

THE PUBLIC FINANCE MANAGEMENT (BARINGO COUNTY MICRO
AND SMALL ENTERPRISES FUND) REGULATIONS, 2016

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THE PUBLIC FINANCE MANAGEMENT ACT

(No.18 of 2012)

IN EXERCISE of the powers conferred by section 116(1) of the Public Finance Management Act, 2012, the Executive Committee Member for Finance, Baringo County Government, hereby makes the following Regulations-

THE PUBLIC FINANCE MANAGEMENT (BARINGO COUNTY MICRO AND SMALL ENTERPRISES FUND) REGULATIONS, 2016

Citation

1. These Regulations may be cited as the Public Finance Management (Baringo County Micro and Small Enterprises Fund) Regulations, 2016.

Interpretation

2. In these Regulations, unless the context otherwise requires -

“Chief Officer” means the Chief Officer for the time being responsible for Commerce/Trade.

“Department” means the department responsible for commerce/trade.

“Executive Committee Member” means the County Executive Committee Member for the time being responsible for Commerce/Trade.

“Enterprise” means an undertaking or a business concern whether formal or informal engaged in production of goods or provision of services.

“Fund” means the Baringo County Micro and Small Enterprise Fund established under the regulation.

“Fund Committee” means the committee supervising the administration of the Fund established under the regulation.

“Fund Manager” means the officer administering the fund.

“Loanee” means a person who borrows from the Fund.

“Micro Enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover does not exceed five hundred thousand shillings;
- (b) which employs less than ten people; and
- (c) whose total assets and financial investment shall be as determined by the County Executive Committee Member for Commerce/Trade from time to time,

and includes—

- (i) the manufacturing sector, where the investment in plant and machinery or the

- registered capital of the enterprise does not exceed ten million shillings;
- (ii) the service sector and farming enterprises where the investment in equipment or registered capital of the enterprise does not exceed five million shillings

“Small Enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover ranges between five hundred and five million shillings; and
- (b) which employs between ten and fifty people; and
- (c) whose total assets and financial investment shall be as determined by the Cabinet Secretary from time to time,

and includes—

- (i) the manufacturing sector, where the investment in plant and machinery as well as the registered capital of the enterprise is between ten million and fifty million shillings; and
- (ii) service and farming enterprises, where the equipment investment as well as registered capital of the enterprise is between five million and twenty million shillings;

Establishment of the Fund

3. There is established a Fund to be known as the Baringo County Micro and Small Enterprises Fund.

Object of the Fund

4. The object of the Fund is to provide access to affordable credit to Micro and Small Enterprises (MSEs) to enable them to compete and graduate into vibrant enterprises.

Initial Capital and other Sources of the Fund

5. (1) The initial capital of the Fund shall consist of monies appropriated by the County Assembly in the Appropriation Act.

(2) Other sources of the Fund shall consist of -

- (a) sums of money received by or falling due to the Fund in respect of loans made there from and the interest on those loans;
- (b) sums of money earned by or arising from investment made in respect of the Fund;
- (c) other sums of money that may in any manner become payable to or vested in the Fund including gifts, grants, bequeaths and donations;
- (d) other Funds which may be received from the National Government.

Loans Management Fund Committee

6. (1) There is established a committee to be known as the Fund Management Committee, which shall consist of-

- (a) a person of high integrity representing local, legal and/or recognized Business Associations who shall be appointed by the Governor as the Chairperson of the

Committee and has a minimum qualification of a degree from a recognized university;

- (b) one person appointed by the Executive Committee Member responsible for Finance;
- (c) two members representing the local business community appointed by the County Executive Member responsible for Trade, one from each gender and has a minimum qualification of a degree from a recognized university;
- (d) one person representing people living with disabilities and should have a minimum of form 4, KCSE certificate or its equivalent and currently engaged in business;
- (e) two directors representing Department of Industrialization, Trade, Tourism and Co-operatives and who shall be Ex-Officio members;
- (f) the Fund Manager who shall also be the secretary of the Fund and will be an Ex-officio member.

(2) The appointed members shall hold office for a period of three years and are eligible for reappointment for one more term.

(3) A person shall not be eligible to be appointed as a member of the Loans Management Fund Committee if

- (a) he has been or is sentenced to imprisonment by a court of competent jurisdiction for a period of six (6) months or more; or
- (b) he becomes bankrupt or makes an arrangement or composition with his creditors generally; or
- (c) he becomes of unsound mind; or
- (d) he is not a member of the Kenya national chamber of commerce, Baringo branch
- (e) has not attained 18 years and above

Functions of the Fund Committee

7. The functions of the Committee shall be to -

- (a) receive, appraise and approve Fund applications consistent with the policy;
- (b) ensure timely and efficient disbursement of Funds to the successful applicants;
- (c) ensure efficient management of the Fund;
- (d) receive and discuss quarterly and annual reports and returns from the Fund;
- (e) receive and address complaints and disputes and take any appropriate action in consultation with Chief Officer Trade;
- (f) oversee the efficient management and operation of the Fund and other matters that may arise in relation to the Fund;
- (g) formulate and continually review the policy framework of the Fund; and
- (h) perform such other function as may be necessary for the proper discharge of its mandate.

Financial Institution

8. (1) The Committee on behalf of the County Government **may** appoint a Financial Institution, which shall be competitively sourced to administer the Fund on its behalf.

- (2)The functions of the financial institution shall be to-
- (a) ensure timely and efficient disbursement of Funds to beneficiary enterprises;
 - (b) receive loan repayments on behalf of the Fund.

Duties and Responsibilities of the Chief Officer

9. The Chief Officer responsible for Commerce and Trade, as the accounting Officer, has the overall administrative responsibility of the Fund and as such shall:-

- a) facilitate the administration of the Fund and carry out such executive functions in connection with the Fund as is allotted by the Executive Committee Member for Trade.
- b) advice the loans management committee in accordance with policy directives and provide overall oversight to the committee.
- c) advice and report to the Executive Committee Member for Trade on matters relating to the operation of the Fund

Officer Administering the Fund

10.(1) The Executive Committee Member for Finance shall designate/or appoint a person responsible for administering of the Fund.

(2) The Officer Administering the Fund shall be the Fund Manager.

(3) The qualification for appointment of the Fund Manager position shall be Bachelors' Degree in Commerce, Business Administration, Finance, or Banking. Professional qualification of Certified Public Accountant (K) is a must.

(2) The officer administering the Fund shall:-

- (a) shall receive, register, vet and appraise applications for loans before consideration by the committee;
- (b) take minutes of meetings of the committee and maintain proper records of the affairs and operations of the committee;
- (c) implement all decisions of the committee and the policy guidelines of the Fund;
- (d) receive and account for all Funds;
- (e) prepare and maintain records and books of accounts of the Fund;
- (f) regularly submit returns and reports of the Fund operations as required by the Executive Committee Member for Trade;
- (g) be the custodian of all Fund assets and documents including the official seal;
- (h) undertake regular monitoring of loan recipients to ensure that the terms of the loan agreement are complied with;
- (i) administer and manage loan recovery process and mechanisms including sanctions and enforcement of loan repayment in cases of defaults;
- (j) periodically provide financial statements and balance statements of accounts of

the Fund;

- (k) to operate individual accounts for each borrower, which shall provide details of recoveries of loan;
- (l) to charge security on loans from the Fund to protect the interests of the Fund and act as custodian of such charges;
- (m) to disburse monies for newly approved loans to various beneficiaries, after the necessary documentation is completed by the Committee;
- (n) upon default, to call in the loan and on behalf of the Committee sell the charged property by public auction or private treaty, to ensure full recovery of the loans; and
- (o) carry out any other responsibility as is required by the Committee and Executive Committee Member for Trade concerning the Fund

Meetings of the Fund Committee

11. (1) The meetings of the Committee shall be convened by the Chairperson or in his absence, by a Member designated by the Chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

(2) The quorum for a meeting of the Committee shall be the person presiding and any other four members.

(3) The Committee may organize itself into sub-committees for purposes of effective administration of the Fund.

(4) A decision of the Committee shall be by a majority of vote of the members present and voting at the meeting and in case of equality of vote the person presiding shall have a deliberative vote in addition to the original vote.

(5) The Committee shall hold not less than four meetings and not more than six meetings every year on such days and such venues as is determined by the Chairman in consultation with the secretary.

Minutes of Committee Meetings

12. (1) Minutes of all meetings of the Committee and a report by the Secretary shall be sent to the Executive Committee Member for Trade within seven days after each meeting.

(2) A minute book shall be maintained by the Secretary for the deliberations of the Fund including index of the agenda.

(3) The Secretary shall cause records to be made in members' register, and every member

present in a meeting shall sign against his or her name in the register.

Quarterly and Annual Reports

13. Quarterly and annual Reports of the operations of the Fund Committee, together with a copy of the unaudited final accounts, shall be forwarded to the Executive Committee Member for Finance within fifteen days for the quarterly reports and one month after the end of each financial year.

Code of Conduct

14. (1) A Committee member shall not use his or her office to -

- (a) improperly enrich himself, herself or others using loan Funds;
- (b) advance loans to himself, herself, business associate or a corporation, partnership or other body in which the member has an interest;
- (c) accept gifts or favours from a person who has an interest that may affect the carrying out of his or her duties;
- (d) Divulge Fund's information to unauthorized users.

(2) A Committee member shall -

- (a) maintain integrity and prudence in handling Fund matters;
- (b) use his or her best efforts to avoid being in a position in which his or her personal interests conflict with the official duties.

(3) All officers and employees working for the Fund shall observe the Public Officers' Code of Ethics.

Members Disclosure of Interest

15. (1) A member who has an interest in any matter present at a meeting, shall as soon as reasonably practicable after the commencement of the meeting, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under paragraph 15 (1) shall be recorded in the minutes of the meeting at which it is made.

Grace Period

16. A moratorium or grace period relating to a loan granted under these Regulations shall be approved by the Fund Committee but in any case shall not exceed three months.

Interest and Other Charges

17. Loans granted under these Regulations shall carry an interest rate as shall be prescribed from time to time by the Fund Committee, and the rate at the commencement of these Regulations shall be 8 per cent per annum on reducing balance.

Security for a Loan

18. (1) Security for a loan shall be demanded from the loanees and security may include a land title or leasehold or other attachable property and where land has not been demarcated, proper letters of allotment with an undertaking from the County Government, signed by the land Registrar, shall be acceptable as security.

(2) In the case the Committee contracts a Micro-Finance Institution to advance the loans, it may apply other forms of collateral as it deems fit to advance the loans.

Loan Repayment Period

19. The period for repayment of a loan shall be in accordance with the agreement between the Committee and the applicant, but in any case shall not exceed three years from the date of issuance.

Outreach and promotion

20. (1) The loans committee shall organize for a sensitization of prospective applicants in order to create awareness and identify the likely number of prospective applicants and actual needs for credit and other financial services for planning purposes.

(2) For the purpose of paragraph (1) the secretary shall-

- (a) Prepare the itinerary for visits;
- (b) Prepare promotional materials;
- (c) Liaise and network with other stakeholders;
- (d) Visit and address the business community and disseminate information about the Fund and its operations

Loan Processing

21. (1) To ensure conformity with Fund requirements, consistency and regional fairness in loaning and a prudent assessment of the credit risks, all prospective borrowers shall follow the professional and standard process in loan processing consisting of the steps under these regulations

(2) The loan application process shall be as follows-

- (a) **serialized application forms by the Fund Committee shall be issued upon payment of Ksh.1,000 non-refundable fee;**
- (b) the Secretary on receipt of the dully filled application form shall scrutinize it to ensure that all required documents are attached and that the application is proper in all respects;
- (c) properly filled application forms shall be registered in the new applications register pending vetting of the business enterprise;
- (d) the Fund Committee shall vet the applicant and his or her business and a questionnaire completed to verify information contained in the application form as well as provide technical data;

- (e) the Fund Manager shall sign all forms before handing them to the appraising committee;
- (f) appraisal of applications shall be undertaken not more than three months to the meeting date of the Loan Management Fund Committee;
- (g) the Secretary to the Fund Committee shall, after perusing the application forms, complete the official part marked Fund Manager.

(4) The guiding factors of the appraisal shall include -

- (a) the purpose for which loan is required;
- (b) the ability of the business to generate enough Funds to repay the loan, and a simple business plan;
- (c) credibility of the entrepreneur;
- (d) the entrepreneur's ability to meet the objectives of the credit scheme;
- (e) deposit of adequate security; and
- (f) availability of Funds.

(5) Loan applications shall be deliberated upon and considered for approval during meetings of the Committee and successful loan applicants shall be notified by the Fund Manager through letters of offer which offer for a loan shall be valid for a period not exceeding sixty days.

(6) The loan agreement between the loan recipient and the Fund which shall be endorsed by an advocate or magistrate shall have a revenue stamp affixed on it as a legal requirement to seal the agreement.

(7) Before the loans are disbursed the appropriate procedures in loan documentation must be adhered to and a separate file must be opened for each new applicant and shall contain the following -

- (a) the application form;
- (b) copies of securities;
- (c) vetting and appraisal form ;
- (d) recent colored photograph of the applicant affixed on his or her file;
- (e) photocopy of both sides of the applicant's identity card; and
- (f) photocopy of a valid business permit.
- (g) Photograph of the business premises or area of operation

(8) No monies shall be released before securities are charged and registered and where securities used belong to a third party, the power of attorney shall be signed by the parties concerned and endorsed by the lands office and a Commissioner of Oaths.

(9) A register of loans issued shall be opened to record all loans disbursed with the recipient's name, identity card number, cheque number, amount, signature and date of approval.

(10) A loan may be issued to the recipients by crossed cheques only or electronic money transfer where applicable.

Loan Repayment

22. (1) All loans issued by the Committee or contracted Financial Institution shall be repaid in accordance with the terms and conditions contained in the loan agreement, using cash, mobile phone money transfer, banker's cheques, postal orders, standing orders or direct deposits to the bank account of the Fund.

3) The Officer in charge of the Fund shall inform the Loanee on the ideal method of repayment and shall acknowledge receipt of money from the Loanee by issuing an official receipt.

Loan Monitoring and Tracking

23. To ensure timely repayment, identify difficult cases and get feedback on loan performance, the secretary shall maintain an efficient and effective loan monitoring and tracking system that shall include the following -

- (a) maintain disbursement schedule and loans register;
- (b) Fill a loan field report form;
- (c) prepare an itinerary of visits to clients;
- (d) carry out regular visits and assessment of clients' loan performance; and
- (e) prepare field visit reports.

Managing Delinquency and Default

24. (1) In order to discourage late repayment or complete failure to repay loans, the Committee shall maintain a strict system of identifying such cases and taking action in good time.

(2) A loan shall be considered to be delinquent when the loanee fails to repay two consecutive installments.

(3) A loan shall be considered to be in default when the loanee is 90 days late in repayment and all efforts to make him or her to repay have completely failed.

In the case of a loan default, the following will apply -

- (a) field officers will note all cases of delay during monitoring;
- (b) if a case of delinquency is noted the field officer will visit the loanee and require an explanation;
- (c) after another one month, the field officer will visit the loanee and issue a demand notice;
- (d) if the case goes beyond sixty days, a final demand notice shall be issued by the Fund Manager;
- (e) at the end of ninety days, the case shall be noted and legal action taken to recover the loan.

Portfolio Analysis

25.(1) To ensure overall control of operations of the loan portfolio in a specific case, the secretary shall carry out regular portfolio analysis and report to the Committee and other stakeholders and the report shall include -

- (a) number of loans issued;
- (b) amount of loan issued;
- (c) amount of loan outstanding;
- (d) amount of loans in arrears;
- (e) amount of loans in default;
- (f) determine amount of portfolio contaminated; and
- (g) default gap and other pertinent issues.

(2) To prevent losses of the Funds, the Committee shall carry out remedial action on all problem loans including the following remedial actions -

- (a) legal litigation for loan recovery;
- (b) rescheduling of the loan.

(3) The Secretary will prepare a compressive analysis and report on all problem loans over a certain period and all cases will be separated, presented and treated as appropriate including cases for litigation or rescheduling.

Bank Accounts

26. The Fund shall maintain bank accounts in approved banks as approved by the Executive Committee Member for Finance in writing.

Records and Final Accounts to be kept

27. Full and separate records and accounts of the operations of the Fund committee shall be kept and final accounts, prepared as at 30th June of each year, shall be prepared by Funds Manager and signed by the Chairperson and the Secretary of the Fund Committee.

Accounting for Expenses

28. (1) All expenses properly incurred by the Fund Committee in the execution of its functions including –

- (a) legal expense;
- (b) audit fees;
- (c) supplies, stationery and other incidental expenses; and
- (d) sitting allowances for the Committee shall be met from interest accruing to the Fund and the non-re fundable loan form fees. The limited resources of the Fund necessitate that these expenses be kept to a minimum possible.

Audit

29. The annual financial statements of the Fund shall be subject to audit by the Auditor-General.

The Seal

30. The Fund Seal shall be under the safe custody of the Fund Manager and shall be used on authority of the Committee and authenticated by the signatures of the Chairperson and Secretary of the Committee.

Loan Discharge

31. (1) Upon full repayment of the loan, a signed loan discharge certificate in a form prescribed by the Committee shall be issued to the person who received a loan and a copy thereof shall be forwarded to the Registrar of Lands if land security was given.

(2) The loan discharge certificate shall release the person who received a loan from the Fund from any further financial obligation in respect of the loan and shall act as sufficient authority to remove caveat on the security pursuant to these Regulations.

Repeal

32. The Baringo County Micro and Small Enterprise Fund Regulations, 2014 are revoked.

Made on the 9th November, 2016

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HON. GEOFFREY BARTENGE
County Executive Committee Member
for Finance and Economic Planning
Baringo County Government