

**THE PUBLIC FINANCE MANAGEMENT ACT (THE KAKAMEGA COUNTY  
EMERGENCY FUND) REGULATIONS, 2018**

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*Regulation*

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	<p style="text-align: center;"><b>THE PUBLIC FINANCE MANAGEMENT ACT</b> <i>(No. 18 of 2012)</i></p> <p>IN EXERCISE of the powers conferred by section 110 of the Public Finance Management Act, 2012 the Kakamega County Executive Committee Member for Finance makes the following Regulations —</p> <p style="text-align: center;"><b>THE PUBLIC FINANCE MANAGEMENT (THE KAKAMEGA COUNTY EMERGENCY FUND) REGULATIONS, 2018</b></p> <p style="text-align: center;"><b>PART I</b> <b>PRELIMINARY</b></p>
Short title	1. These regulations may be cited as The Public Finance Management (The Kakamega County Emergency Fund) Regulations, 2018.
Interpretation	2. In these regulations unless the context otherwise requires — “ <b>Accounting Standards Board</b> ” means the Public Sector Accounting Standards Board established under section 192 of the Public Finance Management Act, 2012; “ <b>County</b> ” means Kakamega County; “ <b>County Assembly</b> ” means County Assembly of Kakamega County; “ <b>County Exchequer Account</b> ” means the county revenue fund pursuant to Article 207 of the Constitution of Kenya, 2010; “ <b>Emergency</b> ” means an urgent and unforeseen need which falls within the mandate of the County government that threatens damage to human life or welfare or threatens damage to the environment for which immediate expenditure is required;

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<p>Object and purpose</p>	<p>“<b>Executive Committee</b>” means County Executive Committee pursuant to Article 179 of the Constitution of Kenya;</p> <p>“<b>Executive Committee Member</b>” means the County Executive Committee Member for Finance;</p> <p>“<b>Fund</b>” means the Kakamega County Emergency Fund established under Regulation 4;</p> <p>“<b>Unforeseen event</b>” means an occurrence or circumstance that is not anticipated.</p> <p>3. The object and purpose of these regulations is to provide for-</p> <ul style="list-style-type: none"><li>(a) establishment of a Fund from which payments shall be made when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises; and</li><li>(b) a common basket emergency Fund in order to facilitate faster, transparent, predictable, and accountable release of funds for emergency management.</li></ul>
<p>Establishment of the Fund</p>	<p style="text-align: center;"><b>PART II – ESTABLISHMENT OF THE FUND</b></p> <p>4. There is established a Fund known as Kakamega County Emergency Fund to enable payments to be made when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises.</p>
<p>Sources of monies for the Fund</p>	<p>5(1) The sources of monies for the Fund shall include-</p> <ul style="list-style-type: none"><li>(a) money appropriated by the County Assembly;</li><li>(b) interest accruing from bank deposits in respect of the Fund; and</li><li>(c) money from any other legitimate source.</li></ul> <p>(2) Any unused monies at the end of the financial year shall not be paid to the county revenue account but shall be retained in the Fund and carried forward to the next financial year as provided for in section 116(3) of the Public Finance Management Act, 2012.</p>

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<p>Advisory committee</p>	<p>(3) Money retained in the Fund and which is already committed to a particular use shall not form part of the annual allocation for the Fund.</p> <p style="text-align: center;"><b>PART III - ADMINISTRATION OF THE FUND</b></p> <p>6 (1) There is established an Advisory Committee for the Fund.</p> <p>(2) The committee shall consist of-</p> <ul style="list-style-type: none"><li>(a) Executive Committee Member responsible for public service who shall be the Chairperson;</li><li>(b) Executive Committee Member who shall be the Fund Administrator and secretary to the committee;</li><li>(c) County Attorney;</li><li>(d) Executive Committee Member responsible for public works;</li><li>(e) Executive Committee Member responsible for water; and</li><li>(f) Executive Committee Member responsible for health services.</li></ul> <p>(3) The Executive Committee Member shall be an ex officio member of the committee</p>
<p>Functions of the Advisory Committee</p>	<p>7. (1) The Advisory Committee shall-</p> <ul style="list-style-type: none"><li>(a) formulate guidelines to achieve the objects of the Fund;</li><li>(b) provide oversight on the administration and management of the Fund;</li><li>(c) maintain proper records of the committee affairs and books of accounts;</li><li>(d) submit quarterly returns and reports of the committee operations to the Executive Committee;</li><li>(e) be the custodian of all Fund assets and documentation;</li><li>(f) receive any gifts, donations, grants or endowments made to the Fund;</li><li>(g) prepare annual estimates and reports to the Executive Committee;</li><li>(h) approve the opening and operation of bank accounts for the Fund;</li><li>(i) not later than three months after the end of each financial year, cause to be prepared financial statement of the Fund and submit the same to the Auditor General;</li></ul>

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Fund Administrator	<ul style="list-style-type: none"><li>(j) ensure that the earnings of, or accruals to the Fund are retained in the Fund unless the Executive Committee Member directs otherwise;</li><li>(k) ensure that money held in the Fund, including any earnings or accruals is spent only for the purposes for which the Fund is established; and</li><li>(l) perform such other functions as the committee may deem necessary for the proper discharge of its mandate.</li></ul> <p>8. The Executive Committee Member shall be the Administrator of the Fund and shall be responsible for the running of the day-to-day activities of the Fund.</p>
Functions of the Fund Administrator	<p>9(1) The Fund Administrator shall —</p> <ul style="list-style-type: none"><li>(a) prepare accounts for the Fund for each financial year;</li><li>(b) not later than three months after the end of each financial year submit financial statements relating to those accounts to the Auditor General which shall include-<ul style="list-style-type: none"><li>(i) the date and amount of each payment made from the Fund;</li><li>(ii) the person to whom the payment was made;</li><li>(iii) the purpose for which the payment was made;</li><li>(iv) whether the person to whom the payment was made has spent the money for that purpose and a statement made to that effect; and</li><li>(v) a statement indicating how the payment conforms to Section 112 of the Public Finance Management Act,2012.</li></ul></li><li>(c) present the financial statements to the County Assembly; and</li><li>(d) supervise and manage the operations of the Fund.</li></ul> <p>(2) Accounts for the Fund and the annual financial statements relating to those accounts shall comply with the accounting standards prescribed and published</p>

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<p>Secretariat of the Fund</p>	<p>by the Accounting Standards Board from time to time.</p>
<p>Power to make payments from the Fund</p>	<p>10. The Advisory Committee shall set up a secretariat of at least two public officers who may be seconded from a relevant department from within the county government or competitively employed who shall ensure proper management of records of the Fund.</p>
<p>Limitation on power to make payments</p>	<p>11. Subject to regulation 12, the Executive Committee Member may with the approval of the Advisory Committee make payments from the Fund if he or she establishes that –</p> <ul style="list-style-type: none"><li>(a) payment not budgeted for cannot be delayed until a later financial year without harming the general public interest;</li><li>(b) the payment is meant to alleviate the damage, loss, hardship or suffering which may be caused directly by the event; and</li><li>(c) the damage caused by the event is on a small scale and limited to the county.</li></ul>
<p>County Assembly to ratify payments</p>	<p>12 (1) The Executive Committee Member may not, during a financial year, make a payment from the Emergency Fund exceeding two per cent of the total county government revenue as shown in the county government’s audited financial statements for the previous financial year.</p> <p>(2) The Executive Committee Member shall ensure that a minimum of Kenya Shillings Fifty Million is maintained in the Fund.</p>
<p>County Assembly to ratify payments</p>	<p>13. (1) The Executive Committee Member shall seek ratification of the County Assembly within two months after payment is made from the Emergency Fund.</p> <p>(2) If the County Assembly is not sitting during the period referred to in sub-regulation (1), the Executive Committee Member shall seek ratification for the payment within fourteen days after the County Assembly next sits.</p> <p>(3) As soon as practicable after the County Assembly has ratified the payment, the Executive Committee Member shall cause a draft of the Appropriation Bill to be introduced in the County Assembly for the appropriation of the money paid and for the replenishment of the county government’s Emergency Fund to the extent of the amount of the payment.</p>

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<p>Annual estimates</p>	<p><b>PART IV - FINANCIAL PROVISIONS RELATING TO THE FUND</b></p> <p>14(1) Before the commencement of each financial year the Advisory Committee shall cause to be prepared estimates of the revenue and expenditure of the Fund for that year.</p> <p>(2) The annual estimates shall make provision for all the estimated expenditure of the Fund for the financial year concerned and in particular shall provide for –</p> <ul style="list-style-type: none"><li>(a) payments for emergency operations;</li><li>(b) the operations of the Fund which shall not exceed three percent of the allocation of the Fund;</li><li>(c) maintenance of assets of the Fund; and</li><li>(d) creation of such reserves to meet future or contingent liabilities and in respect of such other matters as the Advisory Committee in consultation with the Executive Committee may determine.</li></ul> <p>(3) The annual estimates shall be approved by the Advisory Committee before the commencement of the financial year in which they relate and shall be submitted to the Executive Committee for approval and after the Executive Committee has given approval the Advisory Committee shall not increase any sum provided in the estimates without the consent of the Executive Committee.</p> <p>(4) No expenditure shall be incurred for the purposes of the Fund except with the funds voted or appropriated by County Assembly.</p>
<p>Accounts and audit</p>	<p>15. (1) The Advisory Committee shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund.</p> <p>(2) Within a period of three months after the end of each financial year the Executive Committee Member shall in addition to the requirement of regulation 9(1)(b) submit to the Auditor General the accounts of the Fund in respect of that year together with-</p>



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	<p>(a) a statement of income and expenditure of the Fund for that year; and</p> <p>(b) a statement of the assets and liabilities of the Fund on the last day of that financial year.</p> <p>(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act No. 34 of 2015.</p>
Meetings	<p style="text-align: center;"><b>PART V – MISCELLANEOUS</b></p> <p>16(1) The Advisory Committee shall meet quarterly in a meeting convened by the chairperson or whenever an event requiring emergency payment arises.</p> <p>(2) Notwithstanding sub-regulation (1), the Fund Administrator may request for a special meeting of the Advisory Committee and the chairperson shall convene the meeting.</p> <p>(3) The chairperson shall preside at every meeting of the advisory committee and in the absence of the chairperson, the members present shall elect one of their number to preside.</p>
Allowances for members of the advisory committee	<p>17. Members of the Advisory Committee may be paid such allowances as may be determined by the Executive Committee in line with existing guidelines of the Salaries and Remuneration Commission.</p>
Rules of procedure	<p>18(1) The advisory committee shall regulate and make its own rules of procedure.</p> <p>(2) To transact any business of the committee at least any four members of the advisory committee who shall include the Fund Administrator must be present.</p>
Protection against personal liability	<p>19. No matter or anything done by a member of the Advisory Committee, employee or agent of the Fund shall, if the matter or thing is done bona fide for executing the functions, powers and duties of the Fund, render a member of the committee, employee or agent of the Fund personally liable</p>

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<p>Liability of the Fund for damages</p>	<p>to any action, claim or demand whatsoever.</p> <p>20. The provisions of these regulations shall not relieve the Fund of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of or any power conferred by these regulations.</p>
<p>Winding up of the Fund</p>	<p style="text-align: center;"><b>PART VI – WINDING UP</b></p> <p>21. The Executive Committee Member may wind up the Fund with the approval of the County Assembly and upon winding up-</p> <ul style="list-style-type: none"><li>(a) the administrator of the Fund shall ensure payment of any amount remaining in the Fund into the county exchequer account;</li><li>(b) the executive committee member shall with the approval of the County Assembly pay any deficit in the Fund from the exchequer account; and</li><li>(c) all assets of the Fund will be absorbed into the County.</li></ul>

**MEMORANDUM OF OBJECT AND REASONS**

These regulations are intended to give effect to sections 110 to 115 of the Public Finance Management Act, 2012.

The Regulations establish the Kakamega County Emergency Fund to provide for payments to be made when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises.

These regulations are organised into four parts covering the following provisions-

**Part I** provides for preliminaries including short title, interpretation and object and purpose of the Fund.

**Part II** establishes the Fund and provides for the sources of funds for the Fund while **Part III** provides for establishment of the necessary structures for the administration of the Fund.

**Part IV** provides for miscellaneous provisions including meetings, allowances for committee members, rules of procedure and protection against personal liability.

**Part V** provides for winding up of the Fund.

The promulgation of these Regulations will result into additional expenditure, which will be budgeted for.

**DATED at KAKAMEGA this                      day of                      2018.**

**Hon. Geoffrey Omulayi**  
**Executive Committee Member for County Treasury.**

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