

SPECIAL ISSUE

West Pokot County Gazette Supplement No. 14 (Acts No. 2)



REPUBLIC OF KENYA

**WEST POKOT COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 30th June, 2015

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**THE WEST POKOT COUNTY WARD DEVELOPMENT FUND
ACT, 2015**

No. 2 of 2015

Date of Assent: 29th April, 2015

Date of Commencement: 1st July, 2015

ARRANGEMENT OF CLAUSES

Clause

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**THE WEST POKOT COUNTY WARD DEVELOPMENT
FUND ACT, 2015**

AN ACT of County Assembly of West Pokot to provide for the establishment, administration and use of the Ward Development Fund and for connected purposes.

ENACTED by the County Assembly of West Pokot as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Ward Development Fund Act, 2014 and shall come into operation thirty days after the Governor’s assent

Interpretation

2. (1) In this Act, unless the context otherwise requires-

“**chief officer**” means a Chief Officer appointed under the County Government Act to head a department in the County Government.

“**county executive committee**” means the Member of the Executive Committee responsible for finance and economic planning in the County.

“**community**” mean residents of a particular geographical area or region defined as a Ward, location, sub location or village and having common interests;

“**county committee**” means the Ward Development Fund Committee established by Section 7 of this Act;

“**fund**” means the Ward Development Fund established under section 4 of this Act;

“**ward**” has the meaning assigned to it in the Elections Act, 2011;

“**ward development committee**” means the committee established under section 11;

“**county assembly committee**” means a County Assembly Committee established in accordance with section 15 (1);

“**project**” means an eligible development project as described in Section 14 (1) of this Act;

“**emergency**” means an urgent, unforeseen need for expenditure in the ward for which it is in the opinion of the county committee, that it cannot be delayed until the next financial year without harming the public interest;

“**sub-project**” means a complete unit or part of a project that can be put to use towards the achievement of the project objectives;

“**ward administrator**” means the ward administrator appointed under the

County Government Act, 2012;

“**village administrator**” means the village administrator appointed under the

County Government Act, 2012;

“**Village**” means a sub-location in an elective ward within the county.

“**youth**” means a person defined under Article 260 of the Constitution of Kenya 2010.

Object and purpose of the Act

3. The purpose of this Act is to provide a comprehensive, harmonized, efficient and effective legal and regulatory framework for the management and operation of the Ward Development Fund for West Pokot County to achieve the following objectives:-

- (a) channel the use of public funds at the lowest level of governance where the most vulnerable exist;
- (b) ensure equity in the distribution of funds in the County;
- (c) ensure local-level participation in the identification, prioritization, implementation and evaluation of development activities at the Ward level; and
- (d) exhibit accountability and transparency in the disbursement and use of Public resources.

PART II—ESTABLISHMENT AND ADMINISTRATION OF THE WARD DEVELOPMENT FUND

Establishment of the Ward Development Fund

4. There is established a fund to be known as the Ward Development Fund which shall—

- (a) Comprise of an amount not less than 31.1% of the development funds voted for annually by the County Assembly to be distributed equally among the 20 wards of the County; and
- (b) any other moneys accruing to or received by the Ward Development Fund from any other source to be distributed as a grant by the County Government through the County Committee in the manner provided in this Act.

The purpose and administration of the Ward Development Fund

5. (1) The ward development fund established under Section 4 of this Act shall be utilized to—

- (a) Promote community based projects that economically empower communities in the Ward;
- (b) Finance feasibility studies, planning and design or other technical input for approved project but excluding recurrent cost of the facility;
- (c) Finance projects aimed at conserving and protecting the environment in the ward provided that the allocation in this respect shall not less than 2% of the total allocation to the ward in any financial year;
- (d) Finance monitoring and evaluating projects and to conduct capacity building in the wards provided that the allocation in this respect shall not exceed 3% of the total allocation to the ward in any financial year.
- (e) Fund bursary as stipulated in the Public Finance Management Act.

(2) Any funding under this Section shall be for a complete or defined phase of a project and may include acquisition of land or buildings.

(3) The County Committee may, with the consent of other financiers or donors of a project, consider part-funding of that project financed from sources other than the fund;

provided that the part funding from the fund shall go to a defined unit, part or phase of the project and ensure that the part so co-funded is completed with the funds allocated under this Act.

(4) Funds provided under this Act shall not be used for the purpose of supporting-

- (a) Political bodies or activities;
- (b) Religious bodies or activities; or
- (c) Any personal awards to any person in cash or in kind.

(5) Without prejudice to Sub-section(4)(b) of this section the ward development fund committee may with the approval of the county committee identify a religious body as an appropriate specialized agency for the purposes of administering emergency support.

Structures for Administration of the Fund

6. The Ward development fund established under section 4 shall be administered through;

- (a) The County Committee; and
- (b) Ward Development Fund Committee.

The establishment and membership of the County Committee

7. (1) There is established a committee in the County to be known as the County Committee.

(2) The County Committee shall consist of—

- (a) County Executive Member responsible for matters relating to Finance and Economic Planning as the chair person;
- (b) The Chief Officer responsible for Finance and Economic Planning as the Secretary
- (c) The Chief officer responsible for public Administration and devolved units as a member and
- (d) Sub-county Administrators as members.

(3) The administrator of the Fund shall be the Secretary to the County Committee and shall, for purposes of **Section 116** of the Public Finance Management Act 2012, be the Chief Executive officer of the Fund.

Functions of the County Committee

8. The County Management Committee shall—

- (a) ensure timely and efficient disbursement of funds to fund account;
- (b) ensure efficient management of the Fund;
- (c) receive and discuss annual reports and returns from the Wards;
- (d) ensure the compilation of proper records, returns and reports from the Wards;
- (e) submit the list of approved projects to the Executive Committee Member for Finance and Economic Planning for inclusion in the budget estimates;
- (f) receive and address complaints and disputes and take any appropriate action; and
- (g) ensure proper, efficient, effective and economic utilization of the fund.

Conduct of Business and affairs of the County Committee

9. (1) The conduct and regulation of the business and affairs of the County Committee shall be as provided in the Fourth Schedule to this Act.

(2) Except as provided in the fourth schedule, the County Committee may regulate its own procedure.

Report by County Committee.

10. The County Committee shall, on a quarterly basis, submit a report to the County Assembly Select Committee detailing—

- (a) a summary of the project proposals received from the Wards and indicating the approval status of such projects;
- (b) a summary of the status of disbursements from the County Treasury to the fund Account;

The establishment and membership of the Ward Development Fund Committee

11. (1) There is established in every ward in the County, a committee to be known as Ward Development Fund Committee which shall comprise of—

- (a) Chairperson nominated by the County Executive member responsible for finance and Economic Planning.
- (b) one person elected in open public meetings level from each of the elective Wards in the County to represent each of the following—
 - i. youth;
 - ii. women;
 - iii. persons with disabilities;
 - iv. older members of the society;
 - v. Religious leaders;
 - vi. Community Based Organization/Civil Society Organization Representatives;
 - vii. Two professionals from the wards.
- (c) The Ward Administrator of the relevant electoral Ward;
- (d) The Area Member of the County Assembly shall be an ex-officio.

(2) A person nominated in sub-section 11 (1) (a) shall be appointed in writing by the Executive Committee Member for finance and economic planning with the approval of the County Assembly and shall, except as is otherwise provided in this Act, serve for an electoral period of 5 years.

(3) Persons elected in Sub-section 11 (1) (b) shall be appointed in writing by the Executive Committee Member for Finance and Economic Planning and shall serve for an electoral period of 5 years.

(4) The Ward Administrator shall be the secretary to the Ward Development Fund Committee whose duties shall be to—

- (a) keep minutes and records of the Ward Development Fund Committee;
- (b) prepare reports of the Ward Development Fund Committee;
- (c) submit the list of proposed projects to the County Committee;
- (d) transmit reports required under this Act to be submitted to the County Committee; and
- (e) act as the main project implementing agent in the line Ward with the relevant technical officers from the line ministries.

Functions of the Ward Development Fund Committee

12. The Ward Development Fund Committee shall—

- (a) Receive proposals from the public;
- (b) Interrogate and prioritize the proposals received;
- (c) Compilation and submission of reports to The County Committee;
- (d) Monitoring and evaluation of the projects; and
- (e) Maintain data base on proposed, on-going and completed projects in the ward.

Conduct of Business and Affairs of the Ward Development Fund Committee

13. (1) the conduct and regulation of the business and affairs of the Ward Development Fund shall be as provided for in the Fifth Schedule.

(2) Except as provided in the Fifth Schedule, the Ward Development Fund Committee may regulate its own procedure.

**PART III – IDENTIFICATION AND SUBMISSION OF
WARD PROJECT PROPOSALS**

14. (1) Every village in the county shall, through the village council, prepare a list of not more than 2 priority community based projects that the village proposes for funding under this Act. These projects shall be in accordance with the County Integrated Development Plan and the Public Participation report.

(2) The Village Administrator shall submit the list under Subsection (1) to the Ward Administrator not later than 31st December of every year.

(3) The Ward Administrator shall, compile a full list of the proposed priority community based projects from the villages in the Ward and table it before the Ward Development Fund Committee for harmonization and approval.

(4) Upon approval by the Ward Development Fund Committee, the Ward Administrator shall compile the approved list of priority community-based projects in the forms set out in the First and Second Schedules to this Act. The list shall be submitted to the County Committee with the minutes of the Ward Development Fund committee meeting that approved the projects.

(5) The County Committee shall receive, review and scrutinize the lists of proposed priority projects; and

- (a) Approve the projects for funding if satisfied that the proposed projects are consistent with the Act; or
- (b) Reject the projects and refer back to the Ward Development Fund Committee the proposed project(s) with reasons as to why it has declined to approve the project(s).

(6) Where the County Committee approves the proposed projects under Sub-section 5, it shall submit the approved list to the Executive Committee Member for finance and economic planning to forward them to the County Assembly for inclusion in the budget estimates.

**PART IV – COUNTY ASSEMBLY SELECT COMMITTEE ON
IMPLEMENTATION ON WARD DEVELOPMENT FUND**

County Assembly Select Committee on Implementation

15. (1) The County Assembly Select committee on implementation shall in accordance with its Standing Orders 189 (1)-(3), ensure full implementation of this Act.

PART V – DISBURSEMENT OF THE FUND**Ward Development Fund Bank Account**

16. (1) The funds approved by the County Assembly for the purposes of this Act, shall be kept by the County Treasury in a bank account opened and maintained with a reputable commercial bank approved by the County Executive Committee Member for finance and economic planning and which shall be separate from that of the County Treasury.

(2) The signatories to the account of the Fund maintained in accordance with Sub-section (1), shall be the Chief Officer responsible for Finance and economic planning and three other persons appointed by the County Committee from amongst its members.

(3) The signing instructions shall be such that the signature of the Chief Officer responsible for Finance and economic planning shall be mandatory on all payment cheques or instruments intended for actual release of money from the fund, plus any two of the other three signatories.

(4) Each and every disbursement of the Fund shall be approved and minuted by the County Committee

(5) Disbursements from the Fund shall be for specific projects as submitted by the Wards and approved in accordance with the provisions of this Act.

Allocation of funds

17. (1) The County Treasury shall in accordance with the County Assembly approval, disburse funds to the Ward Fund Account in accordance with this Act and the funds so disbursed for any project shall be cumulative for that project and may only be re-allocated for another purpose with the approval of the County Assembly.

(2) The funds allocated for a particular financial year and which shall not be fully utilized shall be carried forward from one year to the next including such funds as may be returned to the account in accordance with Sub-section (4) of this Act.

(3).Unspent funds shall be re-allocated by the County Committee with the approval of the County Assembly to any eligible project in the ward and such project may be new or ongoing at the end of the financial year.

(5) For the avoidance of doubt, a return as set out in the third Schedule shall be made for the current financial year and every previous financial year on which some funds remain unspent.

Funds to be retained in the Fund

18. All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year, shall be returned to the Fund and applied in accordance with Section 19 (3) of this Act

Record of disbursements to be kept

19. (1) An accurate record of all disbursements made for every project in a Ward, shall be kept and updated every month by the County Committee.

(2) The disbursement of funds to the Ward fund account shall be effected at the beginning of the first quarter of each financial year with an initial amount equivalent to twenty-five per cent of the annual allocation for the Ward and thereafter the Ward fund account shall be replenished in three equal installments at the beginning of the second, third and fourth quarters of the Financial year

(3) The Chairperson of the County Committee (County Executive Committee Member-Finance and Economic Planning) shall submit to the County Assembly an annual report on the activities, operations and expenditure under this Act.

PART VI – IMPLEMENTATION OF PROJECTS

20. (1) Projects under this Act shall be implemented by the relevant departments of the County Government.

(2) The Ward Development Fund Committee shall be responsible for monitoring the implementation of projects.

(3) All payments shall be processed and effected in accordance with Government Regulations.

Procurement of services, works and disposals

21. (1) All works and services relating to projects under this Act shall be procured in accordance with the provisions of the Public Procurement and Disposals Act 2005 and the relevant regulations.

(2) All fixed and movable assets including equipment bought for purposes of implementation for projects under this Act, shall be the property of the County Government.

(3) Assets or equipment acquired under this Section shall only be disposed off in accordance with the Public Procurement and Disposals Act 2005.

(4) Any proceeds that may accrue from the disposal of any asset acquired pursuant to Sub-section (4), shall be credited to the account of

the County Revenue Fund from whose funds the asset was acquired and such funds shall be reflected and declared as part of the following year's Ward fund for that Ward.

Record of receipts and disbursement

22. The Ward Administrator shall compile and maintain a record showing all receipts, disbursements and actual expenditures on a monthly basis with respect to every project and sub-project under this Act and shall—

(1) Table such record at a meeting of the Ward Development Fund Committee every month; and

(2) Submit a summary of the record for the year, to the County Committee not later than thirty days after the end of every financial year.

PART VII — MISCELLANEOUS PROVISIONS

Secondment of Staff

23 For the proper administration of the Fund and discharge of the functions under this Act, The County Government through the Public Service Board shall, assign personnel to:-

- (1) The County Committee;
- (2) The Ward Development Fund Committee.

Ward Development Fund Administration Costs

24. (1) The expenditure for running the Ward Development Fund Committee and County Committee shall be set aside at the beginning of the financial year from the total allocation to the Fund, of which shall be approved by the Committee Member responsible for finance and economic planning;

Provided that, not more than six per cent of the total allocation to the Fund shall be used for this purpose in any one year.

(2) The personal emoluments of Government officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of the implementing Ministry.

(3) The emoluments and allowances referred to at subsection (2) shall be payable only after the advice of the Salaries and Remuneration Commission has been sought pursuant to Article 230 (4) (b) of the Constitution.

Audit

25. (1) All funds received under this Act shall be audited and reported on by the Auditor-General in accordance with the Public Audit Act No. 12 of 2003 and Constitution of Kenya 2010 Article 229(4) (a), (5) and (7).

(2) For the purpose of internal Audit, the County government shall conduct an internal audit in accordance with Public Finance Management Act 2012 Section 155 (1) (a).

Power to make Regulations

26. (1) The County Executive Committee Member for finance and Economic Planning may make regulations for the smooth running of the Fund and such regulations shall be approved by the County Assembly before implementation.

(2) The County Executive Committee Member for finance and economic planning may amend any of the Schedules through a notice in the County Gazette, provided that such amendments shall first be approved by the County Assembly before implementation.

Provisions in the Act are complimentary

27. (1) The provisions of this Act shall be complimentary to any other development efforts by the national government, the county governments or any other agency and nothing in this Act shall be taken or interpreted to mean that an area may be excluded from any other development programs.

(2) For the avoidance of doubt, normal County Government development allocations shall continued alongside the projects funded under this Act.

Offences and Penalties

28. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided for in this Act, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five hundred thousand shillings or to both.

Disputes resolution

29. (1) Disputes of a civil nature arising out of the administration of this Act shall be referred to the County Committee in the first instance and where necessary an arbitration panel whose costs shall be borne by the

parties to the dispute, shall be appointed by consensus of the parties to consider and determine the matter.

(2) Notwithstanding Subsection (1), parties shall be at liberty to jointly appoint an arbitrator of their choice in the event of a dispute but where parties fail to jointly agree on an arbitrator the County Executive member for Finance may appoint an arbitrator whose costs shall be jointly borne by the parties.

(3) A person aggrieved by the determination of the arbitrator may apply to the court for a resolution.

(4) Complaints of a criminal nature shall be forwarded to the relevant government agencies.

PART VIII—TRANSITIONAL PROVISIONS

Transitional duties of the Chief Officer-Public Administration and Devolved Units

30. (1) Pending the appointment, Village Administrator(s), the Chief Officer responsible for Public Administration and Devolved units to whom Sub-county, Ward and village Administrators report to, shall delegate some of the functions required of the Village Administrator under this Act.

(2) Sub-section (1) above lapses with the appointment of Village Administrators.

SCHEDULES:

FIRST SCHEDULE (S. 8(4))

WARD PROJECTS SUBMISSION FORMS

WARD NoWard Name Financial yearDate.....

Serial	Name of project	Estimated Cost	Total Allocated Amount
Total for the financial year			

Approved by Ward Development Fund Committee

Chairperson WDF Committee name..... signature.....
Date.....

Secretary name.....Signature.....Date.....

SECOND SCHEDULE (S.8 (4))

PROJECT DESCRIPTION FORM

Ward No.....Ward NameWard

Project Number

Project title

Sector

Status of projects (tick one) New Extension
.....ongoing.....

Rehabilitation

Brief statement on project status at time of submission

.....
.....

No. 2

West Pokot County Ward Development Fund

2015

Expected outcomes

.....

Financial year1st Julyto 30th June

Original cost estimates, in KSh. date

Amount allocated last financial year

Person completing form:Signature

NamePosition

Date

Approved by the Ward Development Fund Committee

Chairperson WDF Committee

Name.....Signature.....Date.....

Secretary

Name.....Signature.....Date.....

THIRD SCHEDULE (S. 13(5))

PROJECT RE-ALLOCATION FORM

Ward No. Name. Financial Year.....

Project No.	Project Title	Amount allocated (Kshs)	Amount disbursed (Kshs)	Balance (Kshs)	Unspent to be re-allocated

The Ward Development Fund Committee

Chairperson WDF Committee name..... signature..... Date.....

Secretary

Name.....Signature.....Date.....

Approved by the County Committee

NAME.....

SIGNATURE.....

DATE.....

FOURTH SCHEDULE—

CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY COMMITTEE**Meetings**

1. (1) The County Committee shall meet once every quarter.

(2) Notwithstanding Sub-paragraph (1), the Chairperson may, upon requisition in writing by at least three members, convene a special meeting of the County Committee at any time for the transaction of a business that is urgent, exceptional and is of public interest.

(3) At least fourteen days' written notice of every meeting of the County Committee shall be given to every member of the County Committee.

(4) The quorum for the conduct of the business of the County Committee shall be four members.

(5) The Chairperson shall when present, preside at every meeting of the County Committee but the members present shall elect one member to preside whenever the Chairperson is absent. The person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) A decision on any matter before the County Committee shall be by a majority of the votes of the members present and voting, and in case of a tie of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the County Committee shall be invalid by reason only of a vacancy among the members thereof

(8) Subject to the provisions of this Schedule, the County Committee may determine its own procedure and the procedure for any Sub-Committees of the County Committee and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Sub-Committees of the County Committees

2. (1) The County Committee may establish such sub-committee as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The County Committee shall appoint the Chairperson of a sub-committee established under subparagraph (1) from amongst its members.

(3) The County Committee may where it deems appropriate, invite any person to attend the deliberations of any of its sub-committee provided that any invited person shall not have the right to vote.

(4) All decisions of the sub-committees appointed under sub-section (1) shall be ratified by the County Committee.

Disclosure of interest

3 Members of the County Committee shall at all times abide by the Public Servants rules of ethics and regulations.

FIFTH SCHEDULE (S. 7 C)

CONDUCT OF BUSINESS AND AFFAIRS OF THE WARD DEVELOPMENT COMMITTEE

Tenure of Office

1 A member of the Ward Development Committee other than a person who is a member by virtue of that's person's public office shall hold office for a period of term of the Assembly upon terms and conditions as may be specified in the instrument of appointment and shall, be eligible for re-appointment for only one more term.

Vacation of office

2. A member of the Ward Development Committee other than a person holding such membership by reason of their public office may at any time—

- (a) Resign from office by giving notice in writing to the chairperson of the ward committee with a copy to the Chairperson County Committee;
- (b) Upon recommendation of the Ward Development Committee be removed from office by the County Executive Committee Member for Finance and Economic Planning, if the member:-
 - i. has been absent from three consecutive meetings of the Ward Development Committee without it's permission;
 - ii. is convicted of a criminal offence that amounts to a felony under the laws of Kenya;
 - iii. is incapacitated by prolonged physical or mental illness for a period exceeding six months;
 - iv. is otherwise unable or unfit to discharge his functions; or
 - v. is declared bankrupt.

Meetings

3. (1) The Ward Development Committee shall meet twice every month;

(2) The chairperson shall be responsible for convening all the meetings;

(3) Notwithstanding Sub-paragraph (1), the Chairperson may, and upon requisition in writing by at least 1/3 of the membership of the Ward Development Committee, convene a special meeting of the Ward Development Committee at any time for the transaction of a that urgent, exceptional and is of public importance.

(5) At least fourteen days' written notice of every meeting of the Ward Development Committee shall be given to every member of the Ward Development Committee.

(6) The quorum for the conduct of the business of the Ward Development Committee shall be fifty per cent of the members of the Ward Development Committee.

(7) The Chairperson shall when present, preside at every meeting of the Ward Development Committee but whenever the Chairperson is absent the members present shall elect one member to preside. The person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(8) A decision on any matter before the Ward Development Committee shall be by a majority of the votes of the members present and voting, and in case of a tie of votes, the Chairperson or the person presiding shall have a casting vote.

(9) Subject to Sub-paragraph (6), no proceedings of the Ward Development Committee shall be invalid by reason only of a vacancy among the members thereof.

(10) Subject to the provisions of this Schedule, the Ward Development Committee may determine its own procedure and the procedure for any Ward Development Sub-Committees and for the attendance of other persons at it's meetings and may make standing orders in respect thereof.

Disclosure of interest

4. (1) A member 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 paragraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Without prejudice to paragraph 1 of this rule, members of the Ward Development Committee who are Public Officers shall at all times abide by the Public Officer Ethics Act.

(4) A member of the Ward Development Committee who contravenes paragraph (1) shall cease to be a member of the Ward Development Committee upon direction of the Executive Member for Finance.