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LAIKIPIA COUNTY ACTS, 2017

NAIROBI, 22nd May, 2017

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COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

THE LAIKIPIA COUNTY SOCIAL ASSISTANCE ACT, 2017

No. 2 of 2017

Date of Assent: 23rd December, 2014

Date of Commencement: 22nd May, 2017

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THE LAIKIPIA COUNTY SOCIAL ASSISTANCE ACT, 2017

AN ACT of County Assembly of Laikipia to provide for social assistance scheme for older persons and persons with disabilities and for connected purposes

ENACTED by the County Assembly of Laikipia, as follows —

PART I — PRELIMINARY

1. This Act may be cited as the Laikipia County Social Assistance Act, 2017.

Short title.

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

Interpretation

“County Executive Committee” means the County Executive Committee of county government of Laikipia;

“Board” means the Laikipia County Social Assistance Board established under section 4;

“department” means the county department designated by the County Executive Committee to be responsible for social services;

“Executive Member” means the county executive committee member responsible for social services;

“Ward Committee” means the Ward Social Assistance Committee established under section 13;

“social assistance” in this Act means the support or assistance provided for the welfare of beneficiaries under this Act and includes financial and non financial assistance.

3. The purpose of this Act is to provide for the establishment of a social assistance scheme for older persons and persons with disabilities and to facilitate realization of Article 57 (d) of the Constitution in order to—

Purpose of the Act.

- (a) provide for their financial and social support;
- (b) promote their social welfare;
- (c) mitigate the social and economic vulnerability affecting them; and
- (d) facilitate the establishment of social assistance programs; and

- (e) improve their living standards.

PART II — ADMINISTRATION

4. There is established a Board to be known as the Laikipia County Social Assistance Board.

Establishment of the Board.

5. The Board shall be responsible for —

Functions of the Board.

- (a) facilitating the implementation of this Act;
- (b) initiating in collaboration with other public and private stakeholders, social assistance programs or services for beneficiaries under this Act;
- (c) registering persons who qualify for social assistance in the county;
- (d) receiving and approving applications for social assistance to beneficiaries under this Act;
- (e) promotion of integration of older persons and persons with disabilities into the ordinary society life;
- (f) coordinating social assistance programs initiated by public or private stakeholders;
- (g) advising Executive Member and on necessary policies, programs and plans to be adopted in order to promote social assistance to and integration of beneficiaries under this Act; and
- (h) carrying out such other functions necessary for the better implementation of this Act or as may, from time to time, be assigned by the county executive committee in order to effectively achieve the purpose of this Act.

6. (1) The Board shall consist of —

Composition of the Board.

- (a) a chairperson who shall be appointed by the Executive Member in consultation with the Governor;
- (b) chief officer responsible for social services;
- (c) three persons representing older persons, one from each sub county: provided that at least one person shall be of either gender;
- (d) three persons representing persons with disabilities, one from each sub county: provided that at least one person shall be of either gender;

- (e) one person representing non state actors which provide social assistance to beneficiaries under this Act.
- (f) the officer of the Department designated as the Fund manager who shall be an *ex officio* member and secretary to the Board.

(2) A person shall not be qualified for appointment as a chairperson or a member appointed under subsection (1) (c) (d) and (e) unless the person —

- (a) holds at least diploma from a recognized institution;
- (b) has experience of at least three years in in public or private sector;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) is a resident of the county or sub county in the case of persons appointed under subsection (1) (c) (d) and (e).

(3) The term of office for the chairperson or a member appointed under sub section (1) (c) (d) and (e) shall be three years, which may be renewed for one further and final term, after which the person shall retire from the Board for at least two years before being eligible for appointment to the Board.

7. A member of the Board may —

Removal
office. from

- (a) at any time resign from office by issuing notice in writing to the chairperson of the Board;
- (b) be removed from office by the Executive Member, for—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence;
 - (v) bankruptcy.

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COUNTY ASSEMBLIES FORUM (CAF)
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8.(1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule.

Conduct of business.

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

9. The remuneration of the members of the Board shall be as determined by the County Treasury.

Remuneration of the Board.

10. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Executive Member a report of the operations of the Authority for the immediate preceding year.

Reporting.

(2) The report prepared under this section shall provide information regarding the activities and plans of the Board during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and its plans and priorities and, without limitation, shall include—

- (a) the number of beneficiaries supported classified in accordance with the categories of beneficiaries against the number of registered persons under this Act;
- (b) the amount disbursed to the beneficiaries;
- (c) the challenges faced in implementing the Act;
- (d) the level of support in kind or cash received from other stakeholders in regard to implementation of the Act; and
- (e) any other matter as the Executive Member may require.

(3) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for tabling before the county assembly for consideration.

(4) The County Assembly may, after considering the report make recommendations to the county executive committee on appropriate ways of effectively implementing the Act.

11.(1) There is established a fund to be known as the Social Assistance Fund.

Establishment of the Fund.

- (2) The Fund shall consist of—
- (a) such grants or transfers as may be received from the national government;
 - (b) such monies as may be appropriated by the County Assembly;
 - (c) sums received, including contributions, gifts or grants from or by way of testamentary bequest from any lawful source;
 - (d) moneys earned or arising from any investment of the Fund;
 - (e) all other sums which may in any manner become payable to, or vested in, the Fund.
- (3) The Fund shall be used for meeting the capital and recurrent expenditure relating to—
- (a) providing social assistance to beneficiaries under this Act;
 - (b) assisting in the operations of the Board in carrying out its functions; and
 - (c) any other matter incidental to the matters stated in paragraphs (a) and (b).
- (4) Not more than an amount of more five per cent of the Fund's annual income shall be used to fund the administrative costs of the Board.

12. (1) The Fund shall be administered by the Chief Officer responsible for social services.

Administration of
the Fund.

(2) The Chief Officer may, with the approval of the Executive Member for the time being responsible for finance, invest or place on a deposit account any of the moneys of the Fund and any interest earned on moneys so invested or deposited shall be placed to the credit of the Fund.

- (3) The Chief Officer shall—
- (a) supervise and control the administration of the Fund;
 - (b) impose conditions on the use of any expenditure personally authorized and may impose any restriction or other requirement concerning use of expenditure;

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- (c) cause to be kept proper books of account and other books and records in relation to the Fund as well as to all the various activities and undertakings of the Fund;
- (d) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund in accordance with the Public Audit Act, 2003 and in such details as the County Treasury may from time to time direct;
- (e) furnish such additional information as may be required for examination and audit by the Auditor-General or under any law; and
- (f) designate such staff as may be necessary to assist in the management of the Fund.

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PART III—SOCIAL ASSISTANCE

13.(1) There is established for each Ward, the Ward Social Assistance Committee.

Ward Committee.

- (2) The Ward Committee shall consist of—
 - (a) a chairperson appointed by the Executive Member in consultation with the Member of County Assembly;
 - (b) the officer of the county government responsible for social services in the Ward which shall be an *ex-officio* member and Secretary to the Committee;
 - (c) one person representing older persons elected by the older persons in the ward;
 - (d) one person representing persons with disabilities appointed by the Executive Member in consultation with the forum of organizations or persons with disabilities;
 - (e) one person nominated by faith based organizations in the Ward and appointed by the Executive Member; and
 - (f) one person nominated by non governmental organizations working with persons with disabilities or older persons in the Ward and

appointed by the Executive Member.

14. A member of the Ward Committee may —

Removal
office. from

- (c) at any time resign from office by issuing notice in writing to the chairperson of the Ward Committee;
- (d) be removed from office by the Executive Member, for—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence;
 - (v) bankruptcy.

15. (1) The conduct and regulation of the business and affairs of the Ward Committee shall be as set out in the Schedule.

Conduct of business.

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

16. The Ward Committee shall be responsible for —

Functions of the
Ward Committee.

- (a) receiving applications for social assistance on behalf of the Board;
- (b) reviewing and assessing the applications received and recommending for approval by the Board;
- (c) creating public awareness to the local community on the requirements of this Act; and
- (d) carrying out any other function as may be assigned by the Executive Member.

17. The Board shall provide social assistance to older persons and persons with disabilities who qualify as provided under this Act.

Provision of social
assistance.

18. (1) A person shall qualify for social assistance under this Act if the person —

Eligibility for social
assistance.

- (a) being an older person of not less than sixty years of age —

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- (i) is unemployed;
- (ii) is poor or has no means of economic self sustenance;
- (iii) does not receive social assistance from any source;
- (iv) is not receiving pension; or
- (v) has been abandoned or neglected without any ascertainable means of support;
- (b) has physical or mental disability rendering the person incapable to cater or meet basic needs or the person is totally or partially dependent on other persons for financial support; or
- (c) has chronic illness which renders the person to be incapable of catering or meeting the person's basic needs and there is no known source of income or financial support; and
- (d) is a resident in the respective Ward.

(2) A person shall not be eligible for social assistance under this Act if the person is enrolled in another social assistance program which in the opinion of the Board, is sufficient to meet the persons basic needs.

19. (1) A person who is eligible for social assistance under this Act shall register with the Board in the prescribed form.

Registration with the Board.

(2) A person shall not receive any social assistance under this Act unless the person is registered under this section.

20. The social assistance granted under this Act may be in the form of—

Form of social assistance.

- (a) cash or kind transfers;
- (b) payment for health care;
- (c) provision of housing and shelter;
- (d) temporary subsidies; or
- (e) emergency assistance;
- (f) any other prescribed form.

21. (1) A person who is eligible under section 20, may apply to the Board through the Ward Committee for social

Application for social assistance.

assistance in the prescribed form.

(2) Where a person is not capable to apply to the Board, another person who is a guardian or family member may apply on behalf of the person.

(3) The Ward Committee shall, review and assess the application in accordance with the requirements of this Act and shall recommend to the Board within fourteen days upon receiving the application, the persons who qualify for social assistance under this Act.

(4) Where the Ward Committee rejects an application, it shall notify the applicant within seven days of making such decision.

(5) The Board shall review and consider the application received from the Ward Committee and shall ascertain that the applicant meets all the requirements under this Act.

(6) The Board shall notify the applicant of its decision within fourteen days upon receiving the application.

(7) Where the Board approves an application, it shall determine the form add the amount of money for the social assistance appropriate for the applicant as prescribed and shall notify the applicant of its decision.

(8) Where the Board rejects an application, it shall notify the applicant giving the reasons for such rejection.

(9) The Board shall conduct due diligence on the information provided and the suitability of applicant to receive the social assistance

(10) The Board shall submit the list of the approved applications, which shall contain a summary of the information submitted by the applicant to the Executive Member for final approval.

22.(1) The Ward Committee shall submit to the Board a list and information of persons who were not recommended for social assistance by the Committee.

Submission of
unqualified
applicants.

(2) The Board may, in consultation with the Ward Committee include a person to the list of persons recommended under section 21.

23. (1) A person who is aggrieved by the decision of the Board may appeal to the Executive Member with

Appeals

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twenty one days upon receiving the decision of the Board.

(2) The Executive Member shall review the application for appeal and may —

- (a) uphold the decision of the Board;
- (b) nullify the decision of the Board; and
- (c) issue directives to the Board as deemed appropriate.

(3) The Executive Member shall notify the appellant of the outcome of the decision within fourteen days.

24. The Executive Member shall disburse the monies or support approved for social assistance through the methods as approved by the Executive Member.

Disbursements.

25. A person who receives social assistance under this Act shall utilize the assistance only for the purposes approved by the Board.

Utilization of social assistance.

26. Where in the opinion of the Executive Member a beneficiary is utilizing the social assistance for other purposes other than the approved ones, the Executive Member may —

Abuse of social assistance.

- (a) suspend the social assistance to the person; or
- (b) appoint a person to receive social assistance on behalf of the beneficiary and to apply it, subject to the prescribed conditions and any other conditions that the Executive Member may determine, for the benefit of the beneficiary.

27. The Board may suspend or cancel social assistance if the social assistance was —

Suspension of social assistance.

- (a) obtained through misrepresentation, deceit, fraud or failure to disclose information;
- (b) in excess of amounts permitted by this Act; and
- (c) approved and granted in error.

28. Where a person was granted social assistance on the basis of false information, fraud, misrepresentation or failure to disclose information, the person shall refund the amount received to the county government.

Refund to the government.

29. Social assistance lapses —

Lapsing of social assistance.

- (a) when the beneficiary dies; or

- (b) when a beneficiary is admitted to a residential institution that provides social assistance to the person.

30. The Board may enter into partnership or collaboration with any entity for the purposes of carrying out the objectives of this Act.

Partnership.

31. (1) The Executive Member may, with the approval of the County Executive Member establish such residential homes for persons who qualify for social assistance under this Act.

Residential homes.

(2) The Executive Member shall prescribe the guidelines for persons who qualify to be admitted to a residential home established under this Act.

PART IV – GENERAL PROVISIONS

32. The Executive Member may, in consultation with the Board make Regulations generally for the better carrying out of the objects of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the Regulations may —

- (a) the amount of payment for social assistance;
- (b) forms applicable under this Act;
- (c) guidelines for admitting a person to a residential home.

Schedule (s.8 and 15)**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE BOARD AND COMMITTEE****Meetings**

1. (1) The Board or Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least half of the members shall, convene a special meeting of the Board or Committee at any time for the transaction of the business of the Board or Committee.

(3) Unless three quarters of the total members of the Board or Committee otherwise agree, at least fourteen days' written notice of every meeting of the Board or Committee shall be given to every member of the Board or Committee.

(4) The quorum for the conduct of the business of the Board shall be five members and for the Committee three members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board or Committee at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board or Committee shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board or Committee shall be invalid by reason only of a vacancy among the members thereof.

Conflict of interest

2. (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or Committee or other matter before the Board or Committee and is present at a meeting of the Board or Committee at which the matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or

be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board or Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A member of the Board or Committee shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board or Committee.

(3) Where the Board or Committee becomes aware that a member has a conflict of interest in relation to any matter before the Board or Committee, the Board or Committee shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the executive Member in writing.

(5) Upon the Board or Committee becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board or Committee and the member with the conflict of interest shall not vote on this determination.

Code of conduct

3. The Board or Committee shall comply with the code of conduct governing public officers.

Minutes.

4. The Board or Committee shall cause minutes of all resolutions and proceedings of meetings of the Board or Committee to be entered in books kept for that purpose.