

Draft Central Bank of Kenya Bill
2014

THE CENTRAL BANK OF KENYA BILL, 2014

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PART I - PRELIMINARY

An Act of the National Assembly to repeal the Central Bank of Kenya Act (Cap 491); and to re-enact the Act so as to provide for the formulation and implementation of monetary policy, promotion of price stability and issuance of currency as provided for under Article 231 of the Constitution and to provide for other functions including; to provide for capital and reserves and profit allocation; the establishment and functions of the Board; governance and accountability; external relations; international matters; relations with banks and public entities; foreign exchange dealings; and for matters connected therewith or incidental thereto.

1. Short Title

This Act may be cited as the Central Bank of Kenya Act, 2014.

2. Interpretation

In this Act, except where the context otherwise requires –

“authorized bank” means a bank licensed by the Bank pursuant to section 25;

“authorized bureau” means a foreign exchange bureau licensed by the Bank pursuant to under section 25;

“authorized dealer” means an authorized bank, an authorized bureau, an authorized mortgage finance company, an authorized money remittance provider or an authorized microfinance bank

“authorized microfinance bank” means a microfinance bank licensed by the Bank pursuant to section 25.

“authorized money remittance provider” means a company incorporated in Kenya and licensed by the Bank pursuant to section 25;

“authorized mortgage finance Company means a mortgage finance company licensed by the Bank pursuant to section 25;

“Bank” means the Central Bank of Kenya *or in* Kiswahili Benki Kuu ya Kenya established under Article 231(1) of the Constitution, and is the legal successor of the Central Bank of Kenya established under the Central Bank of Kenya Act, Cap. 491 (repealed);

“bank” has the meaning assigned to it in the Banking Act, Cap. 488;

“Board” means the Board of Directors of the Bank;

“Board Audit Committee” means the Board Audit Committee established under section 40;

“branch” means any permanent premises other than its head office, at which the Bank transacts business in or outside Kenya,

“business of money remittance” means the business of accepting monies for the purposes of transmitting them to persons resident in Kenya or to persons in another country as prescribed by the Bank in Regulations;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance;

“Central Bank Rate (CBR)” means a policy rate used to determine the monetary policy stance;

“Chairperson” means the person appointed under Section 38;

“clearing” means the process of transmitting, reconciling and confirming payments prior to settlement, including the netting of payments and the establishment of net positions for settlement;

“convertible”, in relation to any exchange, means exchange which is freely negotiable and transferable in international exchange markets at exchange rate margins consistent with the Articles of Agreement of the International Monetary Fund;

“County Government” means the County governments established under Article 176(1) of the Constitution;

“currency” means the currency of Kenya or foreign currency;

“currency centre” means an office that primarily deals with currency management matters.

“currency of Kenya” means bank notes and coins issued by the Bank under section 61(1) and any right to receive such bank notes or coins in respect of any credit or balance at a bank or financial institution located within or outside Kenya;

“Deputy Governor” means one of the Deputy Governors of the Bank appointed under section 49;

“director” means a non-executive director of the Bank appointed under section 35;

“financial institution” means a company, other than a bank, which carries on, or proposes to carry on, financial business within the meaning of the Banking Act;

“fiscal agent” means that the Bank, may, for the account of its principal, effect transactions, including making and receiving payments, and may issue, redeem, transfer, register, and service bills and other securities;

“foreign currency” means bank notes or coins which are or have at any time been legal tender in any territory outside Kenya and any right to receive such bank notes or coins in respect of any credit or balance at a bank either within or outside Kenya;

“foreign exchange bureau” means a company incorporated in Kenya whose liability is limited by shares, with the main object of buying and selling foreign currency;

“foreign exchange business” –

a. in relation to a bank, means –

- i. buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;
 - ii. settling payments to or from Kenya or in Kenya between residents and non-residents;
- b. in relation to a foreign exchange bureau, means the business of
 - i. buying or selling foreign currency; or
 - ii. settling payments to or from Kenya as prescribed by the Bank.
- c. in relation to an authorized money remittance provider, means the business of foreign exchange transfers consisting of the acceptance of monies for the purpose of transmitting them to persons resident in Kenya or another country as prescribed by the Bank.
- d. in relation to a microfinance bank, the business of
 - i. buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;
 - ii. settling payments to or from Kenya or in Kenya between residents and non-residents;
- e. in relation to a mortgage finance Company, the business of –
 - i. buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;
 - ii. settling payments to or from Kenya or in Kenya between residents and non-residents;
- f. in relation to any other person or body of persons granted a permit by the Bank under section 25, means engagement in such limited foreign exchange transactions as the Bank may permit;

“Governor” means the Governor of the Bank appointed under section 44;

“Government” means National Government except as stated otherwise;

“institution” means a bank, financial institution, or a mortgage finance company within the meaning of the Banking Act or a microfinance bank within the meaning of the Microfinance Act or any other entity regulated under the laws enforced by the Bank;

“International Financial Reporting Standards” means, at any time, the most recent international accounting standards, and any other pronouncements, issued by the International Accounting Standards Board or its successors and assigns;

“International Standards on Auditing” means, at any time, the most recent international auditing standards, and any other pronouncements, issued by the International Federation of Accountants or its successors and assigns;

“issue”, in relation to currency, means a new generation of currency;

“legal tender” means currency notes and coins which any creditor is obliged to accept in payment for a debt in Kenya;

“microfinance bank” means an institution licensed under the Microfinance Act” ;

“Monetary Policy Committee” means the Committee established under Section 10;

“monetary liabilities” means currency in circulation, financial claims against the Bank, and deposits by non-government, resident entities;

“mortgage finance company” has the meaning assigned to it in the Banking Act;

“National Treasury” has the meaning assigned to it in the Public Finance Management Act, 2012;

“National Assembly” means National Assembly as constituted under Article 97 of the Constitution;

“non-resident” means a person or body of persons other than a resident;

“participant” has the same meaning as “designated payment system participant” in The National Payment System Act, 2011

“payment” means the transfer of currency for the purpose of discharging a liability, making a gift or donation or for creating a balance at a bank, a microfinance bank, building societies or any other institution which can be drawn upon;

“payment for current transaction” means a payment other than a payment for transferring capital and includes –

- (a) a payment due in connection with trade;
- (b) a payment due as interest or as net income or return from other investment.
- (c) a payment for amortization of a loan or for depreciation of direct investment;
- or
- (d) a remittance for family living expenses;

“payment instrument” has the meaning defined in The National Payment System Act, 2011;

“payment service provider” has the meaning defined in The National Payment System Act, 2011;

“payment system” has the meaning defined in The National Payment System Act, 2011;

“person” includes an individual, company, association, or other body of persons whether incorporated or unincorporated;

“public entity” means the National Government, a County Government, a state organ, a local authority, or any public body specified by the Cabinet Secretary, on the recommendation of the Bank, as a public entity for the purposes of this Act;

“resident” means-

- (a) an individual who has been present in Kenya continuously for a period of at least one year or who has declared his intention to reside in Kenya for a period of at least one year to Kenyan immigration authorities;
- (b) the Government or any accredited official of its diplomatic missions residing outside Kenya;
- (c) a company or other body of persons whose principal place of business is located in Kenya and branches of such company or body located in Kenya;
- (d) branches of a company or other body of persons carrying on business in Kenya whose principal place of business is located outside Kenya, but excludes any foreign diplomatic mission or any of its accredited officials or any organization established in or outside Kenya by international treaty or any of its accredited officials.

“microfinance bank” means a licensed microfinance bank within the meaning of the prevailing Microfinance Act;

“settlement” means an act that discharges financial obligations between two or more parties;

“settlement system” has the meaning defined in The National Payment System Act, 2011;

“significant shareholder” means a person, other than the Government or a public entity, who holds, directly or indirectly, or otherwise has a beneficial interest in, more than five per cent of the share capital of an institution;

“state organ” means a commission, office, agency or other body established under the Constitution”

“supervisory authority” means any authority, body or agency in or outside Kenya other than the Bank which is responsible for the supervision or oversight of any institution, financial market, capital market intermediary, retirement benefits, insurance or participant or payment system.

PART II - ESTABLISHMENT, CONSTITUTION AND OBJECTS

3. Establishment and legal status of the Bank

1. The Central Bank of Kenya established under Article 231(1) of the Constitution shall be a juristic person and in its corporate name shall-
 - a. have perpetual succession and a common seal;
 - b. be capable of suing and being sued;
 - c. be capable of contracting; and
 - d. subject to the provisions of this Act, have the power to acquire, hold, alienate and dispose of any movable or immovable property.

2. The Bank shall also be known by the alternative Kiswahili name: “Benki Kuu ya Kenya”.
3. The Bank shall exercise any type of central banking function unless specifically excluded under this Act, and shall enjoy all the prerogatives of a central bank.
4. The Bank may make its own rules of conduct or procedure, not inconsistent with the Constitution and the provisions of this Act, for the good order and proper management of the Bank.
5. The Bank shall not be subject to the Companies Act, Public Service Commission Act, State Corporations Act, the Banking Act or the Microfinance Act.

4. Autonomy of the Bank

1. The Bank shall be an autonomous entity and shall not be under the direction or control of any person, agency or any other authority in the exercise of its powers or in the performance of its functions.
2. The autonomy of the Bank shall be respected and no person shall seek to improperly influence any member of a decision making body of the Bank in the discharge of his duties towards the Bank or interfere with the activities of the Bank.
3. Notwithstanding subsections (1) and (2), the Cabinet Secretary shall specify at least every period of 12 months, the price stability target in consultation with the Bank and economic policies to be taken by the Government; provided that the first such specification shall be made at the beginning of the financial year next following the commencement of this section.

5. Guiding Principles of the Bank

1. The Bank shall use the powers given to it equitably and uniformly and in accordance with sound administrative practices. It shall refrain from using any such power to serve an objective for which the power was not given or from using power in excess of that which is required to achieve the objective for which the power was given.
2. The Bank shall act at all times in accordance with Articles 10 and 232 of the Constitution.
3. In fulfilling its functions, the Bank shall exercise its mandate impartially and in an accountable and transparent manner.
4. The decisions of the Bank shall be motivated only by objective and rational considerations. They shall be executed with fairness and restraint.

6. Objectives of the Bank

1. The primary objective of the Bank shall be to formulate and implement monetary policy directed towards achieving and maintaining domestic stability in the general level of prices.
2. Without prejudice to domestic price stability, the Bank shall foster and maintain a stable financial system.
3. Without prejudice to the attainment of the objectives in subsection (1) and (2), the Bank shall support the economic policy of the Government, including its objectives for growth and employment

7. Functions of the Bank

1. The functions of the Bank shall be to-
 - a. formulate and implement monetary policy;
 - b. license, regulate and supervise institutions which are subject to the laws enforced by the Bank;
 - c. determine and implement exchange rate policy, in accordance with section 24;
 - d. hold and manage all official international reserves of Kenya;
 - e. issue and manage the currency of Kenya;
 - f. collect and produce statistics in relation to the fulfillment of its objectives;
 - g. formulate and implement such policies as best promote the establishment, regulation and supervision of safe, efficient and effective payment, clearing and settlement systems;
 - h. act as banker to National and County Governments;
 - i. provide economic and financial advice to the Government;
 - j. act as fiscal agent of the Government and any other public entity;
 - k. inform the National Assembly, Government and the public about its policies, performance and operations;
 - l. cooperate with and participate in international councils and organizations, including public international financial institutions, and cooperate with domestic and foreign public entities concerning matters related to its objectives and functions; and
 - m. do all other things that are incidental or conducive to the efficient performance of its functions under this Act or any other law.

8. General Powers of Bank

1. The Bank may, subject to the provisions of sections 6 and 7-

- (a) acquire shares in a limited company formed and registered in accordance with the provisions of the Companies Act, if the Board is of the opinion that any such acquisition will be conducive to the attainment of any of the objects of this Act;
 - (b) provide loans and advances, at such terms and conditions as the Board may from time to time determine, to employees of the Bank;
 - (c) acquire movable or immovable property directly or through a subsidiary for business or capacity building purposes or for providing a dwelling for any officer of the Bank, and sell, dispose of, donate or otherwise alienate any such movable or immovable property provided that such donation is made with the approval of the Board;
 - (d) establish directly or through a subsidiary a capacity building training institute.
 - (e) acquire, in the course of satisfaction of debts due to it, any interests or rights, provided, however, that all such interests or rights so acquired shall be disposed of at the earliest suitable opportunity.
2. Except as otherwise specifically authorized by subsection (1) and this Act or any other Act, the Bank shall not:
- (a) grant any credit or make any significant monetary or financial gift;
 - (b) engage in commerce, purchase the shares of any corporation, including the shares of any financial institution, or otherwise have an ownership interest in any financial, commercial, agricultural, industrial, or other undertaking;
 - (c) acquire by purchase, lease, or otherwise any rights in or to real property;
 - (d) draw or accept bills payable otherwise than on demand;
 - (e) guarantee any loan, advance or investment.
3. Any activity of the type set out in subsection (1) that has been carried out by the Bank shall be published by the Bank in the report referred to in section 98.

9. Access to services of the Bank

The Bank shall ensure reasonable access to its services in all parts of the Republic, in so far as it is appropriate to do so having regard to the nature of the service and the public need.

In the performance of its functions or delivery of its services in or outside Kenya, the Bank may use its own officers, employees and facilities or may outsource the services to another person who has the necessary facilities, personnel or competence to provide the services.

PART III - MONETARY POLICY OPERATIONS

10. Monetary Policy Committee

1. There shall be a committee of the Bank, to be known as the Monetary Policy Committee, which shall have the responsibility within the Bank for formulating monetary policy.
2. The Committee shall consist of the following members:-
 - (a) the Governor, who shall be chairperson of the meetings;
 - (b) the two Deputy Governors;
 - (c) two members appointed by the Governor from among the staff;
 - i. One shall be a person with executive responsibility within the Bank for monetary policy analyses; and
 - ii. The other shall be a person with responsibility within the Bank for monetary policy operations.
 - (d) Four other members who shall meet the requirements under section 36 and have knowledge, experience and expertise in matters relating to fiscal and monetary policy, appointed by the President through the procedure set out in section 35;
3. At least two of the members appointed under subsection (2)(d) shall be of either gender.
4. The Principal Secretary to the Treasury, or his representative may be invited by the Chairperson to attend a meeting of the Committee but shall not have any vote.
5. The Chairperson may invite other persons to attend at a meeting of the Committee, but such persons shall not have any vote.]
6. Each member appointed under subsection (2)(d) shall hold office for a term of three years and shall be eligible to be reappointed for one additional term.
7. The Chairperson of the Committee shall convene a meeting of the Committee at least once every two months and at such other time as the business of the Committee may render necessary or whenever the Chairperson is requested in writing by at least three non-executive members of the Committee.
8. The quorum of the Committee shall be five members, one of whom must be the Governor or the Deputy Governor in charge of monetary policy acting as chairman in the Governor's absence, and two of whom must be external members.

9. Decisions of the Committee shall be adopted by a majority of the votes of those present and eligible to vote at that meeting, and in case of an equality of votes the Chairperson or the Deputy Governor presiding at the meeting shall have a second or casting vote.
10. The Bank shall establish a Secretariat to assist the Committee.
11. The Monetary Policy Committee shall organize dissemination forums to stakeholders at national level and at county level.
12. The operations of the Monetary Policy Committee shall be governed by a Monetary Policy Committee Charter.

11. Resignation of Monetary Policy Committee members

A member of the Monetary Policy Committee appointed under Section 35 may voluntarily resign from the Committee by furnishing at least three months written notice to the President.

12. Other grounds for vacation of office

If a member of the Monetary Policy Committee appointed under Section 10(2)(d) dies or otherwise vacates office before the expiry of his term of office, the President shall appoint another person in his place through the procedure provided for under section 35 for a new full term of three years.

13. Monetary Policy Statement

1. The Committee shall at intervals of not more than six months, submit to the National Assembly a monetary policy statement for the next twelve months which shall:
 - (a) specify the policies and the means by which the Bank intends to achieve the policy targets;
 - (b) state the reasons for adopting such policies and means;
 - (c) contain a review and assessment of the progress of the implementation by the Bank of monetary policy during the period to which the preceding policy statement relates.
2. The Governor shall lay every statement submitted under sub-section (1) before the appropriate committee of the National Assembly not later than the end of the subsequent session of National Assembly after the statement is so submitted.

3. The Governor, may, at the request of the National Assembly or on his own initiative, be heard by the National Assembly or its committees, concerning monetary policy.
4. The Bank shall
 - (a) cause –
 - i. every monetary policy statement submitted under subsection (1); and
 - ii. its monthly balance sheet to be published in the Gazette and on the Bank's website; and
 - (b) disseminate key financial data and information on monetary policy to the public.
 - (c) after every interval of six months, prepare and present to the National Assembly a report on the key economic and banking sector aggregate.

14. Statement on the MPC Deliberations

Following each meeting of the Monetary Policy Committee, the Bank shall, as soon as possible, publish a statement on the decision made at the meeting and the rationale for such decision.

15. Publication of minutes of meetings of the Monetary Policy Committee

1. After each meeting of the Monetary Policy Committee, the Bank shall publish the minutes of the meeting before the end of the period of ten weeks beginning with the day of the meeting.
2. Subsection (1) shall not apply if the Committee decides that the publication of the minutes would likely impede or frustrate the achievement of the decision.
3. In the event that subsection (2) applies, the minutes of the meeting shall be published before the end of the period of ten weeks from the time the Committee decides that such publication of the minutes would no longer likely impede or frustrate the achievement of the decision.
4. The minutes shall record, in relation to any decision of the Committee, the voting ratios and percentages of the members who took part in the vote on the decision.

16. Banker to Institutions

1. The Bank may open and maintain cash and securities accounts for and accept deposits from, collect monetary claims for and on account of institutions and generally act as banker to institutions.

2. The Bank may provide any additional services or facilities it considers desirable including facilities for clearing financial instruments to institutions operating in Kenya.
3. For the purposes of this section “institution” includes:-
 - a. bank
 - b. a financial institution;
 - c. a microfinance bank;
 - d. public entities;
 - e. central banks, international organizations including public international financial institutions, foreign governments, and donor organizations;
 - f. any other person or body of persons which the Bank may by notice in the Gazette prescribe.
4. Without prejudice to the provisions of this Act, the Bank shall not open accounts on its books for non-financial institutions or natural persons.
5. The Bank may prescribe the conditions for opening accounts on its books.
6. The Bank may open and maintain cash and security accounts on the books of an institution.

17. Emergency Liquidity Assistance

1. In exceptional circumstances, the Bank may, on such terms and conditions as the Board determines, grant financial assistance for fixed periods not exceeding six months to banks, microfinance banks or mortgage finance companies, against prevailing market-related interest rates.
2. Except as provided in this section and section 18(1), the Bank shall not extend credit directly or indirectly to banks, microfinance banks or mortgage finance companies.
3. The Bank may specify the remedial measures that the bank, microfinance banks or mortgage finance company will be taking.
4. No such loan or advance shall be made by the Bank unless the bank, microfinance bank or mortgage finance companies, in the opinion of the Bank, is solvent and can provide adequate collateral to support the loan, and the request for financial assistance is based on the need to improve liquidity.
5. The Board shall determine the maximum value of the collateral deposited to secure credit operations granted under this section.

6. If the Bank discovers that the assisted bank, microfinance bank or mortgage finance company did not implement the remedial measures specified in subsection (3), or that these measures did not achieve the results intended, the Bank shall take appropriate measures under the Banking Act and the Microfinance Act as the case may be.

18. Open Market Operations and Credit Operations

1. In order to achieve its objectives referred to in section 6, the Bank may with the approval of the Board –
 - a. purchase, hold or sell negotiable securities in the secondary market of any maturity issued by the Government or any other negotiable securities specified by the Bank;
 - b. issue or hold Central Bank of Kenya bills and purchase or sell outright (spot or forward) or by way of repurchase agreement, Central Bank of Kenya Bills or grant loans or advances against such securities.
 - c. Accept money as deposit from commercial banks on such terms as may be specified by the Bank.
 - d. Conduct credit operations with banks, microfinance banks and mortgage finance institutions, with lending based on adequate collateral.
2. The Bank shall, from time to time, determine the types of instruments, collateral and conditions to be used for open market operations and credit operations; and it shall announce the types of instruments, collateral and conditions under which the Bank stands ready to enter into such transactions.
3. The total amount of securities held by the Bank at any time under subsection (1) of this section shall be excluded in the computation of the limit prescribed in subsection (4) of section 89(4).
4. The Bank shall publish the lowest rate of interest it charges on loans to banks and that rate shall be known as the Central Bank Rate (CBR).

19. Reserve Requirement

1. The Bank may from time to time require banks, microfinance banks and mortgage finance institutions to maintain minimum cash balances on deposit with the Bank as reserve against their deposit and other liabilities.

2. The Bank may specify ratios for different types of liabilities and may further specify the method of computing the amount of the total liabilities of an institution but the ratios specified shall be the same for all institutions:

Provided that nothing in this subsection shall be construed to prevent the Bank from allowing an institution or group of institutions upon which the provisions of the subsection (1) are applied for the first time, a period within which to comply with the cash reserve ratio requirements as may be prescribed by the Bank.

3. Any specification of, or increase in the minimum reserve requirements under subsection (1) or subsection (2) shall take effect only after the expiration of thirty days' notice to the institution of the Bank's intention to take action.
4. The Bank may impose on any institution which fails to maintain the sufficient minimum cash balances required under this section, a penalty charge not exceeding one per cent per day on the amount of the deficiency or ten thousand shillings, whichever is the higher for each day during which the deficiency continues.
5. The Bank may, if in its opinion circumstances of an unusual nature render it desirable to do so, pay an interest or return and subject to such qualifications as it may determine on minimum cash balances deposited with the Bank under this section.
6. For the purposes of this section, "institution" includes:-
 - (a) a bank licensed under the Banking Act;
 - (b) a microfinance bank licensed under the Microfinance Act;
 - (c) a financial institution licensed under the Banking Act;
 - (d) any other person or body of persons which the Bank may by notice in the Gazette prescribe.

20. Other instruments of monetary control

1. The Bank may decide on the use of other instruments of monetary control if the need arises and to the extent compatible with the primary objective of the Bank.
2. The Bank shall issue guidelines to define the scope of such other instruments.

21. Head office, branches, currency centres and other places of business

1. The Bank shall have its head office in Nairobi, but during a time of national emergency the Bank may, unless the President otherwise directs, establish its

head office temporarily or permanently in any other place within Kenya or elsewhere temporarily.

2. The Bank may, with the approval of the Board, establish or close branches in any place within Kenya and may open or close branches outside Kenya
3. The Bank may open or close currency centers or other places of business in any part of Kenya as its business may require.

22. Agents

The Bank may, with the approval of the Board, appoint, on such terms as it considers appropriate, or cancel the appointment of, agents both within and outside Kenya.

23. Exemption from Tax

1. The Bank or its subsidiary shall not be liable to any taxation imposed by any law in respect of income or profits.
2. No duty shall be chargeable under the Stamp Duty Act in respect of any instrument executed by or on behalf of or in favour of the Bank in any case where, but for this exemption, the Bank would be liable to pay such duty.
3. The Bank shall be exempt from all taxes and levies on the import and domestic supply of gold, currency notes and coins.

PART IV – FOREIGN EXCHANGE MATTERS

24. External Value of Kenya Shilling

1. The external value of the Kenya shilling shall be determined by the foreign exchange market.
2. The Bank shall, after consultation with the National Treasury, determine and implement the exchange rate policy.
3. The Bank will conduct foreign exchange operations for the efficient and effective functioning of the exchange rate regime and the foreign exchange market.

25. Oversight of the Bank over foreign exchange business

1. No person shall, in Kenya, transact foreign exchange business except an authorized dealer licensed by the Bank or if granted a permit by the Bank.
2. The Bank shall be exclusively responsible for the regulation, licensing and supervision of foreign exchange dealers, as further specified in regulations to be issued under this Act.

3. Without prejudice to the generality of subsection (2), the regulations may provide for, amongst others -
 - (a) the staff of the Bank, and other qualified persons designated by the Bank, to inspect the offices of authorized dealers to examine such accounts, books, documents and other records, to obtain such information and records from them, and to take such other action as the Bank shall deem necessary or advisable.
 - (b) the powers to advise and direct foreign exchange dealers,
 - (c) the powers to issue instructions or directions to authorized dealers;
 - (d) the penalty to be provided for a conviction of an offence under this Part or in Regulations to be issued under this part, which shall not exceed one million shillings, in the case of a fine, or imprisonment for a term not exceeding three years, or to both.

PART V – CAPITAL, RESERVES AND PROFIT ALLOCATION

26. Authorized capital of the Bank

The authorized capital of the Bank shall be fully subscribed and paid-up and shall not be less than *twenty billion* shillings.

27. General Reserve Fund

1. The Bank shall establish and maintain a General Reserve Fund;
2. The General Reserve Fund may not be used except for the purposes of covering losses sustained by the Bank or for any increase in capital of the Bank.

28. Revaluation Reserve Accounts

The Bank shall establish unrealized revaluation reserve accounts to account for unrealized gains and losses owing to its positions with foreign currencies, gold, financial instruments, and other foreign exchange denominated assets.

29. Profits, losses and distributable earnings

1. The net profits or losses of the Bank shall be determined in conformity with the International Financial Reporting Standards.
2. The earnings available for distribution under section 30 shall be determined as follows:

- (a) by deducting from the net profits the total amount of unrealized revaluation gains and by allocating an equivalent amount to the respective unrealized revaluation reserve account; and
 - (b) by deducting from the appropriate unrealized revaluation reserve account and adding to the distributable earnings as determined in paragraph (a) the amount of any unrealized profit that was deducted from the net profits for one or more previous years and was realized during the current financial year.
- 3. Unrealized revaluation losses will be transferred to the respective unrealized revaluation reserve accounts until such time as this revaluation reserve fund has a zero balance, after which these losses shall be covered by the current year's profit, then by the General Reserve Fund and subsequently by the authorized capital account.

30. Allocation of distributable earnings

- 1. Within 30 days after publishing the financial statements referred to in section 97, the Bank shall allocate the distributable earnings as follows:
 - (a) an amount equivalent to 90 percent of distributable earnings shall be credited to the general reserve account until the sum of the authorized capital and general reserves equal 10 percent of the total monetary liabilities of the Bank.
 - (b) once the authorized capital and general reserves reach the target set out in paragraph (a), an amount equal to 10 percent of distributable earnings shall be credited to the general reserve account until the sum of authorized capital and general reserves equal 15 percent of the total monetary liabilities of the Bank.
 - (c) any remaining distributable earnings shall be transferred to the National Treasury as revenue for the Consolidated Fund.
- 2. No distribution shall be made out of current income of the Bank except as permitted by subsection (1).
- 3. If in any financial year the Bank incurs negative distributable earnings, these earnings shall first be charged to the General Reserve Fund, and subsequently applied against the authorized capital account.

31. Coverage of shortfall in capital

In the event that in the audited annual financial statements of the Bank, the value of its assets falls below the sum of its monetary liabilities and its unimpaired authorized capital, then:

- 1. the Board, with the advice of the external auditor of the Bank, shall assess the situation and prepare a report on the causes and extent of the shortfall and assess the situation within a period of no more than thirty calendar days;
- 2. in the event that the Board approves the above mentioned report, the Bank

- shall request the Cabinet Secretary for a capital contribution to be made by the State to remedy the deficit with a view to restoring the authorized capital to its unimpaired level; and
3. upon receipt of this request the State shall, within a period of no more than thirty calendar days, transfer to the Bank the necessary amount in currency or in negotiable debt instruments with a specified maturity issued at prevailing market-related interest rates.

PART VI – GOVERNANCE AND ORGANIZATION

32. Board of Directors

There shall be a Board of Directors of the Bank, which shall be charged with the formulation of the policies of the Bank, the supervision of their implementation and the supervision of the administration and the operations of the Bank, subject to the provisions of the Constitution and of this Act.

33. Constitution of the Board

1. The Board shall consist of-
 - a. the Chairperson, who shall chair Board meetings;
 - b. the Governor;
 - c. the two Deputy Governors
 - d. the Principal Secretary to the Treasury , who shall be a non-voting member;
 - e. five other non-executive directors nominated by the Selection Committee established under Section 35 and appointed by the President through a transparent and competitive process and with the approval of the National Assembly.
2. The non-executive board directors appointed under paragraph (e) of subsection (1) shall hold office for a period of four years and shall be eligible for re-appointment for one further term of four years.
3. The members of the Board shall be appointed at different times through the procedure provided for under section 35, so that the respective expiry dates of the members' terms of office shall fall at different times.
4. A non-executive member of the Board appointed under subsection (2) may resign from his office in writing under his hand addressed to the President which resignation shall take effect three months from the date of receipt of the letter of resignation by the President.

5. If the Chairperson or a non-executive director dies or resigns or otherwise vacates office before the expiry of his term of office, the President shall appoint another person in his place through the procedure provided for under section 35, for a new full term of four years.

34. Powers and Functions of the Board

1. The Board shall be responsible for-
 - a. determining and adopting the policies of the Bank, other than the formulation and implementation of monetary policy, and adopting, as appropriate, by-laws and internal rules for implementation ;
 - b. exercising the powers and tasks of the Bank referred to in section 8;
 - c. supervising the implementation of the policies and the exercise of the functions of the Bank;
 - d. determining the denominations, inscriptions, forms, material and other characteristics of notes and, coins as well as matters relating to their issuance and handling;
 - e. advising the Government on the exchange rate regime and determining and implementing the exchange rate policy ;
 - f. the consideration and determination of any appropriate action to be taken in relation to –
 - (i) compliance with the Constitution, laws and administrative policies and procedures applicable to the Bank; and
 - (ii) the findings of the external auditor, on recommendation of the audit committee
 - g. the consideration and approval of the annual budget of the Bank;
 - h. custody and use of the Bank's common seal subject to the provisions of Section 48;
 - i. approving the annual report and other formal reports and financial statements of the Bank;
 - j. appointing the external auditors of the Bank and the scope of the audit on a proposal of the Governor and the audit committee;
 - k. deciding whether the Bank should take on debt in material amounts, and if so, the terms and conditions of such debt;
 - l. determining the categories of assets that shall constitute the official external reserves in accordance with section 72(2);
 - m. determining the categories of assets that shall be suitable for investment of the Bank's financial resources;
 - n. establishing one or more advisory bodies, determining their terms and

conditions of appointment of their members, and determining the terms of reference of such bodies;

- o. establishing one or more committees consisting of members of the Board and/or other persons, and defining their responsibilities;
- p. adopting the rules of procedure for the Board;
- q. the establishment and closing of branches and currency centers;
- r. determining whether the policy statements made pursuant to section 13 are consistent with the Bank's objectives under section 6;
- s. ensuring that the Bank complies fully with the national values set out in Article 10 of the Constitution, the Bill of Rights under Chapter 4 of the Constitution and the values and principles of public service set out under Article 232(1) and (2) of the Constitution and any other relevant provisions of the Constitution;
- t. approving the detailed responsibilities or the assignment or re-assignment of each of the Deputy Governors on the recommendation of the Governor;
- u. appointing the Chief Internal Auditor, on a proposal of the Governor;
- v. approving the general terms and conditions of appointment and service of the staff of the Bank;
- w. ensure compliance with good corporate governance;
- x. initiate and oversee the annual performance review of the Chairperson of the Board;
- y. perform such other functions as may be necessary for the achievement of the mandate of the Bank.

- 2. The Bank shall establish and maintain a Board Secretariat to manage the affairs of the Board.

35. Procedure for the appointment of Governor, Deputy Governors, external Monetary Policy Committee members and non-executive directors

- 1. The Board shall, within seven days of the occurrence of a vacancy in the office of the Governor, Deputy Governor, external Monetary Policy Committee member or non-executive director, by notice in the Gazette, and in at least two newspapers of national circulation, declare vacancies in the office of the Chairperson, Governor, Deputy Governor, external Monetary Policy Committee member or non-executive director and invite applications.
- 2. An application under subsection (1) shall be forwarded to the Board within fourteen days of the notice and may be made by any person who satisfies the requirements under section 36.

3. The names of all applicants under subsection (2) shall be published in at least two newspapers of national circulation.
4. For the purpose of considering the applications for appointment as Chairperson, Governor, Deputy Governor, external Monetary Policy Committee member or non-executive director, as the case may be, the Board shall, by the end of the expiry of the period prescribed under subsection (2), convene a Selection Committee comprising the following—
 - a. Chairperson of the Board, or in his absence a nominee appointed by the non-executive members of the Board, who shall be the chairperson;
 - b. One (1) non-executive member of the Board;
 - c. the Principal Secretary responsible for matters relating to finance;
 - d. a representative from the Public Service Commission;
 - e. Two independent and eminent professionals qualified in macroeconomics, finance, law or international economics appointed by the Board
5. The Selection Committee shall, subject to procedures set out in this section, determine its own procedure, which will include necessary background checks, the conduct of due diligence investigations and interviews.
6. The Selection Committee shall make a selection of qualified persons within seven days.
7. The Bank shall provide secretariat services for the Selection Committee constituted under subsection (4).
8. The chairperson of the Selection Committee shall within two days of the selection of qualified persons under subsection (6), forward three names of the selected candidates for the position to the Board. The Board shall, within two (2) working days forward the names to the President for nomination.
9. The President shall, within seven days of receipt of the names forwarded under subsection (7), nominate one person for appointment as Chairperson, Governor, Deputy Governor, external Monetary Policy Committee member or non-executive director, as the case may be, and shall forward the name of the person nominated to the National Assembly.
10. The National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of the nominee under subsection (7), consider the nomination received and may approve or reject the nomination.

11. Where the National Assembly approves the nominee, the Speaker shall immediately, forward the name of the approved person to the President for appointment.
12. The President shall, within seven days of the receipt of the approved nominee from the National Assembly, by notice in the Gazette, appoint the Governor, Deputy Governor, external Monetary Policy Committee member or non-executive director as the case may be.
13. Where the National Assembly rejects any nomination, the Speaker shall, within three days, communicate the decision of the National Assembly to the President to submit a fresh nomination.
14. Where a nominee is rejected by the National Assembly under subsection (12), the President shall, within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the selection committee under subsection (7).
15. If the National Assembly rejects all or any subsequent nominee submitted by the President for approval under subsection (12), the Board shall commence the appointment process afresh.
16. In short listing, nominating or appointing persons as Governor, Deputy Governor, external Monetary Policy Committee member or non-executive Director, the Selection Committee, the National Assembly and the President shall endeavour to ensure professional competence and endeavour to uphold the principles of gender equity, regional and ethnic balance; and have due regard to the principle of equal opportunity for persons with disabilities, minorities and marginalised groups.
17. The President may by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days notwithstanding that the period may have expired.

36. Qualifications for Appointment of Chairperson, Governor, Deputy Governors, external Monetary Policy Committee Members and non-executive directors

1. A person is qualified for appointment as a Chairperson, Governor, Deputy Governor, external Monetary Policy Committee member or non-executive Board Member of the Bank if one :-
 - a. is a citizen of Kenya;
 - b. is a fit and proper person of recognised professional standing;

- c. has over ten years' experience at senior management level in the field of economics, banking, finance, commerce, law or other fields relevant to the functions of the Bank;
 - d. holds an advanced university degree.
 - e. Meets the requirements of Chapter Six and Article 232 of the Constitution.
2. For the purposes of this section, 'fit and proper' means possessing all the attributes to be taken into account in determining the suitability of a person to be appointed as Chairperson, Governor, Deputy Governor, external Monetary Policy Committee member or a non-executive Director, including the person's general probity, competence and soundness of judgment for the fulfillment of the responsibilities of the office and the diligence with which the person is likely to fulfill those responsibilities.
 3. The suitability criteria for 'fit and proper' assessment may be prescribed in Regulations.

37. Conduct of Chairperson, Governor, Deputy Governors, external Monetary Policy Committee members and non-executive directors

The Chairperson, Governor, Deputy Governors, a non-executive member of the Board and member of the Monetary Policy Committee shall:

1. at all times, act with integrity, ethically and in the best interest of the Bank and use reasonable diligence in the discharge of the duties of his office.
2. not make improper use of any information acquired or exercise any improper influence by virtue of his position as Chairperson, Governor, Deputy Governors, a director or member of the Monetary Policy Committee to gain, directly or indirectly, an advantage for himself or for any other person.
3. not act as a representative of any commercial, financial, agricultural, industrial or other interests with which he may be connected:

Provided that this prohibition shall not extend to the Principal Secretary to the Treasury.

38. Meetings of Board of Directors

1. The Chairperson of the Board shall convene and chair all meetings of the Board not less than once in every two months, or whenever the business of the Bank so requires, or whenever the Chairperson is requested in writing by at least three members of the Board.

2. The Chairperson of the Board shall be elected from amongst the non-executive directors for a non-renewable period of two years on a rotational basis.
3. If the position of the Chairperson is vacant or the Chairperson is unable to attend a meeting, the non-executive directors in attendance will elect one from amongst them to chair the meeting.
4. Board meetings shall be convened by communicating the time, venue and agenda of the meeting to all members of the Board as determined in the Board Charter referred to in subsection (14).
5. The first Board meeting after the commencement of this Act, shall be called by the incumbent Chairperson of the Board or in their absence by the Governor.
6. The non-executive directors shall appoint the first rotational Chairperson from their members at the meeting referred to in subsection 5 above.
7. A quorum for any meeting of the Board shall be the Chairperson, or in his absence the non-executive Board member elected to chair the meeting, the Governor, or the Deputy Governor, and three other members. If a quorum is not present, the Chairperson may convene an extraordinary meeting at which decisions may be taken without regard to the existence of a quorum; such decisions must be ratified at the next regular meeting of the Board to remain in effect.
8. Provided that the Governor or Deputy Governor shall not attend and vote, or be counted in a quorum present, or be part of a quorum at a meeting at which the matter or the exercise or proposed exercise of the power in which the Governor has interest is considered, in particular, Section 55
9. Decisions of the Board shall be adopted by a majority of the votes of those present at that meeting, and in case of an equality of votes the Chairperson or the person presiding at the meeting shall have a second or casting vote.
10. The validity of any proceedings of the Board shall not be affected by any vacancy in the membership of the Board, or by any defect in the appointment, qualification or disqualification of any member which is discovered subsequent to those proceedings.
11. A member of the Board who has an interest in any matter involving the Bank, or in the exercise or proposed exercise by the Bank of a power, shall declare

that interest before or at the beginning of every meeting of the Board at which that matter or the exercise or proposed exercise of the power, is considered by the Board, and the member shall not be entitled to attend and vote, or be counted in a quorum present, at a meeting at which the matter or the exercise or proposed exercise of the power in which the member has interest is considered.

12. A disclosure under subsection (11) shall be recorded in the minutes of the meeting of the Board.
13. Where a member fails or refuses to disclose his or her interest under subsection (11), the member shall cease to be a member.
14. A member of the Board whose conduct is under discussion by the Board for whatever reason shall not attend that meeting of the Board.
15. A member of the Board who fails to comply with subsection (14) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings.
16. The Board may, where it considers it fit, invite any person to attend and participate at its meeting but a person so invited is not entitled to vote at that meeting on a matter for decision by the Board.
17. Subject to the provisions of this Section, the Board may prescribe its procedure for its meetings and operations in a Board Charter.
18. The rules of procedure of the Board may permit meetings and voting by teleconferencing or, in exceptional circumstances, by written or electronic means of communication.

39. Proceedings

1. The proceedings of the meetings of the Board shall be confidential. The Board may decide to make the outcome of its deliberations on any matter public. It shall publish promptly its decisions pursuant to section 34 (1) (a) and (e).
2. The minutes of each Board meeting shall be signed by the person chairing that meeting and the secretary of the Board.

40. Board Audit Committee

1. There shall be appointed by the Board an Audit Committee whose chairperson shall be appointed by the members from among their number.

2. The Board Audit Committee shall consist of three non-executive Board members and, subject to subsection (4) at least two external experts.
3. The external experts shall, whether individually or collectively, have extensive experience in the field of accounting and auditing and law.
4. Where the experience set out in subsection (3) can be found within the non-executive Board members referred to in subsection (2), the requirement for one of the external experts may be dispensed with.
5. The criteria provided in sections 36 and 50 shall apply to the appointment of the external experts who shall not have been a member of the Board, Monetary Policy Committee or staff in the three calendar years preceding his appointment as a member of the Board Audit Committee.
6. The external experts shall be removed from office if the Board concludes that the conditions referred to in sections 50 and 51 regarding the disqualification and removal of members of the Board, have been met with respect to this member of the Board Audit Committee.
7. The external expert member shall not be removed from office without first being given an opportunity to be heard.
8. Upon an invitation of the Board Audit Committee, the executive members of the Board, or members of the staff, may attend the meetings of the committee without the right to vote.
9. The responsibilities of the Board Audit Committee shall be to:
 - a. establish appropriate accounting procedures and accounting controls for the Bank and supervise compliance with these procedures;
 - b. monitor compliance with the Constitution, laws and administrative policies and procedures applicable to the Bank and report to the Board thereon;
 - c. deliver opinions on any matters submitted to it by the Board or management;
 - d. recommend the appointment of external auditors and the scope of external audits and services;

- e. receive and examine the external auditor's report, meet with the auditors to discuss their findings and recommend to the Board any appropriate action to be taken; and
 - f. oversee the internal audit function and review the reports of the internal audit function or unit.
- 10. The Board Audit Committee shall meet at least once every quarter and extraordinarily when convened by the Board.
 - 11. The Board Audit Committee shall periodically report to the Board.
 - 12. The Board shall define the composition, and further responsibilities and duties of the Board Audit Committee in the Audit Committee Charter of the Bank.
 - 13. The Board Audit Committee may regulate its own proceedings.

41. Board Committees

- 1. The Board may establish such other committees as it may deem necessary for the discharge of its functions and it shall specify the composition and functions of every committee appointed under this section and the terms and conditions upon which the committee shall exercise its functions.
- 2. Every committee shall report to the Board at its next regular meeting on all the proceedings and actions of the committee, and the Board may approve, vary or reverse any decision of the committee or may give such directions affecting any action of the committee as the Board may deem fit in the circumstances of each case.
- 3. Subject to the provisions of this Act and to any directions given by the Board in that behalf, each committee shall regulate its proceedings

42. Delegation of powers by the Board

The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or any other written law, subject to terms, conditions or restrictions imposed by the Board.

43. Chairperson of Board

1. There shall be a Chairperson who shall be appointed pursuant to section 38.
2. The Chairperson shall be the spokesperson and representative of the Board, shall manage Board affairs, review with the Governor any issues of concern to the Board and the public interest, and shall in that capacity undertake the following:
 - a) Convene and chair meetings of the Board and approve the agenda for Board meetings, ensuring governance and management of the Board;
 - b) Ensure that the interests of the Bank remain the paramount interests;
 - c) Provide leadership to the Board of Directors, who set policy, and to whom the Governor is accountable.
 - d) Ensure that Board meetings are conducted in a manner which encourages open debate and allows individual Board members to articulate their views without domination of any one Board member;
 - e) Ensure that all Board members are given the opportunity to effectively contribute;
 - f) Appoint the chairpersons and members of committees, in consultation with other Board members ;
 - g) Formally initiate and oversee the annual performance evaluation of the Governor and Board members;
 - h) Ensure that the decisions and resolutions of the Board are accurately minuted;
 - i) Ensure that the decisions of the Board are implemented properly;
 - j) Review Governor's recommendation on Deputy Governors' performance;
 - k) Handle any other matters as the Board may after consideration direct.

44. Governor

1. There shall be a Governor who shall be appointed by the President pursuant to section 35.
2. The Governor shall hold office for a term of six years, and shall not be eligible for re-appointment.

3. The Governor shall have authority to incur expenditure for the Bank within the administrative budget approved by the Board and subject to policy guidelines issued by the Board.
4. In the performance of his functions and the exercise of his powers under this Act or any other law, the Governor shall be bound and guided by the provisions of the Constitution.
5. The Governor shall be the principal representative of the Bank and shall, in that capacity, have authority –
 - a. to represent the Bank in its relations with other public entities, international financial institutions, persons or bodies;
 - b. to represent the Bank, either personally or through counsel, in any legal proceedings to which the Bank is a party;
 - c. to sign individually or jointly with other persons contracts concluded by the Bank, notes and securities issued by the Bank, reports, balance sheets, and other financial statements, correspondence and other documents of the Bank.
6. The Governor may delegate any of his powers provided for in this section to other officers of the Bank.

45. Powers and functions of the Governor

1. The Governor shall propose and implement the monetary and exchange rate policies, and the other policies of the Bank.
2. The Governor shall have the authority to take all actions required or deemed advisable for the administration or operations of the Bank, including entering into contractual commitments on behalf of the Bank, appointing the staff (apart from those assigned to the Board under section 34(1) and agents of the Bank, and generally representing the Bank.
3. The Governor shall have the power to take enforcement measures, including instructing any supervised bank or financial institution, or any regulated payment, clearing and settlement system, to take remedial actions; or by appointing a receiver for such entities; or by imposing administrative penalties, as provided by this Act or by any other Act.
4. The Governor may delegate any of his powers or functions to other members of the Board or to senior staff or any committee comprising of members of the Board or senior staff.
5. The Governor shall be responsible to the Board for the execution of its

decisions and for the direction and control of the administration and operations of the Bank.

6. The Governor shall report, at least once every two months to the Board on the conduct of the Bank's policies and operations, on the soundness of the financial system, and on the state of the money, capital and foreign exchange markets, including all events and conditions that have or are expected to have a significant effect on the conduct of the policies of the Bank and on its administration or operations, on the financial system, or on the above-mentioned markets.
7. The Governor shall have such other powers and functions as explicitly granted by this Law.
8. All powers under this Law that are not specifically reserved for the Board or the Monetary Policy Committee shall be vested in the Governor.

46. Oath of office

The Chairperson, Governor, Deputy Governors, Monetary Policy Committee members and non-executive directors shall upon appointment, each make and subscribe before the Chief Justice, the oath or affirmation set out in the Third Schedule.

47. Reports by the Governor to the Board

The Governor shall from time to time and at such regular frequency as the Board may determine, submit written reports to the Board on the following:

- a. Monetary policy decisions made by the Monetary Policy Committee and their impact on the economy.
- b. Financial Stability and actions taken by the Bank to ensure a sound financial system;
- c. The extent to which the Bank has achieved its functions and objectives;
- d. Implementation of the values and principles of public service set out in Article 232(1) of the Constitution.
- e. Use and management of Bank's resources.
- f. Use of the Common Seal of the Bank.

48. Common seal and power of attorney

1. The affixing of the common seal of the Bank shall be authorized by the signature of the Governor (by delegated authority of the Board) and of some other person or persons authorized by the Governor in that behalf.

2. The Governor may, under the common seal of the Bank, empower any person to execute or authenticate on behalf of the Bank any documents on its behalf.
3. The common seal of the Bank when affixed to a document and duly authenticated shall be judicially and officially noticed and, unless the contrary is proved, any necessary order or authorization of the Bank under this section shall be presumed to have been duly given.
4. The Common seal of the Bank shall be kept in such custody as the Board shall direct.

49. Deputy Governors

1. There shall be two Deputy Governors who shall be appointed by the President pursuant to Section 35, through a transparent and competitive process and with the approval of National Assembly.
2. There shall be one Deputy Governor in charge of monetary policy and banking sector stability, and one Deputy Governor in charge of administration and operations.
3. The Deputy Governors shall hold office for a term of six years, but shall not be eligible for re-appointment.
4. Each of the Deputy Governors shall:
 - a. Be subject to the general supervision of the Governor; and
 - b. Discharge such duties as may be assigned by the Governor.
5. The Board shall appoint one of the Deputy Governors to act in the office of Governor whenever —
 - a. the position of Governor falls vacant in the period before a substantive appointment is made; or
 - b. the Governor is temporarily incapacitated.

For the purpose of this subsection, ‘temporarily incapacitated’ means being unable to discharge official duties for a continuous period of three months.

6. A Deputy Governor appointed under subsection (1) shall, during the period of appointment, exercise all the powers and perform all the functions conferred on the Governor under this Act or under any other law.

50. General Disqualifications for Chairperson, Governor, Deputy Governor and non-executive director or non-executive member of the Monetary Policy Committee

1. No person shall be appointed as Chairperson, Governor, Deputy Governor, a non-executive director or non-executive member of the Monetary Policy Committee member who –
 - a. is a member of National Assembly;
 - b. is a member of the Cabinet;
 - c. is a staff member in any international financial institution;
 - d. is a member of a county assembly
 - e. has not met his tax obligations;
 - f. has had a non-performing loan, confirmed by a credit reference
 - g. has been convicted of a felony or an offence involving dishonesty or fraud or moral turpitude;
 - h. has been adjudged bankrupt or has entered into a composition or scheme of arrangement with his creditors
 - i. has been removed from office for contravention of the Constitution or any law;
 - j. has, on the grounds of personal misconduct, been disqualified or suspended by a competent authority from practicing a profession or has been prohibited from being a director or officer of any public or commercial entity;
 - k. has engaged in illegal activity or serious misconduct in office;
 - l. has not been cleared by the Ethics and Anti-Corruption Commission;
 - m. has not been cleared by the body in charge of national intelligence service;
 - n. is a salaried employee of any public entity;
 - o. is a director, officer, employee, partner in or significant shareholder of any institution under the supervision of the Bank and any person who has held these positions in the immediately preceding one year.

Provided that subsection (1) shall not apply in the case of the Principal Secretary to the Treasury.

2. For the purpose of subsection (1), an employee of a university or any

organization or institution having operational autonomy from the Government shall not be deemed to be a salaried employee of any public entity.

3. Subsection (2) shall not apply in relation to the office of the Governor or Deputy Governor.

51. Grounds for termination of appointment of a Chairperson, Governor, Deputy Governor, a non-executive Director or a non-executive member of the Monetary Policy Committee

The President shall terminate the appointment of a Chairperson, Governor, Deputy Governor, a non-executive director or non-executive member of the Monetary Policy Committee who –

1. becomes subject to any of the disqualifications described in Section 50;
2. is absent, without the leave of the Board or Committee, as the case may be, from three consecutive meetings of the Board or Committee;
3. becomes incapable of properly performing the functions of his office because of an infirmity of body or mind that lasted for more than three months;
4. in the case of Governor or Deputy Governor, engages in any paid employment or business or professional activity outside the duties of his office contrary to section 55;
5. No person shall be terminated on any ground other than those set out in subsection (1) and section 38(13).

52. Procedure for Termination of the Governor

1. The appointment of the Governor shall not be terminated under this section until the question of his removal from office has been referred to a tribunal appointed under subsection (2) and the tribunal has recommended to the President that the Governor ought to be removed.
2. The President shall appoint a tribunal which shall consist of a chairman and two other members selected by the President as follows-
 - b. one person of high integrity who holds or has held office as a judge of a superior court, who shall be the chairman;
 - c. one person who is competent and qualified to be appointed as High Court judge; and
 - d. one other member who is qualified to assess the facts in respect of the particular ground for removal.

3. The Tribunal shall accord the Governor a right to be heard and make its recommendations on its findings to the President.
4. Any person desiring the removal of the Governor on any ground specified in Section 51 may present a petition to the National Assembly setting out the alleged facts constituting that ground.
5. The National Assembly shall consider the petition and, if it is satisfied that it discloses a ground under section 51, shall send the petition to the President.
6. Upon the occurrence of any ground under Section 50 or 51 or upon receiving a petition under subsection (4), the President—
 - a. shall suspend the Governor pending the outcome of the petition; and
 - b. shall appoint a tribunal in accordance with subsection (2).
7. Any tribunal appointed under this section shall investigate the matter within 30 days from the date of appointment and report on the facts and make a recommendation to the President, who shall act within **fourteen** days.

Provided that the President may extend the period of investigation and reporting by a further maximum period of 30 days upon request by the tribunal.

8. A Governor who has been removed from office shall have a right of appeal to the High Court within fourteen calendar days after he has been communicated the decision in accordance with the law.
9. The removal of the Governor and the grounds for removal shall be made public.

53. Procedure for termination of appointment of Chairperson, a Deputy Governor, a non-executive Director or a non-executive Monetary Policy Committee member

To terminate the appointment of the Chairperson, a Deputy Governor, a non-executive director or a non-executive Monetary Policy Committee member:

1. The Board shall set up a committee to inquire into the allegations against the deputy Governor, non-executive director or non-executive Monetary Policy Committee member.
2. The committee shall consist of a chairman, who has served as a Judge in any Commonwealth country, and not less than two other persons, one of whom shall have expertise in banking or financial matters.

3. The committee shall accord the Chairperson Deputy Governor, non-executive director or non-executive Monetary Policy Committee member a right to be heard and make recommendations on its findings to the Board.
4. The Board shall consider the findings and make recommendations to the President.
5. On receiving the recommendations under subsection (4), the President may suspend the Deputy Governor, non-executive director or non-executive Monetary Policy Committee member, pending his final consideration of recommendations.
6. The President shall act on the recommendation within fourteen days and shall make public the fact of any removal and grounds for removal.
7. A Chairperson, Deputy Governor, non-executive director or non-executive Monetary Policy Committee member who has been removed from office shall have a right of appeal to the High Court within fourteen calendar days after he has been communicated the decision in accordance with the law.

54. Resignation of the Governor or Deputy Governor

The Governor, a Deputy Governor or a non-executive director may resign from office by giving at least three months' notice in writing under his hand addressed to the Chairperson of the Board of Directors and the President of his intention to do so.

55. Engagement in Other Activities

The Governor and the Deputy Governors shall owe their allegiance entirely to the Bank and shall not engage in any paid employment or business or professional activity outside the duties of their respective offices:

Provided that nothing in this subsection shall prevent the Governor or a Deputy Governor from accepting or holding any unpaid advisory position or unpaid membership in any economic or financial committee or commission with public responsibility, or from serving in any international financial institution of which Kenya is a member or with which Kenya is associated, or any specialized financial institution established by the Government or becoming or acting as a director of any corporation in Kenya which the Bank may promote for the performance of its functions under this Act, so long as the Board is formally apprised of such appointment and formally records its agreement.

56. Vacancy in the office of the Chairperson, Governor, Deputy Governor non-executive director or non-executive Monetary Policy Committee member

1. The Board shall declare the office of the Chairperson, Governor, Deputy Governor, a post of non-executive director or non-executive Monetary Policy Committee member vacant if the holder-

- a. dies;
 - b. by a notice in writing addressed to the President, resigns from office;
 - c. is subject to prolonged incapacitation that affects the discharge of his duties; or
 - d. is otherwise removed from the office pursuant to section 52.
2. Any vacancy pursuant to subsection (1), shall be filled in accordance with the procedure prescribed under Section 52 and within 60 calendar days.

57. Remuneration

1. The Governor and the Deputy Governors shall be paid by the Bank such salaries and allowances as may be determined from time to time by the Board, but those salaries and allowances shall not be altered to the detriment of any person during his term of office. The amount of the salaries and allowances shall be stated in the legal instruments relating to their appointment and shall be disclosed in the report referred to in section 97.
2. The non-executive members of the Board shall be paid by the Bank such allowances as may from time to time be determined by the Board, in consultation with the Cabinet Secretary.
3. The non-executive members of the Monetary Policy Committee shall be paid by the Bank such allowances as from time to time be determined by the Board.
4. The members of the Audit Committee and such other committees established by the Board shall be paid by the Bank such allowances as may from time to time be determined by the Board in relation to their functions as members of such committees.
5. The salaries and allowances received by members of the Bank's staff shall be such that qualified and expert persons can be recruited and retained.
6. The salary and allowances paid to the persons referred to in this section shall not be tied to the Bank's profits or any of its revenue.
7. Apart from the allowances mentioned in this section, no Board member, Monetary Policy Committee member or external member of the Audit Committee shall receive any other benefits in relation to his appointment to office in the Bank.

58. Management of information

1. The Bank, its agents, members of the Board and the staff of the Bank shall maintain confidentiality in respect of information that comes to their knowledge in the exercise of their duties.
2. Without prejudice to the generality of subsection (1), pursuant to Article 24 of the Constitution the Bank, its agents and the staff of the Bank shall not disclose any of the following information that comes to their knowledge or possession in the exercise of their duties or in their performance of the functions of the Bank:
 - a. Save as provided in Section 57(1), financial details that would disclose the financial affairs of any person;
 - b. Details of specifications and content of any currency note or coin.
 - c. Inspection reports of any institution;
 - d. Security details and matters of the Bank or its property;
 - e. Deliberations of the Board;
 - f. Any other information as may be determined by the Board the disclosure of which is likely to cause public panic and loss of public confidence in the Bank or any institution.

The provisions of subsection (2) are intended to:

- a. protect the privacy of persons with regard to their personal financial information and affairs.
 - b. protect the security features of currency notes and coins to prevent the information coming into the possession of any person who may use the information to manufacture or print counterfeit currency notes or coins or for any other unlawful or unauthorized purpose.
 - c. protect the integrity, stability and soundness of the financial system and to ensure public confidence in the institutions; and
 - d. ensure the safety and security of the staff, the Bank, its property and activities.
3. The provisions of subsection 2 shall not affect the disclosure of any information if the disclosure is in the interest of the Bank, the public or is intended to facilitate investigation by any investigative agency into any matter of a criminal or civil nature.
 4. No person who makes disclosure under subsection 3 shall be victimized or dismissed from employment.

5. Notwithstanding the provisions of this section, the Bank may disclose any information referred to in subsection (1), in accordance with procedures established by the Board if such disclosure –
 - a. is made in accordance with the express consent of the natural or legal person about whom the information relates;
 - b. fulfills a duty to disclose as imposed by law, including to assist law enforcement or on the order of a court;
 - c. where circumstances so warrant, necessitates sharing of information with credit reference bureaus licensed by the Bank.
 - d. is made to the external auditors of the Bank;
 - e. is required in the interest of the Bank in legal proceedings.
 - f. is made to any public international financial institution or organization to which Kenya is a party or associated, foreign monetary authority or domestic or foreign financial sector regulatory authority, the Financial Reporting Centre, fiscal or tax agency or fraud investigations agency, within or outside Kenya and where such information is reasonably required for the proper discharge of the functions of the Central Bank or any of the requesting entities specified herein.

Provided that the sharing of information with institutions outside Kenya shall only apply where there is a reciprocal arrangement in place or in the process of being negotiated.

6. Any person who discloses information in contravention of this section shall commit an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment of a term not exceeding one year or to both.

PART VII CURRENCY

59. Currency of Kenya

1. The unit of currency of Kenya shall be the Kenya shilling, which shall be divided into one hundred cents.
2. The Kenya shilling code shall be “KES”.
3. The Kenya shilling symbol shall be “KSh”.
4. All Kenyan currency banknotes shall bear the signatures of the Governor and the Principal Secretary to the National Treasury.

60. Use of Kenya Shilling

1. All monetary obligations or transactions entered into or made in Kenya shall be deemed to be expressed and recorded, and shall be settled, in Kenya currency unless otherwise provided for by law or agreed upon between the parties.

Provided that the Bank may, in the interests of the public or for financial stability reasons, designate by regulation, such form of monetary obligations or transactions that cannot be agreed between the parties under subsection (1).

2. Subject to subsection (3), any person who willfully, refuses to accept any Kenya currency in respect of any monetary obligation or transaction shall commit an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period of two years.
3. The Bank may, by regulation, limit the amounts or the denominations of currency notes and coins that shall be accepted as legal tender in payment of an obligation.
4. The Bank may, by regulation, provide that banks shall be required to accept certain denominations of currency notes and coins and shall be required to re-circulate such notes and coins.

61. Issue of currency notes and coins, legal tender and withdrawal

1. The Bank shall have the sole right to issue currency notes and coins in Kenya and, subject to subsection (5), only those notes and coins shall be legal tender in Kenya. The Bank may also print or mint commemorative currency notes and coins.
2. Currency notes and coins issued by the Bank may bear images that depict or symbolize Kenya or an aspect of Kenya as may be prescribed in Regulations, but shall not bear the portrait of any individual.
3. The denominations, inscriptions, forms, material and other characteristics of the currency notes and coins issued by the Bank shall be determined by the Bank, and shall be notified in the *Gazette* and in other media of public information likely to bring them to the attention of the public.
4. The currency notes and coins issued by the Bank shall be printed or minted by the Bank under the authority of the Board.
5. The Bank shall be responsible for maintaining an appropriate supply of currency notes and coins.
6. The Bank shall have power to withdraw any currency notes or coins issued by the Bank, and the procedure for and effect of withdrawal shall be as follows:-

- a. a notice published in the Gazette, and in such other manner as the Bank considers likely to bring that notice to the attention of the public, shall specify the issues, and the denominations forming part of the issues, of currency notes or coins that are to be withdrawn, the places where those currency notes or coins may be taken for exchange, and the date on which those currency notes or coins shall cease to be legal tender;
 - b. the notice given under paragraph (a) may provide that, after such period as may be specified in the notice, the currency notes or coins to which the notice applies shall only be exchanged at the head office of the Bank;
 - c. the currency notes or coins specified in a notice given under paragraph (a) shall be exchanged at their face value for legal tender at the places and for the periods (which shall be of reasonable duration, not shorter than six months) specified in relation to those places in the notice, and shall cease to be legal tender on the date specified in the notice;
 - d. the Bank may, by notice published in the same manner as notice given under paragraph (a), specify a period during which currency notes or coins which have ceased to be legal tender may nevertheless be exchanged at the head office of the Bank, and after which those notes or coins shall no longer be exchanged.
 - e. The Bank shall destroy the withdrawn currency notes and coins.
7. The aggregate amount of currency in circulation issued by the Bank shall appear as a liability in the financial statements of the Bank.

62. Currency stock

The Bank shall create and administer a currency stock, ensuring the availability of a regular supply of currency notes and coins.

63. Exchange of currency

Upon request and within the conditions prescribed by the Board, the Bank shall exchange, without charge or commission, currency notes and coins issued by the Bank.

64. Exchange of mutilated notes and coins

The Bank shall not be obliged to exchange any currency note or coin which is mutilated, defaced, soiled or otherwise defective, and the conditions subject to which the Bank may as a

matter of grace exchange any such currency note or coin shall be within the absolute discretion of the Bank.

65. Destruction of currency notes and coins

The Bank may melt down, break up or deface any coin and may deface or destroy any bank note which is mutilated, defaced, soiled or otherwise defective.

66. Exemption from stamp duty on currency notes and coins

The Bank shall not be liable for the payment of stamp duty as set out in section 23(3).

67. Offences relating to currency

Subject to the provisions of the Penal Code, any person who-

- i. forges, alters or unlawfully issues a currency note or coin of the Bank or something purporting to be a currency note or coin of the Bank, whether in physical form or electronic image;
- ii. utters, tenders or accepts any such note or a coin which has been forged, altered or unlawfully issued, knowing it to be forged, altered or unlawfully issued;
- iii. without the authority of the Bank, engraves or makes upon any material whatsoever any words, figures, letters, marks, lines or devices the print whereof resembles in whole or in part any words, figures, letters, marks, lines or devices peculiar to and used in or upon any currency note or coin of the Bank which is legal tender;
- iv. without the authority of the Bank, uses or knowingly has in his possession any material whatsoever upon which has been engraved or made any such words, figures, letters, marks, lines or devices;
- v. without the authority of the Bank, willfully defaces, soils or damages any currency note of the Bank, or willfully defaces or damages any coin which is legal tender;
- vi. without lawful authority or excuse, removes from the premises where currency notes or coins are manufactured any matrix, master punch, die, collar, piercing and cutting tool, pattern or mould, or any other tool, machine, engine, instrument, waste, inks or thing used or employed in or in connection with the printing of currency or striking or minting of coins, or any useful part of the several objects aforesaid, or any note, coin or bullion;

- vii. is found in possession of any blank or defective coin of the size, shape and metal composition of any coin of which the coining is authorized by this Act, and is unable to account satisfactorily for such possession;
- viii. without the authority of the Bank, intentionally destroys, melts down, dissolves in any dissolvent, breaks up or damages a coin that has been issued under this Act;
- ix. issues currency notes and coins purporting to be legal tender under section 61(1); or
- x. without the authority of the Bank, sells or disposes of any coin issued as contemplated in paragraph (ix), knowing or suspecting that such coin is to be dealt with in a manner constituting an offence under paragraph (ix);
- xi. reproduces any currency notes and coins or creates any objects that imitate any such currency note or coin, without the prior written authorization of the Bank;

shall be guilty of an offence and liable on conviction –

- a. in the case of an offence referred to in paragraph (i) or (xi), to the penalty prescribed under Section 367 of the Penal Code. Both offences shall be considered as felonies and the perpetrator, on conviction, be liable to imprisonment for 7 years without the option for a fine.
- b. in the case of an offence referred to in paragraph (ii), to the penalty prescribed under Section 374 of the Penal Code;
- c. in the case of an offence referred to in paragraph (iii) or (iv), to imprisonment for a period not exceeding five years;
- d. in the case of an offence referred to under paragraph (v) to a fine not exceeding two hundred and fifty thousand shillings;
- e. in the case of an offence referred to under paragraph (vi) or (vii) to a fine not exceeding Kenya shillings one hundred thousand shillings or to a period not exceeding two years, or to both such fine and such imprisonment.
- f. in the case of an offence referred to in paragraph (viii), to the penalty prescribed under Sections 369 of the Penal Code;
- g. in the case of an offence referred to in paragraph (ix), to the penalty prescribed under Sections 376 of the Penal Code.

The Bank shall seize all currency notes and coins presented to it which are suspected of being forged or altered.

68. Reproductions of currency

- 1. Any reproduction of currency notes and coins, which is legal tender in Kenya or abroad, and the creation of any objects that imitate any such currency note or coin, shall require the prior written authorization of the Bank.

2. The Bank may issue regulations authorizing certain categories of reproductions of currency.

69. Bills of Exchange, Promissory notes, and any other similar instruments.

1. The Bank may, by Regulations published in the Gazette prohibit the issue by any person other than the Bank of any bill of exchange, promissory note or similar instrument for the payment of money to the bearer on demand, and any such regulations may make different provision for different cases or classes of case and may impose penalties for any offence under the regulations of a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.
2. Subject to any regulations made under this section the issue of any bill of exchange, promissory note or instrument referred to in subsection (1) shall not be deemed to contravene the sole right of the Bank to issue currency notes in Kenya.

PART VIII – PAYMENT SYSTEM FUNCTIONS

70. Facilities

1. The Bank may provide facilities, including intra-day credit, to payment, clearing and settlement systems, and their participants, to ensure the safety, soundness and efficiency of such systems.
2. The Bank may organize, own, participate in and operate systems referred to in subsection (1).

71. Oversight

1. The Bank shall be exclusively responsible for the regulation and oversight of payment, clearing and settlement systems as further specified in The National Payment System Act, 2011.
2. The Bank may:
 - (a) designate any payment system or payment instrument;
 - (b) authorise any payment service provider;
 - (c) require any payment and settlement system or the operator of such system to observe such conditions and requirements as may be established by the Bank; and
 - (d) regulate and oversee the issuance and quality of payment instruments.
3. The staff of the Bank, and any other qualified person designated by the Bank, may conduct audits and inspections of payment, clearing and settlement systems, and their participants, to examine such accounts, books, documents

- and other records, to obtain such information and records from them, and to take such other action as the Bank shall deem necessary or advisable.
4. Payment, clearing and settlement systems, and their operators and participants, shall furnish the Bank with such information and records as the Bank may require.
 5. The Bank may disclose information and data obtained under subsections (3) and (4) in whole or in part in aggregate form.

PART IX – EXTERNAL RELATIONS

72. Reserve of External Assets

1. The Bank shall at all times use its best endeavours to solely manage and maintain a reserve of external assets at an aggregate amount of not less than the value of six months' imports as recorded and averaged for the last three preceding years; and the reserve shall consist of any or all of the following:-
 - a. gold and other precious metals including credit balances representing such gold and other precious metals;
 - b. convertible foreign exchange in the form of:-
 - i. demand or time deposits with foreign central banks or with the Bank's agents or correspondents outside Kenya;
 - ii. documents and instruments customarily used for the making of payments or transfers in international transactions;
 - iii. currency notes or coins
 - c. freely convertible and readily marketable securities of, or guarantee by, foreign governments, foreign central banks or international financial institutions; or
 - d. special drawing rights held in the account of Kenya in the International Monetary Fund or any readily available international drawing facility
2. The Bank shall from time to time determine the type and form of convertible foreign exchange and the kinds of securities which may be held in the reserve of external assets pursuant to subsection (1) in accordance with the policies and guidelines established by the Board.
3. In case the reserves decline to, or in the opinion of the Bank may decline to, or

reach levels that could jeopardize the Bank's objectives, and the Bank is unable to remedy such decline, the Bank shall submit a proposal to the Cabinet Secretary to remedy this situation. This proposal shall be based on a report including the causes leading to the decline in these reserves.

73. Dealings by the Bank in Gold and Foreign Exchange

1. The Bank may buy, sell, import, export, hold or otherwise deal in gold or foreign exchange under such terms and conditions as it shall determine:

Provided that the buying and selling rates involved in those transactions shall be in accordance with international agreements to which Kenya is a party, or with which Kenya is associated.

2. The Bank may hold balances, denominated in foreign currencies, with foreign central banks or with the Bank's agents or correspondents abroad and may invest those balances in marketable foreign securities denominated in convertible currencies.
3. The Bank may make arrangements or enter into agreements with any foreign financial institution to borrow, in such manner, at such rate of interest and subject to such other terms and conditions as the Bank may deem fit, any foreign currency which the Bank may consider it expedient to acquire.

74. Institutions with which the Bank may deal in foreign exchange

The Bank may engage in foreign exchange transactions only with-

- a. authorized dealers;
- b. public entities;
- c. foreign central banks, foreign banks, or foreign financial institutions;
- d. foreign governments or agencies of foreign governments;
- e. international financial institutions.
- f. any other person approved by the Board and prescribed by notice in the *Gazette*.

75. Relations with Foreign Central Banks, Foreign Banks and Foreign Financial Institutions

The Bank may open accounts for and accept deposits from, collect money and other monetary claims for and on account of, foreign central banks, foreign banks and foreign financial institutions, and may generally act as banker to those banks or foreign financial institutions.

PART X - INTERNATIONAL MATTERS

76. International Co-operation

The Bank may-

- (a) Participate in any arrangement, scheme, programme or initiative with any other central banks, monetary authorities or international financial institutions or authorities outside Kenya to promote bilateral, regional and international monetary, financial or economic co-operation; or
- (b) With the approval of the Board, fund or provide financing in whole or in part for the arrangement, scheme, programme or initiative referred to under paragraph (a).

77. Membership in international organizations

The Bank shall exercise rights and perform obligations arising from:

- a. Membership of Kenya in the International Monetary Fund;
- b. The Bank of International Settlements;
- c. Membership of Kenya or the Bank in any international organisation in respect of which provision is made in any Kenyan law.
- d. Any other international institution.

78. Fiscal agent for Government transactions with international financial institutions

The Bank may act as the fiscal agent for all of the Government's transactions with international financial institutions of which Kenya is a member or with which Kenya is associated on such terms and conditions as may be agreed.

79. Depository

The Bank shall act as depository of currency of Kenya holdings owned by international financial institutions of which Kenya is a member or with which Kenya is associated.

PART XI – RELATIONS WITH BANKS.

80. Supervisory functions

1. The Bank shall be exclusively responsible for the regulation, licensing and supervision of institutions as further specified in the Banking Act, Cap. 488 and the Microfinance Act or any other relevant Law.
2. The staff of the Bank, and other qualified persons designated by the Bank, may visit the offices of such institutions to examine such accounts, books, documents and other records, to obtain such information and records from them, and to take such other action as the Bank shall deem necessary or advisable.
3. Upon issuance of a license to an institution, the Bank shall cause the licensing of the institution to be gazetted.
4. No institution shall carry out licensed activities unless the gazette referred to in subsection (3) has been published.
5. The Bank may charge such fees as are necessary to cover the operational costs of the Bank in relation to its supervisory functions.

81. Publication and sharing of information

Without prejudice to section 80 the Bank shall publish in the Bank website the following information-

- a. the weighted average lending and deposit rates for all banks and institutions;
- b. the interest rate spread and its composition;
- c. a simplified version of the balance sheets and income statements of all banks and institutions;
- d. any other information that the Bank may deem necessary.

82. Information to be Furnished by Institutions

1. Every institution shall furnish to the Bank, at such time and in such manner as the Bank may prescribe, any information and data the Bank may reasonably require for the proper discharge of its functions under this Act.
2. The Bank may publish in whole or in part, at such times and in such manner as it may decide, any information or data furnished under this section:

Provided that no such information shall be published which would disclose the financial affairs of any person or undertaking unless the prior consent in writing of that person or undertaking has first been obtained by the Bank.

PART XII - CREDIT INFORMATION SHARING

83. Credit reference bureaus

1. The Bank may license, regulate, and supervise credit reference bureaus
2. The bureaus may collect and disseminate credit information among institutions and such other persons as may be provided for under any written law.
3. The information collected and maintained in credit reference bureaus referred to in the previous paragraph may be used for such purposes as may be prescribed under the Banking Act and the Microfinance Act.

PART XIII – STATISTICS AND INFORMATION

84. Collection of statistics and information

The Bank, in pursuit of the objectives set forth in section 6, and as a complement to the functions of the Kenya National Statistics Bureau, shall:

- (a) collect, compile, analyze, abstract and publish statistics and information relevant to the carrying out of its functions;
- (b) define, by regulation, the statistical information so required and the form in which such information is to be provided to the Bank, the natural and legal persons subject to reporting requirements, the applicable confidentiality regime and the administrative penalties, within the meaning of section 110 that may be imposed in case of breach of these statistical requirements;
- (c) collaborate with governmental departments and agencies in the collection, compilation, and publication of statistics and other relevant information; and
- (d) coordinate with bilateral and multilateral agencies the adoption of international data dissemination standards with the aim of achieving consistency and efficiency in the organization of statistics and information.

85. Dissemination of statistics and information

Without prejudice to the powers of the Kenya National Statistics Bureau, the Bank shall publish:

- (a) statistics and information subject to regulations on the confidentiality regime referred to in section 58;
- (b) the methodology applied to the compilation of relevant statistics and information; and
- (c) relevant statistical data and concepts that will allow external verification of the statistics produced by the Bank.

PART XIV – RELATIONS WITH PUBLIC ENTITIES

86. Co-operation between the Government and the Bank

1. The Bank shall from time to time consult with the National Treasury in matters relating to its role as Banker, advisor and fiscal agent to the government.
2. The Bank and National Treasury shall hold meetings at least once each quarter to discuss matters relating to monetary policy and the banking sector and any other matter that they consider it appropriate to discuss.
3. The Bank and the National Treasury shall keep one another fully informed of all matters that affect the Bank and the National Treasury jointly.
4. The Bank may cooperate with the Government or any other public entity on any matter relevant to the functions of the Bank.
5. The Bank shall, on request of the Government, provide the Government with information regarding the exercise of the functions of the Bank, provided that specific information relating to supervised or overseen entities may only be provided subject to such conditions on confidentiality as the Bank may deem appropriate.
6. The Bank shall, on request of the Government, provide the Government with data on the receipt by the Bank of funds from any source.
7. The Government shall, on request of the Bank, provide the Bank with such information and documents as the Bank may request for the purpose of carrying out its functions.
8. The requirements stemming from this section shall be fulfilled in a timely manner.

87. Fiscal agent and Banker to public entities

1. The Bank may act as fiscal agent of and banker to the National Government and may act as banker to the County Government on such terms and conditions as to be agreed in writing.
2. The Bank may also perform the functions of fiscal agent and banker for any other public entity in accordance with, and within the scope determined by, any special arrangements made between the Bank and the public entity concerned.
3. The Bank may charge such fees as to be agreed between parties, for the functions performed under this section, as are necessary to cover the operational costs of the Bank.

88. Functions as fiscal agent

The Bank in its capacity as fiscal agent and banker to any public entity may, subject to the instructions of that public entity:-

- a. be the official depository of the public entity concerned and accept deposits and effect payments for the account of that public entity. The Bank may pay interest on such deposits.
Provided that the Bank may, appoint any bank to act in its name and for its account as the official depository of that public entity in places where the Bank has no office or branch;
- b. maintain and operate special official accounts in accordance with arrangements made between the Bank and the public entity concerned;
- c. as an agent of the National Government, administer the public debt including the issuance of, payment of a return on, and redemption of, bonds and other securities of the Government;
- d. pay, remit, collect or accept for deposit or custody funds in Kenya or abroad.
- e. purchase, sell, transfer or accept for custody cheques, bills of exchange and securities;
- f. collect the proceeds, whether principal or interest or return, resulting from the sale for, or accruing to the interest or return of, a public entity of securities or other property;
- g. purchase, sell, transfer or accept for custody gold or foreign exchange;

89. Direct advances to the National Government

1. Subject to the provisions of this section, the Bank may make direct advances to the National Government for the purpose of offsetting fluctuations between receipts from the budgeted revenue and payments of the National Government.
2. Each advance made to the Government under this section shall:
 - a. be secured with negotiable securities issued by the Government which mature not later than twelve months.
 - b. bear interest at market rate; and
 - c. be made solely for the purpose of providing temporary accommodation to the Government.

3. All advances made pursuant to this section shall be repaid
 - a. as soon as possible and shall in any event be repayable by the end of the Government financial year in which they were granted and if such advances remain unpaid at the end of the year, the power of the Bank to grant such further advances in any subsequent financial year shall not be exercisable, unless the outstanding advances have been repaid.
 - b. in such form as the Bank may determine provided that no repayment shall take the form of a promissory note or such other promise to pay at a future date or securitization by way of issuance of treasury bills, bonds, certificates or other forms of security which is required to be underwritten by the Bank.
4. The total amount outstanding at any time of advances made under this section shall not exceed five per centum of the gross recurrent revenue of the National Government as shown in the Appropriation Accounts for the latest year for which those Accounts have been audited by the Controller and Auditor-General.

Provided that this subsection shall not apply in respect of advances made by the Bank to the Government prior to the commencement of this section

5. Any advance made by the Bank to the National Government which is outstanding at the commencement of this section shall be deemed to be a loan granted by the Bank to the Government on such terms and conditions as may be determined by the Bank in consultation with the Cabinet Secretary.
Provided that advances made under subsection (1) shall be exempt from this provision.
6. Any advance deemed to be a loan under subsection (4) shall be secured with such Government securities as the Bank may specify.
7. For the purposes of subsection (3), the recurrent revenue of the National Government shall include revenue from taxes, customs, excise and other duties, fees, rents, profits and income from any investment or undertaking, but shall not include proceeds from grants, or loans or disposal of assets for purposes of privatization or any form of borrowing whether short-term or long term.
8. The Bank shall not purchase securities issued by the National Government, by any Government-owned entity, or any other public entity on the primary market.

90. Prohibition of lending to public entities

Except as provided in accordance with sections 18 and 89 the Bank shall not extend any credit directly or indirectly to any public entity.

91. Advisor to National Government and County Government

1. It shall be the duty of the Bank to advise the Cabinet Secretary on any matter which in its opinion is likely to affect the achievement of the objectives of the Bank as specified in section 6.
2. The Bank may tender advice to the Cabinet Secretary on any matter in which the Bank is concerned.
3. The Cabinet Secretary may request the Bank to give its advice on any particular measures, situations or transactions or on monetary, banking and credit conditions in or outside Kenya, and the Bank shall give its advice accordingly.
4. The Governor or any Deputy Governor or any officer of the Bank with the approval of the Governor, may upon request, act as a member of any agency, committee or commission appointed to advise or enquire into any matter affecting monetary, fiscal, financial, banking or currency matters in Kenya or outside Kenya.

92. Agent to National Government and County Government

The Bank may act for, or represent the National Government or County Government as its agent in all dealings, negotiations or transactions relating to monetary, financial, banking, currency, economic or any other matters with any government or authorities outside Kenya to which the National or County Government has adhered or given support or approval on such terms and conditions to be agreed between the Bank and the National and County Government.

PART XV – FINANCIAL AND ACCOUNTABILITY MATTERS

93. Protection from Liability

1. Neither the Bank nor any officer or employee thereof nor any other person appointed by the Bank shall be liable in respect of any act or omission unless it is proven that such act or omission was done in bad faith by the Bank, such officer, employee or other person in the execution of the duties undertaken by the Bank, officer, employee or other person.
2. The Bank shall indemnify its officers, employees or other persons for costs incurred in the defence of a legal action brought against that person in connection with the exercise or purported exercise of, or omission to exercise, any power conferred by this Act unless it is shown that the exercise or purported exercise of, or omission to exercise, the power was done in bad faith.
3. In any action before the court alleging that the Bank, or its officer, employee or any person appointed by the Bank, had exercised or omitted to exercise any power in bad faith, the action in question shall continue without restriction during the period of judicial proceeding and any further appeal or other judicial proceeding, and the court shall be authorised, in appropriate cases, to award monetary damages to injured parties, but shall not enjoin, stay, suspend or set aside the actions of the Bank.

94. Regulations on UN Resolutions

Where the Security Council of the United Nations decides, in pursuance of Article 41 of the United Nations, on measures to be employed to give effect to any of its decision and calls upon the National Government to apply such measures, the Bank may, in relation to the measures that are within the functions and duties of the Bank, make Regulations for, or issue directions in writing to any institution or class of institutions to enable those measures to be effectively applied.

95. Financial Year

The financial year of the Bank shall begin on the first calendar day of July and end on the last calendar day of June of the following year and the accounts of the Bank shall be closed at the end of each financial year.

96. Accountability

1. The Governor may, at the request of the Committee of the National Assembly or on his own initiative, periodically be heard by the National Assembly or its committees, concerning financial system issues.
2. The Bank shall, on a quarterly basis, publish reports on financial stability that provide information on developments in the current year.

97. Annual financial statements and Reports

1. The Bank shall prepare financial statements for its financial year.
2. Within three months after the close of each financial year the Bank shall submit to the National Assembly and Cabinet Secretary –
 - a. a report on the Bank's operations throughout that year, approved by the Board, on the state of the economy during the financial year that just ended, including an outlook for the economy for the coming year, emphasizing its policy objectives and the condition of the financial system. The report should also include a review and assessment of the Bank's policies followed during the financial year that just ended, and a description and explanation of the Bank's policies to be followed during the financial year of publication of such report(s); and
 - b. the balance sheet and the profit and loss account as certified by the external auditors appointed by the Board with the authority of the Cabinet Secretary.
3. The financial reports of the Bank shall be prepared in accordance with International Financial Reporting Standards.

98. Publication of reports

1. After submission to the National Assembly and the Cabinet Secretary, the Bank shall as soon as possible publish the annual report referred to in section 97 and make available the report on the Bank's website.
2. The Bank may also issue such other publications as it considers to be in the public interest.
3. The Bank shall ensure that the financial reports submitted pursuant to this section shall as soon as possible be published in the Gazette and on the Bank's website.

99. External Audit

1. The accounts of the Bank shall be audited by the Auditor General or any other auditor appointed by the Auditor General
2. Where the Auditor General appoints any other reputable auditor to audit the accounts of the Bank the following guiding principles shall apply:-
 - a. The accounts, records and financial statements of the Bank shall, at least once a year, be audited in accordance with the International Standards on Auditing.
 - b. No external auditor shall be appointed consecutively for a cumulative period exceeding **five** years, after which the audit firm shall be replaced.
 - c. The external auditor shall report to the Audit Committee on key matters arising from the audit and in particular on material weaknesses in internal controls relating to the financial reporting process.
 - d. The external auditors shall have full power to examine books and accounts of the Bank and obtain all information about its transactions.
 - e. The external auditors shall submit a copy of the financial report to the Auditor General for certification.
 - f. The report of the external auditors shall be published together with the Bank's annual financial statements referred to in section 97.

100. Chief Internal auditor

1. The Bank shall have a Chief Internal Auditor who shall be appointed by the Board, on a proposal of the Governor.
2. The Board shall define the scope, terms and conditions of the Chief Internal Audit in the Audit Charter of the Central Bank.
3. The Chief Internal Auditor shall be a person with extensive professional experience in the field of accounting or audit. The criteria provided in sections 36 and 50 shall apply to the appointment of the Chief Internal Auditor.
4. The Chief Internal Auditor shall be appointed for a term of six years, which may be renewed once.
 - (i) The Chief Internal Auditor may resign from office on giving not less than three months' notice to the Governor.
 - (ii) The Chief Internal Auditor shall be removed from office if the Board concludes that the Chief Internal Auditor is subject to the conditions referred to in sections 50 and 51 .
 - (iii) The Chief Internal auditor shall be accorded a right to be heard before being removed from office.
 - (iv) If a Chief Internal Auditor is removed from office, he shall have a right

of appeal to the High Court within thirty days after being communicated the decision in accordance with the law.

101. Duties of the Chief Internal Auditor

1. The duties of the Chief Internal Auditor, if necessary, assisted by other internal auditors, shall include:
 - (a) making recommendations to the Audit Committee and the Governor on procedures and practices for proper risk management and, once such procedures and practices have been instituted, supervising their implementation and reviewing their effectiveness on a continuing basis;
 - (b) performing periodic audits of the administration and operations of the Bank;
 - (c) reviewing the financial statements referred to in section 97 and related documents of the Bank;
 - (d) preparing and delivering to the Board, whenever deemed appropriate by the Audit Committee or the Governor but at least once every quarter, reports and recommendations regarding the financial statements and records, the budgetary and accounting procedures, the risk management and other controls implemented by the Bank, the efficiency and cost effectiveness with which the Bank operates, and any other matter within its competence and area of responsibilities;
 - (e) liaising with the external auditors of the Bank; and
 - (f) any other assignment that may be given by the Audit Committee or the Governor, provided that such assignments do not interfere with his principal duties.
2. Subject to this Act, the Chief Internal Auditor is responsible administratively to the Governor and operationally to the Board Audit Committee in the performance of his functions.

102. Budget

1. Prior to the commencement of each financial year, the Board shall approve the Bank's annual budget.
2. All revenue and income projected to be generated by the Bank or granted to the Bank from any source together with projected expenditures, including depreciation and provisions for losses, shall be included in the annual budget.
3. The Board shall adopt internal rules for the implementation of the annual budget.

PART XVI –MISCELLANEOUS

103. Bank to be a good employer

1. The Bank shall operate policies containing provisions generally accepted as necessary for the fair and proper treatment of employees in all aspects of their employment.
2. The Bank shall:
 - (a) ensure good and safe working conditions for employees;
 - (b) afford adequate and equal opportunities for appointment, promotion, training and development at all levels of service, of-
 - (i) men and women;
 - (ii) the members of all ethnic groups;
 - (iii) persons with disabilities.
3. provide for fair competition and merit as the basis of appointments and promotions;
4. provide opportunities for the enhancement of the abilities of individual employees.
5. facilitate employee participation in the formulation of administrative procedures that affect their welfare
6. provide for a process that accords a fair hearing of disciplinary proceedings.
7. Non-compliance with any of the provisions of sub-sections 2, 3 or 4 shall constitute an offence.

104. Staff

1. Members of the staff shall devote the whole of their professional services to the Bank, and shall not hold other offices or employment, whether remunerated or not, except –
 - i. as nominee of the Bank; or
 - ii. for educational, capacity building or civic endeavours,provided that these activities do not conflict with the ability of the member of staff to serve the Bank. .
2. The Bank shall apply personnel policies that are non-discriminatory with regard to race, ethnicity, regional balance gender, or religion in the employment of staff.

105. Restriction on subsequent functions

Former members of the Board or Monetary Policy Committee shall not serve in any capacity in or for a bank or other institution for a period of one year immediately following the termination of their active service for the Bank, without obtaining the prior approval of the Board.

106. Semi-permanent absence or inability to act

1. If due to exceptional circumstances all executive members of the Board are absent or unable to act, the office of the Governor shall be taken temporarily by the longest serving available non-executive member of the Board. The next two longest serving available non-executive members of the Board will temporarily take over the office of the Deputy Governors.
2. In the case described in the previous paragraph, the President may decide to appoint one or more persons to bear temporarily the responsibility for the Bank's day-to-day operations, relieving the relevant non-executive members of the Board concerned of their duties under subsection (1).
3. Replacement pursuant to the previous subsections shall last for a period no longer than six months.

107. Obligations under this Act not limited

An obligation or limitation imposed on a person by any other Act or instrument or by any trust or agreement shall not prevent or excuse that person from complying with any provision of this Act or any regulation made under it or with any direction, notice, requirement or condition given or imposed under that provision.

108. Privilege against self-incrimination no excuse

A person is not excused from answering any question, supplying any information, producing any document, or providing any explanation under this Act on the ground that to do so would or might incriminate or tend to incriminate that person.

109. General Penalty

A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or to both.

110. Administrative penalties

1. The Bank may impose administrative penalties against any legal or natural person operating in breach of this Act or any other relevant Act or Regulations, guidelines or directions issued or made pursuant to this Act or that other Act.
2. Administrative penalties include monetary penalties and other administrative measures, such as but not limited to written warnings or orders, suspension and dismissal of officers or employees of institutions, revocation of licenses and other measures, as specified in this Act, or in any other relevant Act, or

Regulations, guidelines or directions issued or made pursuant to this Act or that other Act.

3. The Bank may impose monetary penalty not exceeding ten million shillings for violation of any of the provisions of this Act or such other lesser or higher amount as may be provided for in any other written law for violation of such written law.

Provided that the amount of monetary penalty to be imposed by the Bank shall be determined by the nature and severity of the violation and such other factors as are outlined in subsection (6) of this section. Monetary penalty to be imposed by the Bank shall be commensurate to the severity of the violation.

4. The Bank shall, before imposing administrative penalties, provide a detailed statement to the person against whom the penalty is to be imposed describing the facts and the legal provisions supporting the existence of a violation, and shall give such person a full opportunity to contest the imposition of the penalty.
5. The Bank shall issue a regulation setting forth the procedures it will use in connection with its imposition of administrative penalties.
6. In determining whether to impose administrative penalties, and in determining the size of such penalties including monetary penalty, the Bank shall take into consideration, amongst others, the severity of the violation; whether it was recurring; whether depositors or other persons were injured thereby; whether the person against whom the penalty is to be imposed profited from the conduct at issue; the financial resources of such person; any mitigating factors; and such other factors as, in its discretion, it believes to be relevant.

111. Regulations, Guidelines and directions by the Bank

1. The Bank may make regulations, issue guidelines or directions for the purpose of giving effect to the provisions of this Act and generally for the better carrying out of the objectives or functions of the Bank under this Act.
2. Without prejudice to the generality of subsection (1), Regulations, Guidelines or directions may be made—
 - a. to provide that any act or omission in contravention of any provision of the regulations shall be an offence;
 - b. to provide for the licensing and regulation of authorized dealers;
 - c. to provide for currency features, denomination, withdrawal, destruction and other related matters.
 - d. to prohibit the issue of any bill of exchange, promissory note or similar instrument
 - e. for the operation and maintenance of accounts held by the Bank
 - f. to provide for such other matter as the Bank may deem necessary for purposes of the Act.

3. Without prejudice to the generality of subsection (1) and the Bank may, in regulations, guidelines or directions, prescribe penalties to be paid to the Bank by any person who fails, refuses or neglects to comply with any provision of the Regulations, guidelines or directions made pursuant to this Act and such person shall be liable to a monetary penalty not exceeding ten million shillings and the Bank may prescribe additional penalties not exceeding two hundred thousand shillings, in the case of a corporate entity, or ten thousand shillings in the case of a natural person in each case for each day or part thereof during which such failure, refusal or neglect continues.

Provided that in determining the amount of monetary penalty payable for violation of a provision in the Regulations, guidelines or directions in any particular case, the Bank shall take into account the nature and severity of the violation and such other factors as are outlined in section 110(6). Monetary penalties to be imposed by the Bank shall be commensurate to the severity of the violation of the Regulations, guidelines or directions.

4. The Regulations, Guidelines or directions made or issued under this Act may provide for such non-monetary administrative sanctions or penalties as the Bank may prescribe.

112. Power to Issue Policies, Guidelines, Rules, Directions, Orders

The Bank may, for the purpose of carrying out its functions issue policies, guidelines, circulars, rules, orders or directions to—

- a. give effect to its objectives and carry out its functions or conduct its business or affairs under this Act;
- b. provide for the Bank's appointment, conditions of service, code of conduct, training, promotion, disciplinary proceedings and other staff related matters; or
- c. provide for any matter which the Bank may consider necessary to be provided for in Policies, Guidelines, Rules, Directions, Circulars or Orders

113. Conflict of interest and fiduciary duty

1. Members of the Board, monetary policy committee, audit committee and staff have a fiduciary duty to the Bank to place its interests before their own interest.
2. Members of the Board, monetary policy committee, audit committee and staff shall avoid any situation likely to give rise to a conflict of interest. A conflict of interest may arise where members of the Board, monetary policy committee, audit committee or staff have private or personal interests which may influence or appear to influence the impartial and objective performance of their duties.
3. Private or personal interests of members of the Board, monetary policy

committee, audit committee or staff mean any potential advantage for themselves, their families, their other relatives up to the second degree, or their circle of friends and acquaintances.

4. No member of the Board, monetary policy committee, audit committee or of the staff shall receive or accept from any source any benefits, rewards, remuneration, or gifts in excess of a customary or negligible amount, whether financial or non-financial, which benefits, rewards, remuneration or gifts are connected in any way whatsoever to their activities within the Bank.
5. Members of the Board, monetary policy committee, audit committee and of the staff shall not use confidential information to which they have access for the purpose of carrying out private financial transactions, whether directly or indirectly via third parties, or whether conducted at their own risk and for their own account, or at the risk and for the account of a third party.
6. Members of the Board shall before the last calendar day of January of each year disclose in full to the Board significant financial interests which he or any person with whom he has family, business, or financial connections may directly or indirectly possess. Such disclosures shall comply with any internal rules adopted by the Board regarding such matters.
7. Members of the monetary policy committee shall before the last calendar day of January of each year disclose in full to the committee significant financial interests which he or any person with whom he has family, business, or financial connections may directly or indirectly possess and such disclosures shall comply with any internal rules adopted by the committee regarding such matters.
8. Members of the audit committee shall before the last calendar day of January of each year disclose in full to the committee significant financial interests which he or any person with whom he has family, business, or financial connections may directly or indirectly possess. Such disclosures shall comply with any internal rules adopted by the committee regarding such matters.

114. Fees and charges

The Bank may charge reasonable fees and charges for the services it provides and the functions it carries out. The Bank shall publish these fees and charges in the Gazette and such fees and charges shall not be subject to the provisions of any other Act.

115. Act to prevail in the event of conflict

1. Where there is a conflict between the provisions of this Act and the provisions of any other written law, except as may otherwise be provided for under the Constitution, the provisions of this Act shall prevail.
2. The Bank shall not be subject to any legislative provision that could hamper the attainment of its objectives and the exercise of its functions.
3. The provisions of this Act and any other Act under the ambit of the Bank shall not be revoked, annulled, amended or superseded, in whole or in part, by any other law, unless the subsequent legislation specifically amends this Act or such other Act and any such change is made with the prior consultation of the Bank.

116. Inter-institutional cooperation

1. In the pursuit of its objectives and the exercise of its functions, the Bank may cooperate with domestic or foreign regulatory, supervisory, or monetary authorities, or with public international financial institutions, with a view to information sharing, coordination of activities, or any other cooperation arrangement as it may deem necessary.
2. Provided that any information provided under subsection (1) by the Bank shall be subject to adequate safeguards relating to the protection of the confidentiality of the information by the recipient authority, as may be elaborated in Regulations or agreements.

117. Preferential right

1. The Bank shall have a first priority unconditional preferential right to satisfy each of its claims arising from the execution of its functions from any cash balances, securities and other assets that it holds for the account of the debtor concerned, whether as collateral to secure its claims or otherwise, at the time that such claim becomes due and payable.
2. The Bank may exercise its preferential right only by appropriating cash balances by way of compensation and by selling securities and other assets without undue delay in a commercially reasonable manner and paying itself from the proceeds of the sale after deducting the costs associated with the sale.
3. No court action or action from any public entity shall be required for the Bank to exercise its preferential right, and no competing claim shall be permitted to delay the exercise by the Bank of its preferential right in accordance with this section.

118. Immunity from prejudgment attachment

No attachment or execution shall be issued against the Bank or its property, including gold, special drawing rights, currency, credits, deposits or securities, and any proceeds thereof, before the issuance of a final judgment in any legal action brought before the courts of Kenya.

119. False statements

Any person who provides any statement to the Bank which is false or misleading in a material particular, knowing it to be false or misleading, or omits to state any matter or thing without which a statement is misleading in a material respect, shall commit an offence.

120. Repeal of Act

The Central Bank of Kenya Act, Cap 491 is repealed.

121. Commencement date

This Act shall come into force upon publication in the Gazette.

122. Consequential amendments to other Acts

The Acts specified in the First Schedule are amended in the manner specified in that Schedule.

123. Savings and Transitional Provisions

The savings and transitional provisions specified in the Second Schedule have effect.

FIRST SCHEDULE

1. The Penal Code

Section 367A of the Penal Code is amended –

- a. by deleting the word ‘three’ appearing within this section and replacing it with the word ‘six’.
- b. by deleting the word ‘two’ appearing within this section and replacing it with the words ‘one hundred’.
- c. Section 369 of the Penal Code is amended –
- d. by deleting the words ‘six months’ appearing within this section and replacing them with the words ‘two years’.

- e. by deleting the word ‘eight’ appearing within this section and replacing it with the word ‘fifty’.
- f. by deleting the word ‘misdemeanour’ and replace it with the word ‘felony’

SECOND SCHEDULE

Savings and Transitional Clauses

Notwithstanding the repeal of the Central Bank of Kenya Act under section 120

1. the body corporate established under the repealed Act under the name “Central Bank of Kenya” shall continue to be in existence under and subject to the provisions of this Act.
2. the capital of the Bank under the repealed Act shall continue to remain as capital of the Bank under this Act;
3. Within twelve months from the date of commencement of this Act, the Bank in consultation with the National Treasury shall increase the paid up capital of the Bank to Kenya Shillings twenty billion.
4. the person holding office under the repealed Act immediately before the coming into operation of this Act as—
 - a. Non-executive member of the Board
 - b. Governor;
 - c. Deputy Governor;
 - d. Officer or employee of the Bank; or
 - e. non-executive members of the Monetary Policy Committee,shall be deemed to have been appointed under this Act and shall continue to hold such office for the unexpired period of the term of office of such person under the repealed Act at the time of the repeal of that Act under section 120;
5. the Head Office and any branches and currency centers opened, or any agent, correspondent or attorney appointed under the repealed Act shall be deemed to be opened and appointed under or in accordance with this Act;
6. currency notes and coins issued under the repealed Act and which are legal tender immediately before the coming into operation of this Act shall continue to be legal tender in Kenya at their face value as provided in this Act;
7. any existing use of or reference to the Kenya pound in a contract effected in accordance with the provisions of the repealed Act shall only continue in force for the duration of that contract;

8. every contract, sale, payment, bill, note, instrument and security for money and every transaction, dealing, matter and thing relating to money or involving the payment of, or the liability to pay, any money which but for this paragraph would have been made, executed, entered into, done and had for in, and in relation to currency notes and coins issued under the repealed Act shall be deemed to be validly made, executed, entered into, done and had for in and in relation to currency notes and coins issued under this Act;
9. Regulations, guidelines, policies, rules, circulars and any approval, direction, decision, exemption, , recommendation, specification or any other subsidiary legislation or any act or thing done under the repealed Act and in force or having effect immediately before the coming into operation of this Act, shall be deemed to have been made or done under the provisions of this Act, and shall continue to remain in full force and effect in relation to the person to whom it applied until amended or replaced;
10. any securities issued or held by the Bank under the repealed Act and any right or liability relating to the securities shall continue under the repealed Act until the obligation is discharged;
11. any securities or shares acquired or held by the Bank under the repealed Act shall be deemed to have been lawfully and validly subscribed, acquired or held by the Bank under or in accordance with this Act;
12. all transactions, dealings, contracts, powers of attorney or arrangements lawfully executed or entered into and all business lawfully done, under or in accordance with the repealed Act with any other person shall be deemed to have been lawfully and validly executed, entered into or done, under or in accordance with this Act, and accordingly, any right or liability under such transaction, dealing or business existing immediately before the coming into effect or operation of this Act, shall be deemed to continue to be lawful and valid under this Act;
13. nothing shall affect any person's liability to be prosecuted or punished for offences committed under the repealed Act immediately before the coming into effect or operation of this Act;
14. any pending legal proceedings, criminal prosecution, investigation or disciplinary proceedings under the repealed Act shall be continued in accordance with the repealed Act;
15. any body corporate or systems established or operated by the Bank under the repealed Act shall be deemed to have been established or operated under or in accordance with this Act;

16. any trust deed or deed issued or executed under the repealed Act shall be deemed to have been lawfully and validly issued or executed under or in accordance with this Act;
17. any reserves held by any institution at the Bank under the repealed Act, as the case may be, shall be deemed to be held under or in accordance with this Act;
18. any loan or advance provided by the Bank under the repealed Act shall continue to remain in force under the repealed Act until the loan is settled;
19. the General Reserve Fund established under the repealed Act, shall be deemed to have been established under or in accordance with this Act and any moneys standing in or due to be paid to the Fund shall be transferred to and be deemed to be part of the General Reserve Fund established under this Act;
20. any movable, immovable property and asset purchased, acquired, leased or held by the Bank under the repealed Act shall be deemed to have been purchased, acquired, leased or held under or in accordance with this Act;
21. any reference to the repealed Act in any written law shall be construed as a reference to this Act and any reference to any specific provision of the repealed Act in any written law shall be construed as a reference to a provision of this Act which corresponds as nearly as may be to such specific provision;
22. any membership of the Bank in any organization or to any committee or commission appointed by the Government or participation in any bilateral, regional or international co-operation or scheme under the repealed Act, as the case may be, shall continue to be in force under this Act for the unexpired period of the membership or participation;
23. any act required to be done under the repealed Act shall be deemed to be required to be done under or in accordance with this Act; and
24. any other right, benefit, privilege, obligation or liability acquired, accrued or incurred under the repealed Act, including any obligation to preserve secrecy, shall not be affected by this Act and shall continue to remain in force as if this Act had not been enacted.
25. Without prejudice to the foregoing, any action lawfully taken under the repealed Act shall be deemed to have been carried out under this Act.

THIRD SCHEDULE

Oath/ Affirmation of the Office of Chairperson, Governor, Deputy Governor, non-executive Directors and Monetary Policy Committee members

I having been appointed (the Chairperson/Governor/Deputy Governor/non-executive Director/ Monetary Policy Committee member of) the Central Bank of Kenya of Central Bank of Kenya Act, 2014, do solemnly (swear/ declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic; that I will faithfully and fully, impartially and to the best of my ability, discharge the trust and perform the functions and exercise the powers devolving upon me by virtue of this appointment without fear, favour, bias, affection, ill-will or prejudice. (SO HELP ME GOD).

Sworn/Declared by the said

Before me this Day of

.....

Chief Justice

DRAFT