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ARRANGEMENT OF REGULATIONS

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THE JUDICIARY FUND ACT, 2016

(No. 16 of 2016)

IN EXERCISE of the powers conferred by section 14 of the Judiciary Fund Act, 2016, the Chief Justice makes the following Regulations—

THE JUDICIARY FUND REGULATIONS, 2019

PART I—PRELIMINARY

1. These Regulations may be cited as the Judiciary Fund Regulations, 2019. Citation.
2. In these Regulations, unless the context otherwise requires—
 - “Act” means the Judiciary Fund Act, 2016; No. 16 of 2016.
 - “Audit Committee” means the sub-committee of the Commission formed in accordance with section 14 of the Judicial Service Act, 2011 and performs its functions and exercises its powers in accordance with section 73 of the Public Finance Management Act, 2012; No. 16 of 2016.
No. 18 of 2012.
 - “Authority to Incur Expenditure holder” or “AIE holder” means a judicial officer or Judiciary staff authorized by the Chief Registrar in writing to incur expenditure;
 - “Commission” means the Judicial Service Commission established by Article 171 of the Constitution;
 - “financial records” comprises all documents that support financial transactions;
 - “Fund” means the Judiciary Fund established by Article 173 of the Constitution;
 - “Head of Finance” means a person appointed in such capacity and is a member of a statutory body responsible for the professional regulation of accountants in Kenya;
 - “Head of Internal Audit” means a person appointed in such capacity as the head of audit and is a member of a statutory body responsible for the professional regulation of auditors in Kenya;
 - “internal auditing” means an independent, objective assurance and consulting activity designed to add value and improve an organization's operations, which helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes;
 - “judicial officer” has the same meaning assigned to it by section 2 of the Judicial Service Act, 2011; No. of 2011.
 - “Judiciary staff” means persons employed in the Judiciary but without power to make judicial decisions;
 - “Public Sector Accounting Standards Board” means the Accounting Standards Board that provides frameworks and sets

generally accepted standards for the development and management of accounting and financial systems by all State organs and public entities;

“unauthorized expenditure” means overspending of a vote or programme within a vote; or expenditure not in accordance with the purpose of a vote or, in the case of a programme, not in accordance with the purpose of the programme; and

“wasteful expenditure” means any expenditure that was incurred which could have been avoided had due care and diligence been exercised.

3. (1) These Regulations shall apply to all matters relating to the financial management of the Fund. Application and enforcement.

(2) The administration of the Fund is vested in the Chief Registrar.

(3) These Regulations shall apply to a judicial officer or Judiciary staff in exercise of any powers and functions relating to the administration of the Fund whether in exercise of delegated authority or otherwise.

4. The object and purpose of these Regulations is to— Object and purpose.

- (a) provide for the proper management of the Fund;
- (b) set out a standardized financial management system of the Fund capable of producing accurate and reliable accounts, which will be useful in management decisions and statutory reporting
- (c) ensure accountability, transparency and the effective, efficient and economic use of the Fund; and
- (d) ensure adherence to the principles of public finance set out in Article 201 of the Constitution in the management of the Fund.

5. The sources of the Fund comprise— Sources of funds.

- (a) such monies as may be appropriated by the National Assembly out of the Consolidated Fund;
- (b) any grants, gifts, donations or bequests;
- (c) such monies as may be allocated for that purposes from investments, fees or levies administered by the Judiciary; and
- (d) monies accruing to or received by the Judiciary from any other source.

PART II—BUDGET PREPARATION

6. (1) At least three months before the commencement of each financial year, the Chief Registrar shall prepare estimates of all income and expenditure required for the purposes of the Act for the following year and shall present such estimates to the Commission for review. Budget preparation.

(2) The Chief Registrar shall, upon review by the Commission, submit the estimates to the National Assembly for approval and provide a copy to the National Treasury and the Chief Justice.

(3) Upon the approval of the estimates by the National Assembly, the expenditure of the Judiciary shall be a charge on the Consolidated Fund and the funds shall be paid from the Consolidated Fund directly into the Fund.

(4) Supplementary estimates may be prepared for approval by the National Assembly in accordance with Article 223 (1) (a) of the Constitution subject to review by the Commission.

(5) The estimates referred to in subregulation (1) shall—

- (a) differentiate between recurrent and development expenditure;
- (b) be grouped according to economic classification; and
- (c) be programme-based.

7. (1) The Chief Registrar may reallocate funds from the authorised use but may not reallocate funds where— Reallocation.

- (a) the funds are appropriated for transfer to another government entity;
- (b) the funds are appropriated for capital expenditure except to defray other capital expenditure;
- (c) the reallocation of funds is from wages to non-wages expenditure; or
- (d) the transfer of funds may result in contravention of fiscal responsibility principles.

(2) The Chief Registrar may reallocate funds between programs or between sub-votes in the budget for a financial year if—

- (a) there are provisions in the budget of a program or sub-vote which are unlikely to be utilised;
- (b) the total sum of all reallocations made to or from a programme or sub-vote does not exceed ten percent of the total expenditure approved for that program or sub-vote for that financial year.

(3) The Chief Registrar shall submit quarterly reports of any reallocations to the Commission.

PART III—UTILIZATION OF THE FUND

8. (1) The appropriations approved by the National Assembly shall constitute the required authorization for the Chief Registrar to incur obligations and expenditures for the purposes for which the appropriations have been approved and for the amounts so voted. Authorisation of expenditure.

(2) The Chief Registrar may authorize a judicial officer or a Judiciary staff to be an AIE holder in writing.

- (3) The authorisation shall in the minimum include—
- (a) the responsibilities of the AIE holder;
 - (b) the guidelines to be adhered to by the AIE holder in discharging his or her responsibilities; and
 - (c) the requirement for the AIE holder to uphold the highest levels of integrity, professionalism, transparency and accountability
- (4) The authorization shall in the minimum contain—
- (a) the AIE number and to whom it has been issued;
 - (b) the authorized total expenditure;
 - (c) a description of the expenditure item; and
 - (d) the account code to which the expenditure has been debited.
- (5) The Chief Registrar shall keep records in such form as will clarify, at any time, in respect of the Fund—
- (a) the total amount of expenditure sanctioned for the year;
 - (b) the amount of the expenditure charged; and
 - (c) any further known liabilities in respect of the year;
- (6) Subject to these Regulations, all procurement and asset disposal in the Judiciary shall be done in accordance with the Public Procurement and Asset Disposal Act, 2015 or any other written law governing procurement as may be applicable. No. 33 of 2015.
- (7) In the management of the Fund, an AIE holder shall be subject to the following procedures—
- (a) when the AIE is issued, the allocation shall be entered as a commitment in the master vote book so as to ascertain at all times the available balances;
 - (b) the AIE holder shall adhere to the following in relation to control of expenditure—
 - (i) there shall be no divided responsibility and only the officer to whom the AIE has been issued is permitted to commit or incur expenditure against it; and
 - (ii) an AIE holder shall not wait for suppliers to submit invoices in order to clear his or her commitment, but he or she shall regularly have his or her outstanding commitments checked and enquiries made from the suppliers, particularly in the last three months of the financial year.
- (8) For the purposes of this regulation, “account code” means a combination of codes which are in force at the time of application under the Government Financial Statistics.

9. (1) Funding of state corporations and semi-autonomous government agencies shall be effected through transfers from the Fund.

Funding to state corporations and semi-autonomous government agencies.

(2) For the purposes of this regulation, "state corporations and semi-autonomous government agencies" means any organization established by law to be financed wholly or substantially by the Judiciary from the Fund;

10. (1) Payment from the Fund for goods and services shall only be made on the basis of duly certified supporting vouchers and other documents indicating that the goods or services in respect of which the payment is made have been received in accordance with the procedure and policies governing payment as may be contained in manuals, circulars, guidelines or directions as may be issued by the Chief Registrar.

Payment for goods and services.

(2) All forms of payments shall be designated and any changes in signatories shall be authorized by the Chief Registrar.

(3) Advance payments shall not be made to suppliers for goods or services unless provided for in the contractual terms and conditions contained in a valid contract signed between the Judiciary and the supplier.

(4) Advance payments shall not exceed twenty percent of the contract price and shall be supported by a bank guarantee.

11. The Chief Registrar shall prepare and submit quarterly budgetary expenditure reports for the Fund to the Commission and the Controller of Budget and submit copies of the reports to the National Treasury.

Quarterly budget expenditure reports.

12. (1) Pursuant to section 7 of the Act, all receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund and applied in accordance with the Constitution and the Act.

Monies to be retained in the Fund.

(2) All funds allocated to the Fund shall be cumulative and shall be carried forward from one financial year to the next.

13. (1) The Chief Registrar may, for purposes of the Fund, delegate in writing the powers or functions of the Chief Registrar to a judicial officer or Judiciary staff.

Delegation of powers and functions.

(2) In exercising delegated powers and functions, the judicial officer or Judiciary staff shall comply with any lawful directions of the Chief Registrar.

(3) Delegation under this regulation may include the authority to incur expenditure in accordance with any limits prescribed by the Chief Registrar.

(4) Delegation under this regulation shall not take away the responsibility of accountability from the Chief Registrar.

PART IV—EXPENDITURE IN RELATION TO HUMAN
RESOURCES

14. (1) Activities relating to the authorization of appointments, payments and the recording of those payments shall be performed by different officers.

Expenditure in
relation to human
resource.

(2) The budgetary allocation for the cost of human resources shall be determined on the basis of a detailed costing of the staff establishment of the Judiciary as approved by the Commission.

(3) The Chief Registrar shall ensure that the human resources cost of all appointees, promotions and salary increases can be met within the budgetary allocation of the Fund.

15. The Chief Registrar may authorize salary and other advances for judicial officers and Judiciary staff in accordance with the Judiciary Human Resource Policies and Procedures.

Salary and other
advances.

PART V—IMPREST MANAGEMENT

16. (1) The Chief Registrar shall establish an imprest facility including the maximum amount for the specific purpose of that imprest facility.

Establishment of
imprest facility.

(2) There shall be three types of imprests, namely—

- (a) temporary or safari imprest;
- (b) standing imprest; and
- (c) special imprest.

(3) An imprest shall be issued for a specific purpose, and any payments made from it shall be only for the purposes specified in the imprest warrant.

(4) Temporary imprests shall be issued in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

(5) A holder of a temporary imprest shall account for or surrender the imprest within seven working days after the end of the official journey.

(6) Where the imprest holder fails to account for or surrender the imprest on the due date, the Chief Registrar shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank of Kenya Rate.

(7) Where the Chief Registrar does not recover the temporary imprest from the defaulting officer as provided for in this regulation, the Chief Registrar commits an offence.

(8) Where an imprest is to be recovered from any defaulting officer by instalments, the Chief Registrar shall personally authorize such recovery and such monies shall no longer be an imprest but an unauthorized advance from the Fund, and in addition to the interest charged under subregulation (6), the Chief Registrar shall take

appropriate disciplinary action against the officer concerned for the abuse of the imprest.

(9) Where an imprest holder leaves the service or is transferred, he or she shall surrender the total standing imprest which includes cash plus payment vouchers which together amount to the fixed level of the imprest.

(10) The holder of a standing imprest shall keep a memorandum cash book to record all receipts and payments and the balance on hand shall agree with the cash balance recorded in the cash book, and in the absence of any receipts, the actual cash balances plus the expenses paid shall equal at all times the fixed level of the imprest for which the imprest holder is personally responsible.

(11) An imprest holder who needs replenishment of funds shall send an abstract and analysis of his memorandum cash book, together with the originals of the supporting payment vouchers to the Head of Finance.

(12) Upon receipt of the abstract under sub- regulation (11), the Head of Finance upon being satisfied that the expenditure has actually been incurred for the intended purposes, and there is no irregularity in the payment vouchers, shall authorize replenishment of the imprest.

(13) The Head of Finance shall ensure that random reviews are made of the standing imprest by—

- (a) counting the cash on hand;
- (b) confirming that the actual cash on hand corresponds with the balance on hand as recorded in the cash book;
- (c) confirming that all movements (expenses and receipts) since the previous check have been properly recorded and are properly documented;
- (d) ensuring that the documents justify the difference between the fixed imprest level and the actual cash balance; and
- (e) reporting on any anomalies found to the Chief Registrar who shall take appropriate action.

(14) A special imprest utilized for any expenditure on services of a confidential nature, the purpose and the particulars of which cannot be made public, shall be supported by a certificate that the money has been paid, and a declaration by the Chief Justice and the Chief Registrar that they have satisfied themselves that the money has been properly expended, and has not been used to supplement the emoluments of any officer.

(15) For purposes of this regulation—

- (a) “special imprest” means any imprest utilised for expenditure on services of a confidential nature;
- (b) the Chief Registrar shall only classify expenditure as confidential expenditure if the disclosure of that expenditure—

- (i) is likely to interfere with the independence of the Judiciary as may be determined by the Chief Justice and the Chief Registrar;
 - (ii) is likely to prejudice the security, defence or international relations of the Government;
 - (iii) is likely to involve the disclosure of confidential deliberations or decisions of the Commission or of a committee of the Commission;
 - (iv) is likely to divulge any confidential information communicated in confidence by the Judiciary to any other arm of government or a by another arm of government to the Judiciary and which would prejudice national security or relations between the arms of government;
 - (v) would unfairly prejudice the commercial interests of anybody or person; and
 - (vi) is likely, for any other reason, to form the basis for a claim by a foreign state or persons on the National Government or County Governments in judicial proceedings; and
- (c) the Chief Registrar shall be required in a closed door session, and is permitted, to disclose to a special or joint committee of the Commission and Parliament information or any other document on the nature of confidential expenditure under this regulation.

17. An officer holding an imprest shall ensure that—

Imprest holder.

- (a) the imprest issued to him or her shall be used for the intended purpose only;
- (b) the imprest monies and any payment vouchers awaiting replenishment are adequately safeguarded at all times;
- (c) proper cash sale receipts are received for all payments out of the imprest;
- (d) the full amount of the imprest is accounted for at all times in cash, money at bank and completed payment vouchers; and
- (e) goods purchased through imprest are taken on charge and certificate issued.

PART VI—ACCOUNTS AND REPORTING

18. (1) Financial records shall be maintained in manual and electronic form.

Financial records and automation of financial records.

(2) The Chief Registrar shall develop mechanisms to ensure that financial records are safeguarded, accurate, reliable and free from fraud.

(3) Any alteration or deletion of any financial record or data whether electronic or manual must be authorised and approved in writing by the Chief Registrar.

19. (1) All Journal entries prepared for all adjustments shall be authorised by the Chief Registrar or any judicial officer or Judiciary staff exercising delegated authority before posting them in the general ledger.

Adjustments.

(2) All journal vouchers shall be supported by sufficient explanations, authorizations and documentation to facilitate the accounting adjustments.

20. (1) All receipts and payment vouchers shall be properly supported by the appropriate authorization and documentation.

Receipts and
payment vouchers.

(2) All receipts and payment vouchers shall be, or made out, in indelible ink and shall contain adequate narration of the particulars of the services, goods or works procured and being paid for.

(3) All amounts appearing in a voucher shall be written in words as well as in figures.

21. (1) The Chief Registrar or an AIE holder may authorize payment vouchers for expenditure chargeable to the respective vote.

Authorization of
payment vouchers.

(2) The Chief Registrar may prescribe the financial limits and other conditions under which the authority in subregulation (1) may be exercised.

22. (1) All the transactions relating to clearance and suspense accounts shall be supported by authentic and verifiable source documents, clearly indicating the approved allocation.

Clearance and
suspense account.

(2) Where it is necessary and to account for expenditure transactions in a clearing or suspense account, the Head of Finance shall ensure that—

- (a) amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;
- (b) monthly reconciliations are performed to confirm the balance of each account; and
- (c) reports on uncleared items are prepared on a monthly basis and submitted to the Chief Registrar.

23. (1) Accountable documents, whether in manual or electronic form, shall be under strict control at all times and they shall include—

Accountable
documents.

- (a) indent forms (for supplies from the Government Printer or government stores);
- (b) local purchase orders;
- (c) local service orders;

- (d) authority to incur expenditure;
- (e) cheques;
- (f) receipt books; and
- (g) imprest warrants.

(2) The Chief Registrar shall keep stock of all accountable documents in manual form under safe custody, issuing them in accordance with the daily needs of the Fund, and keep an accurate up-to-date record of their use.

(3) Where accountable documents are in electronic form, the Chief Registrar shall put in place appropriate mechanisms for safeguarding and tracking them.

24. (1) The Chief Registrar shall, subject to the provisions of the relevant national legislation, retain certain documents of whatever kind and such documents shall be preserved in the following circumstances—

- (a) where they may be of value, to the Kenya National Archives in accordance with the provisions of the Public Archives and Documentation Service Act;
- (b) if they are the subject of unfinished audit enquiries; or
- (c) if they are likely to be needed for pension purposes.

(2) Despite subregulation (1), the following classes of documents and records shall be preserved for the stipulated minimum period of time—

- (a) principal ledgers - 10 years;
- (b) cash books - 10 years;
- (c) journals - 3 years;
- (d) payment vouchers - 5 years;
- (e) paid cheques or electronic payments - 3 years;
- (f) completed indent warrants - 12 months after the end of the financial year to which they relate;
- (g) completed order forms - 12 months after the end of the financial year to which they relate;
- (h) duplicate receipts - 12 months after the end of the financial year to which they relate;
- (i) duplicate payment vouchers - 12 months after the end of the financial year to which they relate; and
- (j) receipt books either completely used, obsolete or partly used - 6 months after date of completion but must be inspected by the Auditor-General and the disposal noted in the main counterfoils receipts and book registers.

Preservation of
accountable
documents, books
and records.

Cap. 19.

(3) Upon expiry of the retention periods specified in subregulation (2), the information may, where required, be secured in any alternative form that shall ensure the integrity and reliability of the data and that it can be reproduced, where necessary.

25. (1) Pursuant to section 9 of the Act, the Chief Registrar shall open and maintain such bank accounts as may be necessary for the effective management of the Fund.

Bank accounts.

(2) The bank accounts referred to in subregulation (1) shall be opened and closed with the approval of the Commission.

(3) Separate ledger accounts shall be maintained for each bank account held.

(4) The Head of Finance shall obtain from the banks monthly bank statements which shall, where applicable, be accompanied by withdrawal instructions and debit and credit advice.

(5) The Head of Finance shall reconcile each bank account monthly and submit to the Chief Registrar detailed information on the reconciled accounts.

(6) No bank account shall be overdrawn, nor shall any advance or loan be obtained from bank accounts held for the management of the Fund.

(7) Personal cheques shall not be deposited in any Judiciary bank account.

(8) For all bank accounts held, there shall be at least two authorized signatories to approve payment or funds transfer.

(9) All signatories in respect of cheques, or electronic payments and fund transfers authorized and any changes thereto shall be designated by the Chief Registrar.

(10) The names, designation and specimen signatures and any changes thereto shall be communicated to the bank in writing by the Chief Registrar.

(11) The signatories under this regulation shall—

- (a) initial the counterfoil or enter with their personal passwords;
- (b) be equally responsible for the regularity of the payment; and
- (c) thoroughly scrutinize the documents supporting the payment.

(12) Spoilt cheques shall be marked prominently with the stamp “cancelled”, and fixed securely to the cheque-list used for controlling the cheques issued each day.

(13) The Head of Finance shall be responsible for the safe custody of the cheques and counterfoils as evidence of payment.

26. (1) The Chief Registrar shall, by the 30th September of each year, provide the National Treasury with an up-to-date list of all bank accounts held by, or for the purposes of, the Fund.

Submission of list of bank accounts to National Treasury.

(2) The list referred to under subregulation (1) shall include the following information—

- (a) the name of the bank where the account is held;
- (b) the name of the bank account;
- (c) the type of bank account;
- (d) the signatories of the bank account;
- (e) the date on which the bank account was opened;
- (f) the bank account number;
- (g) the purpose for the bank account, if different from the main operational bank account of the government entity; and
- (h) the bank account balances as at the 30th June of each year.

27. The classification of financial transactions in the Fund shall be based on the Standard Chart of Accounts or any such standards as may be applicable and issued by the Public Sector Accounting Standards Board.

Application of the Standard Chart of Accounts.

28. (1) The Chief Registrar shall ensure that proper control systems exist for safe keeping of assets and that—

Control systems.

- (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse;
- (b) movement and conditions of assets can be tracked; and
- (c) stock levels are at an optimum and economical level.

(2) The Chief Registrar shall put in place proper processes and procedures, both electronic and manual, for the effective, efficient, economical and transparent use of the Fund's assets.

(3) The Chief Registrar shall be responsible for the proper custody, care and use of inventories under the control of the Judiciary.

(4) Accountability shall only be discharged when inventories have been—

- (a) consumed in the ordinary course of business and records to show that such inventories have been consumed are available;
- (b) worn out in the normal course of public business and removed from the stores records and has been approved by Chief Registrar or they have been disposed off in accordance with the Public Procurement and Asset Disposal Act, 2015; or
- (c) lost, stolen, destroyed, damaged or rendered unserviceable other than by fair wear and tear, and is removed from the store's record.

No. 33 of 2015.

(5) If the Chief Registrar is satisfied that the retention of any inventories is no longer in the public interest, the Chief Registrar may authorize disposal in accordance with the Public Procurement and Asset Disposal Act, 2015.

No. 33 of 2015.

(6) The Chief Registrar shall report annually to the Commission any removal and disposal from the store's record under subregulation (5).

(7) Where the Chief Registrar has reason to believe that any judicial officer or Judiciary staff—

- (a) has received an inventory and has not duly handed it over;
- (b) has received an inventory for which the person is accountable but has not duly accounted for it; or
- (c) has in hand inventory which has not duly been applied to the purpose for which it was collected,

the Chief Registrar shall serve a notice upon the said judicial officer or Judiciary staff requesting that within a time specified in the notice, he or she shall pay for, account for, or apply the inventory and the he or she shall submit to the Chief Registrar satisfactory evidence that this has been done.

29. (1) The Chief Registrar, through the Head of Finance, shall maintain a register of all assets under his or her control or possession.

Register of assets.

(2) The register of assets shall record each asset, the terms on which it is held with reference to its acquisition, location and address, date and cost of acquisition, disposal or major changes in use and value and any other pertinent management details.

30. The loss of any cash, inventories, assets or equipment of the Judiciary shall be reported to the Chief Registrar who shall launch an investigation and take appropriate action.

Loss of assets.

31. The authorization of disposal of a case of loss shall not prejudice the right of the Auditor-General to carry out further investigations.

Further investigations by Auditor-General.

32. (1) The Chief Registrar shall prepare financial statements for the Fund for each financial year in a form prescribed by the Public Sector Accounting Standards Board and shall ensure that the report contains information on the financial and non-financial performance of the Fund.

Financial statements.

(2) Not later than three months after the end of each financial year, the Chief Registrar shall submit the financial statements prepared under this regulation to the Auditor-General with a copy to the Commission.

(3) The Chief Registrar shall disclose in the financial statements a list of special funds or state corporations and semi-autonomous government agencies funded from the Fund.

PART VII—INTERNAL AUDIT AND RISK MANAGEMENT

33. (1) The key functions of internal auditors shall include—
- Responsibilities of
internal auditors.
- (a) reviewing mechanisms for governance, transparency and accountability with regard to the finances and assets of the Judiciary;
 - (b) conducting risk-based, value-for-money and systems audits aimed at strengthening internal control mechanisms that could have an impact on achievement of the strategic objectives of the Judiciary;
 - (c) verifying the existence of assets and ensuring that there are proper safeguards for their protection;
 - (d) providing assurance that appropriate institutional policies and procedures and good business practices are followed;
 - (e) evaluating the adequacy and reliability of information available to management for making decisions;
 - (f) reviewing and evaluating budgetary performance, financial management, transparency and accountability mechanisms and processes; and
 - (g) giving reasonable assurance through the audit committee on the state of risk management, control and governance within the Judiciary.
- (2) In carrying out their functions, internal auditors may, subject to the approval of the Audit Committee, enlist the services of professional experts on a need basis.
34. The Head of Internal Audit shall report administratively to the Chief Registrar and functionally to the Chief Justice and the Audit Committee.
- Operational
independence of
internal audit.
35. (1) The Head of Internal Audit shall prepare and submit an annual internal audit work plan based on risk assessment of the Fund to the Chief Justice and Audit Committee by the 15th February of each financial year.
- Annual internal audit
work plan.
- (2) The Audit Committee shall, if satisfied, approve the work plan and submit it to the Chief Registrar.
- (3) Once the work plan is approved, the Chief Registrar shall ensure that the budget to implement the plan is included in the Judiciary budget.
36. In undertaking an audit of the Fund, internal auditors shall have unrestricted, direct and prompt access to all records, officials or personnel holding any contractual status with the Judiciary and to all the premises and properties of the Judiciary.
- Unrestricted access
by internal auditors
37. Internal auditors shall maintain confidentiality in the course of undertaking their work and shall use such information with discretion and only in so far as, it is relevant to reach an internal audit opinion.
- Confidentiality by
internal auditors.

38. The Chief Registrar shall develop for the Fund—
- (a) risk management strategies which shall include fraud detection and prevention mechanisms; and
 - (b) a system of risk management and internal controls that builds robust business operations.
39. The Head of the Internal Audit shall, as soon practicable, notify the Chief Justice and the Audit Committee upon identification of indications of fraud, material breaches and wasteful expenditure in the management of the Fund.
40. (1) The findings and recommendations arising from each internal audit assignment on the Fund shall be promptly reported to the Chief Registrar and the Chief Justice.
- (2) The final internal audit report on each audit assignment, including the actions taken by the Chief Registrar shall be reported to the Chief Justice and the Audit Committee.
41. (1) The Chief Registrar shall be responsible for the implementation of the recommendations made in the audit reports on the Fund.
- (2) The Chief Registrar shall, within fourteen days of receipt of the audit report on the Fund, develop the response and action plan which shall be submitted to the Chief Justice and the Audit Committee.
- (3) The response and action plan shall contain a summary of the findings and recommendations of the audit report, the proposed corrective action to be undertaken and the timelines within which to implement the report.
- (4) The Chief Justice and Audit Committee shall ensure that the response and action plan developed in subregulation (3) is implemented.
42. (1) The Head of Internal Audit shall prepare and submit a quarterly internal audit report on the Fund to the Chief Justice, Chief Registrar and the Audit Committee within fourteen days of the end of the quarter.
- (2) The Head of Internal Audit shall prepare and submit an annual internal audit report on the Fund to the Chief Justice, Chief Registrar and the Audit Committee at the end of each financial year.
- PART VIII—MISCELLANEOUS**
43. The Chief Registrar shall issue guidelines, circulars, policies and procedure manuals and other documents to assist in the implementation of these Regulations.
44. These Regulations shall prevail in the case of any inconsistency between these Regulations and any other regulations in so far as they relate to the Judiciary Fund.

Risk management and internal control.

Notification of incidences of fraud, material breach, etc. to Chief Justice.

Report to Chief Registrar on findings and recommendations.

Implementation of the recommendations of audit reports.

Quarterly and annual internal audit reports.

Guidelines, circulars, policies and procedure manuals, etc.

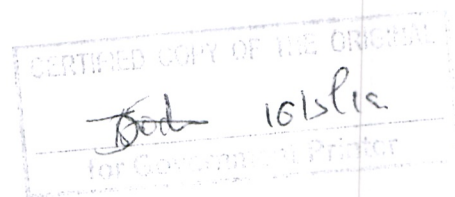
Regulations to prevail.

45. Any reference to laws, regulations, policies and other professional guidelines in these Regulations includes amendments and revisions made and applicable at the time.

Reference to laws, regulations, etc.

Dated the 28th March, 2019.

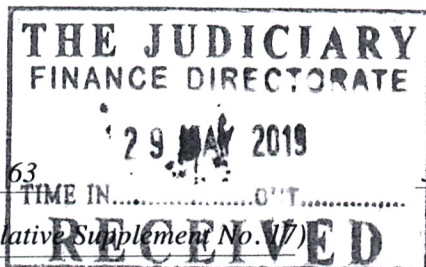
DAVID K. MARAGA,
Chief Justice and President of the Supreme Court of Kenya.



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LEGAL NOTICE NO. 33

ARRANGEMENT OF REGULATIONS

Regulation.

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THE JUDICIARY FUND ACT, 2016

(No. 16 of 2016)

IN EXERCISE of the powers conferred by section 14 of the Judiciary Fund Act, 2016, the Chief Justice makes the following Regulations—

THE JUDICIARY FUND REGULATIONS, 2019

PART I—PRELIMINARY

1. These Regulations may be cited as the Judiciary Fund Regulations, 2019. Citation.

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

“Act” means the Judiciary Fund Act, 2016; No. 16 of 2016.

“Audit Committee” means the sub-committee of the Commission formed in accordance with section 14 of the Judicial Service Act, 2011 and performs its functions and exercises its powers in accordance with section 73 of the Public Finance Management Act, 2012; No. 16 of 2016.
No. 18 of 2012.

“Authority to Incur Expenditure holder” or “AIE holder” means a judicial officer or Judiciary staff authorized by the Chief Registrar in writing to incur expenditure;

“Commission” means the Judicial Service Commission established by Article 171 of the Constitution;

“financial records” comprises all documents that support financial transactions;

“Fund” means the Judiciary Fund established by Article 173 of the Constitution;

“Head of Finance” means a person appointed in such capacity and is a member of a statutory body responsible for the professional regulation of accountants in Kenya;

“Head of Internal Audit” means a person appointed in such capacity as the head of audit and is a member of a statutory body responsible for the professional regulation of auditors in Kenya;

“internal auditing” means an independent, objective assurance and consulting activity designed to add value and improve an organization's operations, which helps an organization accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control, and governance processes;

“judicial officer” has the same meaning assigned to it by section 2 of the Judicial Service Act, 2011; No. of 2011.

“Judiciary staff” means persons employed in the Judiciary but without power to make judicial decisions;

“Public Sector Accounting Standards Board” means the Accounting Standards Board that provides frameworks and sets

generally accepted standards for the development and management of accounting and financial systems by all State organs and public entities;

“unauthorized expenditure” means overspending of a vote or programme within a vote; or expenditure not in accordance with the purpose of a vote or, in the case of a programme, not in accordance with the purpose of the programme; and

“wasteful expenditure” means any expenditure that was incurred which could have been avoided had due care and diligence been exercised.

3. (1) These Regulations shall apply to all matters relating to the financial management of the Fund.

(2) The administration of the Fund is vested in the Chief Registrar.

(3) These Regulations shall apply to a judicial officer or Judiciary staff in exercise of any powers and functions relating to the administration of the Fund whether in exercise of delegated authority or otherwise.

4. The object and purpose of these Regulations is to—

- (a) provide for the proper management of the Fund;
- (b) set out a standardized financial management system of the Fund capable of producing accurate and reliable accounts, which will be useful in management decisions and statutory reporting
- (c) ensure accountability, transparency and the effective, efficient and economic use of the Fund; and
- (d) ensure adherence to the principles of public finance set out in Article 201 of the Constitution in the management of the Fund.

5. The sources of the Fund comprise—

- (a) such monies as may be appropriated by the National Assembly out of the Consolidated Fund;
- (b) any grants, gifts, donations or bequests;
- (c) such monies as may be allocated for that purposes from investments, fees or levies administered by the Judiciary; and
- (d) monies accruing to or received by the Judiciary from any other source.

PART II—BUDGET PREPARATION

6. (1) At least three months before the commencement of each financial year, the Chief Registrar shall prepare estimates of all income and expenditure required for the purposes of the Act for the following year and shall present such estimates to the Commission for review.

Application and enforcement.

Object and purpose.

Sources of funds.

Budget preparation.

(2) The Chief Registrar shall, upon review by the Commission, submit the estimates to the National Assembly for approval and provide a copy to the National Treasury and the Chief Justice.

(3) Upon the approval of the estimates by the National Assembly, the expenditure of the Judiciary shall be a charge on the Consolidated Fund and the funds shall be paid from the Consolidated Fund directly into the Fund.

(4) Supplementary estimates may be prepared for approval by the National Assembly in accordance with Article 223 (1) (a) of the Constitution subject to review by the Commission.

(5) The estimates referred to in subregulation (1) shall—

- (a) differentiate between recurrent and development expenditure;
- (b) be grouped according to economic classification; and
- (c) be programme-based.

7. (1) The Chief Registrar may reallocate funds from the authorised use but may not reallocate funds where— Reallocation.

- (a) the funds are appropriated for transfer to another government entity;
- (b) the funds are appropriated for capital expenditure except to defray other capital expenditure;
- (c) the reallocation of funds is from wages to non-wages expenditure; or
- (d) the transfer of funds may result in contravention of fiscal responsibility principles.

(2) The Chief Registrar may reallocate funds between programs or between sub-votes in the budget for a financial year if—

- (a) there are provisions in the budget of a program or sub-vote which are unlikely to be utilised;
- (b) the total sum of all reallocations made to or from a programme or sub-vote does not exceed ten percent of the total expenditure approved for that program or sub-vote for that financial year.

(3) The Chief Registrar shall submit quarterly reports of any reallocations to the Commission.

PART III—UTILIZATION OF THE FUND

8. (1) The appropriations approved by the National Assembly shall constitute the required authorization for the Chief Registrar to incur obligations and expenditures for the purposes for which the appropriations have been approved and for the amounts so voted. Authorisation of expenditure.

(2) The Chief Registrar may authorize a judicial officer or a Judiciary staff to be an AIE holder in writing.

(3) The authorisation shall in the minimum include—

- (a) the responsibilities of the AIE holder;
- (b) the guidelines to be adhered to by the AIE holder in discharging his or her responsibilities; and
- (c) the requirement for the AIE holder to uphold the highest levels of integrity, professionalism, transparency and accountability

(4) The authorization shall in the minimum contain—

- (a) the AIE number and to whom it has been issued;
- (b) the authorized total expenditure;
- (c) a description of the expenditure item; and
- (d) the account code to which the expenditure has been debited.

(5) The Chief Registrar shall keep records in such form as will clarify, at any time, in respect of the Fund—

- (a) the total amount of expenditure sanctioned for the year;
- (b) the amount of the expenditure charged; and
- (c) any further known liabilities in respect of the year;

(6) Subject to these Regulations, all procurement and asset disposal in the Judiciary shall be done in accordance with the Public Procurement and Asset Disposal Act, 2015 or any other written law governing procurement as may be applicable.

No. 33 of 2015.

(7) In the management of the Fund, an AIE holder shall be subject to the following procedures—

- (a) when the AIE is issued, the allocation shall be entered as a commitment in the master vote book so as to ascertain at all times the available balances;
- (b) the AIE holder shall adhere to the following in relation to control of expenditure—
 - (i) there shall be no divided responsibility and only the officer to whom the AIE has been issued is permitted to commit or incur expenditure against it; and
 - (ii) an AIE holder shall not wait for suppliers to submit invoices in order to clear his or her commitment, but he or she shall regularly have his or her outstanding commitments checked and enquiries made from the suppliers, particularly in the last three months of the financial year.

(8) For the purposes of this regulation, “account code” means a combination of codes which are in force at the time of application under the Government Financial Statistics.

9. (1) Funding of state corporations and semi-autonomous government agencies shall be effected through transfers from the Fund.

Funding to state corporations and semi-autonomous government agencies.

(2) For the purposes of this regulation, "state corporations and semi-autonomous government agencies" means any organization established by law to be financed wholly or substantially by the Judiciary from the Fund;

10. (1) Payment from the Fund for goods and services shall only be made on the basis of duly certified supporting vouchers and other documents indicating that the goods or services in respect of which the payment is made have been received in accordance with the procedure and policies governing payment as may be contained in manuals, circulars, guidelines or directions as may be issued by the Chief Registrar.

Payment for goods and services.

(2) All forms of payments shall be designated and any changes in signatories shall be authorized by the Chief Registrar.

(3) Advance payments shall not be made to suppliers for goods or services unless provided for in the contractual terms and conditions contained in a valid contract signed between the Judiciary and the supplier.

(4) Advance payments shall not exceed twenty percent of the contract price and shall be supported by a bank guarantee.

11. The Chief Registrar shall prepare and submit quarterly budgetary expenditure reports for the Fund to the Commission and the Controller of Budget and submit copies of the reports to the National Treasury.

Quarterly budget expenditure reports.

12. (1) Pursuant to section 7 of the Act, all receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained in the Fund and applied in accordance with the Constitution and the Act.

Monies to be retained in the Fund.

(2) All funds allocated to the Fund shall be cumulative and shall be carried forward from one financial year to the next.

13. (1) The Chief Registrar may, for purposes of the Fund, delegate in writing the powers or functions of the Chief Registrar to a judicial officer or Judiciary staff.

Delegation of powers and functions.

(2) In exercising delegated powers and functions, the judicial officer or Judiciary staff shall comply with any lawful directions of the Chief Registrar.

(3) Delegation under this regulation may include the authority to incur expenditure in accordance with any limits prescribed by the Chief Registrar.

(4) Delegation under this regulation shall not take away the responsibility of accountability from the Chief Registrar.

PART IV — EXPENDITURE IN RELATION TO HUMAN RESOURCES

14. (1) Activities relating to the authorization of appointments, payments and the recording of those payments shall be performed by different officers.

Expenditure in relation to human resource.

(2) The budgetary allocation for the cost of human resources shall be determined on the basis of a detailed costing of the staff establishment of the Judiciary as approved by the Commission.

(3) The Chief Registrar shall ensure that the human resources cost of all appointees, promotions and salary increases can be met within the budgetary allocation of the Fund.

15. The Chief Registrar may authorize salary and other advances for judicial officers and Judiciary staff in accordance with the Judiciary Human Resource Policies and Procedures.

Salary and other advances.

PART V — IMPREST MANAGEMENT

16. (1) The Chief Registrar shall establish an imprest facility including the maximum amount for the specific purpose of that imprest facility.

Establishment of imprest facility.

(2) There shall be three types of imprests, namely—

- (a) temporary or safari imprest;
- (b) standing imprest; and
- (c) special imprest.

(3) An imprest shall be issued for a specific purpose, and any payments made from it shall be only for the purposes specified in the imprest warrant.

(4) Temporary imprests shall be issued in respect of official journeys and are intended to provide officers with funds with which they can meet travelling, accommodation and incidental expenses.

(5) A holder of a temporary imprest shall account for or surrender the imprest within seven working days after the end of the official journey.

(6) Where the imprest holder fails to account for or surrender the imprest on the due date, the Chief Registrar shall take immediate action to recover the full amount from the salary of the defaulting officer with an interest at the prevailing Central Bank of Kenya Rate.

(7) Where the Chief Registrar does not recover the temporary imprest from the defaulting officer as provided for in this regulation, the Chief Registrar commits an offence.

(8) Where an imprest is to be recovered from any defaulting officer by instalments, the Chief Registrar shall personally authorize such recovery and such monies shall no longer be an imprest but an unauthorized advance from the Fund, and in addition to the interest charged under subregulation (6), the Chief Registrar shall take

appropriate disciplinary action against the officer concerned for the abuse of the imprest.

(9) Where an imprest holder leaves the service or is transferred, he or she shall surrender the total standing imprest which includes cash plus payment vouchers which together amount to the fixed level of the imprest.

(10) The holder of a standing imprest shall keep a memorandum cash book to record all receipts and payments and the balance on hand shall agree with the cash balance recorded in the cash book, and in the absence of any receipts, the actual cash balances plus the expenses paid shall equal at all times the fixed level of the imprest for which the imprest holder is personally responsible.

(11) An imprest holder who needs replenishment of funds shall send an abstract and analysis of his memorandum cash book, together with the originals of the supporting payment vouchers to the Head of Finance.

(12) Upon receipt of the abstract under sub-regulation (11), the Head of Finance upon being satisfied that the expenditure has actually been incurred for the intended purposes, and there is no irregularity in the payment vouchers, shall authorize replenishment of the imprest.

(13) The Head of Finance shall ensure that random reviews are made of the standing imprest by—

- (a) counting the cash on hand;
- (b) confirming that the actual cash on hand corresponds with the balance on hand as recorded in the cash book;
- (c) confirming that all movements (expenses and receipts) since the previous check have been properly recorded and are properly documented;
- (d) ensuring that the documents justify the difference between the fixed imprest level and the actual cash balance; and
- (e) reporting on any anomalies found to the Chief Registrar who shall take appropriate action.

(14) A special imprest utilized for any expenditure on services of a confidential nature, the purpose and the particulars of which cannot be made public, shall be supported by a certificate that the money has been paid, and a declaration by the Chief Justice and the Chief Registrar that they have satisfied themselves that the money has been properly expended, and has not been used to supplement the emoluments of any officer.

(15) For purposes of this regulation—

- (a) “special imprest” means any imprest utilised for expenditure on services of a confidential nature;
- (b) the Chief Registrar shall only classify expenditure as confidential expenditure if the disclosure of that expenditure—

- (i) is likely to interfere with the independence of the Judiciary as may be determined by the Chief Justice and the Chief Registrar;
 - (ii) is likely to prejudice the security, defence or international relations of the Government;
 - (iii) is likely to involve the disclosure of confidential deliberations or decisions of the Commission or of a committee of the Commission;
 - (iv) is likely to divulge any confidential information communicated in confidence by the Judiciary to any other arm of government or a by another arm of government to the Judiciary and which would prejudice national security or relations between the arms of government;
 - (v) would unfairly prejudice the commercial interests of anybody or person; and
 - (vi) is likely, for any other reason, to form the basis for a claim by a foreign state or persons on the National Government or County Governments in judicial proceedings; and
- (c) the Chief Registrar shall be required in a closed door session, and is permitted, to disclose to a special or joint committee of the Commission and Parliament information or any other document on the nature of confidential expenditure under this regulation.

17. An officer holding an imprest shall ensure that—

- (a) the imprest issued to him or her shall be used for the intended purpose only;
- (b) the imprest monies and any payment vouchers awaiting replenishment are adequately safeguarded at all times;
- (c) proper cash sale receipts are received for all payments out of the imprest;
- (d) the full amount of the imprest is accounted for at all times in cash, money at bank and completed payment vouchers; and
- (e) goods purchased through imprest are taken on charge and certificate issued.

Imprest holder.

PART VI—ACCOUNTS AND REPORTING

18. (1) Financial records shall be maintained in manual and electronic form.

Financial records and automation of financial records.

(2) The Chief Registrar shall develop mechanisms to ensure that financial records are safeguarded, accurate, reliable and free from fraud.

(3) Any alteration or deletion of any financial record or data whether electronic or manual must be authorised and approved in writing by the Chief Registrar.

19. (1) All Journal entries prepared for all adjustments shall be authorised by the Chief Registrar or any judicial officer or Judiciary staff exercising delegated authority before posting them in the general ledger.

Adjustments.

(2) All journal vouchers shall be supported by sufficient explanations, authorizations and documentation to facilitate the accounting adjustments.

20. (1) All receipts and payment vouchers shall be properly supported by the appropriate authorization and documentation.

Receipts and
payment vouchers.

(2) All receipts and payment vouchers shall be, or made out, in indelible ink and shall contain adequate narration of the particulars of the services, goods or works procured and being paid for.

(3) All amounts appearing in a voucher shall be written in words as well as in figures.

21. (1) The Chief Registrar or an AIE holder may authorize payment vouchers for expenditure chargeable to the respective vote.

Authorization of
payment vouchers.

(2) The Chief Registrar may prescribe the financial limits and other conditions under which the authority in subregulation (1) may be exercised.

22. (1) All the transactions relating to clearance and suspense accounts shall be supported by authentic and verifiable source documents, clearly indicating the approved allocation.

Clearance and
suspense account.

(2) Where it is necessary and to account for expenditure transactions in a clearing or suspense account, the Head of Finance shall ensure that—

- (a) amounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;
- (b) monthly reconciliations are performed to confirm the balance of each account; and
- (c) reports on uncleared items are prepared on a monthly basis and submitted to the Chief Registrar.

23. (1) Accountable documents, whether in manual or electronic form, shall be under strict control at all times and they shall include—

Accountable
documents.

- (a) indent forms (for supplies from the Government Printer or government stores);
- (b) local purchase orders;
- (c) local service orders;

- (d) authority to incur expenditure;
- (e) cheques;
- (f) receipt books; and
- (g) imprest warrants.

(2) The Chief Registrar shall keep stock of all accountable documents in manual form under safe custody, issuing them in accordance with the daily needs of the Fund, and keep an accurate up-to-date record of their use.

(3) Where accountable documents are in electronic form, the Chief Registrar shall put in place appropriate mechanisms for safeguarding and tracking them.

24. (1) The Chief Registrar shall, subject to the provisions of the relevant national legislation, retain certain documents of whatever kind and such documents shall be preserved in the following circumstances—

- (a) where they may be of value, to the Kenya National Archives in accordance with the provisions of the Public Archives and Documentation Service Act;
- (b) if they are the subject of unfinished audit enquiries; or
- (c) if they are likely to be needed for pension purposes.

(2) Despite subregulation (1), the following classes of documents and records shall be preserved for the stipulated minimum period of time—

- (a) principal ledgers - 10 years;
- (b) cash books - 10 years;
- (c) journals - 3 years;
- (d) payment vouchers - 5 years;
- (e) paid cheques or electronic payments - 3 years;
- (f) completed indent warrants - 12 months after the end of the financial year to which they relate;
- (g) completed order forms - 12 months after the end of the financial year to which they relate;
- (h) duplicate receipts - 12 months after the end of the financial year to which they relate;
- (i) duplicate payment vouchers - 12 months after the end of the financial year to which they relate; and
- (j) receipt books either completely used, obsolete or partly used - 6 months after date of completion but must be inspected by the Auditor-General and the disposal noted in the main counterfoils receipts and book registers.

Preservation of
accountable
documents, books
and records.

Cap. 19.

(3) Upon expiry of the retention periods specified in subregulation (2), the information may, where required, be secured in any alternative form that shall ensure the integrity and reliability of the data and that it can be reproduced, where necessary.

25. (1) Pursuant to section 9 of the Act, the Chief Registrar shall open and maintain such bank accounts as may be necessary for the effective management of the Fund.

Bank accounts.

(2) The bank accounts referred to in subregulation (1) shall be opened and closed with the approval of the Commission.

(3) Separate ledger accounts shall be maintained for each bank account held.

(4) The Head of Finance shall obtain from the banks monthly bank statements which shall, where applicable, be accompanied by withdrawal instructions and debit and credit advice.

(5) The Head of Finance shall reconcile each bank account monthly and submit to the Chief Registrar detailed information on the reconciled accounts.

(6) No bank account shall be overdrawn, nor shall any advance or loan be obtained from bank accounts held for the management of the Fund.

(7) Personal cheques shall not be deposited in any Judiciary bank account.

(8) For all bank accounts held, there shall be at least two authorized signatories to approve payment or funds transfer.

(9) All signatories in respect of cheques, or electronic payments and fund transfers authorized and any changes thereto shall be designated by the Chief Registrar.

(10) The names, designation and specimen signatures and any changes thereto shall be communicated to the bank in writing by the Chief Registrar.

(11) The signatories under this regulation shall—

- (a) initial the counterfoil or enter with their personal passwords;
- (b) be equally responsible for the regularity of the payment; and
- (c) thoroughly scrutinize the documents supporting the payment.

(12) Spoilt cheques shall be marked prominently with the stamp “cancelled”, and fixed securely to the cheque-list used for controlling the cheques issued each day.

(13) The Head of Finance shall be responsible for the safe custody of the cheques and counterfoils as evidence of payment.

26. (1) The Chief Registrar shall, by the 30th September of each year, provide the National Treasury with an up-to-date list of all bank accounts held by, or for the purposes of, the Fund.

Submission of list of bank accounts to National Treasury.

(2) The list referred to under subregulation (1) shall include the following information—

- (a) the name of the bank where the account is held;
- (b) the name of the bank account;
- (c) the type of bank account;
- (d) the signatories of the bank account;
- (e) the date on which the bank account was opened;
- (f) the bank account number;
- (g) the purpose for the bank account, if different from the main operational bank account of the government entity; and
- (h) the bank account balances as at the 30th June of each year.

27. The classification of financial transactions in the Fund shall be based on the Standard Chart of Accounts or any such standards as may be applicable and issued by the Public Sector Accounting Standards Board.

Application of the Standard Chart of Accounts.

28. (1) The Chief Registrar shall ensure that proper control systems exist for safe keeping of assets and that—

Control systems.

- (a) preventative mechanisms are in place to eliminate theft, security threats, losses, wastage and misuse;
- (b) movement and conditions of assets can be tracked; and
- (c) stock levels are at an optimum and economical level.

(2) The Chief Registrar shall put in place proper processes and procedures, both electronic and manual, for the effective, efficient, economical and transparent use of the Fund's assets.

(3) The Chief Registrar shall be responsible for the proper custody, care and use of inventories under the control of the Judiciary.

(4) Accountability shall only be discharged when inventories have been—

- (a) consumed in the ordinary course of business and records to show that such inventories have been consumed are available;
- (b) worn out in the normal course of public business and removed from the stores records and has been approved by Chief Registrar or they have been disposed off in accordance with the Public Procurement and Asset Disposal Act, 2015; or
- (c) lost, stolen, destroyed, damaged or rendered unserviceable other than by fair wear and tear, and is removed from the store's record.

No. 33 of 2015.

(5) If the Chief Registrar is satisfied that the retention of any inventories is no longer in the public interest, the Chief Registrar may authorize disposal in accordance with the Public Procurement and Asset Disposal Act, 2015.

No. 33 of 2015.

(6) The Chief Registrar shall report annually to the Commission any removal and disposal from the store's record under subregulation (5).

(7) Where the Chief Registrar has reason to believe that any judicial officer or Judiciary staff—

- (a) has received an inventory and has not duly handed it over;
- (b) has received an inventory for which the person is accountable but has not duly accounted for it; or
- (c) has in hand inventory which has not duly been applied to the purpose for which it was collected,

the Chief Registrar shall serve a notice upon the said judicial officer or Judiciary staff requesting that within a time specified in the notice, he or she shall pay for, account for, or apply the inventory and the he or she shall submit to the Chief Registrar satisfactory evidence that this has been done.

29. (1) The Chief Registrar, through the Head of Finance, shall maintain a register of all assets under his or her control or possession.

Register of assets.

(2) The register of assets shall record each asset, the terms on which it is held with reference to its acquisition, location and address, date and cost of acquisition, disposal or major changes in use and value and any other pertinent management details.

30. The loss of any cash, inventories, assets or equipment of the Judiciary shall be reported to the Chief Registrar who shall launch an investigation and take appropriate action.

Loss of assets.

31. The authorization of disposal of a case of loss shall not prejudice the right of the Auditor-General to carry out further investigations.

Further investigations by Auditor-General.

32. (1) The Chief Registrar shall prepare financial statements for the Fund for each financial year in a form prescribed by the Public Sector Accounting Standards Board and shall ensure that the report contains information on the financial and non-financial performance of the Fund.

Financial statements.

(2) Not later than three months after the end of each financial year, the Chief Registrar shall submit the financial statements prepared under this regulation to the Auditor-General with a copy to the Commission.

(3) The Chief Registrar shall disclose in the financial statements a list of special funds or state corporations and semi-autonomous government agencies funded from the Fund.

PART VII—INTERNAL AUDIT AND RISK MANAGEMENT

33. (1) The key functions of internal auditors shall include—

Responsibilities of
internal auditors.

- (a) reviewing mechanisms for governance, transparency and accountability with regard to the finances and assets of the Judiciary;
- (b) conducting risk-based, value-for-money and systems audits aimed at strengthening internal control mechanisms that could have an impact on achievement of the strategic objectives of the Judiciary;
- (c) verifying the existence of assets and ensuring that there are proper safeguards for their protection;
- (d) providing assurance that appropriate institutional policies and procedures and good business practices are followed;
- (e) evaluating the adequacy and reliability of information available to management for making decisions;
- (f) reviewing and evaluating budgetary performance, financial management, transparency and accountability mechanisms and processes; and
- (g) giving reasonable assurance through the audit committee on the state of risk management, control and governance within the Judiciary.

(2) In carrying out their functions, internal auditors may, subject to the approval of the Audit Committee, enlist the services of professional experts on a need basis.

34. The Head of Internal Audit shall report administratively to the Chief Registrar and functionally to the Chief Justice and the Audit Committee.

Operational
independence of
internal audit.

35. (1) The Head of Internal Audit shall prepare and submit an annual internal audit work plan based on risk assessment of the Fund to the Chief Justice and Audit Committee by the 15th February of each financial year.

Annual internal audit
work plan.

(2) The Audit Committee shall, if satisfied, approve the work plan and submit it to the Chief Registrar.

(3) Once the work plan is approved, the Chief Registrar shall ensure that the budget to implement the plan is included in the Judiciary budget.

36. In undertaking an audit of the Fund, internal auditors shall have unrestricted, direct and prompt access to all records, officials or personnel holding any contractual status with the Judiciary and to all the premises and properties of the Judiciary.

Unrestricted access
by internal auditors

37. Internal auditors shall maintain confidentiality in the course of undertaking their work and shall use such information with discretion and only in so far as, it is relevant to reach an internal audit opinion.

Confidentiality by
internal auditors.

38. The Chief Registrar shall develop for the Fund—
- (a) risk management strategies which shall include fraud detection and prevention mechanisms; and
 - (b) a system of risk management and internal controls that builds robust business operations.
39. The Head of the Internal Audit shall, as soon practicable, notify the Chief Justice and the Audit Committee upon identification of indications of fraud, material breaches and wasteful expenditure in the management of the Fund.
40. (1) The findings and recommendations arising from each internal audit assignment on the Fund shall be promptly reported to the Chief Registrar and the Chief Justice.
- (2) The final internal audit report on each audit assignment, including the actions taken by the Chief Registrar shall be reported to the Chief Justice and the Audit Committee.
41. (1) The Chief Registrar shall be responsible for the implementation of the recommendations made in the audit reports on the Fund.
- (2) The Chief Registrar shall, within fourteen days of receipt of the audit report on the Fund, develop the response and action plan which shall be submitted to the Chief Justice and the Audit Committee.
- (3) The response and action plan shall contain a summary of the findings and recommendations of the audit report, the proposed corrective action to be undertaken and the timelines within which to implement the report.
- (4) The Chief Justice and Audit Committee shall ensure that the response and action plan developed in subregulation (3) is implemented.
42. (1) The Head of Internal Audit shall prepare and submit a quarterly internal audit report on the Fund to the Chief Justice, Chief Registrar and the Audit Committee within fourteen days of the end of the quarter.
- (2) The Head of Internal Audit shall prepare and submit an annual internal audit report on the Fund to the Chief Justice, Chief Registrar and the Audit Committee at the end of each financial year.
- PART VIII—MISCELLANEOUS
43. The Chief Registrar shall issue guidelines, circulars, policies and procedure manuals and other documents to assist in the implementation of these Regulations.
44. These Regulations shall prevail in the case of any inconsistency between these Regulations and any other regulations in so far as they relate to the Judiciary Fund.

Risk management and internal control.

Notification of incidences of fraud, material breach, etc. to Chief Justice.

Report to Chief Registrar on findings and recommendations.

Implementation of the recommendations of audit reports.

Quarterly and annual internal audit reports.

Guidelines, circulars, policies and procedure manuals, etc.

Regulations to prevail.

45. Any reference to laws, regulations, policies and other professional guidelines in these Regulations includes amendments and revisions made and applicable at the time. Reference to laws, regulations, etc.

Dated the 28th March, 2019.

DAVID K. MARAGA,
Chief Justice and President of the Supreme Court of Kenya.

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