

SPECIAL ISSUE

Kenya Gazette Supplement No. 19 (Tana River County Acts No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

TANA RIVER COUNTY ACTS, 2021

NAIROBI, 13th December, 2022

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**THE TANA RIVER COUNTY MICROFINANCE
(AMENDMENT) ACT, 2021**

No. 5 of 2021

Date of Assent: 24th November, 2021

Date of Commencement: See Section 1

ENACTED by the County Assembly of Tana River, as follows—

Short title and commencement

1. This Act may be cited as the Tana River County Microfinance (Amendment) Act, 2021 and shall come into force upon its publication in the *Gazette*.

Amendment to Section 2 of Act No. 7 of 2017

2. The Tana River County Microfinance Act, 2017 (hereinafter referred to as the “Principal Act”) is amended in section 2 by arranging the definition of interpretations alphabetically.

Amendment to Section 3 of Act No. 7 of 2017

3. Section 3 of the Principal Act is amended by deleting the words “to women and youth” immediately after the words “providing financial services”.

Amendment to Section 6 of Act No. 7 of 2017

4. Section 6 of the principal act is amended:

(a) in sub-clause (1) (g) by inserting the words “appointed by the County Executive Committee Member and approved by the County Assembly” immediately after the words “one person representing the chambers of commerce”;

(b) by deleting sub-section (4).

Insertion of new section 7A

5. The Principal Act is amended by inserting the following new section immediately after section 7—

Vacation of Office of Chairperson and Board Members

7A. (1) Subject to the provisions of this Act the office of the Chairperson or member of the board shall become vacant if the Chairperson or member of the board—

(a) resigns by notice in writing addressed to the appointing Authority;

- (b) is unable to perform the functions of office by reason of prolonged physical or mental incapacity;
- (c) is adjudged bankrupt by a court of competent jurisdiction or enters into a composition or scheme of arrangement for the benefit of creditors;
- (d) is guilty of gross misconduct;
- (e) if a member is absent without the permission of the Chairperson of the board for three consecutive meetings or if Chairperson is absent for three consecutive without the permission of the appointing Authority;
- (f) fails to meet the requirements of Chapter Six of the Constitution;
- (g) is convicted of an offence and sentenced to imprisonment for a period exceeding six months; or
- (h) dies.

(2) Where the office of Chairperson or member of the board becomes vacant, the appointing authority may, subject to the provisions of this Act, appoint another person to fill the vacancy for the remainder of the term of such member.

(3) Notwithstanding the provisions of subsection (2) a vacancy in the office of the Chairperson or member shall not render decisions of the board invalid.

(4) Notwithstanding the generality of the foregoing, the Chairperson or any member of the Board suspected of having contravened Chapter Six or Thirteen of the Constitution shall vacate office to pave way for investigations.

(5) Where a person who has vacated office under subsection (4) is not found culpable of any unlawful act by a competent legal Authority, the person shall be reinstated to the position of Chairperson or member as the case may be.

Insertion of new section 7B

6. The Principal Act is amended by inserting the following new section immediately after section 7—

Secretary of the Board

7B. The board shall appoint a suitably qualified person under the Certified Public Secretaries of Kenya Act, Cap. 534 to be the Secretary of the Board.

Insertion of new section 7C

7. The Principal Act is amended by inserting the following new section immediately after section 7—

Power to Issue Directions and to Remove the Board

7C. (1) The Governor may give directions of a general or specific nature to the board with regard to the better exercise and performance of the functions of the board and the board shall give effect to those directions.

(2) Notwithstanding subsection (1), directions under this section may require that any rules or Regulations made be amended to conform with any requirement of this Act where the same are inconsistent therewith.

(3) Notwithstanding the provisions of this Act or any other written law, the Governor may, if at any time it appears to him or her that the board has failed to carry out its functions in the interest of the county, revoke the appointments of chairperson and members of the board and dissolve the board and shall in consultation with the County Executive Committee constitute a caretaker board for a period not exceeding six months within which a new board shall be constituted in accordance with section six.

Amendment to Section 22 of Act No. 7 of 2017

8. Section 22 of the Principal Act is deleted and substituted therefor with the following new section—

Accounts and Audit

22. (1) The board shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the corporation.

(2) Within a period of three months after the end of each financial year, the board shall submit to the Auditor-General the accounts of the corporation in respect of that year together with—

- (a) a statement of the income and expenditure of the corporation during that year; and
- (b) a statement of the assets and liabilities of the corporation on the last day of that financial year.

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

Insertion of new section 23A

9. The Principal Act is amended by inserting the following new section immediately after section 23—

Reports

23A. (1) The board shall prepare quarterly reports on the operations and administration of the corporation and provide to the County Executive Committee Member quarterly statements.

(2) Notwithstanding subsection (1) the board shall prepare monthly reports and financial statements on the operations and administration of the corporation and submit the same to the County Executive Committee Member.

(3) Within ninety days after the end of the financial year, the board shall furnish the County Executive Committee Member, with an annual financial report of the corporation for that year.

(4) Upon receipt of the annual report under subsection (3), the County Executive Committee Member shall, in line with the Budget cycle, facilitate its transmission to the County Assembly.

Amendment to Section 35 of Act No. 7 of 2017

10. Section 35 of the principal act is amended by deleting the word “Republic” immediately after the words “any part of the” and substituting therefor the word “County”.

Amendment to Section 42 of Act No. 7 of 2017

11. Section 42 of the Principal Act is amended by inserting the word “Member” immediately after the words “county executive committee”.

Insertion of new section 43A

12. The Principal Act is amended by inserting the following new section immediately after section 43—

Offences

43A. Any person who —

- (a) is granted a loan on the basis of false statements made in the loan application whether orally or in writing relating to any matter affecting a request for a loan; or
- (b) upon being granted a loan and is subsequently required to answer any questions, furnish any information or particulars or produce any document or paper relating to the loan amount and use thereof, neglects or fails to do so without reasonable cause

or furnishes false information or information aimed at misleading the Board,

commits an offence and is upon conviction liable to a fine not exceeding two hundred and fifty thousand shillings or imprisonment for a term not exceeding eighteen months or both.

Amendment to Section 44 of Act No. 7 of 2017

13. Section 44 of the principal act is amended—

- (i) in sub-section 2 (a) by deleting the word “establishment” and substituting therefor the word “functions”
- (ii) in sub-section (2) by deleting paragraph (f).