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PART C

S1

LEGAL NOTICE NO. 159 OF 2014

THE FINANCE MANAGEMENT AND AUDIT ACT, 1967 (Act 18 of 1967)

THE REGIONAL DEVELOPMENT FUND REGULATIONS NOTICE, 2014 (Under Section 12)

In exercise of the powers conferred by Section 12 of the Finance Management and Audit Act, 1967, the Minister for Finance makes the following Regulations.

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PART I

PRELIMINARY PROVISIONS

Citation and Commencement

1. (1) These Regulations may be cited as The Regional Development Fund Regulations, 2014.

(2) These Regulations shall come into force on the date of publication in the Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires –

“Bucopho” has the meaning ascribed to it in section 81 of the Constitution;

“community” means all members of the geographical area within a region, *Inkhundla*, Chiefdom, *sigodzi* or ward;

“citizen” means citizens by descent as defined in the Constitution of the Kingdom Swaziland Act 001 of 2005;

“close relative” means a parent, a spouse, child, sibling, or parent of spouse, child or sibling of spouse;

“Fund” means the Regional Development Fund established under section 3;

“*Inkhundla* Council” means the council consisting of the *Indvuna Yenkhundla*, elected member of Parliament and *Bucopho*;

“Minister” means Minister responsible for finance;

“Micro Projects Coordinating Unit” means the Micro Projects Coordinating Unit operating under the Ministry of Economic Planning and Development;

“Regional Development Fund committee” means the committee established in terms of regulation 5 of these regulations;

“Swazi organised group” means a group of at least ten citizens of a community, two or more close relatives of which may not be in the same executive committee, such organised group may include a partnership, association, company or co-operative society registered in terms of its relevant registration law whose object of business is to develop or benefit the community or provide a service to the community.

Establishment of the Fund

3. (1) There is established a fund to be known as the Regional Development Fund.

(2) The object of the Fund is to alleviate or eradicate poverty in each of the four regions of the Kingdom of Swaziland by initiating –

(a) infrastructure development, improvements and service delivery; or

- (b) viable commercial projects or schemes which will create jobs and generate income to sustain and further develop numerous Swazi families within each region at grassroots level; or
- (c) commercial projects or income generating projects which shall be medium to large scale projects as may be defined by the Ministry responsible for business enterprises.

PART II ADMINISTRATION OF THE FUND

Administration of the Fund

4. (1) The Fund shall be in the name of the Government of Swaziland and shall be operated by the Accountant General through an account in the Central Bank of Swaziland.

(2) Interest on the funds of the Fund shall accrue to the Fund.

(3) Approved expenditure on the development of the regions shall be charged to the Fund in accordance with Government accounting procedures.

(4) Accounting and reporting for the Fund shall be done in accordance with generally accepted accounting principles to be specified by the Minister.

(5) Funds for regional development shall be available for each region in a manner that is equitable to the number of Tinkhundla in the country.

(6) Funds allocated to the region may by resolution of the Regional Development Fund Committee, and in agreement with the Tinkhundla Councils in that region, dedicate a portion of the regional fund for projects that are regional in nature.

(7) A project shall include a contribution by the benefiting Swazi organised group or community of at least 10% of the investment cost in kind and cash or kind or cash.

(8) The funds shall finance projects or schemes which have no recurrent cost implications for Government.

(9) The funds shall be disbursed by the Accountant General, after confirmation by Principal Secretary of the ministry responsible for *Tinkhundla* Administration and Development.

(10) Funds disbursed in terms of these regulations shall be for projects endorsed by the Regional Development Fund Committee.

(11) The Principal Secretary of the ministry responsible for *Tinkhundla* Administration and Development shall be responsible for ensuring that projects approved by the Regional Development Fund Committee conform to the provisions of these Regulations.

(12) In each financial year, a portion not exceeding five percent (5%) of the annual approved expenditure for the Fund shall cater for the management and operational expenses of the Fund and this shall be subject to review.

(13) Any additional operational costs above the five percent (5%) limit shall be approved by the Minister on the recommendation by the Minister responsible for *Tinkhundla* Administration and Development.

Establishment of Regional Development Fund Committee

5. (1) There is established a Regional Development Fund Committee for each region of the Kingdom of Swaziland.

(2) A Regional Development Fund Committee shall comprised –

- (a) the Regional Administrator, who shall be the Chairman;
- (b) two chiefs from the region appointed on an annual rotational basis;
- (c) the elected members of Parliament for that region; and
- (d) the Regional Secretary or the duly appointed representative of the Regional Secretary, who shall be the Secretary.

(3) Where for any reason the Regional Administrator is unable to preside over a meeting of the Regional Development Fund Committee, the Regional Development Fund Committee shall elect a Chairperson for the day from among the members present.

(4) The Minister responsible for Tinkhundla Administration and Development shall appoint the members of the Regional Development Fund Committee on such terms and conditions as the Minister responsible for Tinkhundla Administration and development may prescribe.

(5) The term of office of the Regional Development Fund Committee shall coincide with the term of office of the Parliament that is in office.

(6) The Regional Development Fund Committee shall be paid such allowances as the Minister for Finance may determine from time to time.

(7) The Regional Development Fund Committee shall meet at least once per month.

(8) The Regional Development Fund Committee shall-

- (a) be the Regional Authority responsible for the Regional Development Fund as allocated in the region;
- (b) in consultation with the Principal Secretary responsible for *Tinkhundla* Administration and Development provide policy guideline on the fund management and disbursement in the region;
- (c) on the recommendation of the Regional Development Fund Technical Committee, consider and endorse applications for funding from-
 - (i) a Swazi organised group; or
 - (ii) a community.

(9) Projects deliberated on by the Regional Development Fund Committee shall have been submitted to it by the Regional Secretary through a formal meeting agenda, and no project application shall be discussed in the meeting other than those that are in the agenda for the day.

(10) Projects endorsed for implementation shall be recorded and signed as endorsed by the Regional Administrator and the Regional Secretary.

(11) Projects with a negative recommendation from the Regional Development Fund Technical Committee shall be declined and referred back to the Inkhundla, association and community concerned with reasons for the disapproval.

(12) The Regional Development Fund Committee may seek clarification on any project under its consideration from the Regional Development Fund Technical Committee whenever such clarification is needed to take a decision on a project.

(13) Regional Secretary in collaboration with Micro Projects Co-ordination Unit shall prepare and submit quarterly fund and projects reports to the Principal Secretary responsible for *Tinkhundla* Administration and Development who in turn shall in each quarter forward the consolidated and analysed reports to the Principal Secretary responsible for Finance.

The Regional Development Fund Technical Committee

6. (1) There is established a Regional Development Fund Technical Committee for each region of the Kingdom of Swaziland.

(2) The Regional Development Fund Technical Committee shall be appointed by the Principal Secretary for the Ministry responsible for *Tinkhundla* Administration and Development.

(3) The Regional Development Fund Technical Committee shall comprise Micro Projects Co-ordinating Unit staff and full time public servants who shall perform their functions in terms of these Regulations in their normal course of duty without any additional remuneration save for allowances in respect of lunch out and traveling.

(4) The Regional Secretary shall be the Chairperson of a Regional Development Fund Technical Committee and members of the committee shall comprise of the Regional Planning Officer, who shall be the Secretary and representatives from –

- (a) Micro Projects Coordinating Unit;
- (b) Ministry of Commerce Industry and Trade;
- (c) Ministry of Agriculture;
- (d) Ministry of Public Works and Transport;
- (e) Ministry of Natural Resources and Energy; and
- (f) Ministry of *Tinkhundla* Administration and Development

(5) The Regional Development Fund Technical Committee shall specifically-

- (a) provide technical support to the Regional Development Fund Committee;
- (b) appraise submitted applications to ascertain project viability and sustainability;
- (c) vet applications to ensure community contribution and elimination of community disputes that may affect the implementation of a project;
- (d) conduct inspection of project sites to verify information on proposed Projects;
- (e) supervise project implementation from design to completion;
- (f) co-ordinate implementation of regional development fund projects with other implementing agencies.

(6) The Regional Development Fund Technical Committee may, where necessary source external expertise or co-opt representatives from other ministries and Government departments for technical support.

(7) The Regional Secretary shall, after final determination of an application or a request to amend or attend to queries of an application, inform the Member of Parliament of the concerned *Inkhundla*, in writing, and send a copy to the *Inkhundla*.

Role of Micro Projects Coordinating Unit

7. (1) The Micro Projects Coordinating Unit shall -

- (a) facilitate the operation of the Fund;
- (b) manage procurement contracts with suppliers, contractors and service providers, relating to projects, and give technical support to the Regional Development Fund Technical Committee in ensuring quality design, implementation, supervision and evaluation of all projects proposed or funded through the Regional Development Fund;
- (c) maintain records and financial accounts of the Fund in compliance with procedures of Government or any other external donors;
- (d) advice the Regional Development Fund Technical Committee on project implementation best practices and available cost-effective methods;
- (e) liaise with the Regional Development Fund Technical Committee to ensure compliance, approval and support of projects by relevant Ministries;
- (f) minimize bureaucracy in the approval, supervision and implementation of projects; and
- (g) adopt, in consultation with the Principal Secretaries responsible for the Ministries of *Tinkhundla* Administration and Development and Finance a transparent, fair and cost effective procurement and payment system.

(2) The Micro Projects Coordinating Unit shall submit quarterly financial reports of the fund and progress reports on all funded projects to the Regional Development Fund Committee in a manner and form determined and approved by the Principal Secretary responsible for the Ministry of *Tinkhundla* Administration and Development

(3) The Micro Projects Coordinating Unit may identify training needs and develop appropriate capacity building programmes in collaboration with communities and development partners.

Monitoring of the Fund

8. (1) The Principal Secretary of the Ministry responsible for *Tinkhundla* Administration and Development shall be responsible for the monitoring and reporting on the activities of the Fund to the Principal Secretary of the ministry responsible for Finance by submitting consolidated quarterly reports of each region.

(2) The Minister responsible for *Tinkhundla* Administration and Development shall submit consolidated quarterly reports of the activities of the Fund to Parliament.

Auditing of the Fund

9. The Fund shall be audited by the Auditor General in accordance with the Audit Act, 2005.

PART III APPLICATIONS

Applications

10. (1) A Swazi organized group or community may apply for funding for the development of a project or for improving an existing project.

(2) A Swazi organised group or community which intends to apply in terms of regulation (1), shall first register at its *Inkhundla*.

(3) An application for registration at an *Inkhundla* shall be accompanied by –

- (a) an application form obtained from *Inkhundla* Secretary;
- (b) the constitution or certificate of incorporation or registration of the Swazi organised group in the particular community;
- (c) a list of the membership of the Swazi organised group;
- (d) the bank book or bank statement of the Swazi organised group;
- (e) in the case of income generating projects, a business plan submitted in a template as approved by the Community Development Officer or Government Technician related to that field;
- (f) the recommended project proposal;
- (g) in the case of infrastructure projects, a recommendation from the Government Technician related to that field; and
- (h) a letter of approval from *umphakatsi* or local chief.

Consideration by Umphakatsi

11. (1) A Swazi organised group or community intending to apply for funding shall submit an application in the prescribed form to the relevant *Umphakatsi*.

(2) An application shall be considered by *Bandlanecane* and Chairperson of the Development Committee to determine whether-

- (a) the project in question has been appraised and, where necessary, that technical assistance has been secured and is therefore viable;
- (b) where land is required, that the requisite land and authority has been secured; and
- (c) the establishment of the project will benefit the community and offer employment opportunities to citizens by descent.

(3) *Bandlanecane* shall consider an application within two (2) weeks of receipt of an application.

(4) In considering a project proposal, *Bandlanecane* may request technical experts to clarify any issue relating to the application.

(5) Where *Bandlanecane* is satisfied that the criteria in subregulation (2) has been met, it shall recommend the application to the *Inkhundla* Council.

(6) An application that has been approved by Umphakatsi shall be submitted to the *Inkhundla* Council by the Bucopho of the *Umphatsi* which considered the application.

Consideration by Inkhundla Council

12. (1) In addition to the criteria set out in regulation 11 (2), an *Inkhundla* Council shall satisfy itself -

- (a) where the application relates to an infrastructure project, that not less than ten homesteads shall benefit from the project;
- (b) where the application relates to an income generating project, that the business plan includes confirmation on the availability of markets for the products of the projects;
- (c) That the application is supported by comments from –
 - (i) a technician from the relevant Government Ministry or department;
 - (ii) the Community Development Officer; or
 - (iii) the *Inkhundla* Secretary;
- (d) of the potential impact of the project on the *Inkhundla*;
- (e) of the number of similar projects in the *Inkhundla*;
- (f) of the position of the project in the development priorities of the *Inkhundla*;
- (g) whether the applicant has secured permission, including allocation of premises from the relevant authority; and
- (h) of such other relevant consideration as the *Inkhundla* Council may consider necessary.

(2) An *Inkhundla* Council shall consider an application within two (2) weeks of receipt of the application.

(3) All applications approved by *Inkhundla* Council shall be ranked in order of priority before submission to the Regional Development Fund Technical Committee.

(4) Where the *Inkhundla* Council is satisfied that the criterion in sub-regulation (1) has been met, the *Inkhundla* Council represented by the *Inkhundla* Secretary shall submit its recommendation and a detailed project appraisal report in terms of regulation 6(5) to the Regional Secretary.

(5) Where the *Inkhundla* Council does not recommend the application to the Regional Secretary, the *Inkhundla* Council shall, in writing, refer the application and give reason for the refusal back to Bandlancane.

(6) All decisions of the *Inkhundla* Council in respect of applications shall be recorded in the Council minute book and applications sent to the Regional Secretary shall have a return of service confirming receipt of the application by the office of the Regional Secretary.

Consideration by the Regional Development Fund Technical Committee

13. (1) The Regional Development Fund Technical Committee shall be responsible for projects appraisal and monitoring which shall include but not limited to giving support on

project design, appraisal, execution, reporting, monitoring, evaluation and coordination with other implementing agencies.

(2) After receiving applications from the *Inkhundla* Secretary, the Regional Secretary shall convene a meeting of the Regional Development Fund Technical Committee to determine applications from the *Inkhundla* Council.

(3) In considering an application the Regional Development Fund Technical Committee shall determine whether the project is for infrastructure development or income generation and satisfy itself that, in addition to the criteria set out in these regulations -

- (a) the project has been professionally screened, appraised and certified as viable;
- (b) the Swazi organised group or community is ready to proceed with the project;
- (c) the project is one of priority, taking into account community interests;
- (d) the application has been properly screened and processed in accordance with these Regulations;
- (e) the number of homesteads or persons to benefit from the project;
- (f) the number of similar projects already approved in the area and region; and
- (g) other relevant issues which touch upon the appropriateness of the project as the Regional Development Fund Technical Committee may consider necessary have been taken into account.

(4) An application approved by a Regional Development Fund Technical Committee shall be stamped with the official stamp of the Regional Offices and signed by the Chairperson and the Secretary of the Regional Development Fund Technical Committee.

(5) The Regional Development Fund Technical Committee shall prepare a project document for successful projects, and give detailed reasons for unsuccessful projects, to be presented to the Regional Development Fund Committee at its sittings.

Consideration by Regional Development Fund Committee

14. (1) A Regional Development Fund Committee shall meet at least once a month to hear and determine applications from the *Inkhundla* Council.

(2) The Regional Development Fund Committee may, where necessary and upon the approval of the Principal Secretary of the Ministry of *Tinkhundla* Administration and Development, meet more than once a month.

(3) The Regional Development Fund Committee will, on recommendation of the Regional Development Fund Technical Committee consider and endorse projects for funding from the *Inkhundla* Council.

(4) Where the application has been finalised, the Regional Secretary shall, within ten (10) working days, inform the applicant in writing and submit the approved application to Micro Projects Coordinating Unit for implementation.

PART IV MISCELLANEOUS PROVISIONS

Inability and disputes

15. (1) Where a Swazi organised group or community which has received funding under these Regulations is unable to function and this has led to the deterioration or exposure of the goods to deterioration, the matter shall be reported to the Regional Development Fund Committee by Micro Projects Coordinating Unit or any person who has knowledge of the matter.

(2) The matter shall be deliberated at the *Inkhundla* Council with a view to resolve it and a recommendation submitted to the Regional Development Fund Committee.

(3) A Regional Development Fund Committee may, after following due process of the law, order the repossession of goods acquired under the Fund pending the resolution of the state of affairs referred to in sub-regulation (1).

(4) Where the matter remains unresolved for a period of two (2) months after it was first reported to the Regional Development Fund Committee, the goods referred to in sub-regulation

(3) shall be reallocated to another deserving Swazi organised group or community.

(5) Where goods are to be reallocated as provided in sub-regulation (4), preference shall first be given to the *Inkhundla* then the region and then forfeited to the state.

Ownership of assets purchased from funding

16 (1) All movable and immovable assets purchased with funds under these regulations shall remain the property of the Government of Swaziland.

(2) The movable and immovable assets shall be recorded in the asset register held at the at the *Inkhundla* Offices.

(3) The movable and immovable assets shall be leased to the Swazi Organised Group for a period equal to the economic life of the asset and at the end of its economic life, the ownership of the assets shall be transferred to the Swazi organised group.

(4) The Swazi organised group shall be responsible for the maintenance and repair of the assets during the life of the assets.

Transitional provisions

17. (1) A project or scheme which has been approved under the Regional Development Fund Regulations, 2008 shall, from the date of commencement of these regulations, be administered as if it has been approved under these regulations.

(2) The provisions of sub-regulations (1) shall not be construed as creating any additional obligation on a project or scheme referred to in that sub-regulation.

Repeal

18. The Regional Development Fund Regulations, 2008, are repealed.