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CONTENT

Act—

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THE NATIONAL INFRASTRUCTURE FUND ACT, 2026

No. 4 of 2026

Date of Assent: 9th March, 2026

Date of Commencement: 25th March, 2026

ARRANGEMENT OF SECTIONS

Section

THE NATIONAL INFRASTRUCTURE FUND ACT, 2026

AN ACT of Parliament to provide the establishment and management of the National Infrastructure Fund and for matters connected therewith or incidental thereto

ENACTED by the Parliament of Kenya, as follows—

PART I— PRELIMINARY

1. This Act may be cited as the National Infrastructure Fund Act, 2026. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

"Board' means the Board the Fund under section 13;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for the National Treasury;

"Chief Executive Officer" means a person appointed in accordance with section 22;

"Fund" means National Infrastructure Fund established under section 5;

"Government" means the national government;

"Governing Council" means the Governing Council established under section 6; and

"national infrastructure" means national highways, railway networks, airports, seaports, electricity generation, transmission and distribution infrastructure, information, communication and communication infrastructure, water reservoirs and irrigation and agribusiness infrastructure.

3. The object of this Act is to provide a legal framework for the establishment and the management of the National Infrastructure Fund, in accordance with Article 206 of the Constitution and section 24 of the Public Finance Management Act. Object of the Act.

4. The purpose of the Fund is – Purpose of the Fund.

(a) to scale up and accelerate development of national infrastructure;

(b) to mobilize private capital and non-traditional sources of infrastructure finance including domestic pension funds and collective investment schemes, sovereign wealth funds, climate finance;

(c) to reduce the reliance of public debt for the financing of commercially viable infrastructure investments;

(d) to strengthen the national capacity for origination, structuring and execution of large and complex infrastructure projects.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE NATIONAL INFRASTRUCTURE FUND

5. (1) There is established the National Infrastructure Fund. Establishment of the Fund.

(2) The Fund shall be a body corporate with perpetual succession and a common seal and shall in its corporate name, be capable of—

(a) suing and being sued;

(b) purchasing, charging and disposing of movable and immovable property;

(c) entering into contracts; and

(d) doing or performing all such other acts necessary for the proper performance of its functions under this Act.

6. (1) There is established a Governing Council of the Fund. Governing Council.

(2) The Governing Council shall —

(a) provide overall direction and counsel to the Board in accordance with the object and purposes of this Act;

(b) oversee the development of the Investment Policy;

(c) perform the reporting obligations as set out in this Act; and

(d) be responsible for recruitment of directors of the Board.

(3) The Governing Council shall not have control over the operations of the Fund and the Board shall exercise independence in the performance of its functions.

7. (1) The Governing Council shall comprise of the following— Composition of the Governance Council.

(a) the Cabinet Secretary, who shall be the chairperson;

(b) the Governor of the Central Bank of Kenya;

(c) the Attorney-General; and

(d) six persons, not being public officers.

(2) A person shall be eligible for appointment under subsection (1) (d), if the person—

(a) has a degree from a university recognised in Kenya; and

(b) has proven leadership experience in public policy, finance, investments or any other relevant field.

Term of Governing Council.

8. The members of the Governing Council under section 7(1) (d) shall be appointed by the President and shall serve a term of three years, renewable once.

Grounds for removal.

9. A member of the Governing Council may be removed from office by the President, if the person—

(a) has been convicted of a criminal offense;

(b) has been declared bankrupt by a court of law;

(c) resigns by written notice; or

(d) is otherwise unable or unfit to discharge the functions of the office.

Meetings of the Governing Council.

10. (1) The Governing Council shall meet twice a year to consider and approve the reports under section 35.

(2) The Governing Council shall determine the procedures for its meetings.

(3) The Chairperson may convene an extra-ordinary meeting of Council when necessary, by giving notice of five days.

(4) The Chief Executive officer may designate such officers as may be necessary to provide secretariat services to the Governing Council.

Remuneration of the Governing Council.

11. The members of the Governing Council shall be paid such sitting allowance, travel expenses and such other appropriate allowances as the Cabinet Secretary may determine, in consultation with the Salaries and Remuneration Commission.

Declaration of conflict of interest.

12. (1) A member of the Governing Council who has a material interest in a matter subject to discussion by the Council shall, as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(3) The Governing Council shall cause minutes of all proceedings of its meetings to be entered in its records for that purpose.

(4) A member of the Governing Council who does not comply with the subsection (1) commits an offence and is liable on conviction to a penalty under section 47.

Board of Directors.

13. (1) The Fund shall be managed by a Board of Directors which shall consist of—

(a) four persons, who shall be independent directors;

(b) three persons, being public officers, who shall be appointed based on their expertise or position; and

(c) the Chief Executive Officer, who shall be an *ex-officio* member of the Board.

(2) The independent directors shall be recruited by the Governing Council through a competitive process.

(3) The directors shall be appointed by the Cabinet Secretary by notice in the *Gazette*.

(4) The members of the Board shall appoint a chairperson from amongst the members appointed under subsection (1) (a).

Qualifications for appointment as a chairperson or member of a Board.

14. A person shall be eligible for appointment as a chairperson or member of the Board of the Fund, if the person—

(a) has a degree in finance, accounting, engineering, economics, law or a related field from a university recognised in Kenya;

(b) has at least ten years professional experience in infrastructure development, infrastructure finance, project finance, public finance, economics, engineering, risk management, or a related field;

(c) has served in a senior management or leadership position for a period of at least five years; and

(d) meets the requirements of Chapter six of the Constitution.

Disqualification.

15. (1) A person is not qualified to be appointed as an independent director of the Fund, if that person—

(a) was employed by a Government Owned Enterprise or its related parties, including its major shareholders, in the preceding five years;

(b) was an employee of the National Government for the preceding five years;

(c) is an advisor or consultant to the Fund or its related parties and is affiliated with a company that is an advisor or consultant to the Fund or its related parties;

(d) is affiliated with a significant customer or supplier of the Fund or its related parties, including banks or other financial institutions owned by the Government or any of its major shareholders;

(e) has personal service contracts with the Fund, its related parties, or its senior management;

(f) is affiliated with any organisation, that receives significant funding from the Fund or its related parties;

(g) is employed as an executive of another company where any of the Fund's executives serve on that company's board of directors;

(h) is a member of the immediate family of an individual who is, or has been during the immediately preceding five years, employed by a Government Owned Enterprise or its related parties as an executive officer;

(i) is, or has in the immediately preceding five years has been, affiliated with or employed by a present or former auditor of the Fund or of a related party;

(j) has been affiliated with a political party in the immediately preceding five years.

(k) is a member of a board of state corporation or a public entity at the time of appointment; or

(l) has been convicted by a court of competent jurisdiction of any criminal offence with a fine exceeding five hundred thousand shillings or a jail term exceeding six months.

(2) For purposes of this section—

(a) "immediate family member" means a spouse, a parent, a child or a sibling; and

(b) "affiliated with" means having an official connection to, in the case of a political party, to a governing body of a political party or has identified with a political party for purposes of vying for a political office.

16. (1) The Chairperson shall preside at the meeting of the Board. Conduct of meetings.

(2) Where the Chairperson is absent from a meeting, the members of the Board present may elect one among themselves to preside over the meeting.

(3) The quorum of a meeting of the Board shall be five directors.

(4) The Chairperson shall have a casting vote.

(5) Subject to the provisions of subsection (2), the decision of the majority of the directors present at a meeting of the Board shall be the decision of the Board.

(6) A member of the Board who has a material interest in a matter subject to of discussions by the Board shall, as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

(7) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

(8) The Board shall cause minutes of all proceedings of its meetings to be entered in its records for that purpose.

(9) A director who does not comply with the subsection (6) commit an offence and is liable on conviction to a penalty under section 47.

Tenure of directors.

17. (1) An independent director shall serve for a term of three years, renewable once.

(2) A person shall cease to be an independent director, if the person—

(a) becomes incapacitated to discharge the duties of a director;

(b) is adjudged bankrupt by a competent court of law;

(c) becomes absent from three consecutive meeting of the Board without the directors' permission;

(d) resigns by written notice given to the other directors or to the Fund;

(e) is prohibited from being a director by a written law;

(f) is convicted of a criminal offence by a competent court of law;

(g) becomes a holder of a political office;

(h) becomes an employee of the Government or a Fund; and

(i) ceases to meet the qualifications of an independent director in the manner stipulated in section 14.

Role of the Board.

18. The Board shall be responsible for—

(a) mobilizing resources for the Fund;

(b) entering into contracts on behalf of the Fund;

(c) appointment and removal of the Chief Executive Officer;

(d) determination of the terms and conditions of employment of the staff of the Fund, subject to such guidelines as the Cabinet Secretary may issue;

(e) setting of the Fund strategic direction and approval of strategic plans;

(f) approving of annual budgets and the related funding for Fund level;

(g) setting key performance indicators for the Chief Executive Officer;

(h) establishment of risk governance and risk management systems and processes;

(i) establishing and overseeing internal control systems;

(j) performance evaluation of the Chief Executive Officer; and

(k) the succession management framework.

Powers of the Board.

19. The Board may—

(a) invest in projects, including by way of equity investment, or debt based on the bankability of the project, or any other project finance mechanism;

(b) acquire and hold security or a security interest, including, a right in a security, of any kind and in any form for the due discharge of obligations under an investment or agreement that it makes;

(c) surrender the security, security interest or right in the security and acquire and hold, in exchange, security or a security interest, including, a right in a security, of any kind and in any form;

(d) realize the security, security interest or right in the security made, acquired or held by it on the investment or agreement;

(e) exchange, sell, assign, convey or otherwise dispose of, or lease, the investment, agreement, security, security interest or right in a security;

(f) enter into arrangements or agreements with, and act as agent or mandatory for, any department or agency of the government of Kenya, or any other body or person, for the development of infrastructure projects to, by, on behalf of or jointly with that institution and deliver financial assistance on their behalf under the arrangement or agreement;

(g) accept any interest or rights in real property or personal property or any rights in immovable or movables as security for the due performance of any arrangement or agreement with the Fund;

(h) determine the form of compensation for services provided by the Fund in the exercise of its powers or the performance of its functions under this Act;

(i) acquire and dispose of any interest or right in any entity by any means;

(j) acquire, hold, exchange, sell or otherwise dispose of, or lease, any interest or rights in real property;

(k) reinvest into the Fund all the proceeds from any exit in an investment;

(l) establish special purpose vehicles, pooled investment vehicles, infrastructure funds or other capital market instruments for purposes of mobilizing private capital;

(m) approve investments and transactions within the approved Investment Policy;

(n) develop the Fund's business plan, approving of annual budgets and the related funding for the Fund;

(o) invest in projects, including by way of equity or quasi-equity, based on the bankability of the projects, in accordance with the Investment Policy of the Fund; and

(p) originate projects in accordance with the Investment Policy.

(2) Without prejudice to subsection (1), the Board shall–

(a) not borrow or take credit against its balance sheet; and

(b) only undertake project financing in accordance with this Act.

Remuneration.

20. The Chairperson and the members of the Board shall be paid such allowances and any other benefits as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.

Committees of the Board.

21. The Board may constitute such committees from among its members as may be necessary for the performance of its functions under this Act.

Chief Executive Officer.

22. (1) There shall be a Chief Executive Officer of the Fund who shall be competitively recruited and appointed by the Board on such terms and conditions as may be specified in the instrument of appointment.

(2) A person shall qualify for appointment as a Chief Executive Officer, if such person—

(a) holds a degree in the relevant field from a university recognized in Kenya;

(b) has at least ten years work experience in a relevant field;

(c) has served in a position of senior management for a period of at least five years; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) A person shall not qualify for appointment as a Chief Executive Officer, if such person—

(a) is a Member of Parliament or County Assembly;

(b) is a member of a governing body of a political party;

(c) is an undischarged bankrupt;

(d) has been convicted of a felony; or

(e) has been removed from public office for contravening the provisions of the Constitution or any other written law.

(4) The Chief Executive Officer shall hold office for a term of three years and shall be eligible for reappointment for one further term.

(5) The Chief Executive Officer shall—

(a) be responsible to the Board of the Fund for the day-to-day management of the affairs of the Fund;

(b) be the administrator of the Fund; and

(c) perform such other functions as the Board may direct.

(6) The Chief Executive Officer may be removed from office on any of the following grounds—

(a) violation of the Constitution or other law;

(b) gross misconduct;

(c) physical or mental incapacity to perform the functions of the office;

(d) unsatisfactory performance; or

(e) bankruptcy.

(7) Before removal under subsection (6), the Chief Executive Officer—

(a) may be suspended from office by the Board;

(b) shall be informed, in writing, of the reasons for the intended removal; and

(c) shall be given an opportunity to put in a defence against any such allegations.

Staff of the Fund.

23. The Board may appoint such officers may be necessary for the proper discharge of the functions of the Fund and upon such terms and conditions as the Board may determine, on advice of the Salaries and Remunerations Commission.

PART III—PROJECT PREPARATION AND IMPLEMENTATION

Business plans.

24. (1) The Board shall, prior to the commencement of a financial year, prepare and adopt a business plan based on the Investment Policy of the Fund.

(2) The business plan shall be effective on the first day of the financial year to which it applies.

(3) The business plan shall form the basis of performance targets of the Fund.

Investment Policy.

25. (1) The Governing Council shall develop an Investment Policy for approval by Cabinet.

(2) The Investment Policy shall specify-

(a) priority sectors proposed for development;

(b) proposed projects;

(c) any existing incomplete projects from the previous investment policy;

(d) expected rate of return on investment on specific projects;

(e) asset allocation, portfolio distribution and leverage ratios; and

(f) exposure limits per sector and project.

(3) An Investment Policy shall be valid for a period of five years.

(4) The Board shall establish a formal risk management framework, approved by the Governing Council, to identify, measure, monitor and manage financial and contingent liabilities, and ensure all investments and commitments comply with the Public Finance Management Act, and any other applicable law.

Submission of Investment Policy to the National Assembly.

26. Upon approval by the Cabinet, the Cabinet Secretary shall submit the Investment Policy to the National Assembly for approval.

Consideration of the Investment Policy.

27. The Investment Policy shall be tabled in the National Assembly and the National Assembly shall consider the Investment Policy within ninety days from the date of tabling.

Decision of the National Assembly.

28. The National Assembly shall either—

(a) approve the Investment Policy for implementation;

(b) approve the Investment Policy with reservations or proposed amendments; or

(c) decline the Investment Policy.

Notification of the resolution.

29. (1) The Clerk shall notify the Cabinet Secretary of the resolution of the National Assembly within seven days of the resolution.

(2) Where the National Assembly approves an Investment Policy with reservations or proposed amendments, the notice shall state the proposed amendments or reservations made by the National Assembly.

Amendment of Investment Policy.

30. (1) Upon receipt of the notice under section 29, the Governing Council shall—

(a) publish the approved Investment Policy; or

(b) in the case where the investment policy is approved with reservations or proposed amendments, revise the Investment Policy fully taking into account the reservations or proposed amendments.

(2) Upon receipt of the notice under section 29 and where the investment policy is declined, the Governing Council may submit a new Investment Policy within six months.

Publication of the Investment Policy.

31. The approved Investment Policy shall be published in the Kenya *Gazette*.

Project preparation.

32. (1) The Board shall require that each proposed project requiring consideration by the Board for funding be supported by an approved feasibility study.

(2) The Fund may engage development finance institutions, which Kenya is a member, to provide project preparation, structuring and finance support or such other expertise as may be necessary for the implementation of the Act.

Feasibility studies.

33. (1) The Fund shall undertake feasibility studies on investment projects to determine the commercial viability of the project.

(2) The Fund shall consider the following matters when undertaking the feasibility study—

(a) the technical requirements of the investment project;

(b) the legal requirements to be met by the parties to the investment project;

(c) the social, economic and environmental impact of the project;

(d) the affordability and value for money proposition in the project; and

(e) the project's land requirements and required site preparatory activities necessary for effective and efficient project initiation.

Government support measures.

34. (1) The Cabinet Secretary may issue Government support measures to investment projects of the Fund, including—

(a) a binding undertaking;

(b) a letter of support;

(c) a letter of credit;

(d) a credit guarantee, whether partial or full;

(e) approval for issuance of partial risk guarantees and political risk insurance; or

(f) any other instrument that Cabinet Secretary responsible for matters relating to finance may, on the advice of the Board, determine:

Provided that the instrument shall comply with the provisions of the law relating to public finance management.

(2) The Cabinet Secretary may only issue Government support measures under this section—

(a) where it is necessary to support a project to lower premiums factored for the profiling of political risks; or

(b) to underwrite approved commercial risks under a negotiated project investment agreement.

(3) The Cabinet Secretary may prescribe guidelines for the issuance of Government support measures under this section.

PART IV – REPORTING AND DISCLOSURE

Reporting.

35. (1) The Fund shall make quarterly and annual reports to the Cabinet Secretary in such manner as may be prescribed.

(2) The Cabinet Secretary shall make half-yearly reports on the Fund to the Cabinet and annually to the National Assembly.

(3) The Cabinet Secretary shall publish, information based on analyzed annual reports to Cabinet and the National Assembly.

(4) The report prepared under subsection (1) shall include details of—

(a) the audited financial statements of the Fund and the audit report;

(b) the investment strategies and policies determined by the Board and the level of compliance;

(c) the performance of the Fund including—

(i) all payments to the Fund during the year it relates;

(ii) all investments made during the year;

(iii) the total income received from investments during the year;

(iv) an analysis and explanation of performance for each component during the year it relates; and

(v) cash balance at the end of the financial year including a list of qualifying instruments used in that financial year; and

(d) any other information that the Board considers necessary or as may be directed by the Cabinet Secretary to be included.

Disclosure.

36. (1) The Cabinet Secretary shall publish and publicize on the National Treasury website or such other information platforms as may be accessible to the public—

(a) audited annual reports of the Fund;

(b) annual performance evaluation results of the Fund; and

(c) reports on appointment of independent directors of the Fund and the procedures followed in arriving at such appointments.

(2) The Fund shall publish, on their individual websites or on such other platforms as may be accessible to the public—

(a) audited annual reports; and

(b) annual performance evaluation results.

Financial transparency.

37. The Board shall ensure that the Fund keeps financial records that—

(a) correctly record and explain its transactions and financial position and performance;

(b) enable financial statements to be prepared and be audited; and

(c) clearly identify and disclose any transactions undertaken by the Fund with any director or their close relatives, either directly or indirectly and comprising a pecuniary or non-pecuniary benefit through a company or other business established by such director.

PART V—FINANCIAL PROVISIONS

38. The monies of the Fund shall include— Sources of funds.

(a) proceeds of privatization under the Privatization Act, 2025; No. 18 of 2025.

(b) proceeds from the sale of shares in a government linked corporation under section 87A of the Public Finance Management Act; and Cap. 412A.

(c) proceeds from investments undertaken by the Fund.

39. Except as otherwise provided, the financial year of a Fund shall be the period of twelve months ending on the thirtieth June in each year. Financial year.

40. (1) The monies of the Fund shall be held in a bank account at the Central Bank of Kenya. Bank accounts.

(2) Any income of the Fund shall be held in an account at the Central Bank of Kenya.

(3) The monies held in the capital account and the income account shall not be drawn except as approved by the Board for its operations and investments in accordance with the purposes of the Fund.

(4) The Fund may operate other bank accounts in commercial banks in the name of the Fund for investment and operational purposes.

41. The Administrator of the Fund shall ensure that in any financial year, the expenditure and commitments of the Fund shall not exceed the annual income of the fund together with any surplus income brought forward from the previous year. Expenditure and commitments of the Fund.

42. Withdrawals from the Fund shall only be for the purposes for which the Fund is established and in accordance with Article 228 (5) of the Constitution. Withdrawals from the Fund.

43. The Board may, with approval of the Cabinet Secretary, invest such surplus funds in Government securities. Investment of surplus funds.

44. (1) At least three months before the commencement of each financial year and in accordance with the Public Finance Management Act, the Board shall Annual estimates.

cause to be prepared the estimates of revenue and expenditure of the Fund for the financial year. Cap. 412A.

(2) The annual estimates shall provide for all the estimated expenditure of the Fund for the financial year, and in particular, shall provide for—

(a) the payment of salaries, allowances and other charges in respect of the staff of the Fund;

(b) the payment of pensions, gratuities and other charges in respect of the staff of the Fund;

(c) the maintenance of buildings, other equipment and other property of the Fund; and

(d) the acquisition, maintenance, repair and replacement of the equipment and other movable or immovable property of the Fund.

Audit.

45. (1) The Administrator of the Fund shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Fund.

(2) Within a period of three months from the end of each financial year, the Board shall submit to the Auditor-General the accounts of the Fund together with— Cap. 412B.

(a) a statement of the income and expenditure of the Fund during that year; and

(b) a balance sheet of the Fund on the last day of that year.

(3) The accounts of the Fund shall be audited and reported upon in accordance with the Public Audit Act.

PART VI— OFFENCES AND PENALTIES

Misappropriation of funds.

46. (1) A person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate the funds or assets, or apply the funds or assets otherwise than in the manner provided in this Act, commits an offence and is liable, on conviction to—

(a) pay twice the amount misappropriated; and

(b) a fine of not less than ten million shillings or imprisonment for a term of not less than five years or to both.

(2) Without prejudice to subsection (1), a person who misappropriates any funds or assets of the Fund, assists or causes any person to misappropriate any funds or assets

from the Fund, shall be held liable for any loss arising from that loss and shall make good the loss whether that person remains the holder of the office or not.

General penalty.

47. A person who contravenes the provisions of this Act where no specific penalty is provided, commits an offence and is liable, on conviction to imprisonment for a term not less than two years or to a fine of not less than five million shillings or to both.

PART VII— MISCELLANEOUS PROVISIONS

Regulations.

48. (1) The Cabinet Secretary may make regulations generally for the better carrying into effect of the provisions of this Act.

(2) For the purposes of Article 94 (6) of the Constitution—

(a) the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act;

(b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and to fulfil the objectives specified under this section;

(c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act.

Cap. 2.

Cap. 2A.

(3) The Regulations under subsection (1) may prescribe—

(a) investment policy for Fund;

(b) government support measures;

(c) standards and procedures;

(d) any other matter necessary for the implementation of this Act.

Amendment of section 54 of Act No. 18 of 2025.

49. Section 54 of the Privatization Act is amended by deleting the words “Consolidated Fund” and substituting therefor the words “National Infrastructure Fund”.