words "Clerk" and "him" appearing in subsection (2) and substituting therefor the word "Board" and "it" respectively.

Amendment of section 12 of No 10 of 2003.

13. Section 13 of the principal Act is amended by deleting the word "Clerk" and substituting therefor the word "Board".

Amendment of section 13 of No 10 of 2003.

14. Section 14 of the principal Act is amended by deleting the words "cost estimates of" appearing in subsection (2) and substituting therefor the words "amounts allocated to".

Amendment of section 14 of No 10 of 2003.

15. Section 15 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection-

Amendment of section 15 of No 10 of 2003.

(2) The Minister may, with the concurrence of the Constituencies Fund Committee, amend any of the Schedules to this Act.

16 The principal Act is amended by repealing section 16 and replacing it with the following new section-

Replacement of section 16 of No 10 of 2003.

Approval of projects.

16 (1) The list of projects received by the Board pursuant to section 12 shall be tabled for review at a meeting of the Board.

(2) The Board shall scrutinize and approve for funding those projects proposals that are consistent with the Act.

(3) Where the Board does not approve a proposal submitted to it under this section, it shall refer the matter to the Constituencies Fund Committee giving reasons as to why it has declined the proposal.

(4) The Constituencies Fund

Committee shall within fourteen days of receipt of the reference under subsection (3), make a decision on whether the proposal should be recommended for funding or not and the decision of the Constituencies Fund Committee shall be final.

Replacement of section 17 of No 10 of 2003.

17. The principal Act is amended by repealing section 17 and replacing it with the following new section-

Discretion of Constituency Development Fund.

17. The allocation of funds to various projects in each constituency is the responsibility of the Constituency Development Fund Committee to be exercised at its own discretion within the provisions of this Act.

Amendment of section 18 of No 10 of 2003.

18. Section 18 of the principal Act is amended by deleting the words "in accordance with section 17 shall be numbered by the Officer administering the Fund" and substituting therefor the words "shall be numbered by the Board and the serial numbers of all projects in a constituency shall bear the number of the constituency as delineated by the Electoral Commission of Kenya."

Amendment of section 21 of No 10 of 2003.

19. Section 21 of the principal Act is amended—

- (a) by inserting the words "and may include the acquisition of land and buildings" at the end of subsection (2);
- (b) by inserting the words "other than as provided for in subsections (9),(10) and (11)" at the end of subsection (3);
- (c) by deleting the words "National Committee" appearing in subsection (5) and substituting therefor the words "Constituency Development Fund Committee";
- (d) by deleting subsection (7) and substituting therefor the following new subsection-

(7) Notwithstanding the provisions of subsection (3), up to a maximum of three per centum of the total annual allocation for the constituency may be used for administration and such use shall be listed in the Second Schedule as a project.

(e) by inserting the following new subsections immediately after subsection (7)—

(8) Development projects may include the acquisition of vehicles, machinery and other equipment.

(9) An appropriate amount not more than three per centum of a constituency's annual allocation may be allocated to recurrent expenses of vehicles, equipment and machinery and be listed as a project provided that such items do not belong to a separate entity.

(10) Sports activities may be considered as development projects for purposes of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(11) Monitoring and evaluation of ongoing projects and capacity building of various operatives may be considered as a development project provided that not more than two per centum shall be allocated for this purpose.

(12) Environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

(13) Each of the projects shall be listed on the Second Schedule including the emergency item under section 11 and, where applicable, the activities under subsections (6), (7), (8), (9), (10), (11) and (12) of this section.

20. Section 22 of the principal Act is amended—

(a) by deleting the word “twenty” appearing in subsection (1) and substituting therefor the words “twenty five”:

(b) by deleting subsection (2) and substituting therefor the following new subsection-

(2) Any projects to be funded under unspent funds at the end of the financial year may be lumped together as one project with sub projects, where applicable, for the purpose of subsection (1);

(c) by deleting subsection (3). and substituting therefor the following new subsection-

(3) Project activities of a similar nature in a particular constituency may be combined and considered as one project for purposes of subsection (1) provided that the sub projects are listed in the Third Schedule.

Amendment of
section 23 of No 10
of 2003.

21. Section 23 of the principal Act is amended—

(a) in subsection (1)—

(i) by deleting the words “thirty days of a new Parliament ” and substituting therefor the word “ sixty days of a new Parliament or a by election”;

(ii) by inserting the following new paragraphs immediately after paragraph (h)-

(i) a maximum of three other persons from the constituency such that the total number does not exceed fifteen;

(j) an officer of the Board seconded to the Constituency Development Fund Committee by the Board, who shall be ex-officio.

(b) by inserting the following new subsections immediately after subsection (6)—

(7) The term of office of the

members of the Constituency Development Fund Committee shall be three years renewable but shall come to an end upon the appointment of a new Constituency Development Fund Committee in a manner provided for in this Act.

(8) Whenever there is a new Member of Parliament through a general election or by-election, the new Member of Parliament shall constitute and convene a new Constituency Development Fund Committee;

Provided that—

(a) the Constituency Development Fund Committees existing prior to a parliamentary election or by election shall continue in office until a new Constituency Development Fund Committee is constituted after the election or by election in a manner provided for under this Act; and

(b) the list of projects shall not be changed other than at the end of the financial year or in accordance with this Act.

(9) The officer of the Board shall be the custodian of all records and equipment of the constituency during the term of Parliament and during transitions occasioned by general elections or a by election.

(10) Whenever a vacancy occurs in the Constituency Development Fund Committee by reason of

resignation, incapacitation or demise of a member then the Member of Parliament shall fill the vacancy from the same category of persons where the vacancy has occurred.

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

(12) The Constituency Development Fund Committee shall, at its discretion, determine the quantum of installments to various projects in the constituency, taking into account the disbursement received and the requirements of different projects.

Amendment of section 24 of No 10 of 2003.

22. Section 24 of the principal Act is amended by deleting the word “Minister” appearing in subsection (2) and substituting therefor the word “Board”

Amendment of section 25 of No 10 of 2003.

23. Section 25 of the principal Act is amended by deleting subsection(2) and substituting therefor the following—

(2) Notwithstanding the provisions of subsection (1), an education bursary scheme, mocks and continuous assessment tests shall be considered as a development project for purposes of the Act provided that such a project shall not be allocated more than fifteen per centum (15%) of the total funds allocated for the constituency in any financial year”.

Amendment of section 26 of No 10 of 2003.

24. Section 26 of the principal Act is amended by renumbering the existing provision as subsection (1) and deleting the words “National Committee” and substituting therefor the word “Board”.

Amendment of section 27 of No 10 of 2003.

25. Section 27 of the principal Act is amended—

(a) by inserting the words “provided that the term of office of the members of the committee shall be three years renewable

or upon the appointment of a new committee in a manner provided for in this Act, whichever comes earlier” at the end of subsection (2);

(b) by deleting paragraph (a) of subsection (4) and substituting therefor the following new paragraph-

(a) to determine the allocation and distribution to each constituency, of the amounts collected under section 4(2) and the utilization of any unspent funds intended for use by the Board under this Act;.

(c) by inserting the following new subsection immediately after subsection (4)—

(5) The Committee may make reports other than the statutory report stated in sub section 4 (d) to appraise the National Assembly on various matters relating to the Fund and to seek various approvals as required by the Act.

26. The principal Act is amended by repealing section 28 and replacing it with the following new section—

Repeal of section 28
of No 10 of 2003.

Monthly reports on
projects and
disbursements.

28. The Board shall, on a monthly basis, submit a report to the Constituencies Fund Committee detailing—

(a) a summary of the project proposals received from the constituencies in the preceding month and indicating the approval status of such projects; and

(b) a summary of the status of disbursements of funds to the constituencies for that preceding month;

(c) a summary of the status of

disbursements from the Treasury to the National Account.

Replacement of section 29 of No 10 of 2003.

27. The principal Act is amended by repealing section 29 and replacing it with the following new section—

Funding of listed projects.

29. The Board shall ensure that the list of projects forwarded to it by each constituency is, upon approval, funded in accordance with the Act.

Amendment of section 30 of No 10 of 2003.

28. Section 30 of the principal Act is amended-

- (a) by deleting the words “relevant department of Government in the district” appearing in subsection (1) and substituting therefor the words “project committee in each case, with the assistance of the relevant department of Government”;
- (b) by deleting the words “in the printed estimates” appearing in subsection (2).
- (c) by inserting the following new subsections immediately after subsection (4)—

(5) All fixed and movable assets, including equipment bought under this Act shall be the property of the Board to be insured in the name of the Board.

Provided that—

- (a) such property shall bear the name and number of the constituency as delineated by the Electoral Commission of Kenya; and
- (b) equipment bought for institutions shall remain the property of those institutions.

(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 constituency from whose funds the asset was acquired.

29. Section 31 of the principal Act is amended by deleting subsection (2).

Amendment of section 31 of No 10 of 2003.

30. The principal Act is amended by repealing section 33 and replacing it with the following new section—

Replacement of section 33 of No 10 of 2003.

Record of receipts and disbursement.

33. The officer of the Board in every constituency shall compile and maintain a record showing all receipts and disbursements on a monthly basis in respect of every project and sub-project under this Act and shall-

(a) table such record at a meeting of the Constituency Development Fund Committee in every month ; and

(b) submit a summary of the record for the year to the Constituency Development Fund Committee not later than sixty days after the end of every financial year.

31. Section 36 of the principal Act is amended—

Amendment of section 36 of No 10 of 2003.

(a) by deleting the word “shall have the power to” appearing in subsection (1) and substituting therefor the word “may”;

(b) . by deleting the word “shall” appearing immediately before the words “attend each” in subsection (2) and substituting therefor the word “may”.

32. Section 39 of the principal Act is amended by deleting subsection (2).

Amendment of section 39 of No 10 of 2003.

33 Section 40 of the principal Act is amended—

Amendment of section 40 of No 10 of 2003.

(a) by inserting the word “Fund” immediately after the word “Development” appearing in paragraph (e) of subsection (1)

- (b) by deleting the word “two (2)” appearing in subsection (3) and substituting therefor the word “three (3)”;
- (c) by deleting the words “ every three months” appearing in subsection (5) and substituting therefor the words “annually but not more than six (6) times in a year”;
- (d) by deleting subsection (6) and substituting therefor the following new subsection-
 - (6) All District Project Committees existing prior to a parliamentary election shall stand dissolved upon the dissolution of Parliament.
- (e) by deleting the words “and all Constituency Development Committees shall be constituted within thirty” appearing in subsection (7) and substituting therefor the words “shall be constituted within sixty”;

Replacement of section 43 of No 10 of 2003.

34. The principal Act is amended by repealing section 43 and replacing it with the following new section-

District Projects Committee to prepare list.

43. The District Projects Committee shall, at the beginning of every financial year, prepare and circulate to the various Constituency Development Fund Committees in that district, a list of other Government allocations for various projects in the district.

Provided that the existence of another allocation by Government to a project in the constituency shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

Replacement of section 44 of No 10 of 2003.

35. The principal Act is amended by repealing section 44 and replacing it with the following new section-

Staff of the Board .

44 The Board may appoint such officers and other staff as are necessary for the proper management of the Fund and discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Provided that the principal management structure of the Board shall be established or varied by the Board with the concurrence of the Constituencies Fund Committee.

36. Section 45 of the principal Act is amended—

Amendment of
section 45 of No 10
of 2003.

- (a) by inserting the word “Fund” immediately after the word “Development” appearing in subsection (3);
- (b) by deleting subsection (5) and substituting therefor the following new subsection—

(5) Every payment or instruction for payment out of the constituency fund account shall be strictly on the basis of a minuted resolution of the Constituency

Development Fund Committee.

- (c) by inserting the word “fund” immediately after the word “constituency” appearing in subsection (6);
- (d) by deleting the words “shall be returned to the Fund in accordance with section 9” appearing in subsection (7) and substituting therefor the words “retained in the account until the end of the financial year when they may be reallocated in accordance with this Act”;
- (e) by deleting the words “National Committee” appearing in subsection (8) and substituting therefor the words “Board”

37. Section 46 of the principal Act is amended—

Amendment of
section 46 of No 10
of 2003.

- (a) by deleting the words “the Officer administering the Fund and two other persons appointed by the National Committee from amongst its members” appearing in subsection (2) and substituting therefor the words “Chief

Executive Officer and three other persons appointed by the Board from amongst its members”.

- (b) by deleting subsection (3) and substituting therefor the following new subsection-

(3) The signing instructions shall be such that the signature of the Chief Executive Officer shall be mandatory on all payment cheques and or instruments intended for actual release of money from the fund, plus any two of the other three signatories.

Amendment of
section 47 of No 10
of 2003.

38. Section 47 of the principal Act is amended—

- (a) by deleting the words “for projects in each constituency shall be kept and updated every month by the Officer administering the Fund” appearing in subsection (1) and substituting therefor the words “to every constituency shall be kept and updated every month by the Board”;

- (b) by deleting subsection (2). and substituting therefor the following new subsection-

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

- (d) by inserting the following new subsection immediately after subsection (2) –

(3) The Minister shall table an annual report on the activities,

operations and expenditure under the Act.

39. The principal Act is amended by repealing section 48 and replacing it with the following new section-

Replacement of section 48 of No 10 of 2003.

Finances of the Board.

48. (1) The expenditure for running the Board and related purposes shall be set aside at the beginning of the financial year and not more than three per centum of the total allocation to the Fund in the financial year may be used for this purpose, the annual budget of which shall be approved by the Minister with the concurrence of the Constituencies Fund Committee, and expenses shall not be incurred until such approval is accorded.

(2) The Board shall, at the end of each financial year, submit to the Constituencies Fund Committee a statement showing the balance or shortfall, if any, arising out of its approved annual budget for that year and the Board shall, with the concurrence of the Constituencies Fund Committee, determine the manner in which such balance or shortfall shall be spent or met respectively.

(3) The personal emoluments of Government officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of Government but any other emoluments or payments to such officers from the Fund shall be determined by the Minister with the concurrence of Constituencies Fund Committee.

(4) Sitting and other allowances for the members of the District Projects Committee and Constituency Development Fund Committee shall be fixed by the Board with the concurrence of the Constituencies Fund Committee and shall be paid out of the funds set aside for the Board under subsection (1).

No. 12 of 2003.

(5) The accounts of the Board shall be audited and reported upon in accordance with the Public Audit Act, 2003.

Insertion of new section 52 and 53 into No 10 of 2003.

40. The principal Act is amended by inserting the following new sections immediately after section 51-

Dispute resolution.

52. (1) All complaints shall be forwarded to the Board.

(2) Disputes shall be referred to the Board in the first instance and where necessary an arbitration panel shall be appointed by the Minister who shall consider and determine the matter before the same is referred to court.

(3) Subject to this Act, no person in the management of the Fund shall be held personally liable for any lawful action taken in his official capacity or for any disputes against the Fund.

Transition from National Committee to the Board.

53. (1) In this section—

“commencement day” means the day this Act comes into operation;

“this Act” means this Constituencies Development Fund (Amendment) Act, 2007;

(2) On the commencement day, all the funds, assets and other property both movable and immovable, which immediately before such date were vested in the National Committee, shall by virtue of this subsection, vest in the Board.

(3) On the commencement day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the National

Committee shall, by virtue of this subsection, be deemed to be vested in, imposed on or enforceable against the Board .

(4) Any reference in any written law or in any document or instrument to the National Committee shall, on and after the commencement day, be construed to be a reference to the Board.

(5) The annual estimates of the National Committee for the financial year in which the commencement day occurs shall be deemed to be the annual estimates of the Board for the remainder of that financial year.

(6) The administrative directions made by the National Committee or by the Minister which are in force immediately before the commencement day shall, on and after such day, have force as if they were directions made by the Board or the Minister under this Act.

(7) Any person who is an officer or employee of the National Committee shall, immediately before the commencement day shall be deemed to be an officer or employee of the Board.

Provided that such person shall, within a period of six months from the commencement day, exercise his or her option either to—

- (a) enter into a written contract of service with the Board , whereupon his or her service with the Government shall be deemed to have been terminated without right to severance pay but without prejudice to all other remuneration and benefits payable upon such termination; or

(b) be re-deployed by the Government.

(8) The members of the National Committee and the Officer administering the Fund appointed under sections 5 (2) (e) and 7 (2) of the Act respectively (which sections are herein replaced) shall continue in office as members of the Board and the Chief Executive Officer respectively until when a new Board and Chief Executive Officer are appointed in accordance with this Act

Provided that the appointment of a new Board and Chief Executive Officer in accordance with this Act shall be made within sixty days from the commencement day.

Repeal of First Schedule of No 10 of 2003.

41. The principal Act is amended by repealing the First Schedule and replacing it with the new First Schedule set out in the Schedule hereto.

Replacement of Second Schedule of No 10 of 2003.

42. The principal Act is amended by repealing the Second Schedule and replacing it with the new Second Schedule set out in the Schedule hereto.

Replacement of Third Schedule of No 10 of 2003.

43. The principal Act is amended by repealing the Third Schedule and replacing it with the new Third Schedule set out in the Schedule hereto.

Insertion of Fourth Schedule into No 10 of 2003.

44. The principal Act is amended by inserting a new Fourth Schedule set out in the Schedule hereto.

Insertion of Fifth Schedule into No 10 of 2003.

45. The principal Act is amended by inserting a new Fifth Schedule set out in the Schedule hereto.

Insertion of Sixth Schedule into No 10 of 2003.

46. The principal Act is amended by inserting a new Sixth Schedule set out in the Schedule hereto.

SCHEDULE (*sections 41, 42, 43, 4, 45 and 46*)**FIRST SCHEDULE***(section. 5(5))***LIST OF ORGANIZATIONS TO NOMINATE PERSONS TO THE BOARD**

- The Kenya National Federation of Agricultural Producers.
- The Institution of Engineers of Kenya.
- The Kenya National Chamber of Commerce and Industry.
- The Kenya Episcopal Conference.
- The Kenya National Union of Teachers.
- The National Council of Churches of Kenya.
- The Supreme Council of the Kenya Muslims.
- The Institute of Certified Public Accountants of Kenya

SECOND SCHEDULE

(section 14)

STANDARD CONSTITUENCY PROJECTS SUBMISSION FORM

Constituency No.....Name:.....Financial
year.....

Serial No	Name of Project	Amount allocated (Kshs)
Total for the Financial Year		

Member of Parliament.....Signature.....Date.....

Secretary CDF Committee.....Signature.....Date.....

THIRD SCHEDULE

(section. 15)

STANDARD PROJECTS DESCRIPTION FORM

Constituency Name.....Financial year.....

Project No.....Project Title.....

Amount allocated this Financial Year.....

Brief description of the Project

.....
.....
.....

Sub projects

Number	Title	Amount
.....
.....
.....
.....
.....
.....
.....

TOTAL.

(attach continuation page if necessary)

Signature.....Date.....

Name.....Position.....

FOURTH SCHEDULE

(section. 9(3))

STANDARD ANNUAL DISBURSEMENT RETURN FORM

Constituency No.....Name.....Financial year.....

Project No	Project Title	Amount allocated (Kshs)	Amount disbursed (Kshs)	Balance (Kshs)	Unspent to be re-allocated
Totals					

Signature.....Date.....

Name.....Position.....

FIFTH SCHEDULE

(section. 9(4))

RE-ALLOCATION OF UNSPENT FUNDS

Constituency No.....Name.....Financial year.....

Project No	Project Title	Amount allocated (Kshs)
Total amount re-allocated		

Member of Parliament.....Signature.....Date.....

Secretary CDF Committee.....Signature.....Date.....

SIXTH SCHEDULE*(section .6A)***PROVISIONS AS TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD**

Tenure of office.

1. The Chairperson or a member of the Board other than ex-officio members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two consecutive terms.

Vacation of office.

2. (1) A member other than an ex-officio member may-

(a) at any time resign from office by notice in writing to the Minister;

(b) be removed from office by the Minister on recommendation of the Board if the member –

(i) has been absent from three consecutive meetings of the Board without its permission;

(ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or

(iv) is otherwise unable or unfit to discharge his functions.

(2) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1).

Meetings.

3. (1) The Board shall meet not less than six and not more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the

Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be eight members.

(5) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

4. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

Committees of the Board.

(2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

5. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the

Disclosure of interest.

meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) shall cease to be a member of the Board upon direction of the Minister.

Contracts and
instruments.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Common seal.

7. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson, the Chief Executive Officer and one member nominated by the Board and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson, the Chief Executive Officer and that member nominated by the Board.

(3) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.