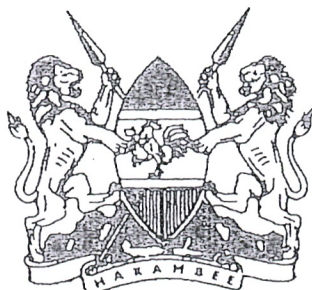


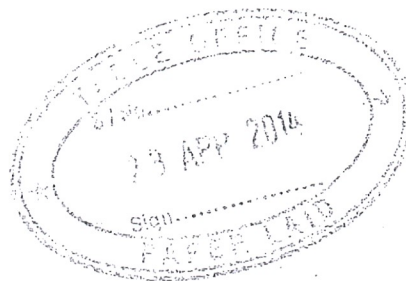
REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – SECOND SESSION - 2014

REPORT OF THE JOINT
COMMITTEE ON DELEGATED LEGISLATION AND THE SELECT COMMITTEE
ON THE CONSTITUENCIES DEVELOPMENT FUND, ON ITS CONSIDERATION
OF THE CONSTITUENCIES DEVELOPMENT FUND REGULATIONS, 2014



CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

APRIL, 2014

1.0 PREFACE

On behalf of the Members of the Select Committee on Delegated Legislation and the Select Committee on Constituencies Development Fund, and pursuant to Standing Order No.199, it is my pleasure and duty to present to the House, the Joint Committee's Report on its consideration of the Constituencies Development Fund Regulations, 2014.

1.1 Joint Committee Membership

The following are the Members of the Joint Committee:-

The Hon. Moses Lessonet, MP – **Co-Chairperson**
 The Hon. William Cheptumo, MP – **Co-Chairperson**
 The Hon. Esther Gathogo, MP – **Vice Chairperson**
 The Hon. Joseph Gitari, MP – **Vice Chairperson**
 The Hon. Mohamed Haji, MP
 The Hon. Raphael Letimalo, MP
 The Hon. Maina Kamanda, MP
 The Hon. (Eng.) Nicolas Gumbo, MP
 The Hon. Peter Kaluma, MP
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 The Hon. Gideon O. Ochanda, MP
 The Hon. Kamoti Mwamkale, MP
 The Hon. Joseph O. Ndiege, MP
 The Hon. David Wafula, MP
 The Hon. Alfred Keter, MP
 The Hon. Hassan Aden Osman, MP
 The Hon. Timothy W. Wetangula, MP
 The Hon. George Theuri, MP
 The Hon. Elisha K. Busienei, MP
 The Hon. Eng. Shadrack Manga, MP
 The Hon. Yusuf Hassan Abdi, MP
 The Hon. Michael Kisoi, MP
 The Hon. Mohamed Adan Huka, MP
 The Hon. John M. Waiganjo, MP
 The Hon. Paul K. Bii, MP
 The Hon. Charles Gimose, MP

The Hon. T. J. Kajwang, MP
 The Hon. Simba Arati, MP
 The Hon. Rachael A. Amollo, MP
 The Hon. Vincent Musau, MP
 The Hon. William Kisang, MP
 The Hon. Neto Agostinho, MP
 The Hon. Ken Okoth, MP
 The Hon. John Lodepe Nakara, MP
 The Hon. Abdikadir Ore, MP
 The Hon. Abass Mohammed, MP
 The Hon. Paul Koinange, MP
 The Hon. Ibrahim Abdi Saney, MP
 The Hon. Eusilah Ngeny, MP
 The Hon. Zainabu K. Chidzuga, MP
 The Hon. Nicholas Ngi'kor Nixon, MP
 The Hon. Benard Shinali, MP
 The Hon. Kabando wa Kabando, MP
 The Hon. Marcus Mutua Muluvi, MP

1.2 Mandate: Committee on Delegated Legislation

The Select Committee on Delegated Legislation was constituted on 21st May, 2013. The Committee on Delegated Legislation is a Select Committee established pursuant to provisions of the Standing Order No. 210 whose mandate is to consider in respect of any statutory instrument whether it:-

- a. Is in accordance with the provision of the Constitution, the Act pursuant to which it is made or other relevant written laws;
- b. Infringes on fundamental rights and freedoms of the public;
- c. Contains a matter which in the option of the Committee should more properly be dealt with in an Act of the Parliament;
- d. Contains imposition of Taxation;
- e. Directly or indirectly bars the jurisdiction of the court;
- f. Gives retrospective effect to any of the provision in respect to which the Constitution does not expressly give any such power;
- g. Involves expenditure from the consolidated fund or other public revenues;
- h. Is defective in its drafting or for any reason form or part of the statutory instrument calls for any elucidation;
- i. Appears to make some unusual or unexpected use of the power conferred by the Constitution or the Act pursuant to which it is made;

- j. Appears to have had unjustifiable delay in its publication or laying before Parliament;
- k. Makes rights, liberties or obligations unduly dependent upon non-renewable decisions;
- l. Makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m. Inappropriately delegates legislative powers;
- n. Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o. Appears for any reason to infringe on the rule of law;
- p. Inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and,
- q. Accords to any other reason that the Committee considers fit to examine.

Standing Order No. 210(4) provides that if the Committee-

- a. Resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant state department or the authority that published the statutory instrument.
- b. Does not accede to the statutory instrument, the Committee may recommend to the House that the Assembly resolves that all or part of the statutory instrument be annulled.
- c. The Clerk shall submit the resolution under paragraph 4(b) above to the relevant state department or the authority that published the statutory instrument.

1.3 Mandate: Select Committee on Constituencies Development Fund

The Select Committee on Constituencies Development Fund is established under Section 28 of the Constituencies Development Fund Act, 2013. Section 28(1) of the Constituencies Development Fund provides that “the National Assembly shall, in accordance with its Standing Orders, establish a Select Committee consisting of a chairperson and not more than ten other members of the National Assembly. However, by a resolution of the House, the Committee Membership was expanded to nineteen Members in May, 2013.

- (5) The functions of the National Assembly Select Committee shall be —
- (a) to consider and recommend to the National Assembly any matter requiring action by the National Assembly pursuant to the provisions of this Act;
 - (b) to oversee the implementation of this Act and in this respect, shall after every two years submit a report to the National Assembly and where necessary, propose any amendments to this Act, in particular, with respect to the quantum of funds repayable into the Fund in accordance with section 4 of the Act;
 - (c) to oversee the policy framework and legislative matters that may arise in relation to the Fund;
 - (d) to continually review the framework set out for the efficient delivery of development programmes financed through the Fund;
 - (e) to consider and report to Parliament with recommendations, names of persons required to be approved by Parliament under this Act; and
 - (f) to carry out any other functions relevant to the work of the Fund.
- (6) The Committee may make reports other than the statutory report stated in sub section 5(b) to appraise the National Assembly on various matters relating to the Fund and to seek various approvals as required by the Act.

1.4 Constituencies Fund Regulations, 2014

Pursuant to Section 46(1) of the Constituencies Development Fund Act (Act No. 30 of 2013), the Cabinet Secretary, Ministry of Devolution and Planning, on 17th February, 2014, transmitted the Constituencies Development Fund Regulations, 2014 to the Clerk of the National Assembly, for consideration by the House.

The Regulations were referred to the Joint Committee on Delegated Legislation and the Select Committee on Constituencies Development Fund, by the Hon. Speaker for review and scrutiny pursuant to section 12(1) of the Statutory Instruments Act (Act No. 23 of 2013), Standing Order 210, and the provisions of Section 28(5)(c) of the Constituencies Development Fund Act, 2013.

The Joint Committee reviewed and scrutinized the Regulations pursuant to the Provisions of Section 13 of the Statutory Instruments Act and Standing Order No. 210.

The Committee held five Joint Sittings with the Select Committee on the Constituencies Development Fund, during which proposals by the CDF Committee were considered.

During the Joint Sittings, it was reported that the Select Committee on the Constituencies Development Fund had held extensive consultative meetings with the CDF Board Secretariat and other stakeholders. The Committee had therefore come up with a set of draft CDF Regulations which were contained in a Report circulated to Members during the Joint Sittings.

The Joint Committee established that the Cabinet Secretary, Ministry of Devolution and Planning had not incorporated some fundamental proposals contained in the CDF Committee's Report on the Constituency Development Fund Regulations, 2014. Further, some of the Regulations presented by the Cabinet Secretary were already contained in the Principal Act.

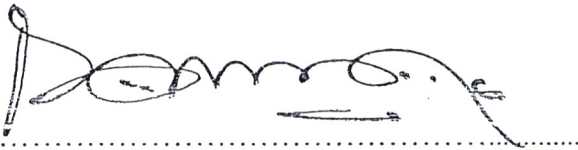
In view of the above and pursuant to Part IV of the Statutory Instruments Act (No. 23 of 2013) and Standing Order No. 210, the Committee hereby resolves that the Constituencies Development Fund Regulations, 2014, be revoked.

1.5 Acknowledgement

- a. The Joint Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the necessary support extended to it in the execution of its mandate;
- b. The Co-Chairpersons of the Committee take this opportunity to thank all the Members of the Joint Committee for their useful and immense contribution in enriching the Constituencies Development Fund Regulations, 2014;
- c. The Joint Committee further wishes to record its appreciation for the services rendered by the staff of the National Assembly that enabled the production of this Report.

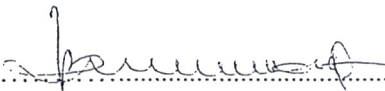
d. Finally, it is now my pleasant duty, on behalf of the Joint Committee, to recommend this Report to the House pursuant to the provisions of the Standing Orders and request the House to adopt the report.

I thank you.



Signed.....

Hon. William Cheptumo, MP
Chairman, Committee on Delegated Legislation



Signed.....

Hon. Moses Lessonet, MP
Chairman, Select Committee on Constituencies Development Fund

Date..... 02/04/2014.....

2.0 CONSIDERATION OF THE CONSTITUENCIES DEVELOPMENT FUND REGULATIONS, 2014

The Committee on Delegated Legislation reviewed and scrutinized the Constituencies Development Fund Regulations forwarded to National Assembly by the Cabinet Secretary, Ministry of Devolution and Planning and noted that there are outstanding issues pertaining to the Regulations published by the Cabinet Secretary.

In view of the above and pursuant to Part IV of the Statutory Instruments Act (No. 23 of 2013) and Standing Order No. 210, the Committee hereby resolves that the Constituencies Development Fund Regulations, 2014, be revoked.

Accordingly, the Committee has outlined hereunder in detail the issues which may be contained in a memorandum of annulment, for consideration and resolution by the Cabinet Secretary.

1. Proposed Regulation 5 be annulled.

Justification:

The fourteen days proposal by the Cabinet Secretary to issue notices for public meetings is too long.

Recommendation

The Committee proposes seven days for issuing of notices; to read thus:-

The officer of the Board in a constituency, in consultation with the area Member of the National Assembly, shall convene an open public meeting for the election of members of the Constituency Development Fund Committee and cause public notices of the meeting to be displayed in all public places in every ward at least **seven** days prior to date of the election.

2. Proposed Regulation 9 be annulled.

Justification:

The Secretary to the Constituency Development Fund Committee ought not to have one of their duties as receiving and undertaking of all the correspondence on behalf of the Constituency Development Fund Committee.

3. Proposed Regulation 14 be annulled.

Justification:

Notice for Constituency Development Fund Committee meetings in the proposed Regulation 14(1) and Quorum of the meetings provided for in the proposed Regulation 14(3) are sufficiently provided for in the Act.

4. Proposed Regulation 15 be annulled.

Justification:

The proposed Regulation does not include technical persons who are not members of the Inspection and Acceptance sub-committee who ought to have been included.

Recommendation

In view of the foregoing, the Committee recommends that technical persons appointed outside the Constituency Development Fund Committee should be included in the Inspections and Acceptance sub-committee.

5. Proposed Regulation 22 be annulled.

Justification:

It is not necessary to have two members appointed through a resolution of the Constituency Development Fund Committee as signatories to Constituency bank accounts.

Recommendation

In view of the foregoing, the Committee recommends that Regulation 22(3)(b) should be deleted.

Further Recommendations

The Cabinet Secretary to consider inserting new Regulations that provide for:-

- a) Removal of the Constituency Development Fund members by the area Member of Parliament in consultation with the officer of the Board.

This provision should thus read:-

- i) In addition to resignation and removal of a member of the Constituency Development Fund Committee under section 24 of the Principal Act, the Member of the National Assembly in consultation with the officer of the Board

may remove one or all members of the Constituency Development Fund Committee on any one or more of the grounds set out in the Act.

- ii) A vacancy or vacancies arising as a result of removal of a member under regulation (i) above shall be filled in the manner set out in section 24(11) of the Act from persons elected in each Ward under section 24 of the Act.

b) Administrative reporting by the Fund Account Manager

- i) The Fund Account Manager for each respective constituency shall administratively report to the Chairperson of the Constituency Development Fund Committee.
- ii) The Constituency Development Fund Committee shall participate in the appraisal of the Fund Account Manager in consultation with the Board.
- iii) In exercising their administrative supervision over the Fund account Manager, the Constituency Development Fund Committee shall have due regard to employment laws and regulations applicable to the Fund Account Managers' contracts of employment with the Board.

c) Approval of the Constituencies Development Fund Board budget

- i) The Cabinet Secretary shall approve the annual budget of the Constituencies Development Fund Board with the concurrence of the National Assembly Select Committee on Constituencies Development Fund.
- ii) The annual budget of the Constituencies Development Fund Board shall be limited to an amount not exceeding five per centum of the total allocation to the fund in the financial year and the Cabinet Secretary shall approve with the concurrence of the National Assembly Select Committee on Constituencies Development Fund.

d) Budget ceiling for the Constituencies Development Fund

- i) The budget ceiling for each constituency shall be determined in accordance with the basis for allocating resources prescribed under the Act provided that such budget ceiling for each constituency shall in any case not be less than Kshs. one hundred million.

MINUTES OF THE 6TH JOINT SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION; AND SELECT COMMITTEE ON CONSTITUENCIES DEVELOPMENT FUND HELD ON TUESDAY 25TH MARCH, 2014 IN THE MAIN CHAMBER, PARLIAMENT BUILDINGS AT 10.00 A.M.

MEMBERS PRESENT

1. Hon. William Cheptumo, MP - Co-Chairperson
2. Hon. Moses Lessonet, MP - Co-Chairperson
3. Hon. Esther Gathogo, MP - Vice Chairperson
4. Hon. Peter Kaluma, MP
5. Hon. Eng. Shadrack Manga, MP
6. Hon. John Waiganjo, MP
7. Hon. Kabando wa Kabando, MP
8. Hon. Elisha Busienei, MP
9. Hon. Eusilah Jepkosgei, MP
10. Hon. Hassan Aden Osman, MP
11. Hon. Paul Bii, MP
12. Hon. Michael Kiso Munyao, MP
13. Hon. Mohamed Adan, MP
14. Hon. Paul Koinange, MP
15. Hon. George Theuri, MP
16. Hon. Alfred Keter, MP
17. Hon. Nicholas Ngi'kor, MP
18. Hon. William Kisang, MP
19. Hon. Yusuf Hassan Abdi, MP
20. Hon. Zainabu Chidzuga, MP
21. Hon. Simba Arati, MP
22. Hon. Neto Agostinho, MP
23. Hon. Mohamed Haji, MP
24. Hon. Yusuf Chanzu, MP
25. Hon. Gideon Ogolla, MP
26. Hon. Kyengo Katatha Maweu, MP
27. Hon. Kamoti Mwamkale, MP
28. Hon. Joseph Ndiege, MP
29. Hon. Peter Kaluma, MP
30. Hon. Benson Mbai Itwiku, MP
31. Hon. David Wafula, MP
32. Hon. Elijah Mosomi Moindi, MP
33. Hon. John Lodepe Nakara, MP
34. Hon. Eng. Nicholas Gumbo, MP
35. Hon. Abass Mohammed, MP

ABSENT WITH APOLOGY

1. Hon. Joseph Gitari, MP - Vice Chairperson
2. Hon. Charles Gimose, MP
3. Hon. Bernard Shinali, MP
4. Hon. Timothy Wetangula, MP
5. Hon. Vincent Musau, MP

6. Hon. Rachel Ameso, MP
7. Hon. Saney Abdi Ibrahim, MP
8. Hon. T. J. Kajwang, MP
9. Hon. Marcus Mutua Muluvi, MP
10. Hon. Maina Kamanda, MP
11. Hon. Raphael Letimalo, MP
12. Hon. Abdikadir Ore, MP
13. Hon. Silas Tiren, MP

IN ATTENDANCE - NATIONAL ASSEMBLY

1. Ms. Hellen Lokwang - Third Clerk Assistant
2. Ms. Hellen Kina - Third Clerk Assistant
3. Ms. Lydia Makaka - Parliamentary Intern

CDF/DL/MIN.NO.20/2014 - PRELIMINARIES

The meeting was called to order at 10.30 a.m. A prayer was said.

CDF/DL/MIN. NO.21/2014 - CONFIRMATION OF MINUTES.

Minutes of the previous sittings were read and confirmed as the true records of the proceedings, as follows;

- I. Confirmation of Minutes of the First Sitting held on 4th March 2014 was proposed by the Hon. T. J. Kajwang', MP and seconded by the Hon. Moses Lessonet, MP.
- II. Confirmation of Minutes of the Second Sitting held on 6th March 2014 was proposed by the Hon. Peter Kaluma, MP and seconded by the Hon. Michael Kisoi Munyao, MP.
- III. Confirmation of Minutes of the Third Sitting held on 11th March 2014 was proposed by the Hon. Mohamed Haji, MP, and seconded by the Hon. David Wafula, MP.
- IV. Confirmation of Minutes of the Fourth Sitting held on 13th March 2014 was proposed by the Hon. T. J. Kajwang', MP, and seconded by the Hon. Peter Kaluma, MP.
- V. Confirmation of Minutes of the Fifth Sitting held on 20th March 2014 was proposed by the Hon. Peter Kaluma, MP and seconded by the Hon. Moses Lessonet, MP.

CDF/DL/MIN.NO./22/2014 – MATTERS ARISING

There were no matters arising under this item.

CDF/DL/MIN.NO. 23/2014 - REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON ITS CONSIDERATION OF THE CONSTITUENCIES DEVELOPMENT FUND REGULATIONS, 2014

The Committee adopted the report of the sub-committee presented in consideration of the CDF Regulations, 2014 as follows:-

1. Proposed Regulation 5 be annulled.

Reason:

The fourteen days proposal by the Cabinet Secretary to issue notices for public meetings is too long.

Recommendation

The Committee proposes seven days for issuing of notices; to read thus:-

The officer of the Board in a constituency, in consultation with the area Member of the National Assembly, shall convene an open public meeting for the election of members of the Constituency Development Fund Committee and cause public notices of the meeting to be displayed in all public places in every ward at least **seven** days prior to date of the election.

2. Regulation 9 be annulled.

Reason

The Secretary to the Constituency Development Fund Committee ought not to have one of their duties as receiving and undertaking of all the correspondence on behalf of the Constituency Development Fund Committee.

3. Regulation 14 be annulled.

Reason

Notice for Constituency Development Fund Committee meetings in the proposed Regulation 14(1) and Quorum of the meetings provided for in the proposed Regulation 14(3) are sufficiently provided for in the Act.

4. Regulation 15 be annulled.

Reason

The proposed Regulation does not include technical persons who are not members of the Inspection and Acceptance sub-committee who ought to have been included.

Recommendation

In view of the foregoing, the Committee recommends that there should be included in the Inspections and Acceptance sub-committee technical persons who should be persons appointed outside the Constituency Development Fund Committee.

5. Regulation 22 be annulled.

Reason

It is not necessary to have as signatories to Constituency bank accounts, two members appointed through a resolution of the Constituency Development Fund Committee.

Recommendation

In view of the foregoing, the Committee recommends that Regulation 22 ought to be deleted.

Further Recommendations

The Cabinet Secretary to consider inserting new Regulations that provide for:-

- a) Removal of the Constituency Development Fund members by the area Member of the National Assembly in consultation with the officer of the Board.

This provision should thus read:-

- (i) In addition to resignation and removal of a member of the Constituency Development Fund Committee under section 24 of the Principal Act, the Member of the National Assembly in consultation with the officer of the Board may remove one or all members of the Constituency Development Fund Committee on any one or more of the grounds set out in the Act.

(ii) A vacancy or vacancies arising as a result of removal of a member under regulation (1) above shall be filled in the manner set out in section 24(11) of the Act from persons elected in each Ward under section 24 of the Act.

b) Administrative reporting by the Fund Account Manager

- i) The Fund Account Manager for each respective constituency shall administratively report to the Chairperson of the Constituency Development Fund Committee.
- ii) The Constituency Development Fund Committee shall participate in the appraisal of the Fund Account Manager in consultation with the Board.
- iii) In exercising their administrative supervision over the Fund account Manager, the Constituency Development Fund Committee shall have due regard to employment laws and regulations applicable to the Fund Account Managers' contracts of employment with the Board.

c) Approval of the Constituencies Development Fund Board budget

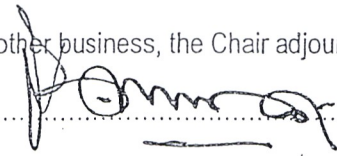
- i) The Cabinet Secretary shall approve the annual budget of Constituencies Development Fund Board with the concurrence of the National Assembly Select Committee on Constituencies Development Fund.
- ii) The annual budget of the Constituencies Development Fund Board shall be limited to an amount not exceeding five per centum of the total allocation to the fund in the financial year as the Cabinet Secretary shall approve with the concurrence of the National Assembly Select Committee on Constituencies Development Fund.


d) Budget ceiling for the Constituencies Development Fund

- i) The budget ceiling for each constituency shall be determined in accordance with the basis for allocating resources prescribed under the Act provided that such budget ceiling for each constituency shall in any case not be less than Kshs. one hundred million.
- ii) The Chairperson of the Committee of the National Assembly Select Committee on Constituencies Development Fund shall table in the House a schedule showing the ceiling for each constituency each financial year.

CDF/DL/MIN.NO./24/2014 – ADJOURNMENT/DATE FOR THE NEXT MEETING

There being no other business, the Chair adjourned the meeting at 11.50 a.m. The next meeting will be on notice.

Signed.......... Date: 02-04-2014
(Co-Chairperson)

Signed.......... Date: 02/04/14
(Co-Chairperson)

MINUTES OF THE 5TH JOINT SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION; AND THE SELECT COMMITTEE ON THE CONSTITUENCIES DEVELOPMENT FUND, HELD ON THURSDAY 20TH MARCH, 2014, IN THE MAIN CHAMBER, PARLIAMENT BUILDINGS AT 10.00 A.M.

MEMBERS PRESENT

1. Hon. William Cheptumo, MP – Co-Chairperson
2. Hon. Moses Lessonet, MP – Chairperson
3. Hon. Esther Gathogo, MP – Vice Chairperson
4. Hon. Joseph Gitari, MP – Vice-Chairperson
5. Hon. Peter Kaluma, MP
6. Hon. Eng. Shadrack Manga, MP
7. Hon. Charles Gimose, MP
8. Hon. Paul Bii, MP
9. Hon. Michael Kisoi Munyao, MP
10. Hon. Mohamed Aden Huka, MP
11. Hon. Timothy Wetangula, MP
12. Hon. Paul Koinange, MP
13. Hon. George Theuri, MP
14. Hon. Alfred Keter, MP
15. Hon. Nicholas Ngikor, MP
16. Hon. William Kisang, MP
17. Hon. Yusuf Hassan Abdi, MP
18. Hon. Maina Kamanda, MP
19. Hon. Raphael Letimalo, MP
20. Hon. Mohamed Haji, MP
21. Hon. Yusuf Chanzu, MP
22. Hon. Gideon Ochanda, MP
23. Hon. Kyengo K. Maweu
24. Hon. Kamoti Mwamkale, MP
25. Hon. Abdikadir Ore, MP
26. Hon. Joseph Ndiege, MP
27. Hon. Benson Mbai Itwiku, MP
28. Hon. Silas Tiren, MP
29. Hon. David Wafula, MP
30. Hon. Elijah Mosomi Moindi, MP
31. Hon. Ken Okoth, MP

ABSENT WITH APOLOGY

1. Hon. John Waiganjo, MP
2. Hon. Kabando wa Kabando, MP
3. Hon. Elisha Busienei, MP
4. Hon. Eusilah Jepkosgei, MP
5. Hon. Hassan Adan Osman, MP
6. Hon. Bernard Shinali, MP
7. Hon. Vincent Musau, MP
8. Hon. Rachel Ameso, MP
9. Hon. Saney Abdi Ibrahim, MP

10. Hon. Zainabu Chidzuga, MP
11. Hon. Simba Arati, MP
12. Hon. Neto Agostinho, MP
13. Hon. Marcus Mutua Muluvi
14. Hon. T. J. Kajwang, MP
15. Hon. John Lodepe Nakara, MP
16. Hon. Eng. Nicholas Gumbo, MP
17. Hon. Abass Mohammed, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Ms. Hellen Lokwang - Third Clerk Assistant
2. Ms. Lydia Makaka - Parliamentary Intern

IN ATTENDANCE – CDF BOARD

1. Mr. S. M. Ndweka - Corporation Secretary
2. Ms. Clarah Kimeu - Legal Officer
3. Ms. Elizabeth Chesoni - Assistant Legal Officer

CDF/DL/MIN.NO.16/2014 – PRELIMINARIES

The meeting was called to order at twenty minutes after ten O'clock. A prayer was said. The agenda was adopted as the true business of the day. The Co-Chairperson then welcomed the Members to the meeting.

CDF/DL/MIN.NO.17/2014: CONSIDERATION OF THE JOINT DRAFT REPORT OF THE COMMITTEE ON THE CONSTITUENCIES DEVELOPMENT FUND REGULATIONS, 2014

The Hon. Moses Lessonet, MP, Co-Chairperson, took the Members through the joint draft report on the Constituencies Development Fund Regulations, 2014 and informed them that the draft report was a true reflection of the Committee's proceedings held on Thursday, 13th March 2014.

The following paragraph was rephrased:-

The fund shall consist of:-

- a) The allocation of money to the fund every financial year in accordance with the Act shall be such that when distributed to the constituencies, the amount to each constituency shall not be less than Kshs. 100 million.
- b) Any monies accruing to or received by the Board from any other source;
- c) Funds disbursed by the national government through the Board to the constituencies as a grant in the manner provided for by this Act.

The Joint Committee resolved to form a sub-committee of Members drawn from the two Committees in order to refine the Regulations before tabling in the House on Tuesday, 25th March, 2014. The sub-committee would comprise of:-

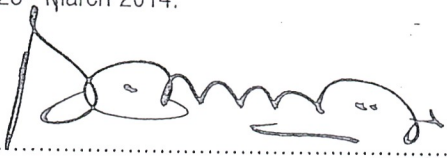
- (i) Hon. Moses Lessonet, MP;
- (ii) Hon. Mohammed Haji, MP;
- (iii) Hon. Peter Kaluma, MP; and,
- (iv) Hon. Michael Kisoi Munyao, MP.

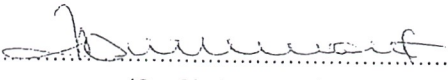
CDF/DL/MIN.NO.18/2014 – ANY OTHER BUSINESS

There was no other business under this item.

CDF/DL/MIN.NO.19/2014 - ADJOURNMENT/DATE FOR THE NEXT MEETING

There being no other business, the meeting was adjourned at fifty minutes after ten O'clock. The next meeting would be held on Tuesday, 25th March 2014.

Signed.....
(Co-Chairperson) 2/4/2014

Signed.....
(Co-Chairperson)

Date..... 02/04/14

MEMBERS PRESENT

1. The Hon. Moses Lessonet, MP – Co-Chairperson
2. The Hon. William Cheptumo, MP – Co-Chairperson
3. The Hon. Esther Gathogo, MP – Vice-Chairperson
4. The Hon. Joseph Gitari, MP – Vice-Chairperson
5. The Hon. Mohamed Haji, MP
6. The Hon. Raphael Letimalo, MP
7. The Hon. Maina Kamanda, MP
8. The Hon. (Eng.) Nicolas Gumbo, MP
9. The Hon. Peter Kaluma, MP
10. The Hon. Benson Mbai Itwiku, MP
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20. The Hon. Hassan Aden Osman, MP
21. The Hon. Timothy W. Wetangula, MP
22. The Hon. George Theuri, MP
23. The Hon. Elisha K. Busienei, MP
24. The Hon. Eng. Shadrack Manga, MP
25. The Hon. Yusuf Hassan Abdi, MP
26. The Hon. Michael Kisoi Munyao, MP
27. The Hon. Mohamed Adan Huka, MP
28. The Hon. John M. Waiganjo, MP
29. The Hon. Paul K. Bii, MP
30. The Hon. Charles Gimose, MP
31. The Hon. T. J. Kajwang, MP
32. The Hon. Simba Arati, MP
33. The Hon. Rachael A. Amollo, MP
34. The Hon. William Kisang, MP
35. The Hon. Neto Agostinho, MP
36. The Hon. Ken Okoth, MP

ABSENT

1. The Hon. John Lodepe Nakara, MP
2. The Hon. Abdikadir Ore, MP
3. The Hon. Abass Mohammed, MP
4. The Hon. Paul Koinange, MP
5. The Hon. Ibrahim Abdi Saney, MP

6. The Hon. Eusilah Ngeny, MP
7. The Hon. Zainabu K. Chidzuga, MP
8. The Hon. Nicholas Ngĩ'kor Nixon, MP
9. The Hon. Benard Shinali, MP
10. The Hon. Kabando wa Kabando, MP
11. The Hon. Vincent Musau, MP
12. The Hon. Marcus Mutua Muluvi, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

Ms. Hellen Lokwang – Third Clerk Assistant

IN ATTENDANCE – CDF BOARD SECRETARIAT

1. Ms. Clara Kimeli – Legal Officer
2. Ms. Elizabeth Kitundu – Programme Manager, Coordination
3. Ms. Elizabeth Chesoni – Assistant Legal Officer

CDF/DL/MIN.NO.13/2014 - PRELIMINARIES

The meeting was called to order at twenty five minutes after ten O'clock. A prayer was said. The Agenda was adopted as the true business for the day. The Co-Chairperson welcomed the Members of the Joint Committee to the meeting.

CDF/DL/MIN.NO.14/2014 – CONSIDERATION OF THE REPORT OF THE SELECT COMMITTEE ON CDF ON ITS EXAMINATION OF THE CDF REGULATIONS, 2014

The Committee made the following changes to the CDF Committee report on its consideration of the CDF Regulations, 2014:-

1. Interpretation
Delete the proposal until the Constituencies Development Fund Act, 2013 is amended.
2. Regulation 15(3)(b):- Delete "shall" and insert "may" in the proviso:- The Inspection and Acceptance sub-committee may include technical persons outside the Constituency Development Fund Committee.
3. 8. (i) The Fund Account Manager for each respective constituency shall administratively report to the Constituency Development Fund Committee.
4. 9. Indicate CDF in full –
 - (i) The Cabinet Secretary shall forward the Constituencies Development Fund Board budget to the National Assembly Constituencies Development Fund Committee for approval.
 - (ii) The Constituencies Development Fund Board allocation shall be limited to a certain amount of 5% of the total Constituency Development Fund allocation.
5. 10. Increment of allocation to the least funded constituency

The Constituency with the lowest CDF allocation shall receive a minimum of Kshs. 100 million every financial year.

Include – The fund shall consist of:-

- (a) monies of an amount of not less than 2.5% (two and half per centum) of all the national government ordinary revenue collected in every financial year, provided that the fund allocated to a constituency shall not be less than 100 million;
- (b) comprise of any moneys accruing to or received by the Board from any other source;
- (c) disbursed by the national government through the Board to constituencies as a grant to be channeled to constituencies in the manner provided for by this Act;
- (d) be administered by the Board.

CDF/DL/MIN.NO.15/2014 – ANY OTHER BUSINESS

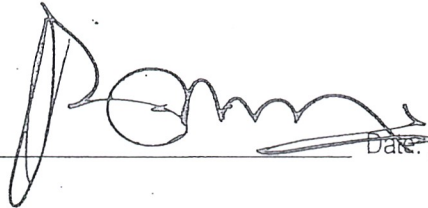
There was no other business under this item.

CDF/DL/MIN.NO.16/2014 – ADJOURNMENT

There being no other business, the meeting was adjourned at fifty minutes past eleven O'clock. The next meeting will be on Tuesday, 17th March 2014, at ten O'clock.

Signed:

Co-Chairperson:



Date:

26.03.14

Co-Chairperson:



Date:

28/03/2014

MEMBERS PRESENT

1. The Hon. Moses Lessonet, MP – Chairperson
2. The Hon. Esther Gathogo, MP – Vice-Chairperson
3. The Hon. Mohamed Haji, MP
4. The Hon. Raphael Letimalo, MP
5. The Hon. (Eng.) Nicolas Gumbo, MP
6. The Hon. Peter Kaluma, MP
7. The Hon. Abass Mohammed, MP
8. The Hon. Benson Mbai Itwiku, MP
9. The Hon. Silas Kipkoech Tiren, MP
10. The Hon. Elijah Mosomi Moindi, MP
11. The Hon. Yusuf Chanzu, MP
12. The Hon. Kyengo K. Maweu, MP
13. The Hon. Gideon O. Ochanda, MP
14. The Hon. Kamoti Mwamkale, MP
15. The Hon. Joseph O. Ndiege, MP
16. The Hon. David Wafula, MP
17. The Hon. John Lodepe Nakara, MP

ABSENT

1. The Hon. Maina Kamanda, MP
2. The Hon. Abdikadir Ore, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

Mr. Daniel Mutunga - Principal Clerk Assistant

IN ATTENDANCE – CDF BOARD SECRETARIAT

1. Ms. Clara Kimeli – Legal Officer
2. Ms. Elizabeth Kitundu – Programme Manager, Coordination
3. Ms. Elizabeth Chesoni – Assistant Legal Officer

CDF/MIN.NO.09/2014 – PRELIMINARY

The meeting was called to order at forty five minutes after four O'clock. Prayers were said. The agenda was adopted as the true business for the day, after having been proposed by the Hon. David Wafula, MP, and seconded by the Hon. Kamoti Mwamkale, MP. The Co-Chairman welcomed the Members of the Committee to the meeting.

CDF/MIN.NO.10/2014 – CONSIDERATION OF CDF REGULATIONS, 2014

The Committee deliberated on the draft report by the Secretariat as follows:-

1. Interpretation

Introduce a new interpretation to read as follows:-

"Sub County Administrator" means the National Government official at the Constituency.

2. Open public meetings for election of constituency committees

Regulation 5(1): The officer of the Board in a constituency, in consultation with the area Member of the National Assembly, shall convene an open public meeting for the election of members of the Constituency Development Fund Committee and cause public notices of the meeting to be displayed in all public places in every ward at least **seven** days prior to date of the election.

Regulation 5(2): The officer of the Board in a constituency shall also issue the notices referred to in paragraph (1) to the sub county administrator and give copies to the elected representatives at the ward level.

3. The Secretary to the Constituency Development Fund

Regulation 9(2)(d): DELETE [Duties of Constituency Development Fund Committee Secretary cannot include receiving and undertaking all the correspondence on behalf of CDFC].

4. Meetings of Constituency Development Fund Committee [CDFC]

Regulation 14(1): DELETE [Notice for CDFC meetings already provided for in the Principal Act].

Regulation 14(3): DELETE [Quorum is provided for in the fourth schedule of the Principal Act]

5. Constituency Development Fund Committee Sub - Committees

Regulation 15(3)(b): Proviso:- The Inspection and Acceptance sub-committee shall include technical persons outside the Constituency Development Fund Committee.

6. Opening of constituency bank accounts

Regulation 22(3)(b): DELETE [The proposal to have two members appointed through a resolution of the CDFC as signatories to constituency bank accounts not necessary].

NEW REGULATIONS

7. Removal of Constituency Development Fund Committee members

In addition to resignation by the Constituency Development Fund Committee members from the Constituency Development Fund Committee, the area Member of the National Assembly in consultation with the officer of the Board may remove one or all members of the Constituency Development Fund Committee.

8. Administrative reporting by the Fund Account Manager

- i) The Fund Account Manager for each respective constituency shall administratively report to the Constituency Development Committee.
- ii) The Constituency Development Fund Committee shall participate in the appraisal of the Fund Account Manager in consultation with the Board.

iii) In exercising their administrative supervision over the Fund Account Manager, the Constituency Development Fund Committee shall have due regard to employment laws and regulations applicable to the Fund Account Managers' contracts of employment with the Board.

9. Approval of the CDF Board budget

i) The Cabinet Secretary shall forward the CDF Board budget to the National Assembly CDF Committee for approval.

ii) The CDF Board allocation shall be limited to a certain amount of 5% of the total CDF allocation.

10. Increment of allocation to the least funded constituency

The constituency with the lowest CDF allocation shall receive a minimum of Kshs. 100 million every financial year.

CDF/MIN.NO.11/2014 – ANY OTHER BUSINESS

The Committee resolved that the CDF Regulations, 2014 presented by the Cabinet Secretary did not address pertinent areas proposed by the Committee and therefore the Committee resolved to have the Regulations amended. The Committee would table a joint report and urge the House to adopt the recommendation that the CDF Regulations be approved subject to the proposed amendments by the Committee.

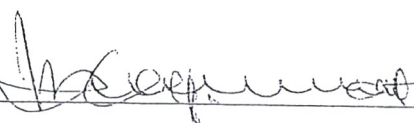
The Chairman informed the Members that he would seek the guidance of the Speaker, National Assembly on whether amendments on Regulations could be moved on the floor of the House.

CDF/MIN.NO. 12/2013 – ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes after six O'clock. The next meeting would be held on 13th March, 2014.

Signed:

Chairperson:



Date:

26/03/2014



MINUTES OF THE 2ND JOINT SITTING OF THE SELECT COMMITTEE ON CDF; AND THE COMMITTEE ON DELEGATED LEGISLATION, HELD ON TUESDAY, 6TH MARCH, 2014, IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Moses Lessonet, MP – Co-Chairperson
2. The Hon. William Cheptumo, MP – Co-Chairperson
3. The Hon. Esther Gathogo, MP – Vice-Chairperson
4. The Hon. Joseph Gitari, MP – Vice-Chairperson
5. The Hon. Mohamed Haji, MP
6. The Hon. Peter Kaluma, MP
7. The Hon. Raphael Letimalo, MP
8. The Hon. Benson Mbai Itwiku, MP
9. The Hon. Abass Mohammed, MP
10. The Hon. Silas Kipkoech Tiren, MP
11. The Hon. Yusuf Chanzu, MP
12. The Hon. Gideon O. Ochanda, MP
13. The Hon. Elijah Mosomi Moindi, MP
14. The Hon. Kamoti Mwamkale, MP
15. The Hon. Abdikadir Ore, MP
16. The Hon. Kyengo Katatha Maweu, MP
17. The Hon. David Wafula, MP
18. The Hon. Hassan Aden Osman, MP
19. The Hon. Kabando wa Kabando, MP
20. The Hon. Timothy W. Wetangula, MP
21. The Hon. George Theuri, MP
22. The Hon. Elisha K. Busienei, MP
23. The Hon. Michael K. Munyao, MP
24. The Hon. Paul K. Bii, MP
25. The Hon. Vincent Musau, MP
26. The Hon. Eng. Shadrack Manga, MP
27. The Hon. Alfred Keter, MP
28. The Hon. Zainabu K. Chidzuga, MP
29. The Hon. Charles Gimose, MP
30. The Hon. Simba Arati, MP
31. The Hon. William Kisang, MP
32. The Hon. Nicholas Ngi'kor Nixon, MP

ABSENT

1. The Hon. (Eng.) Nicolas Gumbo, MP
2. The Hon. Joseph O. Ndiege, MP
3. The Hon. John Lodepe Nakara, MP
4. The Hon. Maina Kamanda, MP
5. The Hon. Ibrahim Abdi Saney, MP
6. The Hon. Eusilah Ngeny, MP
7. The Hon. T. J. Kajwang, MP
8. The Hon. Marcus Mutua Muluvi, MP

9. The Hon. Yusuf Hassan Abdi, MP
10. Hon. Bernard Shinali, MP
11. The Hon. John M. Waiganjo, MP
12. The Hon. Rachael A. Amollo, MP
13. The Hon. Mohamed Adan Huka, MP
14. The Hon. Paul Koinange, MP
15. The Hon. Neto Agostinho, MP
16. The Hon. Ken Okoth, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

Mr. Daniel Mutunga - Principal Clerk Assistant

CDF/DL/MIN.NO.05/2014 – PRELIMINARY

The meeting was called to order at twenty minutes after ten O'clock. Prayers were said. The agenda was adopted as the true business for the day, after having been proposed by the Hon. David Wafula, MP, and seconded by the Hon. Nicholas Gumbo, MP. The Co-Chairman welcomed the Members to the meeting and informed them that the Secretariat had compiled a brief on the CDF Regulations, 2014, which was presented before the Joint Committee.

CDF/DL/MIN.NO.06/2014 – CONSIDERATION OF THE CDF REGULATIONS, 2014

The Co-Chairperson informed the Joint Committee that it was prudent for the CDF Select Committee to hold a separate meeting to examine the Cabinet Secretary's Regulations alongside the brief by the Secretariat, and present a report in the next Joint Sitting of the Committee.

CDF/DL/MIN.NO.07/2014 – ANY OTHER BUSINESS

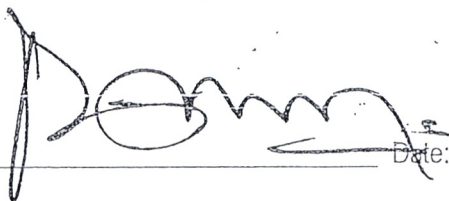
The Committee was informed that the Hon. Kabando wa Kabando was intending to move an amendment to the Act in order to increase funding of the bursary education kitty. The Committee Members further wished to be appraised on the on-going court case. The status on the case would be given in the next sitting.

CDF/DL/MIN.NO. 08/2013 – ADJOURNMENT

There being no other business, the meeting was adjourned at forty five minutes after eleven O'clock. The next meeting would be held on 11th March, 2014.

Signed:

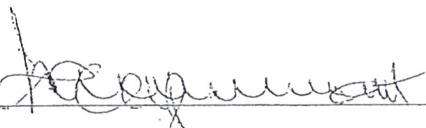
Co-Chairperson:



Date:

26-03-2014

Co-Chairperson:



Date:

26/03/2014

MINUTES OF THE 1ST JOINT SITTING OF THE SELECT COMMITTEE ON CDF; AND THE COMMITTEE ON DELEGATED LEGISLATION, HELD ON TUESDAY, 4TH MARCH, 2014, IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, AT 10.00 AM

MEMBERS PRESENT

1. The Hon. Moses Lessonet, MP – Co-Chairperson
2. The Hon. William Cheptumo, MP – Co-Chairperson
3. The Hon. Joseph Gitari, MP – Vice-Chairperson
4. The Hon. Mohamed Haji, MP
5. The Hon. (Eng.) Nicolas Gumbo, MP
6. The Hon. Peter Kaluma, MP
7. The Hon. Abass Mohammed, MP
8. The Hon. Elijah Mosomi Moindi, MP
9. The Hon. Yusuf Chanzu, MP
10. The Hon. Gideon O. Ochanda, MP
11. The Hon. Kamoti Mwamkale, MP
12. The Hon. Abdikadir Ore, MP
13. The Hon. Kyengo Katatha Maweu, MP
14. The Hon. Joseph O. Ndiege, MP
15. The Hon. David Wafula, MP
16. The Hon. Hassan Aden Osman, MP
17. The Hon. George Theuri, MP
18. The Hon. Elisha K. Busienei, MP
19. The Hon. Yusuf Hassan Abdi, MP
20. The Hon. Michael K. Munyao, MP
21. The Hon. John M. Waiganjo, MP
22. The Hon. Paul K. Bii, MP
23. Hon. Bernard Shinali, MP
24. The Hon. Charles Gimose, MP
25. The Hon. Simba Arati, MP
26. The Hon. Rachael A. Amollo, MP
27. The Hon. William Kisang, MP
28. The Hon. Paul Koinange, MP
29. The Hon. Nicholas Ng'kor Nixon, MP

ABSENT

1. The Hon. Esther Gathogo, MP – Vice-Chairperson
2. The Hon. John Lodepe Nakara, MP
3. The Hon. Maina Kamanda, MP
4. The Hon. Raphael Letimalo, MP
5. The Hon. Benson Mbai Itwiku, MP
6. The Hon. Silas Kipkoech Tiren, MP
7. The Hon. Ibrahim Abdi Saney, MP
8. The Hon. Eusilah Ngeny, MP
9. The Hon. Timothy W. Wetangula, MP
10. The Hon. T. J. Kajwang, MP

13. The Hon. Kabando wa Kabando, MP
14. The Hon. Vincent Musau, MP
15. The Hon. Marcus Mutua Muluvi, MP
16. The Hon. Neto Agostinho, MP
17. The Hon. Eng. Shadrack Manga, MP
18. The Hon. Mohamed Adan Huka, MP
19. The Hon. Ken Okoth, MP

IN ATTENDANCE – NATIONAL ASSEMBLY

1. Mr. Daniel Mutunga – Principal Clerk Assistant
2. Mr. Abenayo Wasike – First Clerk Assistant
3. Ms. Hellen Lokwang – Third Clerk Assistant
4. Ms. Lydia Makaka – Parliamentary Intern

IN ATTENDANCE – CDF BOARD SECRETARIAT

1. Mr. Yusuf Mbuno – Ag. CEO
2. Mr. Maina Ndweka – Corporation Secretary
3. Mr. Kimenju Gachara – Senior Accountant
4. Ms. Clara Kimeli – Legal Officer
5. Ms. Elizabeth Kitundu – Programme Manager, Coordination
6. Ms. Elizabeth Chesoni – Assistant Legal Officer

CDF/DL/MIN.NO.01/2014 – PRELIMINARY

The meeting was called to order at twenty five minutes after ten O'clock. Prayers were said. The agenda was adopted as the true business for the day, after having been proposed by the Hon. Nicolas Gumbo, MP, and seconded by the Hon. Ahmed Abdikadir Ore, MP. The Co-Chairman welcomed the Members of the Joint Committee to the meeting and informed them that the sole agenda for the day was to consider the 2014 CDF Regulations presented to the National Assembly by the Cabinet Secretary on 17th February, 2014:

CDF/DL/MIN.NO.02/2014 – CONSIDERATION OF 2014 CDF REGULATIONS

The Co-Chairperson informed the Joint Committee that the presence of the Select Committee on CDF Members was to facilitate the processing and movement of the Regulations through the various stages of consideration by the National Assembly. The CDF Committee had previously held consultative meetings in Mombasa and Naivasha respectively; with the CDF Board Secretariat and other relevant stakeholders in developing and improving the Regulations. The Joint Committee would therefore examine the Regulations forwarded to the National Assembly by the Cabinet Secretary, Devolution and Planning, in a view to establishing whether they addressed pertinent issues raised by the CDF Committee in its report.

In order to ensure that the Cabinet Secretary had taken into account the CDF Committee proposals, the Secretariat was tasked to study the draft by the Ministry of Devolution and Planning and highlight any inconsistencies, omissions or additions therein, and present these findings to the Joint Committee in the next sitting.

CDF/DL/MIN.NO.03/2014 – ANY OTHER BUSINESS

Members sought to know from the Ag. CEO how much CDF funds had been disbursed to the Constituencies, and why some Constituencies had not been funded. The Members also wished to know when the Ag. CEO would be confirmed.

The CEO informed the Members that 60% of the 2013/2014 CDF funds had been disbursed. 40% of these funds had not been released because some Constituencies were yet to open bank accounts, while others were yet to present project proposals for consideration by the Board. Members were informed that the matter of confirmation of the CEO

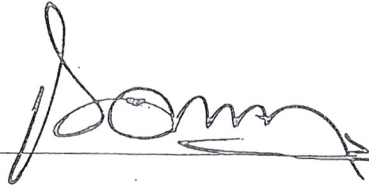
The CEO informed the Members that 60% of the 2013/2014 CDF funds had been disbursed. 40% of these funds had not been released because some Constituencies were yet to open bank accounts, while others were yet to present project proposals for consideration by the Board. Members were informed that the matter of confirmation of the CEO was being pursued with the relevant organs. The Committee had raised the matter with the Cabinet Secretary, Devolution and Planning, but the issue was yet to be concluded.

CDF/DL/MIN.NO. 04/2013 – ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes after eleven O'clock. The next meeting would be held on 6th March, 2014.

Signed:

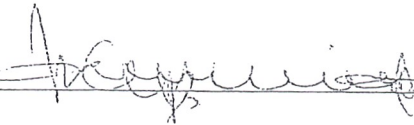
Chairperson:



Date:

26.03.2014

Co-Chairperson:



Date:

26/03/2014

