

LAWS OF KENYA

The Central Bank of Kenya Act

CHAPTER 491

Note

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THE CENTRAL BANK OF KENYA ACT

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An Act of Parliament to establish the Central Bank of Kenya and to provide for the operation thereof; to establish the currency of Kenya and for matters connected therewith and related thereto.

PART I - PRELIMINARY

Short title

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

- Interpretation 2. In this Act, except where the context otherwise requires –
- “**authorized bank**” means a specified bank licensed by the Bank under section 33B;
- “**authorized bureau**” means a foreign exchange bureau licensed by the Bank under section 33B;
- No.41 of 2013 “**authorised dealer**” means an authorized bank, authorized bureau, authorized mortgaged finance company, an authorised money remittance provider or an authorised microfinance bank licensed by the Bank under section 33B;
- No.41 of 2013 “**authorized microfinance bank**” means an institution licensed by the Bank under section 33B
- No. 57 of 2012 “**authorised money remittance provider**” means a money remittance operator licensed by the Bank under section 33B to carry out the business of money remittance;
- No. 57 of 2012 “**authorized mortgage finance Company**” means a mortgage finance company licensed by the Bank under section 33B;
- “**Bank**” means the Central Bank of Kenya (or The Banki Kuu ya Kenya) established by section 3;
- “**bank**” means a body corporate or other body of persons, carrying on, whether on their own behalf or as agent for another, banking business within the meaning of the Banking Act, whether in Kenya or elsewhere;
- “**Board**” means the Board of Directors of the Bank appointed under Part IV;
- “**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;
- “**currency**” means the currency of Kenya or foreign currency;
- “**currency of Kenya**” means bank notes and coins issued by the Bank under section 22(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;
- “**financial institution**” means a body corporate or other body of persons, carrying on, whether on their own behalf or as agent for another, financial business within the meaning of the Banking Act, whether in Kenya or elsewhere;
- “**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**”:-

- No.41 of 2013 (a) in relation to a specified 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;
- No.41 of 2013 (b) in relation to an authorized 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;
- No.41 of 2013 (c) in relation to an authorized money remittance operator, 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.
- No.41 of 2013 (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;
- No.41 of 2013 (e) in relation to a specified 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;
- No.41 of 2013 (f) in relation to any other person or body of persons granted a permit by the Bank under Section 63(3), means engagement in such limited foreign transactions as the Bank may permit;
- No.41 of 2013 “**microfinance bank**” means an institution licensed under the Microfinance Act, 2006
- No.57 of 2012 “**money remittance operator**” means a company incorporated in Kenya whose main object consists of the acceptance of monies for the purpose of transmitting them to persons resident in Kenya or another country as prescribed by the Bank by regulations;
- No.9 of 1989 “**non-resident**” means a person or body of persons other than a resident;
- No.41 of 2013 “**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 or financial institution or a

microfinance bank 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.

“**public entity**” means the Government, a local authority, or any public body specified by the Minister, 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 continuous 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 of Kenya 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 organisation established in or outside Kenya by international treaty or any of its accredited officials.

Cap 488

“**specified bank**” means a licensed bank within the meaning of the Banking Act which is specified by the Bank for the purposes of this Act;

“**specified financial institution**” means a financial institution specified by the Bank for the purposes of this Act.

No.41 of 2013

“ **specified microfinance bank**” means a licensed microfinance bank within the meaning of the Microfinance Act, 2006 which is specified by the Bank for the purposes of this Act;

PART II – ESTABLISHMENT, CONSTITUTION AND OBJECTS

Establishment
of Bank and
legal status

3. (1) There is hereby established a bank which shall be known as the Central Bank of Kenya and which shall also be known by the alternative corporate name of the Banki Kuu ya Kenya.

- No. 10 of 1995
- (2) The Bank shall be body corporate with perpetual succession and a common seal, with power to acquire, own, possess and dispose of property, to contract, and to sue and to be sued in its own name.
- (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 provisions of this Act, for the good order and proper management of the Bank.
- Cap. 486
Cap 488
- (5) The Bank shall not be subject to the Companies Act or the Banking Act.
- Principal object of Bank
No. 9 of 1996
s.2
4. (1) The principal object of the Bank shall be to formulate and implement monetary policy directed to achieving and maintaining stability in the general level of prices.
- (2) The Bank shall foster the liquidity, solvency and proper functioning of a stable market-based financial system.
- No. 9 of 2007
- (3) Subject to subsections (1) and (2), the Bank shall support the economic policy of the Government, including its objectives for growth and employment.
- (4) The Minister may by notice in writing to the Bank, specify for purposes of this sections –
- (a) the price stability targets of the government, and
- (b) the economic policy to be taken by the Government
- (5) The Minister shall specify at least in 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.
- (6) Where the Minister gives notice under this section, the Minister shall:
- (a) publish the notice in such a manner as the Minister considers fit; and
- (b) lay a copy of the notice before the appropriate committee of the National Assembly.
- Other objects of the Bank
No.9 of 1996
s.2
- 4A. (1) Without prejudice to the generality of section 4 the Bank shall:-
- (a) formulate and implement foreign exchange policy;
- (b) hold and manage its foreign exchange reserves;

- (c) license and supervise authorised dealers;
- (d) formulate and implement such policies as best promote the establishment, regulation and supervision of efficient and effective payment, clearing and settlement systems;
- (e) act as banker and adviser to, and as fiscal agent of the Government; and
- (f) issue currency notes and coins

No.15 of 2003
s.52

In subsection (1) (d).

“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;

“payment system” means a system of instruments, procedures and rules for the transfer of funds among system participants;

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

Monetary
policy
statements.

No. 9 of 1996 s.2

No. 9 of 1996 s.2

- 4B.** (1) The Bank shall at intervals of not more than six months, submit to the Minister 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 Minister 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 Parliament after the statement is so submitted.
- (3) 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
 - (b) disseminate key financial data and information on monetary policy to the public

Consultations
on

- 4C** (1) There shall be regular consultations on monetary policy between the Minister

- monetary policy and the Bank.
- (2) Where in exceptional circumstances and after consultation with the Bank, the Minister is of the opinion that the monetary policy adopted by the Bank is inconsistent with the principal object of the Bank, the Minister may, upon resolution by Cabinet, direct the Bank in writing to adopt such monetary policy as the Minister may specify for a period of six months or for such shorter period as the Minister may specify, and the Bank shall, upon receipt of a directive under this section, adopt and implement the monetary policy so directed notwithstanding any other provision of this Act.
- (3) The Minister shall cause every directive issued under sub-section (2) to be published in the Gazette
- Monetary Policy Committee No. 9 of 2007
- 4D** (1) There shall be a committee of the Bank, to be known as the Monetary Policy Committee of the Central Bank of Kenya, 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 the chairman
- (b) the Deputy Governor, who shall be the deputy chairman
- No. 9 of 2007
- (c) two members appointed by the Governor from among the staff
- No. 9 of 2007
- (d) four other members who have knowledge, experience and expertise in matters relating to finance, banking and fiscal and monetary policy, appointed by the Minister
- No. 8 of 2008
- (e) the Permanent Secretary to the Treasury, or his representative, who shall be non-voting member
- No. 9 of 2007
- (2A) Of the two members appointed under subsection (2) (c).
- (a) one shall be a person with executive responsibility within the Bank for monetary policy analyses; and
- (b) one shall be a person with responsibility within the Bank for monetary policy operations.
- No. 8 of 2004
- (3) At least two of the members appointed under subsection (2)(d) shall be women
- No. 8 of 2004
- (4) Each member appointed under subsection (2)(d) shall hold office for a term of three years and shall be eligible to be appointed for one additional term.
- No. 8 of 2004
- (5) The Chairman of the Committee shall convene a meeting of the Committee at least once every two months and shall convene an additional meeting if requested by at least four members in writing.

- No. 8 of 2004 (6) At least once every six months the Committee shall submit a report to the Minister with respect to its activities and the Minister shall lay a copy of each report before the National Assembly.
- No. 8 of 2004 (7) The quorum of the Committee shall be five members, one of who must be the chairman or vice chairman.
- No. 8 of 2004 (8) The Bank shall provide staff to assist the Committee.
- Head office and branches 5. (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.
- (2) The Bank may establish or close branches in any place within Kenya and may, with the prior approval of the Minister, open or close branches outside Kenya.
- Agents 6. The Bank may with the prior approval of the Minister, appoint, on such terms as it considers appropriate or cancel the appointment of, agents, both within and outside Kenya.
- Exemption from tax 7. (1) The Bank shall not be liable to any taxation imposed by any law in respect to 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 cases where, but for this exemption, the Bank would be liable to pay such duty.
- (3) The Minister may, whether for the purpose of removing any doubt as to the extent of the foregoing provisions of this section or for the purpose of extending the immunities of the Bank, by order published in the Gazette specify any tax, duty, fee, rate, levy, cess or other impost as one to which the Bank shall not be liable, and the law relating thereto shall have effect accordingly.

PART III- CAPITAL AND RESERVES

- Authorised Capital of Bank 8. (1) The authorized capital of the Bank shall be five billion shillings which may be increased by such amount as shall be determined by the Board in consultation with the Minister.
- No. 9 of 1996 s.3 (2) The ownership of the entire paid up capital of the Bank shall be vested in the Permanent Secretary to the Treasury
- (3) The Bank may, having regard to the amount by which the value of the assets of the Bank exceeds its liabilities, increase its paid up capital by such amount,

payable out of the General Reserve Fund, as the Board shall direct.

(4) The paid up capital of the Bank shall not be reduced.

General
Reserve Fund

No. 9 of 1996
s.4

9. (1) The Bank shall establish and maintain a fund designated as the General Reserve Fund, to which shall be transferred at the end of each financial year at least ten per centum or any other amount as the Board, in consultation with the Minister, may determine, of the net annual profits of the Bank after allowing for the expenses of operation and after provision has been made for bad and doubtful debts, depreciation in assets, contributions to staff benefit funds, and such other contingencies and accounting provisions as the Bank deems appropriate.
- (2) Subject to subsection (1) and section 51, the net annual profits of the Bank, calculated in accordance with this section, shall be paid into the Consolidated Fund.
- (3) The amount of any net losses of the Bank in any financial year which is in excess of the sums standing to the credit of the general reserve fund of the Bank shall be charged upon and paid out of the Consolidated Fund without further appropriation than this Act.

PART IV – MANAGEMENT

Board of Directors
No. 9 of 2007

10. There shall be a Board of Directors of the Bank, constituted as provided in section 11 which shall, subject to the provisions of this Act, be responsible for –
- (a) determining the policy of the Bank, other than the formulation of monetary policy;
- (b) determining the objectives of the Bank, including oversight for its financial management and strategy;
- (c) keeping under constant review the performance of the Bank in carrying out its functions;
- (d) keeping under constant review the performance of the Governor in discharging the responsibility of that office;
- (e) keeping under constant review the performance of the Governor in ensuring that the Bank achieves its Objectives;
- (f) determining whether the policy statements made pursuant to section 4B are consistent with the Bank's primary function and policy objectives under section 4; and
- (g) keeping under constant review the use of Bank's resources.

Constitution of
Board

11. (1) The Board shall consist of

- No.4 of 2012
No. 9 of 1996
No. 36 of 2012
- (a) a Chairperson;
- (b) a Governor;
- No. 10 of 2006
- (c) the Permanent Secretary to the Treasury or his representative who shall be a non-voting member;
- No. 36 of 2012
- (d) eight other non-executive directors.
- No.4 of 2012
No. 36 of 2012
- (2) The chairperson and directors appointed under paragraph (d) of subsection (1) shall be appointed by the President with the approval of Parliament and shall hold office for a period of four years but shall be eligible for re-appointment for one further term of four years.
- No. 36 of 2012
- (2A) The chairperson shall be appointed by the President through a transparent and competitive process and with the approval of Parliament, and shall hold office for a term of four years but shall be eligible for reappointment for one further term.
- (3) The members of the Board shall be appointed at different times so that the respective expiry dates of the members' terms of office shall fall at different times.
- (4) A member of the Board may resign his office by writing under his hand addressed to the President which resignation shall take effect one month from the date of receipt of the letter of resignation by the President.
- No. 4 of 2012
- (5) If the Chairperson, the Governor or a 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.
- No. 9 of 1996
No. 4 of 2012
- (6) Where the Chairperson, the Governor or a director is unable to perform the function of his office due to any temporary incapacity which is likely to be prolonged, the President may appoint a substitute for that member of the Board to act with the full powers of the member until such time as the President determines that his incapacity has ceased.
- (7) A person shall be eligible to be appointed a Director if he –
- (a) is a citizen of Kenya; and
- (b) is knowledgeable or experienced in monetary, financial, banking and economic matters or other disciplines relevant to the functions of the Bank.
- Meetings of Board
No.4 of 2012
No. 9 of 1996 s.6
- 12** (1) The Chairperson shall convene meetings of the Board not less than once in every two months, or whenever the business of the Bank so requires, or whenever he is so requested in writing by at least three directors.
- No. 4 of 2012
- (1A) The Chairperson shall preside at all meetings of the Board
- No.4 of 2012
- (1B) In the absence of the Chairperson at a meeting, the members present shall elect one of the members appointed under paragraph (d) of section 11(1) to preside at

that meeting of the Board.

- No. 36 of 2012 (1C) The directors appointed under section 11(1)(d) shall elect one from amongst their number to preside at the meetings of the Board until a chairperson is appointed.
- No. 4 of 2012 (2) A quorum for any meeting of the Board shall be the Chairperson, the Governor and three directors.
- No. 4 of 2012 (3) 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.
- (4) 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 or disqualification of any member which is discovered subsequent to those proceedings.
- No. 9 of 1996 (5) A Director who is interested in any matter involving the Bank, or in the exercise or proposed exercise by the Bank of a power, shall declare that interest at 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 director 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 Director has interest is considered.
- No. 9 of 1996. S.6 (6) (Repealed)
- Delegation by the Board
No. 9 of 1996 s.7 **12A.** The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member thereof, or to any officer, employee or agent of the Bank 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.
- Governor
No. 4 of 2012
No. 36 of 2012 **13.** (1) There shall be a Governor who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.
- No. 4 of 2012
No. 36 of 2012 (2) The Governor shall hold office for a term of four years, but shall be eligible for re-appointment for one further term of four years.
- No. 36 of 2012 (3) The Governor shall be the chief executive officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank, including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board, the Governor shall have authority to incur expenditure for the Bank within the administrative budget approved by the Board.
- (4) 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, 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.
- No. 36 of 2012 (5) The Governor may delegate any of his powers provided for in this section to other officers of the Bank.
- (6) The Governor may delegate any of his powers provided for in this section to other officers of the Bank.
- Common seal and power of attorney **13A** (1) The affixing of the common seal of the Bank, shall be authorized by the signature of the Governor 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.
- Deputy Governors No. 4 of 2012 **13B** (1) There shall be two Deputy Governors who shall be appointed by the President through a transparent and competitive process and with the approval of Parliament.
- No.4 of 2012 (2) The Deputy Governors shall hold office for a term of four years, but shall be eligible for re-appointment for one further term of four years.
- No.4 of 2012 (3) The Deputy Governors shall perform such functions as the Governor may from time to time assign to them.
- No.4 of 2012 (4) 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 absent from office.
- No.4 of 2012 (5) A Deputy Governor appointed under subsection (4) shall, during the period of appointment, exercise all the powers and perform all the functions conferred on the Governor under this Act under any other law.
- Qualifications for Governor and Deputy Governor No. 36 of 2012 **13C** (1) The Governor and Deputy Governors shall be fit and proper persons of recognized professional standing and over ten years' experience at senior management level in the field of economics, banking, finance, law or other fields relevant to the functions of the Central Bank.
- (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 Governor, including the person's general probity, competence and soundness of judgment for the fulfilment of the responsibilities of office and the diligence with which the person is likely to fulfil those responsibilities.

General
disqualifications for all
Board Members
No. 9 of 1996 s.8
No. 36 of 2012
Cap.265

14 (1) No person shall be appointed as Chairperson, Governor, Deputy Governor or a director who is:-

- (a) a member of the National Assembly or a member of a local authority established under the Local Government Act;
- (b) a salaried employee of any public entity (except on a secondment basis);
- (c) a director, officer, employee, partner in or shareholder of any specified bank or specified financial institution:

Provided that:-

- a. paragraph (b) shall not apply in the case of the representative of the Treasury; and
- b. the President may in exceptional cases waive any of the above provisions with respect to any director (other than the Governor or Deputy Governor) if it is in the interests of the Bank and likely to promote the objects of the Bank under section 4.

(2) The President shall terminate the appointment of a Chairperson, Governor, Deputy Governor or a director who:-

No. 9 of 1996 s.8
No. 36 of 2012

- (a) becomes subject to any of the disqualifications described in subsection (1);
- (b) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
- (c) is convicted of an offence involving dishonesty or fraud or moral turpitude;
- (d) is adjudged or otherwise declared to be of unsound mind;
- (e) is absent, without the leave of the Board from three consecutive meetings of the Board;
- (f) becomes, for any reason, incapable or incompetent of properly performing the functions of his office:

Provided that the appointment of the Governor, shall not be terminated under this paragraph until the question of his removal from office has been referred to a tribunal appointed under subsection (3) and the tribunal has recommended to the President that the Governor ought to be removed for incapability or incompetence as aforesaid.

(3) If the President considers that the question of terminating the appointment of the Governor under subsection (2)(f) ought to be investigated, then –

No. 9 of 1996 s.8

- (a) the President shall appoint a tribunal which shall consist of a chairman and two other members selected by the President from among persons –

(i) who hold or have held office as judges of the High Court or the Court of Appeal; or

(ii) who are qualified to be appointed as judges of the High Court under section 61(3) of the Constitution.

(b) the tribunal shall inquire into the matter and report on the facts to the President and recommend to him whether the Governor ought to be removed.

(4) Where the question of removing the Governor has been referred to the tribunal under this section, the President may suspend the Governor from the exercise of the functions of his office and any such suspension may at anytime be revoked by the President, and shall in any case cease to have effect if the tribunal recommends to the President that the Governor should not be removed.

No. 9 of 1996

Special
disqualifications
for Governor and
Deputy Governor

15 (1) The Governor and the Deputy Governor shall owe this 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 Deputy Governor from accepting or holding any academic office or position in an institution of higher learning or any advisory position or membership in any committee or commission with public responsibility, or from serving in any international financial institution of which Kenya is a member with which Kenya is associated, or any specialized financial institution established by the Government.

i. If the Governor or the Deputy Governor engages in any paid employment or business or professional activity outside the duties of his office contrary to subsection (1), the President shall terminate his appointment.

No. 9 of 1996 s.9

Provided that in the case of the Governor, the provisions of section 14 shall apply.

ii. The President may specifically exempt any transactions or activities from the restrictions of this section.

Remuneration

16. (1) The Governor, the Deputy Governor, and any substitute appointed under section 11(6) shall be paid by the Bank such salaries and allowances as may be determined from time to time by the President, but those salaries and allowances shall not be altered to the detriment of any person during his term of office.

Preservation of
Secrecy

(2) The directors and any substitute appointed under section 11 (6) shall be paid by the Bank such allowances as may from time to time be determined by the President.

17. (1) Except for the purpose of the performance of his duties or the exercise of his

powers, the Governor, the Deputy Governor, any director or any other officer or employee of the Bank shall not disclose any information which he has acquired in the performance of his duties or the exercise of his powers.

Declaration of interest

- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding one year, or to both, in addition to any disciplinary action which may be taken by the Board.

18. The Governor, the Deputy Governor and any director shall declare his interest in any specified proposal being considered or to be considered by the Board.

PART V – CURRENCY

Currency of Kenya

19. (1). The unit of currency of Kenya shall be the Kenya shilling, which shall be divided into one hundred cents.

- (2) Twenty shillings equal one Kenya pound.

External value of Kenya shilling
No.9 of 1996 s.10

20. The external value of the Kenya shilling shall be determined by the market.

Use of Kenya shilling

21. 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.

Issue of notes and coins, legal tender and withdrawal

22. (1) The Bank shall have the sole right to issue notes and coins in Kenya and, subject to subsection (3), only those notes and coins shall be legal tender in Kenya:

Provided that the coins of a denomination of fifty cents shall be legal tender only for payments up to twenty shillings, and coins of a denomination of less than fifty cents shall be legal tender only for payments up to five shillings.

No. 9 of 1996 s.11

- (2) The denominations, inscriptions, forms, material and other characteristics of the notes and coins issued by the Bank shall be determined by the Bank in consultation with the Minister, and shall be notified in the Gazette and in other media of public information likely to bring them to the attention of the public.

- (3) The Bank shall have power to withdraw any 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 notes or coins that are to be withdrawn, the places where those notes or coins may be taken for exchange, and the date on which those 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 notes or coins to which the notice applies shall only be exchanged at the head office of the Bank;
- (c) the 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) 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 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.

23. (Spent)

24. The Bank shall not be obliged to exchange any 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 note or coin shall be within the absolute discretion of the Bank.

Exchange of
mutilated notes
and coins

25. (1) The Bank in consultation with the Minister 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.

Bills of exchange,
promissory notes
etc.
No. 9 of 1996
S.12

(2) Subject to any regulations made under this section the issue of any bill, note or instrument referred to in subsection (1) shall not be deemed to contravene the sole right of the Bank to issue notes in Kenya.

PART VI – EXTERNAL RELATIONS

26. (1) The Bank shall at all times use its best endeavours to maintain a reserve of external assets at an aggregate amount of not less than the value of four months' imports as recorded and averaged for the last three preceding years; and subject to subsection (3) the reserve shall consist of any or all of the following:-

Reserve of
external
assets

- (a) gold;
- (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) notes or coins

(c) convertible and marketable securities of, or guarantee by, foreign governments or international financial institutions.

Provided that if, at any time, the Bank is unable to maintain the reserve of external assets required under this subsection, it shall provide the Minister with a time-bound remedial plan.

No. 8 of 2009

(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).

(3) The Bank may include in its reserve of external assets any liquid external asset not included in subsection (1), or any readily available international drawing facility, which the Bank, after consultation with the International Monetary Fund and with the approval of the Minister, considers suitable for inclusion in the reserve.

27. (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:

Dealings in gold and foreign exchange

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 Bank's agents or correspondents abroad and may invest those balances in marketable foreign securities denominated in convertible currencies.

No. 10 of 2006

28. The Bank may engage in foreign exchange transactions only with-

Institutions with which Bank may deal in foreign exchange

- (a) authorised 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.

No. 9 of 1995
s.4

29. 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 institutions.

Relations with foreign central banks, foreign banks and foreign financial

institutions

No. 10 of 1995 s.5 **30.** (Repealed)

No. 8 of 2008 **31.** (Repealed)

Fiscal agent for Government's transactions with international financial institutions **32.** The Bank shall be 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.

Depository **33.** The Bank shall act as depository of Kenya currency holdings owned by international financial institutions of which Kenya is a member or with which Kenya is associated.

PART VIA – REGULATIONS OF FOREIGN EXCHANGE DEALINGS

No. 10 of 1995 s.12 Authorised dealer **33A** (1) Subject to sub-section (3), no person shall, in Kenya transact foreign exchange business except an authorized dealer

Licensing of authorised dealer (2) A person who contravenes the provisions of sub-section (1) commits an offence and shall, on conviction be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for term not exceeding three years, or to both.

(3) Notwithstanding the provisions of subsection (1), the Bank may permit such person or class of persons as it may specify, to transact foreign exchange business without a licence, subject to such conditions as it may impose.

Renewal of Licence **33B** (1). A person proposing to transact foreign exchange business shall, before commencing such business, apply to the Bank for a licence.

No. 4 of 2012 (2) An application under this section shall be made in the prescribed form and shall be forwarded to the Bank together with the prescribed fee.

(3) In considering an application for a licence, the Bank may require to be satisfied as to the financial condition and history of the applicant, the character of its management, the adequacy of its capital structure and the convenience and needs of the area to be served and the public interest which will be served by granting of licence.

(4) The Bank may, subject to the payment of the prescribed fee and to such conditions as it may consider necessary, grant a licence to the applicant.

(5) Where a licence has been granted under this section, the Bank may add, vary, or substitute any conditions attached hereto.

(6) A licence issued under this section shall, unless earlier revoked, expire on the 31st December next following the date of issue:

Provided that where an application for renewal is made under section 33C, the

licence shall be deemed to continue in force until the application for renewal is determined.

Revocation or
suspension of
licence

33C (1) A licence issued under section 33B may on expiry be renewed for a further period of twelve months;

Provided that where an authorised dealer fails to commence business in Kenya within six months of the grant of a licence, the authorized dealer shall, if still intending to transact foreign exchange business in Kenya apply for a licence as though the first licence had never been granted.

(2) An application for the renewal of a licence shall:-

(a) be made in the prescribed form and forwarded to the Bank together with the prescribed fee;

(b) be lodged with the Bank at least two months prior to the expiry of the licence

(3) An application for renewal of a licence shall be considered in accordance with the provisions of section 33B.

33D. (1) Subject to sub-section (2) the Bank may, by notice in writing to an authorized dealer, revoke or suspend a licence for such period as it may specify, if the authorized dealer:-

(a) ceases to carry on business in Kenya or goes into liquidation or is wound up, or is otherwise dissolved; or

(b) fails to comply with the provisions of this Act or any condition attached to a licence.

a. Before revoking or suspending a licence under this section, the Bank shall give an authorized dealer not less than fourteen days' notice in writing and shall consider any representations made to it in writing by the authorized dealer within that period.

Duties of
authorised
dealers

33E (1) Every authorized dealer shall:-

i. maintain such books, accounts, records or other documents as the Bank may specify, and shall furnish the same to the Bank at such time and in such manner as the Bank may specify;

ii. maintain such levels of foreign currency assets or liabilities as the Bank may specify;

iii. comply with such requirements regarding the establishment, maintenance and operation of foreign currency accounts as the Bank may impose; and

iv. comply with such measures to improve the management or its business

methods as the Bank may impose.

Inspection of
dealers

33F(1) The Bank may, at any time and from time to time cause an inspection to be made by any person authorized by it in writing, of any authorized dealer and of its books, accounts and records.

(2) Subject to sub-section (4), when an inspection is made under sub-section (1), the authorized dealer concerned and every officer or employee thereof shall produce and make available to the person making the inspection, all books, accounts, records and other documents of the authorized dealer and such correspondence, statement and information relating to the authorized dealer, its business and the conduct thereof as the person making the inspection may require, within such period as he may specify in writing.

(3) Any failure to produce any books, accounts, records, documents, correspondence, statement or information within the period specified in the relevant direction shall constitute an offence under this Part.

(4) Notwithstanding the provisions of sub-section (2):-

(a) any books, accounts, records and other documents required to be produced under this section shall not in the course of the inspection, be removed from the premises of the authorized dealer or other premises at which they are produced;

(b) the person making the inspection may make copies of any books, accounts and other documents required for the purposes of his report;

(c) all information obtained in the course of the inspection shall be treated as confidential and used solely for the purposes of this Part.

(5) A person who makes an inspection shall submit a report of his findings to the Bank indicating:-

(a) any breach or failure to observe the requirements of this Part and any orders or directions made thereunder;

(b) any irregularity in the manner of conduct of the business of the authorized dealer inspected;

(c) any apparent mismanagement of business or lack of management skills in that authorized dealer;

(d) any other matter revealed or discovered in the course of the inspection warranting, in the opinion of the person making the inspection, remedial action or further investigation.

No.10 of 2010

(6) The Central Bank may publish in whole or in part, at such times and in such manner as it thinks fit, any information furnished to it under this Part:

Provided that the information so furnished shall not be published if it would disclose the financial affairs of any person, unless the consent, in writing, of that person has first been given.

No.10 of 2010

- (7) Except as provided in the Act, no person shall disclose or publish any information which comes into his possession as a result of the performance of his duties or responsibilities under this Act.

No. 10 of 2010

- (8) Notwithstanding the provisions of this section, the Central Bank may disclose any information referred to in subsection (7) to any monetary authority, financial regulatory authority, fiscal or tax agency, or fraud investigation agency within or outside Kenya, where such information is reasonably required for the proper discharge of the functions of the Central Bank or the requesting monetary authority, financial regulatory authority, fiscal or tax agency or fraud investigations agency;

Provided that the sharing of information with any authority or agency outside Kenya shall be on a reciprocal basis.

Powers of Bank to advise and direct dealers

- 33G** (1) If at any time or upon an inspection under section 33F the Bank has reason to believe that the business of an authorized dealer is being conducted in a manner contrary to any of the requirements of this Part or any regulations made thereunder, or in a manner detrimental to or not in the best interests of the public, the Bank may:-

- (a) give advice and make recommendations to the authorized dealer with regard to the conduct of business generally;
- (b) issue directions regarding measures to be taken to improve the management business methods of or the authorized dealer, or to secure compliance with the requirements of this Part or any other written law;
- (c) appoint a person suitably qualified and competent in the opinion of the Bank, to advise and assist the authorized dealer generally, or for the purposes of implementing any directions issued under paragraph (b), and the advice of a person so appointed shall have the same force and effect as a direction issued under paragraph (b) and shall be deemed to be a direction of the Bank under this section.

- (2) No direction shall be issued under paragraph (b) or (c) of sub-section (1) unless the Bank has given the authorized dealer an opportunity to present its views.

- (3) An authorized dealer shall on receipt of any direction under this section, comply with the direction within such period as may be specified in the direction, and if so required, produce evidence to the Bank that it has done so.

Regulation of payments between residents and non-residents

- 33H** (1) Except with the permission of the Bank, every payment made:-

- (a) in Kenya, to or for the credit of a person outside Kenya; or
- (b) outside Kenya, to or for the credit of a person in Kenya; or

- No.41 of 2013 (c) in Kenya (other than a payment for a current transaction) between a resident and non-resident; shall be effected through an authorized bank or an authorised microfinance bank.
- (2) A person who contravenes any of the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.
- Imposition of restrictions to meet treaty obligations **33I** The Bank may, in consultation with the Minister, impose restrictions on payment for the purposes of enabling the Government of Kenya meet its obligations under any international treaty.
- Permissions by the Bank **33J** Any permission granted by the Bank under this Part may be:-
- (a) either general or special;
 - (b) revoked by the Bank at any time;
 - (c) absolute or conditional;
 - (d) limited so as to expire on a specified date unless renewed;
 - (e) published in such a manner as is in the opinion of the Bank appropriate.
- Instructions or directions **33K** (1) Subject to section 33G, the Bank may issue such instructions or directions to authorized dealers as it may consider necessary.
- (2) Any instructions or direction under this section may:-
- (a) be either general or special;
 - (b) be revoked or varied by subsequent instruction or direction;
 - (c) be given to such persons and in such manner as is in the opinion of the Bank appropriate.
- (3) A person who fails to comply with instruction or direction issued by the Bank under this section commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.
- General penalty under Part No.8 of 2009 **33L.** A person convicted of an offence under this Part for which no other penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.
- Protection liability **33M.** Neither the Bank nor any officer or employee thereof nor any other person appointed by the Bank under the provisions of this Part shall be liable in respect of any act or omission done in good faith by such officer, employee or other person in the execution of the duties undertaken by him.

No. 9 of 1996 s.13 **33N.** (Repealed).

Transitional
and saving
Cap. 113

33O. A person who, immediately before the commencement of this Part was authorized to transact foreign exchange business by virtue of the provisions of the Exchange Control Act (now repealed), shall, within ninety days of the commencement, apply for a licence in accordance with section 33B and shall, notwithstanding the provisions of that section, be deemed to be an authorised dealer for the purposes of this Part until such application is determined.

PART VII – RELATIONS WITH SPECIFIED BANKS AND MICROFINANCE BANKS

Banker to
institutions
No. 13 of 1995
s.96

34. (1) The Bank shall open 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.

No. 9 of 1996 s.14

(3) For the purposes of this section “institution” includes:-

(a) a specified bank;

No.9 of 1996

(b) a specified financial institution;

No.41 of 2013

(c) a specified microfinance bank;

(d) any other person or body of persons which the Minister, on the recommendation of the Bank may by notice in the Gazette prescribe.

35. (Repealed)

Loans
No.41 of 2013

36. (1) The Bank may grant loans or advances for fixed periods not exceeding six months to specified banks and specified microfinance banks which pledge treasury bills or other Government securities specified by the Bank.

No. 41 of 2013

(2) Except as provided in this section the Bank shall not extend credit directly or indirectly to specified banks or specified microfinance banks.

No. 41 of 2013

(3) The Bank may determine the general terms and conditions under which it extends credit to specified banks and specified microfinance banks, and in particular, the Bank shall determine and announce the rates of interest or return it shall charge for granting loans or advances to specified banks and specified microfinance banks in accordance with this section, and may determine different rates of interest or return for different classes of transactions or maturities.

No. 41 of 2013

(4) The Bank shall publish the lowest rate of interest it charges on loans to banks

and microfinance banks, and that rate shall be known as the central bank rate.

36A (1) The Central Bank shall publish in the Gazette, the Central Bank website and two daily newspapers of national circulation the following information-

- (a) the weighted average lending and deposit rates for all banks and financial institutions;
- (b) the interest rate spread and its composition;
- (c) a simplified version of the balance sheets and income statements.

(2) Notwithstanding the provisions of this section, a bank shall disclose any positive or negative information of its customers to the licensed credit reference bureaus, where such information is reasonably required for the discharge of the functions of the banks and the licensed credit reference bureaus.

Reports to
Parliament
No. 4 of 2012

36B The Central Bank shall, on a quarterly basis, make and present to Parliament a report on the key economic and banking sector aggregate.

No. 9 of 1996 s.16

37. (Repealed)

Reserve
requirement
No. 13 of 1995

38. (1) The Bank may from time to time require 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.

No. 9 of 2007
No.10 of 2010

(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 percent per day on the amount of the deficiency or ten thousand shillings, whichever is the higher for each day during which the deficiency continues.

No. 10 of 2010

(5) The Bank may, if in its opinion circumstances of an unusual nature render it desirable to do so, pay a 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:-

Cap. 488

- (a) a bank licensed under the Banking Act;
- (b) a financial institution licensed under the Banking Act;
- (c) any other person or body of persons which the Minister, on the recommendation of the Bank may by notice in the Gazette prescribe.

No. 8 of 2004

39. (Deleted)

No. 8 of 2004

39A. (Deleted)

No. 9 of 1996 s.17

40. (Repealed)

No. 9 of 1996 s.33

41. (Repealed)

42. (Repealed)

Information to be
furnished by
specified banks
etc.
No.41 of 2013

43. (1) Every specified bank, specified financial institution and specified microfinance bank 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 VIII – RELATIONS WITH PUBLIC ENTITIES

Fiscal agent and
banker to public
entities

44. (1) The Bank shall act as fiscal agent of and banker to the Government

(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.

Functions as fiscal
agent

45. 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:

Provided that the Bank may, after consultation with the Minister, select any

specified 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;

No. 10 of 2010

(c) as an agent of the 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;

No. 10 of 2010

(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;

Direct advances to
Government
No. 9 of 1996
s.18

46. (1) Subject to the provisions of this section, the Bank may make direct advances to the Government for the purpose of offsetting fluctuations between receipts from the budgeted revenue and payments of the 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) 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 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.

(4) Any advance made by the Bank to the 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 Minister.

- (5) Any advance deemed to be a loan under subsection (4) shall be secured with such Government securities as the Bank may specify.
- (6) For the purposes of subsection (3), the recurrent revenue of the 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.

Loans and advances to Deposit Protection Fund Board. Cap 488 No. 15 of 2003 s.53

46A. Subject to section 37(1) of the Banking Act, the Bank may grant loans or advances for fixed periods, not exceeding three years, to the Deposit Protection Fund Board on the security of Treasury Bills or other Government securities specified by the Bank.

Open market operations No. 8 of 2008

47. (1) For the purposes of regulating the money supply, the Bank may with the approval of the Board –

- (a) purchase, hold or sell negotiable securities 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 or by way of repurchase agreement, Central Bank of Kenya Bills.

No.41 of 2013

(c) Accept money as deposit from commercial banks and microfinance banks on such terms as may be specified by the Bank.

(2) 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 (3) of section 46.

No. 9 of 1996 s.20

48. (Repealed)

Prohibition of lending to public entities No. 9 of 1996 s.21

49. Except as provided in accordance with sections 36, 46 and 46A, 47, the Bank shall not extend any credit directly or indirectly to any public entity.

Adviser to Government

50. (1) It shall be the duty of the Bank to advise the Minister on any matter which in its opinion is likely to affect the achievement of the principal objects of the Bank as specified in section 4.

(2) The Bank may tender advice to the Minister on any matter in which the Bank is concerned.

(3) The Minister 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.

PART IX – MISCELLANEOUS PROVISIONS

Revaluation profits
of losses
No.9 of 1996 s.22

- 51.** (1) Profits or losses which are attributed to any revaluation of the Bank's net assets or liabilities in gold, foreign exchange or foreign securities, made as a result of any change in the value of any currency unit, shall be taken into account in the computation of the annual profits and losses of the Bank:

Provided that the accounts of the Bank shall distinguish the profits or losses arising from normal operations of the Bank and those resulting from profits or loss from exchange fluctuations.

- (2) The balance outstanding in the Revaluation Account existing immediately before the commencement of this section shall be repaid from the net annual profits of the Bank by instalments of such amount as the Board, in consultation with the Minister, may determine.

Prohibited
operations

- 52.** The Bank shall not:-

- (a) save as expressly authorised by this Act, engage in trade, or own or acquire any direct interest in any commercial, agricultural, industrial or similar undertaking, except in the course of obtaining satisfaction for any debt due to the Bank, and any such interest shall be disposed of at the earliest suitable opportunity;
- (b) purchase, acquire or lease immovable property for commercial purposes or as an investment except for its own business requirements or for the use of its employees;
- (c) draw or accept bills payable otherwise than on demand; or
- (d) guarantee any loan, advance or investment

Financial year

- 53.** The financial year of the Bank shall be the same as the Government's financial year and the accounts of the Bank shall be closed at the end of each financial year.

Annual reports

- 54.** Within three months after the close of each financial year the Bank shall submit to the Minister a report on the Bank's operations throughout that year, together with the balance sheet and the profit and loss account as certified by the auditors appointed by the Bank and approved by the Minister.

Publication of
reports etc.

- 55.** (1) After submission to the Minister the Bank shall publish the annual report referred to in section 54.

- (2) The Bank may also issue such other publications as it considers to be in the public interest.

Audit by Controller
and Auditor-
General

- 56.** The Minister may, in addition to the audit carried out under section 54, if he thinks fit, require the Controller and Auditor-General to audit the accounts of the Bank.

General Penalty

- 56A.** A person convicted of an offence under this Act for which no other penalty is

- No. 8 of 2009 provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.
- Regulations by the Bank
No. 9 of 1996 s.23
57. (1) The Bank may make regulations for the purpose of giving effect to the provisions of this Act and generally for the better carrying out of the objects of the Bank under this Act.
- No. 8 of 2008
- (2) Without prejudice to the generality of subsection (1), the Bank may, in regulations, prescribe penalties to be paid by authorised dealers who fail to refuse to comply with any guidelines or directions of the Central Bank under this Act, which penalties shall not exceed five hundred thousand shillings in the case of an authorised dealer or two hundred thousand shillings in the case of an natural person and may prescribe additional penalties not exceeding ten thousand shillings in each case for each day or part thereof during which such failure or refusal continues.

Specified Banks under section 2

African Banking Corporation Limited
 Bank of Africa Kenya Limited
 Bank of Baroda (Kenya) Limited
 Bank of India
 Barclays Bank of Kenya Limited
 CFC Stanbic Bank Limited
 Chase Bank (Kenya) Limited
 Charterhouse Bank Limited (under Statutory Management)
 Citibank N. A. Kenya
 Commercial Bank of Africa Limited
 Consolidated Bank of Kenya Limited
 Co-operative Bank of Kenya Limited
 Credit Bank Limited
 Development Bank of Kenya Limited
 Diamond Trust Bank Kenya Limited
 Dubai Bank Kenya Limited
 Ecobank Kenya Limited
 Equatorial Commercial Bank Limited
 Equity Bank Limited
 Family Bank Limited

Fidelity Commercial Bank Limited
 Fina Bank Limited
 First Community Bank Limited
 Giro Commercial Bank Limited
 Guardian Bank Limited
 Gulf African Bank Limited
 Habib Bank A. G. Zurich
 Habib Bank Limited
 Imperial Bank Limited
 I & M Bank Limited
 Jamii Bora Bank Limited
 Kenya Commercial Bank Limited
 K-Rep Bank Limited
 Middle East Bank Kenya Limited
 National Bank of Kenya Limited
 NIC Bank Limited
 Oriental Commercial Bank Limited
 Paramount Universal Bank Limited
 Prime Bank Limited
 Standard Chartered Bank Kenya Limited
 Trans-National Bank Limited
 UBA Kenya Bank Limited
 Victoria Commercial Bank Limited

Specified Financial Institutions Under Section 2

Mortgage Company

Housing Finance Company of Kenya Limited

L.N. 138/79

Specified Public Entity under section 2

The IDB Capital Limited

L.N.193/2013

The United States Agency for International Development

The African Development Bank

L.N. 35/73

Par value of Kenya shilling determined under section 20

(Spent)

Denominations, inscription, form, material and other characteristics of notes and coins determined under section 22(2)

Details and description are not set out here. For that information reference should be made in case of notes to LNs 252/1966, 148/1967,; 306/1974, 258/1979, 165/1980, 242/1986, 428/1988, 554/1988, 334/1989, 505/1990, 144/1994, 362/1995, 363/1995, 17/95, 59/1996, 300/1996, L.N. 13/2004 in the case of coins to GN 148/1967 and L.N. 84/1969, 47/1970, 255/1973, 165/1980, 232/1985, 160/1994, 492/1994, 293/1995, 57/1996, 40/2005 and in the case of commemorative coins to L.N. 259/1979, 543/1991, 209/2003, 210/2003, 9111/2010, 6508/2010.

L.N. 160/71

Withdrawal of notes and coins

Gazette Notices Nos.6508 of 2010 and 9111 of 2010

L.N. 50/73

Instructions under section 41

(Spent)

**LEGAL NOTICE NO. 124
THE CENTRAL BANK OF KENYA CT
(Cap. 491)**

IN EXERCISE of the powers conferred by section 57 of the Central Bank of Kenya Act, the Central Bank of Kenya makes the following Regulations:-

**THE CENTRAL BANK OF KENYA (CURRENCY HANDLING)
REGULATIONS, 2010**

- Citation 1. These Regulations may be cited as the Central Bank of Kenya (Currency Handling) Regulations, 2010.
- Interpretation 2. In these Regulations, unless the context otherwise requires –
- “cash” means Kenya currency in form of either printed notes or minted coins of any denomination issued by the Bank for current use, and includes all notes and coins previously issued by the Bank;
- “cash defacement device” means a security device fitted in a cash transit box, approved by the Bank and intended to indelibly stain notes to achieve instant recognition that they have been stolen and to render them worthless;
- “cash in transit box” means a box fitted with cash defacement devices;
- “cash in transit client” means any person using the services of a licensed cash in transit operator;
- “cash in transit operator” means a person engaged in the business of transportation of cash; and

“dye-stained notes” means notes that have been stained by cash defacement device, approved by the Bank, as a result of an accidental discharge or through a triggered explosion in circumstances of attempted or actual security breach.

Use of currency notes and coins

3. (1) Any person who wishes to use cash or images of cash in any publication or for any other purpose shall apply in writing to the Bank for approval.
- (2) No person shall use cash or images of cash, current or historical, for publication or promotional or any other purposes other than as currency without the prior written approval of the Bank.
- (3) A person making an application under paragraph (1) shall provide -
 - (a) full names and address of the applicant;
 - (b) nationality of the applicant;
 - (c) information relating to the manner and purpose for which the images are intended to be used;
 - (d) specimen of the works over which such use is intended;
 - (e) a declaration that the intended use would not infringe on the Bank’s copyright over the cash.
- (4) An application for authority to make use of images of cash shall be considered by the Bank within fourteen days of receipt and the Bank shall notify the applicant of its decision in writing.
- (5) The Bank’s decision under paragraph (5) shall be final and the Bank shall not be obliged to render the reasons upon which any decision was reached.
- (6) A person who contravenes paragraph (2) or (3) of this regulation shall, in addition to any criminal sanctions imposed under any law, be liable to a penalty, payable to the Bank, of one hundred thousand shillings and to a daily surcharge of ten thousand shillings if the breach is not remedied within the time specified for that purpose by the Bank.

Licensing of cash in transit operators

4. (1) A cash in transit operator who wishes to operate a cash defacement device in the transit of cash, shall apply to the Bank in Form CH1 set out in the First Schedule.
- (2) Every cash in transit operator applying for a licence to use a cash defacement device, shall be required to comply with the terms and conditions of use of such device and to meet the minimum technical specifications and industrial standards for the proposed device set out in the Second Schedule.
- (3) The compliance by an applicant with the terms, conditions, technical and other requirements of use of a cash defacement device shall be a mandatory

requirement for licensing and the Bank shall not issue the licence until an applicant fully meets each and every requirement.

- (4) The Bank shall, upon satisfaction that an applicant meets the requirements under paragraph (3) and upon receipt of the fee prescribed in the Third Schedule, register the applicant and grant him a licence to use a cash defacement device.
- (5) A licence granted under paragraph (4) shall be renewable annually, upon fulfilment of the conditions of grant and payment to the Bank of the renewal fees prescribed in the Third Schedule.
- (6) The Bank shall regularly inspect and monitor every person licensed to operate a cash defacement device.
- (7) The Bank may, at any time during the tenure of a licence, suspend the licence for breach of any of the terms of licensing and if the breach is not remedied within thirty days, revoke the licence.
- (8) Any person who operates a cash defacement device without a licence or after its licence is suspended or revoked by the Bank, shall be liable to a penalty, payable to the Bank, of one hundred thousand shillings and in addition to a daily penalty of twenty thousand shillings for each day the breach is not remedied within the specified time frame.

Exchange of
defaced
notes

5. (1) The Bank may exchange defaced notes where the notes-
 - (a) have become unserviceable due to ordinary wear and tear;
 - (b) have been mutilated, defaced or soiled accidentally; or
 - (c) have been defaced by a licensed cash in transit operator through a cash defacement device accidentally or in circumstances of security threat or attack:

Provided that the cash in transit operator shall prove that the explosion occurred within the permitted use of the device under these Regulations.
- (2) Save for notes stained through use of a cash defacement device, any mutilated or defaced notes may be exchanged at the discretion of the Bank upon presentation by the holder to the Bank at the nearest branch or through institutions licensed by the Bank.
- (3) Upon receipt of mutilated or defaced bank notes under paragraph (2), the Bank may, with regard to the information provided-
 - (a) agree to exchange the bank note;
 - (b) defer its decision to allow for verification of the information provided; or
 - (c) decline the application.
- (4) An application deferred under paragraph (3) shall be considered by the Bank

and a decision made within sixty days from the date it was received and the Bank's decision shall be final.

- (5) Notes stained through a cash defacement device shall be deemed to be proceeds of crime and shall be exchanged upon an application by a cash in transit operator to the Bank in Form CH2 set out in the First Schedule.
- (6) A person, other than a cash in transit operator, who comes into possession of a dye stained note shall not be eligible to apply for exchange but shall surrender such to the nearest police station, the Bank or any other financial institution and shall make a statement relating to the circumstances under which he came into possession of the dye-stained note:

Provided that, such person shall not be deemed to have been involved in the underlying security breach, unless proven otherwise in a court of law.

- (7) Every person licensed to operate a cash defacement device shall, upon defacement of the cash through such device, either accidentally or through security related explosion, report the incident to the Bank within twenty four hours and shall thereafter lodge an application for replacement of the stained cash in Form CH2 set out in the First Schedule.
- (8) The exchange of defaced notes under paragraph (5) shall be subject to payment by the applicant of the replacement costs prescribed in the Third Schedule.

Exchange of cash
defaced abroad

6. The Bank may consider applications for exchange of notes defaced outside Kenya under the criteria set out in regulation (5).

Proof of validity of
notes

7. (1) The Bank shall, prior to considering an application for exchange of defaced notes, verify and prove that the notes were genuine before their defacement .
- (2) No application for replacement of defaced notes shall be allowed if the Bank proves that the affected currency was counterfeit and the Bank, shall, in addition to the penalty prescribed under paragraph (3), confiscate the counterfeit notes.
- (3) A person who presents for replacement notes that have been found to be counterfeit commits an offence and shall, in addition to any punishment provided for in any other law, be liable to a penalty, payable to the Bank, of twice the total face value of the counterfeit notes or two hundred thousand shillings whichever is lower.

Keeping of records

8. (1) A person licensed under regulation 4 shall keep proper records and accounts of any cash in notes or coins in transit at any given time, and shall, whenever required, produce for inspection by the Bank the records and accounts.
- (2) Upon defacement of notes in transit through explosion of cash defacement devices, the Bank shall consider the replacement of the defaced notes that tallies with the records held by the cash in transit operator at the time of explosion of the defacement device and the Bank shall not consider for replacement any notes defaced without record.

(3) Any person licensed to operate a cash defacement device who fails to keep proper records and accounts shall, upon determination by the Bank that proper records or accounts are not kept, be liable to a penalty not exceeding fifty thousand shillings and in addition to a daily surcharge of five thousand shillings if the breach is not remedied within the time specified for that purpose by the Bank.

Insurance of cash
in transit

9. (1) A person licensed under these Regulations shall, in addition to any other insurance cover taken out to provide protection against transit perils, take out an additional insurance cover to meet the replacement cost of any notes defaced through use of a cash defacement device.

(2) The Bank shall be designated as the beneficiary of the additional mandatory cover taken out under paragraph (1), and shall duly advise the insurer on the replacement sum payable on the occurrence of every incident of security triggered defacement of cash in transit.

(3) The replacement costs payable under the Third Schedule shall be recoverable from the licensee or the insurer and where the licensee pays the full cost, the benefits of the insurance cover shall be passed on to the licensee.

General Penalty

10. A person who breaches any regulations and no penalty is specifically prescribed for the breach shall, in addition to any criminal sanction imposed under any other law, be liable to a penalty payable to the Bank of up to five hundred thousand shillings and to a daily surcharge of up to twenty thousand shillings if the breach is not remedied within the time specified for that purpose by the Bank.

Revocation of L/N
No.148 of 2008

11. Legal Notice Number **148 of 2008** is revoked.

FIRST SCHEDULE

FORM CH1

(r.4(1))

THE CENTRAL BANK OF KENYA ACT

(CAP. 491)

FORM OF APPLICATION FOR LICENCE

APPLICATION FOR LICENCE TO USE CASH DEFAACEMENT DEVICE

1. Name of Company.....
2. Date and country of incorporation.....
3. Certificate of incorporation No.

4. Physical and Postal address of head office:

- a) City/Town
- b) L.R. No.
- c) Street.
- d) Building.
- e) Postal address Code

5. Association membership.....

6. Licence application for the period:

7. Details of branch network and number of years each has conducted business:

<i>Branch Name</i>	<i>No. of years in operation</i>

8. Particulars of Directors:

<i>Name</i>	<i>Nationality</i>	<i>I.D/ Passport No.</i>	<i>Date of appointment</i>

(Profession, Other directorships)

Significant shareholders, financial status)

<i>Name</i>	<i>Nationality</i>	<i>I.D/ Passport No.</i>	<i>Date of appointment</i>

9. Particulars of Senior officers both in the head office and Branches:

<i>Name</i>	<i>Nationality</i>	<i>I.D/ Passport No.</i>	<i>Designation/ Branch</i>

10. Details of Devices to be used.

Device type (Dye or Smoke.):.....

Device Model.....

Source of Device (Manufacturer).....

11. Declaration (By Chief Executive Officer):

I, the undersigned, hereby declare-

- a) **THAT** the particulars set out herein are true and correct to the best of my knowledge and belief; and
- b) **THAT** if licensed, I shall use cash defacement devices in accordance with the Central Bank of Kenya Act and any regulations, guidelines or directive as may from time to time be issued by the Central Bank of Kenya.

Name.....

Signature.....

Date.....

Note:

- 1. Please attach certified copies of-
 - (a) certificate of incorporation;
 - (b) certification by Kenya Bureau of Standards, Government Chemist and National Environmental Management agency or certification from other similar internationally recognised organization; and
 - (c) valid operating licence
- 2. Replacement of any of the senior operating officers must be notified to the Central Bank and particulars of new officers submitted to the Central Bank immediately.

CENTRAL BANK OF KENYA ACT

(Cap. 491)

APPLICATION FOR REPLACEMENT OF BANKNOTES STAINED THROUGH CASH DEFAACEMENT DEVICE

1) IMPORTANT INFORMATION TO THE CLAIMANT

- (1) Part A – to be completed by the claimant.
- (2) Part B – to be completed by the claimant.
- (3) Part C – to be completed by the commercial Bank
- (4) Part D – to be completed by the Central Bank.

A. DETAILS OF THE CLAIMANT (BLOCK LETTERS)

- 1. Name of company
- 2. Physical address.....
- 3. Telephone No.....
- 4. Postal Address
- 5. Company Registration No.:
- 6. Name of authorised Official
- 7. ID or Passport Number

DETAILS OF BANKNOTE

DENOMINATION	KSHS 50	KSHS 100	KSHS 200	KSHS 500	KSHS 1000
NUMBER OF PIECES					
VALUE					
SERIAL NUMBERS					

(If more space is required use a separate page and attach it to this claim form)

B. STATE HOW DYE-STAINED BANKNOTES WERE STAINED

Signature/Stamp of Claimant:

Date:

C. CONDITIONS OF EXCHANGE

Claimants must ensure that they have read all the conditions for exchange set out below and (if claiming through a licensed institution) that they have been handed an

acknowledgement of receipt (Part C) for the claim.

1. A certified copy of the claimant’s certified copy of Company Registration Certificate must accompany this claim form.
2. The sworn declaration in the prescribed form must be completed in respect of all claims.
3. The Bank is not legally bound to replace dye-stained notes either in whole or in part. Any replacement is strictly at the discretion of the Bank.
4. The Bank may at its discretion call upon an applicant to furnish a bond of indemnity in respect of any amount refunded.
5. All stained notes including remains or fragments, no matter how small, shall accompany the application.
6. The Bank shall not accept claims via the post, and shall accept claims made by means of personal delivery at the Bank, its branches or commercial bank. Should a claimant utilise the postal service for delivery of dye-stained notes, these notes will be forfeited to the Bank.
7. The claimant accepts that it voluntarily cedes the bank notes in its possession to the Bank and that the Bank shall handle this claim according to the policies laid down for replacement of dye-stained notes or even the forfeiture thereof.

DECLARATION

I declare that the above is true and correct and that I have not withheld any information regarding this application. I have read all the conditions for exchange and I understand that any false disclosure can lead to prosecution.

I, do solemnly and sincerely declare that I am the lawful claimant of the abovementioned dye-stained notes and make this solemn declaration, conscientiously believing it to be true.

Signed

The deponent has acknowledged that he or she knows and understands the contents of this declaration, which he or she has declared before me at thisday of 20

Commissioner of Oaths

D. RECEIVING BANK

NAME OF BANK
.....

Branch: Branch Code.....

Telephone

Branch Contact Person

Confirmation of circumstances in which the dye-stained notes are declared to have been so stained:

.....

.....

Name of claimant

Amount claimed

Signature of authorized Bank official Date

Bank stamp Date

E. CENTRAL BANK OF KENYA

ACKNOWLEDGEMENT OF RECEIPT OF A DYE-STAINED BANK NOTE CLAIM

I,acknowledge receipt of a dye-stained note claim on a collection basis.

From (name of claimant or commercial Bank):

Name of Authorized official of claimant or Bank

Identity or Passport Number:

Amount received:

At this day of 20

DETAILS OF NOTES

DENOMINATION	KSHS.50	KSHS.100	KSHS.200	KSHS.500	KSHS.1000
NUMBER OF PIECES					
VALUE					

Signature N.B: Claimants must ensure that they have read all the conditions for exchange set out below and (if claiming through a licensed institution) that they have been handed an acknowledgement of receipt (Part C) for the claim

.....Date

(r.4 (2))

SECOND SCHEDULE
THE CENTRAL BANK OF KENYA ACT
(Cap.491)

TERMS AND CONDITIONS OF USE OF CASH DEFAACEMENT DEVICES

1. Applicability

- (1) These conditions apply to the use of cash defacement devices by licensed cash in transit operators.
- (2) This document is provided for the information of cash in transit operators, the Bank and other cash in transit clients.
- (3) Cash in transit operators shall strictly adhere to all obligations and other compliance matters imposed under these terms and conditions and any breach of such obligations shall be breach of the licensing obligations and for which penalties shall be levied.

2. Obligations of CIT Operators

In addition to other obligations set out in these Regulations, cash in transit operators undertake to -

- a) abide by these Regulations and the terms and conditions of use of cash defacement devices;
- b) train their staff and regularly update them on the technology and other aspects of cash defacement devices;
- c) immediately alert the police, the Bank and other stakeholders of an incident of robbery or attack leading to explosion of cash in transit boxes and staining of banknotes;
- d) fully comply with manufacturer's specifications relating to cash in transit boxes, including load capacity, handling procedures and maintenance;
- e) carry out public education and awareness of the cash in transit boxes, their role as security devices in the transportation of cash, the recognition of dye-stained notes and what recourse to take on finding such notes;
- f) with the approval of the Bank, regularly update themselves with the technology and safety standards of the devices and upgrade accordingly with the necessary certifications; and
- g) abide by any other requirement or obligation as the Bank may from time to time impose.

3. Specifications and standards of cash defacement devices:-

- 1) Every cash defacement device proposed to be used by a cash in transit operator shall meet the following minimum requirements-
 - a) safety: the device shall be certified as safe for use in the public domain by Kenya Bureau of Standards or alternatively, any other internationally

- recognized standards organization and any chemical or dye used to disfigure the notes shall not be harmful to the public and shall be certified by the Government Chemist, the National Environment Management Agency or other similar recognized organisation at the cost of the applicant;
- b) reliability: the functionality of the cash defacement device shall be tested and certified for reliability by the Kenya Bureau of Standards;
 - c) stability: the cash defacement device shall not, under normal operating circumstances, activate accidentally; and
 - d) industry standards: the device shall meet such industry standards and criteria, including electrical, mechanical and other capabilities as specified by Kenya Bureau of Standards from time to time.
- 2) Approved cash defacement devices shall be used in accordance with the manufacturer's specifications including, but not limited to, those related to, those relating to the packing of notes, the type of wrapping used, and the amount of notes to be contained within a single device.
 - 3) Approved cash defacement devices shall have the capacity to cause all, notes to be stained with coverage of not less than thirty per centum of the surface of each note.
 - 4) The device shall have the capability of –
 - a) staining the notes in such a manner that the Bank will be able to verify the denominations affected; and
 - b) establishing the legitimacy of the notes following defacement by enabling notes that are dye-stained to be easily recognizable as having been the subject of crime unless proven to have been dyed as a result of an accidental trigger to the device.
 - 5) The dye used in all devices licensed within the country shall be of a uniform agreed colour and specified by the Bank and shall be indelible.
 - 6) The Bank shall not give value for any notes stained by a cash defacement device whose design and use was not approved under these regulations.
 - 7) The operation of any cash defacement device shall be demonstrated to the Bank, as a condition of consideration of the device for approval.
 - 8) The Bank shall approve the use of any cash defacement device.
 - 9) The Bank shall approve the use of cash defacement devices, by cash in transit operators in the transportation of cash between –
 - a) the Central Bank and its branches or cash centres;
 - b) the Central Bank and a commercial bank;
 - c) a commercial bank and its branches or automated teller machine;
 - d) a commercial bank and its customer or a customer and the commercial bank;
 - e) a customer and its branches; or
 - f) any other scenario approved by the Bank.

- 10) A new device replacing a licensed cash defacement device shall be subjected to the same approval process.

4. Reporting of robberies or heists

- 1) In the event of robbery where notes packed in a cash in transit box are stolen, the cash in transit operator shall immediately communicate with the police and the Bank and report the event within twenty four hours.
- 2) The report of robbery shall provide all relevant information including details of the geographical area of attack, the motor vehicle used by the cash in transit operator, amount of money in transit and records of the cash in transit operator relating to the transaction.
- 3) The Bank shall, upon receipt of the report of robbery issue a press release at the cost of the cash in transit operator giving full details of the robbery and alert the public not to use the notes and to call upon the public to surrender all stained notes recovered within the locality of the robbery to the police, the Central Bank or the nearest licensed financial institution.

5. Claims

- 1) A financial institution receiving any dye-stained notes from any person shall not exchange the notes with clean notes.
- 2) All dye-stained notes shall be surrendered within fourteen days from the date of receipt together with the supporting surrender form to the Bank.
- 3) Commercial banks shall not mix dyed notes with fit or unfit notes and any dye-stained notes found in bulk cash deposited by commercial banks shall be treated as shortages, no value will be given and the applicable discrepancy charges will be levied.

6. Destruction of dye-stained notes

Dye stained notes will be kept in the Bank's vaults for a period not exceeding six months unless a longer period is necessary owing to pending court proceedings and the Bank shall thereafter destroy such notes in accordance with the existing procedures.

7. Public education

- 1) Cash in transit operators using cash defacement devices and seeking approval of these devices shall be required to educate the public, on an ongoing basis, to inform them of the operations of the devices, nature of defaced cash that results from explosion of the device, where to report any such notes and any other relevant information.
- 2) All material, contents and other tools for public education prepared by a cash in transit operator shall be submitted to the Bank for vetting and approval.
- 3) The Bank shall carry out independent public education on all aspects of the cash defacement devices but this shall be complimentary to and shall not absolve the licensed cash in transit operators from undertaking public education.

- 4) The Bank shall not be used in any way whatsoever, to promote the sale and use of any devices or to indicate the Bank's endorsement of any brand of such devices.

8. Amendment of Terms and Conditions

The Bank, may amend, suspend or withdraw the whole or specific sections of these conditions, and shall duly give notice of any such amendment to all stakeholders within thirty days.

(r 4(4), (5), (8) & (3))

THIRD SCHEDULE FEES AND CHARGES

A. FEES

The following fees shall be payable by cash in transit operators –

- | | |
|----------------------------------|-------------|
| a) Application fees | Ksh.5,000 |
| b) Initial licence fee | Ksh.100,000 |
| c) License renewal fees (annual) | Ksh.100,000 |

B. REPLACEMENT CHARGES FOR DYE-STAINED NOTES

1. The Bank shall levy the following charges in respect of all approved claims for exchange of dye-stained notes presented for replacement –
 - 1) Ksh.10 per dye-stained note in respect of attempted robbery claims.
 - 2) Ksh.20 per dye-stained note in respect of accidental discharge.
 - 3) Ksh.10,000 per cash in transit box being administrative costs.
 - 4) Ksh.20,000 per cash in transit box, in respect of all cases in which the user of the cash in transit has failed to comply with the manufacturer's specifications, in terms of packaging of the volumes and notes.
2. The Bank shall reserve the right to decline a claim in its entirety if wilful non-compliance with the manufacturer's specifications, is proven.
3. The above fees or charges shall be subject to review from time to time.

Dated the 16th July 2010

NJUGUNA NDUNG'U
Governor
Central Bank of Kenya

LEGAL NOTICE NO. 82
THE CENTRAL BANK OF KENYA CT
(Cap. 491)

IN EXERCISE of the powers conferred by section 57 (2) of the Central Bank of Kenya Act, the Central Bank of Kenya makes the following Regulations-

THE CENTRAL BANK OF KENYA (FOREIGN EXCHANGE BUREAU)
(PENALTIES) REGULATIONS, 2009

- | | |
|---------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Citation | 1. These Regulations may be cited as the Central Bank of Kenya (Foreign Exchange Bureau) (Penalties) Regulations, 2009. |
| Specific violations | <p>2. The following shall constitute specific violations by a foreign exchange bureau or a person of guidelines or directions of the Bank under the Act which shall be subject to assessment of monetary penalties-</p> <p>a) failure by a foreign exchange bureau to-</p> <ul style="list-style-type: none"> (i) submit annual audited accounts and a copy of the auditor's report in the prescribed form to the Bank, within three months after the end of its financial year; (ii) furnish, at such time and in such manner as the Bank may direct, any information in an accurate and complete manner as the Bank may require to properly discharge its functions under the Act; (iii) comply with the Act, the Forex Bureau Guidelines or such other guidelines or directions as the Bank may issue from time to time; (iv) submit accurate periodic reports and returns to the Bank; (v) maintain a minimum balance of two thousand United States Dollars or such other amount as may be prescribed by the Bank with the authorized banks; (vi) maintain the minimum capital requirements prescribed by the Bank; (vii) maintain a proper information management system to facilitate information dissemination; (viii) accurately record all transactions relating to the purchase and sale of foreign currency; <p>b) conducting business in a manner, which is in the opinion of the Bank unsafe or unsound;</p> <p>c) conducting foreign exchange business through a proxy or nominee;</p> |

- d) transferring shareholding or changing directorship in a foreign exchange bureau without obtaining the prior written approval of the Bank;
- e) engaging a foreign exchange officer who has not been vetted, approved and registered by the Bank; or
- f) maintaining foreign currency accounts with more than the prescribed number of authorized banks.
3. The Bank may levy monetary penalties for the violation of or non-compliance with any other direction that is not provided for under regulation 2.
- Other Violations
4. (1) The Bank shall, after reviewing all available information and determining the contravention or violation of one or more of the provisions of regulations 2 or 3, notify the foreign exchange bureau or a person in writing informing it on its finding and its intention to assess monetary penalties.
- Written notification
- (2) The Bank shall assess the gravity of the contravention or violation and may give the foreign exchange bureau or a person reasonable time to rectify the violation.
- (3) The Bank shall give a foreign exchange bureau or a person seven days notice in writing requiring the foreign exchange bureau or that person to show cause why a penalty should not be imposed.
5. Following the notification and expiration of the timeframe in regulation 4(2), or sooner if advised by the foreign exchange bureau or a person of the correction of the violation, the Bank shall instruct the foreign exchange bureau or that person, in writing, of the penalties assessed and the manner in which such monies shall be paid to the Bank.
- Instructions on Payment of penalty
6. (1) The penalties prescribed under these Regulations shall be paid to the Central Bank of Kenya by a foreign exchange bureau or a person as the case may be, within fourteen days from the date of service of the notice, unless otherwise stated by the Bank in writing.
- Payment of penalty
- (2) Where a foreign exchange bureau that is required to pay a penalty under those Regulations fails to pay a penalty within the time directed by the Bank, the Bank may recover the amounts due on the penalty from the non-interest bearing deposit held by the Bank on behalf of the foreign exchange bureau.
- (3) Where the Bank recovers any amount due on a penalty from the non-interest bearing deposit held by the Bank, the foreign exchange bureau shall within thirty days of being notified by the Bank, raise the amount in the non-interest bearing deposit to the level required by the Bank.
- (4) Where no payment is made or received under paragraph (3), the Bank may revoke the licence of the foreign exchange bureau.
- (5) Where the penalties under paragraph (1) are payable by a person and the person fails to pay, that person shall be disqualified from holding office in a

foreign exchange bureau.

Additional
penalty

7. (1) Where the Bank is not satisfied either by evidence provided by a foreign exchange bureau or a person, or by information obtained by the Bank, that the violation has been rectified as directed, the Bank may prescribe additional penalties not exceeding ten thousand shillings in each case for each day or part thereof during which such contravention continues.
- (2) Once the Bank is satisfied that the violation has been rectified, the daily additional penalty of ten thousand shillings shall cease to accrue and the Bank shall assess the aggregate penalty.

Debt due to the
Bank

8. (1) Where any provision of these Regulations imposes a penalty on any foreign exchange bureau or a person and, either the penalty or part of the penalty remains unpaid, the unpaid amount of the penalty shall constitute a civil debt due from a foreign exchange bureau or a person to the Bank.
- (2) The Bank may:-
- a) in addition to the provisions of regulation 6(4), institute civil proceedings against a foreign exchange bureau or a person for the recovery of the penalty; or
- b) direct that any part of the penalty which remains unpaid after a particular period notified to the foreign exchange bureau, shall constitute a debt payable by the foreign exchange bureau.

Dated the 27th May, 2009

NJUGUNA NDUNG’U
Governor
Central Bank of Kenya

L.N.62 of 2007

THE CENTRAL BANK OF KENYA ACT
(Cap. 491)

IN EXERCISE of the powers conferred by section 57 of the Central Bank of Kenya Act, the Central Bank of Kenya makes the following Regulations:-

THE CENTRAL BANK OF KENYA (FOREIGN EXCHANGE BUSINESS)
REGULATIONS, 2007

Citation

1. These Regulations may be cited as the Central Bank of Kenya (Foreign Exchange Business) Regulations, 2007.

- Application for Licence
2. (1) An application for the grant or renewal of a licence to transact foreign exchange business shall be in Form CBK/FXD/1 in the Schedule and shall be accompanied by the prescribed fee.
- (2) An applicant for a foreign exchange bureau licence shall in addition to other licensing requirements pay a non-refundable application fee of ten thousand shillings.
- (3) The application fee prescribed in paragraph (1) shall be payable only once by each applicant
- (4) The Bank may require the applicant to supply such additional information in support of the application as it may consider necessary
- (5) A licence under this regulation shall be in Form CBK/FXD/2 in the Schedule and shall be valid for a period of one year from the date of issue.
- Minimum Core capital
3. (1) A company applying for a foreign exchange bureau licence shall not be issued with a licence unless it has a minimum core capital of thirty thousand United States Dollars or its equivalent in Kenya Shillings.
- (2) The minimum core capital prescribed under paragraph (1) shall be maintained from the date of commencement of operations and at all times during the course of any business operations of a licensed foreign exchange bureau.
- Grant of licence
4. (1) Within six months of receipt of an application, and subject to fulfilment of any other licensing criteria, the Central Bank of Kenya shall grant a foreign exchange licence to an applicant upon -
- (a) payment by the applicant of a licence fee of sixty five thousand shillings or such other amount as may be determined by the Central Bank of Kenya from time to time; and
- (b) remittance by the applicant of a non-interest bearing deposit of thirty thousand United States Dollars to a Central Bank of Kenya Dollar Account to be advised.
- (2) The annual licence fee referred to in sub regulation (1) shall be payable on or before the 31st December of the calendar year preceding the validity of the licence.
- (3) Every foreign exchange bureau licensed prior to the commencement of these Regulations and which paid a non-interest bearing deposit of five thousand United States Dollars shall be required to increase the deposit paid to ten thousand United States Dollars within one year of the commencement of these Regulations.
- Permission for certain enterprises
5. (1) Any person who -
- (a) is licensed under the Tourist Industry Licensing Act to carry on any registered tourist enterprise: or
- (b) owns or operates a duty free shop; or
- (c) by the nature of his business, requires to transact regularly in foreign currency,

may, pursuant to the provisions of section 33 A(3) of the Act on application, be permitted to receive foreign currency which shall be deposited with an authorized bank or sold to an authorized dealer.

- (2) An application under paragraph (1) shall be in Form CBK/FXD/3 in the Schedule.
- (3) The Bank may require the applicant to supply such additional information in support of the application as it may consider necessary.
- (4) The Bank's permission under this regulation shall be in CBK/FXD/4 in the Schedule.

- Suspension or revocation of licence
6. (1) A foreign exchange bureau shall -
 - (a) submit, not later than three months after the end of its financial year, to the Central Bank of Kenya, its annual audited accounts and a copy of the auditor's report in the prescribed form;
 - (b) furnish, at such time and manner as the Central Bank of Kenya may direct and require, any information in an accurate and complete manner to discharge its functions under the Act; and;
 - (c) comply with such guidelines as may be issued by Central Bank of Kenya through circulars.
 - (2) The Central Bank may suspend or revoke the licence of a foreign exchange bureau which contravenes sub regulation (1).
- Payment of fees
7. (1) Any fees prescribed under these Regulations shall be payable to the Central Bank of Kenya.
 - (2) Any fees paid to the Bank under these Regulations shall be non-refundable.
- Revocation of L.N.23 of 1996
8. The Central Bank of Kenya (Foreign Exchange Business Regulations), 1996 are revoked

SCHEDULE
FORMS

FORM/CBK/FXD/1

(r.2(1))

THE CENTRAL BANK OF KENYA ACT
(Cap 491)

APPLICATION FOR GRANT OR RENEWAL OF LICENCE TO TRANSACT FOREIGN EXCHANGE BUSINESS

(SPECIFIED BANK/FOREIGN EXCHANGE BUREAU)

Please use Block (Capitals) Letters

1. Name of bank/bureau

2. Physical and postal address of head office:

(a) City/Town

.....

(b) L.R. No.

.....

(c) Street

.....

(d) Building

.....

(e) P.O. Box No.

.....

3. Date and country of incorporation

.....

4. Certificate of incorporation No.

.....

5. Number and date of issue of previous foreign exchange licence

6. Current banking licence/foreign exchange bureau licence number

7. Name of branch offices and the number of years each has been established and has conducted or carried on business as an authorized dealer

Branch

Years

.....

.....

.....

.....

.....

.....

8. Particulars of directors

Name	Designation	Nationality

9. Particulars of chief foreign exchange operations officers in descending order of seniority

Name	Designation	Nationality

10. Declaration (by Director/Secretary):

I, the undersigned, hereby declare:

(a) THAT the particulars set are true and correct to the best of my knowledge and belief;

(b) THAT if licensed, I shall transact foreign exchange business in accordance with the provisions of the Central Bank of Kenya Act and of any regulations, guidelines or directives as may from time to time be issued by the Central Bank of Kenya

Dated

Name Signature
.....

Note:

1. Please attach copies of –
 - (a) Certificate of incorporation;
 - (b) Valid banking licence

2. Please attach:
 - (a) Certified passport size photographs of all the chief foreign exchange operations officers; and
 - (b) Credentials and curricula vitae of all chief foreign exchange operations officers.

3. The Bank shall be required to present the chief foreign exchange operations officer for interview and registration by the Bank.
4. Replacement of any chief foreign exchange operations officer registered pursuant to paragraph 3 must be notified to the Bank and any prospective replacement presented to the Bank for interview and registration by the Bank before engagement.
5. All information provided in this form shall be treated as confidential.

FORM CBK/FXD/2 (r.2(5))
THE CENTRAL BANK OF KENYA ACT
(cap 491)

LICENCE TO TRANSACT FOREIGN EXCHANGE BUSINESS

THIS LICENCE is granted to
(Name of specified bank/foreign exchange bureau) of (Address) and authorizes the said specified bank/foreign exchange bureau to transact foreign exchange business in Kenya.

THIS LICENCE is subject to the provisions of the Central Bank of Kenya Act and to the conditions endorsed hereon.

CONDITIONS

Date of issue

Date of expiry

Licence No

.....
Governor
Central Bank of Kenya

FORM

(r.5(2))

CBK/FXD/3 CENTRAL BANK OF KENYA ACT

(cap 491)

APPLICATION FOR PERMISSION TO TRANSACT FOREIGN EXCHANGE BUSINESS

Please Use Block (Capital) Letters

1. Full name of applicant

2. Physical and postal address of head office:

- (a) City/Town
- (b) L.R. Number
- (c) Street
- (d) Building
- (e) P.O. Box Number
- (f) Telephone Number (s)
- (g) Fax number(s)

3. Full name and address of bankers
.....
.....

4. Date and country of incorporation/registration
.....

5. Number of certificate of incorporation/registration
.....

6. Particulars of senior officers in descending order of seniority:

Name	Designation	Nationality

7. Particulars of Directors

Name	Designation	Nationality

8. Nature of foreign exchange transaction for which permission is being sought
.....

9. Declaration (by Director/Secretary)

I, the undersigned hereby declare:

- a. **THAT** the particulars set out herein are true and correct to the best of my knowledge and belief;
- b. **THAT** if licensed, I shall transact foreign exchange business in accordance with the provisions of the Central Bank of Kenya Act and of any regulations, guidelines or directives as may from time to time be issued by the Central Bank of Kenya.

Dated

Name Signature

i. Please attach copies of:

- (a) Certificate of incorporation/registration
 - (b) Memorandum and articles of association
 - (c) Valid trade licence
- ii. Please attach:
- (a) Certified passport size photographs of each director;
 - (b) An original certificate of financial position from your bankers

FORM CBK/FXD/4

(R.5(4))

THE CENTRAL BANK OF KENYA ACT
(Cap 491)

PERMISSION TO TRANSACT FOREIGN EXCHANGE BUSINESS

PERMISSION to transact foreign exchange business has been granted to:

Messrs:

Address:

And is valid for the period to

CONDITIONS

Date of Issue

No:

.....
Governor
Central Bank of Kenya

Dated the 24th April, 2007

NJUGUNA NDUNG’U
Governor
Central Bank of Kenya

L.N. 118

THE CENTRAL BANK OF KENYA ACT
(Cap. 491)

IN EXERCISE of the powers conferred by section 57 of the Central Bank of Kenya Act, the Central Bank of Kenya makes the following Regulations:-

THE CENTRAL BANK OF KENYA (DECLARATION OF CURRENCY
REGULATIONS, 1998)

1. These Regulations may be cited as the Central Bank of Kenya (Declaration of Currency) Regulations, 1998.

2. Any person leaving or entering Kenya may take out or bring into Kenya currency upto a maximum of five hundred thousand (500,000) shillings or the equivalent of five thousand United States dollars (US\$5,000) in foreign currency.
3. Any person in possession of currency exceeding the limits specified in regulation 2 shall declare the amount to the Customs Officer at the point of entry or departure.
4. The declaration of currency shall be in form CBK/C.D/1 set out in the Schedule

SCHEDULE

FORM CBK/C.D./1

CURRENCY DECLARATION

NO.....

This Declaration is to be completed in Duplicate by persons entering or leaving Kenya with more than the equivalent of US\$5,000 or Kshs.500,000 in currency notes.

I, the undersigned hereby declare that I have the following foreign currency in my possession:

Description and type of Currency Notes	Amount of Currency Notes	
	In Figures	In Words

I am ordinary resident in (Country)

Full Name

Passport No.....

Address in Kenya.....

.....

Signature Date

**CUSTOMS STAMP
DATE AND SIGNATURE**

NOTES:

1. This form should be presented at the point of entry/exit to the Customs Officer who shall stamp both copies.
2. The Customs Office reserves the right to physically verify the amounts
3. It is an offence not to declare the currency in your possession under the provisions of the Central Bank of Kenya Act.

Made on the 21st August, 1998

MICAH CHESEREM,
Governor
Central Bank of Kenya