

SPECIAL ISSUE

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**THE NYANDARUA COUNTY CO-OPERATIVE SOCIETIES
ACT, 2017**



No 6 of 2017

Date of Assent 26th June, 2017

Date of Commencement 3rd July, 2017

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Nyandarua County Co Operative Societies**THE NYANDARUA COUNTY CO-OPERATIVE SOCIETIES****ACT, 2017**

AN ACT of the County Assembly of Nyandarua to provide for County Co-operative Societies institutional framework and for related matters

ENACTED by the County Assembly of Nyandarua as follows—

PART I—PRELIMINARIES**Citation and Commencement**

1 This Act shall be cited as the Nyandarua County Co-operative Societies Act, 2017 and shall come into operation upon publication in the *Gazette*

Interpretation**Cap 490 Laws of Kenya**

2 In this Act—

“co-operative society” means a co-operative society registered under section 4 of the Co-operative Societies Act and includes a Saving and Credit Co-operative Society,

“department” means a County Executive Committee portfolio established by the Governor for matter of co-operative societies,

“director” means the director appointed under section 4 of this Act,

“executive committee member” means the County Executive Committee Member responsible for co-operative matters,

“fund” means the Co-operative Enterprises Development Fund established under section 13 of this Act

Objects of the Act

3 The objective of this Act is to provide a legal framework for the regulation and promotion of Co-operative Societies in the county by—

- (a) establishing an institutional framework for Co-operative Societies matters in the County Government,
- (b) providing linkage mechanism for the County Government and the Co-operative Societies, and
- (c) establishing a fund to promote the growth of Co-operative Societies in the county

PART II—ESTABLISHMENT OF THE COUNTY DIRECTORATE FOR CO-OPERATIVES

Establishment of the Directorate

4 (1) There is established in the county department for matters of Co-operative Societies, the Directorate for Co-operatives

(2) The Directorate shall be headed by a Director who shall be a public officer competitively sourced by the County Public Service Board upon such terms and requirements as it shall determine

(3) The County Public Service Board shall, on advice and recommendation by the Executive Committee Member, create such divisions or sections in the Directorate as shall be necessary for purpose of performing and achieving its responsibilities

(4) The Directorate shall decentralize its functions in the county's units of decentralization as shall be practicable

Staff of the Directorate

5 The County Public Service Board shall ensure that there are adequate staffs for the Directorate to ensure smooth operations and realization of its duties

Duties and Responsibilities of the Directorate

6 The Directorate shall be responsible for—

- (a) implementing county policies on matters of Co-operative Societies,
- (b) coordinating Co-operative Societies operating in the County for participation in governance,
- (c) promoting the growth of Co-operative Societies in the County,
- (d) promoting good governance and accountability in the management of Co-operative Societies,
- (e) inspecting Co-operative Societies operating in the County,
- (f) developing policies and strategies aimed at promoting the Co-operative Societies in the County,
- (g) liaising and collaborating with other Counties on matters of Co-operative Societies development,
- (h) linking and co-operating with national government agencies established to deal with matters of Co-operative Societies, and
- (i) performing such other function and responsibility as may be assigned to it by the Executive Committee Member

Funding of the Directorate

7 The Directorate's programmes shall be funded through the County budgetary appropriations approved in accordance with the relevant laws

PART III—COUNTY CO-OPERATIVE SOCIETIES LEADERS FORUM AND SUB- COUNTY COMMITTEES

Sub-County Co-operative Societies leaders' Forum

8 (1) The Directorate shall, at least twice in every financial year, organize and convene in each Sub-County, the Co-operative Leaders' Forum

(2) The forum shall be open for attendance to leaders of all registered Co-operative Societies operating in the Sub-County

(3) The Director shall chair the forum

(4) The forum shall address matters affecting Co-operative Societies at the Sub-County

(5) The Sub-County Co-operative Officers shall be secretaries of their respective Sub-Counties' Fora

County Co-operative Societies Leaders' Forum

9 (1) The Directorate shall, at least once in every financial year, organize and convene the County Co-operative Leaders' Forum

(2) The forum shall be open for attendance to leaders of all registered Co-operative Societies operating in the County

(3) The Chief Officer shall chair the forum and the Director shall be the Secretary

(4) The forum shall address matters affecting Co-operative Societies in the county

Sub-County Co-operative Committees

10 (1) The Executive Committee Member may, through a *Gazette Notice*, appoint a person or an *ad hoc* committee to oversee or investigate Co-operative Societies on any matter of governance in accordance with the law

(2) The remuneration of such a committee shall be subject to the recommendation by the Salaries and Remuneration Commission

PART IV—CO-OPERATIVE SOCIETIES ENTERPRISE DEVELOPMENT FUND

Establishment of Co-operative Societies Enterprise Development Fund

11 (1) There is established a Fund known as the Co-operative Societies Enterprise Development Fund which shall consist of—

- (a) such monies as may be appropriated by the County Assembly,
- (b) such monies as may be realized from repayment of the capital and interest of any loan granted from the Fund,
- (c) any gifts, donations, grants and endowments lawfully granted to the Fund,
- (d) all other sums which may in any manner become lawfully payable to, or vested in the Fund

(2) The Fund shall be utilized to advance loans to such Co-operative Societies as may be approved

Funds to remain in Fund at the end of a Financial Year

12 (1) The Fund shall be a revolving fund and all receipts, earnings, accruals and its balances at the close of each financial year shall not be paid into the County Revenue Fund but shall be retained in the Fund in accordance with section 109 (2)(d) of the Public Finance Management Act

(2) Interest accruing to the Fund may be used to defray costs incurred in its administration by the Loans Appraisal Committee established under this Act

Administrator of the Fund

13 The Executive Committee Member responsible for matters of finance shall designate an administrator of the Fund in accordance with section 116 of the Public Finance Management Act

Loans Appraisal Committee

14 (1) There is established in the Directorate, the Loans Appraisal Committee comprising of not more than five members who shall be officers in the Directorate designated by the Executive Committee Member

(2) In addition to the five members designated under sub-section 1, the Director shall be a member and the Chairperson of the committee

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while the Administrator designated in accordance with section 15 of the Act, or the administrators designate shall be the Secretary

Duties of the Committee

15 The Loans Appraisal Committee shall vet all the loan applications to the Fund and determine the suitability or otherwise of a Co-operative Society to be granted a loan from the Fund

Application for a loan

16 An application for a loan under this Act shall be made to the Administrator who shall forward the same to the Loans Appraisal Committee for vetting in accordance with this Act

Eligibility for a loan

17 A Co-operative Society shall be eligible to access a loan from the Fund if—

- (a) it was registered and has been operational for at least one year preceding the coming into force of the Act,
- (b) it operates in the County,
- (c) has at least two thirds of members being residents of the County,
- (d) has audited accounts for at least one preceding year,
- (e) has no known history of defaulting debt repayment, and
- (f) meets such other conditions as may be prescribed by the Executive Committee Member

(2) Notwithstanding sub-section (1)(a), a Co-operative Society may be eligible to be granted a loan from the Fund if it has been operational for a period of at least six months preceding the application, and registered after the coming into force of the Act

Loans to be secured and attract interest

18 (1) A loan advanced from the Fund shall be secured by collateral security whose value shall be more than the amount being advanced

(2) The Administrator shall cause to be charged in favour of the County Government, the collateral securing a loan advanced from the Fund

(3) The Loans Appraisal Committee may, on exceptional circumstance depending on what the loan is to be applied, exempt a Co-operative Society from providing a collateral security and instead require the Co-operative Society to provide another type of security

(4) Notwithstanding sub-section (3), the Executive Committee Member shall not exempt the requirement of a collateral security where the loan's repayment period exceeds thirty days

(5) The Executive Committee Member shall, with the approval of the County Executive Committee, prescribe the interest rate to accrue to loans advanced from the Fund

Power to recover a loan in the event of default

19 (1) In the event of default in repayment of a loan advanced from the Fund, the Administrator shall realize the loan by public auction or private treaty of the collateral security

(2) On default of repayment of a loan, the Administrator shall issue the defaulter with a ninety days notice calling for full repayment of the loan together with accrued interest

(3) Upon expiry of the ninety days' notice, the Administrator shall exercise power of sale under sub-section (1)

PART V—BOOKS OF ACCOUNTS AND FINANCIAL REPORTS

Books of accounts and Reports

20 (1) The Administrator shall—

- (a) maintain accurate books of accounts in respect of the Fund, and
- (b) submit all financial reports and other reports as required by the Public Finance Management Act to—
 - (i) county Assembly,
 - (ii) the office of the Auditor General, and
 - (iii) the office of the Controller of Budget

Audit of the Fund

Cap 412B Laws of Kenya

21 The Fund shall be subject to auditing in accordance with the Public Audit Act

PART VI—MISCELLANEOUS PROVISIONS

Power to make subsidiary Legislation

22 (1) The Executive Committee Member shall make such subsidiary legislation as shall be necessary to implement this Act

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(2) Notwithstanding the provisions of sub-section (1), the Loan Appraisal Committee Members shall in consultation with the Loan Appraisal Committee make regulations on—

- (a) loan repayment period,
- (b) the timelines for application of loans,
- (c) the grace period for the loans,
- (d) the Prescribed Loan Application Forms,
- (e) types of assets to be considered as collateral,
- (f) procedures for conduct of business for county co-operative societies forums,
- (g) procedures for the appointment, suspension and removal of the members of the Loans Appraisal Committee,
- (h) the conduct of meetings of the Loans Appraisal Committee,
- (i) procedure at meetings of the Sub-County and County levels, and
- (j) the duties to be performed by the Loans Appraisal Committee to include reporting the results of loan appraisal and approvals

Transitional

23 Any public officer serving in the County Government appointed and working in the co-operatives department before the coming to effect of this Act and is shall be deemed to be in the service of the Directorate of Co-operatives as established under Part II of this Act