

SPECIAL ISSUE

Kenya Gazette Supplement No 11 (Uasin Gishu County Acts No 4)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

UASIN GISHU COUNTY ACTS, 2020

NAIROBI, 29th June, 2020

CONTENT

Act—

PAGE

The Uasin Gishu County Inua Biashara (Amendment) Act 2020

1

**THE UASIN GISHU COUNTY INUA BIASHARA
(AMENDMENT) ACT, 2020**

No 4 of 2020

Date of Assent 29th June, 2020

Date of Commencement See Section 1

**AN ACT of the County Assembly of Uasin Gishu to amend the Uasin
Gishu Inua Biashara Fund Act, 2018**

ENACTED by the County Assembly of Uasin Gishu as follows—

Short title

1 This Act may be cited as the Uasin Gishu County Inua Biashara Fund (Amendment) Act, 2020 and shall come into operation upon publication in the *Kenya Gazette*

Purpose

2 The purpose of the Act is to amend the Uasin Gishu County Inua Biashara Fund Act, 2018 hereinafter referred to as (the Principal Act)

3 The Principal Act is amended by—

(i) in Section 2—

add the phrase, “Fund Administrator” means a person designated by the County Executive Committee Member responsible for Finance and Economic Planning to administer the fund’ immediately after the definition of “Fund”,

deleting the phrase, “Fund Manager” means any person appointed by the County Executive Committee Member under Section 12,

(ii) in Section 3 (a) —

inserting the word ‘Biashara’ immediately after the word ‘Inua’ and before the word ‘Fund’

(iii) in Section 4 (1) —

deleting the phrase “There is hereby established a Fund to be known as the Uasin Gishu County Inua Biashara Fund and

replacing with “There is established a Fund to be known as the Uasin Gishu County Inua Biashara Fund in accordance with the Public Finance Management Act, 2012 and the Public Finance Management Act (County Regulations) of 2015”

(iv) in Section 5(2) —

deleting “manage and administer” and replace with “shall identify beneficiaries of the Fund”

No 4 *Uasin Gishu County Inua Biashara Fund (Amendment)* 2020

(v) repealing Section 6 and replacing thereof with the following Section—

“6 (1) The Committee shall consist of –

- (a) a Non-Executive Chairperson, not being a Public officer, appointed by the County Executive Committee Member,
- (b) the Chief Officer responsible for finance or their representative duly nominated in writing ,
- (c) the Chief Officer responsible for trade or their representative duly nominated in writing The Chief Officer responsible for trade shall be the Vice-Chairperson of the Committee,
- (d) the Director responsible for trade or their representative duly nominated in writing,
- (e) the Fund Administrator who shall also be the Secretary to the Committee
- (f) the County Attorney or their representative duly nominated in writing,
- (g) three other persons appointed by the County Executive Committee Member

6 (2) In appointing the chairperson under sub section 1 (a) and members under sub-section 1(g) the County Executive Committee Member shall observe the provisions of the Constitution regarding gender balance, marginalized persons, minorities, the youth and persons with disabilities and ensure persons appointed—

- (a) satisfy the requirements of Chapter six of the Constitution,
- (b) have at least a diploma and extensive experience in finance, business, economic sector and entrepreneurship,
- (c) have experience in institutional management,
- (d) have experience in matters connected with, and of problems experienced by small business enterprises

(vi) in Section 7 (1) by—

deleting the letter “(f)” and replacing with the letter “(g)” immediately after the letter 6(1)

(vii) repealing Section 9 and replacing thereof with the following new section

“9 The Committee shall have power to—

2020 *Uasin Gishu County Inua Biashara Fund (Amendment)* No 4

- (a) receive reports and accounts from the Fund Administrator and forward the same to the County Executive Committee Member for Finance and Economic Planning for record and audit purposes,
- (b) prepare or cause to be prepared estimates of the revenue and expenditure of the Fund for that financial year,
- (c) receive loan applications from the Fund Administrator and identify beneficiaries,
- (d) perform any other function that can be delegated from time to time by the County Executive Committee Member for Finance and Economic Planning through regulations”

(viii) repealing Section 12, and substituting thereof with the following new sections—

“12 (1) The County Executive Committee Member responsible for Finance and Economic Planning shall designate a person to be the Fund Administrator who shall administer the Fund

(2) The Fund Administrator shall be competitively recruited by the County Public Service Board and approved by the County Assembly

(3) a person shall qualify to be Fund Administrator if the person—

- (a) holds a bachelor degree in banking and finance from a recognized university,
- (b) is a certified Public Accounts holder,
- (c) has the relevant experience in administering Public funds
- (d) the Fund Administrator shall serve for a term of 3 years

13 (1) The Fund Administrator shall ensure that the earnings of, or accruals to a County Public Fund are retained in the fund, unless the County Executive Committee Member for finance directs otherwise

(2) The Fund Administrator shall ensure that money held in the fund, including any earnings or accruals referred to in subsection (1) is spent only for the purposes for which the Fund is established

(3) The Fund Administrator shall on winding up a Fund pay any amount remaining in the fund into the County Exchequer Account

(4) The administration costs of the Fund shall be a maximum of three (3%) percent of all approved budgets of the Fund

14 (1) The Office of the Fund Administrator shall become vacant if the Fund Administrator-

No 4 *Uasin Gishu County Inua Biashara Fund (Amendment)* 2020

- (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 to the County Executive Committee Member responsible for Finance and Economic Planning,
- (d) is removed from office by the County Executive Committee Member responsible for Finance and Economic Planning for—
 - (i) being unable to perform the functions of the office by reason of mental or physical infirmity, or
 - (ii) failing to declare conflict of interest in any matter being considered or to be considered by his office or the Committee, or
 - (iii) fails to perform duties in accordance with the terms and conditions of appointment

15 (1) The Fund Administrator shall—

- (a) submit to the Committee for approval proposals received from the small businesses or industries,
- (b) prepare accounts for the fund for each financial year,
- (c) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General, and
- (d) present the financial statements to the County Assembly

(2) The Fund Administrator shall ensure that the accounts for the fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time

(3) The Fund Administrator shall ensure the funds and usage of money through the funds is published and publicised

16 The County Public Finance Management Standing Committee shall by itself or through sub-committees it may establish offer strategic guidance on public finance management in relation to the fund ”

- (ix) (1) deleting Section “17” and substituting thereof to be Section “13 ’ but deleting Section 13(2)” Section”14” to be Section “18 and Section “15” to be Section”19”
- (x) repealing Section 16 and substituting therefor the following Sections—

2020 *Uasin Gishu County Inua Biashara Fund (Amendment)* No 4

“20 (1) A small enterprise wishing to be considered for the grant of a loan shall make application to the Fund Administrator in the prescribed form

(2) A small enterprise that has been awarded a loan will be issued with a Loan Identification Account Number by the Fund Administrator

(3) An official or an agent of a Small Enterprise 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
- (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 not exceeding three (3) thousand shillings or to imprisonment for a term not exceeding six (6) months and in the case of paragraph (c) to a fine not exceeding thirty (30) thousand shillings or to imprisonment for a term not exceeding three (3) years

21 (1) The Fund Administrator may in consultation with the Inua Biashara Fund Committee—

- (a) reject any application for a loan,
- (b) grant a loan to a Small Enterprise and in so granting impose conditions, demand security and require repayment in instalments at such time and within such periods as the Committee deems fit, provided that and subject to the provisions of this section the Fund Administrator may upon the request by an applicant 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 loan has been approved for any small enterprise, the Fund Administrator shall notify the applicant in writing, and requires him within a specified period not exceeding six months to comply with any conditions and provide any security which the Fund Administrator may have imposed or demanded

No 4 *Uasin Gishu County Inua Biashara Fund (Amendment)* 2020

(3) Where the applicant fails to comply with the requirement of the Fund Administrator 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 Fund Administrator 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 Fund all or any loan together with interest accrued and outstanding owed to the Fund by the loanee, as shall be notified to the guarantor by the Fund Administrator

(5) A loanee shall repay the borrowed sums and interest of 5% on such terms and conditions as may be prescribed by the Committee

(6) Where a guarantor who has been notified by the Fund Administrator under subsection (4) fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be liable to civil proceedings and recovery in accordance to the provisions of this Act and any other written law

22 In granting a loan to a small enterprise, the Fund Administrator shall ensure that the County Attorney shall prepare the loan agreements, charges and all incidentals

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

24 (1) If in the opinion of the Fund Administrator there 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 Fund Administrator may forthwith—

- (a) recover the loan from the loanee as a civil debt under the Debts (Summary Recovery) Act, Chapter 42 of the Laws of Kenya, the amount thereof then remaining unpaid together with interest thereon,
- (b) enforce or realize any security relating thereto,
- (c) The Fund Administrator may, in exercise of the powers conferred by subsection (1), engage their services of private legal practitioners and debt collectors

25 The salary and allowances of the Fund Administrator and the staff of the Fund Administrator's office shall be paid out of the fund

2020 *Uasin Gishu County Inua Biashara Fund (Amendment)* **No 4**

26 (1) A small business or industry that has benefited from a loan grant under this Act shall maintain and keep proper books of accounts and records in relation to the funds which books shall be open to scrutiny by the Fund Administrator

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

(xi) substituting thereof Section '18 to be Section "27", Section "19" to be Section "28", Section "20" to be Section "29" , Section "21" to be Section "30" and Section "22" to be Section"31 '