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**THE SAMBURU COUNTY YOUTH AND WOMEN
ENTERPRISE DEVELOPMENT FUND ACT, 2014**

No. 1 of 2014

Dater of Assent: 18th June, 2014

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THE SAMBURU COUNTY YOUTH AND WOMEN ENTERPRISE DEVELOPMENT FUND ACT, 2014

AN ACT of the Samburu County Assembly to establish and provide for the administration of youth and women enterprise development fund and for connected purposes

ENACTED by the Samburu County Assembly, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Samburu County Youth and Women Enterprise Fund Act, 2014 and shall come into operation upon publication in the Kenya Gazette and the County Gazette.

Short title and Commencement.

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

Interpretation.

“Act” means the Samburu County Youth and Women Enterprise Fund Act, 2014;

“Applicant” means any person, who being a Kenyan citizen, has attained minimum entry requirements for the advance of the loan and is operating in Samburu County;

“Board” means the Samburu County Women and Youth In Business Fund Management Board established by this Bill;

“Chairperson” means any Kenyan citizen who is appointed chairperson under this Act;

“Chief Officer” means chief officer in charge of trade, Industrialization, Co-operatives and Tourism;

“County Executive Committee Member” means the county executive committee member for the time being responsible for matters relating to trade in Samburu County;

“Fund” means the Samburu County Youth and Women Enterprise Fund established by this Act;

“Loanee” means any person granted a trade loan under the Samburu County Women and Youth in Business Fund or any person granted trade loan by the Department of Trade, Industrialization, Tourism and co-operatives in the Samburu County or Ministry of East African Affairs, Commerce and Tourism under this Bill or any other Act that is in place;

“Secretary” means the Secretary to the Board appointed under this Bill;

3. This Act shall apply within the jurisdiction of the Samburu County Government.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE COMMITTEE

4. (1) There is established a Committee to be known as the Samburu County Youth and Women Enterprise Development Committee.

Establishment of the Committee.

(2) The Committee shall—

- (a) be a body corporate with perpetual succession;
- (b) have a common seal;
- (c) have power to sue and be sued; and
- (d) have power to acquire, own, possess and dispose off property and to contract.

5. (1) The Committee shall be composed of—

Composition of the Committee.

- (a) Chairperson;
- (b) Chief Officer in charge of matters Trade who shall be an ex-official;
- (c) Three representatives from the business community;
- (d) A representative from the department of trade; and
- (e) Two other members.

(2) The County Executive Committee member shall appoint the Chairperson and other members of the Committee considering—

- (a) gender balance;
- (b) regional and religious balance; and
- (c) other requirements on appointments as per the law.

(3) The Committee Chairperson and other members apart from the Secretary and the Chief Officer, shall hold office for a period of three consecutive years and may be eligible for re-appointment once.

(4) In its first meeting, the Committee shall appoint its vice-chairperson.

Vacation of Office of a Member.

6. (1) The office of a member of the Committee shall fall vacant—

- (a) Upon death of a member;
- (b) If a member has been adjudged bankrupt;
- (c) If a member has been committed to jail for a period of six months; and
- (d) Through a vote of no confidence by at least two thirds of the members of the Committee.

(2) Upon an office of a member becoming vacant, the Secretary shall forthwith notify the County Executive Committee member within two weeks.

7. (1) The County Executive Committee member shall appoint the County Trade Officer as the secretary of the Committee.

Secretary to the Committee.

(2) The secretary shall be—

- (a) The chief executive officer of the Committee;
- (b) Responsible in the management of the activities of the Committee;
- (c) Answerable to the Committee; and
- (d) Perform functions assigned by the Committee.

Provided that in the performance of the functions he consults the Chief Officer.

(3) The Secretary of the Committee shall have no right to vote.

8. The Committee shall—

Functions of the Committee.

- (a) formulate sound policies for regulating the management of the Fund;
- (b) solicit for funds and other assistance to promote the functions of the Committee;
- (c) set the criteria and conditions governing the granting of loans including the rate of interest and recovery of loans;
- (d) receive any gifts, donations, grants or endowments made to the Committee, and to make legitimate disbursements there from;
- (e) establish and maintain links with other persons, bodies or organizations within or outside Kenya, as the Committee may consider appropriate for the

furtherance of the purposes for which the Fund is established;

- (f) enter into contracts with financial institutions for the purpose of loans disbursement and recovery;
- (g) grant loans out of the Fund either with or without security, as the Board may deem fit, to any eligible person to enable him, or assist any trader, to meet the cost of doing business;
- (h) determine the maximum number of eligible businesses to be granted loans in any one particular year;
- (i) invest any surplus funds not currently required for the purpose of the Board in any investment authorized by law for the investment of trust funds with power from time to time to vary or realize those investments;
- (j) with the consent of the Executive Committee Member set up and use such other funds as may from time to time be required;
- (k) receive and consider all loan applications from eligible persons wishing to be considered for the award of loans, and to approve, withhold or reject such requests in accordance with the provisions of this Act;
- (l) borrow such monies from such sources and in such amounts as may be approved by the Executive Committee Member with the concurrence of the Committee and to secure such loans in such manner as they deem fit;
- (m) perform any other functions relating to the granting of loans in accordance with the provisions of this Act;
- (n) perform and exercise all other functions and powers conferred by this Act; and
- (o) approve the organizational structure of the fund.

9. (1) The chairman shall convene and preside over the Committee meetings.

Meetings of the Committee.

(2) In the absence of the chairman, the vice chairperson or in his absence any other member shall convene and preside over the Committee meetings.

(3) The quorum for the meeting shall be the two thirds of the members.

PART III: ESTABLISHMENT AND ADMINISTRATION OF THE FUND

10. (1) There is established a Fund to be known as the Samburu County Youth and Women Enterprise Development Fund which shall be managed and administered by the Committee.

Establishment of the Fund.

(2) The object and the purpose of the Fund shall be to provide funds to be used for granting loans to assist Women and Youth living in Samburu County to promote their enterprises at such a cost which is affordable within the County.

11. (1) There shall be credited to the Fund—

Revenue and Expenditure of the Fund.

- (a) sums of money which may from time to time be voted by county assembly for that purpose;
- (b) sums which represent the repayment of the capital and interest of any loan granted by the Committee;
- (c) income from any investment made by the fund;
- (d) any gifts, donations, grants and endowments made to the Fund; and
- (e) any sums of money borrowed by the fund with the approval of the county assembly.

(2) There shall be paid out of the Fund any expenditure approved by the Committee and incurred in connection with the administration of the Fund.

12. (1) Every Trader wishing to be considered for the grant of a loan shall make an application to the Committee in the prescribed form.

Administration of the Fund.

(2) Every Trader who has been awarded a Traders Loan shall be issued with a Loanee Identification File Number by the Committee.

(3) Any applicant who—

- (a) in filling a loan application form, knowingly makes any false statement, whether orally or in writing, relating to any matter affecting his request for a loan; or

- (b) being required under paragraph (a) to answer any questions, furnish any information or particulars or produce any document or paper, neglects to do so without reasonable cause; or
- (c) is granted a loan based on false information;

Shall be guilty of an offence and in the case of paragraphs (a) and (b) be liable to a penalty which includes rejection of the application.

13. (1) The Funds Committee may—

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

(2) Where the Committee has resolved to make a loan to any eligible applicant, the Committee shall notify the applicant in writing or by phone and require him within a specified period to comply with any conditions and provide any security which the Committee may have imposed or demanded.

(3) Where any applicant fails to comply with the requirement of the Committee notified to him under subsection (2) within the prescribed period, the application shall be deemed to have lapsed.

(4) Where in granting a trader's loan to any applicant the Committee considers it prudent to request for a guarantor to guarantee any loan granted to a trader, in case of any default by the loanee in the repayment of the loan any guarantor who has guaranteed any such loan, shall automatically and fully be liable to pay to the Committee all or any loan together with interest accrued and outstanding owed to the Committee by the loanee, as shall be notified to the guarantor by the Committee.

(5) Where a guarantor who has been notified by the Committee under subsection (4) fails or refuses to repay such loan together with any interest accrued thereon, the guarantor shall be guilty of an offence and liable to criminal prosecution or civil proceedings or both in accordance with the provisions of this Act.

Conditions for
Grant of Loan.

14. (1) A loanee shall be required, subject to and in accordance with this Act or any regulations made there under, within two years from the time of the start of his repayment or within such a period as the Committee decides to recall its loan whichever is the earlier—

- (a) to inform the Committee of his contact address; and
- (b) to begin repayment of his loan together with any interest accrued thereon.

15. Thirty days after the end of each calendar year the Committee shall send to the County Executive Committee Member an annual return.

16. (1) If in the opinion of the Committee there has been or is likely to be any breach of or failure to comply with any condition or term of repayment in respect of a loan the Committee may forthwith—

- (a) recover from the person from whom the loan was made or his personal representative as a civil debt under the Debts (Summary Recovery) Act the amount of the loan or the amount thereof then remaining unpaid together with interest thereon;
- (b) enforce or realize any security relating thereto.

(2) The Committee may, in exercise of the powers conferred by subsection (1), engage the services of private debt collector.

PART IV: OFFICERS OF THE FUND

17. (1) Every inspector appointed by the Committee shall for the purposes of ascertaining whether the provisions of this Act have been complied with within any premises or place liable to inspection under this section have power to enter such premises or place at all reasonable times and to examine every person whom he finds therein.

- (2) Any person who—
- (a) willfully delays or obstructs any inspector in the exercise of any power under this section; or
- (b) refuses or neglects to answer any question or to furnish any information or to produce any document when required so to do under this section;

Obligations of the
Loanee.

Annual Returns.

General Provisions.

Cap. 42.

Inspectors of the
Fund.

shall be guilty of an offence provided that no person shall be required under this section to answer any question or to give any information which tends to incriminate him.

(3) Every inspector shall, upon seeking admission to any premises for the purposes of inspection, produce his letter of authorization issued by the Committee.

PART V: FINANCIAL PROVISIONS

18. (1) The financial year of the Committee shall be the period of twelve months commencing on the 1st of July and ending on the 30th day of June of the following year.

Financial Year of the Committee.

19. (1) The Committee shall submit to the County Executive Committee Member an estimate of its income and expenditure during the succeeding financial year one month before the commencement of the financial year.

Annual Estimates.

(2) The County Executive Committee Member shall communicate to the Committee his approval or otherwise of the annual estimates at least one calendar month after the commencement of the financial year.

(3) The annual estimates shall make provisions for all the estimates of expenditure of the Committee for the financial year and shall provide for—

- (a) the cost of administration of the Committee including payment of allowances, and other charges whatsoever payable to the staff and members of the Committee;
- (b) the payment or reimbursement to the members of the Committee of monies in respect of expenses incurred during the attendance of the meetings of the Committee;
- (c) The development and maintenance of any property vested in the Committee.

(4) Except with the approval of the Committee Executive Committee Member in charge of trade, no expenditure shall be incurred for the purposes of the Committee except in accordance with the annual estimates approved under subsection (2).

20. (1) The Committee shall cause to be kept—

Books of Accounts and Audits.

- (a) all proper books and records of accounts of the income, expenditure, assets and liabilities of the Fund;

- (b) a balance sheet showing in detail the assets and liabilities of the Committee at the end of the financial year;
- (c) a statement of financial activities, income and expenditure during the financial year; and
- (d) other statements of accounts as may be necessary to fully disclose the undertaking, assets, liabilities and discharge of the functions of the Committee.

(2) The accounts of the Board shall be audited by the Auditor-General (Corporations) or an auditor appointed by the Committee with the approval of the Auditor-General (Corporations).

(3) The Auditor-General (Corporations) may give any general or special directions to the board and the board shall comply with those directions.

21. The Committee shall, within three months after the end of each financial year, prepare a report on the operation of the Fund during that financial year and shall transmit such report to the County Executive Committee Member who shall cause it to be presented to the County Assembly together with the report of the Auditor-General (Corporations) and certified copies of the accounts referred to in this section.

Annual Report of the Fund.

PART VI: MISCELLANEOUS PROVISIONS

22. (1) Any person having an official duty or being employed in, or in connection with, the administration of this Act shall regard and deal with all documents, information, returns and forms relating to applications for loans or to the granting of loans under this Act as secret and confidential.

Secrecy, Offences and Penalties.

(2) Any person having possession of, or control over, or access to, any documents, information, returns or forms relating to a matter referred to in subsection (1) who communicates anything contained therein—

- (a) to any person other than a person to whom he is authorized by the Board to communicate it; or
- (b) otherwise than for the purposes of this Act;

Shall be guilty of an offence and imprisonment of at least one year or a fine that is not more than Ksh 100,000 or both.

23. No matter or thing done by the Chairman or any member of the Committee or any officer, employee or agent of the Fund shall, if the matter or thing is done bona fide for the purpose of executing any provision of this Act, render the chairman, member, officer, employee or agent or any person acting on their directions, personally liable to any action, claim or demand whatsoever.

Protection from
Personal Liability.

24. The provisions of this Act shall not relieve the Committee of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interest caused by the exercise of any power conferred by this Act or by the failure, whether wholly or partially of the exercise of such powers.

Liability of the
Committee for
Damages.

25. The County Executive Committee Member may make regulations generally for the better carrying out the provisions of this Act, and without prejudice to the foregoing, the County Executive Committee Member may make regulations in respect of the following—

- (a) the receipt, processing and approval of applications for loans and the granting of loans to traders;
- (b) the preparation and maintenance of loanees' records;
- (c) the withdrawal, recovery and cancellation of loans already granted;
- (d) the terms and conditions of service for the Committee's staff;
- (e) the setting-up of procedures for dealing with loan defaulters.