

(Legislative Supplement No. 1)

LEGAL NOTICE NO. 1

**THE PUBLIC FINANCE MANAGEMENT ACT**

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, The County Executive Member for Finance makes the following Regulations:—

**THE PUBLIC FINANCE MANAGEMENT (KERICHO COUNTY  
ASSEMBLY MEMBERS CAR LOAN SCHEME) FUND  
REGULATIONS, 2014**

**Citation**

1. These Regulations may be cited as the Public Finance (Kericho County Assembly Car Loan (members) Scheme Fund) Regulations, 2014.

**Interpretation**

2. In these Regulations, unless the context otherwise requires—

“Assembly” means the County Assembly of Kericho.

“Board” means the Kericho County Assembly Service Board established under section 12 of the County Governments Act, 2012;

“County Public Fund” means a public fund established by the County Executive Member for Finance with the approval of the County Executive Committee and the County Assembly;

“Committee” means the Car Loans Management Committee established under regulation 6;

“Financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Kericho County Assembly Members Car Loan Scheme Fund established under regulation 3;

“Hire Purchase Agreement” means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee;

“Member of the Scheme” means Kericho County Assembly Members or staff;

“Officer administering the Fund” means the Clerk of the County Assembly.

**Establishment of the Fund**

3. There is established a fund to be known as Kericho County Assembly Members Car Loan Scheme Fund.

**Object and purpose of the Fund**

4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase of vehicles by members of the Scheme.

**Initial capital**

5. (1) The initial capital of the Fund shall consist of the monies advanced or appropriated and standing to the credit of the account on the date of the coming into operation of these Regulations.

(2) County Assembly may appropriate additional monies to the Fund.

(3) The Fund shall be administered as a special account in the County Fund and shall be operated by the Clerk as the officer administering the Fund.

**Car Loans Management Committee**

6. (1) There is established a committee to be known as the Car Loans Management Committee, which shall consist of—

- (a) the leader of majority party who shall be the chairperson;
- (b) the leader of minority party who shall be the vice chairperson;
- (c) the Whip of the majority party;
- (d) one member of the county assembly elected by the members of county assembly; and
- (f) two members of staff to be appointed by the Board.

(2) The Clerk, as officer administering the Fund shall be an *ex officio* member of the Committee and the Secretary to the Committee.

(3) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson, by the vice-chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

(4) The quorum for a meeting of the Committee shall be the chairperson and any three members.

(5) The Committee shall consider and may approve loan applications presented by the officer administering the Fund.

**Operation of the Fund**

7. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall present to the officer administering the Fund a duly completed hire purchase proposal form prescribed by the Management Committee.

(2) The officer administering the Fund shall, before presenting the application, satisfy himself or herself of the applicant's financial status and capacity to repay the loan applied for and where so satisfied, shall forward the application to the Committee for consideration.



(3) If the Committee approves the application, the applicant shall enter into a hire purchase agreement in such form as the Committee may prescribe.

#### **Conditions for disbursement of funds**

8 (1) A loan approved under regulation 7 shall be released from the Fund in such a manner, taking into account the security of the funds, that may be prescribed by the Committee.

(2) The log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the Kericho County Assembly and the member of the Scheme and shall be kept in the custody of the officer administering the Fund until the loan is repaid in full by the member of the Scheme.

#### **Temporary release of log-book**

9. (1) A log-book kept in custody by the officer administering the Fund may be temporarily released to a member of the Scheme upon application in writing to the officer administering the Fund for purposes of renewal by that member of the necessary licences.

(2) A log-book released under sub-regulation (1) shall be returned to the officer administering the Fund within seven working days from the date of the release.

(3) The officer administering the Fund shall acknowledge receipt of the log-book in writing.

#### **Loan amounts**

10. (1) The loan amount that a member of the Scheme may receive shall be the value of the vehicle that the member of the Scheme proposes to purchase but not exceeding the amount of two million shillings.

(2) For the purpose of these Regulations, the value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a used vehicle shall be as determined by a report from the body known as the Automobile Association of Kenya, or the Government department dealing with such matters.

(3) No member of the Scheme shall receive a loan the repayment of which shall result in salary deductions exceeding seventy per cent of the monthly emoluments of the member of the Scheme.

#### **Interest rate**

11. (1) A loan granted to a member of the Scheme under these Regulations shall carry an interest rate of three per centum per annum on a reducing balance.

(2) The interest shall be credited to the capital fund as a revolving fund.

#### **Repayment Period**

12. A loan advanced under these Regulations shall be repaid in full over the period of service of the member, but in any case within five years, irrespective of whether the vehicle purchased is new or used.

**Insurance**

13. (1) A member of the Scheme shall comprehensively insure any vehicle purchased through the Scheme.

(2) Where a member of the Scheme is unable to raise the funds required for the initial insurance premium, such funds may be advanced from the Fund subject to an approved limit, but subsequently annual premiums shall be paid by the member of the Scheme.

(3) A member of the Scheme who is unable to pay the subsequent annual premiums referred to in paragraph (2) may apply to the fund for a loan which shall be repaid within a period of one year (1) year.

(4) Every loan granted under these Regulations shall be insured for the benefit of the member of the Scheme and the premium in respect thereof shall be debited to the account of the member of the Fund.

**Loan discharge**

14. (1) Upon full repayment of the loan, a signed loan discharge certificate in a form prescribed by the Committee shall be issued to the member of the Scheme and a copy shall be forwarded to the Registrar of Motor Vehicles.

(2) The loan discharge certificates shall release the member of the Scheme from any further financial obligation in respect of the loan and shall act as sufficient authority to remove the caveat on the vehicle pursuant to regulation 8.

**Administration of the Fund**

15. (1) The officer administering the Fund—

- (a) shall supervise and control the administration of the Fund;
- (b) may impose conditions on the use of any moneys in the Fund and may also impose any reasonable restriction or other requirement concerning such use;
- (c) shall cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund;
- (d) shall prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund.
- (e) shall furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General.

(2) Every statement of account shall specify the income of the Fund and show the expenditure incurred from the Fund, in such details as the Board may from time to time direct in accordance with the Public Finance Management Act.



(3) Every statement prepared under this regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

#### **Appointment of financial institution**

16. Notwithstanding regulation 5(3) and 6 (2) the Board may, if it considers it appropriate to do so, appoint a financial institution to administer the fund on its behalf.

Made on the 6th March, 2014.

**PATRICK MUTAI,**  
*County Executive Committee Member  
for Finance and Economic Planning.*

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#### **LEGAL NOTICE NO. 2**

### **THE PUBLIC FINANCE MANAGEMENT ACT**

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Member for finance makes the following Regulations:—

#### **THE PUBLIC FINANCE MANAGEMENT (KERICHO COUNTY ASSEMBLY MEMBERS MORTGAGE SCHEME FUND) REGULATIONS, 2014**

##### **Citation**

1. These Regulations may be cited as the Public Finance (Kericho County Assembly Members Mortgage Scheme Fund) Regulations, 2014.

##### **Interpretation**

2. In these Regulations, unless the context otherwise requires—

“Board” means the Kericho County Assembly Service Board established under section 12 of the County Government Act, 2012;

“borrower” means a person in receipt of a loan out of the Fund;

“Committee” means the Mortgage Loans Management Committee established under regulation 6;

“financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Kericho County Assembly (Members) Mortgage Scheme Fund established under regulation 3;

“member of the Scheme” means the Kericho County Assembly Members or staff;

“officer administering the Fund” means the Clerk of the County Assembly;

“property” means a house purchased or developed through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is to be developed;

“valuer” means a person registered as a valuer under the Valuers Act (Cap. 532).

### **Establishment of the Fund**

3. There is established a fund known as Kericho County Assembly (Members) Mortgage Scheme Fund.

### **Object and purpose of the Fund**

4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase, development, renovation or repair of property by members of the Scheme.

### **Capital of the Fund**

5. (1) The initial capital of the Fund shall consist of the monies advanced or appropriated and standing to the credit of the account on the date of the coming into operation of these Regulations.

(2) County Assembly may appropriate additional monies to the Fund.

(3) The Fund shall be administered as a special account in the County Fund and shall be operated by the Clerk as officer administering the Fund.

(4) The interest accruing to the Fund shall be credited to the capital of the Fund as a revolving fund.

### **Mortgage Loans Management Committee**

6. (1) There is established a committee to be known as the Mortgage Loans Management Committee, which shall consist of—

- (a) the leader of majority party who shall be the chairperson;
- (b) the leader of minority party who shall be the vice chairperson;
- (c) the whip of the majority party;
- (d) one member of the county assembly elected by the members of county assembly;
- (e) the Chairperson of the relevant County Assembly Sectoral Committee responsible for housing ;and
- (f) two members of staff to be appointed by the Board.

(2) The Clerk of the County Assembly shall be an *ex officio* member of the Committee and the secretary to the Committee.

(3) The Committee shall—

- (a) process applications for loans in accordance with the existing terms and conditions of borrowing;



- (b) liaise with a housing company, if any, to set up a revolving fund for the disbursement of the loans; and
- (c) supervise and oversee the day-to-day running of the Fund.

(4) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson, by the vice-chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

(5) The quorum for a meeting of the Committee shall be the chairperson and any three members.

#### **Appointment of a mortgage institution**

7. Notwithstanding regulations 5(3) and 6(2) the Board may if it considers it appropriate to do so appoint a mortgage institution to administer the fund on its behalf.

#### **Utilization of loan monies**

8. (1) A loan obtained under these Regulations shall be utilized for the purchase, development, renovation or repair of property for the occupation of the applicant and his or her immediate family or for any other purpose permissible in law.

(2) A loan for the development of property may be granted at the discretion of the Committee—

- (a) to a member of the Scheme who is in possession of a title deed to the land on which the development is intended to be carried out; or
- (b) in two installments, for the purchase of the land at which the property is to be developed and for the subsequent development of the property.

(3) The amount of the first installment granted for the purchase of land under paragraph (b) of sub-regulation 2 shall not exceed forty per cent of the maximum loan amount for which the member of the Scheme is eligible.

#### **Disbursement of loans for development**

9. (1) A loan granted for the development of a property under these Regulations shall be released to the applicant in the following phases—

- (a) the first disbursement based on the value of the land on which the property is proposed to be developed; and
- (b) the subsequent disbursements based on the rate of completion of the various phases of development as certified by a qualified valuer at the cost of the applicant.

#### **Application for a loan**

10. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall make an application in such manner as the Mortgage Loans Management Committee may prescribe.

(2) An application for a loan under sub-regulation (1) shall be accompanied by the following documents where appropriate—

- (a) copies of the designs of the proposed property duly approved by the relevant county government department within whose area it is to be situated;
- (b) bills of quantities in respect of the proposed development, renovation or repair;
- (c) an official search of the title to the property intended to be purchased;
- (d) a certified copy of the sale agreement relating to the property.

(3) The applicant shall bear the cost of stamp duty and other legal fees.

(4) Where a borrower fails to comply with the requirements of sub-regulation (3) within the stipulated time, the officer administering the Fund shall, upon giving the borrower fourteen days' notice, deduct the amount due from the salary of that borrower in such installments as may be appropriate and remit the deductions to meet the costs as may be due.

(5) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the officer administering the fund in accordance with existing relevant regulations.

#### **Leasehold property**

11. Where the property intended to be purchased through a loan from the Fund is leasehold property, the loan shall be granted where the expiry date of the lease is at least forty-five years beyond the final loan repayment date.

#### **Maximum loan disbursement**

12. (1) The maximum loan to be granted to a member of the Scheme under these Regulations, shall be a sum equivalent to the member's net emoluments at the time of application multiplied by the number of months remaining for the term of service, but a loan granted to a member of the Scheme shall not exceed the sum of three million shillings.

(2) A member of the Scheme shall be required to give prior authority in writing for pension dues to be utilized to clear any outstanding debt in case the member loses the County Assembly seat before fully repaying the loan.

(3) A loan granted to a borrower under these Regulations shall be funded at the rate of one hundred per centum of the value of the property.

(4) Subject to this regulation, a member of the Scheme shall be eligible for the maximum amount of loan specified under sub-regulation (1) in each term of service to be accessed by the member in a maximum of two disbursements in that term.



### **Repayment of loan**

13. A loan granted under these Regulations shall be fully repaid at the end of the term of that service, and in case of a member of staff within five years.

### **Interest on loans**

14. (1) The interest chargeable on a loan shall be three per centum per annum on a reducing balance.

(2) The interest charged under paragraph (1) of this regulation shall be met by the borrower.

### **Lien**

15. (1) The Officer Administering the Fund shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property.

(2) The borrower shall—

- (a) not mortgage, charge, surrender the lease, or sell or agree to sell or part with possession of the charged property or any part thereof without the prior written consent of the management committee;
- (b) meet and pay all rates, rents, insurances and any other outgoings in respect of the property and send the proof of such payments to the officer administering the fund; and
- (c) provide a transfer deed duly signed by the borrower and a letter authorizing the management committee to sell the property in case of default in payment.

(3) All properties purchased through the Fund shall be constructed of such material as may be acceptable to the Management committee.

(4) During the loan repayment period, every borrower shall—

- (a) ensure that the property is used for residential purposes and any other purpose that will be stated in the agreement between the mortgage institution and the Board;
- (b) maintain the property in a satisfactory state of repair; and
- (c) not alter or make any structural alteration to the property, carry out any valuation, assessment or investigation relating to the property or title thereto, as the case may be, without the approval of the Management committee.

(5) All legal documentation and disbursement of funds shall be supervised by the officer administering the Fund.

### **Mortgage insurance**

16. (1) A borrower shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by

the Management committee, the cost of which shall be paid out of the Fund and debited in the borrower's account.

(2) The originals of all documents relating to property financed by a loan from the Fund shall be kept in safe custody by the officer administering the Fund.

#### **Default in repayment**

17. The Management Committee may call in a loan and in default sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement or the covenant contained in the charge of the mortgage instrument.

#### **Administration of the Fund**

18. (1) The officer administering the Fund shall—

- (a) supervise and control the administration of the Fund;
- (b) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use;
- (c) cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund;
- (d) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund;
- (e) furnish such additional information as may be required for the purpose of examination and audit by the Auditor-General; and
- (f) designate and appoint such staff as may be necessary to assist him in the administration of the Fund and may require such staff to carry out such inspections as may be necessary to verify any information submitted under these Regulations.

(2) Every statement of account shall specify the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Board may from time to time direct in accordance with the Public Finance Management Act;

(3) Every statement of account prepared under this regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

#### **Responsibilities of mortgage institution**

19. The responsibilities of the mortgage institution, if any, appointed under these regulations shall be:

- (a) to operate individual accounts for each borrower, which shall provide details of recoveries of the loan;
- (b) to charge security on the properties acquired through loans



from the Fund to protect the interests of the Fund and act as custodian of such charges;

- (c) to disburse cheques for newly approved loans to various vendors, after the necessary documentation is completed by the Committee.
- (d) to pay all outgoings and issue demand notices where necessary to members of the scheme through the officer administering the fund
- (e) upon repayment of the loan, interest and other expenses which may be outstanding, to discharge the charge and release the security documents to the borrower; and
- (f) upon default, to call in the loan and on behalf of the Board sell the charged property by public auction or private treaty, in which event the Fund shall meet any shortfall between the loan and outstanding and the proceeds of sale.

#### **Supplementary terms**

20. (1) These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the Management Committee.

(2) Subject to these Regulations, the Management Committee shall issue guidelines on—

- (a) the purchase and development of land and properties under these Regulations;
- (b) the utilization of surplus Funds for the purchase and development of land and property under these Regulations; and
- (c) such other matters as may be necessary for the proper management and administration of the Fund.

Dated the 6th March, 2014.

**PATRICK MUTAI,**

*County Executive Member for Finance and Economic Planning.*