REPUBLIC OF KENYA
THE NATIONAL TREASURY AND ECONOMIC PLANNING

REGULATORY IMPACT STATEMENT

ON

THE PUBLIC FINANCE MANAGEMENT (VETERINARY SERVICES DEVELOPMENT FUND) REGULATIONS, 2024

Prepared by the National Treasury and Economic Planning pursuant to sections 6 and 7 of the Statutory Instruments Act, Cap. 2A.

NOVEMBER 2024

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CHAPTER ONE: BACKGROUND

1.0. Introduction

The Veterinary Services Development Fund (VSDF) was introduced through Cabinet Memorandum (CAB. No. (94) 77 of December, 1994. The establishment of the Fund was approved with a view to raising additional revenue to supplement government funding through cost-sharing for sustainability in the delivery of veterinary services; broadly defined to include animal health services; animal production and animal welfare; safety of foods of animal origin; and trade in animals, animal products and animal by-products. It was also intended to contribute to the revitalization of the livestock sector in Kenya. Subsequently, the Fund was established through the Legal Notice No.109 of 27th May 1996 and gazetted on 7th June 1996.

Over the years, the Fund has made significant achievements that include contributing to Kenya's foreign exchange earnings through facilitation of export trade in animals, animal products and animal by-products; facilitation of development of policy and legal frameworks for delivery of veterinary services; technical capacity building to the counties; improved surveillance of emerging and re-emerging livestock and zoonotic diseases and support to increased safety of foods of animal origin among others. Despite these achievements, the full potential of the Fund has not been realized due to a number of challenges. These include weak coordination between the Directorate of Veterinary Services (DVS) and County Governments on the delivery of veterinary services; inadequate implementation of veterinary policies/programmes leading to disruption of animal disease control; spread of trans-boundary animal diseases; violation of animal welfare; increased bush slaughter and insufficient meat inspection services contributing to high risk of exposure to zoonoses and food-borne illness; and skewed distribution of veterinary services with low provision of the services in the arid and semi-arid areas.

A number of significant changes have occurred since inception of the Fund. Key among them is the devolution of some veterinary services in 2010 that reduced the revenue sources of the Fund and the enactment of Public Finance Management Act (PFMA), 2012. In addition, during the external audit and appearance before the Parliamentary Accounting and Special Fund Committee a concern was raised on issues of corporate governance of the Fund. The legal instrument that established the Fund has, however, remained unchanged. This has therefore necessitated the review this legal instrument with a view to align it to current realities and sustain the gains already made under the Fund.

The Fund is critical to the State Department for Livestock Development in order to realize improved delivery of national veterinary services. Over the years the Medium-Term Expenditure Framework (MTEF) has not provided adequate and timely funding for livestock disease management making it difficult for Kenya to access some lucrative external markets for livestock and livestock products such as United States of America, European Union, United Kingdom and South Africa among others. The alternative of external borrowing is not tenable due to the growing and unsustainable national debt. The Fund, therefore, provides a more sustainable mechanism for mobilizing additional resources to bridge the funding gap and to supplement the exchequer.

The Fund supports critical areas such building capacity for the country to meet sanitary requirements which is necessary for internal and external trade in animal, animal products and animal by products, supporting animal disease surveillance and diagnosis, ensuring safety of foods of animal origin and improving capacity for provision of national veterinary services in the country.

1.1 REGULATORY IMPACT STATEMENT

Regulatory Impact Statement (RIS) is a systematic policy tool used to examine and measure the likely benefits, costs, and effects of a new or existing regulation. RIS is an analytical report to assist policy makers to arrive at an informed policy decision. As an aid to decision making RIS includes an evaluation of possible alternative regulatory and non-regulatory approaches with the overall aim of ensuring that the final selected regulatory approach provides the greatest net public benefit. Typically, the structure of a RIS contains the following elements:

(a) title of the proposal;
(b) the objective and intended effect of the regulatory policy;
(c) an evaluation of the policy issue;
(d) consideration of alternative options;
(e) assessment of all their impacts distribution;
(f) results of public consultation;
(g) compliance strategies; and
(h) processes for monitoring and evaluation.

RIS is conducted before a new government regulation is introduced to provide a detailed and systematic appraisal of the potential impact of a new regulation to assess whether the regulation is likely to achieve the desired objectives. RIS promotes evidence-based policymaking as new Orders typically lead to numerous impacts that are often difficult to foresee.

From a societal viewpoint, the RIS should confirm whether a proposed regulation is welfare-enhancing, in that, the benefits will exceed costs. RIS therefore has objectives of improving understanding of the real-world impact of regulatory action, including both the benefits and the costs of action, integrating multiple policy objectives, improving transparency and consultation and enhancing governmental accountability.

1.2 REQUIREMENT TO PREPARE RIS UNDER STATUTORY INSTRUMENTS ACT CAP. 2A

The Statutory Instruments Act, Cap.2A (SIA) is the legal framework governing the conduct of Regulatory Impact Statement (RIS) in Kenya. Sections 6 and 7 require that *if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation-making authority shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument*.

The Act further sets out certain key elements that must be contained in the RIS namely:

(a) a statement of the objectives of the proposed legislation and the reasons;
(b) a statement explaining the effect of the proposed legislation;
(c) a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;
(d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
(e) the reasons why the other means are not appropriate.

Prior to making a statutory instrument, section 6 and 7 of the Statutory Instruments Act, Cap. 2A (SIA) mandates the Board to prepare a Regulatory Impact Statement in circumstances where the proposed statutory instrument is likely to impose significant cost on the community, or part of the community.

Under the Act, a regulatory impact statement shall contain;

(a) a statement of the objectives of the proposed legislation and the reasons;
(b) a statement explaining the effect of the proposed legislation;
(c) a statement of other practicable means of achieving those objectives, including other regulatory as well as non-regulatory options;
(d) an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives; and
(e) the reasons why the other means are not appropriate.

CHAPTER TWO: PURPOSE AND OBJECTS OF THE PROPOSED REGULATIONS

2.0. GENERAL OBJECTIVE OF THE REGULATIONS

The broad objective of the Regulations is to provide financial resources for the development and delivery of national veterinary services.

CHAPTER THREE: THE PUBLIC FINANCE MANAGEMENT (VETERINARY SERVICES DEVELOPMENT FUND) REGULATIONS, 2024

3.0. Overview of the proposed Regulations

The proposed Regulations are made pursuant to section 24(4) of the Public Finance Management Act which empowers the Cabinet Secretary to establish a national government public fund with the approval of the National Assembly.

3.1. ARRANGEMENT OF THE REGULATIONS

The proposed Regulations contains three Parts.

Part I of the Regulations provides for preliminary matters which include the citation, interpretation and object and purpose of the Regulations.

Part II of the Regulations proposes for the administration of the Fund. The Administrator of the Fund is proposed to be the Principal Secretary in the Ministry responsible for veterinary services. Regulation 7 proposes for the appointment of a Fund Manager who shall be responsible for day-to-day administration of the Fund. Regulation 8 proposes to establish a Fund Steering Committee which shall consist of the Director of Veterinary Services who shall be the Chairperson, Secretary responsible for Administration in the Ministry responsible for Veterinary Services, the head of accounting in the Ministry responsible for Veterinary Services, the head of finance in the Ministry responsible for Veterinary Services, Fund Manager who shall be the secretary to the Fund Committee, Chief Executive Officer of the Veterinary Medicines Directorate, Chief Executive Officer of the Kenya Veterinary Vaccines Production Institute; and a person assigned principal administrative responsibility on Veterinary Public Health in the Ministry responsible for Veterinary Services.

Under regulation 8(2) the Fund Steering Committee shall make recommendations for proper administration of the Fund and shall make recommendations on policies for proper regulation and management of the Fund; operational guidelines for the proper management of the Fund and perform such other duties as may be necessary to achieve the objectives for which the Fund is established.

Part III of the Regulations provides for general provisions including bank accounts, administration costs, investment of funds, financial year, annual estimates and accounts and audit.

3.2. OBJECTIVES OF THE REGULATIONS

Veterinary Services contribute to "public good" through making available protection of animal health, public health, animal welfare as well as providing poverty alleviation, food security, food safety and market access.

Implemented effectively, the Regulations will support—

(a) disease surveillance and management of Trans-Boundary Animal Diseases (TADs) including zoonotic diseases;
(b) policy development, regulation and enforcement
(c) public health protection and trade facilitation;
(d) Promotion of animal welfare and protection
(e) emergency response to animal health and welfare threats; and
(f) capacity building and technical assistance to national and county veterinary services.

3.3. BENEFITS OF THE PROPOSED REGULATIONS

The approval of the proposed Regulations is envisaged to have the following accruing benefits;

(a) **Promote Economic growth:** Preventing and controlling diseases will promote Kenya's economic growth and strengthen communities.

(b) **Improved health of the Young and the Vulnerable:** Prevention of animal diseases and control can improve the health of vulnerable populations in Kenya, especially the young and elderly.

(c) **Reduced risk of zoonotic disease transmission:** Zoonotic diseases can pose a great risk to a nation due to the probable transmission of disease to humans.

(d) **Reduced risk to food security:** TADs can threaten the food security of a country or region by causing large-scale damage to livestock.

(e) **Reduced risk to farmers livelihoods**

TADs can threaten farmers' livelihoods by causing serious economic consequences

CHAPTER FOUR: CONSULTATIONS IN DEVELOPMENT OF THE REGULATIONS

4.0. Introduction

Article 10 of the Constitution of Kenya, 2010 obligates State Organs to apply the national values and principles of governance while making or implementing policy decisions. The national values and principles include non- discrimination, transparency and participation of the people.

With regard to the subsidiary legislation, the Statutory Instruments Act, Cap. 2A, mandates the regulation making authority responsible for developing subsidiary law to undertake consultations before making statutory instruments and in particular, where the proposed instrument is likely to have a direct or a substantial indirect effect on the community.

Additionally, the Statutory Instruments Act requires the regulation-making authority to conduct public consultations drawing on the knowledge of persons having expertise in fields relevant to the proposed statutory instrument and to ensure that persons likely to be affected by the proposed statutory instrument are given an adequate opportunity to comment on its proposed content.

An evaluation of the public consultation process is necessary to ascertain whether the relevant stakeholders were given an opportunity to present their views which will ameliorate the proposed Regulations.

4.1. APPROACH TO PUBLIC PARTICIPATION

To fulfil the requirements of the Constitution and the Statutory Instruments Act, Cap. 2A in relation to public participation, the Ministry will adopt various approaches to publicise the draft Regulations and receive input from its stakeholders. Specifically, the Ministry will—

(a) Issue a notice inviting for submissions on the draft Regulations and the Regulatory Impact Statement from members of the public through an advertisement in a newspaper of nation-wide circulation;

(b) Hold physical meetings select stakeholders and the general public;

(c) publish the Regulatory Impact Statement in the *Gazette*;

(d) write letters and email to MDAs and other stakeholders requesting for input on the draft Regulations and Regulatory Impact Statement within a specified time; and,

(e) publicize the draft Regulations and the draft Regulatory Impact Statement on the website and other platforms.

4.2. INTERNAL CONSULTATIONS.

The development of the Regulations was spearheaded by the Veterinary Services Development Fund Taskforce (Taskforce). The Taskforce adopted the draft Regulations on 17th October, 2024 and presented the proposed Regulations to the user Ministry and the National Treasury and Economic Planning for approval and dissemination to stakeholders.

4.3. CONSULTATIONS WITH THE STAKEHOLDERS AND THE GENERAL PUBLIC

To give full effect to the requirements of the Statutory Instruments Act, Cap.2A, the National Treasury shall invite all stakeholders and the general public make submissions on the proposed Regulations in public hearings to be held in the following regions of Kenya—

Eldoret	Nakuru	Kakamega
Kisumu	Muranga	Nairobi
Mombasa	Isiolo	

The invitation to attend the public hearings will be issued by the at least fourteen days before the date of the public hearings to afford adequate opportunity for review of the draft Regulations and RIS.

4.4. CONSULTATIONS WITH RELEVANT GOVERNMENT AGENCIES.

The Taskforce will therefore engage Government Ministries, Departments and Agencies prior to finalization of the proposed Regulations.

4.5. CONCLUSION

Section 5 and 6 of the Statutory Instruments Act, Cap. 2A obligates a regulation making authority to make appropriate consultations with persons who are likely to be affected by a proposed statutory instrument.

The Act calls for prioritisation of persons with knowledge and expertise in the field relevant to the proposed statutory instrument and allocation of adequate time for submission of input.

By publicizing the proposed Regulations in different media and affording adequate opportunity to all stakeholders, government entities and the general public to give input, the National Treasury and Economic Planning seeks to meet this requirement.

CHAPTER FIVE: COST BENEFIT ANALYSIS

5.0. Introduction

Section 7(2) of the Statutory Instruments Act requires that an assessment of the costs and benefits of a proposed statutory instrument is undertaken. The assessment should include the economic, environmental and social impact and the likely administration and compliance costs including resource allocation costs.

This chapter examines the anticipated impact of the proposed Regulations against the expected cost of implementation. The Chapter additionally explores other alternatives to the adoption of the proposed Regulations and the effect of adopting the alternatives.

5.1. IMPACT OF THE PROPOSED REGULATIONS

Generally, the proposed Regulations is neither in contravention of any constitutional provisions nor does it have any retrospective effect on any constitutional provisions.

Additionally, the Regulations does not infringe on the public's fundamental rights and freedoms.

5.2. ANALYSIS OF TH E IMPACT OF THE PROPOSED REGULATIONS ON VARIOUS SECTORS

Sector	Impact
Economic	• enhanced compliance with Constitutional and Statutory dictates on access to quality animal food. • increase supply of good quality and safe food of animal origin; • reduced food related health risks; • enhanced animal welfare; and • harmony with best practice in the sector.
Social	• better view of veterinary services by the general public.

5.3. FINANCIAL COST

The Regulations have attributed the following financial costs that has continued to support its implementation.
Kshs……1000…………………. was appropriated by Parliament when Legal Notice No. …109……….. came into force.

(SPECIFY IF THE FUND REQUIRES ANY ADDITIONAL ALLOCATION)

Consideration of Alternatives to adoption of the proposed REGULATIONS

The Statutory Instruments Act requires a Regulation Making Authority to carry out an informed evaluation of a variety of regulatory and non-regulatory policy measures by considering relevant issues such as costs, benefits, distributional effects and administrative requirements. Statutory instruments should be the last resort in realizing any policy objectives. The options considered under this part are: maintenance of the status quo, administrative measures and adoption of the proposed guidelines.

(a) Maintenance of the *Status Quo*

Maintenance of the status quo means retaining the situation as is and taking no further action in relation to establishment of the Fund.

Maintenance of the *status quo* will lead to various challenges including poor food quality of animal origin and risk of animal food related diseases.

(b) Option two: Administrative Measures

The second option that may be used to implement section 24(4) of the Act is through administrative measures. This usually takes the form of issuance of ministerial orders, circulars and administrative measures to address the identified challenges. The issuance of such measures is not only cheap but also time saving. However, the implementation of administrative measures is dependent on the good will of those concerned and may not be sustainable since they do not have the force of law. This presents a major risk in terms of enforcement and the possibility of not getting implemented at all. The non-binding nature of administrative measures suggests that it cannot be a reliable avenue to give full effect to the salient provisions contained in the Constitution and the Act of Parliament.

(c) Option three: Formulating the Proposed Regulations

The Regulations will yield the following benefits:

- support disease surveillance and management of Trans-Boundary Animal Diseases (TADs) including zoonotic diseases;
- support policy development, regulation and enforcement
- support public health protection and trade facilitation;
- support promotion of animal welfare and protection
- support emergency response to animal health and welfare threats; and
- support capacity building and technical assistance to national and county veterinary services

The assessment of the cost and benefits therefore, indicates that the benefits of formulating the Regulations outweigh the costs. Therefore, option three was selected as the preferred option.

5.4. CONCLUSION RECOMMENDATION.

Based on the analysis in this chapter, it is clear the third option (development and adoption of the proposed Regulations) is the preferred option. The other two options have little or no impact in addressing the veterinary services challenges.

In view of the above conclusion, it is recommended that the Public Finance Management (Veterinary Services Development Fund) Regulations, 2024 be adopted for public participation.

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