

SPECIAL ISSUE

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REPUBLIC OF KENYA

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UASIN GISHU COUNTY ACTS, 2019

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

No 5 of 2019

Date of Assent 9th December, 2019

Date of Commencement See Section 1

**AN ACT of the County Assembly of Uasin Gishu to amend the Uasin
Gishu County Cooperative Enterprise Development Fund Act,
2014**

ENACTED by the County Assembly of Uasin Gishu as follows—

Short title

1 This Act may be cited as the Uasin Gishu County Co-operative Enterprise Development Fund (Amendment) Act, 2019 and shall come into operation upon publication in the *Kenya Gazette* or *Kenya Gazette Supplement*

Purpose

2 The purpose of the Act is to amend the Uasin Gishu County Cooperative Enterprise Development Fund Act, 2014 hereinafter referred to as “*The Principal Act*”

The Principal Act is amended by—

(i) In Section 2 (1)—

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 ‘Committee’

(ii) In Section 3 (1)—

Deleting the phrase “There is hereby established a Fund to be known as the Cooperative Enterprise Development Fund” and

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

(iii) In Section 7 (e)—

Deleting the phrase “the Director appointed under Section 13 who shall be the secretary to the Committee” and

Replacing with ‘the Fund Administrator appointed under Section 12 who shall be the secretary to the Committee”

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- (iv) In Section 10 (c) and 10 (g)—
Deleting the word “Unit” and
Replacing with the word “Fund Administrator”
- (v) In Section 11 (3)—
Inserting the phrase “except the powers and roles of the Fund Manager” immediately after the phrase “any other written law”
- (vi) Repealing Part IV, Section 12, Section 13, Section 14 and 15 and substituting thereof the following new sections

PART IV—ADMINISTRATION OF THE FUND

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

(3) A person shall qualify to be fund manager if the person—

- (i) holds a bachelor degree in banking and finance from a recognized university,
- (ii) is a certified public accounts holder,
- (iii) has the relevant experience in administering public funds

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

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

- (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—

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- (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 cooperative institutions,
- (b) prepare accounts for the Fund for each financial year,
- (c) not later than three months after the end of each financial year, submit
- (d) financial statements relating to those accounts to the Auditor-General, and
- (e) 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 ”

- (vi) Repealing “PART V-ADMINISTRATION OF THE FUND”, Section 16, Section 17, Section 18, Section 19 and substituting thereof the following sections—

“17 (1) A Cooperative institution wishing to be considered for the grant of a loan shall make application to the Fund Administrator in the prescribed form

(2) A Cooperative institution 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 Cooperative institution 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 not exceeding three thousand shillings or to imprisonment for a term not exceeding six months and in the case of paragraph (c) to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three years

18 (1) The Fund Administrator may —

- (a) reject any application for a loan,
- (b) grant a loan to a Cooperative institution 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 cooperative institution, the Fund Manager 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

(3) Where a cooperative institution fails to comply with the requirement of the Fund Manager 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 a cooperative institution the Fund Manager 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 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 on such terms and conditions as may be prescribed by the Committee

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(6) Where a guarantor who has been notified by the Fund Manager 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

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

(viii) Repealing section 19, section 20 and section 21 and substituting thereof the following new sections,

“20 (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 cooperative institution 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

21 The salary and allowances of the Fund Administrator and the staff of the Fund Administrator’s office shall be paid out of the Fund

22 (1) A cooperative institution 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 cooperative institution 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

23 The Fund shall be audited and reported by the Auditor-General in accordance with the provisions of the Public Audit Act ”