

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY
(SECOND SESSION)



NCCA/TJ/PL/2023(83)

18TH OCTOBER 2023

PAPER LAID

SUBJECT: REPORT OF COMMITTEE

Pursuant to Standing Order 196, I beg to lay the following Paper on the Table of this Assembly, today Wednesday 18th October 2023:

- **THE REPORT OF THE SELECT COMMITTEE ON DELEGATED COUNTY LEGISLATION ON WORKSHOP HELD FROM 21ST TO 24TH SEPTEMBER 2023 IN MOMBASA COUNTY.**

(Chairperson, Select Committee on Delegated County Legislation)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

*Paper laid by Hon. Nasra Nanda
on 18th October 2023
18/10/2023*

NAIROBI CITY COUNTY GOVERNMENT



*Paper laid by Hon
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On 18th October 2023
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18/10/2023*

NAIROBI CITY COUNTY ASSEMBLY

THIRD ASSEMBLY – SECOND SESSION

WORKSHOP REPORT OF THE SELECT COMMITTEE ON DELEGATED COUNTY
LEGISLATION HELD FROM THURSDAY 21ST TO SUNDAY 24TH SEPTEMBER, 2023 AT
MUTHU BEACH HOTEL, MOMBASA COUNTY

Clerk's Chambers,
County Assembly of Nairobi,
City Hall,
Nairobi, Kenya

October 2023

Hon. Speaker,

The County Assembly Committees are extensions of the Assembly established under the County Assembly Standing Orders and in accordance with Section 14 of the County Governments Act, 2012. The Committees are supposed to perform functions that the Assembly is not well fitted to consider in plenary.

The major role of the Delegated County Legislation Committee in the effectiveness of delivering Committee mandate is to have effective oversight in looking at the regulations drafted by the County Executive.

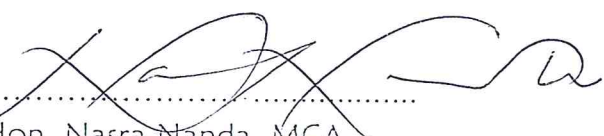
The Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023 Regulations were tabled in the Assembly and thereafter committed to the Delegated County Legislation Committee for consideration. The Committee therefore, held its training workshop from 21st to 24th September, 2023 at Muthu Beach Hotel, Mombasa County, with the objectives of taking the Committee Members to review the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023.

Acknowledgement

Hon. Speaker, I wish to acknowledge with gratitude the offices of the Speaker and the Clerk of the County Assembly for the support extended to the Committee to facilitate its training workshop.

Finally, much thanks to the Members of the Committee and the Secretariat for their dedication, untiring commitment and valuable contributions during the training workshop.

Hon. Speaker, it is therefore my pleasant duty and privilege, on behalf of the Members of the Select Committee on Delegated County Legislation to table its report.

Signed 
Hon. Nasra Nanda, MCA
Chairperson

Date 4TH OCTOBER 2023

REPORT OF THE PROCEEDINGS OF THE TRAINING WORKSHOP FOR THE MEMBERS OF
SELECT COMMITTEE ON DELEGATED COUNTY LEGISLATION HELD FROM 21ST TO 24TH
SEPTEMBER 2023 AT MUTHU HOTEL, MOMBASA COUNTY

1.0 INTRODUCTION

The training workshop entailed reviewing of the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations 2023.

1.1 OFFICIAL OPENING

The workshop was officially opened by a word of prayer by the Chairperson before welcoming Members and the secretariat to the meeting and thereafter, took them through the programme which was adopted.

2.0 CONSIDERATION OF THE NAIROBI CITY COUNTY EXECUTIVE (STATE AND PUBLIC OFFICERS) CAR LOAN AND MORTGAGE SCHEME FUND) REGULATIONS 2023

2.1 Legal Underpinning

The Facilitator, Mr. Adam Kibwana, Senior Clerk Assistant, took the Committee through the overview of the constitutional and legal underpinnings on the administration of the Car and Mortgage scheme Fund putting emphasis on Section 116 of the Public Finance Management Act of 2012 which states the following;

2.1.2 Power to establish other county public funds

- (1) A County Executive Committee member for finance may establish other public funds with the approval of the County Executive Committee and the county assembly.
- (2) For every county public fund established, the County Executive Committee member for finance shall designate a person responsible for administering that fund.
- (3) The administrator of a county public fund shall ensure that the earnings of, or accruals to a county public fund are retained in the fund, unless the County Executive Committee member for finance directs otherwise.
- (4) The administrator of a county public fund shall ensure that money held in the fund, including any earnings or accruals referred to in subsection (3) is spent only for the purposes for which the fund is established.
- (5) The County Executive Committee member for finance may wind up a county public fund with the approval of the county assembly.
- (6) On the winding up of a county public fund—
 - a) the administrator of the fund shall pay any amount remaining in the fund into the County Exchequer Account; and
 - b) the County Executive Committee member for finance shall, with the approval of the county assembly, pay any deficit in the fund from the County Exchequer Account.

(7) The administrator of a county public fund shall—

- a) prepare accounts for the fund for each financial year;
- b) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General; and
- c) present the financial statements to the county assembly.

(8) The administrator of a county public fund shall ensure that the accounts for the fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.

(9) Regulations may provide for the establishment, management, operation or winding-up of county public funds under this section.

(10) This section does not apply to the County Revenue Fund established under section 109 of this Act.

(11) The funds and usage of money through the funds shall be published and publicized.

2.2 Overview of the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023.

There is established Fund known as the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023 whose objective and purpose is to provide a loan scheme for a Member of the Scheme for-

- a) the purchase, development, renovation or repair of immovable property;
- b) the purchase of a motor vehicle; and
- c) refinance, in relation to Regulation` (1) and (2) above

The sources of the Fund consist of-

- a) monies appropriated by the County Assembly and standing to the credit of the account on the date of the coming into operation of these Regulations
- b) monies appropriated by the County Assembly for purposes of granting loans in each financial year;
- c) funds arranged through agreements between financial institutions and other bodies with the County Governments;
- d) the interest accruing to the Fund, where such interest constitutes a surplus in the scheme after meeting the expenses of its administration; and
- e) all other sums of money that may in any manner become payable to or vested in the fund including gifts, grants and donations

The Facilitator took the Committee through the Regulations and a few amendments were captured:

2.2 Emerging issues

The Committee having been taken through the Regulations pointed a few areas of concerns and thus proposed the below interventions: -

Part III

i) Administration of the Fund

There is an establishment of the management Committee which consists of:

- a) The County Secretary and Head of Public Service, who shall be the Chairperson;
- b) Chief Officer in charge of Finance who shall be the Deputy-Chairperson
- c) Chief Officer in charge of Lands;
- d) Head of Human Resources;
- e) County Attorney or a Legal Counsel
- f) Director matters of finance;
- g) One Officer appointed by the County Secretary to represent the Welfare of County staff; and
- h) An Officer administering the Fund appointed by the Executive Member who shall be an ex-officio member of the Committee and the Secretary to the Committee

Members concerns:-

- County Executive to give a clarification on the criteria used to come up with the composition of the Management Committee members;
- Explain the role of the Finance Department and Human Resources department in administration of the fund;
- On the officer appointed by the County Secretary to represent the welfare of the County Staff it was proposed that a Member of the County Workers Union should represent and should be appointed by the Union themselves and not the County Secretary. The representative appointed by the County Workers Union should serve for a maximum of two (2) years;
- The Representative from the County Workers Union should be part of the five signatories;
- The Regulation should address the time limit for the Members of the Management Committee; and
- Clarity be done on the role of County Executive Committee Member for Finance in the administration of the Fund

ii) Administration of the Fund

The Fund shall be administered by the Officer Administering the Fund, who shall be an officer appointed by the Executive Member.

Committee concerns

- Address the qualifications of the Officer Administering the Fund;
- The Sector in charge of the Fund should ensure that there is a budget allocation for the Fund; and
- Confirm if the administration of the Fund should be the Chief Officer of Finance

iii) Car and Mortgage Insurance

- The insurance should be a comprehensively covered one and clarification given on the pre-qualified list that it should be from the procurement department and not by the committee.

iv) Default in repayment

- A provision for notice of default should be provided for and be given a period of two weeks to respond and effected upon sixty (60) days to ninety (90) days upon expiry.
- Provision for a list of pre-qualified advocates specifically dealing with Mortgage registration

3.0 COMMITTEE PENDING BUSINESS

i. Pending Regulations

The Ag. Principal Clerk Assistant, Mr. Guyo Sankala, took Members through challenges that the Committee on Delegated County Legislation faced in the Second Assembly and it was notable to be the same challenges that the current Committee is experiencing from the County Executive of not submitting regulations for various Acts passed by the Assembly, and that the County was using By-laws that were in use by the defunct County Council, especially through the City County Magistrates Courts

ii. Vice Chairperson Position

The position of the Vice Chairperson fell vacant because the current Committee Vice Chairperson was elected as the Chairperson of the Sectoral Committee on Trade, Tourism and Cooperatives.

4.0 GENERAL RECOMMENDATIONS OF THE WORKSHOP

The Committee agreed that as the *way forward* THAT; -

- i. The Chairperson and the Secretariat to follow up with the Assembly Leadership and the Liaison Committee to get direction on the way forward on the Vice Chairperson position;
- ii. The Executive should incorporate the amendments that were captured and adopted by Members;
- iii. Committee to scrutinize the pending Regulations and By-laws being used by the County Executive and their timeline has expired as well as request the executive to give the status of all pending regulations and the By-laws being used by the City County Magistrates Courts currently and if not forthcoming to seek other alternatives to ensure oversight is well executed to ensure good governance; and
- iv. Delegated County Legislation Committee to attend a joint workshop with the Committee on Finance, Budget & Appropriations, Finance & Appropriations Sector and Public Service Sector to deliberate on the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023, and that the under listed officers representing the said offices should be present in the meeting since their input was very valuable because they are proposed to be part of the Management Committee administering the Fund: -
 - County Secretary;
 - County Attorney
 - CECM for Finance and Economic Planning;
 - Chief Officer for Finance and Economic Planning;
 - Chief Officer for Lands;
 - Head of Human Resources; and
 - Director Finance

5.0 CLOSING OF THE WORKSHOP

Hon Chris Mtumishi gave a vote of thanks on behalf of the Members of the Committee. The workshop was then officially closed by the Committee Chairperson.

MINUTES OF THE 83RD MEETING OF KIAMBU COUNTY LEGISLATURE
COMMITTEE ON DELEGATED COUNTY LEGISLATION HELD ON WEDNESDAY 4TH
OCTOBER, 2023 AT 12.30PM.

PRESENT:

1. Hon. Nasra Nanda, MCA – Chairperson
2. Hon. Paul Ndungu, MCA - Vice Chairperson
3. Hon. Clarence Munga, MCA
4. Hon. Joyce Lugonzo, MCA
5. Hon. Ami Ambala, MCA
6. Hon. Lydia Akoth, MCA
7. Hon. Kwenya Mwaniki, MCA
8. Hon. Daniel Oria, MCA
9. Hon. Grace Kaheti, MCA
10. Hon. Moses Kitema, MCA
11. Hon. Beatrice Ichungwa, MCA
12. Hon. John Kwenya, MCA
13. Hon. Lawrence Otieno, MCA
14. Hon. Naomi Bosire, MCA
15. Hon. Stephen Ndegwa, MCA
16. Hon. Martin Wairobi, MCA
17. Hon. Agnes Wambui, MCA
18. Hon. Victor Omondi, MCA

ABSENT

1. Hon. Aaron Kangara, MCA
2. Hon. Chris Mtumishi, MCA
3. Hon. Davidson DNG, MCA

SECRETARIAT:

1. Ms. Mercy Riunga – Snr. Clerk Assistant
2. Mr. Adam Kibwana – Snr. Clerk Assistant
3. Mr. Martin Mugendi - Legal Counsel

MIN.157/DCL/OCT/2023: - PRELIMINARIES
The chairperson called the meeting to order at 12.35 p.m. and opened the meeting with a word of prayer. She then welcomed members to the meeting and took them through the agenda of the meeting as follows:-

AGENDA

1. Preliminaries (prayers & adoption of the Agenda)
2. *Consideration of the Committee 1st quarter workshop report*
3. Any Other Business
4. Adjournment

The agenda was adopted for discussion as proposed by Hon. Clarence Munga, MCA, and seconded by Hon. Joyce Lugonzo, MCA.

MIN.157/DCL/OCT/2023: - CONSIDERATION OF THE COMMITTEE 1ST QUARTER WORKSHOP REPORT

The workshop report for the 1st quarter was considered by the Committee. The workshop report of the select Committee on Delegated County Legislation was held from Thursday 21st to Sunday 24th September, 2023 at Muthu Beach Hotel, Mombasa County. The objective of the workshop was to review the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023.

The report was adopted unanimously. Hon. Joyce Lugonzo, MCA proposed the report be adopted and was seconded by Hon. Hon. Lydia Akoth, MCA.

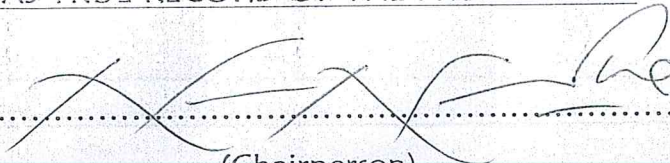
MIN.158/DCL/OCT/2023: - ANY OTHER BUSINESS

- The Secretariat was tasked to retrack on benchmarking study visits to the Senate and National Assembly;
- Committee to reach out to the sectors that handle Disaster management and Public Participation and Sexual and Gender Violence issues for Regulations as well as the Environment Sector;
- Request for Statement from the County Attorney to get the status of pending Regulations; and
- Committee on Delegated County Legislation from Taita Taveta and Kisumu Counties have reached out to the Chairperson with an objective to benchmark.

There being no other business, the meeting was adjourned at 1:02 p.m.

CONFIRMED AS TRUE RECORD OF THE PROCEEDINGS

SIGNATURE


(Chairperson)

DATE

17 OCTOBER 2023

