

SPECIAL ISSUE

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

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

Kenya Gazette Supplement No. 14 (Turkana County Acts No. 7)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

TURKANA COUNTY ACTS, 2019

NAIROBI, 31st December, 2019

CONTENT

Act—

PAGE

The Turkana County Co-operative Enterprise Development Fund (Amendment) Act, 2019	1
--	---

**THE TURKANA COUNTY CO-OPERATIVE ENTERPRISE
DEVELOPMENT FUND (AMENDMENT) ACT, 2019**

No. 7 of 2019

Date of Assent: 6th December, 2019

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I— PRELIMINARY

- 1—Short title and commencement.
- 2—Applications.
- 3—Interpretation.

**PART II—ESTABLISHMENT, FUNCTIONS AND POWERS OF
THE FUND**

- 4—Establishment of the Fund.
- 5—Fund to be body corporate.
- 6— Objects of the fund.
- 7—Powers of the County Executive Committee Member.

PART III — MANAGEMENT OF THE FUND

- 8—Guiding principles of operating the fund.
- 9—Revenue and expenditure of the fund.
- 10—Expenses.
- 11—Management Board of the Fund.
- 12—Powers of the Board.
- 13—Committees and delegation of powers.
- 14—Remuneration of Board Members.
- 15—Meetings and procedure of the Board.
- 16—Appointment and remuneration of the Fund Administrator.
- 17—Appointment and Remuneration of staff.

PART IV —FINANCIAL YEAR

- 18—Financial Year
- 19—Annual Estimates.

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

- 20—Accounts and Audit.
- 21—Annual reports.
- 22—Reserves.
- 23—Investment of Funds.
- 24—Accessing money from the Fund.
- 25—Conditions for grant of Loan.
- 26—Loan Repayment.
- 27—General Provisions.
- 28—Default by Officers.
- 29—Miscellaneous offences.

PART V—MISCELLANEOUS PROVISIONS

- 30—Common seal.
- 31—Exemption for liability.
- 32—Settlement of Disputes.
- 33—General penalty.
- 34—Power to make Regulations.

**FIRST SCHEDULE — PROVISIONS AS TO THE CONDUCT
OF BUSINESS AND AFFAIRS OF THE
BOARD MEETINGS**

2019 *Turkana County Co-operative Enterprise Development Fund (Amendment) Act, 2019*

**THE TURKANA COUNTY CO-OPERATIVE ENTERPRISE
DEVELOPMENT FUND (AMENDMENT) ACT, 2019**

AN ACT of the County Assembly of Turkana to establish an Enterprise Development Fund for the Co-operative sector in Turkana County by providing low interest loans to Co-operative institutions that seek to promote the welfare and economic uplifting of the people of Turkana County and for connected purposes

ENACTED by the County Assembly of Turkana, as follows—

PART I—PRELIMINARY

Short Title and Commencement

1. This Act may be cited as the Turkana County Co-operative Enterprise Development Fund (Amendment) Act, 2019 and shall come into operation on the date of publication in the *Kenya gazette*.

Application

2. This Act shall apply to registered Co-operative Societies in Turkana County.

Interpretation

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

“Act” means the Turkana County Co-operative Enterprise Development Fund (Amendment) Act, 2019;

“Applicant” means a Co-operative society operating in Turkana County that has applied for a loan from the Fund;

“Board” means a body established under section 11 of this Act entrusted with management of the Fund;

“Co-operative society” means a co-operative society registered under section 4 of the Co-operative Societies Act chapter 490 of the laws of Kenya;

“County” means the Turkana County Government;

“County Assembly” means the Turkana County Assembly;

“County Executive Member” means the County Executive Member for the time being responsible for matters relating to co-operative Development and Marketing;

“Dispute” means disagreement on matters arising from implementation of this Act;

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

“Fund” means the Co-operative Enterprise Development Fund;

“Governor” means the Governor of Turkana County Government;

“Interest rate” means the cost of borrowing money;

“Loanee” means a Co-operative society, which has been granted a loan;

“Member” means the Co-operative society whose application for membership into the Fund has been approved in accordance with the regulations;

“Regulations” means rules made by the County Executive Committee Member responsible for Co-operative development for operationalization of the Act;

“Unit” means the Fund Administrator and the staff working under the Administrator;

“Appeals Tribunal” means the Co-operative Enterprise Development Fund Tribunal established by the County Executive Committee Member to determine disputes as they may arise.

PART II – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE FUND

Establishment of the Fund

4. There is hereby established a Fund to be known as the Turkana County Co-operative Enterprise Development Fund.

Fund to be body corporate

5. 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, to contract and to sue and be sued in its own name.

Objects of the Fund

6. The objects and functions of the Fund shall be to—

- (a) finance and promote the socio-economic welfare of co-operative societies;
- (b) provide affordable and accessible credit to primary co-operative societies;
- (c) facilitate investments in co-operative societies;
- (d) entrench the principles of prudent financial management and administrative action in the management of cooperative societies across the county;

2019 Turkana County Co-operative Enterprise Development Fund (Amendment) No. 1

- (e) facilitate marketing of products and services of co-operative societies both in the domestic and the international markets;
- (f) revive key primary cooperative societies for accelerated economic development of the cooperative movement across the county;
- (g) research, develop, innovate and transfer technology;
- (h) hold, manage and apply the finances of the fund in accordance with the provisions of this act;
- (i) do all such other things as may be lawfully directed by the county executive member responsible for cooperative development;
- (j) perform such other functions as are conferred on it by this act or such other written law.

Powers of the County Executive Member

7. The County Executive Committee Member for the time being responsible for Co-operative Development shall be responsible for the Fund and shall have general oversight of the activities of the fund for the purposes of the realisation of the objects of the Fund.

PART III—MANAGEMENT OF THE FUND

Guiding Principles of Operating the Fund

8. In the exercise of the powers or the performance of functions under this Act, the Board shall be guided by the following principles—

- (a) public participation;
- (b) transparency and accountability;
- (c) protection of marginalized group interests;
- (d) fairness;
- (e) democratic decisions;
- (f) education, training and information.

Revenue and expenditure of the Fund

9. (1) There shall be credited to the Fund—

- (a) three per cent of the monies allocated and appropriated for development for three years;
- (b) interest on capital and loan granted by the fund;
- (c) income from investments of the fund;

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

- (d) such loans as may be received by the fund;
- (e) such gifts, donations and grants as may be received by the fund;
- (f) contributions by the members;
- (g) such sums as may otherwise vest in or accrue to the fund from any other source.

Expenses

10. (1) There shall be paid out of the finances of the Fund such administrative expenses as may be incurred by the Board in the exercise of its powers or the performance of its functions under this Act.

(2) The administrative expenses referred to in subsection (1) shall not exceed 3 per cent of the annual expenditure.

Management Board of the Fund

11. (1) The oversight function and management of the Fund shall be vested in a Board, which shall be appointed in accordance with this section.

(2) The Board shall consist of not more than 9 Members—

- (a) chairperson, not being public officer, appointed by the governor on the recommendation of the county executive committee member responsible for co-operative development and marketing with the approval of the county assembly;
- (b) eight (8) persons not being public officers who shall be appointed by the county executive committee member for the time being responsible for co-operative development and marketing drawn from the co-operative movement within the county while observing the interests of minorities, gender, people with disability, and youth;
- (c) the County Director, Cooperative Development and Marketing

(3) There shall be a Secretary to the board, who—

- (a) shall be the county director, co-operative development and marketing;
- (b) shall be the chief executive officer of the fund; and
- (c) shall be responsible for the management of the Fund.

(4) The Secretary shall be responsible for the minutes of the Board and shall be responsible for the management Board in ensuring all staff

2019 *Turkana County Co-operative Enterprise Development Fund (Amendment) No. 1*

members satisfactorily carry out duties and perform functions assigned to them by the Board.

(5) The Secretary of the Board shall have no right to vote at the meeting of the Board.

(6) (i) The persons appointed under section 11 sub section (2) (a) and (b) above shall hold office for a term of three years and shall be eligible for reappointment for one more term of three years; and

(ii) Persons nominated under section 11 (2) (b) above, shall be subject to vetting and approval by the County Assembly.

(7) A person shall be qualified for appointment under subsection 2 (a) and (g) above if that person—

(a) holds at least a degree from a recognized institution with respect to subsection 2 (a);

(b) holds at least an “O” level completion certificate with respect to subsection 2 (b);

(c) has at least three years professional experience in the relevant field; and

(d) meets the requirements of leadership and integrity as provided for in Chapter 6 of the constitution or relevant national legislation.

(8) A person shall not be qualified for appointment as a member of the Board if that person is—

(a) a member of the national or county assembly;

(b) is adjudged bankrupt;

(c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;

(d) is prohibited from being a director or from taking part in the management of co-operative societies or financial institutions under any written law.

(9) A member of the Board appointed under section 2 (a) and (b) ceases to be a member when—

(a) is disqualified under section 11 subsection 5 above;

(b) dies;

(c) is unable to perform the functions of office by reason of mental or physical infirmity.

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

Powers of the Board

12. The Board shall have the powers necessary for the performance of its functions under this Act and in particular, shall have the powers to—

- (a) supervise, control and administer the assets of the fund in such manner and for such purposes as would best promote the objects and functions for which the fund is established;
- (b) formulate policy guidelines on cooperative sector funding;
- (c) ensure that all projects funded under this act are consistent with priorities specified in the relevant policy documents;
- (d) approve proposals submitted to it by the unit under this act;
- (e) authorise allocations from the fund;
- (f) formulate or approve standards, guidelines and procedures for funding proposals and release of loans and credit facilities under this act;
- (g) approve the organizational structure of the unit; and
- (h) provide oversight in the utilization of the fund;
- (i) prepare and present for approval by the County Executive Committee Member for the time being responsible for Cooperative Development and Marketing—
 - (i) the annual estimates of revenue and expenditure of the fund.
 - (ii) audited accounts in accordance with the international accounting standards and relevant laws.
 - (iii) the investment proposals.
- (j) cause to be kept proper records of all assets and liabilities of the Fund.

Committees and Delegation of Powers

13. (1) The Board may appoint Committees from among its own members to carry out such general or special functions as may be specified by the Board.

(2) The Board may, delegate to any committee of the Board or any employee, officer of the Fund, in the exercise of any of the powers or the performance of any of the functions and duties of the Fund under this Act or under any other written law.

Remuneration of Board Members

14. The members of the Committee shall be paid such allowances or remuneration as the County Executive Member for the time being responsible for matters relating to Co-operative Development and Marketing in consultation with the County Public Service Board shall determine and in accordance with the relevant financial regulations and/or guidelines currently in force including the Salaries and Remuneration Commission.

Meetings and procedure of the Board

15. The conduct of business of the Board shall be as provided in the First Schedule, but subject thereto, the Board may regulate its own procedure.

Appointment and remuneration of the Fund Administrator

16. (1) There shall be a Fund Administrator who shall be appointed by the Board, in consultation with the County Executive Member, and whose terms and conditions of service shall be determined by the Board in the instrument of appointment or otherwise in writing from time to time.

(2) No person shall be appointed as the Fund Administrator of the Fund unless he has at least five years' experience in any of the field of financial management, co-operative practice and management, Business administration/Commerce, law, finance or economics.

(3) The Fund Administrator shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The term of office of the Fund Administrator shall be four years but may be renewed for one more term of not more than four years.

(5) The Fund Administrator shall, Subject to the general policy set by the Board, be responsible for the operations and management of the day-to-day affairs of the Fund.

(6) In the event of the Fund Administrator being absent or being incapacitated by reason of sickness or other cause, the Board may with the approval of the County Executive Member, appoint a person to act as Fund Administrator during the period of that absence or incapacitation.

(7) The Board with the approval of the County Executive Member may remove the Fund Administrator if, for any reason, the Fund Administrator has become incapable of properly performing the functions of his office or is incompetent.

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

Appointment and Remuneration of Staff

17. (1) The Board may appoint such other officers and employees as it considers necessary for the efficient discharge of its duties and responsibilities.

(2) The officers and employees appointed under subsection (1) shall be remunerated in such manner and at such rates, and shall be subject to such conditions of service, as may be determined by the Board.

(3) Every officer or employee appointed under subsection (1) shall, subject to this Act, exercise such powers and functions and perform the duties and responsibilities assigned to him from time to time by the Fund Administrator.

PART IV—FINANCIAL PROVISIONS

Financial Year

18. The financial year of the Fund shall be the period of twelve months ending on the thirtieth of June in each Year.

Annual Estimates

19. (1) The Fund shall, at least three months before the commencement of the financial year, prepare estimates of revenue and expenditure for that year within the annual budgetary estimates of the parent Ministry.

(2) The estimates prepared under subsection (1) shall include provision for—

- (a) salaries, allowances and other charges in respect of the officers and staff of the fund;
- (b) pensions, gratuities and other charges in respect of the retirement benefits, which are payable out of the moneys of the fund;
- (c) the maintenances, repair and replacement of the assets of the fund;
- (d) funds to meet future or contingent liabilities;
- (e) authorized payments to members of the board; and
- (f) any other matter that the Board may, with the approval of the County Executive Member deem appropriate.

(3) The estimates prepared under this section shall be submitted by the Board to the County Executive Committee Member for approval before the start of the financial year.

2019 Turkana County Co-operative Enterprise Development Fund (Amendment) No. 7

(4) The Board shall not increase any sum provided in the estimates without the prior approval of the County Executive Committee Member responsible for co-operative development.

(5) No expenditure shall be incurred for the purposes of the Fund except in accordance with the annual estimates approved under section 18 (1) or in pursuance of the authorisation of the Board given with prior approval of the County Executive Committee Member responsible for Cooperative development.

Accounts and Audit

20. (1) The Fund Administrator shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Fund.

(2) Within a period of four months after the end of the financial year, the Board shall submit to the County treasury, the accounts of the Fund together with an annual report which shall consist of —

- (a) financial statements of income and expenditure during the year
- (b) a statement of the assets and liabilities of the fund on the last day of that year;
- (c) the fund's performance indicators and any other related information
- (d) the annual accounts of the fund shall be audited by the county treasury or auditor appointed by the Board with approval of the County Executive Committee Member for the time being responsible for matters relating to Finance and Economic Planning.

(3) The accounts of the Fund shall be audited in accordance with the provisions of the public Audit Act currently in force.

Annual Reports

21. (1) The Board shall, within four months after the end of the financial year, make a report to the County Executive Committee Member for the time being responsible for matters relating to Finance and Economic Planning on the activities of the Fund during that year comprising of—

- (a) a report on the operations and performance of the fund, and
- (b) such other information as the Board may deem necessary.

(2) The County Executive Committee Member for the time being responsible for matters relating to Finance and Economic Planning may

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

upon receipt of the annual report under this section, place it before the County Assembly within a period of fourteen days of the day the County Assembly next sits after such receipt.

Reserves

22. The Board shall build up a reserve of money equal to standard expenditure of the Fund, and such reserve shall be deposited in such reputable banks or financial institutions as the Board may from time to time determine.

Investment of Funds

23. (1) All monies of the Fund which are not immediately required to be applied for the purpose of this Act shall be invested in a reputable bank, being an investment in which trust funds or part thereof are authorised by law to be invested.

(2) All investments made under this section shall be held under the name of Turkana County Government

(3) The Board shall prudently manage the monies of the Fund to safeguard the Fund from unexpected expenses and fluctuation in currency value.

Accessing money from the Fund

24. (1) A registered Co-operative society wishing to be considered for any financial product shall make an application to the Board in the prescribed form.

(2) An application under subsection (1) shall be accompanied by—

- (a) a copy of registration certificate and by-laws for the society;
- (b) a proposal, feasibility study and viability of project to be financed;
- (c) membership register with information on member diversity and share capital;
- (d) information relating to place of business, indicating situation of head office and postal address;
- (e) a report by management of the co-operative society stating—
 - (i) stage of development or whether the co-operative society is active or dormant;
 - (ii) audited accounts;

2019 Turkana County Co-operative Enterprise Development Fund (Amendment) No. 7

- (iii) nature of the co-operative society whether marketing, housing, consumer co-operative, sacco societies, multi-purpose co-operative, transport and any other co-operative entity as may be registered from time to time;
- (iv) capacity to repay;
- (v) outstanding loans from other financial institutions;
- (vi) such other information as the board may require in determining loan approvals.

Conditions for Grant of Loan

25. (1) The Board may—

- (a) accept or reject any application for a loan;
- (b) grant a loan to a co-operative institution and in so granting impose conditions, demand security and require repayment in instalments at such times and within such periods as the Board 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 Board has resolved to make a loan to any eligible applicant, the Board 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 board may have imposed or demanded.

(3) Where any applicant fails to comply with the requirement of the Board notified to him under sub section (2) within the prescribed period, the application shall be deemed to have lapsed; and

(4) Where in granting a loan to cooperative institution and the Board considers it prudent to request for a guarantor to guarantee any loan granted to the cooperative institution, in case of any default by a cooperative institution in the repayment of the said loan, any guarantor who has guaranteed any such loan, shall automatically and fully be liable to pay to the Board 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 Board.

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

Loan Repayment

26. (1) Where a guarantor who has been notified by the Board under subsection (4) fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be guilty of an offence and liable to criminal prosecution or civil proceeding or both in accordance with the provisions of this Act.

(2) on the last day of each financial year the Board shall send to all loanees an annual return form which every Loanee shall be required to fill and submit to the Board before the end of the month of August of the succeeding year.

(3) A Loanee shall repay the borrowed sums and interest on such terms and conditions as may be prescribed from time to time by the Board

General Provisions

27. (1) If in the opinion of the Board there has been or is likely to be any breach of or failure to comply with any condition or term of repayment in respect to particular loan, the Board may forthwith recover from the person to whom the loan was made or his personal representative as a civil debt under the Debts (Summary Recovery) Act (Cap. 42 Laws of Kenya) the amount thereof then remaining unpaid, together with interest thereon.

(2) The County Executive Committee Member for the time being responsible for matters relating to Co-operative Development and Marketing may reverse the decision of the Board if—

- (a) the board failed to follow required procedures in making its decision
- (b) the board's decision is contrary to the act and regulations
- (c) there is no factual basis for the board's decision
- (d) the review reveals that the Board committed an error in its assessment of facts, or abused its discretion in making decision.

(3) The Board shall consider every application made under section 23 and may, if satisfied that the applicant meets the requirements of this Act and subject to availability of funds grant credit in accordance with the provisions of this Act and regulations made there under.

(4) An official of a Co-operative society 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;

2019 Turkana County Co-operative Enterprise Development Fund (Amendment) No. 7

- (b) if required under paragraph (a) to 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 less than three hundred thousand shillings or to imprisonment for a term of not less 3 years and in the case of paragraph (c), to a fine not less than thirty thousand shillings or to imprisonment for a term of not less than six months.

Default by Officers

28. Any officer of the Board who fails to—

- (a) take all reasonable steps to secure compliance with this act or regulations made thereunder;
- (b) take all reasonable steps to secure the accuracy and correctness of any statement or information submitted under this act and regulations; or
- (c) supply any information required under this act to the county executive Committee Member for the time being responsible for Co-operative development and Marketing or the Board,

Commits an offence and shall be liable, on conviction, to a fine not exceeding one Hundred thousand shillings or imprisonment for a term not exceeding three years or both such fine and imprisonment.

Miscellaneous Offences

29. Any officer of the Board or Co-operative Society who wilfully—

- (a) with intent to deceive, falsifies any book of account, report, statement, record or other document;
- (b) signs, issues, publishes or transmits to the board any book of account, report, statement, record or other document which the person knows, or has reason to believe, to be false;
- (c) with intent to deceive knowingly obtains a forged signature on a document;
- (d) with intent to deceive destroys any book of account, report, statement record or other document; and
- (e) engages in transaction or takes part in a deliberation in which there is a conflict of interest prohibited under the act, commits an offence; shall be convicted and be prohibited from holding any office.

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

PART V— MISCELLANEOUS

Common Seal of the Fund

30. (1) the common seal of the Fund shall be kept in such custody as the Board may direct and shall not be used except by order of the Board.

(2) The common seal of the Fund shall be authenticated by the signature of the Chief Executive Officer and the Chairperson of the Board or any other officer authorized by the Board on its behalf.

Exemption from Liability

31. (1) No matter or thing done by a member of the Board, or any officer, employee or agent of the Fund shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Board under this Act, render the member, officer or employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Subsection (1) shall not relieve the Fund from liability to pay compensation or damages to any person for any injury to that person, or other loss caused by the exercise of any power conferred by this Act or any other written law or by the failure of any works of the Fund.

Settlement of Disputes

32. (1) Where a dispute arises as a result of the implementation of this Act, it shall be referred to the County Executive Committee Member for the time being responsible for matters relating to Co-operative Development and Marketing within one month from the date the dispute arose.

(2) The County Executive Committee Member for the time being responsible for matters relating to Co-operative Development and Marketing upon receipt of a complaint may inquire into the matter and if satisfied that a dispute exists, the County Executive Committee Member shall constitute a suitable Appeals Tribunal consisting of three members to settle the matter as follows—

- (a) the chairman of the appeals tribunal referred to in subsection (2) shall be the county legal officer;
- (b) the secretary of the appeals tribunal shall be the officer responsible for co-operative development;
- (c) the other member shall be an officer responsible for administration;

2019 *Turkana County Co-operative Enterprise Development Fund (Amendment)* No. 7

(3) The Appeals Tribunal may expeditiously hear the matter and give an award which upon registration at the High Court shall be enforceable as if it is an award of the Court.

(4) Any person not satisfied with the award of the Tribunal may appeal to the High Court within thirty days from the day of the award.

(5) The members of the Appeals Tribunal shall be paid such allowances as the County Executive Committee Member for the time being responsible for matters relating to Co-operative Development and Marketing in consultation with the Board shall determine.

(6) The Rules of Evidence shall not apply to the Appeals Tribunal.

(7) The Appeals Tribunal shall upon an application made to it in writing by any party on any matter relating to this Act, inquire into the matter and make an award, give directions, make orders or decision thereon. Every award, direction, order or decision made shall be notified by the Tribunal to the parties concerned.

(8) The proceedings of the Appeals Tribunal shall be open to the public save where the Tribunal for a good cause may direct.

(9) Except as expressly provided for in this Act or any regulation made thereunder, the Tribunal shall regulate its own procedure.

(10) The Tribunal may—

- (a) make an order for purposes of securing attendance of any person at any place where the Tribunal is sitting, discovery or production of any document concerning a matter before the Tribunal or the investigation of any contravention of this Act as it deems necessary or expedient;
- (b) administer and take evidence on oath;
- (c) on its own motion summon and hear any person as witness.

(11) Any person who—

- (a) fails to attend the Tribunal after having been required to do so under subsection (10)(a);
- (b) refuses to take an oath or affirmation before the Tribunal or to answer satisfactorily any question lawfully put to him or in any proceedings before the Tribunal or to produce any document when required by the Tribunal to do so;
- (c) willfully insults any member or officer of the Tribunal;
- (d) fails or neglects to comply with a decision, order, direction or notice of the Tribunal, commits an offence.

No. 7 Turkana County Co-operative Enterprise Development Fund (Amendment) 2019

(12) Where the Tribunal enters judgment in terms of the award together with the costs, it shall issue a decree, inclusive of penalties for non-compliance, which shall be enforceable as if it were a decree of the Court.

(13) Any person aggrieved by a decision or order of the Tribunal may, within thirty days of such decision or order, appeal against such order to the High court.

(14) No Decision or order of the Tribunal shall be enforced until the time for lodging an appeal has expired or, where the appeal has been commenced, until the appeal has been determined.

(15) Upon the hearing of an appeal, the court may—

- (a) confirm, set aside or vary the decision, order or direction in question;
- (b) remit the proceedings to the tribunal with such instructions for further consideration, report, proceedings or evidence as the high court may deem necessary;
- (c) make such other order as it may deem just, including an order as to costs of the appeal at the tribunal;
- (d) the decision of the High Court on any appeal under this section shall be final.

(16) The members of the Tribunal shall be paid such allowances as the County Executive Committee Member for the time being responsible for matters relating to Co-operative Development and Marketing in consultation with the Board shall from time to time determine.

(17) The expenses of the Tribunal for the conduct of its business shall be borne by the Fund.

General Penalty

33. Any person convicted of any offence under this Act for which no other penalty is prescribed shall be liable to a fine not exceeding Kenya shilling five thousand or in the case of a natural person, to imprisonment for a term not exceeding three years or both.

Powers to make Regulations

34. The County Executive Committee Member for the time being responsible for Co-operative Development and Marketing shall in consultation with the Board, make Regulations for the better carrying out of the provisions of this Act.

FIRST SCHEDULE

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

Meetings

1. (1) The Board shall meet as often as necessary for the transaction of the business of the Fund, and in any case not less than four times in each financial year,

(2) Provided that not more than four months shall elapse between the date of one meeting and the date of the next meeting.

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

(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 he may appoint.

(5) The chairperson shall preside every meeting of the Board at which he is present but in his or her absence, the members present shall elect one of their member to preside at the meeting .

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

Conflict of interest

2. (1) If a member of the Board is directly or indirectly interested in any contract, or proposed contract or other work done or proposed to be done for the Fund, shall on the matter coming before the Board for consideration immediately declare his interest therein and ,shall unless the meeting otherwise agree, retire from the meeting and shall in any case not be entitled to vote on the matter

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

Quorum

3. The quorum for the conduct of business of the meeting of the Board shall be two-thirds of the total number of members of the Board or the number nearest to but not less than two-thirds.

No. 7 *Turkana County Co-operative Enterprise Development Fund (Amendment)* **2019**

Rules of Procedure and Minutes

4. The Board shall—

- (a) determine rules of procedure for the conduct of its business
- (b) the board shall cause minutes of all proceedings of meetings of the board to be entered in books kept for that purpose.

Committees

5. The Fund may establish committees consisting of members of the Board to deal with such matters as the Board may specify in accordance with the law.

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

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