

**THE PUBLIC FINANCE MANAGEMENT ACT (No. 18 of 2012)**

**THE PUBLIC FINANCE MANAGEMENT (MAKUENI COUNTY STATE AND PUBLIC OFFICERS CAR LOAN AND MORTGAGE FUND) REGULATIONS, 2015**

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**IN EXERCISE** of the powers conferred by section 116 of the Public Finance Management Act, 2012, the Makueni Executive Committee Member for Finance and Planning makes the following Regulations—

**PART I—PRELIMINARY**

- Citation                    **1.** These Regulations may be cited as the Public Finance (Makueni County State and Public Officers Car Loan and Mortgage Fund) Regulations, 2015 and shall come into operation upon publication in the gazette.
- Interpretation            **2.** In these Regulations, unless the context otherwise requires—
- “applicant” means a state officer or a public officer who has applied to receive a loan under the Fund;
- “borrower” means a person in receipt of a loan out of the Fund;
- “County Welfare Committee” the committee in charge of staff welfare in the county;
- “Committee” means the Loans Management Committee established under these Regulations;
- “Executive Committee Member” means the County Executive Committee Member responsible for Finance;
- “Fund” means the Makueni County State and Public Officers Car Loan and Mortgage Fund established under regulation 3;
- “Government” means the county government of Makueni.

**PART II—ESTABLISHMENT OF THE FUND**

- Establishment of the Fund            **3.** (1) There is established Makueni County State and Public Officers Car Loan and Mortgage Fund.
- (2) The Fund shall be a revolving fund.
- (3) The Fund shall cater for both the county executive and county assembly state and public officers who are either on permanent employment or on contract for a period of three years or more.
- Object                    and            **4.** The object and purpose of the Fund is to provide car loans and mortgages for

purpose of the Fund

successful applicants under these Regulations.

Sources of the Fund

- 5.** The Fund shall consist of—
- (a) money appropriated by the assembly for the purpose of granting loans to applicants in each financial year;
  - (b) funds arranged through agreements between financial institutions and other bodies with the county government; and
  - (c) interests accruing to the Commission where such interests constitute a surplus in the Scheme after meeting the expenses of its administration; and
  - (d) all other sums of money that may in any manner become payable to or vested in the fund including gifts, grants and donations.

Administration of the Fund

- 6.** (1) The Fund shall be administered by an officer appointed by the County Executive Committee member.
- (2) The officer administering the Fund shall, under the general direction of the Committee—
- (a) supervise and control the administration of the Fund and may impose conditions or restrictions on the use of the Fund;
  - (b) 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;
  - (c) prepare and sign for transmission 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, specifying the income of the Fund and showing the expenditure incurred from the Fund in accordance with the Public Finance Management Act; and
  - (d) Furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Auditor-General.
- (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 each financial year.
- (4) A special bank account may be opened for the Fund and shall be operated by the Committee under the directions of the accounting officer in accordance with the

Public Finance Management Act, 2012.

**PART III—LOANS MANAGEMENT COMMITTEE**

The Loans  
Management  
Committee

7. (1) There is established a committee to be known as the Loans Management Committee.
- (2) The committee consists of—
  - (a) chief officer in charge of finance and planning who shall be the chairperson;
  - (b) the clerk of the county assembly;
  - (c) the chairperson of the County Welfare Committee;
  - (d) chief officer in charge of transport and infrastructure;
  - (e) chief officer in charge of social services;
  - (f) Director legal services.
- (3) The officer administering the Fund shall be an ex-officio member of the committee and the secretary to the committee.
- (4) The Committee shall be responsible to the accounting officer for the management of the Fund and—
  - (a) shall consider and approve loan applications presented to it by the officer administering the Fund;
  - (b) may liaise with the relevant housing institution (if any) to provide housing for applicants;
  - (c) enter into agreement with financial institutions for the purposes of providing loans to applicants;
  - (d) supervise the day-to-day operation of the Fund;
  - (e) determine the signatories to the account of the Fund in addition to the administering officer;
  - (f) establish management guidelines for the Fund; and
  - (g) Carry out other duties as may be directed by the county Executive

Committee member.

(5) Notwithstanding this regulation, the Committee may, if it considers it appropriate to do so, appoint a recognized financial institution to administer the Fund or part thereof, on its behalf.

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

(7) The quorum for meetings of the Committee shall three members.

Operation of the Fund

8. (1) An applicant for a car loan or a mortgage from the Fund shall present to the officer administering the Fund an application in the prescribed form.

(2) The officer administering the fund shall satisfy himself of the applicant's financial status and capacity to repay 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 an agreement in such terms as the committee may prescribe.

(4) The Committee shall ensure that after taking into account all deductions from a applicant's salary not less than one third of the member's gross salary shall be available to the member every month.

#### **PART IV—PROCEDURE OF APPLICATION FOR CAR LOAN**

Conditions for disbursement of funds

9. (1) A loan approved under regulation 8 shall be released from the fund in such manner, taking into account the security of the funds, as 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 County Government of Makueni and the applicant and shall be kept in the custody by the officer administering the fund until the loan is repaid in full.

Temporary release of log-book

10. (1) A log-book kept in the custody by the officer administering the fund may be temporarily released to a member upon application in writing to the officer administering the fund for purposes of renewal by that member of the necessary licences and upon satisfying that the log book is necessary for that transaction.

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

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

(4) Where a log-book is not returned within the time stipulated under regulation 10(2) above, the borrower shall be held in default and shall risk termination of the car loan contract with the county government.

Repayment  
Period

**11.** A loan advanced under these Regulations shall be repaid in full over a maximum period of sixty months.

Insurance

**12.** A successful applicant shall comprehensively insure any vehicle purchased through the Scheme.

Loan  
discharge

**13.** (1) Upon full repayment of the loan, a signed loan discharge certificate in such form as may be prescribed by the Committee shall be issued to the officer and a copy thereof shall be forwarded to the Registrar of Motor Vehicles.

(2) The loan discharge certificates shall release the officer 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.

#### **PART V—PROCEDURE OF APPLICATION FOR MORTGAGE**

Application for  
a mortgage

**14.** (1) An application for a mortgage to construct a house shall be accompanied by—

- (a) copies of the designs of the proposed residential property duly approved by the relevant authority 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; and
- (d) a certified copy of the sale agreement or evidence of ownership relating to the property.

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

(3) Where a borrower fails to comply with the requirements of paragraph (2) within the stipulated period, the officer administering the Fund shall, upon giving the borrower fourteen days' notice, cause to be deducted the amount due from the salary of that borrower in such installments as may be appropriate and remit such deductions to meet such costs as may be due.

(4) All legal transactions in respect of the property being purchased shall be

conducted by an advocate appointed by the government.

Leasehold  
Property

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

Maximum  
repayment  
period

**16.** A mortgage granted under these Regulations shall be fully repaid as in a period of twenty (20) years.

Lien

**17.** (1) The county government shall have a charge registered on the property financed through a mortgage 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 county government;
- (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 committee; and
- (c) provide a transfer deed duly signed by the borrower and a letter authorizing the county government to sell the property in case of default in payment.

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

- (a) maintain the property in a satisfactory state of repair; and
- (b) all legal documentation and disbursement of funds shall be supervised by the officer administering the Fund.

Mortgage  
Insurance

**18.** (1) A borrower shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by the committee, the cost of which shall be paid out of the Fund and debited in such 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.

#### **PART VI—GENERAL PROVISIONS**

Default

**19.** The Committee may call in a mortgage 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.

Loan  
amounts

**20.** Subject to these regulations, an applicant shall be eligible for the loan threshold amount of his or her status or grade as is specified in the guidelines gazetted by the

Salaries and Remuneration Commission on Car Loans for State Officers and Public Officers.

Interest rate

**21.** (1) A loan granted to an applicant under these Regulations shall carry an interest rate of three per cent per annum.

(2) The interest charged under paragraph (1) shall be payable by the borrower.

Recovery of  
loans from  
terminal dues.

**22.** If the borrower ceases to be an employee of the government before fully repaying the loan the balance shall be recoverable from the terminal dues of such employee.

Dated.....2015.

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