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KWALE COUNTY ACTS, 2020

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**THE KWALE COUNTY YOUTH, WOMEN AND PERSONS WITH
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No. 1 of 2020

Date of Assent: 16th January, 2020

Date of Commencement: See Section 1

ARRANGEMENT OF CLAUSES

Clause

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**THE KWALE COUNTY YOUTH, WOMEN AND PERSONS WITH
DISABILITIES FUND ACT, 2020**

AN ACT of the Kwale County Assembly to give effect to Article 27 (3)(6), Article 55 (b) and Article 56 (b) of the Constitution; to provide Modalities for the establishment and implementation of a youth, Women and persons with disabilities Fund and for Connected purposes

ENACTED by the Kwale County Assembly, as follows—

Short Title.

1. This Act may be cited as the Kwale County Youth, Women and Persons With Disabilities Fund Act, 2020 and shall come into operation upon publication in the *Kenya Gazette*.

Interpretation.

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

“Fund” means the Kwale County Government Fund for youth, women and persons with disability.

“Government” means County government of Kwale;

“Group” means registered youth, women and persons with disability group;

“Persons with disability group” means a registered group with 70% members being persons with disability or all members being parents of children with disabilities;

“Youth” means any adult resident of Kwale County of age 18 to 35 years;

“Youth group” means a registered group with 70% of its members within the youth age bracket of 18 to 35 years;

“Women group” means a registered group with 70% of its members being women;

“County Executive Committee Member” means county executive committee member as defined in the County Government Act;

“Fund manager” means the Fund Manager in accordance with section 10;

“Personal assistants to the MCA” mean representatives of the Elected Members of the County Assembly;

“Community Development Officer” means an officer at ward level in charge of Social Services and Talent Management Department;

“Business development officer” means an officer-representing department of trade;

“Agriculture officer” means officer representing department of agriculture, livestock and fisheries;

“Committee” means a group of persons elected to implement this ACT;

“Accounting officer” means the chief officer whose overall responsibility is management of the fund for efficient and effective implementation of this ACT Application of the Act;

Application of the Act

3. This Act applies to the youth, women and persons with disabilities groups as provided under this Act. Objects and purposes of the Act.

Objects and Purpose of the Act

4. The purpose of this Act is to provide for a legal framework for the establishment and implementation of a Fund targeting the youth, women and persons with disabilities groups in Kwale County.

PART II— ESTABLISHMENT OF THE FUND

Establishment of the Fund

5. (1) There is established a Fund to be known as the Kwale County Youth, Women and Persons with Disabilities, Fund. Sources of the fund.

Sources of the Fund

6. The Fund shall consist of—

- (a) such monies as shall be appropriated by the County Assembly;
- (b) any grants, gifts, donations, loans or other endowments granted to the Fund;
- (c) such funds as may vest in or accrue to the Fund in the course of the County Fund Management committee exercise or performance of its functions under this Act;
- (d) monies from any other lawful source accruing to the Fund; and
- (e) repayments and penalties.

Administration cost**7. (1) An amount—**

- (a) the administration component of the fund shall not be more than five per cent of the total disbursement.

Objects of the fund**8. (1) The Fund shall be utilized for—**

- (a) providing access to capital and financing facilities to micro and small owned by the youth, women and persons with disabilities resident in the County;
 - (b) attracting and facilitating investment micro and smalls oriented commercial infrastructure;
 - (c) supporting youth, women and persons with disabilities oriented into micro and smalls to develop linkages with larges;
 - (d) providing technical assistance in product and market development;
 - (e) facilitating training, mentorship and the provision of business development services to youth, women and persons with disabilities entrepreneurs in the County; and
 - (f) facilitating technology acquisition, adoption and utilization for beneficiaries under this Act.
- (ii) The amount set aside for disbursement, as loans under subsection (6) shall be appropriated as per Ward repayments.

PART III—ADMINISTRATION OF THE FUND**Management of the fund**

9. The CECM Finance shall designate a fund manager with relevant Knowledge and experience.

Functions of the Fund Manager**10. (1) The fund manager shall—**

- (a) manage the day-to-day operations of the Fund subject to the direction of the County Fund Management Committee
- (b) providing secretariat services to the County Fund Management Committee
- (c) facilitating the operations of the ward committees;
- (d) maintaining records related to the fund;

- (e) providing liaison and coordination among county departments responsible for the implementation of this Act or any agency appointed for the purpose of implementation of this Act;
 - (f) supervise and control the administration of the Fund in consultation with the County Fund Management Committee;
 - (g) prepare a budget and such plans for better administration of the Fund in consultation with the County Fund Management Committee to be approved by The County Executive Committee Member;
 - (h) cause to be kept proper books of account and other books and records in relation to the Fund as well as to all the various activities and undertakings of the Fund;
 - (j) carrying out any other function as assigned by the County Executive Committee Member;
- (2) Where the fund manager fails to perform duties under subsection (1) shall be reprimanded according to the provisions of public service schemes of service;

Banking

11. (1) All monies received by the Fund shall be maintained in a bank account in the name of Kwale County Youth, Women and Persons with Disabilities Fund, opened and administered in accordance With the provisions of the Public Finance Management Act, 2012;

(2) The account shall solely be for funds meant to realize the object and purpose of the Act, which shall include monies received as repayments from groups and any other funds from partners donated for this purpose;

(3) The accounting officer member for finance shall nominate signatories to this account.

Signatories to the Account;

12. (1) Signatories to the account will be—

- (a) chief officer for the time being in-charge of the department responsible for the fund;
- (b) principal accountant in-charge of the department responsible for the fund;
- (c) fund manager;

(2) The balance of the Fund at the close of each financial year shall be retained in the Fund for purposes for which the Fund is established.

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PART IV—ESTABLISHMENT OF COUNTY FUND COMMITTEE

Establishment of The County Fund Management Committee

13. (1) There is established a committee to be known as the Kwale County Youth, Women and Persons with Disabilities Fund committee.

(2) The committee shall manage and administer the fund.

Composition of the County Fund Management Committee

14. (1) The County Fund Management committee shall consist of;

- (a) the Chief Officer in the County department of finance;
- (b) the Chief Officer in the County department for the time being responsible for youths, women and persons with disabilities;
- (c) the Chief Officer in the County department for the time being responsible for trade and industry;
- (d) the fund manager who shall be the secretary to the committee.
- (e) one member of the public nominated by the CECM for the time being in charge of youth women and persons with disability fund, appointed by the Governor and approved by the county assembly;
- (f) a representative from persons with disabilities groups;
- (g) a representative from women groups;
- (h) a representative from youth groups;
- (i) one professional qualified and experienced in matters related to development, finance or business and appointed by the Executive Member in consultation with Governor and approved by the assembly; and

(2) A non-executive chair of the committee shall be appointed by the members during the first meeting.

Qualifications for appointment

15. (1) A person shall not be eligible for appointment as a member or chairperson unless the person—

- (a) holds a minimum of a diploma from a recognized institution;
- (b) satisfies the requirements of Chapter six of the constitution
- (c) has at least five years' experience in business, finance, development, law, economics or its equivalent.

- (2) A person shall not be eligible for appointment as a member under subsection (I4) (e) (f), (g) and (h) unless the person—
- holds a diploma level certificate;
 - has at least two years' experience in business, trade or development;
 - satisfies the requirements of chapter six of the Constitution;
 - is a resident in the county.

Term of office for members of the County Fund Management Committee

16. The members appointed under section 14 (l) (e) (f), (g), (h) (i) shall serve a term of three years and shall be eligible for a re-appointment for one further term.

Removal from office

17. (1) A member of a committee established under this Act may be removed from office only for—

- violation of the Constitution or any other law;
- gross misconduct, whether in the performance of the member's functions or otherwise;
- physical or mental incapacity to perform the functions of office; or
- incompetence or neglect of duty.

(2) The Executive Committee Member may terminate the appointment of a member of the Committee, other than the chairperson, on any of the grounds specified under subsection 1.

Functions of the County Fund Management Committee

18. (1) The County Fund Management Committee shall be responsible for—

- overseeing and monitoring to ensure successful implementation of the fund.
- coordinating other relevant county government departments in the implementation of this Act;
- advising the Executive Member on the appropriate guidelines and procedures for implementation of the Act and for better management of the Fund;

- (d) reviewing and considering the applications recommended by the ward Committees and approving disbursements for loans and utilization of the Fund;
- (e) considering and approving annual report on the implementation of the Act for transmission to the Executive Member;
- (f) planning and development of annual budgets for consideration by the CECM; and
- (g) carrying out any other functions as may be assigned by the Executive Committee Member.

PART V—ESTABLISHMENT OF WARD FUND MANAGEMENT COMMITTEE

Establishment of the Ward Fund Management Committees

19. (1) There is established for each Ward, a Ward Youth, Women and Persons with Disabilities Fund Committee

(2) The committee shall consist of the following Members—

- (a) Ward administrator;
- (b) Community development officer in charge of the ward who shall be the Secretary;
- (c) Ward trade officer;
- (d) A representative from the department of agriculture, livestock and fisheries in the ward;
- (e) two persons representing community interest at the ward level;
- (f) one representative from persons with disabilities groups;
- (g) one representative from women groups;
- (h) one representative from youth groups;
- (i) a representative appointed from the office of the area member of county assembly.

(3) When nominating the members of the committee the groups shall observe the one third gender rule;

(4) The chairperson of the fund shall be elected among the members.

Qualification for Appointment

20. A person shall be qualified for appointment as a member under subsection (2) (e) (f) (g) and (h) if the person—

- (a) holds at least a secondary school level education certificate;
- (b) meets the requirements of chapter six of the Constitution;
- (c) is experienced in matters relating to business, trade or financial matters within the micro or small sector; and
- (d) is a resident of the Ward.
 - (ii) A person appointed under subsection (2) (e) (f), (g), and (h) shall serve for a term of three years which may be renewed for one further and final term of 3 years.
 - (iii) The Executive Member shall ensure that not more than one person shall be appointed under subsection (2) (e) (f), (g), and (h) from the same village unit.
 - (iv) A member of the Ward committee appointed under subsection (2) (e) (f) (g), and (h) may be removed from office by the Executive Member on the basis of the factors stipulated under section 9.

Functions of the Ward fund Management Committee

- 21.** (1) The Committee shall be responsible for —
- (a) Receiving loan applications for funding from groups and making recommendations to the Fund committee under this Act;
 - (b) creating awareness among the residents of the ward about the Fund.
 - (c) advising the Fund committee on such projects that may be funded.
 - (d) carrying out such other roles as are necessary for the implementation of the object of this Act, and perform such other functions as may, from time to time

PART VI—FINANCIAL PROVISIONS

Allowance

22. The members of both the ward and county committees shall be paid such allowances as stipulated by the relevant salaries and remuneration commission circulars

Financing of the Fund

- 23.** The funds and assets of the Fund shall comprise of—
- (a) such moneys as may be appropriated by the County Assembly for the purposes of the Fund;

- (b) such moneys or assets as may accrue to or vest in the fund in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law;
- (c) such moneys as may be payable to the Fund pursuant to this Act or any other written law;
- (d) such gifts as may be given to the Fund; and
- (e) all moneys from any other source provided, donated or lent to the Fund;
- (f) penalties and repayments.

Accounts and Audit

24. (1) The County Fund Management Committee shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities.

(2) Within a period of three months after the end of each financial year, the Committee shall submit to the Auditor-General the accounts of the Fund in respect of that financial year.

(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the provisions of the Constitution and the Public Audit Act, 2015.

Transition to Trade Fund

25. (1) Under this Act no group shall be funded more than three (3) times however upon demonstration and approval by the committee they can still be loaned

(2) Where a group requires additional funding after three (3) times benefiting the fund shall recommend that specific group to the Trade Fund.

PART VII—MISCELLANEOUS PROVISIONS

Defaults and Penalties

26. (1) any non-repayment of the loans will attract penalties as may be prescribed in the regulations.

(2) The provisions of this Act shall apply to previous and current beneficiaries of the fund.

Regulations

27. The Executive Committee Member shall within 90 days after the gazetment of this Act and in consultation with the County Fund Management Committee make regulations.

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- (a) Generally for the better carrying out of the Provisions of this Act;
- (b) For prescribing anything that may be required to be prescribed under this Act; and
- (c) This Act shall not be affected until the county assembly approves the regulations within the prescribed time under this section.

28. Approved list of beneficiary shall be forwarded to both the county ward committee and to the office of the area member of the county assembly.

SCHEDULE 1**APPLICATION FORM****COUNTY GOVERNMENT OF KWALE****YOUTH, WOMEN AND PERSONS WITH DISABILITY FUND****LOAN APPLICATION FORM**

DCSSTM/2017/2018

Serial No. 0000

This form is to be completed in Duplicate, (**Original** to be sent to County Head quarters through the Ward administration office, a **copy to be retained** by the Group).

Date Recommended by ward fund committee

Date received at ward office

Check list of copies of documents attached (√)

Certified copy of Registration 3 months/Bank/FOSA/Post
Bank/Sacco A/C statement

Minutes of group meeting List of members with IDs and Tel. Nos.

Copy of members IDs

1. GROUP DATA

(i) Group Name.....

(ii) P.O.Box.....Code.....Town.....

(iii) Date of Registration.....Reg. No. /Serial No.....

Bank/FOSA/FSA/Post Bank A/C No.....

Bank.....Branch.....

Loan Applied for KSh.....(Please be guided by below table on maximum amount per cycle and tick appropriately)

Loan cycle	Maximum amount (KSh.)	Tick as applicable
1	100,000	
2	200,000	
3	350,000	
4	500,000	

If not a first loan, attach a copy of loan clearance certificate

2. (i) LOCATION OF THE GROUP

Sub County.....Ward.....

Village Admin unit/ Sub location.....

Name of Village Administrator/Assistant chief:.....

Tel:

I certify that I know the members of the group and that they are of good conduct to access public funds.

Signature and official stamp.....

(Mandatory)

(ii) LOCATION OF BUSINESS

(In case of group business)

Township/Estate/Village

Plot No./Street

(Draw a map using the nearest landmark)

3. MEMBERSHIP PROFILE

Gender	No. of members	Members with disability
Men		
Women		
Total		

4. BRIEF BACKGROUND OF THE GROUP

(i) Purpose/Objective (e.g.) improve Economic well-being of members

(ii) Key activities.....

5. STATE THE TYPE OF PROPOSED BUSINESS. Is it start up or expansion?

a. Business type (Tick):

(i) Description of business.....

(ii) Start up (New) (iii) Expansion

b. Does the group have a joint/common business? (Tick one) **Yes**

No

c. If NO, state whether you want to start one jointly or each individual will own his or her business

6. FOR INDIVIDUALLY OWNED BUSINESS.

Complete the table below:

No.	Name of owner	ID Number	Type of business	Mobile No.	Signature
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

7. GUARANTEES BY OFFICIALS

Chairperson Name:

ID No:

Sign:

Treasurer Name:

ID No:

Sign:

Secretary Name:

ID No:

Sign:

8. LOAN CONDITIONS

(i)Months Grace Period (maximum 2months)

(ii) Repayment period.....Months (maximum 12months)

(iii) 2.5% administration fee on principal amount

- (iv) Security from the officials to guarantee the loan.
- (v) Suspension of Registration certificate for Unrecoverable loans/or complete default

9. BANKING AND TRAINING HISTORY

(a) When did the group open a bank/FOSA/FSA/Post Bank/SACCO account? Date...../...../20.....

(b) Has the group borrowed from Bank/SACCO /MFIs/Others in the past?

No Yes

If yes, how much? KSh: Was the amount fully paid? No

Yes

(Attach evidence)

No.	Name	ID Number	Mobile No.	Signature
1.				
2.				
3.				
4.				
5.				
6.				
7.				

10. OTHER MEMBERS GUARANTEE AND COMMITMENT TO LOAN REPAYMENT (MANDATORY)

We, the undersigned are jointly and severally liable for repayment of loan in the event of default. We understand that the amount in default may be recovered by an offset against our savings or by attachment of our individual property, and shall not be eligible for additional loans unless the amount in default has been cleared in full.

11. LOAN TERMS AND CONDITIONS BEFORE DISBURSEMENT

We, the undersigned, being the validly elected leaders of the group hereby commit the group individually and jointly to repay the loan amount disbursed plus 2.5% Administrative Fee to the appointed Account in.....equal instalments. We also confirm that the above information is true and authorize the Fund to:

(i) Share information of our credit history with Credit Reference Bureaus

(ii) Confirm bank details with our bankers as and when necessary

(a) Chairperson:.....ID.No.....

Tel No.....Signature.....date.....

(b) Secretary:.....ID.No.....

Tel. No.....Signature.....date.....

(c) Treasurer:.....ID.No.....Tel.No.....

Signature.....date.....

NB: Please attach signed minutes of group meeting(s) that agreed to the terms and conditions of the borrowing.

FOR OFFICIAL USE

12. Recommendations from Ward Fund Committee

Reasons for recommending approval/decline

.....

1. Chairperson Name.....Signature.....Date.....

2. Secretary Name.....Signature.....Date.....

Approved: Amount KSh(in words).....

Repayment period:.....Months

Signed by all YOWEPF Ward committee members sitting on date.

...../...../.....

place

No.	Name	Designation	ID number	Mobile No.	Signature
1.					
2.					
3.					
4.					
5.					

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2020

6.					
7.					
8.					
9.					
10.					
11.					
12.					
13.					
14.					
15.					

*YOWEPF is an initiative of Kwale County Government
Department of Social Services, Sports and Talent Management*

SCHEDULE 2

PROCEDURES AND GUIDELINES FOR APPLICATION

1. Target Groups

The fund shall be available to groups that are duly registered as youth, women or Pwds groups operating within the County.

2. Eligibility Criteria

An applicant group for the loan shall—

- (a) Have an active bank account for at least six months
- (b) Have a latest bank statement
- (c) Have started saving before applying for the loan
- (d) Have an ongoing activity or project
- (e) Provide collateral to the loan

3. Loan application

- (a) Serialized application forms shall be available from Community Development Officers based at the Ward Administrator's office
- (b) Applicants will fill and return them to the ward office within three weeks
- (c) Vetting will then take place on all returned forms within one month.

4. Security/Collateral

Groups shall provide any of the following as security;

- (a) Any proof of asset ownership by the group officials-chairperson, treasurer and secretary to act on behalf of the group.

5. Loan Amounts

The fund shall advance loans to groups as follows;

- (a) 1st time borrower will get a maximum of 100,000
- (b) Subsequent borrowers will get up to a maximum of 500,000 depending on their repayment cycles.

6. Grace Period

Grace period shall be 2 months from the date of loan disbursement.

7. Administrative cost

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Each loan disbursed will attract a 2.5% administrative cost deducted directly from the loan amount disbursed.

8. Loan Repayment Period

- (a) Repayment of loans shall be made up to a maximum period of 12 months after expiry of grace period;
- (b) The capital sum shall be repaid by equal installments of principal and administrative cost combined.

SCHEDULE 3**CONDUCT OF MEETING**

1. The county executive committee member responsible for youth, women and Pwds fund shall convene the first meeting of the county committee that will lead to the appointment of the chairperson.

2. The committee shall decide when and where it meets and the chairperson shall convene the meetings.

3. The committee shall have at least four meetings in every financial year.

4. Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member.

5. A meeting shall be presided over by the chairperson.

6. If any member has a personal or fiduciary interest in any matter before the committee, and is present at a sitting which the matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

7. A disclosure of interest made under paragraph 6 shall be recorded in the minutes of the meeting at which it is made. .

8. The quorum of the meeting shall not be less than half of the committee members.

10. A question before the meeting shall be decided with a supporting vote of at least two thirds of the members present.

11. The committee shall keep minutes of proceedings of its meetings and decisions taken.