

SPECIAL ISSUE

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2016

Kisii County Youth and Women Empowerment Fund

THE KISII COUNTY YOUTH AND WOMEN EMPOWERMENT FUND ACT, 2016

No. 5 of 2016

Date of Assent: 24th February, 2016

Date of Commencement: 24th August, 2016

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Kisii County Youth and Women Empowerment Fund

THE KISII COUNTY YOUTH AND WOMEN EMPOWERMENT FUND ACT, 2016

AN ACT of the County Assembly of Kisii to establish a Fund to empower, improve and develop the youth and Women by providing access to capital and financing facilities through loans, grants and for connected purposes

ENACTED by the County Assembly of Kisii, as follows—

Short title

1. This Act may be cited as the Kisii County Youth and Women Empowerment Fund Act, 2016.

Interpretation

2. (1) In this Act, unless the context otherwise requires—

“applicant” means a woman resident in Kisii County or youth owning a micro enterprise operating in Kisii County;

“Committee” means the Kisii County Youth and Women Empowerment Fund established under Section 7;

“Governor” means the Governor of Kisii County Government;

“loanee” means an applicant whose loan request has been approved and granted under this Act;

“Executive Committee Member” means the County Executive Committee Member responsible for Gender, Youth, Sports, Culture and Social Services;

“micro-enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover does not exceed five hundred thousand shillings;
- (b) which employs less than ten people; and
- (c) whose total assets and financial investment shall be as determined by the Member of the Executive Committee from time to time, and includes—
 - (i) the manufacturing sector, where the investment in plant and machinery or the registered capital of the enterprise does not exceed ten million shillings;
 - (ii) the service sector and farming enterprises where the investment in equipment or registered capital of the enterprise does not exceed five million shillings;

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“Prescribed” means prescribed by the Member of the Executive Committee;

“Unit” means the Kisii County Youth and Women Empowerment Fund Unit established under Section 13;

“Youth” means the collectivity of all individuals in the County who have attained the age of eighteen years but have not attained the age of thirty-five years.

“woman” means a person of the female gender who is above eighteen years of age;

Establishment of the Fund

3.(1) There is hereby established a Fund to be known as the Kisii County Youth and Women Empowerment Fund.

(2) The Fund shall be a body corporate with perpetual succession and a common seal, and shall have power to acquire, own, possess and dispose of property, and to contract, and to sue and be sued in its own name.

Objectives of the Fund

4. The object and the purpose of the Fund shall be—

- (a) to provide funds to be used for granting low-interest loans to women and youth with a view to scaling up their lending activities, value addition amongst other activities as may be prescribed;
- (b) to provide funds to support, revive and initiate micro-enterprises owned by women and the youth in sectors that can have an immediate impact to household economy;
- (c) to attract and facilitate investment in economic sectors that have linkages to micro, small and medium enterprises that benefit the youth;
- (d) facilitating access to business development services by micro and small enterprises;
- (e) facilitating formalization and upgrading of informal micro and small enterprises; and
- (f) promoting an entrepreneurial culture.

Guiding Principles of operating the Fund

5. In the exercise of the powers or the performance of functions under this Act, the Member of the Executive Committee, the Committee and the Unit shall be guided by the following principles—

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- (a) public participation and financial inclusiveness;
- (b) protection of the interests of the marginalized, persons with disability, women and youth; and
- (c) local ownership and sustainability.

Revenue and expenditure of the Fund**6. (1) There shall be credited to the Fund —**

- (a) sums of money which may from time to time be voted by the County Assembly for that purpose;
- (b) sums which represent the repayment of the capital and interest of any loan granted from the Fund;
- (c) income from any investment made by the Fund;
- (d) any sums of money borrowed by the Fund with the approval of the County Assembly; and
- (e) any gifts, donations, grants and endowments made to the Fund.

(2) There shall be paid out of the Fund any expenditure approved by the Member of the Executive Committee and incurred in connection with the administration of the Fund.

Establishment of the Kisii County Youth and Women Empowerment Fund Committee

7. (1) There is established a Committee to be known as the Kisii County Youth and Women Empowerment Fund Committee which shall consist of—

- (a) the County Chief Officer in the County department for the time being responsible for matters relating to Gender, Youth, Sports, Culture and social services who shall be the Chairperson;
- (b) the County Chief Officer in the County department for the time being responsible for finance or a representative appointed in writing;
- (c) the County Attorney in the county or a representative appointed in writing;
- (d) four persons, not being public officers, who shall be appointed by the Member of the Executive Committee through a competitive and transparent recruitment process; and
- (e) the Fund Manager appointed under Section 14, who shall be the secretary to the Committee.

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(2) The persons appointed under Section (1) (d) shall hold office for a term of three years renewable for one further term.

(3) A person shall be qualified for appointment under Section (1) (d) if that person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has at least three years professional experience in the relevant field; and
- (c) meets the requirements of leadership and integrity as provided for in Chapter 6 of the Constitution or relevant national legislation.

Terms and conditions of service

8. The members of the Committee shall be paid such allowances as the Executive Committee Member shall determine in consultation with the County Public Service Board.

Vacation of office of member

9. (1) The office of a member of the Committee appointed under Section 7 (1) (d) shall become vacant if the member—

- (a) is adjudged bankrupt;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is convicted of an offence involving fraud or dishonesty;
- (d) is absent, without reasonable cause, from three consecutive meetings of the Committee;
- (e) resigns in writing addressed to the Member of the Executive Committee;
- (f) is removed from office by the Member of the Executive Committee for—
 - (i) being unable to perform the functions of his office by reason of mental or physical infirmity; or
 - (ii) failing to declare his or her interest in any matter being considered or to be considered by the Committee; or
 - (iii) any other sufficient reason as may be prescribed.
- (g) dies.

Functions of the Committee

10. The functions of the Committee are to—

- (a) formulate policy guidelines on the operationalization of the Fund funding;
- (b) ensure that all projects funded under this Act are consistent with the priorities of the County Government as specified in the relevant policy documents;
- (c) approve proposals submitted to it by the Unit under these;
- (d) authorise allocations from the Fund ;
- (e) formulate or approve standards, guidelines and procedures for funding proposals under this Act,
- (f) approve the organizational structure of the Unit in consultation with the CEC Member for matters relating to Gender, Youth, Sports, Culture and Social Services;
- (g) provide administrative oversight in the utilization of the Fund; and
- (h) perform any other function as may be conferred on it by these Section or any other written law.

Delegation by the Committee

11. (1) The Committee may establish such sub-committees as it may consider necessary for the better performance of its functions and the exercise of its powers under this Act.

(2) The Committee may co-opt into the membership of a sub-committee established under subsection (1), such persons whose knowledge and skills are found necessary for the performance of the functions of the sub-committee.

(3) The Committee may, by resolution either generally or in any particular case, delegate to any sub-committee or to any member, officer, employee or agent of the Committee, the exercise of any of the powers or the performance of any of the functions of the Committee under this Act or under any other written law.

Conduct of affairs of the business of the Committee

12. (1) Subject to subsection (2), the business and affairs of the Committee shall be conducted in accordance with the First Schedule.

(2) Except as provided in the Schedule, the Committee may regulate its own procedure.

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*Kisii County Youth and Women Empowerment Fund***Kisii County Youth and Women Empowerment Fund Unit**

13. There is established, within the County department responsible for matters relating to the Gender, Youth, Sports, Culture and Social services, a unit to be known as the Kisii County Youth and Women Empowerment Fund Unit.

Composition of the unit

14. (1) The unit shall consist of—

- (a) a Fund Manager; and
- (b) such staff as the Committee may consider necessary for the performance of the functions of the unit under this Act.

(2) The Committee shall appoint the Fund Manager and staff of the unit through a competitively recruitment process and appointed on such terms and conditions as shall be determined by the County Public Service Board.

(3) A person shall be qualified for appointment as the Fund Manager of the unit if such person—

- (a) holds minimum qualification of a diploma from a recognized institution;
- (b) has at least 2 years professional experience in the relevant field.

(4) The appointment of the Fund Manager under subsection (1) shall be by notice in the County *Gazette* for a term of three years and shall be eligible for re-appointment.

Vacation of office of Fund Manager

15. (1) The office of the Fund Manager shall become vacant if the member—

- (a) is adjudged bankrupt;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) resigns in writing addressed to the Committee;
- (d) is removed from office by the Committee for—
 - (i) being unable to perform the functions of his office by reason of mental or physical infirmity; or
 - (ii) failing to declare his interest in any matter being considered or to be considered by the unit or the Committee; or
 - (iii) fails to perform his or her duties in accordance with the terms and conditions of appointment.
- (e) dies.

No. 5*Kisii County Youth and Women Empowerment Fund***Functions of the Unit**

16. (1) The functions of the unit are to –

- (a) administer the Fund,
- (b) provide technical, financial and legal expertise to the beneficiaries of the Fund;

(2) In the performance of its functions under subsection (1), the unit shall—

- (a) conduct civic education to promote the awareness and understanding of the operations of the Fund amongst stakeholders;
- (b) provide capacity building to women and youth to ensure the effective use the funds borrowed under this Act;
- (c) develop framework that will ensure an open, transparent and efficient use of funds borrowed under this Act;
- (d) conduct research and gap analysis to ensure continuous performance improvement of the Fund;
- (e) assist micro-enterprises , where the unit considers it necessary, to design, identify, select, prioritize, appraise, evaluate and negotiate investment opportunities what will result in maximum benefits;
- (f) maintain a record of all Fund documentation;
- (g) assist the Member of the Executive Committee in formulating guidelines and standard documentation required under;
- (h) carry out such other functions as may be conferred on it by the Member of the Executive Committee and this Act.

(3) The unit shall prepare financial accounts and an inventory of any monies allocated to it, any financial support received by it and any success fees received by it from a private party or project company as the case may be, under this Act.

Administration of the Fund

17. (1) An applicant wishing to be considered for the grant of a loan shall make an application to the Unit in the prescribed form.

(2) An applicant that has been awarded a loan will be issued with a Loan Identification Account Number by the Unit.

(3) An applicant who—

- (a) in filling a loan application form, knowingly makes any false statement, whether orally or in writing relating to any matter affecting his request for a loan; or

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- (b) being required under paragraph (a) to answer any questions, furnish any information or particulars or produce any document or paper, neglects to do so without reasonable cause; or
- (c) is granted a loan based on false information.

shall be guilty of an offence and in the case of paragraphs (a) and (b) be liable to a fine of not more than one hundred thousand shillings or to imprisonment for a term of not more than six months and in the case of paragraph (c) to a fine of not more than one hundred thousand shillings or to imprisonment for a term of not less than eight months.

Conditions for grant of loan

18. (1) The Unit may—

- (a) accept or reject any application for a loan;
- (b) grant a loan to an applicant and in so granting impose conditions, demand security and require repayment in installments at such times and within such periods as the Unit deems fit:

Provided that and subject to the provisions of this section the Unit may upon the request by an applicant to whom a loan has been granted at any time vary—

- (i) the condition subject to which the loan was made;
- (ii) any security given in relation to the loan; or
- (iii) any of the terms of repayment of the loan.

(2) Where the Unit has resolved to make a loan to an applicant, the Unit shall notify the applicant in writing, and require him within a specified period not exceeding six months to comply with any conditions and provide any security which the Unit may have imposed or demanded.

(3) Where an applicant fails to comply with the requirement of the Unit notified to him under subsection (2) within the prescribed period, the application shall be deemed to have lapsed.

(4) Where in granting a loan to an applicant the Unit considers it prudent to request for a guarantor to guarantee any loan granted to the applicant in case of any default by the applicant in the repayment of the loan any guarantor who has guaranteed any such loan, shall automatically and fully be liable to pay to the Unit all or any loan together with interest accrued and outstanding owed to the Unit by the loanee, as shall be notified to the guarantor by the Unit.

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(5) Where a guarantor who has been notified by the Unit under subsection (4) fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be liable to civil proceedings.

Annual returns

19. On the last day of each financial year the Unit shall send to all loanees an annual return form which every loanee shall be required to fill and submit to the Unit before the end of the month of August of the succeeding year.

Loan Repayments

20. A loanee shall repay the borrowed sums and interest on such terms and conditions as may be prescribed.

General provisions

21. (1) If in the opinion of the Unit here has been or is likely to be any breach of or failure to comply with any condition or term of repayment respecting a loan the Unit may forthwith—

- (a) recover the loan from the beneficiary as a civil debt under the Debts (Summary Recovery) Act, Chapter 42 of the Laws of Kenya, the amount of the loan or the amount thereof then remaining unpaid together with interest thereon;
- (b) enforce or realize any security relating thereto.

(2) The Unit may, in exercise of the powers conferred by subsection (1), engage the services of private legal practitioners with the approval of the County Attorney.

Salaries of the Fund Manager and the Unit

22. The salary and allowances of the Fund Manager and staff of the Unit shall be paid out of the Fund.

Financial reporting and audit

23. (1) A person who has benefited from a loan grant under this Act shall keep proper books of accounts and records in relation to the funds and shall if required open the same for scrutiny by the Unit.

(2) The beneficiary shall submit the financial accounts and any other information as may reasonably be required by the Unit within six months after the end of each financial year

Audit of the Fund

24. The Fund shall be audited and reported upon by the Auditor-General in accordance with the provisions of the Public Audit Act, 2013.

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*Kisii County Youth and Women Empowerment Fund***Establishment of Ward Committees**

25. (1) There is established for each ward a Ward Committee which shall assist in the identification of beneficiaries of the Fund.

(2) The Ward Committee shall comprise—

- (a) the Ward Administrator who shall be the Chairperson;
- (b) the head of the department of the County Government responsible for youth affairs at the ward level ;
- (c) two persons of the female gender one of whom shall be a representative from a Community based Organization operating in the ward,
- (d) a man and a woman below the age of 35 years resident in the ward; and
- (e) One representative from the Business Community.

(3) The Member of the Executive Committee shall appoint the Members of the Committee under paragraph (c), (d), and (e) through a competitive and transparent recruitment process.

(4) Members of the Committee shall serve on a part time basis.

(5) The County Public Service Board shall determine allowances payable to member of the Committee.

Power to issue Regulations

26. (1) The Member of the Executive Committee shall issue regulations generally for the better carrying out the provisions of this Act, and without prejudice to the foregoing, may issue regulations in respect of the following—

- (a) The operationalization of the Ward Committees;
- (b) the receipt, processing and approval of applications for loans and the granting of loans to applicants;
- (c) the preparation and maintenance of loanees' records; already granted;
- (d) the withdrawal, recovery and cancellation of loans;
- (e) the waiver or exemption from repayment of loans; and
- (f) the setting-up of procedures for dealing with loan defaulters.

(2) The regulations issued under this Act shall be approved by the County Executive Committee and the County Assembly before taking effect.

SCHEDULE

SECTION 12 (1)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

Meetings

1. (1) The Committee shall meet at such place in Kenya as the chairperson may determine and the meetings shall be convened by the chairperson.

(2) The Committee shall have at least four meetings in every financial year and not more than three months shall elapse between one meeting and the next meeting.

(3) Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member by the Fund Manager of the unit.

(4) The chairperson may, at his discretion or at the written request made by at least half of the members of the Committee and within seven days of the request, convene an extraordinary meeting at such time and place and he may appoint.

(5) Meetings shall be presided over by the chairperson or in his or her absence by the vice-chairperson.

(6) The members of a Committee shall elect a vice- chairperson from among themselves—

- (a) at the first sitting of the Committee; and
- (b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

(7) Where the chairperson or vice-chairperson is absent, the members shall appoint from among themselves, a person to chair the meeting of the Committee.

(8) The Committee may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Committee.

Conflict of interest

2. (1) If any person has a personal or fiduciary interest in a project, proposed contract or any matter before the Committee, and is present at a meeting of the Committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take

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part in any consideration or discussion of, or vote on any question touching such matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

Quorum

3. (1) Subject to subparagraph (2), the quorum of the meeting shall not be less than half of the appointed members of the Committee.

(2) Where the persons present at a meeting of the Committee do not constitute the quorum necessary to hold a meeting under these Regulations or where by reason of exclusion of a member from a meeting, the number of members present falls below the quorum necessary to hold a meeting, the Committee shall postpone the consideration of the matter in question until there is a quorum.

Voting

4. A question before the Committee shall be decided by simple majority of the members present and voting and the chairperson shall, in the case of an equality of votes, have a casting vote.

Rules of Procedure and minutes

5. The Committee shall—

- (a) determine rules of procedure for the conduct of its business; and
- (b) keep minutes of its proceedings and decisions.

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