

SPECIAL ISSUE

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LEGAL NOTICE NO. 219

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(4) of the Public Finance Management, 2012, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (NATIONAL PEACE SUPPORT OPERATIONS FUND) REGULATIONS, 2022

1. These Regulations may be cited as the Public Finance Management (National Peace Support Operations Fund) Regulations, 2022. Citation.

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

“Administrator of the Fund” means the person designated as such under regulation 12 of these Regulations;

“Cabinet Secretary” has the meaning assigned to it under section 2 of the Act;

“Contingent Owned Equipment” means equipment and assets acquired by Government of Kenya for purpose of Peace Support Operations;

“Defence Council” means the Defence Council established under Article 241(5) of the Constitution;

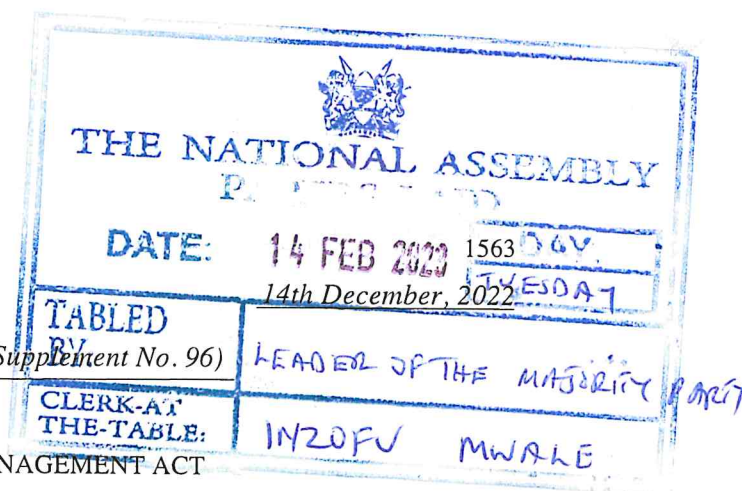
“Equipment Park” means an area designated by the Defence Council for storage of Contingent Owned Equipment and assets;

“financial year” means the period of twelve months ending on the 30th June in each year;

“force generation” means a procedure in which required resources are mobilized with the necessary capabilities at the right scale and readiness for Peace Support Operations;

“force projection” means ability to deploy forces for Peace Support Operations;

“Fund” means the National Peace Support Operations Fund established under regulation 3 of these Regulations;



“Peace Support Operation (PSO)” means peace keeping, enforcement or any other support operation mandated by international or regional agencies involving diplomatic, humanitarian organizations, civilian, military, police, and any other components deployed by the National Security Council outside the Country; and

“Public Sector Accounting Standards” has the meaning assigned to it under section 2 of the Act.

3. There is established a fund to be known as the National Peace Support Operations Fund which shall operate under the budgeting, accounting, reporting and auditing framework of the Act. Establishment of the Fund.

4. The initial capital of the Fund shall be seven billion shillings as appropriated by the National Assembly as follows— Capital of the Fund.

(a) one billion to be appropriated from the Exchequer; and

(b) six billion to be retained from PSO reimbursable.

5. (1) The object and purpose of the Fund shall be to provide funds to support the participation in Peace Support Operations (PSO) by the Kenya Defence Forces, the National Police Service or any other organization in accordance with Article 240 (8)(a) of the Constitution. Object and purpose.

(2) Without prejudice to the generality of paragraph (1) of this regulation, the Fund shall provide for—

(a) financing the establishment of equipment parks as approved by the Defence Council for PSO;

(b) financing for acquisition and maintenance of Contingent Owned Equipment and other assets for PSO;

(c) financing enhancement of units to attain appropriate levels at the United Nations peacekeeping capability readiness system;

(d) funding of capacity building programme including training facilities and infrastructure development for the purpose of PSO;

(e) funding force generation and force projection activities;

(f) funding research, monitoring and evaluation of activities related to PSO; and

(g) funding and facilitation of any other activities in furtherance of PSO approved by the Defence Council.

6. The Fund shall consist of— Sources of funds.

(a) moneys appropriated by the National Assembly for purposes of the Fund;

(b) moneys received as reimbursement from PSO for the Government provision of Contingent Owned Equipment, assets and services excluding personnel reimbursements

(c) grants, donations, bequests or other gifts made to the Fund; and

- (d) moneys from any other source approved by the Cabinet Secretary.

7. (1) There shall be paid out of the Fund moneys in respect of any expenses incurred in pursuance of the object and purpose for which the Fund is established.

Payment out of the Fund.

(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual budget estimates approved by the Defence Council at the beginning of the financial year to which they relate.

(3) Any revision of the approved budget estimates shall be referred to the Defence Council and the Cabinet Secretary for approval.

8. The earnings of, or accruals to the Fund shall be retained in the Fund, and shall be spent only for the objects and purposes for which the Fund is established unless the Cabinet Secretary directs otherwise.

Retention of receipts.

9. (1) The funds shall only be released if—

Conditions for release of funds.

- (a) the release is approved by the Defence Council; and
- (b) the release is to meet the expenses related to the objects and purpose of the Fund.

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

(3) Monies may additionally be released out of the Fund where such release —

- (a) relates to expenditures that did not form part of the approved budget for the financial year in accordance with provisions of the Act; and
- (b) has been recommended by the Administrator of the Fund and submitted to the Defence Council for approval.

(4) For purposes of paragraph (3) of these regulations, a supplementary budget shall be prepared by the Administrator of the Fund and approved in accordance with the provisions of regulation 7, provided that the release under the supplementary budget complies with the requirements of these Regulations.

10. The Fund shall be managed by the Defence Council established under Article 241 (5) of the Constitution.

Management of the Fund.

11. The functions of the Defence Council shall be —

Functions of the Defence Council

- (a) to formulate policies and guidelines for the regulation and management of the Fund;
- (b) in liaison with other relevant government state departments and agencies, to continuously seek opportunities for participation in PSO by the Government of Kenya and determine the allocation of financial resources from the Fund as required;
- (c) to approve annual estimates of revenue and expenditure for the Fund;

- (d) to ensure retention funds of the preceding financial year are revoted;
- (e) to ensure that only the personnel, assets and services provided to PSO conform to the required standards and are earmarked for funding under these Regulations;
- (f) to approve and review investment of surplus funds from the Fund;
- (g) to advise the Cabinet Secretary on any additional sources of funds for the Fund; and
- (h) to approve the financial statements and non-financial reports prepared by the Administrator of the Fund.

12. (1) The Principal Secretary in the Ministry responsible for matters relating to defence shall be the Administrator of the Fund.

Administrator of the Fund.

- (2) The Administrator of the Fund shall—
- (a) supervise and control the administration of the Fund;
 - (b) open and operate bank accounts at the Central Bank of Kenya into which all moneys raised under the Fund shall be paid;
 - (c) operate and maintain bank accounts in the manner as may be prescribed by the National Treasury from time to time;
 - (d) prepare, sign and transmit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund;
 - (e) establish proper systems of internal control and management in accordance with the provisions of the Act and these Regulations;
 - (f) advise and consult the Defence Council and Cabinet Secretary on matters relating to the administration of the Fund;
 - (g) keep proper books of accounts and other books and records relating to the Fund;
 - (h) be custodian of the Funds' assets, equipment and properties under the Fund;
 - (i) prepare financial and non-financial performance report of the Fund and submit it to the Defence Council for approval;
 - (j) furnish additional information which is 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;
 - (k) prepare quarterly reports on the receipts into and issues out of the Fund; and

No. 34 of 2015.

- (1) undertake any other duty as the Defence Council may assign.
- (3) When discharging the functions under paragraph (2) of this regulation, the Administrator of the Fund shall—
- (a) comply with the ordinary budget cycle in the preparation of estimates for the Fund; and
 - (b) submit estimates of revenue and expenditure to the Cabinet Secretary by the 31st January of the preceding financial year for approval.
13. (1) There shall be a secretariat to be known as the National Peace Support Operation Secretariat (NPSO) which shall provide secretariat support services to the operation of the Fund and shall be headed by the Administrator of the Fund.
- Secretariat support for Administrator of the Fund.
- (2) The Secretariat shall consist of such staff as the Defence Council may consider necessary for the proper performance of the functions of the Fund under these Regulations.
14. (1) The Administrator of the Fund shall cause an account in the name of the Fund to be maintained at the Central Bank of Kenya in line with section 28 of the Act and any Regulations made thereunder.
- Bank Account of the Fund.
- (2) All money payable into the Fund shall be received into the bank account of the Fund.
- (3) The Fund's account shall be operated by the Administrator of the Fund and two other persons designated by the Defence Council from the Fund's Secretariat.
- (4) The Administrator of the Fund may open and maintain other accounts in furtherance of the objective of the Fund.
15. The Administrator of the Fund shall ensure the accounts of the Fund are not overdrawn.
- Overdrawn accounts.
16. (1) If, in exceptional circumstances, the income from the Fund together with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated liabilities of the Fund, the Cabinet Secretary to the National Treasury may, with the approval of National Assembly, may make advances to the Fund and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Cabinet Secretary may determine, but any such advance shall be repaid from the income of the Fund.
- Advances.
- (2) The Defence Council shall ensure that in any financial year expenditure and commitments from the Fund shall not exceed the annual income of the Fund together with any surplus income brought forward from a previous year.
17. The Defence Council may with the consent of the Cabinet Secretary to the National Treasury invest any of the surplus funds in Government securities.
- Investments of the funds.
18. (1) The Cabinet Secretary shall at the lapse of ten years from the date of commencement of these Regulations cause a review to be
- Review of performance of the Fund.

conducted on the performance of the Fund in accordance with the requirements of the Act and Regulations thereunder.

(2) The review shall determine whether the Fund has met the objectives for which it was established.

(3) The report on the review shall be submitted to the Cabinet and the National Assembly for approval.

19. (1) At least six months before the commencement of each financial year, the Administrator of the Fund shall cause to be prepared estimates of the revenue and expenditure of the fund for that year.

Annual estimates.

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

- (a) revenue projected to be received by the Fund from the sources of funds provided for under these Regulations;
- (b) expenses in furtherance of the objects and purpose of the Fund;
- (c) moneys for the administration expenses of the Fund including—
 - (i) the payment of salaries, allowances and other charges in respect of the secretariat staff, where applicable;
 - (ii) the payment of pensions, gratuities and other charges in respect of the staff Fund, where applicable; and
 - (iii) the proper maintenance of the office assets, equipment and properties under the Fund.

(3) The annual estimates shall be approved by the Defence Council before the commencement of the financial year to which they relate.

20. (1) The Administrator of the Fund shall prepare quarterly financial and non-financial reports in accordance with the format prescribed by the Public Sector Accounting Standards Board for approval.

Quarterly reports.

(2) Upon approval, under paragraph (1), the Administrator of the Fund shall submit the report to the National Treasury.

21. (1) The Administrator shall cause to be kept all proper books and records of account of the income, expenditure, assets, equipment and properties of the Fund.

Accounts and audit.

(2) Within a period of three months from the end of each financial year, the Administrator shall submit to the Auditor-General with a copy to the National Treasury, Controller of Budget and the Commission for Revenue Allocation the accounts of the Fund together with—

- (a) a statement of the income and expenditure of the Fund during the financial year; and

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

(3) The accounts of the Fund shall be audited and reported upon in accordance with the Public Audit Act, 2015.

22. The administrative expenses of the Fund shall not exceed three per centum of the approved budget of each financial year. Administration expenses.

23. A 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 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 two million shillings or to both. Offences and penalties.

24. (1) On winding up of the Fund in accordance with the Act and Regulations made thereunder - Effects of winding - up of the Fund.

(a) the Administrator of the Fund shall compile any valid outstanding obligations and commitments for payment;

(b) the Administrator of the Fund shall pay any amount remaining in the Fund into the National Exchequer Account for the credit of the national government;

(c) 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

(d) assets, equipment and properties other than cash of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to defence.

(2) Within three months upon the decision to wind up the Fund, the administrator of the Fund shall prepare final financial and non-financial statements of the Fund and submit them to the Defence Council for approval.

(3) Upon approval under paragraph (2), the administrator shall submit the final financial and non-financial statements to the Cabinet Secretary.

(4) The Cabinet Secretary shall submit a final statement of accounts to Parliament and to the Auditor-General for audit within three months from the date of the decision to wind up the Fund.

25. The Public Finance Management (National Peace Support Operations Fund) Regulations, 2022, are revoked. Revocation of LN. No. 151/2022.

Made on the 10th December, 2022.

NJUNGUNA NDUNG'U,
Cabinet Secretary for
The National Treasury and Economic Planning.

LEGAL NOTICE NO.....

THE PUBLIC FINANCE MANAGEMENT ACT
(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(4) of the Public Finance Management Act, 2012, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

**THE PUBLIC FINANCE MANAGEMENT (NATIONAL PEACE SUPPORT
OPERATIONS FUND) REGULATIONS, 2022**

Citation. 1. These Regulations may be cited as the Public Finance Management (National Peace Support Operations Fund) Regulations, 2022.

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

“Administrator of the Fund” means the person designated as such under regulation 12 of these Regulations;

“Cabinet Secretary” has the meaning assigned to it under section 2 of the Act;

“Contingent Owned Equipment” means equipment and assets acquired by Government of Kenya for purpose of Peace Support Operations;

“Defence Council” means the Defence Council established under Article 241(5) of the Constitution;

“Equipment Park” means an area designated by the Defence Council for storage of Contingent Owned Equipment and assets;

“financial year” means the period of twelve months ending on the 30th June in each year;

“force generation” means a procedure in which required resources are mobilized with the necessary capabilities at the right scale and readiness for Peace Support Operations;

“force projection” means ability to deploy forces for Peace Support Operations;

“Fund” means the National Peace Support Operations Fund established under regulation 3 of these Regulations;

“Peace Support Operation (PSO)” means peace keeping, enforcement or any other support operation mandated by international or regional agencies involving diplomatic, humanitarian organizations, civilian, military, police, and any other components deployed by the National Security Council outside the Country; and

“Public Sector Accounting Standards” has the meaning assigned to it under section 2 of the Act.

Establishment
of the Fund.

3. There is established a fund to be known as the National Peace Support Operations Fund which shall operate under the budgeting, accounting, reporting and auditing framework of the Act.

Capital of the
Fund.

4. The initial capital of the Fund shall be seven billion shillings as appropriated by the National Assembly as follows—

- (a) one billion to be appropriated from the Exchequer; and
- (b) six billion to be retained from PSO reimbursable.

Object and
purpose.

5. (1) The object and purpose of the Fund shall be to provide funds to support the participation in Peace Support Operations (PSO) by the Kenya Defence Forces, the National Police Service or any other organization in accordance with Article 240 (8)(a) of the Constitution.

(2) Without prejudice to the generality of paragraph (1) of this regulation, the Fund shall provide for—

- (a) financing the establishment of equipment parks as approved by the Defence Council for PSO;
- (b) financing for acquisition and maintenance of Contingent Owned Equipment and other assets for PSO;
- (c) financing enhancement of units to attain appropriate levels at the United Nations peacekeeping capability readiness system;
- (d) funding of capacity building programme including training facilities and infrastructure development for the purpose of PSO;
- (e) funding force generation and force projection activities;
- (f) funding research, monitoring and evaluation of activities related to PSO; and

- (g) funding and facilitation of any other activities in furtherance of PSO approved by the Defence Council.

Sources of funds.

6. The Fund shall consist of—

- (a) moneys appropriated by the National Assembly for purposes of the Fund;
- (b) moneys received as reimbursement from PSO for the Government provision of Contingent Owned Equipment, assets and services excluding personnel reimbursements
- (c) grants, donations, bequests or other gifts made to the Fund; and
- (d) moneys from any other source approved by the Cabinet Secretary.

Payment out of the Fund.

7. (1) There shall be paid out of the Fund moneys in respect of any expenses incurred in pursuance of the object and purpose for which the Fund is established.

(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual budget estimates approved by the Defence Council at the beginning of the financial year to which they relate.

(3) Any revision of the approved budget estimates shall be referred to the Defence Council and the Cabinet Secretary for approval.

Retention of receipts.

8. The earnings of, or accruals to the Fund shall be retained in the Fund, and shall be spent only for the objects and purposes for which the Fund is established unless the Cabinet Secretary directs otherwise.

Conditions for release of funds.

9. (1) The funds shall only be released if—

- (a) the release is approved by the Defence Council; and
- (b) the release is to meet the expenses related to the objects and purpose of the Fund.

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

(3) Monies may additionally be released out of the Fund where such release —

- (a) relates to expenditures that did not form part of the approved budget for the financial year in accordance with provisions of the Act; and
- (b) has been recommended by the Administrator of the Fund and submitted to the Defence Council for approval.

(4) For purposes of paragraph (3) of these regulations, a supplementary budget shall be prepared by the Administrator of the Fund and approved in accordance with the provisions of regulation 7, provided that the release under the supplementary budget complies with the requirements of these Regulations.

Management
of the Fund.

10. The Fund shall be managed by the Defence Council established under Article 241 (5) of the Constitution.

Functions of
the Defence
Council

11. The functions of the Defence Council shall be —

- (a) to formulate policies and guidelines for the regulation and management of the Fund;
- (b) in liaison with other relevant government state departments and agencies, to continuously seek opportunities for participation in PSO by the Government of Kenya and determine the allocation of financial resources from the Fund as required;
- (c) to approve annual estimates of revenue and expenditure for the Fund;
- (d) to ensure retention funds of the preceding financial year are revoted;
- (e) to ensure that only the personnel, assets and services provided to PSO conform to the required standards and are earmarked for funding under these Regulations;
- (f) to approve and review investment of surplus funds from the Fund;
- (g) to advise the Cabinet Secretary on any additional sources of funds for the Fund; and

Administrator
of the Fund.

- (h) to approve the financial statements and non-financial reports prepared by the Administrator of the Fund.

12. (1) The Principal Secretary in the Ministry responsible for matters relating to defence shall be the Administrator of the Fund.

(2) The Administrator of the Fund shall—

- (a) supervise and control the administration of the Fund;
- (b) open and operate bank accounts at the Central Bank of Kenya into which all moneys raised under the Fund shall be paid;
- (c) operate and maintain bank accounts in the manner as may be prescribed by the National Treasury from time to time;
- (d) prepare, sign and transmit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund;
- (e) establish proper systems of internal control and management in accordance with the provisions of the Act and these Regulations;
- (f) advise and consult the Defence Council and Cabinet Secretary on matters relating to the administration of the Fund;
- (g) keep proper books of accounts and other books and records relating to the Fund;
- (h) be custodian of the Funds' assets, equipment and properties under the Fund;
- (i) prepare financial and non-financial performance report of the Fund and submit it to the Defence Council for approval;
- (j) furnish additional information which is 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;
- (k) prepare quarterly reports on the receipts into and issues out of the Fund; and

- (l) undertake any other duty as the Defence Council may assign.

(3) When discharging the functions under paragraph (2) of this regulation, the Administrator of the Fund shall—

- (a) comply with the ordinary budget cycle in the preparation of estimates for the Fund; and
- (b) submit estimates of revenue and expenditure to the Cabinet Secretary by the 31st January of the preceding financial year for approval.

Secretariat support for Administrator of the Fund.

13. (1) There shall be a secretariat to be known as the National Peace Support Operation Secretariat (NPSO) which shall provide secretariat support services to the operation of the Fund and shall be headed by the Administrator of the Fund.

(2) The Secretariat shall consist of such staff as the Defence Council may consider necessary for the proper performance of the functions of the Fund under these Regulations.

Bank Account of the Fund.

14. (1) The Administrator of the Fund shall cause an account in the name of the Fund to be maintained at the Central Bank of Kenya in line with section 28 of the Act and any Regulations made thereunder.

(2) All money payable into the Fund shall be received into the bank account of the Fund.

(3) The Fund's account shall be operated by the Administrator of the Fund and two other persons designated by the Defence Council from the Fund's Secretariat.

(4) The Administrator of the Fund may open and maintain other accounts in furtherance of the objective of the Fund.

Overdrawn accounts.

15. The Administrator of the Fund shall ensure the accounts of the Fund are not overdrawn.

Advances.

16. (1) If, in exceptional circumstances, the income from the Fund together with any surplus income brought forward from a previous year is insufficient to meet the actual or estimated liabilities of the Fund, the Cabinet Secretary to the National Treasury may, with the approval of National Assembly, make advances to the Fund and such advances shall be made on such terms and conditions, whether as to repayment or otherwise, as the Cabinet Secretary may determine, but any such advance shall be repaid from the income of the Fund.

(2) The Defence Council shall ensure that in any financial year expenditure and commitments from the Fund shall not exceed the annual income of the Fund together with any surplus income brought forward from a previous year.

Investments of
the funds.

17. The Defence Council may with the consent of the Cabinet Secretary to the National Treasury invest any of the surplus funds in Government securities.

Review of
performance of
the Fund.

18. (1) The Cabinet Secretary shall at the lapse of ten years from the date of commencement of these Regulations cause a review to be conducted on the performance of the Fund in accordance with the requirements of the Act and Regulations thereunder.

(2) The review shall determine whether the Fund has met the objectives for which it was established.

(3) The report on the review shall be submitted to the Cabinet and the National Assembly for approval.

Annual
estimates.

19. (1) At least six months before the commencement of each financial year, the Administrator of the Fund 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 estimated revenue and expenditure from the Fund for the financial year and in particular, the estimates shall provide for—

- (a) revenue projected to be received by the Fund from the sources of funds provided for under these Regulations;
- (b) expenses in furtherance of the objects and purpose of the Fund;
- (c) moneys for the administration expenses of the Fund including—
 - (i) the payment of salaries, allowances and other charges in respect of the secretariat staff, where applicable;
 - (ii) the payment of pensions, gratuities and other charges in respect of the staff Fund, where applicable; and
 - (iii) the proper maintenance of the office assets, equipment and properties under the Fund.

(3) The annual estimates shall be approved by the Defence Council before the commencement of the financial year to which they relate.

Quarterly reports.

20. (1) The Administrator of the Fund shall prepare quarterly financial and non-financial reports in accordance with the format prescribed by the Public Sector Accounting Standards Board for approval.

(2) Upon approval, under paragraph (1), the Administrator of the Fund shall submit the report to the National Treasury.

Accounts and audit.

21. (1) The Administrator shall cause to be kept all proper books and records of account of the income, expenditure, assets, equipment and properties of the Fund.

(2) Within a period of three months from the end of each financial year, the Administrator shall submit to the Auditor-General with a copy to the National Treasury, Controller of Budget and the Commission for Revenue Allocation the accounts of the Fund together with—

- (a) a statement of the income and expenditure of the Fund during the financial year; and
- (b) a statement of the assets and liabilities of the Fund on the last day of that financial year.

(3) The accounts of the Fund shall be audited and reported upon in accordance with the Public Audit Act, 2015.

Administration expenses.

22. The administrative expenses of the Fund shall not exceed three per centum of the approved budget of each financial year.

Offences and penalties.

23. A 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 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 two million shillings or to both.

Effects of winding - up of the Fund.

24. (1) On winding up of the Fund in accordance with the Act and Regulations made thereunder -

- (a) the Administrator of the Fund shall compile any valid outstanding obligations and commitments for payment;
- (b) the Administrator of the Fund shall pay any amount remaining in the Fund into the National Exchequer

Account for the credit of the national government;

- (c) 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
- (d) assets, equipment and properties other than cash of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to defence.

(2) Within three months upon the decision to wind up the Fund, the administrator of the Fund shall prepare final financial and non-financial statements of the Fund and submit them to the Defence Council for approval.

(3) Upon approval under paragraph (2), the administrator shall submit the final financial and non-financial statements to the Cabinet Secretary.

(4) The Cabinet Secretary shall submit a final statement of accounts to Parliament and to the Auditor-General for audit within three months from the date of the decision to wind up the Fund.

Revocation of
LN. No.
151/2022.

25. The Public Finance Management (National Peace Support Operations Fund) Regulations, 2022, are revoked.

Made on the... *10th Day of December*..., 2022.

NJUNGUNA NDUNG'U,
*Cabinet Secretary for
The National Treasury and Economic Planning*

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM FOR THE PUBLIC FINANCE MANAGEMENT (NATIONAL PEACE SUPPORT OPERATIONS FUND) REGULATIONS, 2022

PART I

Name of instrument	:	Public Finance Management (National Peace Support Operations Fund) Regulations, 2022
Name of Parent Act	:	The Public Finance Management Act (<i>No. 18 of 2012</i>)
Enacted Pursuant to	:	Section 24(4) of the Public Finance Management Act
Name of Ministry	:	The National Treasury and Planning/Ministry of Defence
Gazetted on	:	
Tabled on	:	

PART II

1. Purpose of the Statutory Instrument

The purpose of this Statutory Instrument is to establish a Fund to be known as National Peace Support Operations Fund whose objects and purpose is to provide funds to support the participation in peace support operations by the Kenya Defence Forces, the National Police Service or any other organization as may be approved by the National Security Council. Further to this, and in particular, the Fund shall be used for:

- (a) financing the establishment of equipment parks as approved by the Defence Council for PSO;
- (b) financing for acquisition and maintenance of Contingent Owned Equipment and other assets for PSO;
- (c) financing enhancement of units to attain appropriate levels

at the United Nations peacekeeping capability readiness system;

- (d) funding of capacity building programme including training facilities and infrastructure development for the purpose of PSO;
- (e) funding force generation and force projection activities;
- (f) funding research, monitoring and evaluation of activities related to PSO; and
- (g) funding and facilitation of any other activities in furtherance of PSO approved by the Defence Council.

2. Legislative Context

The National Assembly delegated the duty to establish national public funds to the Cabinet Secretary responsible for finance with the approval of the National Assembly. This is provided for under Section 24 (4) of the Public Finance Management Act, 2012.

The Regulations are therefore developed within the meaning of Section 24 of the Public Finance Management Act 2012 and the procedure envisioned under Statutory Instrument Act, 2013.

3. Policy Background

- 3.1 The 6th National Security Council Meeting – 2020 held on 5th August, 2020 approved the **National Policy for Peace Support Operations** and the establishment of the National Peace Support Operations (PSO) Secretariat under the National Security Council.
- 3.2 The 6th National Security Council Meeting – 2020 also approved the establishment of the proposed **National Peace Support Operations Fund** and directed the Cabinet Secretary National Treasury and Planning, the Cabinet Secretary for Defence and the Attorney General to take appropriate action.
- 3.3 The policy provided the necessary policy framework that would support the Republic of Kenya peace support activities as a member of the United Nations Security Council. The proposed establishment of a Peace Fund

was to finance PSO separately from the Ministry of Defence budget. It is expected that the Fund would be self – sustaining receiving revenue from United Nations (UN)/African Union (AU) reimbursements for PSO activities.

- 3.4 Kenya has a long history of participation in PSOs, dating back to 1979 when the first comprehensive participation in peacekeeping operations was in Rhodesia, now Zimbabwe. Since then, the country has served in many UN/AU Peacekeeping Missions making her one of the leading Troop Contributing Countries (TCCs) globally. To date, over 55,000 troops have participated in various PSOs with several military officers occupying senior positions.
- 3.5 Kenya participates in PSO to secure her national interests, preserve territorial integrity, promote regional peace and security, advance economic prosperity, project her image in fulfillment of international obligations.
- 3.6 Despite her long history of participation in PSOs, Kenya has not adequately consolidated the opportunities and leveraged herself as a leading nation in regional and international PSO. Our effective participation in PSO has been hampered by various factors including **adequate funding for PSO** on the acquisition of standard military equipment.
- 3.7 For effective participation in PSO, adequate funding is critical. Over the years, the PSO funding has been factored in the MOD budget. This results in inadequate allocations and budgetary cuts that affect the ability to effectively participate in PSOs. To this end, the Ministry of Defence and the National Treasury and Planning have developed these Regulations with specific purpose of creating a Fund that will finance PSO.

4. Guidance

The National Treasury and Ministry of Defence shall sensitize the National Assembly, National Security Council, Ministry of Foreign and Diaspora Affairs, Ministry of Interior and National Administration and the State Law Office.

5. Stakeholder Consultations

The Taskforce responsible for preparation and development of the Regulations, held targeted consultations with key stakeholders and their input taken into account before finalization of these Regulations.

Some of the key stakeholders were the National Security Council, Ministry of Foreign & Diaspora Affairs, Ministry of Interior and Coordination of National Government and the State Law Office.

It is important to appreciate that consultations were targeted to the institutions, since they are the directly affected by the operationalization of these Regulations. These institutions were invited via a letter and requested to make written submissions on the Regulations. A summarized responses log together with the Task Force resolutions is appended.

6. Impact Assessment

An impact assessment has not been prepared for this statutory instrument as it falls within the exceptions provided under Section 9 of the Statutory Instruments Act, No. 23 of 2013.

7. Review

The National Treasury shall monitor the application of the Regulations. This shall be done through the quarterly reports prepared by the Fund and forwarded to the National Treasury.

8. Contact

The contact person shall be the Cabinet Secretary or Principal Secretary, The National Treasury & Economic Planning.

Made on the.....10th Day of December....., 2022.



NJUGUNA NDUNGU, CBS
Cabinet Secretary for the National Treasury and Economic Planning

STATEMENT ON JUSTIFICATION FOR RESTRICTED PUBLIC PARTICIPATION

Kenya Government developed and approved the Peace Support Operations (PSO) which will help the country earn revenue and participate effectively in security and peace keeping activities across the globe.

In recognition of the need to provide efficient and effective national level management of Kenya's participation in PSO activities, the policy approved creation of a Fund to help manage the Country's readiness to undertake PSO activities.

The Fund is anchored on the Public Finance Management Act, 2012 and incorporate international legal requirements that govern PSO activities. The Kenya Defence Forces Act, 2012 governance the structure, command and administration of Defence Forces in Kenya including all confidential activities. The National Security Council Act, 2012, created the National Security Council, among other responsibilities, prioritizes the programmes or activities that address Internal, foreign and defence concerns on the national security of the Republic.

Based on representation by the Kenya Defence Forces, public participation was limited to consultations with key stakeholders in line with Section 49 (I) of the Kenya Defence Forces Act, 2012, Section 6 of the Access to Information Act, 2016 and Section 14 of the Statutory Instruments Act, 2013.

However, stakeholder consultations were done as per Section 5 of the Statutory Instruments Act, 2013 and the results tabulated and appended herein under.



Njuguna Ndungu, CBS
Cabinet Secretary
National Treasury & Economic Planning



REPUBLIC OF KENYA

NAME OF THE REGULATIONS: Public Finance Management (National Peace Support Operations Fund) Regulations, 2022

INSTITUTION: Ministry of Interior and Co-ordination of National Government DATE 9th March 2022

S/No	Regulation No.	Provisions of the Regulations*	Rationale for Amendment Recommendation	Proposed Amendment**
1.	5. Object and purpose	(1) The object and purpose of the Fund shall be to provide funds to support the participation in peace support operations by the Kenya Defence Forces, the National Police Service or any other Paramilitary Organization approved by the National Security Council.	Regulations should be drafted to include other stakeholders who may be involved in peace support operations such as government officers, eminent persons, politicians, diplomats and civilians.	
2.	Regulation 7(2) Regulation 9 Regulation 9(2 & 3)	(2) The expenditure incurred on the Fund shall be on the basis of and limited to annual budget estimates approved by the Defence Council at the beginning of the financial year to which they relate. the disbursement is approved and recorded in minutes of the Defence Council; and (2) The Defence Council may set out other conditions and requirements for release of funds, to ensure efficient and effective management of resources. (3) Moneys may additionally be disbursed out of the Fund where such disbursements—	The Defence Council should not be conferred with other powers beyond what is currently conferred by the Constitution of Kenya and Kenya Defence Forces Act.	

S/No	Regulation No.	Provisions of the Regulations*	Rationale for Amendment Recommendation	Proposed Amendment**
	Regulation 10 Regulations 17	a) relate to expenditures that did not form part of the approved budget for the financial year in accordance with provisions of the Act; and b) have been approved by the Administrator of the Fund and submitted to the Defence Council for approval. (1) The Fund shall be managed by the Defence Council which shall consist of— The Defence Council may with the consent of the Cabinet Secretary to the National Treasury invest any of its surplus funds in Government securities.		
3.	Regulation 10 Regulations 12	(1) The Fund shall be managed by the Defence Council which shall consist of— The Principal Secretary in the Ministry responsible for matters relating to defence shall be the Administrator of the Fund.	Section 10 and 12 gives the mandate to run the Fund to the to the Defence Council and Principal Secretary, Ministry responsible for the defence respectively. These two roles by the Ministry of Defence and Principal Secretary seem contradictory. That the section has not provided the factors that would trigger wind up.	
4.	Sec. 24	(1) The Cabinet Secretary may wind-up the Fund with the approval of the National Assembly where the Cabinet Secretary considers that the Fund has successfully completed the specific objectives for which it was created.		
5.				
6.				
7.				
8.				
9.				

*Provide text on exact wording of the provision in the regulations paragraph or sub paragraph

** provide the exact wording of how the proposed amendment to the regulations paragraph or sub paragraph is proposed to read.



REPUBLIC OF KENYA

NAME OF THE REGULATIONS: Public Finance Management (National Peace Support Operations Fund) Regulations, 2022

INSTITUTION: Ministry of Defence DATE: 16th March 2022

S/No	Regulation No.	Provisions of the Regulations*	Rationale for Amendment Recommendation	Proposed Amendment**
1.			The ministry of Defence approved the proposed regulations in totality.	N/A
2.				
3.				
4.				
5.				
6.				
7.				

*Provide text on exact wording of the provision in the regulations paragraph or sub paragraph

** provide the exact wording of how the proposed amendment to the regulations paragraph or sub paragraph is proposed to read.



REPUBLIC OF KENYA

NAME OF THE REGULATIONS: Public Finance Management (National Peace Support Operations Fund) Regulations, 2022

INSTITUTION: The National Treasury.....DATE...16th March 2022.....

S/No	Regulation No.	Provisions of the Regulations*	Rationale for Amendment Recommendation	Proposed Amendment**
1.	N/A	N/A	The National Treasury is in concurrence with the draft regulations.	
2.				
3.				
4.				
5.				
6.				
7.				

*Provide text on exact wording of the provision in the regulations paragraph or sub paragraph

** provide the exact wording of how the proposed amendment to the regulations paragraph or sub paragraph is proposed to read.



REPUBLIC OF KENYA

NAME OF THE REGULATIONS: Public Finance Management (National Peace Support Operations Fund) Regulations, 2022

INSTITUTION: ...Office of the Attorney General and Department of Justice DATE... 16th March 2022

S/No	Regulation No.	Provisions of the Regulations*	Rationale for Amendment Recommendation	Proposed Amendment**
1.	N/A	N/A	The OAC & DJ is in concurrence with the draft regulations.	
2.				
3.				
4.				
5.				
6.				
7.				

*Provide text on exact wording of the provision in the regulations paragraph or sub paragraph

** provide the exact wording of how the proposed amendment to the regulations paragraph or sub paragraph is proposed to read.

