LEGAL NOTICE NO. 3

THE PUBLIC FINANCE MANAGEMENT (MARSABIT COUNTY SOCIAL PROTECTION FUND) REGULATION, 2015

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THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Committee Member for finance makes the following Regulations: —

THE PUBLIC FINANCE MANAGEMENT (MARSABIT COUNTY SOCIAL PROTECTION FUND) REGULATION, 2015

Citation

1. These Regulations may be cited as the Public Finance Management (Marsabit County Social protection Fund) Regulations, 2015.

Interpretation

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

“beneficiary” means a person receiving social protection services from the County Government;

“child” means a person under the age of eighteen years;

“Committee” means the County Social Protection and Coordination Committee established under regulation 4;

“financial assistance” means social protection assistance provided by the County Government to a beneficiary through payment—

(a) of food, shelter, clothing, fuel, utilities, household supplies and other personal requirements;

(b) for special needs prescribed by the County Executive Committee Member responsible for Tourism, Culture and Social services;

(c) for care of the elderly in residential institutions;

(d) for travel and transportation expenses for vulnerable and disadvantaged persons;

(e) for funeral and burial expenses for vulnerable and disadvantaged persons;

(f) for health care services for vulnerable and disadvantaged;

(g) of comfort allowances and allowances for other needs of residents of residential institutions; or

(h) of any other expense for the vulnerable and disadvantaged persons as the Committee may decide;

“financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Marsabit County Social Protection Fund established under regulation 3;

“officer administering the Fund” means the Chief Officer responsible for social services.
Establishment of the Fund

3. (1) There is established a Fund to be known as the Marsabit County Social Protection Fund.

(2) The fund shall consist —

(a) monies appropriated by the County Assembly; and

(b) grants and donations lawfully made to the Fund.

(3) The County Assembly shall, in appropriating monies under subsection (2) in each financial year, ensure that adequate monies are allocated to the Fund through the Departmental responsible for Tourism, Culture and Social services in accordance with its budget every year.

(4) The Fund within the Departmental responsible for Tourism, Culture and Social services.

County Social Protection and Coordination Committee

4. There is established a committee to be known as the County Social Protection and Coordination Committee consisting of —

(a) the County Executive Committee Member responsible for Social Protection services who shall be the Chairperson;

(b) the Chief Officer of the Department responsible for social services who shall be the officer administering the Fund and secretary to the Committee;

(c) one representative from the Pastoralist Integrated Support Programme (PISP);

(d) the County Coordinator, National Disaster Management Authority (NDMA);

(e) one representative from the Pastoralist Community Initiative and Assistance (PACIDA);

(f) one representative from the Cooperative for Assistance and Relief Everywhere (CARE);

(g) one representative from the Department of Administration; and

(h) the County Social Development Officer.

(3) The County Social Protection and Coordination Committee shall manage the Fund and as such the Committee shall—

(a) supervise and oversee the administration of the Fund;

(b) prescribe the form and manner of application for social protection service assistance from the Fund;

(c) consider and approve all applications;

(d) develop equitable criteria for the beneficiaries of the Fund;

(e) establish management guidelines to the officer administering the Fund as may be necessary for the effective operations of the Fund; and

(f) carry out such other duty as may be directed by the Executive Member for Finance for the proper management of the Fund.
(4) The Committee shall meet at least four times in a year at time and place as the Chairperson may decide.

(5) The meetings of the Committee shall be convened by the Chairperson or in the absence of the chairperson, by a member designated by the Chairperson and shall be convened at such times as may be necessary for the discharge of the functions of Committee.

(6) The quorum for a meeting of the Committee shall be the Chairperson and any three members of the Committee.

(7) The decisions of the Committee shall be by simple majority of the members present and voting and in the case of equality the Chairperson shall have a casting vote.

(8) Notwithstanding the provisions of regulation (4) of regulation 3, the Committee shall make its decisions independently of the Department.

Eligibility for social protections

5. (1) The County Government shall, in accordance with this regulation, provide social protection services to persons in need.

(2) The County Executive Committee Member responsible for Tourism, Culture and Social services shall, in consultation with the County Social Protection Committee determine and Gazette the categories of persons from which beneficiaries shall be drawn.

(3) Notwithstanding sub regulation (2) beneficiaries shall be drawn needy persons including —

(a) orphans and vulnerable children;
(b) poor elderly persons;
(c) unemployed persons;
(d) persons disabled by acute chronic illnesses;
(e) poor widows and widowers;
(f) persons with disabilities; and

(g) any other persons as may, from time to time, be determined by the Department of Tourism, Culture and Social services, in consultation with the Marsabit County Social Protection Committee and other stakeholders.

(4) A child qualifies to be a beneficiary under these Regulations if that child —

(a) is an orphan with no biological or adoptive parents and is not under the care of a guardian who provides the basic needs of the child;
(b) is under the care of a person who suffers a serious long-term ailment or disability which renders the person unable to care for the child;
(c) has been abandoned by his or her parent or parents and is not under the care of a guardian who provides the basic needs of the child; or
(d) is under the care of parents or guardians who are unable to provide for the child's basic needs.

(5) An elderly person qualifies for financial assistance if the person has attained the age of sixty years and above and —
(a) has been neglected or abandoned his or her relatives and is without any ascertainable means of support; or

(b) lives or begs on the street for a living.

(6) A person with disability shall be eligible for financial assistance under these regulation if—

(a) the person suffers from severe mental or physical disability;

(b) the person's disability renders him or her incapable of catering for his or her basic needs; and there is no known source of income or support for the person.

(7) To qualify for financial assistance through social protection services under these Regulations, a person must —

(a) meet the criteria set under these regulations;

(b) be a resident of Marsabit County; and

(c) comply with any requirement prescribed in bye laws by the department responsible for Tourism, Culture and Social services in consultation with the County social protection committee.

Forms of Social protections

6. Social protection assistance may be provided to an applicant in the form of —

(a) emergency assistance for a period not exceeding one month;

(b) Short term assistance for a period of less than four consecutive months;

(c) long term assistance for a period of four or more consecutive months; or

(d) special assistance as may be prescribed by the County Executive Committee Member responsible for Tourism, Culture and Social services under this Regulation.

Programs to become self-sufficient

7. The Department of Tourism, Culture and Social services shall, in consultation with the Committee and any other relevant authority, provide programmes that are intended to—

(a) assist in the development of individual, family and community capacity to become self-sufficient;

(b) increase the ability of persons in need to assume greater responsibility for themselves;

(c) lessen dependence by the people in the County on public financial assistance;

(d) provide support services to allow persons who may otherwise be in need to avoid dependence on public financial assistance; and

(e) lessen, remove or prevent the causes and effects of poverty.

Suspension and termination of the programme

8. If in the opinion of the Committee, a beneficiary abuses the social protection assistance, the Committee may—

(a) suspend payment of financial assistance to that person; or
(b) appoint a person to receive the financial assistance on behalf of the beneficiary and to apply it, subject to the prescribed conditions and any other conditions that the Committee may determine, for the benefit of the beneficiary.

(2) The Committee may suspend or cancel financial assistance if the assistance was —

(a) obtained through misrepresentation, deceit, fraud or failure to disclose any material information;
(b) in excess of amounts permitted by these Regulations; and
(c) approved and granted in error.

(3) The Committee may terminate payment of financial assistance to or on behalf of a person who is absent from the County for a continuous period of six months or longer.

(4) The Committee may reinstate financial assistance suspended under subsection (1) where the Committee is satisfied that the reasons advanced by the applicant justify the reinstatement.

Erroneous payments

9. (1) If the Committee pays money erroneously to a person who is not entitled to social protection assistance, the amount of money so paid shall be an amount due to the Fund and shall be payable to the Fund by the person or, if the person is deceased, by the estate of that person.

(2) The Committee shall recover the amounts to which a person was not entitled, as provided for under subsection (1), in accordance with this regulation or any other law.

(3) The Committee shall remit an amount owing by a person in terms of subsection (1) if the person satisfies the committee that the person received the amount without knowing that they were not entitled to receive the payment.

Confidentiality of information

10. A person may not divulge any information furnished by an applicant in respect of an application for social protection under these Regulations except —

(a) to a person who requires it in order to perform a function in terms of these regulation;
(b) when required to do so by law or by an order of court; or
(c) with the consent of the applicant.

(2) If the information submitted by an applicant changes, the applicant shall inform the Committee of the change as soon as possible.

Lapse of social protection

11. Social protection services lapses —

(a) when the beneficiary dies; or
(b) if a beneficiary is out of the County for a continuous period of six months.
Review of social protection services

12. The Committee shall review social protection services at any time where it has reason to believe that a change in the beneficiaries' circumstances may have occurred.

Officer administering the Fund

13. The Chief Officer of the Department responsible for Tourism, Culture and Social services shall be the officer administering the Fund.

(1) The officer administering the Fund shall —

(a) control the administration of the Fund;

(b) cause to be kept books of accounts and other books and records in relation to the Fund and for all social protection services financed from the Fund;

(c) 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, prepared and signed by him or her specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Committee may from time to time direct in accordance with the Public Finance Management Act;

(d) furnish additional information as he or she may deem proper and sufficient for the purpose of examination and audit by the Auditor-General.

(2) Every statement of account prepared under this regulation shall include details of the financial status of the Fund as at the end of the financial year concerned.

(3) All monies of the Fund shall be paid into the special account operated by the officer administering the Fund as approved by the Committee.

(4) All receipts, earnings and accruals to the Fund, and the balance of the Fund at the close of each financial year, shall be retained by the Fund for use for the purpose for which the Fund is established.

Dated the 20th May, 2015.

GURACHA A. BIDHU,
County Executive Committee Member for Finance.