

LEGAL NOTICE NO.....

**THE PUBLIC FINANCE MANAGEMENT ACT, 2012**  
*(No. 18 of 2012)*  
**THE PUBLIC FINANCE MANAGEMENT (SOCIAL ASSISTANCE FUND)**  
**REGULATIONS, 2019**

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**THE PUBLIC FINANCE MANAGEMENT, 2012**  
*(No. 18 of 2012)*

**IN EXERCISE** of the powers conferred by section 24(4) of the Public Finance Management Act, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

**THE PUBLIC FINANCE MANAGEMENT (SOCIAL ASSISTANCE FUND)  
REGULATIONS, 2019**

**PART I – PRELIMINARY**

- Citation
1. These Regulations may be cited as the Public Finance Management (Social Assistance Fund) Regulations, 2018.
- Interpretation
2. In these Regulations, unless the context otherwise requires —
- “**Administrator**” means the Accounting Officer responsible for matters relating social assistance;
- “**bursary**” means a financial grant awarded to orphans and vulnerable children from poor families to enable them study in a school, college or university;
- “**Board**” means the Social Assistance Fund Oversight Board established under regulation 7;
- “**Cabinet Secretary**” has the meaning as assigned under section 2 of the Act;
- “**child**” has the meaning assigned to it under Article 260 of the Constitution;
- “**complementary programmes**” include interventions that promote livelihoods, foster labour and social economic inclusion , build resilience, facilitate access to social services such as health care, nutrition, education and training; and strengthen social welfare structures and the capacity of social workers to promote people’s solidarity and community strengthening;
- “**disability**” has the meaning assigned to it under Article 260 of the Constitution;
- “**Fund**” means the Social Assistance Fund established under regulation 3;
- “**poor person**” means an individual who lives below the National Poverty line;
- “**psychosocial support**” means initiatives to help individuals to heal the psychological wounds and rebuild social structures after an emergency or critical event and is meant to help change people into active survivors rather than

victims;

**“residential institution”** means an institution approved in accordance with these Regulations that provide for living accommodation and temporary or continuing care for persons in need;

**“social assistance”** means support to poor and vulnerable persons issued in accordance with these Regulations including –

- (a) social grant;
- (b) social services; or
- (c) distress relief;

**“social services”** means services aimed at lessening, removal or prevention of the causes or effects of poverty and vulnerability;

**“social grant”** means financial assistance in form of cash transfer to those who are eligible;

**“vulnerability”** means the likelihood of suffering from future deteriorations in standard of living which may result in socially unacceptable outcomes such as the state of poverty or or inability to meet basic needs; and

**“youth”** has the meaning assigned to it under Article 260 of the Counstitution.

## **PART II – ESTABLISHMENT OF THE FUND**

Establishment of the Fund.

**3.** There is established a fund to be known as the Social Assistance Fund.

Sources of the Fund.

**4.** (1) The Fund shall consist of—

- (a) grants and donations;
- (b) such monies as may be appropriated by the National Assembly;
- (c) income generated from the proceeds of the Fund; and
- (d) any moneys accruing to or received by the Fund from any other lawful source.

Expenditure on the Fund.

5. (1) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the objects and purposes for which the Fund is established.

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

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

Capital of the Fund.

6. The initial capital of the Fund shall be **two billion shillings** appropriated by Parliament in the financial year **2019/2020**.

Objects and purpose of the Fund.

7. The objects and purpose of the Fund is to provide funding for the provision of social assistance for poor and vulnerable persons, and in particular—

- (a) to provide for the development and promotion of social assistance programmes and initiatives in the country;
- (b) to provide for the criteria for the identification, screening, and prioritization of beneficiaries of social assistance benefit;
- (c) to provide for the eligibility criteria for accessing social assistance under this Fund;
- (d) to provide for the minimum norms, standards and procedures for the delivery of social assistance programmes and initiatives;
- (e) to provide for a quality assurance framework to ensure that only eligible persons benefit from the social assistance Fund;
- (f) to develop and promote programmes to render the recipients of social assistance capable of self-support and exit from social assistance benefit;
- (g) to enhance financial capacity of the recipients and their dependents through linkages with other government interventions;
- (h) to promote the incorporation of recipients into other complementary services and access to better life conditions;
- (i) to facilitate provision of psychosocial support;
- (j) to coordinate, manage and operationalize a beneficiary register for social assistance programmes for the national government;
- (k) to mobilise resources from development partners and other sources for the Fund;

- (1) provide funds for capacity and technical expertise development to improve on social assistance.

### **PART III – ADMINISTRATION OF THE FUND**

Establishment of the  
Social Assistance  
Fund Board.

- 8.** (1) There is established a board to be known as Social Assistance Fund Oversight Board.

(2) The Board shall consist of –

- (a) a Chairperson appointed by the President from outside the public service on the recommendation of the Cabinet Secretary responsible for matters relating to social assistance;
- (b) the Principal Secretary for the time being responsible for matters relating to finance;
- (c) the Principal Secretary, for the time being responsible for matters relating to social assistance;
- (d) the Principal Secretary for the time being responsible for matters relating to health;
- (e) the Principal Secretary for the time being responsible for matters relating to drought;
- (f) the Principal Secretary for the time being responsible for matters relating to basic education;
- (g) three persons to be appointed by the Cabinet Secretary responsible for social assistance of whom –
  - i. one shall be nominated by an umbrella body of faith-based organization;
  - ii. one shall be a representative of the interests of children or persons with disabilities;

iii. one shall be a representative of the interests of older persons.

- (3) In the absence of the Chairperson in any meeting of the Board, the members present shall elect one of them to chair the meeting.
- (4) The members under paragraph (2)(b) to (f) may attend in person or designate an alternate in writing.
- (5) the Board may, from time to time, co-opt other members as it may deem necessary, for the proper and efficient discharge of its oversight functions over the Fund.
- (6) The quorum for the conduct of meetings of the Board shall be five members.
- (7) The Board shall regulate its own procedure.

Qualifications of members of the Board.

- 9.** A person shall be eligible for appointment as a member of the Board under regulation 8(2)(a) and (g) if that person—
  - (a) holds a university degree from a university recognized in Kenya in any of the following fields-
    - (i) social science;
    - (ii) public administration;
    - (iii) finance;
    - (iv) law;
    - (v) accounting;
    - (vi) health; or
    - (vii) economics;
  - (b) has experience of at least ten years and of which five shall be at senior management level dealing with social assistance programmes in matters relating to children or older persons or persons with disability; and
  - (c) meets the requirements of Chapter Six of the Constitution.

Functions of the Board.

- 10.** The Board shall be-
  - (a) to provide oversight on the administration and management of the Fund;
  - (b) to formulate policies to achieve the objects and purpose of the Fund;

- (c) to approve estimates of revenue and expenditure of the Fund for each financial year;
- (d) to receive, review and approve statutory and management reports of the Fund before submission to the Auditor-General with copies to the National Treasury and Controller of Budget;
- (e) to give prior approval for the opening of any bank account of the Fund before seeking approval from the National Treasury in accordance with section 28 of the Act;
- (f) to advise the Cabinet Secretary responsible for matters relating to social assistance and the Cabinet Secretary on the proper administration of the Fund;
- (g) to approve the ceilings for funding under older persons, orphans and vulnerable children, persons with disability and persons in extreme poverty in each financial year;
- (h) to develop policy guidelines relating to identification, prioritization and disbursements by the Fund;
- (i) to monitor and evaluate the programmes and activities under the Fund;
- (j) to facilitate and develop sectoral linkages to the Fund;
- (k) to review policy on the management of assets, equipment and all properties under the Fund;
- (l) to receive reports on the performance of the Fund;
- (m) to develop administrative guidelines on how to replace beneficiaries who have exited the social assistance programme; and
- (n) to perform such other duties as may be considered necessary by the Cabinet Secretary responsible for matters relating to social assistance from time to time for the proper administration and management of the Fund and such a duty shall be assigned in writing.

Administrator of the Fund.

**11.** (1) The Administrator of the Fund shall be the Accounting Officer responsible for matters relating social assistance.

(2) The Administrator of the Fund 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 Board and the National Treasury in accordance with the Act;



- (b) supervise and control the administration of the Fund;
- (c) implement the decisions of the Board;
- (d) coordinate the policies and programmes of the Fund to effectively address the issues and problems attendant to social assistance;
- (e) consult with the Board on matters relating to the administration of the Fund;
- (f) cause to be kept proper books of accounts and other books and records relating to all activities and undertakings financed from the Fund;
- (g) prepare, sign and transmit to the Auditor-General, upon the approval by the Board, 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 in accordance with the provisions of the Act and Public Audit Act, 2015;
- (h) 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;
- (i) prepare a quarterly report on financial and non-financial activities of the Fund in accordance with the provisions of the Act, and as may be prescribed from time to time by the Accounting Standards Board and submit the report to the Board for approval and subsequent transmission to the National Treasury and the Controller of Budget; and
- (j) be the custodian of all the assets, equipment and properties under the Fund.

No. 34 of 2015.

- (3) Every statement of account referred to under paragraph 2 (e) and (g) shall include details of the balance between the assets and liabilities of the Fund, and shall indicate the financial status of the Fund.

The Secretariat of the Fund.

- 12.** (1) The State Department responsible for matters relating to social assistance shall provide secretarial services to the Fund.
- (2) The Secretariat of the Fund shall be reporting to the Administrator of the Fund, and shall—
- (a) be responsible for the day to day administration and management of the Fund;

- (b) develop a predictable, transparent and accountable financial internal control systems for the Fund;
- (c) prepare and submit for approval by the Board estimates of revenue and expenditure, annual work programs and costs estimates, annual procurement plans and annual cash flow plans;
- (d) monitor and provide reports to the Board, on a bi-monthly basis, on efficiency and effectiveness of social assistance programs supported by the Fund;
- (e) prepare and validate social assistance payment schedules for submission to the Board for approval;
- (f) implement projects, programs and coordinate with other national government Ministries, county governments and non-state actors at the national and county level in the realization of the objects and purpose of this Fund;
- (g) monitor and evaluate programs financed from the Fund and provide reports to the administrator of the Fund regularly;
- (h) prepare statutory and management reports of the Fund and submit them to the administrator of the Fund for approval before submission to the Board; and
- (i) maintain proper records of the Fund;

(2) Despite paragraph (1), the Administrator of the Fund may assign any other duty to the Secretariat for the proper administration and management of the Fund.

#### **PART IV – SOCIAL ASSISTANCE AND ELIGIBILITY CRITERIA**

Eligibility for social assistance.

**13.** (1) A person is entitled to social assistance under the Fund if that person—

- (a) is in need as provided for under regulation 14; and
- (b) is a Kenyan citizen.

(2) A person shall not be eligible for social assistance under these Regulations if that person benefits from any other Fund or programme, either public or private, which provides social assistance.

Persons in need.

**14.** For the purposes of these Regulations, a person in need shall include—

- (a) poor orphans and vulnerable children;
- (b) poor elderly persons;
- (c) poor persons with disability;

- (d) persons in extreme poverty; and
- (e) any other person as may be recommended by the Board to the Cabinet Secretary for the time being responsible for matters relating to social assistance, and published by a way of Notice in the Gazette.

Orphans and vulnerable children.

**15.** A child qualifies for social assistance if that child—

- (a) is an orphan who is not under the care of a guardian who provides the basic needs of the child;
- (b) is under the care of a person who suffers a serious long-term ailment or disability which renders the person unable to care for the child;
- (c) has been abandoned by the parent or parents and is not under the care of a guardian who provides the basic needs of the child or;
- (d) is under the care of parents or guardians who are unable to provide for the child's basic needs.

Poor elderly persons

**16.** A person qualifies for social assistance as a poor elderly person if that person—

- (a) has at least attained the age of 65; and
- (b) has been neglected, abandoned or weak without any ascertainable means of support, or
- (c) lives or begs on the street for a living.

Persons living with disabilities.

**17.** A person with disability shall be eligible for social assistance under these Regulations, if the person's disability renders him or her incapable of catering for the basic needs and without any ascertainable means of support.

Persons in extreme poverty.

**18.** (1) A person in extreme poverty shall be eligible for social assistance under these Regulations, if that person suffers from severe deprivation of basic human needs, including access to food, safe drinking water, sanitation facilities, health, shelter, education and access to information on same.

(2) For the purposes of ascertaining the elements provided for under paragraph (1), the Board shall develop administrative guidelines for ranking the intended beneficiaries and the ranking score shall be used to identify the actual beneficiaries.

Social assistance programmes.

**19.** (1) The Board shall in consultation with the Cabinet Secretary responsible for matters relating to social assistance, provide programmes that are

intended to—

- (a) assist in the development of individual, family and community capacity to become self-sufficient;
- (b) increase the ability of persons in need to assume greater responsibility for themselves;
- (c) lessen dependence by the people on public financial assistance;
- (d) provide support services to allow persons who may otherwise be in need to avoid dependence on public financial assistance; and
- (e) lessen, remove or prevent the causes and effects of poverty.

(2) The programmes under paragraph (1) shall be funded through the administrative expenses provided for under regulation 30.

Application for social assistance.

**20.** (1) A person in need identified under regulation 14 shall apply to the Board for social assistance, in the form prescribed in the Schedule of these Regulations.

(2) Where an application is made under paragraph (1), the Board may conduct an investigation to verify that the person is eligible and the Board may request additional information.

(3) If the applicant—

- (a) qualifies for social assistance as provided for under these Regulations, the Board shall render the relevant social assistance;
- (b) does not qualify for social assistance in terms of these Regulations, the Board shall in writing, inform the applicant—
  - (i) that the applicant does not qualify for social assistance in terms of these Regulations;
  - (ii) of the reasons why, the applicant does not qualify; and
  - (iii) of the applicant's right of appeal as specified under regulation 21 of these Regulations.

(4) The Board shall convey its decision to the applicant within one month from the time the Board makes the decision.

Appeals

**21.** A person who is aggrieved by a decision of the Board under these Regulations, may within thirty days from the date of the Board's decision, appeal to the Board and in any appeal the Board may uphold, annul or vary

the decision as it may consider necessary.

Abuse of social assistance.

**22.** (1) If in the opinion of the Board a beneficiary abuses their social assistance the Board may—

- (a) suspend payment of social assistance; or
- (b) appoint a person to receive social assistance on behalf of the beneficiary and to apply it, subject to the set out conditions and any other conditions that the Board may determine, for the benefit of the beneficiary.

(2) For the purposes of this regulation, “abuse of social assistance” means the use of the social assistance in a way that negates the intended objects and purpose.

Termination of social assistance.

**23.** (1) The Board may terminate payment of social assistance to or on behalf of a person—

- (a) who is absent from Kenya, for a continuous period of six months or longer;
- (b) who is no longer eligible for assistance;
- (c) who ceases to be a Kenyan resident;
- (d) who voluntarily opts out; or
- (e) where a change has occurred in that person’s circumstances;

(2) The Board may reinstate the provision of social assistance suspended under paragraph (1) where the Board is satisfied that the reasons advanced by the applicant justify the reinstatement.

Suspension or cancellation of social assistance.

**24.** The Board may suspend or cancel social assistance if it establishes that the social assistance has been —

- (a) obtained through misrepresentation, deceit, fraud or failure to disclose any material information;
- (b) in excess of amounts permitted by the Board and guidelines made pursuant to these Regulation; and
- (c) approved and granted in error.

Refund to the Fund.

**25.** (1) If the Board pays money erroneously to a person who is not entitled under these Regulations, the amount of money so paid is an amount due to the Fund and shall be payable to the Fund by the person or, if the person is deceased, by the estate of the person.

- (2) The Board shall recover the amounts to which a person was not entitled, as provided for under paragraph (1), in accordance with these Regulation or any other law.
- (3) The Board shall remit an amount owing by a person in terms of paragraph (1) if the person satisfies the Board that the person received the amount without knowing that they were not entitled to receive the payment.

Lapsing of social assistance.

**26.** Social assistance shall lapse—

- (a) when a beneficiary dies; or
- (b) when a beneficiary is admitted to a residential institution.

Review of social assistance

**27.** The Board shall review social assistance at any time where it has reason to believe that a change in the beneficiaries' circumstances may have occurred.

Preservation of applicant's confidential information.

**28.** (1) A person may not divulge any information furnished by an applicant in respect of an application except—

- (a) to a person who requires it in order to perform a function in terms of these Regulations;
- (b) when required to do so by law or by an order of court; or
- (c) with the consent of the applicant.

(2) If the information submitted by an applicant changes, the applicant shall inform the Board of the change as soon as possible.

Fund disbursements.

**29.** (1) The funds under the Fund shall be disbursed under the following conditions—

- (a) all disbursements from the Fund shall be approved and recorded in minutes of the Board;
- (b) transfers to defray the expenses in respect of the administration of the Fund shall be as approved by the Board for the respective financial year;
- (c) the funds are meant for eligible persons as provided for under these Regulations;

(2) The Board shall set out other conditions and requirements for release of funds, to ensure efficient and effective management of resources.

Giving false information.

**30.** (1) A person commits an offence if the person knowingly—

- (a) makes a false or misleading statement in any application or report under these Regulations or makes an application or report that by reason of non-disclosure of facts is false or misleading;
- (b) provides any person employed in the administration or enforcement of these Regulations with any statement or information that is false in any material part;
- (c) communicates or allows to be communicated to any person privileged information or allows a person to inspect or have access to a statement or other writing containing any such information.

(2) A person who contravenes paragraph (1) commits an offence and shall be liable, upon conviction to a fine not exceeding ten million shillings or imprisonment for a term not less than five years, or both.

Misappropriation of funds.

**31.** Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in the Act and these Regulations, commits an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding ten million shillings or to both.

## **PART V – FINANCIAL PROVISIONS**

Administration costs.

**32.** The administration expenses of the Fund shall not be more than three (3%) per centum of the approved budget of each financial year.

Financial year of the Board.

**33.** The financial year of the Board shall be the period of twelve months ending on the 30<sup>th</sup> of June of every year.

Preparation and submission of work plans, etc.

**34.** The administrator of the Fund shall prepare a work plan, projects and quarterly reports in respect of a financial year and ensure that the work plan, projects and quarterly reports-

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

Opening bank accounts.

**35.** (1) The Board shall approve the opening and maintenance of bank accounts for the Fund with such a bank as may be recommended by the Administrator.

(2) Upon approval by the Board under paragraph (1), the Administrator shall seek the approval of the National Treasury in accordance with section

28 of the Act.

(3) The accounts and investments shall be held for and on behalf of the Fund in the name of the Social Assistance Fund Board.

(4) Monies owed to the Board by the social assistance beneficiaries shall be paid into bank accounts opened under paragraph (1).

Books of account

No. 34 of 2015.

**36.** (1) The Board shall keep proper books of accounts and shall prepare annual statements of accounts in accordance with the Act, and the Public Audit Act, 2015.

(2) The accounts of the Board, including donor funds, shall be managed in accordance with the Act.

Investment of funds

**37.** The administrator may, with the approval of the Board, invest any of the funds of the Fund which are not immediately required for its purposes in accordance with the provisions of the Act.

Retention of receipts

**38.** 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.

Annual reports

**39.** (1) The administrator of the Fund shall prepare annual financial and non-financial reports in accordance with the provisions of the Act and as may be prescribed from time to time by the Accounting Standards Board.

(2) In addition, the administrator of the Fund shall prepare an annual general performance report of the Fund to be submitted with the report under paragraph (1).

No. 34 of 2015

(3) The annual financial and non-financial statements under paragraph (1) shall be approved by the Board 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 and a copy thereof submitted to the Cabinet Secretary and Controller of Budget.

Audit

**40.** The books of accounts of the Board shall be prepared, audited and reported in accordance with Articles 226 and 229 of the Constitution, the Act, and the Public Audit Act, 2015.

#### **PART VI – MISCELLANEOUS PROVISIONS**

Application of  
Government Financial  
Regulations and  
procedures.

Transition provisions

**41.** Subject to the provisions of the Act, existing government financial regulations and procedures shall apply in the administration of the Fund.

**42.**

Winding-up of the  
Fund.

**43.** (1) In the event of winding up of the Fund—

(a) the Board shall pay any amount remaining in the Fund into the National Exchequer Account for the credit of the national government while other assets of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to social assistance;



(b) the Cabinet Secretary shall pay any deficit in the Fund from the funds of the National Government in the National Exchequer Account with the approval of the National Assembly; and

(c) the Cabinet Secretary shall submit a final statement of accounts of the Fund to the National Assembly.

(2) The Board shall prepare the final winding up report not later than six months from the date of the decision to wind up the Fund and submit the financial and non-financial reports to the Auditor General for audit with a copy to the National Treasury.

(3) The Auditor-General shall, after audit, submit the final report to the National Assembly within three months of the receipt of the initial report under paragraph (2), with a copy to the National Treasury.

Hon. Amba Ukur Yatani

Ag. Cabinet Secretary, National Treasury & Planning

Dated.....

**SCHEDULE**

**(Regulation 20(1))**

**SOCIAL ASSISTANCE FUND**

**APPLICATION FOR SOCIAL ASSISTANCE**

**To,  
The Administrator,  
Social Assistance Fund**

**1. Applicant's Details**

- a) Full Name .....
- b) Sex.....
- c) Age.....
- d) Marital Status .....
- e) Identity Card/Passport Number.....
- f) County.....
- g) Sub-County.....
- h) Location.....
- i) Sub-Location.....
- j) Village.....
- k) Postal Address .....
- l) Physical Address .....
- m) Telephone Contacts .....

**2. Social Assistance Programme applied for**

- a) Orphans and vulnerable children  
.....
- b) Poor elderly persons  
.....
- c) Persons with disability  
.....
- d) Persons in extreme poverty  
.....
- e) Any other  
.....

**I hereby declare that the information provided in this application is true to the best of my knowledge.**

**Signature** .....  
**Date** .....

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**FOR OFFICIAL USE ONLY**  
Information collected by  
Name .....  
Designation.....  
Signature .....  
Date .....