

National Council

CONSTITUENCY DEVELOPMENT FUND BILL

As passed by the National Council

[B.1-2015]

To provide for the establishment of the Constituency Development Fund; Establishment of the Constituency Development Fund Board; to provide for Functions of Constituency Development Fund Board; Procedure at meetings of Constituency Development Fund Board; Conduct of business and affairs of the Board; Criteria for projects; Allocation of funds and related purposes.

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PART I
PRELIMINARY

Definitions

1. In this Act, unless the context indicates otherwise -

“**community**” means the residents of a particular geographical area or region defined as a constituency and having common interests;

“**Constituency Development Committee**” means the committee established in terms of section 6;

“**Constituency Development Fund Board**” means the board which is responsible to oversee all matters pertaining to the constituency development fund;

“**Local Authorities Act**” means the Local Authorities Act, 1992 (Act No. 23 of 1992);

“**Local Authority Council**” means a local authority council as defined in section 1 of the Local Authorities Act;

“**Local Authority**” means -

(a) a local authority council as defined in section 1 of the Local Authorities Act 22 of 1992; and

(b) in relation to a settlement area as defined in section 1 of the Regional Councils Act, the regional council concerned, as the case may be;

“**local authority area**” means a local authority area as defined in section 1 of the Local Authorities Act;

“**Minister**” means the Minister responsible for the administration of Urban and Rural Development;

“**Ministry**” means the Ministry responsible for Urban and Rural Development;

“**Public Service Act**” means the Public Service Act, 1995 (Act No. 13 of 1995);

“**Region**” means a region as defined in section 1 of the Regional Councils Act;

“**Regional Councils Act**” means the Regional Councils Act, 1992 (Act No. 22 of 1992);

“Settlement area” means a settlement area as defined in section 1 of the Regional Councils Act, 1992 (Act No. 22 of 1992);

“this Act” includes the regulations;

“the board” means Constituency development fund board as defined in section 4

Administration of the Act

2. The Minister is responsible for the administration of this Act and the initiation, formulation, implementation, monitoring, evaluating and development of policies required for development of the regions.

PART II

ESTABLISHMENT OF THE CONSTITUENCY DEVELOPMENT FUND

Establishment of Constituency Development Fund

3. (1) There is established a fund to be known as the Constituency Development Fund (in this Act referred to as the “Fund”) which shall be administered by the Chief Regional Officer administering the fund under the direction of the Constituency Development Fund Board with the guidance of the Constituency Development Committee.
- (2) There shall be paid into the fund-
 - (a) an amount of money expropriated by Parliament for purposes of developing constituencies;
 - (b) moneys accruing to the Fund through the sale of any assets of the Fund;
 - (c) any moneys which, with the consent of the Minister, may accrue to the Fund from any other source.

Establishment of the Board and Composition of Board

- 4.** (1) There is established a Board to be known as the Constituencies Development Fund Board in each region. The Constituency Development Fund Board consists of the following members appointed by the Minister-
- (a) The Chairperson of the Management Committee of the Regional Council who shall be the Chairperson;
 - (b) Regional Councillors of all constituencies within the region;
 - (c) The Chief Regional Officer shall be the secretary of the Board and shall be responsible for the recordings the proceedings of the Board.

Administration of the Board

- 5.** (1) The Chief Regional Officer shall subject to the directions of the Board, be responsible for the day-to-day management of the affairs and staff of the Board.
- (2) The Chief Regional Officer in consultation with Board may appoint a staff member or staff members in existing structure of the Regional Council to assist in the administration of Board's activities.

Functions of the Board

- 6.** (1) The functions of the Board shall be to-
- (a) ensure timely and efficient disbursement of funds to every constituency;
 - (b) ensure efficient management of the Fund;
 - (c) receive and discuss annual reports and returns from the constituencies;
 - (d) ensure the compilation of proper records, returns and reports from the constituencies;
 - (e) receive and address complaints and disputes and take any appropriate action;

- (f) consider project proposals submitted from various constituencies in accordance with the Act, approve for funding those projects proposals that are consistent with this Act;
 - (g) perform such other duties as the Board may deem necessary from time to time for the proper management of the Fund.
 - (i) receive advice from the constituency development committee on development of the region.
 - (i) submit quarterly reports the regional governor on constituency projects
- (2) Where any issues of policy arise in the course of the performance of its functions under this Act, the Board shall refer the same to the Minister.

Procedure at meetings of Constituency Development Fund Board

7. (1) The Constituency Development Fund Board must determine its own rules and procedures governing the convening and holding of meetings, but such rules and procedures must be consistent with this Act.
- (2) The Constituency Development Fund Board must hold at least four meetings per year and -
- (a) the first meeting must be held at a date, place and time determined by the Minister; and
 - (b) any meeting thereafter must be held at a date, place and time determined by the Chairperson of the board.

Tenure of office of members of the Constituency Development Fund Board

8. A member of the Constituency Development Fund Board holds office for a term of five years.

Disqualification of members of the Constituency Development Fund Board

9. (1) A member of the Constituency Development Fund Board will be disqualified and removed from office if the-
- (a) member is convicted of an offence and sentenced to imprisonment without the option of a fine irrespective of whether or not that sentence has been suspended;
 - (b) member resigns from the board after giving the Chairperson 30 days written notice of his or her intention to resign;
 - (c) member has been absent from three consecutive meetings of the board;
 - (d) nomination of the member is withdrawn; or
 - (e) member is removed from office by the Chairperson.
- (2) The Chairperson may remove a member of the board from office if the member -
- (a) is guilty of misconduct;
 - (b) fails to comply with or contravenes this Act; or
 - (c) is by reason of physical or mental illness or for any other reason incapable of acting as member.
- (3) If a member of the board dies or vacates office, the vacancy must be filled for the unexpired portion of the term of office of that member in the manner contemplated in section 6(2).

Quarterly reports on projects and disbursements.

10. The Board shall, on a quarterly basis, submit a report to the Minister detailing-
- (a) a summary of the project proposals received from the constituencies in the preceding month and indicating the approval status of such projects;

- (b) a summary of the status of disbursements of funds to the constituencies for that preceding month;
- (c) a summary of the status of disbursements from the Treasury to the Regional Council; and

Conduct of business and affairs of the Board

- 11. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the regulations.
- (2) Except as provided in the regulations, the Board may regulate its own procedure.

Disbursement from the Fund

- 12. (1) Each and every disbursement from the Fund shall be approved and minuted by the Board.
- (2) All disbursements from the Fund shall be for specific projects as submitted by the constituencies in accordance with the procedures outlines in this Act.
- (3) All disbursements shall be made through the regional council maintained for every constituency.
- (4) The record of the amounts received by each constituency and the record of expenditure of amounts so received shall be submitted to the Board within thirty days after the close of the relevant financial year together with a copy of the relevant bank statements and no disbursements for the succeeding financial year shall be made into the regional council until the said records are duly received.

- (5) The Board shall set out general conditions and requirements for release of funds, to ensure efficient and effective management of resources.
- (6) The Board may impose reasonable requirements, including restrictions, on a particular constituency and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Minister in accordance with this Act.

Allocation of funds

- 13.** (1) The Ministry of Finance, with the concurrence of the National Planning Commission, shall for each financial year allocate funds to each constituency in equal amounts.
- (2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the Board.
- (3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the region for the constituency from which the funds were withdrawn.
- (4) Unspent funds shall be allocated to any eligible project and such project may be new or on-going at the end of the financial year. Such funds must be from the residue of funds budgeted for a project and such project must be completed.

Ownership of projects

- 14.** (1) The Constituency Development Committee, in consultation with relevant Ministries must determine ownership of projects after completion before their inception.

Funds to be retained in the Fund

- 15.** (1) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be returned to the Fund and applied in accordance with this Act.
- (2) All funds allocated to a constituency shall be cumulative and shall be carried forward from one financial year to the next, including funds which are not utilized for whatever reasons.

Criteria for Projects

- 16.** (1) The types of projects submitted for funding under this Act shall comply with the provisions of this Act.
- (2) It shall be the responsibility of the Constituency Development Committee to ensure that the list of projects submitted for funding comply with the provisions of the Act and their total cost does not exceed the allowable ceiling for the particular constituency or is not below that ceiling.
- (3) If the list of projects submitted for funding is in contravention of subsection (2) the same shall be referred back to the Constituency Development Committee for amendment and re-submission.
- (4) Whenever the amount for projects in a constituency is less than the allowable

ceiling for reasons of projects being deleted in accordance with sub-section (3), or for whatever reason, the shortfall shall be indicated as unallocated amount against that particular constituency on the list to be forwarded to the Minister.

TYPES OF PROJECTS

Projects to be community based

- 17.**
- (1) Projects under this Act shall be community based in order to ensure that the prospective benefits are available to a widespread cross-section of the inhabitants of a particular area.
 - (2) Any funding under this Act shall be for a complete project or a defined phase, of a project and may include the acquisition of land and buildings.
 - (3) All projects shall be projects as defined under this Act and may include costs related to studies, planning and design or other technical input for the project.
 - (4) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities.
 - (5) A Constituency Development Committee office project shall be considered as a development project for purposes of the Act and may include appropriate furniture and equipment for the office.
 - (6) Notwithstanding the provisions of subsection (3), up to a maximum of six per centum of the total annual allocation for the constituency may be used for administration, operational expenses of vehicles, equipment and machinery and such use shall be listed as a project.

- (7) Projects may include the acquisition of vehicles, machinery and other equipment for the constituency.
- (8) Sports activities shall be considered as development projects for purposes of this Act but shall exclude cash awards provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.
- (9) Monitoring and evaluation of on-going projects and capacity building of various operatives may be considered as a development project provided that not more than three per centum shall be allocated for this purpose.
- (10) Environmental activities may be considered as development projects for purposes of this Act provided that the allocation to such activities does not exceed two per centum of the total allocation of the constituency in that financial year.

Personal awards to be excluded

- 18.** (1) A project or any part thereof which involve personal awards to any person in cash or in kind, shall be excluded from the list of projects submitted in accordance with this Act.

Cost estimates of projects

- 19.** (1) The Constituency Development Committee must make appropriate consultations with the relevant Government departments to ensure that cost estimates for the projects are as realistic as possible.
- (2) The Constituency Development Committee shall rank the projects in

order of priority and whenever, in the opinion of the committee, the total cost of the projects listed exceed the ceiling for a particular constituency, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that on-going projects shall take precedence over all other projects.

Submission of projects

- 20.** (1) The list of proposed constituency based projects to be covered under this Act shall be submitted by the Chairperson of the Constituency Development Committee to the Board after approval.
- (2) The Constituency Development Committee shall receive and compile the list of proposed constituency projects submitted to it under this Act and submit it to the Constituency Development Fund Board for approval.

Submission deadline

- 21.** (1) The list of the proposed constituency projects shall be submitted to the Board before the end of the month of July in each year or such other month as may be determined by the Minister in order to ensure timely inclusion of the projects in the annual Government budget of a particular financial year.
- (2) Where the Chairperson of the Constituency Development Committee fails to submit the list of constituency based projects to the Board within the stipulated time in subsection (1), the list shall be deemed to have been submitted to the Board upon the lapse of the stipulated time.

Submission Form

22. (1) The list of projects shall be submitted on a Constituency Projects Submission Form set out in the First Schedule to this Act accompanied by minutes of the Constituency Development Committee approving the projects.
- (2) All projects proposed for every constituency shall be listed in the Form together with the cost estimates, amounts allocated and amounts disbursed to such projects.

Projects Description Form

23. For every project listed in the Form, there shall be attached a Project Description Form set out in accordance with the regulations.

Approval of projects

24. (1) The list of projects received by the Board shall be tabled for review at a meeting of the Board.
- (2) The Board shall scrutinize and approve for funding those project proposals that are consistent with the Act.
- (3) Where the Board does not approve a proposal submitted to it under this section, it shall refer the matter to the Constituencies Development Committee giving reasons as to, why it has declined the proposal.

Discretion of Constituency Development Fund Board

25. The allocation of funds to various projects in each constituency is the responsibility of the Constituency Development Fund Board to be exercised at its own discretion

within the provisions of this Act.

List to be serialized

26. The projects listed for each constituency shall be numbered by the Board and the serial numbers of all projects in a constituency shall bear the number of the constituency as delineated by the Delimitation Commission in order to ensure that a project retains the same serial number every year until its completion.

Number of projects

27. (1) The number of projects to be included in the Constituency Projects Submission Form specified in the First Schedule shall be a minimum of one and a maximum of ten for every constituency in each financial year.
- (2) Constituencies with unspent funds at the end of the financial year shall submit new proposals to the Board for approval in accordance with this Act.
- (3) Project activities of a similar nature in a particular constituency may be combined and considered as one project for purposes of subsection (1) provided that the sub projects are listed in the First Schedule.
- (4) Constituencies may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the Constituency Development Committee of each of the participating constituencies and shall be reflected on the projects listed for each of the participating constituencies.
- (5) Where constituencies have joint projects, the Constituency Development board shall co-ordinate such projects.

Projects

28. (1) The Board shall ensure that the list of projects forwarded to it by each constituency is, upon approval, funded in accordance with the Act.

Implementation of projects

29. (1) Projects under this Act shall be implemented by the head of administration in each constituency, with the assistance of the relevant department of Government and all payments through cheques or electronic funds transfer or otherwise shall be processed and effected in accordance with government regulations for the time being in force.
- (2) Where a project in a constituency involves the purchase of equipment, such equipment shall remain for the exclusive use of that constituency.
- (3) The Constituency Development Committee and the Board shall be responsible for monitoring the implementation of projects and may designate a sub-committee, or a project committee, the functions of monitoring on-going projects and shall submit a report on the on-going projects to the Minister.
- (4) All fixed and movable assets, including equipment bought under this Act for use by the Constituency Development Committee shall be the property of the Board to be insured in the name of the Board.
- (5) No asset or equipment acquired under this section shall be disposed of without the prior approval of the Board.
- (6) Any proceeds that may accrue from the disposal of any asset acquired pursuant to subsection (5) shall be credited to the regional account of the constituency from whose funds the asset was acquired and such funds shall be

reflected and declared as part of the following years constituency fund for that constituency.

Record of receipts and disbursement

- 30.** The Secretary of the Board in every Region shall compile and maintain a record showing all receipts, disbursements and actual expenditures on a monthly basis in respect of every project and sub-project under this Act and shall-
- (a) table such record at a meeting of the Constituency Development Fund Board ; and
 - (b) submit a summary of the record for the year to the Constituency Development Fund Board not later than thirty days after the end of every financial year.

Audit of Financial Records

- 31.** All funds received under this Act shall be audited and reported upon by the Auditor-General.

Community Interest.

- 32.** (1) a community shall, maintain an elected committee to represent the interests of that community during and after the implementation of the project and such a committee shall conform with the requirements of this Act.

Agreement of undertaking

- 33.** The Constituency Development Fund Board, in consultation with the Minister may enter into an agreement with any government, organisation, company or person where the government, organisation, company or person undertakes to pay for necessary services rendered to a constituency and subject to conditions as may be

agreed between the parties to the agreement.

Regulations

- 34.** (1) The Minister, on the recommendation of the Board, may make regulations relating to -
- (a) the procedure to be followed when making a claim under this Act;
 - (b) the conditions to be fulfilled before an application is made in respect of a project to be developed within the constituency;
 - (c) the administration of benefits that may be awarded to constituencies under this Act;
 - (d) any matter which he or she is required or permitted to prescribe under this Act; or
 - (e) generally any matter which is necessary or expedient in order to achieve the objectives of this Act.
- (2) A regulation made under subsection (1) may prescribe penalties for any contravention or failure to comply with it, not exceeding a fine of N\$30 000 or imprisonment not exceeding a period of three years, or both such fine and such imprisonment.

Repeal of laws and savings

- 35.** The laws as set out in schedule 2 of this Act are repealed and amended to the extent indicated in column 3

Short title and commencement

- 36.** This Act is called the Constituency Development Fund Act, 2015, and comes into operation on a date to be determined by the Minister by notice in the *Gazette*.

Schedule 1

CONSTITUENCY PROJECTS SUBMISSION FORM

Constituency No..... Constituency Name Financial year
Chairman CDFC Committee Signature Date

Serial	Name of Project	Estimated cost of project	Amount allocated
Total for the Financial Year			

Schedule 2
LAWS REPEALED

No. and year of law	Short title	Extent of repeal or amendment
Act 22 of 2000	Trust fund for Regional and Equity Provisions Act	The Whole