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REPUBLIC OF KENYA

**KISII COUNTY GAZETTE
SUPPLEMENT**

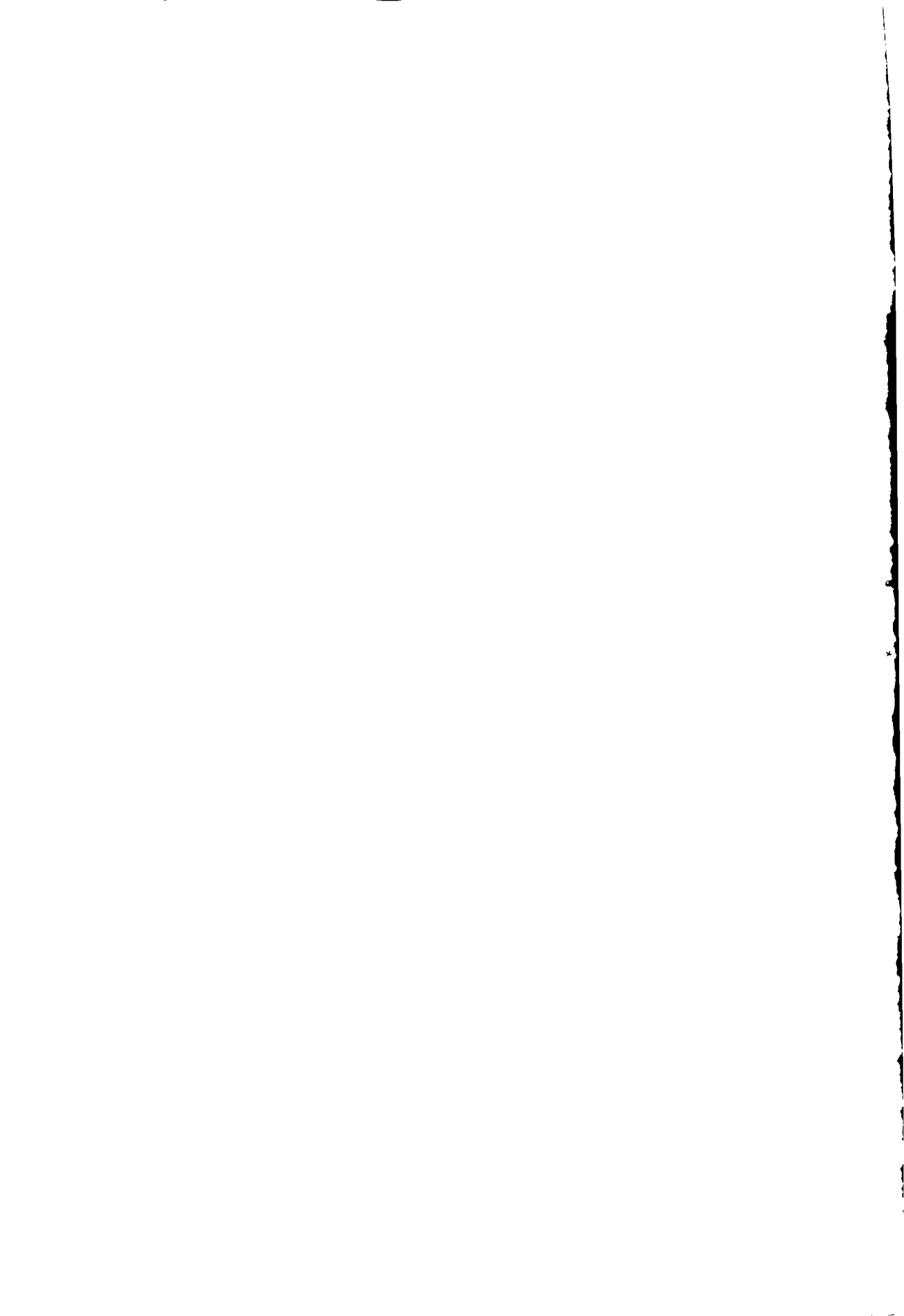
ACTS, 2015

NAIROBI, 12th August, 2015

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KISII COUNTY TRADE CREDIT SCHEME ACT, 2015

No. 5 of 2015

Date of Assent: 27th July, 2015

Date of Commencement: See Section 1

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**SCHEDULE—PROVISIONS RELATING TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE COMMITTEE**

**KISII COUNTY TRADE CREDIT SCHEME ACT,
2015**

AN ACT of the County Assembly of Kisii to establish a Trade Credit Scheme Board to provide access to affordable credit to: start-ups, micro, small and medium enterprises, agribusiness and producer business groups to promote trade development and economic growth of the people of Kisii and for related purposes

ENACTED by the County Assembly of Kisii as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kisii County Trade Credit Scheme Act, 2015 and shall come into operation upon gazettment by the County Executive Committee member responsible trade matters. Short title

2. In this Act, unless the context otherwise requires— Interpretation.

“applicant” means an individual, group of individuals or registered business enterprise operating in Kisii County;

“Board” means the County Trade Credit Scheme Board established under section 6 of this Act;

“Chief officer” means the chief officer responsible for trade matters;

“Governor” means the Governor of Kisii County Government;

“Executive Committee Member” means the County Executive Committee Member responsible for Trade Sector;

“Prescribed” means prescribed by the Executive Committee Member.

**PART II—ESTABLISHMENT AND
ADMINISTRATION OF THE CREDIT SCHEME**

3. (1) There is hereby established a Credit Scheme to be known as the County Trade Credit Scheme. Establishment of
Credit Scheme.

(2) The Credit Scheme shall be a body corporate with perpetual succession and a common seal, and shall have power to—

- (a) acquire, own, possess and dispose of property;
- (b) enter into contract; and
- (c) sue and be sued in its own name
- (d) borrow and lend money.

4. The object and purpose of the Credit Scheme shall Object of the Scheme.
be to—

- (a) provide funds for granting low-interest loans to start ups, micro, small and medium enterprises, producer business groups and agribusiness
- (b) promote small scale enterprises through the provision of affordable credit;
- (c) introduce small scale traders and entrepreneurs into borrowing for the sustainability of their businesses;
- (d) reduce rural-urban migration;
- (e) create employment, stimulate income generation and earnings for residents of the county and reduce poverty;
- (f) enable small scale traders and entrepreneurs to gain experience in loan management and graduate to funding from established financial institutions;
- (g) support, revive and initiate small scale industries and enterprises in areas that can have immediate impact to household income, through the provision of low-interest loans;
- (h) attract and facilitate investment in micro, small and medium enterprises that benefit the youth, women and persons with disabilities.

5. In the exercise of the powers or the performance of the functions under this Act, the County Executive Committee and, the Credit Scheme Board shall be guided by the following principles— Guiding Principles of the Credit Scheme.

- (a) public participation and financial inclusiveness;
- (b) donor linkages and participation;
- (c) protection of the interests of the marginalized, persons with disability, women and the youths; and

(d) local ownership and sustainability.

6. (1) There is established a Board to be known as the County Trade Credit Scheme Board which shall consist of—

Establishment of
the County Trade
Credit Scheme
Board.

- (a) the Chairperson of the Board, not being a public officer, will be appointed by the Governor and with the approval of the County Assembly;
- (b) the County Chief Officer in the department for the time being responsible for matters relating to trade or a representative appointed in writing, the Chief Officer of Trade shall be the Secretary to the Board;
- (c) the County Chief Officer in the department for the time being responsible for finance or a representative appointed in writing;
- (d) Two persons, not being public officers, appointed by the County Executive Committee Member;
- (e) the County Trade development officer in the department;
- (f) the Chairman of the Kenya National Chambers of Commerce-Kisii County;
- (g) the chairperson of Maendeleo ya Wanawake-Kisii County;
- (h) the chairperson of the Association of Persons with disability-Kisii county; and
- (i) there shall be a sub-county Committee chaired by the Trade development officer whose membership shall comprise of one member nominated by the member of the county assembly from each Ward and the sub-county accountant who shall be the secretary to the sub-county Committee. The sub-county Committee shall issue loan application forms, receive loan applications, shortlist the applicants and forward the loan forms to the County Trade Credit Scheme for disbursements.

(2) The Chairperson and the persons appointed under subsection (1) (a), (d), (f), (g) and (h) shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(3) A person shall be qualified for appointment under subsection (1) (a) or (d) if that person—

- (a) holds a diploma from a reputable institution recognized in Kenya;
- (b) has at least three years experience in the relevant field; and

meets the requirements of leadership and integrity as provided in Chapter 6 of the Constitution and any relevant national legislation.(4) The County Executive Member shall duly gazette the names of all the members of the board after appointment.

7. (1) The Chairperson and members of the Board shall serve on part time basis and shall be entitled to sitting and other necessary allowances as may be determined from time to time by the Salaries and Remuneration Commission.

Terms and conditions of Service.

8. The office of the Chairperson or member of the Board appointed under section 6 (a) and (d) shall become vacant if the member—

Vacation of Office of member.

- (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) is convicted of an offence involving fraud or dishonesty;
- (d) is absent from three consecutive meetings of the Committee without reasonable cause;
- (e) resigns in writing addressed to the Member of the Executive Committee;
- (f) is removed from office by the Member of the Executive Committee for—
 - (i) inability to perform the functions of the office by reason of mental or physical infirmity; or
 - (ii) failure to declare his or her interest in any matter being considered or to be considered by the Board; or
 - (iii) any other sufficient reason as may be prescribed;
- (g) dies.

9. (1) The management and administration of the Credit Scheme shall vest in the Board and as such the Board shall—

Functions of the Committee.

- (a) formulate policy guidelines on lending;
- (b) set eligibility criteria to loan applicants;
- (c) ensure that all projects funded under this Act are consistent with the county's priorities specified in the relevant policy documents;
- (d) approve proposals for loans submitted to it under this Act;
- (e) authorize lending and allocations from the Credit Scheme;
- (f) formulate or approve standards, guidelines and procedures for funding proposals under this Act,
- (g) provide oversight in the utilization of the funds of the Credit Scheme.

(2) The Board shall, through the Secretariat, perform the following functions—

- (a) administer the Credit Scheme;
- (b) conduct credit appraisal of the applicants and ascertain the amount of loan the applicant qualifies to get;
- (c) monitor and evaluate projects funded by the Credit Scheme;
- (d) provide technical, financial and legal expertise to the beneficiaries of the Credit Scheme;
- (e) carry out such other functions as may be conferred on it by the County Executive Committee Member and this Act.

(3) In the performance of its functions under this section, the Board shall—

- (a) conduct civic education to promote the awareness and understanding of the operations of the Credit Scheme amongst stakeholders;
- (b) provide capacity building and advice to business sector institutions or individuals to ensure the effective use of the funds borrowed under this Act;

- (c) develop a framework that will ensure an open, transparent and efficient use of the funds borrowed under this Act ;
- (d) conduct research and gap analysis to ensure continuous performance improvement of the Credit Scheme;
- (e) assist business communities, where the Board considers it necessary to do so, to design, identify, select, prioritize, and negotiate investment opportunities that will result in maximum benefits;
- (f) assist business communities in appraising and evaluating the investment opportunities designed and identified under paragraph (e);
- (g) maintain a record of all Credit Scheme activities and beneficiaries;
- (h) assist the County Executive Committee Member in formulating guidelines and standard documentation required under this Act;
- (i) carry out any other duty or activity that may be required for the effective management and implementation of the Credit Scheme.
- (j) Recommend the digitalisation of the credit scheme.

10. (1) The Board may establish such sub-committees as it may consider necessary for the better performance of its functions and the exercise of its powers under this Act.

Delegation by the Board.

(2) The Board may co-opt into the membership of a sub-committee established under subsection (1), such persons whose knowledge and skills are necessary for the performance of the functions of the sub-committee.

(3) The Board may, by resolution either generally or in any particular case, delegate to any sub-committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act.

11. (1) Subject to subsection (2), the business and affairs of the Board shall be conducted in accordance with the First Schedule.

Conduct of Business of the Board.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

12. (1) The County Trade Development Unit in the department responsible for trade shall, administer the credit scheme. The secretariat administering the credit scheme.

(2) The County Trade Development Unit shall be responsible for the day to day functioning of the Credit Scheme and Secretary to the Board and without prejudice to the generality of the foregoing, shall—

- (a) ensure that the criteria of funding established by the Board is clearly followed;
- (b) all loans disbursed from the Credit Scheme are properly recorded;
- (c) with the approval of the Board, initiate programmes and strategies for advancing the objects of the Credit Scheme in general and for conducting civic education to promote the awareness and understanding of the operations of the Credit Scheme amongst the stakeholders;
- (d) ensure the proper management of the Credit Scheme;
- (e) advise the Board, from time to time, to adopt policies intended to enable the Board to effectively implement the objects of the Credit Scheme Fund;
- (f) facilitate the preparation of the budget, strategies, operational proposals, annual plans and corporate policies for discussion by the Board and implement decisions and resolutions adopted by the Board;
- (g) be answerable, in the performance of all his or her duties and functions, to the Board;
- (h) keep proper books of account and cause, under the general guidance of the Board, the annual accounts of the Credit Scheme to be prepared in accordance with the provisions of this Act and other relevant laws;
- (i) perform such other functions as is assigned by the Board from time to time.

13. The Board shall ensure that its services are accessed in all parts of the County to the extent that it is practicable to do so and shall for that purpose establish liaison office in every Ward and funds shall be equitably distributed to all the wards in the county.

Equitable distribution of funds to all wards.

PART III—APPLICATION, PROCESSING AND CONDITIONS OF LOANS

14. (1) A person wishing to be considered for the grant of a loan shall make an application to the relevant ward office in the prescribed form.

Application for and processing of grant of a loan.

(2) The criteria for granting a loan from the Credit Scheme shall be in accordance with the regulations made under this Act.

(3) The Board shall consider all applications submitted to it in accordance with the criteria set under subsection (2) and may accordingly accept or reject any application for a loan.

(4) Where it accepts any application, the Board, will grant a loan to the relevant qualifying applicant.

(5) Where the Board rejects any application it shall, as soon as is practicable, notify the applicant of the rejection in writing giving reasons why the application was rejected.

(6) The Board while assessing the loan applications shall have no authority of disqualifying any loan application except with the advice of the sub-county Committee.

(7) An applicant who is granted a loan will be issued with a Loan Identification Account Number by the Board.

(8) Any person, official or representative of a group, business enterprise who—

- (a) in filling a loan application form, knowingly makes any false statement, whether orally or in writing relating to any matter affecting an application or request for a loan;
- (b) being required under paragraph (a) to—
 - (i) answer any questions,
 - (ii) furnish any information or particulars, or
 - (iii) produce any document or paper;

- (c) neglects to do so without reasonable cause; or
- (d) is granted a loan based on false information.

commits an offence and is liable on conviction, in the case of paragraphs (a) and (b) to a fine of not less than fifty thousand shillings or to imprisonment for a term of not exceeding six months and in the case of paragraph (c) to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year.

15. (1) The Board may—

Conditions for grant
of loan

- (a) accept or reject any application for a loan;
- (b) grant a loan to any applicant and in so granting impose conditions, demand security and require repayment in instalments at such times and within a period that the Boards deems fit.

(2) Notwithstanding the provisions of subsection (1) but subject to the provisions of this section the Board may, upon the request by an applicant to whom a loan has been granted, at any time vary—

- (a) the conditions subject to which the loan was made;
- (b) any security given in relation to the loan; or
- (c) any of the terms of repayment of the loan.

(3) An applicant for a loan under the Credit Scheme may be required to comply with the following—

- (a) be a county resident;
- (b) must have been in business for at least six months prior to making the application for a loan;
- (c) must satisfy the Board that the applicant keeps simple books of accounts;
- (d) should have a business premises;
- (e) must be the owner or manager of the business;
- (f) the business must be a legally recognized business by the relevant government organs;
- (g) appropriately fill the prescribed loan application form;
- (h) avail identification document such as national identity card, passport or certificate of

incorporation or registration in case of a business entity;

- (i) entrepreneur
- (j) the minimum loan amount shall be KSh. 10,000 and maximum will be KSh. 200,000
- (k) must secure the loan through any one of the following—
 - (i) title deed or logbook of motor vehicle;
 - (ii) share certificate;
 - (iii) life insurance policy
 - (iv) chattels mortgage of machinery or some other movable property; or
 - (v) guarantee from guarantors.

(4) Where the Board has resolved to grant a loan to any eligible applicant, the Board shall notify the applicant in writing, and require the applicant to comply with any conditions and provide any security which the Board may have imposed or demand within a specified period not exceeding three months. The Board shall publish the names of all successful applicants in the *County Gazette* and in the Ward offices in Kisii County within 21 days from the date of approval.

(5) Where an applicant fails to comply with the requirement of the Board notified to the applicant under subsection (4) within the prescribed period, the application shall be deemed to have lapsed.

(6) Where in granting a loan to an applicant the Board considers it prudent to request for a guarantor to guarantee the loan granted to the applicant the guarantor shall, in case of any default of repayment by the applicant automatically be fully liable to pay any outstanding amount with interest accrued in full as shall be notified to the guarantor by the Board.

(7) Where a guarantor notified by the Board under subsection (6) fails or refuses to repay the outstanding loan together with the interest accrued, the guarantor shall be liable to civil proceedings in accordance with the provisions of this Act.

(8) The Board while disbursing loans shall adhere to

the budgetary allocations for each financial year for each Ward in the County.

16. A person granted a loan under this Act shall repay the loan and interest thereon on terms and conditions specified in the letter of approval of the loan submitted to the person granted a loan—

Repayment of a loan.

- (a) the credit shall be charged at an interest rate of 5% per annual on reducing balance;
- (b) a grace of 1 month and 3 months will be accorded to existing businesses and start ups respectively;
- (c) the repayment period shall be determined by the board depending on the amount of loan granted but shall not exceed 18 months.

17. (1) A person granted a loan under this Act shall, during the subsistence of the loan, keep proper books of accounts and records in relation to the funds provided by the scheme and the accounts and records kept shall be open for scrutiny by the officer administering the fund of the scheme.

A person granted a loan to keep books of accounts.

(2) A person granted a loan shall submit to the Committee the audited financial accounts of the beneficially business for each financial year until the full repayment of the loan and interest.

18. (1) If, from the outlook of the functioning and activities of the business which is the beneficially of a loan from the scheme, there has been or there is likely to be any breach of, or failure to comply with any condition or term of repayment of the loan, the Board may forthwith—

Recovery of a loan in case of default.

- (a) recover the amount of the loan or any amount remaining unpaid including interest as a civil debt under the Debts (Summary Recovery) Act; or
- (b) enforce or realize any security offered in relation to the loan.

(2) The Board may, in exercising any of the powers conferred by subsection (1), engage the services of a private legal practitioner or a debt recovery agent.

Cap. 42.

18. (1) A person who organizes a car boot sale, selling items, in any public or private place must obtain a licence from the Directorate.

Car Boot sales.

(2) An application for a licence under this section shall contain the following information the—

- (a) name of the applicant;
- (b) the designated area where the car boot sale will be held;
- (c) date when the car boot sale will be held.

PART IV—FINANCIAL PROVISIONS OF THE SCHEME

19. The Credit scheme fund shall consist of—

Capitalisation of the
Credit Scheme fund

- (a) moneys allocated and appropriated to the scheme from the County Revenue Fund by the County Assembly from time to time for the first five years after the commencement of this Act;
- (b) sums from the repayment of the capital and interest of any loan granted from the Credit Scheme;
- (c) income from any investment made by the Credit Scheme;
- (d) money borrowed by the Credit Scheme with the approval of the executive committee member and the County Assembly;
- (e) any grants, gifts, donations or other endowments given to the scheme;
- (f) moneys that may vest in or accrue to the scheme in the course of the exercise or performance of the functions of the Board under this Act; and
- (g) moneys from any other lawful source accruing to the scheme.
- (h) All amounts devolved from the national government to assist MSMEs in the counties

20. (1) There shall be paid from the Credit Scheme with the approval of the Chief Officer in consultation with the County Executive Committee Member—

Credit scheme
expenditure

- (a) loans to small scale traders and entrepreneurs to facilitate investment in micro, small and medium enterprises in accordance with the terms and conditions set by the Board;

(b) operational expenses incurred in the administration of the Credit Scheme; and

(c) monies that are necessary for the functioning of Board.

(2) The expenses incurred in paragraphs (b) and (c) above shall not exceed twenty percent of the Credit Scheme loan book from time to time.

21. (1) The Board shall open a bank account of the Scheme and such other accounts of the Board in commercial banks decided by the Board with the approval of the Chief Officer in consultation with the County Executive Committee Member. Bank account.

(2) The signatories to the bank accounts maintained under subsection (1) shall be the, the County Trade Development Officer and two other persons appointed by the Board with the approval of the Chief Officer in consultation with the County Executive Committee Member.

(3) The signing instructions shall be such that the signature of the Secretary to the Board shall be mandatory on all payment cheques or other instrument intended for actual release of money from the Scheme fund, in addition to any two of the other three signatories.

22. The financial year of the Scheme shall be the period of twelve months beginning on the first day of July and ending on the thirtieth day of June in the following year. Financial year.

23. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the income and expenditure of the Board and the Scheme for that year. Estimates of income and expenditure.

(2) The annual estimates shall make provisions for all the estimates of expenditure of the Board and the Scheme for the relevant financial year and shall provide for—

(a) the grant of loans to qualifying applicants; and

(b) the cost of the administration and operations of the Board, including payment of, allowances, and other charges payable to the staff and members of the Board.

(3) The financial estimates referred to under subsection (1) and (2) shall—

- (a) differentiate between recurrent and disbursement expenditure; and
- (b) itemize every activity that the Board intends to undertake in respect of the Scheme in the coming financial year under a separate vote head.

(4) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the County Executive Committee Member for tabling in the County Assembly for its approval.

(5) No expenditure shall be incurred by the Board except in accordance with the annual estimates approved under subsection (4).

(6) Upon the approval of the estimates by the County Assembly, all monies appropriated for purposes of the Scheme and the Board shall be paid into the relevant accounts established under section 22

24. (1) The Board shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Board and the Scheme.

Accounts and audit.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General the accounts prepared under subsection (1) in respect of that year together with a statement of—

- (a) the income and expenditure of the Board during that year;
- (b) the income and expenditure of the Scheme and
- (c) the assets and liabilities of the Scheme on the last day of that financial year.

(3) The annual accounts referred to under this section shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 299 of the Constitution and the Public Audit Act.

No. 12 of 2003.

25. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the County Executive Committee Member may approve in writing, submit to the County Executive Committee Member a report of the operations of the Credit Scheme during that year.

Annual report.

(2) The Board shall, after submission of the report to

the County Executive Committee Member, publish the report and submit it to the County Assembly.

(3) The County Executive Committee Member shall lay the reports before the County Assembly, including the balance sheet and the statements of accounts, within a period of fourteen days of the receipt of the reports and statements, or, if the County Assembly is not sitting, within fourteen days of the commencement of its next sitting.

PART V—MISCELLANEOUS PROVISIONS

26. No act, matter or thing done or omitted to be done by— Protection from personal liability.

- (a) any member of the Board or its sub-committee;
- (b) any member of staff or other person in the service of the Credit Scheme, or any person acting under the direction of the Board or Unit,

shall, if that act, matter or thing was done or omitted to be done in good faith in the execution of a duty or direction, render that member or person personally liable to any civil liability.

27. (1) The County Executive Committee Member may, after consultation with the Board, make regulations generally for the better carrying out the provisions of this Act, and without prejudice to the foregoing, may make regulations in respect of the following— Regulations.

- (a) the procedure for receipt, processing and approval of applications for loans and the granting of loans to applicants;
 - (b) guideline on determining interest to be charged on loans advanced;
 - (c) the preparation and maintenance of records on loans granted from the Scheme;
 - (d) the procedure for withdrawal, recovery and cancellation of loans; and
 - (e) the procedures for determining the process to deal with loan defaulters; and
 - (f) generally for better carrying into effect the provisions of this Act.
- (2) Regulations made under subsection (1) shall be

approved by the County Executive Committee and the County Assembly before they take effect.

SCHEDULE (S. 12)

**PROVISIONS RELATING TO THE
CONDUCT OF BUSINESS AND AFFAIRS OF
THE BOARD**

1. (1) The Board shall meet at such place as the chairperson may determine and the meetings shall be convened by the secretary in consultation with the chairperson with the approval of the Chief Officer Meetings.

(2) The Board shall have at least four meetings in every financial year and not more than three months shall elapse between one meeting and the next meeting.

(3) Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member by the Secretary.

(4) The chairperson may, at his or her discretion or at the written request made by at least half of the members of the Board and within seven days of the request, convene an extraordinary/special meeting at such time and place. Chairperson may appoint and the agenda approved by the chief officer

(5) Every meeting of the Board shall be presided over by the chairperson and in his or her absence a person nominated by the Board as the case may be at that meeting for that purpose

(6) Where the chairperson is absent, the members shall appoint from among themselves, a person to chair the meeting of the Board.

(7) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

2. (1) If any person has a personal or fiduciary interest in any matter before the Board, and is present at a meeting of the Board at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such Conflict of Interest.

matter.

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

3. (1) Subject to subparagraph (2), the quorum of at any meeting of the Board shall half of the appointed members of the Board. Quorum.

(2) Where the persons present at a meeting of the Board do not constitute the quorum necessary to hold a meeting under this Act or where by reason of exclusion of a member from a meeting, the number of members present falls below the quorum necessary to hold a meeting, the Board shall postpone the consideration of the matter in question until there is a quorum.

4. A question before the Board shall be decided by simple majority of the members present and voting and the chairperson shall, in the case of an equality of votes, have a casting vote. Voting.

5. The Secretary shall cause minutes and proceedings of all the meetings of the Board to be entered into the Minute-Book kept for that purpose. Minutes to be kept.

6. Except as provided in this Schedule, the Board may regulate its own procedure. Committee to regulate its procedure.

- 7. i. Application form KCTCSB 1
 - ii. Loan Vetting Form KCTCSB 2
 - iii. Loan Agreement Form KCTCSB 3
- Prescribed Forms and Board's documents.

