

SPECIAL ISSUE

Kenya Gazette Supplement No. 86 (National Assembly Bills No. 42)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

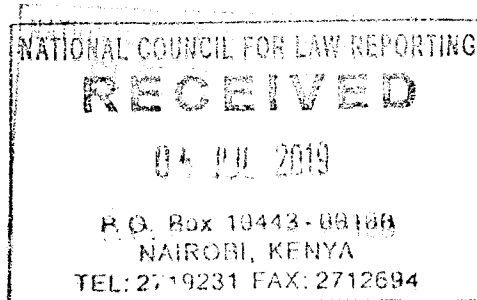
NAIROBI, 17th June, 2019

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Kenya Uwezo Fund Bill, 2019 621



THE KENYA UWEZO FUND BILL, 2019
ARRANGEMENT OF CLAUSES

Clause

PART I – PRELIMINARY

- 1 – Short title
- 2 – Interpretation
- 3 – Application
- 4 – Guiding principles

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

- 5 – Establishment of the Fund
- 6 – Objects and purpose of the Fund
- 7 – Establishment of the Uwezo Fund Board
- 8 – Functions of the Board
- 9 – The role of the Ministry
- 10 – Qualifications of Board members
- 11 – Removal from office
- 12 – Vacation of office
- 13 – Filling of vacancy
- 14 – Meetings of the Board
- 15 – Appointment of Chief Executive Officer
- 16 – Removal of the Chief Executive Officer
- 17 – Committees of the Board
- 18 – Delegation by the Board
- 19 – Employees of the Board

PART III – MANAGEMENT OF THE FUND

- 20 – Administration of the Fund
- 21 – Initial capital
- 22 – Fund allocation
- 23 – Expenditure of the Uwezo Fund
- 24 – Retention of receipts
- 25 – Application of Government regulations and procedures
- 26 – Expenses of administering the Fund

- 27 – Investment of funds
- 28 – Annual estimates
- 29 – Accounts and audit
- 30 – Annual report
- 31 – Interest rates

**PART IV – DEVOLUTION OF THE FUND AND
DISBURSEMENT OF FUNDS**

- 32 – Fund disbursement
- 33 – Establishment of Constituency Uwezo Fund
Committee
- 34 – Functions of the Committee
- 35 – Bank accounts
- 36 – Eligibility criteria for applicants
- 37 – Disbursement of funds
- 38 – Repayment of loan

PART V – PROVISIONS ON DELEGATED POWERS

- 39 – Regulations

PART IV – MISCELLANEOUS PROVISIONS

- 40 – Winding up of the Fund
- 41 – Transitional provisions

**FIRST SCHEDULE–PROVISIONS AS TO THE
CONDUCT OF
BUSINESS AND
AFFAIRS OF THE
BOARD**

**SECOND SCHEDULE–PROVISIONS AS TO
THE INITIAL
CAPITAL AND
INTEREST RATES
OF THE FUND**

**THIRD SCHEDULE–TRANSITIONAL
PROVISIONS**

THE KENYA UWEZO FUND BILL, 2019**A Bill for**

AN ACT of Parliament to provide for the establishment of the empowerment fund for youth, women and persons with disabilities, to consolidate the Uwezo Fund, the Women Enterprise Fund and the Youth Enterprise Development Fund into one Fund, and for connected purposes—

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kenya Uwezo Fund Act, 2019. Short title.
2. In this Act, unless the context otherwise requires— Interpretation.
 - “Board” means the Uwezo Fund Board constituted under section 7 of this Act;
 - “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to youth and women and persons with disabilities affairs;
 - “committee” means a Constituency Uwezo Fund Management Committee established under section 34 of this Act;
 - “financial year” means the period of twelve months ending on the 30th June in each year;
 - “Fund” means the Uwezo Fund established under section 5 of this Act;
 - “Ministry” means the Ministry for the time being responsible for matters relating to youth, women and persons with disabilities affairs;
 - “National Council for Persons with Disabilities” means the National Council for Persons with Disabilities established in section 3 of the Persons With Disabilities Act; Cap. 133.
 - “National Gender and Equality Commission” means the National Gender and Equality Commission established in section 3 of the National Gender and Equality Commission Act; Cap. 5C.
 - “National Youth Council” means the National Youth Council established in section 3 of the National Youth Council Act; Cap. 132.

“non-executive” means a non-working director of an organization who is not an executive director and therefore does not participate in the day to day management of the firm;

“persons with disabilities” means any persons with a physical, sensory, mental or other impairment, including any visual, hearing, learning or physical incapability, which impacts adversely on his or her social, economic or environmental participation;

“Public Sector Accounting Standards Board” means the Public Sector Accounting Standards Board established by section 192 of the Public Finance Management Act 18 of 2012;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established under Article 248 of the Constitution;

Cap. 412C.

“woman” means a person of the female gender who is above 18 years of age; and

“youth” means any citizen who has attained the age of eighteen but has not attained the age of thirty five years.

3. This Act shall apply to youth, women and persons with disabilities.

Application.

4. The implementation of this Act shall be guided by the principles set out in Article 54 of the Constitution, which provides that a person with disability is entitled to be treated with dignity and respect, and Article 55 of the Constitution which requires the State to take measures, including affirmative action programmes, to ensure that the youth have opportunities to associate, be represented and participate in political, social, economic and other spheres of life.

Guiding principles.

PART II – ESTABLISHMENT OF THE UWEZO FUND

5. (1) There shall be established a fund to be known as the Uwezo Fund which shall be a body corporate with perpetual succession and a common seal.

Establishment of the Fund.

(2) The Fund shall be capable in its corporate name of—

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

(3) The Fund shall consist of-

- (a) monies appropriated by Parliament;
- (b) grants and donations; and
- (c) income generated from the proceeds of the Fund.

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

6. The objects and purpose for which the Fund is established are-

Objects and purpose of the Fund.

- (a) to promote youth, women and persons with disabilities' enterprises at the constituency level;
- (b) to generate self-employment for the youth, women and persons with disabilities;
- (c) to model an alternative framework in funding community driven development;
- (d) to attract and facilitate investment in micro, small and medium enterprises oriented commercial infrastructure including business or industrial parks, stalls, markets or business incubators that will be beneficial to youth, women and persons with disabilities' enterprises; and
- (e) to support youth, women and persons with disabilities oriented micro, small and medium enterprises to develop linkages with large enterprises.

7. (1) There is established a Board to be known as the Uwezo Fund Board.

Establishment of the Uwezo Fund Board.

- (2) The Board shall consist of-
- (a) a non-executive chairperson nominated by the Cabinet Secretary and appointed by the President;
 - (b) a Chief Executive Officer to the Board who shall also be an ex-officio member and the secretary to the Board;
 - (c) the Principal Secretary in the Ministry for the time being responsible for matters relating to youth, women and persons with disabilities or his or her representative who shall be appointed in writing to the Chairperson;
 - (d) the Principal Secretary in the Ministry for the time being responsible for matters relating to finance or his or her representative who shall be appointed in writing to the Chairperson;
 - (e) three persons with expertise and experience in enterprises development or financial management, one of whom shall be a woman, appointed by the Cabinet Secretary;
 - (f) one person representing the youth who shall be nominated by the National Youth Council;
 - (g) one person representing women who shall be nominated by the National Gender and Equality Commission; and
 - (h) one person representing persons with disabilities who shall be nominated by the National Council for Persons with Disabilities.

(3) A member of the Board, except the ex-officio members, shall hold office for a period of three years and shall be eligible for re-appointment for one further term of three years.

(4) The Chairperson to the Board shall hold office for a period of three years renewable for one further term.

(5) Subject to sub-sections (3) and (4), the Board or such other independent body as may be appointed by the Board, shall evaluate the members' performance to determine suitability for re-appointment.

8. The Board shall-

Functions of the Board.

- (a) manage and administer the Fund;
- (b) consider and approve funding to the constituencies;
- (c) approve disbursement of funds to the Committees;
- (d) receive reports on the performance of the Fund from the Committees;
- (e) develop and facilitate sectoral linkage on the Fund;
- (f) monitor and evaluate the programmes under the Fund;
- (g) prepare and submit an annual report on the operations and performance of the Fund to the Cabinet Secretary;
- (h) put in place necessary mechanisms for sanctions and their enforcements in case of loan repayment default;
- (i) carry out any other activity which, in the Board's opinion, will be necessary to promote and facilitate the objects and purposes for which the Fund is established;
- (j) through its local offices, liaise with local business and corporate enterprises and encourage peer mentoring engagements for all Fund recipient groups; and
- (k) be responsible for capacity building to Fund recipients on table banking, business entrepreneurship, public procurement and other business development areas.

9. The Ministry responsible for youth, women and persons with disabilities affairs shall facilitate and oversee the operations of the Board in the implementation of the Fund and in particular shall-

The role of the Ministry.

- (a) develop policy measures relating to the Fund; and
- (b) prescribe regulations on the formula for distribution of the funds.

10. (1) A person shall qualify for appointment as a Chairperson of the Board if such person-

Qualifications of Board members.

- (a) is a Kenyan citizen;

- (b) holds a minimum of a bachelors degree from a university recognized in Kenya;
- (c) holds at least five years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(2) A person shall qualify for appointment as a member of the Board if such person-

- (a) is a Kenyan citizen;
- (b) holds a minimum of a bachelors degree from a university recognized in Kenya;
- (c) has at least five years' post-qualification professional experience in matters relating to financial management, venture capital fund management or youth development; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) A person shall not qualify for appointment as the Chairperson or a member of the Board if the person-

- (a) is a member of Parliament or county assembly;
- (b) is a member of a governing body of a political party;
- (c) is an undischarged bankrupt;
- (d) has been removed from office for contravening the Constitution or any other law; or
- (e) has, in the conduct of his or her affairs, not met any statutory obligations.

11. (1) The Chairperson or a member of the Board may be removed from office for-

- (a) gross violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office; or

Removal from office.

(d) incompetence or neglect of duty.

(2) The Cabinet Secretary may, upon the recommendation of the Board, revoke the appointment of a member of the Board on any of the grounds specified under sub-section (1).

12. A person shall cease to be a member of the Board if such person-

Vacation of office.

- (a) resigns in writing, to the Cabinet Secretary;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is declared bankrupt;
- (d) is unable to perform the functions of his or her office by reason of mental or physical incapacity; or
- (e) dies.

13. Where a vacancy occurs in the membership of the Board, the Cabinet Secretary shall, if the vacancy relates to the Chairperson or the members appointed under section 7 (2) (e), nominate a new member in accordance with the provisions of this Act.

Filling of vacancy.

14. The business and affairs of the Board shall be conducted in accordance with the First Schedule.

Meetings of the Board.

15. (1) There shall be a Chief Executive Officer of the Board who shall-

Appointment of Chief Executive Officer.

- (a) be competitively recruited and appointed on such terms and conditions as the Board may determine; and
- (b) shall be remunerated on such terms as shall be determined by the Board on the advice of the Salaries and Remuneration Commission.

(2) A person shall qualify for appointment under sub-section (1) if such person-

- (a) is a Kenyan citizen;
- (b) has a bachelors degree from a university recognized in Kenya;
- (c) has demonstrable experience in financial management;

- (d) has at least five years' experience in a senior management position; and
- (e) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall-

- (a) be responsible to the Board for the day-to-day management of the Fund;
- (b) be the accounting officer;
- (c) be the custodian of all records of the Board;
- (d) be responsible for-
 - (i) executing decisions of the Board;
 - (ii) assignment of duties and supervision of all employees of the Board;
 - (iii) facilitating, coordinating and ensuring execution of the Board's mandate;
 - (iv) ensuring staff compliance with public ethics and national values; and
 - (v) the performance of such other duties as may be assigned by law and the Board.

16. The Chief Executive Officer may be removed from office by the Board through a fair administrative action for-

Removal of the Chief Executive Officer.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) being a declared bankrupt;
- (d) gross incompetence or neglect of duty; or
- (e) violation of the Constitution or any other written law.

17. (1) The Board may establish such committees as it may consider necessary for the performance of its functions under this Act.

Committees of the Board.

(2) The Board may co-opt into the membership of a committee any person whose knowledge and skills are necessary for the functions of the Board, provided that such

a co-opted member shall not have any voting rights in respect of decisions of the Board.

18. The Board may, in writing generally or in any particular case, delegate to a member, an employee, a committee or agent, the exercise of any of its powers or the performance of any of its functions under this Act.

Delegation by the Board.

19. (1) The Board may employ such employees as it may consider sufficient for the performance of its functions under this Act.

Employees of the Board.

(2) The terms and conditions of service for the employees shall be determined by the Board, on the advice of the Salaries and Remuneration Commission pursuant to Article 230 (4) (b) of the Constitution.

PART III – MANAGEMENT OF THE FUND

20. (1) The Chief Executive Officer shall be the administrator of the Fund.

Administration of the Fund.

(2) The administrator of the Fund shall-

- (a) open and operate a bank account at a bank to be approved by the Cabinet Secretary for the time being responsible for finance;
- (b) supervise and control the administration of the Fund;
- (c) consult with the Board on matters relating to the administration of the Fund;
- (d) cause to be kept proper books of accounts and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund;
- (e) prepare, sign and transmit to the Auditor-General, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and submit a copy to the National Treasury and the statements shall be prepared in such a manner as the Public Sector Accounting Standards Board shall prescribe;
- (f) furnish additional information as he or she may consider to be proper and sufficient for the purpose of examination and audit by the Auditor-General

in accordance with the provisions of the Public Audit Act; and

- (g) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Cabinet Secretary for gazettelement by the 21st of every fourth month.

(3) Every statement of account prepared under subsection (2) (e) shall include—

- (a) details of the balance between the assets and liabilities of the Fund; and
- (b) the financial status of the Fund as at the end of the financial year concerned.

21. The initial capital of the Fund shall be as set out in the Second Schedule.

Initial capital.

22. The initial capital of the Fund shall be allocated as follows—

Fund allocation.

- (a) a one off three per cent administration fee shall be charged on the total fund allocated and shall be retained by the Board for purposes of facilitating both national and constituency level administrative functions;
- (b) an amount not exceeding eight per cent of the capital shall be earmarked for capacity building of the Fund beneficiaries and target groups; and
- (c) for the balance of the Fund to constituencies—
 - (i) seventy five per cent shall be allocated equally across all constituencies;
 - (ii) twenty five per cent shall be disbursed on the basis of the Kenya National Bureau of Statistics poverty index for equalization purposes;
- (d) for each constituency's share—
 - (i) eighty per cent shall be allocated as loans; and
 - (ii) twenty per cent shall be allocated as a grant for each beneficiary group.

23. (1) The expenditure incurred on the Fund shall be on the basis of and limited to—

Expenditure of the Uwezo Fund.

- (a) the annual work programmes; and
- (b) annual estimates which shall be prepared by the administrator of the Fund and approved by the Board at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programme and of any estimates shall be referred to the Board for approval.

24. The receipts, earnings and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.

Retention of receipts.

25. Subject to the provisions of this Act, the Public Finance Management Act No. 18 of 2012 and existing Government Regulations and Procedures shall apply in the administration of the Fund.

Application of Government Regulations and procedures.

26. There shall be paid out of the Fund in such manner as the Board in consultation with the Cabinet Secretary may determine, such sum as the Board may estimate to be their expenses in carrying out this Act into effect.

Expenses of administering the Fund.

27. (1) The Board may invest the funds of the Board which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

Investment of funds.

(2) The Board may place on deposit with such bank or banks, on the recommendation of the National Treasury, any moneys not immediately required for the purposes of the Board.

28. (1) At least three months before commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure for that year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for-

- (a) the payment of the salaries, allowances and other charges in respect of the members and staff of the Board;
- (b) the payment of pensions, gratuities and other charges in respect of retirement benefits to staff of the Board;

- (c) the proper maintenance of the buildings and grounds of the Board;
- (d) the proper maintenance, repair and replacement of the equipment and other movable property of the Board; and
- (e) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment or in respect of such other matters as the Board may consider necessary.

(3) The annual estimates shall be submitted to the Board for approval before the commencement of the financial year to which they relate.

(4) Where the Board has approved the annual estimates, the sum provided in the estimates shall not be increased without the prior consent of the Board and the Cabinet Secretary.

(5) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under sub-section (3) or in pursuance of an authorization of the Board and the Cabinet Secretary.

29. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Board.

Accounts and
audit.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed under sub-section (3), the accounts of the Board together with-

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

(3) The accounts of the Board shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.

(4) The appointment of an auditor shall not be terminated by the Board without the prior written consent of the Auditor-General.

(5) The Auditor-General may give general or special directions to an auditor appointed under sub-section (3) and the auditor shall comply with those directions.

(6) An auditor appointed under sub-section (3) shall report directly to the Auditor-General on any matter relating to the directions given under sub-section (5).

(7) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts to the Board and to the Cabinet Secretary, and in the case of an auditor appointed under sub-section (3), the auditor shall transmit a copy of the report to the Auditor-General.

(8) Nothing in this Act shall be construed to prohibit the Auditor-General from carrying out an inspection of the Board's accounts or records whenever it appears to him desirable and the Auditor-General shall carry out such an inspection at least once every six months.

(9) The Cabinet Secretary shall lay the annual report before the National Assembly as soon as reasonably practicable after the report is submitted to him under this section.

30. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Board for the preceding year.

Annual report.

(2) The Cabinet Secretary shall lay the annual report before the National Assembly within three months from the day the Assembly next sits after the report is presented to him.

31. (1) The interest rate for the Fund Loan component shall be as prescribed in the Second Schedule.

Interest rates.

(2) The Board shall in consultation with the Cabinet Secretary in the National Treasury set the annual interest rates applicable, and shall gazette the interest rates.

PART IV—DEVOLUTION OF THE FUND AND DISBURSEMENT OF FUNDS

32. The funds shall be disbursed under the following conditions—

Fund
disbursement.

- (a) all disbursement from the Fund shall be approved and minuted by the Board;

- (b) all disbursements from the Uwezo Fund Main Account shall be made through the constituency bank accounts maintained for every constituency;
- (c) the record of the amounts received by each constituency and the record of amounts so received shall be submitted to the Board within thirty days after the close of the relevant financial year and no disbursements for the succeeding financial year shall be made into the accounts until the said records are duly received;
- (d) the Board shall set out general conditions and requirements for release of funds, to ensure efficient and effective management of resources;
- (e) the Board may impose reasonable requirements, including restrictions, on a particular constituency and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Cabinet Secretary.

33. (1) There shall be established a committee to be known as the Uwezo Fund Management Committee in every Constituency.

Establishment of
Constituency
Uwezo Fund
Committee.

- (2) The Committee shall consist of-
 - (a) the deputy county commissioner or his or her representative;
 - (b) the sub-county Gender and Social Welfare Development Officer or his representative;
 - (c) a sub-county accountant responsible for national government operations within that constituency;
 - (d) the sub-county representative of the national government in the Ministry responsible for youth, women and persons with disabilities affairs;
 - (e) one person representing women who shall be nominated by the National Gender and Equality Commission;
 - (f) one person representing the youth who shall be nominated by the National Youth Council;
 - (g) one person with disability who shall be nominated by the National Council for Persons with Disabilities; and

(h) the Constituency Development Fund Manager who shall be an ex-officio member and the secretary of the committee.

(3) The employees of the Board employed under section 19(1) shall provide secretariat services at the constituency level.

(4) The total number of ward representatives shall have equal number of either gender with the women quota providing for at least one female youth.

(5) The Cabinet Secretary shall appoint the members of the Committee by way of notice in the Gazette.

(6) On the first meeting of the Committee, the members of the Committee shall appoint the chairperson from among the members.

(7) The Uwezo Fund Board staff under sub-section 3, one officer from the Ministry and the sub-county social development officers shall provide the necessary secretariat service to the Committee.

(8) A member of the Committee, except the ex-officio members, shall hold office for a period of two years and shall be eligible for re-appointment for one further term.

34. The functions of the Committee shall be to-

Functions of the Committee.

- (a) identify the targeted groups within the Constituency using guidelines provided;
- (b) receive and evaluate applications from the groups;
- (c) receive project proposals from religious institutions and consider the same for funding;
- (d) recommend for approval to the Board for the disbursement of funds to the groups;
- (e) monitor utilization of the funds by groups and religious institutions;
- (f) manage and oversee the implementation of the Fund at the constituency level; and
- (g) compile and submit progress reports to the Board on a quarterly basis.

35. (1) Every committee shall open and maintain the following bank accounts-

Bank accounts.

- (a) the Uwezo Fund Main Account;
- (b) the Uwezo Fund Administration Account; and
- (c) the Uwezo Fund Loan Repayment Account.

(2) Every bank account shall have at least three signatories, of whom the mandatory signatory shall be the sub-county accountant.

(3) The Board may recommend the removal of a signatory to the bank accounts where necessary.

36. (1) A group shall qualify for a loan application if the group-

Eligibility criteria for applicants.

- (a) is registered with the department of social services, as a co-operative or as a society;
- (b) has a minimum of six and a maximum of fifty members;
- (c) is composed of members who are between eighteen and thirty-five years of age;
- (d) in the case of a women's group, the group is composed of women of eighteen years and above;
- (e) has been in existence for at least three months;
- (f) is made up of members who ordinarily reside in the constituency in which the application is made;
- (g) operates a table banking structure where members make monthly contributions according to the groups' internal guidelines (evidence of monthly contributions shall be a requirement); and
- (h) hold a bank account in the name of the group.

(2) A religious institution shall qualify for a loan application if the religious institution-

- (a) is a registered entity; and
- (b) has listed youth or women groups within it.

(3) An application for the funds shall be accompanied by a signed guarantee form executed by each member of the women or youth group individually committing to repay the loan requested by the group.

(4) The Committee shall enter into an agreement with the identified beneficiary groups on the terms of the loan

repayment prior to release of funds through signing a prescribed form.

37. (1) The minimum or maximum amount which may be disbursed to a group shall be as prescribed in the Regulations.

Disbursement of funds.

(2) In determining the total amount that a group is eligible to receive, the following criteria shall be applied-

- (a) the length of time the group has been in existence;
- (b) the total amount contributed by the group;
- (c) the current status of contribution; and
- (d) the proposed project for which the loan is applied.

38. (1) The repayment period for each loan element shall be determined by the following-

Repayment of loan.

- (a) the amount of money borrowed;
- (b) the size of the group; and
- (c) the proposed financial plan for the loan repayment.

(2) All groups shall be allowed a six months grace period before commencement of repayment of the loan.

(3) Subject to sub-section (2) all loans shall be payable within two years after the expiry of the grace period.

(4) A loan recipient shall repay the loan by depositing, either cash or cheque, their monthly repayments for loan proceeds into the Uwezo Fund repayment account and submit a copy of the deposit slip to the Committee who shall issue and acknowledge receipt to the recipient group.

(5) Upon verifiable proof of loan repayment of all loan proceeds, the Committee shall issue a discharge certificate to the recipient group with respect to the loan repayment.

PART V – PROVISIONS ON DELEGATED POWERS

39. (1) The Cabinet Secretary for the time being responsible for matters relating to finance may, on the recommendation of the Board, make regulations prescribing any matter necessary for the carrying out of the provisions of this Act.

Regulations.

(2) The Board in consultation with the Salaries and Remuneration Commission may make regulations with

respect to pension or provident fund benefits of members of staff of the Board.

(3) The power to make regulations conferred under sub-section (1) shall be—

- (a) for the purpose and object of giving effect to the Constitution and this Act;
- (b) limited to the nature and scope specifically stipulated in the Constitution and this Act; and
- (c) based on the general principles and standards contained in the Constitution and this Act.

PART VI – MISCELLANEOUS PROVISIONS

40. In the event of winding up of the Fund, the cash balances shall be transferred to the National Exchequer Account while other assets of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to finance.

Winding up of the Fund.

41. The transitional provisions set out in the Third Schedule shall apply upon the commencement of this Act.

Transitional provisions.

FIRST SCHEDULE

**PROVISIONS AS TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD**

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

Meetings of the Board.

(2) The Chairperson shall convene the ordinary meetings of the Board at the premises of the Board.

(3) Despite the provisions of sub-section (1) of this Schedule, the Chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board at any time where he considers it expedient for the transaction of the business of the Board.

(4) Unless three quarters of the total number of the members of the Board otherwise agree, at least fourteen days written notice of every meeting of the Board shall be given to every member of the Board by the chief executive officer.

(5) The quorum for the conduct of the business of the Board shall be seven members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of the Board at which he is present and in his absence, the members of the Board present shall elect one person from among them to preside over the meeting of the Board and such person elected shall have all the powers of the Chairperson.

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

(8) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

(9) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not vote in any decision of the Board.

(10) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure

for any committee of the Board and for the attendance of other persons at its meetings thereof.

2. (1) If a member of the Board is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

Disclosure of interest.

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

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

SECOND SCHEDULE**(s.32)****PROVISIONS AS TO THE INITIAL CAPITAL AND INTEREST RATES OF THE FUND**

1. The initial capital of the Fund shall be the consolidated Funds from the former Uwezo Fund, the Youth and Women Enterprise Funds, and shall be a revolving fund to be replenished at the end of each financial year.

Initial capital of the Fund.

2. The interest rate for the Fund loan component shall be a maximum of one per cent.

Interest rates.

THIRD SCHEDULE**TRANSITIONAL PROVISIONS**

1. (1) In this Schedule-

Interpretation.

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

“former Boards” means the Youth Enterprise Development Fund Board, the Women Enterprise Development Fund Board and the Uwezo Fund Oversight Board.

2. (1) The following subsidiary legislations are hereby revoked-

Revocation and savings provisions.

(a) The Public Finance Management (Uwezo Fund) Regulations, 2014;

L.N. 21 of 2014.

(b) The Government Financial Management (Women Enterprise Fund) Regulations, 2007;

*L.N. 147 of 2007.**L.N. 63 of 2007.*

(c) Youth Enterprise Development Fund Order, 2007; and

L.N. 52 of 2016.

(d) The Public Finance Management (National Government Affirmative Action Fund) Regulations, 2016.

(2) The members of the former Boards may be re-deployed to other positions within the Board, the Ministry responsible for youth and women affairs and the Ministry responsible for matters relating to finance, as the respective Cabinet Secretaries shall direct.

(3) Despite the provisions of sub-sections (1) and (2), the provisions of this part shall apply upon the commencement of this Act.

3. All rights, obligations and contracts which, immediately before coming into operation of this Act, were vested in or imposed on the former Boards shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board.

Rights and obligations.

4. (1) Every person who, immediately before the appointed day was an officer or member of staff of the former Boards, not being then under notice of dismissal or resignation shall, on the appointed day be presumed to be staff of the new Board.

Transfer of staff.

(2) The members of the new Board shall, in consultation with the Cabinet Secretary for National Treasury, undertake staff placement in the developed organizational and staff establishment structures.

(3) Any staff found not fitting in the establishment structure may be re-deployed elsewhere in the public service.

(4) The Board may make regulations with respect to pension or provident fund benefits of members of staff of the Board.

5. (1) The Chief Executive Officers of the former Boards shall move to the new Board as heads of directorates.

Re-deployment of Chief Executive Officers.

(2) The Chief Executive Officers under sub-section (1) will serve for their unexpired term subject to a maximum period of six months and thereafter, their contracts shall be determined.

MEMORANDUM OF OBJECTS AND REASONS

Statements of the Objects and Reasons for the Bill

The Uwezo Fund stems from the pledge His Excellency the President made to allocate the KShs. 6 billion that was meant for a presidential run-off, to youth and women groups. Following from this, the National Treasury allocated and Parliament approved the sum of KShs. 6 billion to go towards this Fund in the budget covering the Financial Year 2013/2014.

The objective of this Bill is to elevate the Public Finance Management (Uwezo Fund) Regulations, 2013 into an Act of Parliament, and to incorporate the Youth and Women Enterprise Development Funds into the Act.

This Bill therefore repeals the following subsidiary legislations-

- (a) The Public Finance Management (Uwezo Fund) Regulations, 2013;
- (b) The Government Financial Management (Women Enterprise Fund) Regulations, 2007; and
- (c) Youth Enterprise Development Fund Order, 2007.

Clause 5 and 6 provide for the establishment and the objects and purpose of the Uwezo Fund.

Clause 7 provides for the establishment and functions of the Uwezo Fund Board.

Clause 9 provides for the role of the Ministry.

Clauses 10, 11, 12, 13 and 14 provide for the appointment and qualifications of the chairperson and members of the Uwezo Fund Board, as well as the conditions for their removal from office and the filling of a vacancy.

Clauses 15 and 16 provide for the appointment and removal of the Chief Executive Officer.

Clause 17, 18 and 19 provide for the establishment of committees of the Board as well as the employment of employees of the Board.

Clauses 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 provide for the management of the Fund. These clauses deal with the administration of the Fund, the initial capital, fund allocation and expenditure of the Uwezo Fund.

Clauses 32, 33, 34, 35, 36, 37 and 38 provide for the devolution of the Fund and the disbursement of funds. They provide for the

establishment and functions of the Constituency Uwezo Fund Committee, the eligibility criteria for applicants as well as the disbursement of funds.

Clause 39 deals with the provisions on delegated powers. It provides for the powers of the Cabinet Secretary to make regulations on any matter necessary for the carrying out of the provisions of this Act.

Clause 40 provides for the winding up of the Fund.

Clause 41 provides for the transitional provisions.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill delegates the power to make regulations to the Cabinet Secretary but it does not limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Bill does not concern county governments in terms of Article 109(3) of the Constitution as it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill will occasion additional expenditure of public funds.

Dated the 4th March, 2019.

D. K. BOWEN,
Member of Parliament.