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THE PUBLIC FINANCE ACT

(No 18 of 2012)

THE PUBLIC FINANCE MANAGEMENT (BARINGO COUNTY MICRO AND  
SMALL ENTERPRISES FUND) REGULATIONS 2018

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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, makes the following Regulations —

THE PUBLIC FINANCE MANAGEMENT (BARINGO COUNTY MICRO AND SMALL ENTERPRISES FUND) REGULATIONS, 2018

1 These Regulations may be cited as the Public Finance Management (Baringo County Micro and Small Enterprises Fund) Regulations, 2018 Citation

2 In these Regulations unless the context otherwise requires— Interpretation  
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 Enterprises Fund established under these regulations

‘fund committee’ means the committee supervising the administration of the Fund established under these regulations

‘fund manager’ means the officer administering the Fund

‘loanee’ means a person borrowing 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 County Executive Committee Member for Commerce/Trade 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 Kenya shillings

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

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

5 (1) The initial capital of the Fund shall consist of monies appropriated in the financial year 2018/19 and any additional capital as the County Assembly may appropriate in subsequent financial years Initial Capital and other Sources of the Fund

(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

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

- (a) County Executive Committee Member responsible for Commerce/Trade who shall be the Chairperson of the Committee
- (b) one person appointed by the Executive Committee Member responsible for Finance and Economic planning,
- (c) two members representing the local business community appointed by the County Executive Member responsible for

Commerce/Trade, one from each gender and has a minimum qualification of a degree from a recognized university in Kenya

- (d) one person representing persons with disabilities and should have a minimum of a Form Four Certificate or its equivalent and currently engaged in business,
- (e) two officers representing the Department of Commerce and Co operatives

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

(3) A person shall not be eligible for appointment as a member of the Loans Management Fund Committee if that person—

- (a) has been or is sentenced to imprisonment by a court of competent jurisdiction for a period of six (6) months or more, or
- (b) has become bankrupt or makes an arrangement or composition with creditors generally or
- (c) is of unsound mind, or
- (d) is not a member of the Kenya National Chamber of Commerce Baringo branch and has not attained the age of majority

7 The functions of the Committee shall be to—

Functions of the Loan  
Management Fund  
Committee

- (a) receive appraise and approve Fund applications consistent with these regulations
- (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

8 The Chief Officer responsible for Commerce/Trade, as the accounting Officer has the overall administrative responsibility of the Fund and as such shall —

Duties and  
Responsibilities of the  
Chief Officer

- (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
- (d) hall receive, register vet and appraise applications for loans before consideration by the committee,
- (e) take minutes of meetings of the committee and maintain proper records of the affairs and operations of the committee,
- (f) implement all decisions of the committee and the policy guidelines of the Fund,
- (g) receive and account for all Funds,
- (h) prepare and maintain records and books of accounts of the Fund,
- (i) regularly submit returns and reports of the Fund operations as required by the Executive Committee Member for Commerce/Trade,
- (j) be the custodian of all Fund assets and documents including the official seal
- (k) undertake regular monitoring of loan recipients to ensure that the terms of the loan agreement are complied with,
- (l) administer and manage loan recovery process and mechanisms including sanctions and enforcement of loan repayment in cases of defaults,
- (m) periodically provide financial statements and balance statements of accounts of the Fund
- (n) to operate individual accounts for each borrower, which shall provide details of recoveries of loan
- (o) to charge security on loans from the Fund to protect the interests of the Fund and act as custodian of such charges
- (p) to disburse monies for newly approved loans to various beneficiaries, after the necessary documentation is completed by the Committee,
- (q) carry out any other responsibility as is required by the Committee and Executive Committee Member for Commerce/Trade concerning the Fund

9 (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

Meetings of the Fund  
Committee

(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 chairperson shall have a casting 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 fund administrator being the secretary

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

Minutes of Committee Meetings

(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

11 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

Quarterly and Annual Reports

12 (1) A Committee member shall not use their office to —

Code of Conduct

- (a) improperly enrich themselves or others using loan Funds,
- (b) advance loans to themselves business associate or a corporation, partnership or other body in which the member has an interest,
- (c) accept gifts or favour from a person who has an interest that may affect the carrying out of their 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 their best efforts to avoid being in a position in which their personal interests conflict with their official duties

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

13 (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

Members Disclosure of Interest

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

- 14 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 Grace Period
- 15 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 Interest and Other Charges
- 16 (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 group guaranteeing Business cash flow accounts and business plans Security for a Loan
- 17 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 Loan Repayment Period
- 18 (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 Outreach and promotion
- (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
- 19 (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 Loan Processing
- (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 loan processing 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 a magistrate and 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) two recent colored passport photographs of the applicant affixed on the file,
- (e) copy of the applicant s identity card,
- (f) copy of the applicant s valid business permit, and
- (g) photograph of the business premises or area of operation

(8) No monies shall be released before securities are properly 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

20 (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

Loan Repayment

2 The Officer administering 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

21 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 -

Loan Monitoring and Tracking

- (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

22 (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

Managing Delinquency and Default

(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 them repay have failed

(4) In the case of a loan default, the following shall 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) the field officer will visit the loanee and issue a demand notice within the next one month,
- (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

23 (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 on — Portfolio Analysis

- (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 -

- (a) loan recovery through litigation
- (b) rescheduling of the loan, and
- (c) engaging a debt collector at the cost of the loanee

(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

24 The Fund shall maintain bank accounts in approved banks as approved by the Executive Committee Member for Finance in writing Bank Accounts

25 Full and separate records and accounts of the operations of the Fund committee shall be kept and final accounts prepared as at 30<sup>th</sup> June of each year shall be prepared by Funds Manager and signed by the Chairperson and the Secretary of the Fund Committee Records and Final Accounts to be kept

26 (1) All expenses properly incurred by the Fund Committee in the execution of its functions including — Accounting for Expenses

- (a) legal expenses,
- (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

- 27 The annual financial statements of the Fund shall be subject to audit by the Auditor General Audit
- 28 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 The Seal
- 29 (1) Upon full repayment of the loan, a signed loan discharge certificate in a form prescribed by the Committee shall be issued to the loanee and a copy thereof shall be forwarded to the Registrar of Lands if land security was given Loan Discharge
- (2) The loan discharge certificate shall release the loanee 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
- 30 The Baringo County Small and Medium Enterprise Fund Regulations, 2014 are hereby repealed Repealed Laws

Made on the 22nd May, 2018

DAVID SERGON,  
*County Executive Committee Member for Treasury and Economic Planning*