

**THE KIAMBU COUNTY YOUTH, WOMEN AND PERSONS WITH DISABILITIES
ENTERPRISE DEVELOPMENT FUND ACT, 2014**

(No XXX of 2014)

IN EXERCISE of the powers conferred by section 30 of the Kiambu County Youth, Women And Persons With Disabilities Enterprise Development Fund Act, 2014, the Executive Member responsible for Youth Affairs and Sports, makes the following Regulations-

**THE KIAMBU COUNTY YOUTH, WOMEN AND PERSONS WITH DISABILITIES
ENTERPRISE DEVELOPMENT FUND REGULATIONS, 2014**

PART I- PRELIMINARY

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| Citation and commencement. | and | 1. These Regulations may be cited as the Kiambu County Youth, Women and Persons With Disabilities Enterprise Development Fund Regulations, 2014 and shall come into operation on the date of publication in the County <i>Gazette</i> . |
| Interpretation. | | 2. In these Regulations, unless the context requires –

“borrower” means a person who has been granted a loan under the Act and these Regulations;

“Executive Member” means the County Executive Committee Member responsible for youth affairs;

“Board” has the same meaning assigned under the Act;

“existing business” means a business which has been in existence as a going concern for more than one year; |

“Fund” means the Kiambu County Youth, Women and Persons With Disability Enterprise Development Fund;

“the Act” means the Kiambu County Youth, Women and Persons With Disability Enterprise Development Fund Act, 2014;

“Sub county Committee” has the same meaning assigned under the Act;

“start up business” means a business which is a business idea or concept that has not yet commenced or a business which has commenced and in operation for less than one year.

PART II- LOAN APPLICATIONS AND DISBURSEMENTS

Registration with the Board.

3. (1) A person who is eligible for funding under the Act and wishes to access the Fund, shall apply for registration with the Board.

(2) An application for registration under sub Regulation (1) shall be in the Form A specified in the First Schedule.

(3) The Board shall maintain the list of registered persons which shall be accessible to the public.

Eligibility.

4. A person or an entity eligible for funding under the Act must meet the conditions set out under section 15 of the Act and the person may be—

(a) a registered sole proprietor;

(b) an individual operator;

(c) a limited liability company;

- (d) a registered partnership;
- (e) a self help group registered under the department responsible for social services;
- (f) a cooperative society; or
- (g) a savings and credit cooperative society.

Application for loan.

5. (1) A person wishing to access loan under the Act shall apply to the Board.

(2) An application for loan under sub Regulation (1) shall be in the Form B specified in the First Schedule.

(3) An application under this Regulation shall be accompanied by the following documentation-

- (a) a copy of the applicant's national identification card;
- (b) certificate of incorporation or registration for registered businesses;
- (c) certificate of registration and the constitution for self help groups;
- (d) where applicable, a copy of the PIN certificate;
- (e) postal address or physical address;
- (f) bank statements for existing businesses;
- (g) financial or accounting records for existing businesses;

(h) such other documentation as the Board may require.

(4) An application under this Regulation shall be submitted to the Sub county Committee.

(5) The Sub county Committee shall review the application and establish whether the applicant meets the conditions specified under the Act and these Regulations.

(6) Where an application is not complete, the Sub county Committee shall return the application form and any documentation submitted to the applicant and shall give reasons for returning the form.

(7) An applicant whose application has been returned may re submit the application within fourteen days.

Consideration review
of application for loan.

6. (1) The Sub county Committee shall consider and verify the following information while reviewing an application under Regulation 5-

(a) whether the applicant resides in the respective Ward;

(b) whether the information provided and supportive documentation is correct and complete;

(c) whether the applicant meets the conditions set out in the Act and these Regulations.

(2) The Sub county Committee shall recommend the application to be considered by the Board where it is satisfied that the applicant meets the conditions specified in order to qualify for funding under the Act and these Regulations.

(3) Where the Sub county Committee recommends an

application under this Regulation, it shall –

- (a) prepare a list of all recommended applications; and
- (b) submit the list together with the application documents to the Board for consideration and approval for funding within seven days upon the submission of the application.

(4) Where the Sub county Committee does not recommend an application, it shall submit to the Board and shall give reasons for not recommending the application.

Consideration of application by Board.

7. (1) The Board shall, upon receiving the list of applications from the sub county Committee review and assess each application in order to establish if the application meets the conditions specified under the Act or these Regulations.

(2) The Board shall consider–

- (a) the applicant's eligibility for funding;
- (b) the viability of the business, business idea or concept;
- (c) the creditworthiness of the applicant;
- (d) the form of business entity as described under Regulation 4;
- (e) the duration the business has been operational in case of an existing business;
- (f) the capacity of the applicant to

repay the loan;

- (g) the economic status of the applicant;
- (h) financial risk assessment;
- (i) capitalization of an existing business;
- (j) the loan obligations that the applicant may be under from other financial institutions for the same business; or
- (k) any other matter that Board may deem appropriate or as the Executive Member may recommend.

(3) The Board –

- (a) shall conduct due diligence on any application; and
- (b) may consult any person, financial institution or a credit rating bureau for the purposes of ascertaining the credit history of an applicant.

(4) The Board shall, prepare a credit report for each application considered in accordance with such guidelines as the Board may consider appropriate or as the Executive Member may recommend.

(5) The Board may, after consideration of the applications approve the applications to be funded and shall submit the list of the applications with the respective credit reports within fourteen days to the Executive Member for final approval.

(6) Where the Board does not approve an application for loan, it shall communicate the decision to the applicant and the sub county committee and shall give reasons for such rejection.

(7) The Executive Member shall, upon receiving the applications approved by the Board consider the applications within seven days and may approve or reject an application.

(8) Where the Executive Member does not approve an application, the Executive Member shall give reasons to the Board and may give such recommendations to the Board.

Limits on loan financing.

8. (1) The Executive Member Board shall in consultation with the Board set the minimum and maximum amount of loan that an applicant may access depending on the category the applicant falls under as provided under the Act and Regulation 4.

(2) The Executive Member shall consider the following matters in setting the limits under this Regulations–

- (a) the amount of money in the Fund that is available for disbursement as loans;
- (b) the amount of money allocated to the Ward for disbursement as loans;
- (c) whether the business is a start up or an existing business;
- (d) the applicant's form of business entity as described under Regulation 4.

Loan guarantee.

9. (1) An applicant for a loan under the Act shall provide a personal guarantee for the loan applied for.

(2) Notwithstanding sub Regulation (1), -

(a) an applicant who is an individual or registered sole proprietor shall provide at least two co-guarantors or such number of co-guarantors as the Board may require;

(b) an applicant which is a company shall provide the personal guarantee of all the directors other than nominee directors; or

(c) an applicant which is a group shall provide guarantee from each member.

(3) For a self-help group to qualify for providing co-guarantee system, the group constitution must contain provisions that expressly provide for group co-guarantee.

(4) Notwithstanding sub Regulation (1) and (2), the Board may require that an individual applicant to be a member in a group with other applicants for the purposes of providing or receiving co-guarantee for an application for a loan under the Act.

(5) The Board shall in consultation with the Executive Member prescribe the number of persons who may form a group for the purposes of sub-Regulation (4).

Collateral.

10. (1) An applicant may be required to provide such collateral as security for a loan granted under the Act where –

- (a) the loan applied for is beyond the limit set by the Executive Member for which a loan must be secured through collateral as provided under sub Regulation (7);
- (b) the loan is of an amount, notwithstanding paragraph (a), that the Board may require the collateral:

Provided that an applicant for a start up business shall not be required to provide any collateral unless the applicant chooses to provide collateral which in the opinion of the Board is sufficient in lieu of co-guarantors.

(2) An asset under subsection (1) may include –

- (a) business stock;
- (b) land;
- (c) fixed assets;
- (d) shares and related securities;
- (e) livestock approved by the Board;
- (f) savings in a bank account approved by the Board
- (g) motor vehicle; or
- (h) any other asset as the Board may approve

(3) An applicant which is company shall in addition to providing security for the loan borrowed, provide

the personal guarantee of the directors other than the nominee directors.

(4) The Board shall value the assets provided as collateral in accordance with principles of asset valuation.

(5) Where a loan granted under the Act is to be utilized in purchasing an asset, the Board shall facilitate the registration of the interest of the County government in the asset purchased in accordance with the respective written laws.

(6) The Board shall facilitate the discharge of the interest of the county government registered under sub Regulation (5) upon the final repayment of the loan.

(7) The Executive Member shall establish the loan limits beyond which a person must provide a collateral as security for a loan granted under this Act.

Loan agreement.

11. A loan granted under the Act and these Regulations shall be contracted through a loan agreement signed between the county government and the borrower.

Loan disbursements.

12. A loan provided under the Act and these Regulations may be disbursed through-

- (a) any financial institution and the county executive Committee may approve;
- (b) any money transfer system as the Board may approve;
- (c) purchase of goods or assets for which the loan was applied for on behalf of the applicant; or

(d) through any other channel as the Board may approve.

Loan repayment period.

13. (1) A loan granted under this Act shall be repaid within the stipulated period in the loan agreement.

(2) The loan repayment period shall be dependent on the amount of the loan granted and shall not exceed thirty six months from the date of disbursement of the loan or the date of the loan agreement as the Board may determine.

(3) A borrower may be granted a period of not more than nine months before the commencement of the repayment period.

(4) Where borrower has been granted a loan repayment commencement period under sub Regulation (3), the total period of time from the date of disbursement of the loan and the final repayment shall not exceed thirty six months as required under sub Regulation (2).

Conditions for persons qualifying under section 15 (2) of the Act.

14. (1) For a person to qualify for funding under section 15 (2) of the Act, the person must-

- (a) be classified as orphan or partial orphan;
- (b) un employed;
- (c) poor or destitute; or
- (d) vulnerable as a result of physical or mental conditions.

(2) The Board shall consider the matters described under sub Regulation (1) and allocate such number of scores against each condition to determine the

eligibility of an applicant.

Ineligible businesses.

15. The Board shall not approve or disburse any loan to an applicant whose business that –

- (a) deals with manufacture, production, bottling importation, distribution and sale of an alcoholic drink;
- (b) money lending services;
- (c) provides gaming and lottery services; and
- (d) is unlawful under any written law.

Training.

16. (1) A person whose application for loan has been approved shall, before the loan is disbursed undertake training in the following areas as the Board-

- (a) business management;
- (b) life skills;
- (c) financial management and record keeping;
- (d) marketing;
- (e) any sector specific training as the Board may deem appropriate

(2) The Board shall provide such other capacity building programs and business advisory services for borrowers or potential borrowers as may be appropriate.

Savings scheme.

17. (1) The Board may, in consultation with the Executive Member initiate a savings scheme for

persons eligible for funding under the Act or a borrower who has been funded under the Act.

(2) The savings described in Sub Regulation (1) may be used as collateral for security of a loan granted under Regulation 9 and 10.

(3) The Board may grant a loan to an applicant on the basis of savings made by the applicant and maintained in an approved bank account.

Prohibition of personal awards.

18. The Fund shall not be utilized for granting personal awards whether in cash or in kind.

Loan insurance.

19. The Board shall insure each loan with an insurer approved by the County Executive Committee.

Bank account.

20. A person whose application for loan is approved shall maintain a bank account for the purposes of disbursement of the funds or managing the business for which the loan is applied for.

Utilization of the loan.

21. (1) A person who receives a loan under the Act shall utilize the loan solely for the purposes stated in the loan application form.

(2) The Board—

(a) shall ensure that the loan disbursed is utilized for the purposes stated in the loan application form;

(b) shall establish appropriate systems for monitoring the utilization of loans; and

(c) may require such information from an applicant in relation to utilization of a loan.

Record keeping.

22. A person funded under the Act shall maintain

such financial and business records as the Board may require.

Loan repayments.

23. A borrower shall repay the loan in such installments and on such terms as shall be provided in the loan agreement.

Default on loan repayment.

24. (1) A loan repayment that shall stand unpaid for more than three months from the date it is due for repayment shall be treated as defaulted loan repayment.

(2) The Board shall take necessary measures to establish the cause for the default on loan repayment.

(3) The Board may recall the loan under sub Regulation (1) and may-

(a) in consultation with the borrower, reschedule or restructure the loan repayment terms where the Board is satisfied that the borrower is in a position to repay the loan upon the rescheduling of the loan;

(b) sell or dispose any collateral provided as security for the loan;

(c) call upon the co-guarantors to the loan to pay the respective amount co-guaranteed; or

(d) take any other measure as the Board may deem necessary.

Non-performing loans.

25. (1) The Board shall prepare a list of non performing loans in every three months and shall submit the list to the Executive Member.

(2) Without prejudice to Regulation 24, the Executive Member may, in consultation with the Executive

Member responsible for finance advise the Board on necessary measures to be adopted in order to mitigate the occurrence of non performing loans.

Prudential guidelines.

26. The Board shall adopt such prudential guidelines as are necessary for the purposes of administering the loans.

**PART III- MEMBERS AND CONDUCT OF
BUSINESS AND AFFAIRS OF THE BOARD
AND SUB COUNTY COMMITTEES**

Nomination of Board
and Sub county
Committee members.

27. (1) The Executive Member shall, within seven days upon the coming into force of these Regulations issue a notice to the respective organizations specified under section 7 (1) (f), (g) and (h) and section 11 (2) (f), (g) and (h) of the Act, requiring them register with the Department for the purposes of nominating persons for appointment to the stipulated positions.

(2) The Executive Member shall within fourteen days issue the notice under sub Regulation (1) upon the expiry of the term of the sub county Committee in accordance with under section 11 (5) of the Act.

(3) An organization wishing to nominate persons under sub-Regulation (1) shall register with the Department within fourteen days from the date of the notice issued therein.

(4) To qualify for nominating members under sub-Regulation (1), an organization must –

(a) be registered under the respective laws;

(b) be registered with the Department;

(c) have not less than active members;

(d) be active for a period of not less than twelve months prior to the date of the notice on matters related to micro and small enterprise in the county or sub county as the case may be, ;

(e) be registered –

(i) in the case of non governmental organizations with the Non Government Organization Council;

(ii) in the case of women organizations, with the National Gender and Equality Commission;

(iii) in the case of youth organizations, with the National Youth Council;
and

(iv) in the case of organizations for persons with disabilities, with the National Commission for persons with disabilities; and

(f) meet any other requirement as the Executive Member may require.

(5) Each of the organizations described under sub Regulation (1) shall nominate one person who qualify to be appointed as provided under the Act.

(6) The Executive Member shall, upon issuing the notice under this Regulation, convene the first meeting of the forum of organizations for each category specified under sub Regulation (1) within twenty one days upon the expiry of the period stipulated under sub Regulation (3).

(7) A forum convened under sub Regulation (6) shall only be attended by the persons nominated under sub Regulation (5).

(8) A forum convened under sub Regulation (7) shall nominate three persons for appointment to the Board or the Sub county Committee as provided for under the Act in accordance with the guidelines issued by the Executive Member.

(9) The Executive Member shall appoint from among the persons nominated the persons nominated under sub Regulation (8) as provided under section 7 (1) and (11) (2) of the Act.

Conduct of business
and affairs.

28. (1) The conduct of business and affairs of the Board and the Sub-county Committee shall be as specified in the Second Schedule.

(2) Save as specified in the Second Schedule, the Board or the Sub-county Committee shall regulate its own procedure.

First Schedule

(R. 3 and 5)

Forms

**Form A
Registration Form**

**Form B
Loan Application Form**

**PROVISIONS AS TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD AND SUB-COUNTY
COMMITTEE**

Meetings.

1. (1) The Board or Sub-county Committee shall meet not less than four times in each financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting:

Provided that the Executive Member shall specify the maximum number of meetings that the Board or sub county Committee may meet in a financial year.

(2) The Chairperson shall, through the Secretary convene the meetings of the Board or Sub county committee.

(3) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least a third of all the members shall, convene a special meeting of the Board or Sub-county Committee at any time for the transaction of the business of the Board or Sub-county Committee.

(4) Unless three quarters of the total members of the Board or Sub-county Committee otherwise agree, at least fourteen days' written notice of every meeting of the Sub-county Committee shall be given to every member of the Sub-county Committee.

(5) The quorum for the conduct of the business of the Board or Sub-county Committee shall be half of the total members.

(6) The Chairperson or in his absence, a person designated by the Board or sub county committee, shall preside at every meeting of the Board or Sub-county Committee.

- (7) Unless a unanimous decision is reached, a decision on any matter before the Board or Sub-county Committee shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
- (8) All decisions of the Board or Sub-county Committee shall be in writing and shall be authenticated by the signatures of both the Chairperson and the Secretary
- (9) Subject to subparagraph (5), no proceedings of the Board or Sub-county Committee shall be invalid by reason only of a vacancy among the members thereof.
- (10) Subject to the provisions of this Schedule, the Board or Sub-county Committee may determine its own procedure and the procedure for any sub-committee of the Board or Sub-county Committee and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Sub-Committees.

- 2. (1)** The Board or Sub-county Committee may establish such sub committees as it may deem appropriate to perform such functions and responsibilities as it may determine.
- (2) The Board or Sub-county Committee shall appoint the chairperson of a sub-committee established under subparagraph (1) from amongst its members.
- (3) The Board or Sub-county Committee may where it deems appropriate, co-opt any person to attend the deliberations of any of its sub-committees

Secretariat.

- 3.** The Secretary to the Board or Sub-county Committee shall be responsible for-
 - (a) providing administrative support to the Board or

Sub-county Committee;

- (b) the custody and keeping of the minutes of the proceedings of the Board or Sub-county Committee and all other records of the Committee;
- (c) such other functions as may be assigned by the Executive Member.

Place of meetings.

4. The Board or Sub-county Committee may hold its meetings on such place as it may determine provided that the Sub-county committee shall hold its meetings in each Ward on rotational basis.

Disclosure of interest.

5. (1) A member of the Board or Sub county Committee who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the 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) A member of the Board or Sub-county Committee who contravenes subparagraph (1) commits an offence and is liable to a fine not exceeding twenty thousand shillings.

Dated this.....day of June.....2014

MACHEL WAIKENDA
Executive Committee Member
Youth Affairs and Sports