

**COUNTY GOVERNMENT OF MURANG'A**

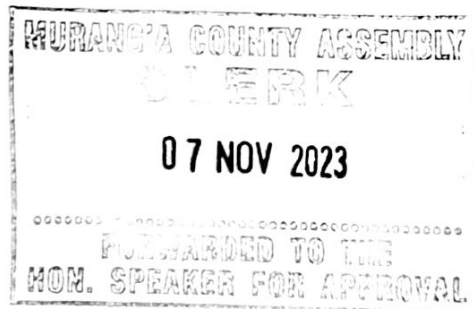


**COUNTY ASSEMBLY OF MURANG'A**

**THIRD ASSEMBLY – SECOND SESSION**

**SELECT COMMITTEE ON DELEGATED COUNTY LEGISLATION**

**REPORT ON PROPOSED AMENDMENTS TO THE PUBLIC FINANCE MANAGEMENT ACT  
{MURANG'A COUNTY EMERGENCY FUND} REGULATIONS , 2023**



**Clerk's Chambers  
County Assembly of Murang'a**

**MURANG'A**

**October, 2023**

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## **CHAIRPERSON'S FOREWORD**

Hon Speaker, in exercise of the powers conferred by section 110 of the Public Finance Management Act, 2012, the County Executive Member for finance established the Public Finance Management Act {Murang'a County Emergency Fund} Regulations, 2023 herein after referred to as the Murang'a County Emergency Fund Regulations or the Regulations.

The objects and purposes of the Fund is to provide for;-

- a) establishment of a Fund from which payments shall be made when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises; and
- b) a common basket emergency Fund in order to facilitate faster, transparent, predictable, and accountable release of funds for emergency management.

**Hon. Speaker,** These regulations are intended to give effect to sections 110 to 115 of the Public Finance Management Act, 2012.

The Regulations establish the Murang'a County Emergency Fund to provide for payments to be made when an urgent and unforeseen need for expenditure for which there is no specific legislative authority arises.

The regulations cover the following provisions in regard to the Fund;

**Part I** provides for preliminaries including short title, interpretation and object and purpose of the Fund.

**Part II** establishes the Fund and provides for the sources of funds for the Fund.

**Part III** provides for establishment of the necessary structures for the administration of the Fund.

**Part IV** provides for miscellaneous provisions including meetings, allowances for committee members, rules of procedure and protection against personal liability.

**Part V** provides for winding up of the Fund.

**Hon. Speaker,** the enactment of these Regulations would result into additional expenditure, as these regulations create a fund, which will be budgeted for.

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the County Assembly for the support and services extended to the Members to enable the

Committee complete this report. The Committee lastly thanks the Secretariat for their dedicated effort and hard work. On behalf of the Select Committee on Delegated County Legislation, it is my pleasure and duty to present the report on Murang'a County Emergency Fund Regulations, 2023.

Thank you

Signed..........

Hon. Moses Muchiri Maina - (Chairperson)

Dated.....Oct 30.....2023

## **1.0 Preface**

### **1.1 Committee establishment and Mandate**

The Committee on Delegated County Legislation derives its mandate from the provisions of Standing Order 202 and the Statutory Instruments Act, 2013.

Delegated Laws are those Laws made by a person or body to whom the County Assembly has expressly donated part of its law-making power by an act of parliament, referred to as the regulation-making authority. Statutory Instruments as defined in section 2 of the Statutory Instruments Act include any rule, order, regulation, direction, form, tariff of costs or fees, letter patent, commission, warrant, proclamation, by-law, resolution, guideline or other instrument issued, made or established in the execution of a power conferred by or under an Act of the County Assembly.

The Committee is mandated to consider the following in respect of any statutory instrument submitted to the Assembly whether it-

- (a) is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- (b) infringes on fundamental rights and freedoms of the public;
- (c) contains a matter which in the opinion of the committee should more properly be dealt with in an Act of the Assembly;
- (d) contains imposition of taxation;
- (e) directly or indirectly bars the jurisdiction of the Courts;
- (f) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- (g) involves expenditure from the County Revenue Fund or other public revenues;
- (h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- (i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- (j) appears to have had unjustifiable delay in its publication or laying before Assembly;

- (k) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- (l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- (m) inappropriately delegates legislative powers;
- (n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- (o) appears for any reason to infringe on the rule of law;
- (p) inadequately subjects the exercise of legislative power to Assembly scrutiny; and,
- (q) accords to any other reason that the Committee considers fit to examine

## **1.2 Committee Membership**

The Committee comprises of the following members.

- |                           |                    |
|---------------------------|--------------------|
| 1. Hon. Moses Muchiri     | - Chairperson      |
| 2. Hon. Mark Gicheru      | - Vice Chairperson |
| 3. Hon. Moses Mirara      | - Member           |
| 4. Hon. Boniface Ng'ang'a | - Member           |
| 5. Hon. Margaret Gichia   | - Member           |
| 6. Hon. Alex Wanyoike     | - Member           |
| 7. Hon. Bernard Ruiru     | - Member           |
| 8. Hon. Esther Kamindo    | - Member           |
| 9. Hon. Hannah Wairimu    | - Member           |
| 10. Hon. Priscilla Mwangi | - Member           |

## **1.3 Committee Secretariat**

The Secretariat supporting the Committee comprises of the following staff:

- |                      |                           |
|----------------------|---------------------------|
| 1. Grace W. Thiong'o | - Senior Clerk Assistant. |
| 2. Yvonne Njoki      | - Head of Legal Services. |
| 3. Elizabeth Irungu  | - Clerk Assistant.        |
| 4. Naomi Maina       | - Hansard Reporter.       |
| 5. Eliezerih Kiragu  | - Sergeant At Arms.       |

## **2.0. BACKGROUND**

The Select Committee on Delegated County Legislation was established pursuant to Standing Order 202 of the Murang'a County Assembly Standing Orders and Section 5 of the Statutory Instruments Act, 2013 and is mandated to consider all statutory instruments laid before the County Assembly, including consultation before making statutory instruments. The workshop engaged in prepublication scrutiny of the instrument.

Section 2 of the Statutory Instruments Act and Standing Order 202 defines a statutory Instrument as:-

*'any rule, order, regulation, direction, form, tariff of costs or fees, letter patent, commission, warrant, proclamation, by-law, resolution, guideline or other instrument issued, made or established in the execution of power conferred by or under an Act of the Assembly under which that statutory instrument or subsidiary legislation is expressed authorized to be issued.'*

**Hon. Speaker,** The County Executive Committee Member in charge of Finance and Economic Planning submitted the Murang'a County Emergency Fund Regulations, 2023 to the County Assembly on July 20, 2023. The Office of the Clerk forwarded the same to the Committee on Delegated County Legislation for tabling by the Chairperson of the Committee.

**Hon. Speaker,** the Committee held three meetings within the precincts of the Assembly (September 26, October 3 and October 11, 2023) and engaged the Legal Office in scrutinizing the regulations.

## **3.0 TERMS OF REFERENCE/OBJECTIVES**

The objective of the committee was to analyse the Murang'a County Emergency Fund Regulations, 2023, and as pre-publication scrutiny, propose amendments after which the Regulations can be gazetted.

## **4.0. AMENDMENTS TO THE MURANG'A COUNTY EMERGENCY FUND REGULATIONS. 2023.**

The Committee invited the County Executive Committee Member in charge of Finance and Economic Planning in a workshop held on October 11 - 13, 2023 at Elysian Hotel, Nairobi to thoroughly scrutinize the Regulations and came up with the following amendments for adoption.

The Committee thereafter proposed that the Regulations be amended by;

**(1) Amendment of regulation 5 (1) (c) on sources of funds.**

The regulations to specify on the monies from any other legitimate source e.g. grants and donations.

*This will ensure that ALL possible and unforeseeable sources of funds are captured in the Regulations.*

**(2) Amendment of regulation 6 (2) (e) on the Committee of the Fund;**

Members noted that, the regulations had not captured the criteria on appointment of the three members by the Governor. Therefore, the County Executive Committee Member for Finance to include;

- a) The criteria to be used in appointment of the three members by the Governor.
- a) Consider appointment of the marginalized, Persons living With Disability (PWD) and youth.

**(3) Amendment of regulation 6 to add a NEW sub regulation 6 (3) by inserting;-**

- a) To add a section on Term to hold Office by the three members appointed by the Governor.

*The Committee observed that, there was need to insert a Regulation on tenure of the three members in Office, as the term in Office cannot be indefinite.*

**(4) Amendment of regulation 7 to add a NEW regulation by inserting;-**

Criteria on Qualification for membership of the three members appointed by the Governor

*There is need to have a Regulation on minimum qualifications as may be agreed upon for then Board.*

**(5) Amendment of regulation 8 to add a NEW regulation by inserting;-**

Termination of membership – The criteria on how a member shall vacate their position as a member of the Fund Board.

*There is need for a new Regulation on how members of the Fund Board shall vacate their positions.*

**(6) Amendment of regulation 9 To add a NEW regulation by inserting;-**

Notified Vacancy in the Board – Criteria to be followed to fill the posts, which fall vacant in the Board



*The Regulations should have a provision on the criteria of how posts that fall vacant in the Board shall be filled.*

**(7) To add a NEW regulation by Inserting;-**

Allocation of 35% of the Emergency Fund to the 35 Wards to cater for general emergencies, and the remaining 65% to be retained for enormous unforeseen emergencies across the County.

*The Committee observed that for the constitutional principles of equity to be guaranteed, the County Executive Committee Member CECM for Finance needs to ensure a minimum allocation (35% of the Fund) to each Ward to ensure an equitable distribution of emergency funds across all the 35 Wards.*

**4.0 COMMITTEE'S OBSERVATIONS.**








The Committee made the following observations on the regulations;

- (a) The Committee noted that the regulations were timely and necessary as the County was exposed to many natural disasters, including but not limited to *el nino* rains, landslides and fires.
- (b) That there was need for the CEC to make guidelines on a few modalities with regards to emergencies, specifically to ensure timely and speedy response to emergencies across the county.
- (c) The Committee however noted that unlike other regulations, the Emergency Fund Regulations are provided for under Section 110 - 115 of the Public Finance Management Act, 2012 and that the regulations as presented by the CECM for Finance largely complied with the Act.

**5.0 COMMITTEE'S RECOMMENDATIONS.**

After lengthy deliberations, it was resolved that; -

The Committee **RESOLVED** unanimously that the Murang'a County Emergency Fund Regulations, 2023 be published in the gazette by the County Executive Committee Member for Finance with the necessary proposed amendments at the pre-publication stage.

NAME	DESIGNATION	SIGNATURE
Hon. Moses Muchiri	Chairperson	
Hon. Mark Gicheru	Vice Chairperson	
Hon. Moses Mirara	Member	
Hon. Boniface Ng'ang'a	Member	
Hon. Margaret Gichia	Member	
Hon. Alex Wanyoike	Member	.....
Hon. Bernard Ruiru	Member	
Hon. Esther Kamindo	Member	.....
Hon. Hannah Wairimu	Member	
Hon. Priscilla Mwangi	Member	