

(Baringo County Legislative Supplement No 5)

LEGAL NOTICE NO 5

THE PUBLIC FINANCE MANAGEMENT ACT

(No 18 of 2012)

IN EXERCISE of the powers conferred by section 110(1) of the Public Finance Management Act No 18 of 2012 the County Executive Member for Finance Baringo County Government makes the following Regulation—

THE PUBLIC FINANCE MANAGEMENT (BARINGO COUNTY EMERGENCY  
FUND REGULATIONS 2018

*Short title*

1 These Regulations may be cited as the Public Finance Management Act (Baringo County Emergency Fund Regulations 2018)

*Preliminary*

2 In these Regulations unless the context otherwise requires—

Act means the Public Finance Management Act 2012

Affected area means an area or part of the county affected by a disaster

Committee means the Emergency Fund Management Committee established under regulation 7

County Disaster Management Committee has the meaning given to it by the County Disaster Management Policy

Executive Committee Member means the County Executive Committee member responsible for Finance

Emergency Fund means the County Emergency Fund established by the county executive in accordance to section 110(1) of the Act

Disaster means a catastrophe mishap calamity or grave occurrence in any area arising from natural or man made causes or by accident or negligence which results in substantial loss of life or human suffering or damage to and destruction of, property or damage to or degradation of environment and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area

*Establishment of the Fund*

3 There is hereby established a Fund to be known as the Baringo County Emergency Fund in accordance with section 110(1) of Public Finance Management Act 2012

*Purpose and objectives of the Fund*

4 (1) The purpose and object of the Fund is to allow the County Executive member to make payments when there is an urgent and unforeseen need for expenditure for which there is no specific legislative authority

*Initial Capital and other resources of the Fund*

5 (1) The initial capital of the Fund shall consist of monies appropriated by the County Assembly for the 2014/2015 Financial Year

(2) Subsequent and continuous capital of the Fund shall consist of—

(a) any amount that may from time to time be allocated by the County Government and appropriated by the County assembly

- (b) loans aid or donations from the National Government National or International Agencies and
- (c) all other sums of money that may in any lawful manner become payable to or vested in the Fund including gifts grants bequeath and donations

*Bank account*

6 All monies appropriated received or payable into the Fund shall be paid into a bank account opened for that purpose in accordance with section 111(2) of Public Finance Management Act 2012

*Criteria and Guidelines for Payment from the Fund*

7 (1) The County Executive member or his nominee shall administer the Emergency Fund for the County Government in accordance to this regulations as approved by the county assembly

(2) County Executive Committee member may make payments from the Emergency Fund only if he or she is satisfied that there is an urgent and unforeseen need for expenditure for which there is no legislative authority and shall be in accordance with operational guidelines made under this regulations

There is an urgent and unforeseen event for expenditure if the County Executive Committee member for finance guided by regulations and relevant laws establishes that—

- (a) payment not budgeted for cannot be delayed until a later financial year without harming the general public interest
  - (b) payment is meant to alleviate the damage loss hardship or suffering which may be caused directly by the event and
  - (c) the damage caused by the event is on a small scale and limited to the county
- For purposes of this regulations the unforeseen event is one which—
- (i) threatens damage to human life or welfare or
  - (ii) threatens damage to the environment

*Establishment of the Emergency Fund Management Committee*

8 There is established Committee to be known as Emergency Fund Management Committee whose membership shall include—

- (a) County Chief Officer responsible for Finance
- (b) County Chief Officer for Water and Irrigation
- (c) County Chief Officer for Education
- (d) the Director of County Disaster Management Unit (CDMU)
- (e) the member representing National Disaster Management Authority in the CDMC
- (f) County Director for Agriculture

*Functions of the Committee*

- 9 (1) The functions of the Committee shall be to—
- (a) receive and consider recommendations of the County Disaster Management Committee
  - (b) receive and discuss quarterly and annual reports and returns from the fund
  - (c) oversee the efficient management and operation of the Fund and other matters that may arise in relation to the Fund
  - (d) ensure all monies received or payable into the Fund are promptly collected and credited into the bank account opened for this purpose
- (2) In carrying out its functions the committee shall at all time ensure compliance to all existing legislations of the County and National Government

*Meetings of the Committee*

- 10 (1) The committee shall regulate its own procedure and meetings
- (2) The Committee shall meet at such place as the chairperson may determine and the meetings shall be convened by the chairperson
- (3) Every meeting shall be presided over by the chairperson and in his or her absence the members present shall appoint from among themselves a person to chair
- (4) The officer administering the Fund referred to in regulation 10 is the secretary to the Committee and shall provide technical advice on the operations of the Fund
- (5) The Committee 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 Committee
- (6) The quorum for the committee meetings shall be the chairperson and any other three members
- (7) Decisions of the committee shall be through minuted resolutions

*Officer administering the Fund*

- 11 (1) The County Executive Committee Member for Finance shall be responsible for administering the Emergency Fund in accordance with the Public Finance Management Act and Regulations
- (2) While administering the Fund the County Executive Committee Member—
- (a) shall supervise and control the administration of the Fund
  - (b) may impose conditions on the use of any moneys in the Fund and impose reasonable restriction or other requirement concerning such use in consultation with the County Executive Committee Member
  - (c) shall cause to be kept proper books of accounts and other books and records in relation to the Fund
  - (d) shall prepare sign and transmit to the Auditor-General in respect of each financial year and within three months after the end thereof a statement of accounts relating to the Fund specifying the income of the Fund and showing

the expenditure incurred from the Fund in such details as the County Executive Committee Member may from time to time direct in accordance with the Public Finance Management Act 2012

(e) shall furnish such additional information as he or she may deem proper and sufficient for the purpose of examination and audit by the Auditor General

(3) All expenses incurred by the Committee in the execution of its functions including—

(a) legal expenses

(b) audit fees

(c) supplies

(d) stationery and other incidental expenses may be met from the Fund

*Financial year*

12 The financial year of the Fund 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

*Estimates of the income and expenditure*

13 (1) At least three months before the commencement of each financial year the Committee shall prepare estimates of the income and expenditure of the Fund for that year

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

(a) disaster fund management and

(b) the cost of the administration and operations of the Committee

(5) Upon the approval of the estimates by the County Assembly all monies appropriated for purposes of the Fund and the Committee shall be paid into the relevant account established under regulation 6

*Limitation of Power of Executive committee member to make payments from Emergency Fund*

14 The County Executive Committee Member for finance may not during a financial year make a payment from the Emergency Fund exceeding two per cent of the total County Government revenue as shown in that County Government's audited financial statements for the previous financial year, except for the first year

*Approval of payments from the Emergency Fund by County Assembly*

15 (1) The County Executive Committee Member for finance shall seek approval of the County Assembly within two months after payment is made from the Emergency Fund

(2) If the County Assembly is not sitting during the period referred to above or soon thereafter the County Executive Committee Member for finance shall seek the approval for the payment within fourteen days after the County Assembly next sits

(3) As soon as practicable after the county assembly has approved the payment the County Executive Committee member for finance shall cause a draft of the

appropriation Bill to be introduced in the county assembly for the appropriation of the money paid and for the replenishment of the County Government's Emergency Fund to the extent of the amount of the payment

*Books of accounts*

16 (1) The Officer Administering the Fund shall cause to be kept proper books and records of account of the income expenditure assets and liabilities of the Committee and the Fund

(2) Within a period of three months after the end of each financial year the officer administering the Fund shall submit to the Auditor General the accounts prepared under paragraph (1) in respect of that year together with a statement of—

- (a) the income and expenditure of the fund and
- (b) the assets and liabilities of the Fund during that year

(3) The annual accounts referred to under this regulation shall be prepared audited and reported upon in accordance with the provisions of Articles 226 of the Constitution and the Public Audit Act 2003

*Annual report*

17 (1) The Committee shall prepare quarterly financial reports during the financial year on the operations of the Fund

(2) The committee shall submit the report to the County Executive Committee Member for review publish publicize and submit it to the County Assembly

*Disclosure of interests*

18 (1) A member who has an interest in any matter before the Committee who is present at a meeting of the Committee shall as soon as reasonably practicable after the commencement of the meeting disclose the interest and shall not take part in the discussion of or vote on that matter or be counted in the quorum of the meeting during the consideration of the matter

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

*Supplementary terms*

19 The provisions of these Regulations shall be supplemented by details provided in the application of resolutions of meetings of committee in the form of minutes and other reports adopted as well as provisions of the Disaster Management Policy

*(With these regulations the Baringo County Emergency Fund Regulations 2015 are repealed)*

Made on the 28th May 2018

DAVID SERGON

*County Executive Committee Member Treasury and Economic Planning*