

THE CENTRAL BANK OF KENYA ACT

Commencement

No. 15 of 1966
No. 56 of 1968
No. 13 of 1992
No. 13 of 1978
No. 10 of 1980
No. 12 of 1984
No. 9 of 1989
No. 10 of 1995

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

PART I - PRELIMINARY

Short title.

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

Interpretation.

2. In this Act, except where the context otherwise requires -

authorized bank" means a specified bank licensed by the Bank under section 33B;

"authorized bureau" means a foreign exchange bureau licensed by the Bank under section 33B;

"authorized dealer" means an authorized bank or an authorized bureau licensed under section 33B;

"Bank" means the Central Bank of Kenya (or the Banki Kuu ya Kenya) established by section 3;

"bank" means a body corporate or other body of persons carrying on, whether on their behalf or as agent for another, banking business within the meaning of the Banking Act, whether in Kenya or elsewhere;

"Board" means the Board of Directors of the Bank appointed under Part IV;

“convertible”, in relation to any exchange, means exchange which is freely negotiable and transferable in international exchange markets at exchange rate margins consistent with the Articles of Agreement of the International Monetary Fund;

“currency” means the currency of Kenya or foreign currency;

“currency of Kenya” means bank notes and coins issued by the Bank under section 22(1) and any right to receive such bank notes or coins in respect of any credit or balance at a bank or financial institution located within or outside Kenya;

“financial institution” means a body corporate or other body of persons, carrying on, whether on their own behalf or as agent for another, financial business within the meaning of the Banking Act, whether in Kenya or elsewhere;

“foreign currency” means bank notes or coins which are or have at any time been legal tender in any territory outside Kenya and any right to receive such bank notes or coins in respect to any credit or balance at a bank either within or outside Kenya.

“foreign exchange bureau” means a company incorporated in Kenya whose liability is limited by shares, with the main object of buying and selling foreign currency;

"foreign exchange business" -

- (a) in relation to a specified bank, means -
 - (i) buying, selling, borrowing or lending foreign currency or any other business involving transactions in foreign currency;
 - (ii) settling payments to or from Kenya or in Kenya between residents and non-residents;
- (b) in relation to a foreign exchange bureau means buying or selling foreign currency;
- (c) in relation to any other person or body of persons specified by the Bank under section 33A, means such business transactions as the Bank may permit;

"non-resident" means a person or body of persons other than a resident;

"payment" means the transfer of currency for the purpose of discharging a liability, making a gift or donation or for creating a balance at a bank or financial institution which can be drawn upon;

"payment for current transaction" means a payment other than a payment for transferring capital and includes -

- (a) a payment due in connection with trade;
- (b) a payment due as interest on a loan or as net income from other investment;

- (c) a payment for amortization of a loan or for depreciation of direct investment; or
- (d) a remittance for family living expenses;

“public entity” means the Government, a local authority, or any public body specified by the Minister, on the recommendation of the Bank, as a public entity for the purposes of this Act;

“resident” means--

- (a) an individual who has been present in Kenya continuously for a period of at least one year or who has declared his intention to reside in Kenya for a period of at least one year to Kenya immigration authorities;
- (b) The Government of Kenya or any accredited official of its diplomatic missions residing outside Kenya;
- (c) a company or other body of persons whose principal place of business is located in Kenya and branches of such company or body located in Kenya;
- (d) branches of a company or other body of persons carrying on business in Kenya whose principal place of business is located outside Kenya;

but excludes any foreign diplomatic mission or any of its accredited officials or any organization established in or outside Kenya by international treaty or any of its accredited officials.

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

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

PART II - ESTABLISHMENT, CONSTITUTION AND OBJECTS

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

(2) The Bank shall be a body corporate with perpetual succession and a common seal, with power to acquire, own, possess and dispose of property, to contract, and to sue and to be sued in its own name.

(3) The Bank shall exercise any type of central banking function unless specifically excluded under this Act, and shall enjoy all the prerogatives of a central bank.

(4) The Bank may make its own rules of conduct or procedure not inconsistent with the provisions of this Act, for the good order and proper management of the Bank.

(5) The Bank shall not be subject to the Companies Act or the Banking Act.

4. (1) The principal object of the Bank shall be to formulate and implement monetary policy directed to achieving and maintaining stability in the general level of prices.

(2) The Bank shall foster the liquidity, solvency and proper functioning of a stable market-based financial system.

4A. Without prejudice to the generality of section 4 the Bank shall -

- (a) formulate and implement foreign exchange policy;
- (b) hold and manage its foreign exchange reserves;
- (c) license and supervise authorised dealers;
- (d) promote the smooth operation of payments, clearing and *settlement systems*;
- (e) act as banker and adviser to, and as fiscal agent of the Government; and issue currency notes and coins.

4B. (1) The Bank shall at intervals of not more than six submit to the Minister a monetary policy statement for the next twelve months which shall -

- (a) specify the policies and the means by which the Bank intends to achieve the policy targets;
- (b) state the reasons for adopting such policies and means; contain a review and assessment of the progress of the implementation by the Bank of monetary policy during the period to which the preceding policy statement relates.

(2) The Minister shall lay every statement submitted under subsection (1) before the appropriate committee of the National Assembly not later than the end of the subsequent session of Parliament after the statement is so submitted.

(3) The Bank shall -

- (a) cause-
 - (i) every monetary policy statement submitted under subsection (1); and
 - (ii) its monthly balance sheet to be published in the Gazette; and
- (b) disseminate key financial data and information on monetary policy to the public.

(4) In subsection (2), the expression "appropriate committee" means the committee of the National Assembly appointed to investigate and inquire into matters relating to monetary policy.

4C. (1) There shall be regular consultations on monetary policy between the Minister and the Bank.

(2) Where in exceptional circumstances and after consultation with the Bank, the Minister is of the opinion that the monetary policy adopted by the Bank is inconsistent with the principal object of the Bank, the Minister may, upon resolution by Cabinet, direct the Bank in writing to adopt

such monetary policy as the Minister may specify for a period of six months or for such shorter period as the Minister may specify, and the Bank shall, upon receipt of a directive under this section, adopt and implement the monetary policy so directed notwithstanding any other provision of this Act.

(3) The Minister shall cause every directive issued under subsection (2) to be published in the Gazette.

5. (1) The Bank shall have its head office in Nairobi; but during a time of national emergency the Bank may, unless the President otherwise directs, establish its head office temporarily or permanently in any other place within Kenya or elsewhere.

(2) The Bank may establish or close branches in any place within Kenya and may, with the prior approval of the Minister, open or close branches outside Kenya.

6. The Bank may, with the prior approval of the Minister, appoint, on such terms as it considers appropriate or cancel the appointment of, agents, both within and outside Kenya.

7.(1) The Bank shall not be liable to any taxation imposed by any law in respect of income or profits.

(2) No duty shall be chargeable under the Stamp Duty Act in respect of any instrument executed by or on behalf of or in favour of the Bank in any case where, but for this exemption, the Bank would be liable to pay such duty.

(3) The Minister may, whether for the purpose of removing any doubt as to the extent of the foregoing provisions of this section or for the purpose of extending the immunities of the Bank, by order published in the Gazette specify any tax, duty, fee, rate, levy, cess or other impost as one to which the Bank shall not be liable, and the law relating thereto shall have effect accordingly.

PART III- CAPITAL AND RESERVES

8. (1) The authorized capital of the Bank shall be five billion shillings which may be increased by such amount as shall be determined by the Board in consultation with the Minister.

(2) The ownership of the entire paid up capital of the Bank shall be vested in the Permanent Secretary to the Treasury.

(3) The Bank may, having regard to the amount by which the value of the assets of the Bank exceeds its liabilities, increase its paid up capital by such amount, payable out of the General Reserve Fund, as the Board shall direct.

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

9. (1) The Bank shall establish and maintain a fund designated as the General Reserve Fund, to which shall be transferred at the end of each financial year at least ten per centum or any other amount as the Board, in consultation with the Minister, may determine, of the net annual profits of the Bank after allowing for the expenses of operation and after provision has been made for bad and doubtful debts, depreciation in assets, contributions to staff benefit funds, and such other contingencies and accounting provisions as the Bank deems appropriate.

(2) Subject to subsection (1) and section 51, the net annual profits of the Bank, calculated in accordance with this section, shall be paid into the Consolidated Fund.

(3) The amount of any net losses of the Bank in any financial year which is in excess of the sums standing to the credit of the general reserve fund of the Bank shall be charged upon and paid out of the Consolidated Fund without further appropriation than this Act.

PART IV-MANAGEMENT

10. There shall be a Board of Directors of the Bank, constituted as provided in section 11, which shall, subject to the provision of this Act, be responsible for determining the policy of the Bank.

11. (1) The Board shall consist of -

- (a) a Governor, who shall be the chairman;
- (b) a Deputy Governor who shall be the deputy chairman;
- (c) the Permanent Secretary to the Treasury who shall be a non-voting member;
- (d) five other non-executive directors.

(2) The Governor, Deputy Governor and the directors appointed under paragraph (d) of subsection (1) shall be appointed by the President and shall hold office for terms of four years each but shall be eligible for re-appointment.

Provided that no Governor, Deputy Governor or director shall hold office for more than two terms.

(3) The members of the Board shall be appointed at different times so that the respective expiry dates of the members' terms of office shall fall at different times.

(4) A member of the Board may resign his office by writing under his hand addressed to the President which resignation shall take effect one month from the date of receipt of the letter of resignation by the President.

(5) If the Governor, Deputy Governor or a director dies or resigns or otherwise vacates office before the expiry of his term of office, the President shall appoint another person in his place.

(6) Where the Governor, the Deputy Governor or a director is unable to perform the functions of his office due to any temporary incapacity which is likely to be prolonged, the President may appoint a substitute for that member of the Board to act with the full powers of the member until such time as the President determines that his incapacity has ceased.

(7) A person shall be eligible to be appointed a Director if he-

- (a) is a citizen of Kenya; and
- (b) is knowledgeable or experienced in monetary, financial, banking and economic

12. (1) The Governor, as Chairman of the Bank, shall convene meetings of the Board not less than once in every two months, or whenever the business of the Bank so requires, or whenever he is so requested in writing by at least three directors.

(2) A quorum for any meeting of the Board shall be the Governor or the Deputy Governor and three directors.

(3) Decisions of the Board shall be adopted by a majority of the votes of those present at that meeting and in case of an equality of votes the chairman or deputy chairman presiding at the meeting shall have a second or casting vote.

(4) The validity of any proceedings of the Board shall not be affected by any vacancy in the membership of the Board, or by any defect in the appointment or disqualification of any member which is discovered subsequent to those proceedings.

(5) A Director who is interested in any matter involving the Bank, or in the exercise or proposed exercise by the Bank of a power, shall declare that interest at every meeting of the Board at which that matter or the exercise or proposed exercise of the power, is considered by the Board, and the director shall not be entitled to attend and vote, or be counted in a quorum present, at a meeting at which the matter or the exercise or proposed exercise of the power in which the Director has interest is considered.

(6) (Repealed).

12A. The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board, or to any member thereof, or to any officer, employee or agent of the Bank the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or any other written law.

13. (1) The Governor shall be the chief executive officer of the Bank and, subject to the general policy decisions of the Board, shall be responsible for the management of the Bank, including the organization, appointment and dismissal of the staff in accordance with the general terms and conditions of service established by the Board, and the Governor shall have authority to incur expenditure for the Bank within the administrative budget approved by the Board.

(2) The Governor shall be the principal representative of the Bank and shall, in that capacity have authority

- (a) to represent the Bank in its relations with other public entities, persons or bodies;
- (b) to represent the Bank, either personally or through counsel, in any legal proceedings to which the Bank is a party;
- (c) to sign individually or jointly with other persons contracts concluded by the Bank, notes and securities issued by the Bank, reports, balance sheets, and other financial statements, correspondence and other documents of the Bank.

(3) The Deputy Governor shall act for the Governor and shall exercise all the powers and shall perform all of the functions conferred on the Governor under this Act whenever the Governor is temporarily absent, and shall perform such other functions as the Governor may from time to time assign to him.

(4) The Governor may delegate any of his powers provided for in this section to other officers of the Bank.

13A. (1) The affixing of the common seal of the Bank, shall be authorized by the signature of the Governor and of some other person or persons authorized by the Governor in that behalf.

(2) The Governor may, under the common seal of the Bank, empower any person to execute or authenticate on behalf of the Bank any documents on its behalf.

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

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

Provided that -

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

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

- (a) becomes subject to any of the disqualifications described in subsection (1);

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

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

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

- (a) the President shall appoint a tribunal which shall consist of a chairman and two other members selected by the President from among persons -
 - (i) who hold or have held office as judges of the High Court or the Court of Appeal; or
 - (ii) who are qualified to be appointed as judges of the High Court under section 61(3) of the Constitution;
- (b) the tribunal shall inquire into the matter and report on the facts to the President and recommend to him whether the Governor ought to be removed.

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

15. (1) The Governor and the Deputy Governor shall owe their allegiance entirely to the Bank and shall not engage in any paid employment or business or professional activity outside the duties of their respective offices:

Provided that nothing in this subsection shall prevent the Governor or Deputy Governor from accepting or holding any academic office or position in an institution of higher learning or any advisory position or membership in any committee or commission with public responsibility, or from serving in any international financial institution of which Kenya is a member or with which Kenya is associated, or any specialized financial institution established by the Government.

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

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

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

16. (1) The Governor, the Deputy Governor, and any substitute appointed under section 11(4) shall be paid by the Bank such salaries and allowances as may be determined from time to time by the President, but those salaries and allowances shall not be altered to the detriment of any person during his term of office.

(2) The directors and any substitute appointed under section 11(4) shall be paid by the Bank such allowances as may from time to time be determined by the President.

17. (1) Except for the purpose of the performance of his duties or the exercise of his powers, the Governor, the Deputy Governor, any director or any other officer or employee of the Bank shall not disclose any information which he has acquired in the performance of his duties or the exercise of his powers.

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

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

PART V-CURRENCY

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

(2) Twenty shillings shall equal one Kenya pound.

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

21. All monetary obligations or transactions entered into or made in Kenya shall be deemed to be expressed and recorded, and shall be settled, in Kenya currency unless otherwise provided for by law or agreed upon between the parties.

22. (1) The Bank shall have the sole right to issue notes and coins in Kenya and, subject to subsection (4), only those notes and coins shall be legal tender in Kenya:

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

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

(3) The Bank shall have power to withdraw any notes or coins issued by the Bank, and the procedure for and effect of withdrawal shall be as follows -

- (a) a notice published in the Gazette, and in such other manner as the Bank considers likely to bring that notice to the attention of the public, shall specify the issues, and the denominations forming part of the issues, of notes or coins that are to be withdrawn, the places where those notes or coins may be taken for exchange, and the date on which those notes or coins shall cease to be legal tender;
- (b) the notice given under paragraph (a) may provide that, after such period as may be specified in the notice, the notes or coins to which the notice applies shall only be exchanged at the head office of the Bank;
- (c) the notes or coins specified in a notice given under paragraph (a) shall be exchanged at their face value for legal tender at the places and for the periods (which shall be of reasonable duration) specified in relation to those places in the notice, and shall cease to be legal tender on the date specified in the notice;
- (d) the Bank may, by notice published in the same manner as notice given under paragraph (a), specify a period during which notes or coins which have ceased to be legal tender may nevertheless be exchanged at the head office of the Bank, and after which those notes or coins shall no longer be exchanged.

23. (Spent)

24. The Bank shall not be obliged to exchange any note or coin which is mutilated, defaced, soiled or otherwise defective, and the conditions subject to which the Bank may as a matter of grace exchange any such note or coin shall be within the absolute discretion of the Bank.

25. (1) The Bank in consultation with the Minister may, by regulations published in the Gazette prohibit the issue by any person other than the Bank of any bill of exchange, promissory note or similar instrument for the payment of money to the bearer on demand, and any such regulations may make different provision for different cases or classes of case and may impose penalties for any offence under the regulations of a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

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

PART VI-EXTERNAL RELATIONS

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

- (a) gold;
- (b) convertible foreign exchange in the form of-
 - (i) demand or time deposits with foreign central banks or with the Bank's agents or correspondents outside Kenya;
 - (ii) documents and instruments customarily used for the making of payments or transfers in international transactions;
 - (iii) notes or coins;
- (c) convertible and marketable securities of, or guaranteed by, foreign governments or international financial institutions.

(2) The Bank shall from time to time determine the type and form of convertible foreign exchange and the kinds of securities which may be held in the reserve of external assets pursuant to subsection (1).

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

27. (1) The Bank may buy, sell, import, export, hold or otherwise deal in gold or foreign exchange under such terms and conditions as it shall determine:

Provided that the buying and selling rates involved in those transactions shall be in accordance with international agreements to which Kenya is a party, or with which Kenya is associated.

(2) The Bank may hold balances, denominated in foreign currencies, with foreign central banks or with the Bank's agents or correspondents abroad and may invest those balances in marketable short-term foreign securities denominated in convertible currencies.

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

- (a) authorized dealers;
- (b) public entities;
- (c) foreign central banks, foreign banks, or foreign financial institutions;
- (d) foreign governments or agencies of foreign governments;
- (e) international financial institutions;

29. The Bank may open accounts for and accept deposits from, collect money and other monetary claims for and on account of, foreign central banks, foreign banks and foreign financial institutions, and may generally act as banker to those banks or institutions.

30. (Repealed)

31. The Bank shall administer any payments agreement entered into by Kenya, and the Bank shall be consulted by the Government in negotiating any payments agreement.

32. The Bank shall be the fiscal agent for all of the Government's transactions with international financial institutions of which Kenya is a member or with which Kenya is associated.

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

PART VI A - REGULATIONS OF FOREIGN EXCHANGE DEALINGS

33A. (1) Subject to sub-section (3), no person shall, in Kenya transact foreign exchange business except an authorised dealer.

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

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

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

(2) An application under this section shall be made in the prescribed form and shall be forwarded to the Bank together with the prescribed fee.

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

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

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

(6) A licence issued under this section shall, unless earlier revoked, be valid for twelve months next following the date of issue:

Provided that where an application for its renewal is made under section 33 C, the licence shall be deemed to continue in force until the application for renewal is determined.

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

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

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

- (a) be made in the prescribed form and forwarded to the Bank together with the prescribed fee;
- (b) be lodged with the Bank at least two months prior to the expiry of the licence.

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

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

- (a) ceases to carry on business in Kenya or goes into liquidation or is wound up, or is otherwise dissolved; or
- (b) fails to comply with the provisions of this Act or an condition attached to a licence.

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

33E. (1) Every authorized dealer shall-

- (a) maintain such books, accounts, records or other documents as the Bank may specify, and shall furnish the same to the Bank at such time and in such manner as the Bank may specify.
- (b) maintain such levels of foreign currency assets or liabilities as the Bank may specify.
- (c) comply with such requirements regarding the establishment, maintenance and operation of foreign currency accounts as the Bank may impose; and
- (d) comply with such measures to improve the management or its business methods as the Bank may impose.

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

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

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

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

- (a) any books, accounts, records and other documents required to be produced under this section shall not, in the course of the inspection, be removed from the premises of the authorized dealer or other premises at which they are produced;
- (b) the person making the inspection may make copies of any books, accounts and other documents required for the purposes of his report; all information obtained in the course of the inspection shall be treated as confidential and used solely for the purposes of this Part.

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

- (a) any breach or failure to observe the requirements of this Part and any orders or directions made thereunder;
- (b) any irregularity in the manner of conduct of the business of the authorized dealer inspected;
- (c) any apparent mismanagement of business or lack of management skills in that authorized dealer;
- (d) any other matter revealed or discovered in the course of the inspection warranting, in the opinion of the person making the inspection, remedial action or further investigation.

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

- (a) give advise and make recommendations to the authorized dealer with regard to the conduct of business generally;

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

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

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

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

- (a) in Kenya, to or for the credit of a person outside Kenya; or
- (b) outside Kenya, to or for the credit of a person in Kenya; or
- (c) in Kenya (other than a payment for a current transaction) between a resident and non-resident;

Shall be effected through an authorized bank.

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

33I. The Bank may, in consultation with the Minister, impose restrictions on payment for the purposes of enabling the Government of Kenya meet its obligations under any international treaty.

33J. Any permission granted by the Bank under this Part may be

- (a) either general or special;
- (b) revoked by the Bank at any time;
- (c) absolute or conditional;
- (d) limited so as to expire on a specified date unless renewed;
- (e) published in such manner as is in the opinion of the Bank appropriate.

33K. (1) Subject to section 33G, the Bank may issue such instructions or directions to authorized dealers as it may consider necessary.

(2) Any instruction or direction under this section may

- (a) be either general or special;
- (b) be revoked or varied by subsequent instruction or direction;
- (c) be given to such persons and in such manner as is in the opinion of the Bank appropriate.

(3) A person who fails to comply with instruction or direction issued by the Bank under this section commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

33L. A person convicted of an offence under this Part for which no penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a term not exceeding three years, or to both.

33M. Neither the Bank nor any officer or employee thereof nor any other person appointed by the Bank under the provisions of this Part shall be liable in respect of any act or omission done in good faith by such officer, employee or other person in the execution of the duties undertaken by him.

33N. (Repealed).

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

PART VII - RELATIONS WITH SPECIFIED BANKS.

34. (1) The Bank shall open accounts for and accept deposits from, collect monetary claims for and on account of institutions and generally act as banker to institutions.

(2) The Bank may provide any additional services or facilities it considers desirable including facilities for clearing financial instruments to institutions operating in Kenya.

(3) For the purposes of this section "institution" includes:

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

35. (Repealed).

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

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

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

37. (Repealed)

38. (1) The Bank may from time to time require institutions to maintain minimum cash balances on deposit with the Bank as reserves against their deposit and other liabilities.

(2) The Bank may specify ratios for different types of liabilities and may further specify the method of computing the amount of the total liabilities of an institution but the ratios specified shall be the same for all institutions:

Provided that nothing in this subsection shall be construed to prevent the Bank from allowing an institution or group of institutions upon which the provisions of subsection (1) are applied for the first time, a period within which to comply with the cash reserve ratio requirements as may be prescribed by the Bank.

(3) Any specification of, or increase in the minimum reserve requirements under subsection (1) or subsection (2) shall take effect only after the expiration of thirty days' notice to the institution of the Bank's intention to take action.

(4) The Bank may impose on any institution which fails to maintain the sufficient minimum cash balances required under this section, a penalty interest charge not exceeding one percent per day on the amount of the deficiency for each day during which the deficiency continues.

(5) The Bank may, if in its opinion circumstances of an unusual nature render it desirable to do so, pay interest at such rates and subject to such qualifications as it may determine on minimum cash balances deposited with the Bank under this section.

(6) For the purposes of this section, "institution" includes

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

39. (Repealed).

40. (Repealed).

41. (Repealed).

42. (Repealed).

43. (1) Every specified bank and specified financial institution shall furnish to the Bank, at such time and in such manner as the Bank may prescribe, any information and data the Bank may reasonably require for the proper discharge of its functions under this Act.

(2) The Bank may publish in whole or in part, at such times and in such manner as it may decide, any information or data furnished under this section:

Provided that no such information shall be published which would disclose the financial affairs of any person or undertaking unless the prior consent in writing of that person or undertaking has first been obtained by the Bank.

PART VIII-RELATIONS WITH PUBLIC ENTITIES

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

(2) The Bank may also perform the functions of fiscal agent and banker for any other public entity in accordance with, and within the scope determined by, any special arrangements made between the Bank and the public entity concerned.

45. The Bank in its capacity as fiscal agent and banker to any public entity may, subject to the instructions of that public entity-

- (a) be the official depository of the public entity concerned and accept deposits and effect payments for the account of that public entity:

Provided that the Bank may, after consultation with the Minister, select any specified bank to act in its name and for its account as the official depository of that public entity in places where the Bank has no office or branch;

- (b) maintain and operate special official accounts in accordance with arrangements made between the Bank and the public entity concerned;
- (c) as an agent of the Government, administer the public debt including the issuance of, payment of interest on, and redemption of, bonds and other securities of the Government;
- (d) pay, remit, collect or accept for deposit or custody funds in Kenya or abroad.
- (e) purchase, sell, transfer or accept for custody cheques, bills of exchange and securities;

- (f) collect the proceeds, whether principal or interest, resulting from the sale for, or accruing to the interest of, a public entity of securities or other property;
- (g) purchase, sell, transfer or accept for custody gold or foreign exchange.

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

(2) Each advance made to the Government under this section shall -

- (a) be secured with negotiable securities issued by the Government which mature not later than twelve months;
- (b) bear interest at market rate; and
- (c) be made solely for the purpose of providing temporary accommodation to the Government.

(3) The total amount outstanding at any time of advances made under this section shall not exceed five per centum of the gross recurrent revenue of the Government as shown in the Appropriation Accounts for the latest year for which those Accounts have been audited by the Controller and Auditor-General:

Provided that this subsection shall not apply in respect of advances made by the Bank to the Government prior to the commencement of this section.

(4) Any advance made by the Bank to the Government which is outstanding at the commencement of this section shall be deemed to be a loan granted by the Bank to the Government on such terms and conditions as may be determined by the Bank in consultation with the Minister.

Any advance deemed to be a loan under subsection (4) shall be secured with such Government securities as the Bank may specify.

(6) For the purposes of subsection (3), the recurrent revenue of the Government shall include revenue from taxes, customs, excise and other duties, fees, rents, profits and income from any investment or undertaking, but shall not include proceeds from grants, or loans or disposal of assets for purposes of privatization or any form of borrowing whether short-term or long-term.

47. (1) For the purposes of regulating the money supply, the Bank may with the approval of the Board, purchase, hold or sell negotiable securities of any maturity issued by the Government or any other negotiable securities specified by the Bank.

(2) The total amount of securities held by the Bank at any time under subsection (1) of this section shall be excluded in the computation of the limit prescribed in subsection (3) of section 46.

48. (Repealed).

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

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

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

(3) The Minister may request the Bank to give its advice on any particular measures, situations or transactions, or on monetary, banking and credit conditions in or outside Kenya, and the Bank shall give its advice accordingly.

PART IX -MISCELLANEOUS PROVISIONS

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

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

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

52. The Bank shall not -

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

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

54. Within three months after the close of each financial year the Bank shall submit to the Minister a report on the Bank's operations throughout that year, together with the balance sheet

and the profit and loss account as certified by auditors appointed by the Bank and approved by the Minister.

55. (1) After submission to the Minister the Bank shall publish the of reports, etc annual report referred to in section 54.

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

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

57. The Bank may make regulations for the purpose of giving effect to the provisions of this Act and generally for the better carrying out of the objects of the Bank under this Act.

Specified Banks under section 2

ABN-AMIZO Bank N. V
African Banking Corporation Limited
Akiba Bank Limited
Bank of Baroda (K) Limited
Bank of India
Barclays Bank of Kenya Limited
Biashara Bank of Kenya Limited
Bullion Bank Limited
CFC Bank Limited
Chase Bank (Kenya) Limited
Charter House Bank Limited
Citibank NA.
City Finance Bank Limited
Commercial Bank of Africa Limited
Consolidated Bank of Kenya Limited
Co-operative Bank of Kenya Limited
Co-operative Merchant Bank
Credit Agncole Indosuez
Credit Bank Limited
Daima Bank Limited
Development Bank of Kenya Limited
Diamond Trust Bank Kenya Limited
Equatorial Commercial Bank Limited
Euro Bank Limited
Fidelity Commercial Bank Limited
Fina Bank Limited
First American Bank of Kenya Limited
Guardian Bank Limited

Giro Commercial Bank Limited

[Subsidiary]

Guilders International Bank Limited
Habib Bank A.G. Zurich
Habib African Bank Limited
Habib Bank Limited
Imperial Bank Limited
Investments & Mortgages Bank Limited
Kenya Commercial Bank Limited
Mashreq Bank PS.C.
Middle East Bank Kenya Limited
National Bank of Kenya Limited
National Industrial Credit Bank Limited
Paramount Bank Limited
Prime Bank Limited
Prudential Bank Limited
Reliance Bank Limited
Southern Credit Banking Corporation Limited
Stanbic Bank Kenya Limited
Standard Chartered Bank Limited
The Delphis Bank Limited
Trans National Bank Limited
Trust Bank Limited
Universal Bank Limited
Victoria Commercial Bank Limited
K-Rep Bank Limited

Specified Financial Institutions Under Section 2

Bank of India Finance (K) Limited
Barclays Merchant Finance Limited
Charter House Finance Limited
Cititrust (Kenya) Limited
Consolidated Bank Finance Limited
Consolidated Bank Mortgage
Devna Finance Limited
Fortune Finance Limited
Industrial Development Bank Limited
Kenya Commercial Finance Company Limited
Kenya National Capital Corporative Limited
Kenya Network Finance Limited
Prime Capital and Credit Limited
Standard Chartered Financial Services

Specified Public Entity under section 2

The Industrial Development Bank Limited

Par value of Kenya shilling determined under section 20

(Spent)

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

Details and description are not set out here. For that information reference should be made in case of notes to LNs 252/1966, 306/1974, 258/1979, 165/1980, 242/1986, 428/1988, 554/1988, 334/1989, 505/1990, 144/1994, 362/1995, 363/1995, 17/95, 59/1996, 300/1996 in the case of coins to GN 148/ 1967 and LNs 84/ 1969, 47/ 1970, 225/1973, 165/1980, 232/1985, 160/1994, 492/1994, 293/1995, 57/1996 and in the case of commemorative coins to LN 259/1979 and 543/1991.

Instructions under section 41

(Spent)

THE CENTRAL BANK OF KENYA ACT

IN EXERCISE of the powers conferred by section 33N of the Central Bank of Kenya Act, the Central Bank of Kenya makes the following Regulations:-

THE CENTRAL BANK OF KENYA (FOREIGN EXCHANGE BUSINESS) REGULATIONS, 1996

1. These Regulations may be cited as the Central Bank of Kenya (Foreign Exchange Business) Regulations, 1996.

2. (1) An application for the grant or renewal of a licence to transact foreign exchange business shall be in Form CBK/FXD/1 in the First Schedule and shall be accompanied by the prescribed fee.

(2) The Bank may require the applicant to supply such additional information in support of the application as it may consider necessary.

(3) A licence under this regulation shall be in Form CBK/FXD/2 in the First Schedule.

3. (1) Any person who-

- (a) is licensed under the Tourist Industry Licensing Act to carry on any registered tourist enterprise; or
- (b) owns or operates a duty free shop; or
- (c) by the nature of his business, requires to transact regularly in foreign currency;

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

(2) An application under paragraph (1) shall be in Form CBK/FXD/3 in the First Schedule.

(3) The Bank may require the applicant to supply such additional information in support of the application as it may consider necessary.

(4) The Bank's permission under this regulation shall be in Form CBK/FXD/4 in the First Schedule.

4. (1) The fees prescribed in the Second Schedule shall be payable to the Bank.

(2) Any fees paid to the Bank under this regulation shall be non-refundable.

**FIRST SCHEDULE
FORMS**

**FORM/CBK/FXD/1
(r.2 (1))**

THE CENTRAL BANK OF KENYA ACT

(Cap. 491)

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

(SPECIFIED BANK/FOREIGN EXCHANGE BUREAU)

Please use Block (Capitals) Letters

1. Name of bank/bureau
2. Physical and postal address of head office:
 - (a) City/Town
 - (b) LR.No.....
 - (c) Street.....
 - (d) Building.....
 - (e) PO.BoxNo.....
3. Date and country of incorporation
4. Certificate of incorporation No
5. Number and date of issue of previous foreign exchange licence
6. Current banking licence/forcing exchange bureau licence number
7. Name of branch offices and the number of years each has been established and has conducted or carried on business as an authorized dealer:

Branch

.....
.....
.....
.....

Years

.....
.....
.....
.....

8. Particulars of directors:

Name	Nationality	Date of Appointment

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

Name	Designation	Nationality

10. Declaration (by Director/Secretary):

I, the undersigned, hereby declare:

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

Dated.....

Name

Signature

Note:

1. Please attach copies of -

- (a) certificate of incorporation;
- (b) valid banking licence.

2. Please attach:

- (a) certified passport size photographs of all the chief foreign exchange operations officers; and
- (b) credentials and curricula vitae of all chief foreign exchange operations officers.

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

FORM CBK/FXD/2

(r.2 (3))

THE CENTRAL BANK OF KENYA ACT

(Cap. 491)

LICENCE TO TRANSACT FOREIGN EXCHANGE BUSINESS

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

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

CONDITIONS

Date of issue

Date of expiration

LicenceNo

.....
Governor,
Central Bank of Kenya

FORM CBK/FXD/3

THE CENTRAL BANK OF KENYA ACT
(Cap. 491)

**APPLICATION FOR PERMISSION TO TRANSACT FOREIGN
EXCHANGE BUSINESS**

Please Use Block (Capital) Letters

1. Full name of applicant
2. Physical and postal address of head office:
 - (a) City/Town
 - (b) L.R. Number
 - (c) Street
 - (d) Building
 - (e) P.O. Box Number
 - (f) Telephone Numbers)
 - (g) Fax Number(s)
3. Full name and address of bankers
.....
.....
4. Date and country of incorporation/registration
5. Number of certificate of incorporation/registration:

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

Name	Nationality	Designation

7. Particulars of Directors:

Name	Nationality	Address	Date of Appointment
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8. Nature of foreign exchange transactions for which permission is being sought

9. Declaration (*by Director/Secretary*)

I, the undersigned hereby declare:

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

Dated

Name Signature.....

Note:

1. Please attach copies of:

- (a) certificate of incorporation/registration;
- (b) memorandum and articles of association;
- (b) valid trade licence.

2. Please attach:

- (a) certified passport size photographs of each director;
- (b) an original certificate of financial position from your bankers

THE CENTRAL BANK OF KENYA ACT

(Cap. 491)

PERMISSION TO TRANSACT FOREIGN EXCHANGE BUSINESS

PERMISSION to transact foreign exchange business has been granted to:

Messrs:

Address:
and is valid for the period to

CONDITIONS

Date of Issue:
No.

.....
Governor,
Central Bank of Kenya.

SECOND SCHEDULE

FEES

(r. 4)

	By a specified Bank	By a Branch of a Specified Bank	By a Foreign Exchange Bureau	By a Branch of a Foreign Exchange Bureau
	Ksh.	Ksh.	Ksh.	Ksh.
Application Fees	5,000	5,000	5,000	5,000
Licence Fees	75,000	30,000	50,000	25,000