

NATIONAL DROUGHT MANAGEMENT AUTHORITY ORDER, 2011

ARRANGEMENT OF ORDERS

PART I – PRELIMINARY

Order

1. Citation.

PART II – ESTABLISHMENT OF THE AUTHORITY

2. Interpretation.
3. Establishment of the Authority.
4. Headquarters of the authority.
5. Object and purpose of the Authority.
6. Board of Authority.
7. Powers of the Board.
8. Appointment of Chief Executive Officer and other officers of the Authority.
9. Delegation by the Board.
10. Protection from liability.
11. Liability for Damages.

PART III – FINANCIAL PROVISIONS

12. Financial year.
 13. Funds of the Authority.
 14. Annual Estimates.
 15. Accounts and Audit.
 16. Investment of funds.
 17. Annual Report.
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NATIONAL DROUGHT MANAGEMENT AUTHORITY ORDER, 2011

[L.N. 171/2011.]

PART I – PRELIMINARY

1. Citation

This Order may be cited as the National Drought Management Authority Order, 2011.

PART II – ESTABLISHMENT OF THE AUTHORITY

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**Authority**” means the National Drought Management Authority established by paragraph 3;

“**Board**” means the management Board of the Authority constituted under paragraph 6; and

“**Minister**” means the Minister for the time being responsible for matters relating to drought management.

3. Establishment of the Authority

(1) There is established a state corporation to be known as the National Drought Management Authority.

(2) The Authority shall—

- (a) be a body corporate with perpetual succession and a common seal;
- (b) have power to sue and be sued in its corporate name; and
- (c) acquire, hold and dispose of movable and immovable assets.

(3) The Authority shall be the successor to the Drought Management Directorate established within the Arid Lands Resource Management Project existing immediately before the commencement of this Order.

(4) Subject to this Order—

- (a) all rights, duties, obligations, staff, assets and liabilities of the Drought Management Directorate, existing at the commencement of this Order shall be transferred to the Authority; and
- (b) any reference to the Drought Management Directorate in any contract or document shall, for all purposes, be deemed to be a reference to the Authority.

4. Headquarters of the authority

The headquarters of the Authority shall be in Nairobi.

5. Object and purpose of the Authority

(1) The Authority shall, either on its own or in association with other authorities or persons, establish mechanisms to ensure that drought does not become famine and the impacts of climate change are sufficiently mitigated.

(2) Without prejudice to the generality of subsection (1), the Authority shall—

- (a) establish, institutionalize and co-ordinate structures for drought management;

- (b) operate an efficient drought early warning system;
- (c) support drought-related policy formulation;
- (d) coordinate the preparation of risk reduction plans;
- (e) undertake risk reduction awareness and education; coordinate the implementation of risk reduction activities;
- (g) coordinate the preparation of contingency action plan;
- (h) develop clear evidence based criteria for both the Contingency Fund and other financial sources appropriated to deal with drought;
- (i) generate, consolidate and disseminate drought management information;
- (j) coordinate the implementation of drought mitigation and relief activities; and
- (k) perform such other functions as assigned by the National Government or as are incidental to, any or all of, 'the functions provided under, this Order.

6. Board of Authority

The management of the Authority shall be vested on a Board which shall consist of—

- (a) a non-executive chairman appointed by the President;
- (b) the Permanent Secretary of the Ministry responsible for matters relating to drought management;
- (c) the Permanent Secretary of the Ministry responsible for finance;
- (d) four other members, not being public officers, appointed by the Minister, with qualifications and experience in either of the following—
 - (i) financial management;
 - (ii) law;
 - (iii) human resource management; or
 - (iv) drought management; and
- (e) the Chief Executive Officer appointed by the Minister.

7. Powers of the Board

(1) The Board shall have all powers necessary for the proper performance of the functions of the Authority under this Order and subject to the provisions of this Order, the Board shall have power to—

- (a) manage, control and administer the assets of the Authority in such manner and for such purposes as best promotes the purpose for which the Authority is established;
- (b) convene all actors to ensure efficient and well-coordinated management of drought in Kenya;
- (c) receive gifts, donations, grants or other moneys and equipment and to make disbursements therefrom in accordance with the provisions of the Order;
- (d) in addition to raising its own funds, receive and borrow funds in accordance with the provisions of the Order;
- (e) open a bank account for the funds of the Authority into which all moneys received by the Authority shall be paid in the first instance and out of which all payments made by the Authority shall be made;
- (f) establish committees consisting of members of the Board to deal with such matters as the Board may specify; and

- (g) enter into associations with other persons, bodies or organizations within or outside Kenya as the corporation may deem desirable or appropriate and in furtherance of the purpose for which it is established.

8. Appointment of Chief Executive Officer and other officers of the Authority

(1) The Minister shall appoint the Chief Executive Officer on recommendation of the Board following a competitive recruitment process.

(2) The Chief Executive Officer shall be responsible for the day-to-day management of the Authority.

(3) The Board may employ such number of other members of staff as it considers necessary for the discharge of its functions and duties under this Order, on such terms and conditions as the Minister may, approve.

(4) The Board may establish and make contributions to a pension, superannuation or medical fund for the benefit of employees and may require such employees to contribute to the fund.

9. Delegation by the Board

The Board may, by resolution either generally or in any particular case, delegate to a committee of the Board, or to any member, or officer, of the Authority the exercise of any powers or the performance of any of the functions or duties of the Authority.

10. Protection from liability

No matter or any thing done by the Chairman or any other member of the Authority or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith for the purpose of executing any provisions of this Order, render the chairman, member, officer, employee or agent or any person acting under the directions of those persons, personally liable to any action, claim or demand.

11. Liability for Damages

The provisions of this Order shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury to him or his property or any of his interests caused by the exercise of any power conferred by this Order or by the failure, whether wholly or partially, of any action.

PART III – FINANCIAL PROVISIONS

12. Financial Year

The financial year of the Authority shall be the period of twelve months ending on thirtieth day of June in each year.

13. Funds of the Authority

The funds and assets of the Authority shall consist of—

- (a) such moneys or assets as may accrue to or vest in the Authority, in the course of the exercise of its powers or the performance of its functions under this Order;
- (b) any moneys which may in any manner become payable to or vested in the Authority in respect of any matter incidental to the carrying out of its functions;
- (c) any gifts as may be given to the Authority;

- (d) such moneys as may be appropriated by Parliament for the purposes of the Authority; and
- (e) all moneys from any other source provided, donated or lent to the Authority.

14. Annual Estimates

(1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that financial year.

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

- (a) payment of salaries, allowances and other charges in respect of the Board members and the staff of the Authority;
- (b) payment of pensions, gratuities and other charges in respect to retirement benefits to the staff of the Authority; and
- (c) proper maintenance, repair, and replacement of the equipment and other movable property of the Authority.

(3) The Board shall approve the annual estimates before the commencement of the financial year to which they relate and once approved, the sum provided in the estimates shall be submitted to the Minister for approval.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subparagraph (3) or with the authorization of the Board given with prior written approval of the Minister.

15. Accounts and Audit

(1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure assets and liabilities of the Authority.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General or to an auditor appointed by the Auditor-General for the purposes of subparagraph (3), the accounts of the Authority, in respect of that year, together with—

- (a) a statement of income and expenditure during that financial year; and
- (b) a statement of the assets and liabilities of the Authority on the last day of that financial year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act (Cap. 412B).

16. Investment of funds

(1) The Board may invest any of the funds of the Authority in securities in which the Board may by law invest trust funds, or in any other securities which the Treasury may, from time to time, approve.

(2) The Board may place on deposit, with such bank or banks as the Treasury may approve from time to time, any moneys not immediately required for the purposes of the Authority.

17. Annual Report

(1) The Authority shall, within three months after the end of each financial year, prepare and submit to the Minister, a report on the operations of the Authority for the immediately preceding financial year.

(2) The Minister shall lay the annual report before the National Assembly as soon as is practicable after the National Assembly next sits after the Minister has received the report.
