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**BARINGO COUNTY GAZETTE
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ACTS, 2014

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THE BARINGO COUNTY ASSEMBLY WARDS DEVELOPMENT FUND ACT, 2014

Date of Assent: 11th June, 2014

Date of Commencement: see section 1

AN ACT of Baringo County Assembly to provide for the establishment of a Fund for promoting development in the Wards and to set up institutional framework for coordinating development initiatives and projects in the Wards, and for connected purposes.

ENACTED by the Baringo County Assembly, as follows –

PART I – PRELIMINARY

1. This Act may be cited as the Baringo County Wards Development Fund Act, 2014 and shall come into operation upon expiry of thirty days from the date of publication in the *Gazette*.

Short title and commencement

2. In this Act, unless the context otherwise requires–
“Clerk” means the Clerk of Baringo County Assembly;

Interpretation.

“Community” means residents of a particular area or region as a ward, location or sub-location and having common interests;

“County Management Board” means the Board established under section 5;

“Fund” means the Ward Development Fund established under section 4;

“ Member of the County Executive Committee” means the county executive member responsible for county finance and economic and planning;

“Officer Administering the Fund” means the person appointed as such under section 8;

“Officer of the Fund” means the officer seconded by the County Management Board to the ward under section 9;

“Wards Development Fund Committee” means the committee established under section 33;

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“ Ward Fund Account” means the account maintained for every ward in accordance with section 16;

3. The object and purpose of this Act is to ensure that a specific portion of the county annual budget is devoted to the wards for purposes of development and in particular the fight against poverty at the Ward level.

Object and purpose of Act.

PART II –ESTABLISHMENT AND ADMINISTRATION OF THE FUND

4. (1) There is established a Fund to be known as Ward Development Fund which shall be administered by the Officer administering the Fund under the direction of the County Management Board.

Establishment of the Fund.

(2) The Fund shall consist of—

(a) An amount of not less than ten percent of the Baringo County Government Development Budgetary allocation in every financial year.

(b) Any moneys accruing to, donated, lent or received by the Fund from any other lawful source;

3) The amount referred to in section (2) (a) shall be calculated on the basis of the approved Budget by the County Assembly in every financial year.

(4) All receipts, savings and accruals to the fund and the balance of the fund at the end of each financial year shall be retained for purpose for which the fund is established.

(5) There shall be paid out of the fund payments in respect to any expense incurred in pursuance of the provision of this Act.

5. (1) There is established a Board to be known as the County Fund Management Board.

Establishment of the County Fund Management Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

- (c) borrowing money or making investments; and
- (d) Doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The County Management Board shall consist of—

- (a) the Chief Officer of the County Department for the time being responsible for matters relating to finance and economic planning or a designated alternate not being below the level of Deputy Chief Officer;
- (b) the Chief Officer of the County Department for the time being responsible for matters relating to Transport and Infrastructure or a designated alternate not being below the level of Deputy Chief Officer;
- (c) the Clerk of the County Assembly or a designated alternate not below the level of Deputy Clerk;
- (d) four persons, forming part of the board be nominated by the C.E.C Finance from among persons working in the County Government; County Assembly and County Executive with requisite qualifications in the stated fields:- finance, accounting, engineering, economics, community development, or law in accordance with subsection (4) taking into account gender balance and the diversity of the county;
- (e) the Member of the County Executive Committee responsible for legal matters who shall be an ex-officio member;
- (f) the Officer Administering the Fund who shall be an ex-officio member.

(3) The Member of the County Executive Committee shall appoint the chairperson of the County Management Board from amongst persons appointed in accordance with paragraph (d) of subsection (2).

(4) The names and curriculum vitae of the person competitively and transparently nominated as members of the County Management Board pursuant to paragraph (d)

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of subsection (2) shall be submitted to the County Assembly for approval before appointments are made.

6. (1) The conduct and regulation of the business and affairs of the County Management Boards shall be as business and affairs as provided for in the First Schedule.

Conduct of business and affairs of the County Management Board.

(2) Except as provided in the First Schedule, the County Management Board may regulate its own functions.

7. (1) The functions of the County Management Board shall be to—

Functions of the County Management Board.

(a) ensure allocation and disbursement of funds in every ward using parameters of commission on revenue allocation (C.R.A);

(b) ensure prudent management of the fund;

(c) receive and discuss the annual reports and returns from the wards;

(d) ensure compilation of proper records, returns and reports from the wards;

(e) ensure timely submissions to County Assembly of various returns, reports and information as required under the Act;

(f) consider and approve project proposals submitted from each Ward and make appropriate recommendations to the County Assembly;

(g) consider and report to the County Assembly with recommendations, names of persons required to be approved by the County Assembly under this Act;

(h) continually review oversee the implementation, policy framework and legislative matters that may arise in relation to the Fund;

(i) perform any other function in furtherance of the objects of this Act or as may from time to time be assigned by the county executive member.

(2) The Board shall before approving any project under this Act, ensure that all the project proposals are in line with the county development plans and the county budget for the respective financial year.

8. (1) There shall be an officer administering the fund who shall be appointed from the county public service and has:

Officer
Administering the
Fund.

(a) at least a university degree in finance, accounting, engineering, economics, community development, law or a related field from a recognized university;

(2) The officer administering the fund shall be the chief executive officer of the fund and secretary to the County Management Board and shall act subject to the directions of the County Management Board.

- (a) Supervise and control the day to day administration of the fund;
 - (b) Be responsible for the day to day management of the affairs and staff in the service of the County Management Board;
 - (c) Prepare monthly returns on the movement of the funds as appropriate for submission to the County Assembly;
 - (d) Keep or cause to be kept proper books of accounts and other books related to the Fund;
 - (e) Prepare, sign and transmit to the Auditor General accounts of the fund in accordance with Public Audit Act; and
 - (f) Perform any other duties that may be reasonably assigned to him by the County Management Board from time to time.
- (4) The Officer Administering the Fund shall–
- (a) be appointed by the Member of the County Executive Committee after approval by the County Assembly;
 - (b) Serve a term of four years but shall be eligible for reappointment for a further and final term of four years.

9. (1) The Member of the County Executive Committee shall, upon request by the County Management Board, facilitate secondment to the Fund of such officers from the County Public Service as may be appropriate and necessary for the proper management of the Fund.

Secondment of
staff.

(2) The County Management Board may designate any of the officers seconded under subsection (1) to be Officer of the Fund in respect of one or more wards as may be appropriate.

10. (1) The County Management Board may by resolution either generally or in a particular case, delegate to any committee or to any member, officer, employee or agent of the County Management Board, the exercise of any of the powers or the performance of any of the functions or duties of the committee under this act or under any other law.

Delegation by the County Management Board.

PART III- FINANCIAL PROVISION.

11. (1) Each and every ward disbursement from the fund shall be approved and minuted by the County Management Board;

Disbursement from the fund.

(2) All disbursements from the fund shall be for specific projects as submitted by the wards in accordance with the procedures outlined in this Act;

(3) All disbursements shall be made through the ward bank accounts maintained for every ward in accordance with section 16 of this Act;

(4) Notwithstanding the provisions of subsection (3) payments for a joint project as outlined under section 29 (4) or a joint procurement, may be made directly to a supplier or to an account established for the purpose with due approval of the County Management Board.

(5) The record of the amounts received by each ward and the record of the expenditure of amounts received shall be submitted to the County Management Board within thirty days after the close of the relevant financial year together with a copy of the relevant bank statements and no disbursements for the succeeding financial year shall be made into the accounts until the said records are duly received.

(6) The County Management Board shall set out general conditions and requirements for release of funds, to ensure efficient and effective management of resources.

(7) The County Management Board may impose reasonable requirements, including restrictions, on a particular ward and such restrictions or requirements as

shall be reported together with the monthly returns to be submitted to the Member of the County Executive Committee in accordance with this Act.

12. (1) The Member of the County executive committee with the concurrence of the County Management Committee, shall for each financial year allocate funds to each Ward in accordance with this section 26 of this Act.

(2) Once funds are allocated for a particular project, they shall remain allocated for that project and may only be re-allocated for any other purpose during the financial year with the approval of the County Management Board.

Allocation of funds.

(3) If for any reason a particular project is cancelled or discontinued during the financial year, funds allocated for such a project shall be returned to the Fund and credited to the account of the Ward from which the funds were withdrawn.

(4) Unspent funds shall be allocated to any eligible project and such project may be new or ongoing at the end of the financial year.

(5) For the avoidance of doubt, a return as set out in the Second Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

13. (1) All receipts, savings and accruals to the Fund at the end of each financial year shall be returned to the Fund and applied in accordance with section 12 (5) of this Act.

Funds to be retained in the Fund.

(2) All funds allocated to a Ward shall be cumulative and shall be carried forward from one financial year to the next, including funds returned into the accounts in accordance with section 12 (3) or funds which are not utilized for whatever reasons.

14. (1) A portion of the Fund, equivalent to five per centum (hereinafter referred to as the "Emergency Reserve") shall remain unallocated and shall be available for emergencies that may occur within the Ward.

Emergency reserve.

(2) the ward development fund committee shall be available determine the allocation of the emergency reserve in accordance with the Act.

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(3) "Emergency" shall be construed to mean an urgent, unforeseen need for expenditure for which it is in the opinion of the committee that which cannot be delayed until the next financial year without harming the public interest of the constituents.

(4) For each project, the Project Management Committee shall set aside a sum of three per centum of the total allocation for the project to cater for the administration expenses that it cannot be delayed until the next financial year.

15. (1) A bank account of the Fund shall be opened and maintained by the County Treasury.

Bank account of
the Fund.

(2) The signatories to the account of the Fund maintained in accordance with subsection (1) shall be the Officer Administering the Fund and two other persons appointed by the County Management Board from amongst its members.

(3) The signing instructions shall be such that the signature of the Officer Administering the Fund shall be mandatory on all payments of cheques or instruments intended for actual release of money from the Fund, plus any one of the other two signatories.

16. (1) For the purpose of disbursement of the funds under this Act, there shall be opened and maintained a Ward Fund Account for every ward at any commercial bank, approved by the Member of the County Executive Committee into which all funds shall be kept and such an account shall be known by the name of the ward for which it was opened and each ward shall maintain a bank account.

Ward Fund
Account.

(2) The bank account pursuant to subsection (1) shall be separate from that of the county treasury.

(3) At least three signatories shall be required for every cheque or instrument for actual payment or withdrawal of funds from a Ward Fund Account and the signing instructions shall be such that there shall be at least one signature of an officer seconded by the County Management Board and at least two signatures of two members of the Ward Development Fund Committee.

(4) The Officer of the Fund shall hold the authority to incur expenditure of the funds at the Ward Fund Account.

(5) Funds from the Ward Fund Account shall only be withdrawn as disbursements for a particular project in accordance with the provisions of section 11 of the Act.

(6) Every payment or instruction for payment out of the ward fund account shall be strictly on the basis of a minuted resolution of the Ward Development Fund Committee.

(7) All receipts, savings and accruals to the Ward Fund Account and the balances thereof at the end of each financial year shall be returned to the County Management Board Fund Account.

(8) All unutilized funds shall remain in the Ward Fund Account and no investment elsewhere shall be permitted, provide that the funds meant for a particular project that is cancelled or discontinued shall be returned to the Fund Account in accordance with section 11 of this Act.

(9) All unutilized funds of the Project Management Committee shall be returned to the Ward Fund Account.

(10) Any accruing revenues, interest and liabilities from any Ward Fund Account shall be declared to the County Management Board together with the annual returns.

17. (1) an accurate record of all the disbursements shall be kept and updated every month by the County Management Board.

Record of disbursements to be kept.

(2) the disbursement of funds to the Ward Fund Account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty – five per centum of the annual allocation for the Ward and thereafter the Ward Fund Account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the financial year.

(3) The Chairperson of the County Management Board shall submit an annual report on the activities, operations and expenditure under the Act.

(4) At the end of every financial year, the County Management Board shall submit separate accounts of the wards and the County Management Board to the Auditor General.

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18. (1) The personal emoluments of officers of the County Government working or involved in the Management of the fund shall be determined by the Member of the County Executive Committee after consultation with the County Management Board upon the advice of the Salaries and Remuneration Commission and shall be provided under the recurrent expenditure of the County Government.

Remuneration and allowance.

(2) Out of the pocket expenses incurred by any person officially involved in the management of the Fund or the implementation of projects under the Fund, including public officers may be reimbursed but that not more than three percent of the total allocation in the financial year may be used for this purpose.

(3) Sitting and other allowances for members of the County Management Board and the Ward Development Fund Committee shall be fixed by the Member of the County Executive Committee upon the advice of the Salaries and Remuneration Commission.

PART IV—SUBMISSION OF WARD PROJECT PROPOSALS.

19. (1) The list of proposed ward based projects to be covered under this Act shall be submitted by the Chairperson of the Ward Development Fund Committee to the County Management Board after approval by the Ward Development Fund Committee for that Ward.

Submission of projects

(2) The County Management Board shall receive and compile the list proposed ward projects submitted to it under this Act and grant the necessary approval where the requirements of this Act has been fulfilled.

20. (1) The list of proposed ward projects shall be submitted to the County Management Board before the end of the month of February in each year or such other month as may be determined by the member of the County Executive Committee in order to ensure timely inclusion of the projects in the annual Government budget of a particular financial year.

Submission deadline

(2) Where the Chairperson of the Ward development fund committee fails to submit the list of ward based projects to the County Management Board within the stipulated time in sub section(1),the list shall be deemed to

have been submitted to the County Management Board upon lapse of the stipulated time.

21. (1) The list of projects shall be submitted on a Wards projects submission form set out in the third Schedule to this Act and accompanied by minutes of the Ward Development Fund Committee approving the projects.

Submission forms

(2) All projects proposed for every Ward shall be listed in the Form together with the cost estimates, amounts allocated and amounts disbursed to such projects.

22. For every project listed in the Form, there shall be attached a project description form set out in the Second Schedule.

Projects description form

23. (1) The list of projects received by the County Management Board pursuant to section 19 shall be tabled for review at a meeting of the County Management Board.

Approval of projects

(2) The County Management Board shall scrutinize and approve for funding those project proposals that are consistent with the Act.

(3) Where the County Management Board does not approve a proposal submitted to it under this section, it shall refer the matter to the wards development fund committee giving reasons as to, why it has declined the proposal.

24. The allocation of funds to the various projects in each ward is the responsibility of the Ward Development Fund Committee to be exercised at its own discretion within the provisions of this Act.

Discretion

25. The projects listed for each ward shall be numbered by the County Management Board and the serial numbers of all projects in a ward shall bear the number of the ward as delineated by the independent Electoral and Boundaries Commission in order to ensure that a project retains the same serial number every year until its completion.

List to be serialized

26. (1) The budget ceiling, for each ward shall be—

Basis for budget ceiling

(a) Eighty five percent of the amount specified in section 4(2) (a) divided equally among all the wards.

- (b) Fifteen percent of the amount specified in section 4(2) (a) divided by the population in the County multiplied by the number of inhabitants in that Ward as per the last national population census.

(2) The chairperson of the relevant committee of the County Assembly shall table in the assembly a schedule showing the ceiling for each ward, which shall be determined in accordance with subsection (1).

27. (1) The types of projects submitted for funding under this Act shall comply with the provisions of this Act.

(2) It shall be the responsibility of the ward development fund committee to ensure that the list of projects submitted for funding comply with the provisions of this Act and their total cost does not exceed the allowable ceiling for the particular Ward or is not below that ceiling.

Criteria for projects

(3) If the list of projects submitted for funding is in contravention with Subsection (2), the same shall be referred back to the Ward Development Fund Committee for amendment and re-submission.

(4) Whenever the amount for projects in a Ward is less than the allowable ceiling for reasons of projects being deleted in accordance with subsection (3), or for whatever reason, the shortfall shall be indicated as unallocated amount against that particular Ward on the list to be forwarded to the Member of the County Executive Committee.

PART V—TYPES OF PROJECTS

28. (1) Projects under this Act shall—

- (a) Be projects contained in the County Integrated Plan and;
- (b) Be community based in order to ensure that the prospective benefits are available to a widespread cross section of the inhabitants of a particular area.

Projects to be community based

(2) Any funding under this Act shall be for a distinct program, complete project or a defined phase of a project and may include the acquisition of land and buildings.

(3) All projects shall be developmental projects as

defined under this Act and may include costs related to studies, planning and design or other technical input for the project but shall not include recurrent costs of a facility.

(4) Funds provided under this Act shall not be used for the purpose of supporting political bodies or political activities or for supporting religious bodies or religious activities.

(5) Notwithstanding the provisions of subsection (4), the Ward Development Fund Committee may identify a religious body or organization as an appropriate specialized agency for purposes of section 12 with regard to emergency support or for implementing a specified project for the sole benefit of the community.

(6) A Ward Development Fund Committee office project shall be considered as a development project for purposes of the Act and may include appropriate furniture and equipment for the office.

(7) Each of the projects shall be listed on the Third schedule including the emergency item under section 11 and, where applicable, the activities under subsection (8) of this section.

(8) The allocation may be used as follows—

- (a) fifteen percent of each ward's annual allocation may be used for an education bursary scheme and can fund school fees, examination fees and even continuous assessment and mock examination fees;
- (b) an amount not exceeding three percent may be used as expenses for running the Ward which may include rent and utilities, staff salaries and committee allowances;
- (c) two percent of each ward annual allocation may be used for sporting activities;
- (d) two percent of each ward annual allocation may be used for environmental activities;
- (e) two percent of each ward annual allocation may be used on capacity building;
- (f) purchasing, running and maintenance of motor vehicles and equipment must not take more than three percent of the total annual allocation.

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29. (1) The number of projects to be included in the Ward Projects Submission Form specified in the Third Schedule shall be a minimum of five and a maximum twenty five for each Ward in each financial year.

Number of
projects

(2) Wards with unspent funds at the end of the financial year shall submit new proposals to the County Management Board for approval in accordance with section 12 (5) of this Act.

(3) Project activities of a similar nature in a particular Ward may be combined and considered as one project for purposes of subsection (1) provided that the sub projects are listed as provided in the Second Schedule.

(4) Wards may pool resources for joint projects provided that the decision for such joint projects shall first be approved by the Ward Development Fund Committee of each of the participating Wards and shall be reflected on the projects listed for each of the participating Wards.

Where wards have joint projects, the County Management Board shall coordinate such projects.

30. (1) The Ward Development Fund Committee may make appropriate consultations with the relevant county and national government departments to ensure that cost estimates for the projects are as realistic as possible.

Cost estimates to
be realistic

(2) The Ward Development Fund Committee shall rank the projects in order of priority and whenever, in the opinion of the County Management Board, the total cost of the projects listed exceeds the ceiling for a particular Ward, then the order in which they are listed shall be taken as the order of priority for purposes of allocation of funds, provided that ongoing projects shall take precedence over all other projects.

31. (1). A project or any part thereof which involve personal awards to any person in cash or in kind, shall be excluded from the list of projects submitted in accordance with section 14 of this Act.

Personal awards to
be excluded

(2) Notwithstanding the provisions of subsection(1), an education bursary scheme, mocks and continuous assessments tests shall be considered as a development project for purposes of the act provided that such project

shall not be allocated more than twenty five per centum of the total funds allocated for the ward in any financial year.

32. For the purposes of this Act, the County Management Board may consider part funding of a project financed from sources other than the Fund – so long as the other financiers or donors of that project have no objection; and provided that the part funding for the project availed pursuant to this Act shall go to a defined unit or any part thereof or phase of the project in order to ensure that the particular portion defined in the allocation is completed with the funds allocated under this Act.

Counterpart funding to be permitted

PART VI- THE WARD DEVELOPEMENT FUND COMMITTEE AND THE COUNTY ASSEMBLY SELECT COMMITTEE

33. (1) There is established the Ward Development Fund Committee for each Ward which shall be constituted by the elected Member of the County Assembly within the first forty five days of a new assembly.

Establishment of Ward Development Fund Committee

34. (1). The membership of the Ward Development Fund Committee shall comprise of-

- (a) A Chairperson elected by Ward Development Fund Committee members;
- (b) Two persons representing the male persons in the Ward one of whom shall be a youth at the time of appointment;
- (c) Two persons representing the female persons in the Ward one of whom shall be a youth at the time of appointment;
- (d) one representative of community based organization;
- (e) one member representing persons living with disability
- (f) one representative of an active non-governmental organization in the ward
- (g) the ward administrator who shall be the secretary;

(2) The eight persons referred to in sub section (2) (b) (c), (d) and (e) shall be nominated in accordance with the following procedure-

- (a) Within forty-five days of being sworn in, each Member of County Assembly for a particular Ward in collaboration with the village administrator shall convene open public meetings in each village in the ward;
- (b) Each ward shall then elect five persons whose names shall be forwarded to the officer of the fund in the ward;
- (c) Upon receiving the names from all villages in the Ward, the Member of the County Assembly in consultation with the officer of the fund and the Sub-County Administrator for the Ward, shall appoint seven persons to the Ward Development Fund Committee, taking into account the geographical diversity within the Ward, communal, religious, social and cultural interests in the Ward and the requirements of gender, youth and representation of persons with disabilities;
- (d) Upon conclusion of the election of the chairperson in the manner stipulated in paragraph (d), the officer of the Ward Development Fund Committee shall forward the names of the members of the Ward Development Fund Committee to the Officer Administering the Fund for onward transmission to the Member of the County Executive Committee for gazettelement;
- (e) The Member of the County Assembly for the Ward shall be an ex-officio member of the committee;

(4) The Member of the County Executive Committee shall cause the names of persons appointed as members of the Wards Development Fund Committee, pursuant to sub-section (2) to be published in the Kenya Gazette.

(5) The first meeting of the Wards Development Fund Committee shall be convened within the first sixty days of a new County Assembly or By-election by the County Government official at the Ward or in his absence, by an officer of the Ward Development Fund Committee seconded to the ward, on such day as may be designated by the Member of the County Executive Committee.

(6) The Chairperson of the Ward Committee in consultation with member of County Assembly for the Ward and the Ward administrator shall, within the first year of a new County Assembly and at least once every two years thereafter, convene open public meetings in every village or among a cluster of villages in the Ward to deliberate on development matters in the village and the Ward.

(7) Each village shall come up with a list of priority projects to be submitted to the Ward Development Fund Committee.

(8) The term of office of the members of the ward development fund committee shall be three years irrespective of a County Assembly term but shall be renewable and shall come to an end upon the appointment of a new Ward Development Fund Committee.

(9) The officer of the fund shall be the custodian of all records and equipment of the ward during the term of the County Assembly and during transitions occasioned by general elections or by-election.

(10) Whenever a vacancy occurs in the Ward Development Fund Committee by reason of resignation, incapacitation or demise of a member then the vacancy shall be filled from the same category of persons where the vacancy occurred.

(11) The Ward Development Fund Committee shall meet at least six times in a year and not more than twenty four times in every financial year including sub-county committees.

(12) The committee may employ staff, not exceeding three in number, and shall have knowledge in information and communications technology, construction and basic accounting.

(13) Staff employed under subsection (12) shall help in project monitoring evaluation, co-ordination and proper keeping of records and such staff shall be remunerated from funds allocated for administration and recurrent expense.

35. (1) Each unit of a ward shall come up with proposals ,discuss them, select and prioritize a list of

projects to be submitted to the Ward Development Fund Committee.

(2) The Ward Development Fund Committee shall deliberate on project proposals from the ward and any other project which the committee considers beneficial to the ward, then draw up a priority project list both immediate and long term, out of which the list of projects to be submitted to the County Assembly in accordance with section 14.

(3) The quorum of the Ward Development Fund Committee shall be one half of the total membership.

36. (1) the County Assembly shall, in accordance with its standing orders, establish a select committee consisting of the chairperson and not more than ten other members of the County Assembly.

(2) In determining the membership of the County Assembly select Committee, the County Assembly shall ensure proportionate representation of the County Assembly political parties.

(3) The term of office of the Members of the County Assembly Select Committee shall be three years renewable or upon the appointment of a new committee in a manner provided for in this Act, whichever comes earlier.

(4) The procedures and rules for the operations of the County Assembly Select Committee shall be governed by the standing orders of the County Assembly.

(5) the functions of the County Assembly Select Committee shall be to—

- (a) Consider and recommend to the County Assembly any matter requiring action by the County Assembly pursuant to the provisions of this Act;
- (b) Oversee implementation of the objects of this Act and in this respect, shall after every two years submit a report to the County Assembly and where necessary, propose any amendments to this Act, in particular, with respect to the quantum of funds repayable into the fund in accordance with section 4 of this Act;
- (c) Oversee the policy framework and legislative matters that may arise in relation to the fund;

- (d) Continually review the framework set out for the efficient delivery of development programs financed through the fund;
- (e) Consider and report to the County Assembly with recommendations, names of persons required to be approved by the assembly under this Act;

(6) The committee may make reports other than the statutory report stated in sub section (5) (b) to appraise the County Assembly on various matters relating to the fund and to seek various approvals as required by the Act.

37. (1) The County Management Board shall, on a monthly basis, submit a report to the County Assembly Select Committee detailing—

- (a) Summary of the project proposals received from the wards in the preceding month and indicating the approval status of such projects;
- (b) A summary of the status of disbursements of funds to the wards for that preceding month;
- (c) A summary of the status of the disbursements from the treasury to the county ward account ; and
- (d) Any restriction imposed on a ward fund account in accordance with the Act.

(2) The County Management Board shall ensure that the list of projects forwarded to it by each ward is, upon approval, funded in accordance with the Act.

PART VII—IMPLEMENTATION OF THE PROJECTS

38. (1) Projects under this Act shall be implemented with the assistance of the relevant department of County Government and all payments through cheques or otherwise shall be processed and effected in accordance with government regulations for the time being in force.

(2) Where a project in a Ward involves the purchase of equipment, such equipment shall remain for the exclusive use of that ward.

(3) The Ward Development Fund Committee and the County Management Board shall be responsible for monitoring the implementation of projects and may designate a sub-committee or a project committee, the

functions of monitoring ongoing projects to the ward administrator and sub-county administrator and the County Assembly committee.

(4) All fixed and movable assets, including equipment bought under this Act for use by the Ward Development Fund Committee shall be the property of the County Government to be insured in the name of the County Government but serialized to reflect the name of the ward.

(5) No asset or equipment acquired under this section shall be disposed of by the County Government without prior approval of the County Management Board.

(6) Any proceeds that may accrue from disposal of any asset acquired pursuant to subsection (5) shall be credited to the account of the ward from whose funds the asset was acquired and such funds shall be reflected and declared as part of the following year ward fund for that ward.

39. (1) All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposals Act.

(2) Regulations made under the Public Procurement and Disposals Act 2005 shall provide for the composition of the ward tender committees for purposes of Procurement under this Act.

40. The officer of the fund in every ward shall compile and maintain a record showing all receipts, disbursements and actual expenditures on a monthly basis in respect of every project and sub-project under this Act and shall—

- (a) table such record at a meeting of the ward development fund committee in every month ; and
- (b) Submit a summary of the record for the year to the ward development fund committee not later thirty days after the end of every financial year.

41. All funds received under this Act shall be audited and reported upon by the Auditor General.

42. (1) Projects initiated by a community shall be eligible for support under this Act provided that such projects shall be submitted with the other projects in conformity with requirements of this Act.

(2) Pursuant to subsection(1), a community shall, maintain an elected committee to represent the interest of that community during and after the implementation of the project and such a committee shall conform to the requirements of this Act.

43. The County Management Board shall ensure that no duplication of projects occur particularly where it is prudent to combine efforts on projects designed to benefit a large section or sector of a community traversing several wards in a county.

44. (1) The County Management Board shall at the beginning of every financial year, prepare and circulate to the various ward development fund committee in that county a list of other government allocations for various projects in the county.

(2)The ward development fund shall ensure cooperation with the County Management Board to avoid duplicity of funding to projects within the ward.

(3) Despite subsections (1) and (2), the existence of another allocation by government to the ward shall not be used as a reason to deny either approval or funding of any project consistent with this Act.

PART VII–MISCELLANEOUS PROVISIONS

45. (1) The Member of the County Executive Committee may make regulations for the smooth running of the fund and such regulations shall be approved by the County Assembly before implementation.

(2) The Member of the County Executive Committee may amend any of the schedules through a notice in the Gazette, provided that such amendments shall first be approved by the County Assembly before implementation.

46. (1) The provisions of this Act shall be complementary to any other development efforts by the national government, the county government or any other agency and nothing in this Act shall be taken or interpreted to mean that an area, may be excluded from any other development programs.

(2) For the avoidance of doubt, normal government development allocations shall continue alongside the projects funded under this Act.

47. any person who misappropriates any funds or assets from the fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not less than five years or to both a fine not less than five hundred thousand shillings or to both.

48. (1) All complaints and disputes by persons arising disputes due to the administration of this Act shall be forwarded to the County Management Board in the first instance.

(2) Complaints of a criminal nature shall be forwarded by the County Management Board to the relevant government agencies with prosecutorial powers.

(3) Disputes of a civil nature shall be referred to the County Management Board in the first instance and where necessary an arbitration panel whose costs shall be borne by the parties to the dispute to consider and determine the matter before the same is referred to court.

(4) Notwithstanding the provisions of subsection (3), parties shall be at liberty to jointly appoint an arbitrator of their choice in the event of a dispute but where parties fail to jointly agree on an arbitrator, the member of the county executive committee may appoint an arbitrator whose costs shall be jointly borne by the parties.

(5) Subject to this Act, no person in the management of the fund shall be held personally liable for any lawful action taken in his official capacity or for any disputes against the fund.

49. (1) The initial capital of the fund shall be an amount not less than ten percent of the Baringo County Government Development budgetary allocation for financial year.

(2) Notwithstanding subsection (1), if this Act comes into operation midway in a financial year, then the leader of the majority part shall within one month of its publication, introduce in the Assembly the amount proposed to be put in the fund and the amount proposed, shall be allowed for through supplementary estimates.

FOURTH SCHEDULE (s. 6)**CONDUCT OF BUSINESS AND AFFAIRS OF
THE COUNTY MANAGEMENT BOARD**

1. The Chairperson or a member of the County Management Board other than *ex-officio* members shall, subject to the provisions of this Schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two terms.

Tenure of office.

(1) a member other than an *ex-officio* member may—

Vacation of office.

(a) at any time resign from office by notice in writing to the county executive member;

(b) be removed from office by the county executive member on recommendation of the County Management Board if the member—

(i) has been absent from three consecutive meetings of the County Management Board without its permission;

(ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;

(iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or

(iv) is otherwise unable or unfit to discharge his functions.

(2) The Chairperson shall not be removed from office unless such removal is in accordance with sub paragraph (1).

3. (1) The County Management Board shall meet not less than six and not more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

Meetings.

(2) Notwithstanding sub paragraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the County Management Board at any time for the transaction of the business of the County Management Board.

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

(4) The quorum for the conduct of the business of the County Management Board shall be five members.

(5) The Chairperson shall when present, preside at every meeting of the County Management Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the County Management Board shall be by a majority of the votes of the members present and voting, and in case of any inequality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to the subparagraph (4), no proceedings of the county management shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this schedule, the county management may determine its own procedure and the procedure for any committee of the County Management Board and for attendance of other persons at its meetings and may make standing orders respective thereof.

4. (1) The County Management Board may establish such committees as it deems appropriate to perform such functions and responsibilities as it may determine.

(2) The County Management Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The (3) The County Management Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the County Management Board.

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

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

(3) A member of the County Management Board who contravenes subparagraph (1) shall cease to be a member of the County Management Board upon direction of the member of the county executive committee.

6. (1) The common seal of the County Management Board shall be kept in such custody as the County Management Board may direct and shall not be used except on order of the County Management Board.

(2) The affixing of the common seal of the County Management Board shall be authenticated by the signature of the chairperson, the chief executive officer and one member nominated by the County Management Board and any document not required by law to be made under seal and all decisions of the County Management Board may be authenticated by the signatures of the chairperson, the officer administering the fund and that member nominated by the County Management Board.

(3) The common seal of the County Management Board when affixed to a document and duly authenticated shall be judicially and officially noticed unless and until the contrary is proved, any necessary order or authorization by the County Management Board under this section shall be presumed to have been duly given.

7. The provisions of this schedule shall apply to the conduct of the business of the ward development fund committee but only where no specific provisions have been made in this Act, and only in so far as they do not constitute a contradiction or negation of the provisions of this Act.

2014

Baringo County Wards Development Fund

No. 3

SECOND SCHEDULE. (s. 11 (5)).

WARD PROJECT RE-ALLOCATION FORM

Ward No:NameFinancial year

<i>Project No.</i>	<i>Project Title</i>	<i>Amount allocated (Kshs)</i>	<i>Amount disbursed (Kshs)</i>	<i>Balance (Kshs)</i>	<i>Unspent to be re-allocated</i>

Name

Position

Signature Date

2014

Baringo County Wards Development Fund

No. 3

Brief statement on project status at time of submission

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.....
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Financial year1st July to 30th June

Original Cost estimates, in Ksh..... Dated

Amount allocated last financial year

Person completing form..... Signature

Name Position

Date





