

GOVERNMENT OF NAIROBI CITY COUNTY

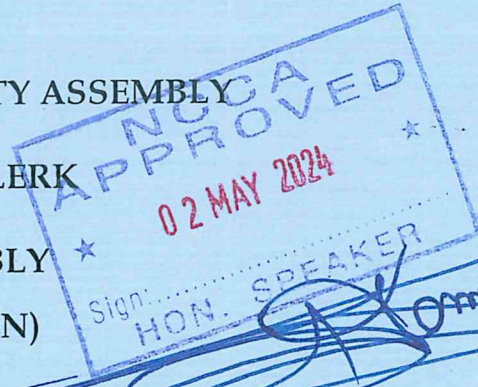


THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

THIRD ASSEMBLY

(THIRD SESSION)



NCCA/TJ/PL/2024(17)

2<sup>ND</sup> MAY 2024

PAPER LAID

SUBJECT: REPORT OF COMMITTEE

Pursuant to Standing Order 196, I beg to lay of the following Paper on the Table of this Assembly, today Thursday 2<sup>nd</sup> May 2024:

- **THE REPORT OF THE SELECT COMMITTEE ON DELEGATED COUNTY LEGISLATION ON CONSIDERATION OF THE NAIROBI CITY COUNTY EXECUTIVE (STATE AND PUBLIC OFFICERS SCHEME FUND) REGULATIONS 2023.**

*(Chairperson, Select Committee on Delegated County Legislation)*

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



# Nairobi City County Assembly



Paper laid by  
Hon. Mwanza Mwangi  
on Thursday 21/12/2024  
TJ

## Select Committee on Delegated County Legislation

Report on the consideration of:-

### The Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations 2023

*Pursuant to Section 116 of the Public Finance Management Act, 2012.*





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## 1.1 Preface

1.1.1 The Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023 was tabled in the Assembly on 5<sup>th</sup> July 2023 by the Leader of the Majority Party pursuant to the provisions of Section 116 of the Public Finance Management Act, 2012.

1.1.2 The Regulations were subsequently committed to the Select Committee on Delegated County Legislation for consideration in line with the provisions of Section 11 of the Statutory Instrument Act, 2013 and more particularly, the provision of section 116 (1) of the Public Finance Management Act, 2012 requiring any establishment of a fund by the County Executive Committee Member for Finance to be subjected to approval by the County Executive Committee and the County Assembly.

## 1.2 Committee on Delegated County Legislation

1.2.1 The Select Committee on Delegated County Legislation is established under the provisions of Standing Order 208 and is mandated to consider in respect of any statutory instrument whether it among others:-

- i) Is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- ii) Infringes on fundamental rights and freedoms of the public;
- iii) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- iv) Contains imposition of taxation;
- v) Directly or indirectly bars the jurisdiction of the Courts; and
- vi) Gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power.

1.2.2 The Committee Membership comprises the under listed Members;

1. **Hon. Nasra Nanda, MCA – Chairperson**
2. **Paul Ndung'u, MCA – Vice Chairperson**
3. Hon. Clarence Munga, MCA
4. Hon. Lawrence Otieno, MCA
5. Hon. Chris Mtumishi, MCA
6. Hon. Mwaniki Kwenya, MCA
7. Hon. Martin Wairobi, MCA
8. Hon. Joyce Lugonzo, MCA
9. Hon. Moses Kitema, MCA
10. Hon. Beatrice Ichungwa, MCA
11. Hon. Lydia Akoth, MCA
12. Hon. Naomi Bosire, MCA
13. Hon. Aaron Kangara, MCA
14. Hon. Cicilia Wairimu, MCA





15. Hon. Victor Omondi, MCA
16. Hon. Lawrence Otieno, MCA
17. Hon. Stephen Ndegwa, MCA
18. Hon. Davidson DNG, MCA
19. Hon. Grace Kaheti, MCA
20. Hon. Agnes Wambui, MCA
21. Hon. Daniel Oria, MCA

1.2.3 The Committee is facilitated by the under listed officers; -

1. Ms. Josephine Kamau – Senior Clerk Assistant; and
2. Mr. Martin Mugendi – Ag. Senior Legal Counsel.

### 1.3 Consideration of the committed Regulations

1.3.1 The Committee considered the Regulations guided by the Salary and Remuneration Commission's Circular SRC/ADM/CIR/1/13/VOL.III(128) of 17<sup>th</sup> December 2014 which provides for guideline for Car and Mortgage Schemes for State Officers and other Public Officers of Government of Kenya.

1.3.2 The Committee also engaged the Select Committee on County Finance, Budget and Appropriation on the viability and sustainability of the fund.

1.3.3 The Select Committee on Delegated County Legislation undertook a workshop retreat from 21<sup>st</sup> to 24<sup>th</sup> September, 2023 with the objective of taking the Committee Members through the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023.

1.3.4 From preliminary scrutiny of the said Regulations, the Committee shared its findings and recommendations for adjustments on the regulations with the County Executive Committee Member for Finance in a letter ref: NCCA/SD-DCL/CORR/2023/07 dated 19<sup>th</sup> October 2023.

1.3.4 Subsequently, the County Executive Committee Member for Finance in a letter ref: NCC/CS/PAA/907 dated 19<sup>th</sup> October 2023 responded to the concerns and acted on the adjustments recommended by the Committee satisfactorily.

1.3.4 The Committee held a validation meeting on Tuesday, 31<sup>st</sup> October 2023 at the Assembly Chambers with the under listed officers where final adjustments to the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023 was agreed on by the Committee; -

- i. The County Executive Committee Member in charge of Finance and Economic Planning;
- ii. The County Executive Committee Member in charge of Boroughs, Administration and Personnel;
- iii. The Chief Officer in charge of Finance and Economic Planning;
- iv. The Acting County Attorney; and,





v. Directors from the respective sectors.

- 1.3.5 The Budget office raised two (2) concerns and the Committee resolved to request the County Executive Committee Member for Finance & Economic Planning Affairs Sector to consider and include them in the said Regulations. The Committee shared its written concerns with the County Executive vide letter ref: NCCA/SC-DLC/CORR/2024/001 dated 4<sup>th</sup> March, 2024 indicating the two issues.
- 1.3.5 Subsequently, the County Secretary vide letter ref: NCC/CS/PAA/210 dated 6<sup>th</sup> March, 2024 responded to the concerns raised and the Committee held a joint sitting on with the Committee on County Finance, Budget and Appropriations on Tuesday 16<sup>th</sup> April, 2024 in order to confirm that the two issues had been addressed accordingly.
- 1.3.6 The Committee acknowledges the great facilitation and support from the Office of the Clerk, Office of the Speaker and the Committee secretariat for their dedication. The Committee also acknowledges the commitment of the officers from the County Executive particularly, the Finance and Economic Planning Sector where the Car Loan and Mortgage Scheme Fund is domiciled. Not forgetting the larger workforce of the County Executive as the primary beneficiary of the scheme for their patience.
- 1.3.7 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 the Report of the Committee on the consideration of the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulations 2023.

Signed .....

HON. NASRA NANDA, MCA

Chairperson, Select Committee on Delegated County Legislation

Date ..... 30/04/2024 .....





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

### 2.1 Background

2.1.1 The Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations 2023 was submitted nine (9) years upon proclamation by the Salaries and Remuneration Commission's advisory on Car and Mortgage Schemes for State Officers and other Public Officers of Government of Kenya vide circular ref: SRC/ADM/CIR/1/13/VOL.III(128) of 17<sup>th</sup> December 2014.

2.1.2 The objective of the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations 2023 is to provide a loan scheme for a member of the scheme for either purchase, development, renovation, or repair of immovable property; purchase of a motor vehicle; and/or refinance.

2.1.3 The sources of the fund shall be that which the County Assembly of Nairobi Appropriate, funds arranged through agreements between financial institutions and other bodies with the County Government, the interest accruing to the Fund and grants/donation.

### 2.2 Issues raised by the Committee during consideration of the Regulations

The Committee shared its written concerns with the County Executive vide letter ref: NCCA/SC-DLC/CORR/2023/07 dated 13<sup>th</sup> October 2023 indicating the under listed issues:-

- 2.2.1 Part III of the Regulation, establishes the Management Committee which consists of:-
- Chief Officer in charge of Finance who shall be the Deputy-Chairperson*
  - Chief Officer in charge of Lands;*
  - Head of Human Resources;*
  - County Attorney or a Legal Counsel*
  - Director matters of Finance;*
  - One Officer appointed by the County Secretary to represent the Welfare of County staff; and*
  - An Officer administering the Fund appointed by the County Executive Committee Member for Finance who shall be an ex-officio member of the Committee and the Secretary to the Committee.*

### Committee Concerns

With respect to the provisions of part III of the Regulations, the Committee sought further clarification on:-

- The criteria that was used in identifying membership of the Management Committee;





- ii) The role of the Finance Department and Human Resources department in administration of the fund;
- iii) On the officer appointed by the County officer to represent the welfare of the County Staff, it was proposed that the Member be appointed by the County Workers Union to represent the workers and serve for a maximum of two (2) years;
- iv) The Representative from the County Workers Union should be part of the five signatories;
- v) The Regulations should address the time limit for the Members of the Management Committee; and
- vi) Clarity be given on the role of County Executive Committee Member for Finance in the administration of the Fund

2.2.2 On the Administration of the Fund, the Regulation proposes that the Fund shall be administered by the Officer Administering the Fund, who shall be an officer appointed by the County Executive Committee Member.

#### Committee Concerns

The Committee further raised the following concerns:-

- i) The qualifications of the Officer Administering the Fund;
- ii) Budgetary allocation for the fund; and
- iii) Whether the administration of the Fund should be the Chief Officer of Finance.

2.2.3 On Regulation 17 on Car and Mortgage Insurance, it provided comprehensive insurance cover for the asset.

#### Committee Concerns

The Regulations was not categorical on the procurement of such service (insurance) or whether a pre-qualification list should be provided by the supply chain management and not the Management Committee hence need for clarification.

2.2.4 On Regulation 18 on default in repayment, it proposes that where a repayment of a car loan or mortgage is not made in accordance with the terms and conditions of the car loan or mortgage as provided for under these Regulations and the loan agreement or the covenant contained in the charge or mortgage instrument, the committee shall issue a ninety (90) day notice to the defaulter.

#### Committee Concerns

A provision for default notice should be provided for and be given a period of two weeks for any officer who defaults servicing of the loan to respond and be effected upon sixty (60) days to ninety (90) days upon expiry.

On Wednesday 28<sup>th</sup> February 2024, the Committee held a joint sitting with the Assembly Budget office to scrutinize the report of the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund Regulation 2023.



The Budget office raised two (2) concerns and the Committee resolved to request the County Executive Committee Member for Finance & Economic Planning Affairs Sector to consider and include them in the said Regulations.

The Committee shared its written concerns with the County Executive vide letter ref: NCCA/SC-DLC/CORR/2024/001 dated 4<sup>th</sup> March, 2024 indicating the under listed issues;-

- i) The proposed Regulations were silent on deducting the loan from the salary of the borrower and how much to borrow from the salary; and
- ii) The proposed Regulations should outline that every loan granted shall be insured for the benefit of the Member of the Scheme against uncertainties as a result of death and disability; and the premium debited to the holder's account.

### **3.0 Response by the County Executive on the concerns raised by the Committee; -**

3.1 The County Secretary vide letter ref: NCC/CS/PAA/907 dated 19<sup>th</sup> October 2023 responded to the issues raised by the Committee as follows;-

3.1.1 With regards to the representative of the County Government Workers Union being appointed by the Union itself and not the County Secretary;-

#### **Executive's Response;**

The proposal is duly noted and agreeable and at the reporting time, a letter had since been written to the Kenya County Government Workers Union to appoint two representatives drawn from the branches (Staff branch and Nairobi Branch)

3.1.2 With regards to representatives of the County Workers Union being part of the five (5) signatories;

#### **Executive's Response;**

It was the Management Committee's opinion that the union representative cannot be part of the signatories as such person(s) should be drawn from the Executive. The Union representatives are members of the Committee and not part of the Executive.

3.1.3 Concerns of representatives of the County Workers Union serving a maximum period of two (2) years;

#### **Executive's Response;**

Representative of the Union are elected in office for a period of five (5) years. Further, Union Representatives serving for two (2) years will be a constrain to the operations of the Committee and a financial burden to the fund since it will require a further cost to keep inducting and retaining the officers bi-annually.





3.1.4 On the term limit of the Member of the Management Committee;

**Executive's Response;**

It was the Management Committee's opinion that the Fund will revolve for a period of four (4) years and an additional year in line with good practice and life of County Government.

3.1.5 With regards to the qualification of officers administering the Fund; -

**Executive Response;**

It was agreeable that, an employee of the County Government should have a degree from a recognized University, work experience at least 10 years and good standing with Chapter 6 of the Constitution of Kenya, 2010 on leadership and Integrity.

3.1.6 The Sector has a current budget with an initial amount of Ksh. 100 Million as a seed capital in FY 2023/2024. The said amount is insufficient, hence the Committee is projecting a maximum of one (1) billion by the end of first term of the five years.

3.1.7 With regards to the Chief Officer, Finance and Economic Planning being the Administrator of the fund;

**Executive Response;**

The CECM Finance and Economic Planning may appoint Administrator of the Fund by exercising his delegated authority under section 45 of the County Government ACT, 2012. The Chief Officer being the Vice Chair to the Management Committee cannot as well be the Administrator of the Fund in regards to the Principle of separation of powers.

3.1.8 With regards to the Car and Mortgage Insurance;

**Executive Response;**

The Management Committee is in agreement with the concerns pointed out and will use the already pre-qualified list from the County Supply Chain Management department.

3.1.9 On the issue of default in repayment;

**Executive Response;**

The Management Committee acknowledges that a Ninety (90) days' notice is important, hence a new clause has been introduced in the Regulations.

3.2 The County Secretary vide letter ref: NCC/CS/PAA/210 dated 6<sup>th</sup> March, 2024 responded to the issues raised by the Committee as follows:-

3.2.1 On the issue of repayment of loan under Regulation 14;

**Executive Response;**

It was agreeable that, any loan disbursed under the Regulations shall be repaid as a direct deduction from the borrower's monthly salary.





### 3.2.2 With regard to Car and Mortgage Insurance under Regulation 17;

#### **Executive Response;**

It was finally agreeable that, every loan granted under the Regulations shall be insured for the benefit of the Member of the Scheme against death and disability and the premium in respect thereof shall be debited to the account of the member of the Scheme.

- 3.3 Subsequently, the Committee held a joint sitting on with the Committee on County Finance, Budget and Appropriations on Tuesday 16<sup>th</sup> April, 2024 in order to confirm that the two issues had been addressed accordingly.

#### **4.0 COMMITTEE OBSERVATIONS**

From the engagement with the relevant sector and examination of the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations 2023, the Committee made the following observations, THAT; -

- i. The Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations 2023 as reviewed by the County Executive Committee Member for Finance and Economic Planning conforms with the provision of Section 116 of the Public Finance Management Act, 2012;
- ii. The membership of the Management Committee as contained in Part III of the Regulations represents the interest of the respective sectors; and
- iii. Response presented by the County Secretary on issues raised by the Committee are reasonable and satisfactory.

#### **5.0 COMMITTEE RECOMMENDATIONS.**




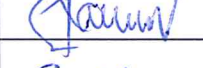
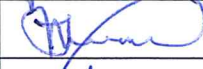
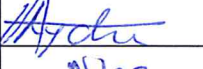

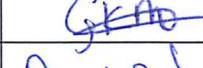
In view of the foregoing and pursuant to the provision of Section 116 (1) of the Public Finance Management Act, 2012 and Section 11 of the Statutory Instrument Act, 2012, the Committee hereby recommends THAT;-

- The Nairobi City County Assembly **APPROVES** for gazettment and implementation, the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations 2023.





~~We, the Members of the Nairobi City County Assembly Select Committee on Delegated County Legislation do hereby affix our signatures to this report to affirm the correctness of the contents and support for the report: -~~

No.	Honourable Member	Signature
1.	Hon. Nasra Nanda, MCA – Chairperson	
2.	Hon. Martin Wairobi, MCA – Vice-Chairperson	
3.	Hon. Clarence Munga, MCA	
4.	Hon. Lawrence Otieno, MCA	
5.	Hon. Chris Mtumishi, MCA	C.M
6.	Hon. Paul Ndung'u, MCA	P.N
7.	Hon. Cyrus Mugo Mubea, MCA	
8.	Hon. Joyce Lugonzo, MCA	JL
9.	Hon. Moses Kitema, MCA	MC
10.	Hon. Beatrice Ichungwa, MCA	B.W
11.	Hon. Lydia Akoth, MCA	
12.	Hon. Naomi Bosire, MCA	NBS
13.	Hon. Aaron Kangara, MCA	AK
14.	Hon. Cicilia Wairimu, MCA	C.W
15.	Hon. Victor Omondi, MCA	V.O
16.	Hon. Ami Perez, MCA	AA
17.	Hon. Stephen Ndegwa, MCA	
18.	Hon. Davidson DNG, MCA	
19.	Hon. Grace Kaheti, MCA	
20.	Hon. Agnes Wambui, MCA	AWW
21.	Hon. Daniel Oria, MCA	D.O







NAIROBI CITY COUNTY

www.nairobi.go.ke

## OFFICE OF THE GOVERNOR

County Secretary and Head of County Public Service

NCC/CS/PAA/210

6<sup>th</sup> March 2024

The Clerk ✓  
Nairobi City County Assembly  
City Hall, Nairobi

**RE: SCRUTINY OF THE NAIROBI CITY COUNTY EXECUTIVE (STATE AND COUNTY OFFICERS) CAR LOAN AND MORTGAGE SCHEME FUND REGULATION 2023**

Your letter ref. NCCA/SC-DCL/CORR/2024/001 dated 4<sup>th</sup> March 2024. We have reviewed and highlighted the concerns as per the attached document (regulations).

This is therefore to request you to expedite accordingly.

  
**PATRICK ANADO AKIVAGA, Regd. Physical Planner**  
**AG. COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE**

H.E. the Governor  
Nairobi City County

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NAIROBI CITY COUNTY

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**OFFICE OF THE GOVERNOR**

County Secretary and Head of County Public Service

NCC/CS/PAA/210



6<sup>th</sup> March 2024

The Clerk  
Nairobi City County Assembly  
City Hall, Nairobi

**RE: SCRUTINY OF THE NAIROBI CITY COUNTY EXECUTIVE (STATE AND COUNTY OFFICERS) CAR LOAN AND MORTGAGE SCHEME FUND REGULATION 2023**

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**PATRICK ANALO AKIVAGA, Regd. Physical Planner**  
**AG. COUNTY SECRETARY AND HEAD OF COUNTY PUBLIC SERVICE**

H.E. the Governor  
Nairobi City County

*Del.*  
*Kindly share with ICE Committee.*  
*[Signature]*



Kenya Gazette Supplement No .....

Date .....

(Nairobi City County Legislative Supplement No .....)

Legal Notice No.....

**THE PUBLIC FINANCE MANAGEMENT ACT**

*(No. 18 of 2012)*

**THE PUBLIC FINANCE MANAGEMENT ACT (NAIROBI CITY COUNTY  
EXECUTIVE (STATE AND PUBLIC OFFICERS) CAR LOAN AND  
MORTGAGE SCHEME FUND) REGULATIONS, 2023**

**ARRANGEMENT OF REGULATIONS**

Regulation

**PART 1 - PRELIMINARY**

1. Citation
2. Interpretation

**PART 11 - ESTABLISHMENT OF THE FUND**

3. Establishment of the Fund
4. Object and purpose of the Fund
5. Source of the Fund

**PART III - ADMINISTRATION OF THE FUND**

6. The Loans Management Committee

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7. Administration of the Fund

#### **PART IV - OPERATION OF THE FUND**

8. Application for loan

9. Utilization of loan monies

10. Disbursement of Funds

11. Requirements for Application for loan

12. Leasehold property

13. Maximum loan disbursement

14. Repayment of loan

15. Interest on Loan

16. Security of the loan

17. Car and Mortgage Insurance

18. Mortgage and Car Loan Repayment

19. Disbursement of Loan for Development

20. Lien

21. Default in repayment

22. Responsibilities of Financial Institution

23. Discharge of Loan

24. Management Guidelines

#### **PART V – PENALTIES**

25. Offences and Penalties

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PART VI – GENERAL PROVISIONS

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26. Winding up of the Fund

PART VII

27. Review

28. Savings and Transitional Provisions.

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## THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116(1) of the Public Finance Management Act, 2012 the Nairobi City County Executive Committee member for Finance and Economic Planning makes the following Regulations: -

### THE PUBLIC FINANCE MANAGEMENT ACT (NAIROBI CITY COUNTY EXECUTIVE (STATE AND PUBLIC OFFICERS) CAR LOAN AND MORTGAGE SCHEME FUND) REGULATIONS, 2023

#### PART 1 - PRELIMINARY

##### *Citation*

1. These Regulations may be cited as The Public Finance Management Act (Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund) Regulations, 2023 and shall come into operation on the date of publication.

##### *Interpretation*

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

“Act” means the Public Finance Management Act, 2012.

“Architect” means a person registered as an architect under the Architects and Quantity Surveyors Act (Cap. 525).

“Borrower” means a member of the scheme in receipt of a loan out of the fund.



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“Committee” means the Loans Management Committee established under regulation 6 of these Regulations.

“Commercial terms” means the prevailing lending interest rates of the commercial banks or that of a financial institution appointed to administer the Fund (if any) at the time of default and that subsisting until the default is addressed.

“County” means Nairobi City County Government.

“County Assembly” means County Assembly of Nairobi City.

“Executive Member” means the County Executive Member, responsible for Finance in the County.

“Financial Year” means the period of twelve months ending on the 30<sup>th</sup> June in each year.

“Fund” means the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund established under regulation 3 of these Regulations. “Loan agreement” means a contract between the Officer Administering the Fund and a Borrower.

“Member of the Scheme” means a salaried County Executive State or Public Officer who is:

- (a) A member of the County Executive Committee appointed pursuant to Article 179 of the Constitution of Kenya, 2010;
- (b) An employee on contract serving in the Executive arm of the County and being either a County Secretary, a Chief Officer or Member of the County Public Service Board appointed pursuant to section 44, 45 and 58 respectively of the County Government Act, 2012;
- (c) An employee on permanent and pensionable basis serving in the executive arm of the County pursuant to section 63 of the County Governments Act, 2012;
- (d) An employee seconded from the National Government to public office in the executive arm of the County pursuant to section 73 of the County Government Act, 2012 subject to the term of secondment; or
- (e) An officer employed on contract basis by the executive arm of the County pursuant to section 63 of the County Government Act, 2012.

“Officer Administering the Fund” means the Administrator designated by the Executive Member as provided under section 116(2) of the Public Finance Management Act, 2012.

“Property” means immovable property and includes a house, apartment, townhouse, masionette or any other residential unit and where applicable the land on which such unit is developed.

“Motor vehicle” means an automobile acquired for personal use.

“Quantity Surveyor” means a person registered as a quantity surveyor under the Architects and Quantity Surveyors Act (Cap 525).

“Union” means Kenya County Government Workers Union (KCGWU).

“Valuer” means a person registered as a Valuer under the Valuers Act, Cap. 532.

## **PART II - ESTABLISHMENT OF THE FUND**

### ***Establishment of the Fund***

3. There is established a fund known as the Nairobi City County Executive (State and Public Officers) Car Loan and Mortgage Scheme Fund).

### ***Object of the Fund***

4. The object and purpose of the Fund 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 sub-regulation(a) and (b) above.

### ***Sources of the Fund***

5. The fund shall 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) additional monies may be appropriated by the County Assembly for purpose of granting loans;

- 
- 
- (c) funds arranged through agreements between financial institutions and other bodies with the County Government.
  - (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.

### **PART III - ADMINISTRATION OF THE FUND**

#### *Establishment of the management Committee*

6. (1) There is established a committee to be known as the County Executive state and Public Officers Car and Mortgage Loans Management Committee which shall consists of –

- a) the County Secretary and head of Public Services, who shall be the Chairperson;
- b) the Chief Officer responsible for matters relating to of Finance who shall be the Deputy chairperson;
- c) the Chief Officer responsible for matters relating to Lands.
- d) the Director of Human Resources;
- e) the County Attorney;
- f) the Director in matters related to finance;
- g) two officers nominated by the union; and
- h) an officer administering the Fund appointed by the Executive Member for Finance who shall be an ex- official member of the Committee and the Secretary to the Committee.

(2) A person is qualified to be appointed as an Administrator of the fund under Regulation 6(h) if that person has at least ten years' professional experience in matters relevant to finance, Accounting or Economics, is an employee of the Nairobi City County Government, satisfies the requirements of chapter 6 of the Constitution and is duly registered by the professional body to which they belong.

(3) The person appointed under section 6 (h) shall hold office for a period of three years and may be eligible for reappointment for one further term.

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- (4) The Committee may co-opt any person or public officer whose knowledge or experience is necessary for the issue under discussion. A person who is co-opted shall not vote at a meeting and shall only be a member of the committee for a period not exceeding one year.
- (5) The members referred to under paragraphs (a), (b), (c), (d), (e) and (f) shall attend the Committee's meetings in person and may designate in writing an officer to represent them in sub-committees of the Committee.
- (6) There shall be established a secretariat appointed by the officer Administering the Fund to perform the operational functions of the Committee.
- (7) The Committee shall be responsible for -
- (a) Supervising and overseeing the administration of the fund;
  - (b) Establishing management guidelines for the Fund and prescribe the form and manner of application for a mortgage or loan from the fund;
  - (c) Processing applications for loans in accordance with the existing terms and conditions of borrowing;
  - (d) Liaising with the financial institution (if any) to set up a revolving fund for the disbursement of the loans;
  - (e) Entering into agreements with persons or legal entities for the purposes of providing services to the fund;
  - (f) Opening an account with an authorized commercial Bank in Kenya in which the monies of the fund together with interest accruing thereto shall be deposited into and loans disbursement from and carrying out other duties as may be necessary for the proper management of the fund; and
  - (g) Carrying out any other function that may be conferred under these regulations.
- (8) The meetings of the Committee shall be convened by the Chairperson and in the absence of the Chairperson by the Deputy Chairperson or a member of the Committee designated by the chairperson and shall be convened at such times as may be necessary for the discharge of its functions.

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(9) The quorum for a meeting of this committee shall be the Chairperson and any other three members.

(10) The decisions of the committee shall be by a simple majority of the members present and voting and in case of equality in voting the chairperson shall have a casting vote.

(11) Except as provided in this regulation, the Committee may regulate its own procedure.

(12) The Committee shall maintain a proper record of its meetings including minutes, in such manner as it may determine.

(13) There shall be paid to the members of the committee such remuneration or allowances as the CECM -in charge of finance and economic planning may, in consultation with the Salaries and Remuneration Commission determine.

#### *Administration of the Fund*

7. (1) There shall be five signatories to the Fund Account. The Chief Officer for the time being in charge of matters related to Finance and the Officer Administering the Fund shall be the mandatory signatories of the Fund account and any other one out of three alternate members of the committee.

(2) The Committee shall retain 3% of the allocation of the fund for administration expenses.

(3) The Officer Administering the Fund shall be under the general direction of the Committee and will -

- (a) supervise and control the administration of the Fund;
- (b) utilize the interest accruing thereof, 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;

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- (d) ensure that the fund is not overdrawn at any particular time;
  - (e) 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, prepared and signed by him specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Committee may from time to time direct in accordance with Public Finance Management Act, 2012;
  - (f) present the financial statement to the County Assembly in accordance with the Public Management Act 2012;
  - (g) furnish such additional information as may be required for the purposes of examination and audit by the Auditor General; and
  - (h) be the liaison point between the Committee and third parties.

#### **PART IV - OPERATION OF THE FUND**

##### ***Application for Loan***

8. (1) A Member of the Scheme who wishes to apply for a loan from the Fund shall make such application to the Officer Administering the Fund in such manner as the Committee may prescribe from time to time.
- (2) The Officer Administering the Fund shall satisfy themselves of the applicant's financial status and capacity to repay the loan applied for in accordance with the laid down requirements 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 loan agreement in such form as the Committee may prescribe.
- (4) The committee shall grant only one loan to an officer.

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(5) Notwithstanding the provisions of regulation 4 the committee shall grant another loan to an officer in the event of change of status or maximum threshold, if there shall not be any outstanding loan repayable to the fund.

(6) Where a spouse of a state or public officer is also a public or state officer, the granting of a loan to one spouse shall not bar the other spouse from benefiting from the fund.

#### *Utilization of loan monies*

9. (1) A car loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle or car re-finance for the borrower's private use.
- (2) A mortgage obtained under these Regulations shall be utilized towards –
- (a) Purchase of a property;
  - (b) Purchase of property and its subsequent development;
  - (c) Development, renovation, or repair of a property; or
  - (d) Mortgage re-finance.
- (3) A mortgage for the development of a 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 in which the development is to be carried out; or
  - (b) To a Member of the Scheme for the purchase of the land on which a property is to be developed and for the subsequent development of the property.
- (4) A car or property obtained through a car loan or mortgage advanced under these Regulations shall not be utilized for commercial purposes by the borrower.

#### *Disbursement of Funds*

10. (1) A Mortgage/ Car loan approved under Regulation 8 shall be released to the borrower as may be prescribed by the Committee considering the security of the funds and stage of completion of sale of or construction of the property.
- (2) A mortgage for the purchase of land and its subsequent development approved under regulation 9 may be released to the borrower as follows-

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- (a) The first disbursement based on the value of the land on which the property is proposed to be developed upon submission to the Committee by a Member of the scheme of a duly executed and stamped Agreement for sale; and
  - (b) The subsequent disbursements based on the rate of completing of the various phases of development as certified by a quantity surveyor or architect at the cost of the applicant.
- (3) A mortgage for the development, renovation or repair of a property approved under regulation 8 may be released to the Borrower considering the various phases of development, renovation or repair certified by a quantity surveyor or architect.
  - (4) the committee shall also consider the terms and conditions of the executed Agreement for sale while disbursement the funds for a car loan approved under regulation 1, 2 and 3 above.
  - (5) Every loan granted under these regulations shall insured for the benefit of the member of the scheme against death and disability and the premium in respect thereof shall be debited to the account of the member of the scheme.
  - (6) Any loan disbursed under these regulations
    - (a) Shall be repaid as direct deduction from borrower's monthly salary.
    - (b) The committee shall ensure that in disbursing any loan under these regulations, the net amount payable to the member of the scheme after all deductions shall not be less than one thirds of the borrower's basic salary.

### ***Requirements For Application for Loan***

11. (1) An application for a mortgage under these Regulations shall be accompanied by the following documents where appropriate-
  - (a) copies of the structural plans or designs of the proposed property duly approved by the County Government within whose area it is to be situated;
  - (b) priced bills of quantities in respect of the proposed development, renovation, or repair;
  - (c) a certified copy of the document of title of the property intended to be purchased;
  - (d) a current official search of the title to the property intended to be purchased;
  - (e) a certified copy of the sale agreement relating to the property;



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- (f) a certified copy of the duly stamped sale agreement or a duly executed letter of offer relating to the property;
  - (g) proof of availability of ten percent (10%) of the value of the property;
  - (h) copies of identification documents of the parties; and
  - (i) any other document that the committee may require for the purpose of determining the application.
- (2) An application for a car loan under this regulation shall be accompanied by the following documents where appropriate-
- (a) certified copy of the duly executed and stamped agreement for sale;
  - (b) current copy of records from Kenya Revenue Authority;
  - (c) certified copy of a logbook for the motor vehicle intended to be purchased; and
  - (d) certified copies of identification documents of the parties.
- (3) The borrower shall bear the costs of stamp duty, valuation, and other legal fees.
- (4) Where a borrower fails to comply with the requirements of paragraph (3) within the stipulated time, the Office 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 such deductions to meet such costs as may be due.
- (5) All legal transactions in respect of the property being purchased shall be conducted by a duly Licensed Advocate selected from a panel of legal service providers in the list of pre-qualified advocates in the office of the county Attorney.

### ***Leasehold Property***

12. Where the property intended to be purchased through the mortgage is leasehold property, such mortgage shall be granted where the unexpired remainder of the leasehold term to the property is at least forty-five years from the date of the approval of the loan.

### ***Maximum Loan Disbursement***

13. A member of the scheme shall

- (1) be eligible to receive a mortgage loan amount, which shall be the value of the property that the member of the scheme proposes to purchase subject to the maximum amount as shall be set by the SRC.
- (2) The maximum loan amounts for members of the scheme referred to in paragraph (1) and (2) shall be as provided in the schedule.
- (3) a member of the scheme shall be required to give prior authority in writing for pension dues or gratuity to be utilized to clear any outstanding debt in case the member before finally repaying the loan
  - (a) Loses his/her job due to indiscipline.
  - (b) Ceases to be a member of staff.
- (4) A loan granted under to a borrower under these regulations shall be funded at the rate of
  - (a) Ninety per centum of the value of the property, where such property is situated in Nairobi; or
  - (b) Eighty per centum of such value where the property is situated in any other area.
  - (c) In addition, the borrower shall be required to deposit the balance thereof with the fund.
- (5) despite regulation (4), the committee may, where it deems appropriate, grant a loan to a borrower at the market rate as valued by a competent valuer
- (6) Subject to this regulation, a member of the scheme shall be eligible for a maximum of two mortgage loans if the two mortgage loans shall not run concurrently.

#### ***Repayment of Loan***

14.(1) The interest chargeable on a loan shall be as prescribed by SRC that is:

- (a) Three per centum per annum on a monthly reducing balance and it may be reviewed from time to time as advised by Salaries and Remuneration Commission.
- (b) The interest charged under paragraph 15 shall be utilized to defray administrative expenses of the Fund

(2) Any loan disbursed under these regulations

- (a) Shall be repaid as a direct deduction from the borrower's monthly salary.
- (b) The committee shall ensure that in disbursing any loan under these regulations, the net amount payable to the member of the scheme after all deductions shall not be less than one thirds of the borrower's basic salary.

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(3) The terms of the loan shall remain in force for the term of office of the borrower and shall not be altered for the life of the loan unless in case of default, in which case the loan shall revert to commercial terms.

(4) A borrower may give prior authority in writing for their pension dues to be utilized to clear any outstanding debt in case the borrower retires before fully repaying the loan.

#### *Interest on loan*

15. (1) The interest payable on a car loan or mortgage shall be three per centum (3%) per annum on a reducing balance for the duration of the loan or such other rate as may be determined from time to time as advised by the Salaries and Remuneration Commission.

(2) The interest charged under regulation (1) shall be utilized to defray administrative expenses of the Fund.

#### *Security for a Loan*

16. (1) The fund shall register a charge on any property financed through a loan granted under these regulations and such charge shall impose an obligation on the chargee: -

(a) not to mortgage, charge, surrender, lease or sell or agree to sell or part with the possession of the charged property or part thereof without the prior written consent of the committee;

(b) To meet and pay all rates, rents, insurance and any other outgoings in respect of the property and send the proof of such payments to the committee and;

(c) To provide a transfer deed duly signed by the borrower and a letter authorizing the fund to sell the property in case of default in payment

(2) The logbook of a vehicle subject to a car loan from the Fund shall be issued jointly in favor of the fund and the borrower.

(3) The original document of title of a property or motor vehicle acquired under a mortgage or car loan granted under these Regulations shall be kept in the custody of the Officer Administering the Fund until the loan is repaid in full by the borrower.

(4) The borrower shall, where applicable-

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- (a) not mortgage, charge, surrender the lease or sell or agree to sell, sub-let or part with possession of the charged property or any part thereof without the prior written consent of the Charges through the 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 committee; and
  - (c) deposit with the Officer Administering the Fund a transfer deed or blank vehicle transfer from duly signed by the borrower and a letter authorizing the Committee to sell the property in case of default in payment.

During the loan repayment period, the borrower shall-

- (a) maintain the car or property in a satisfactory state of repair;
  - (b) fit the motor vehicle with a tracking device from a Car Tracking service provider approved by the Committee; and
  - (c) not alter or make any structural alteration to the car or property or carry out any assessment or investigation relating to the property or title thereto without the approval of the Committee.
- (6) The process of obtaining loan security document and the disbursement of funds shall be supervised by the Officer Administering the Fund.

### ***Car and Mortgage Insurance***

17. (1) A Borrower shall take out and maintain a Mortgage protection policy and a fire policy with an insurance firm prequalified by the Nairobi City County Supply Chain Management sector, the cost of which shall be paid out of the Fund and debited in such borrower's account.

(2) A motor vehicle purchased with monies borrowed from the fund shall be comprehensively insured with an insurer approved by the Committee.

(3) Every loan granted under these Regulations shall be insured for the benefit of the Member of the Scheme against death and disability and the premium in respect thereof shall be debited to the account of the Member of the Scheme.

### **Mortgage and Car Loan Repayment Period**

18. A mortgage loan advanced under these regulations shall be repaid in full over a maximum period of twenty years or within the duration of the scheme whichever is earlier.

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## Disbursement of Loan for Development

19. A loan granted for the development of a residential property under these regulations shall be released to the applicant in two phases which shall be-

- (a) The first disbursement, based upon the value of land on which the residential 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.

## 20. Lien

A member of the scheme shall

- (a) be eligible to receive a mortgage loan amount, which shall be the value of the property that the member of the scheme proposes to purchase subject to the maximum amount as shall be set by the SRC.
- (b) The maximum loan amounts for members of the scheme referred to in paragraph (1) shall be as provided in the schedule.
- (c) a member of the scheme shall be required to give prior authority in writing for pension dues or gratuity to be utilized to clear any outstanding debt in case the member before full repaying the loan
  - (c) Loses his/her job due to indiscipline.
  - (d) Ceases to be a member of staff.
- (d) A loan granted under to a borrower under these regulations shall be funded at the rate of
  - (d) Ninety per centum of the value of the property, where such property is situated in Nairobi; or
  - (e) Eighty per centum of such value where the property is situated in any other area.
  - (f) In addition, the borrower shall be required to deposit the balance thereof with the fund.
- (e) despite regulation (4), the committee may, where it deems appropriate, grant a loan to a borrower at the market rate as valued by a competent valuer
- (f) Subject to this regulation, a member of the scheme shall be eligible for a maximum of two mortgage loans if the two mortgage loans shall not run concurrently.

## *Default in Repayment*

21. (1) Where a repayment of a car loan or mortgage is not made in accordance with the terms and conditions of the car loan or mortgage as provided for under these Regulations and the loan agreement or the covenant contained in the charge or mortgage instrument, the committee shall issue a ninety (90) day notice to the defaulter.

(2) If the defaulter fails to honor the ninety-day notice, the sums of money due and owing to the Fund shall be recoverable by the Committee by public auction or private treaty.

(3) Such recovery shall include-

- a) the sums of money specified as outstanding with respect to the principal sum initially advanced;
- b) interest for the sums of money that remain unpaid; and
- c) all reasonable costs and charges incurred by the Committee in the recovery of the unpaid money and interests.

(4) Without prejudice to regulations 18 (1) and (2) above, a member of the scheme shall be required to give prior authority in writing for pension or gratuity dues to be utilized to clear any outstanding debt in case a member of the Scheme leaves public service on disciplinary grounds or upon default.

#### ***Responsibilities of the Financial Institution***

22. The responsibilities of the financial 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(s);
- (b) To charge security on properties acquired through loans from the Fund to protect the interests of the Fund and act as custodian of such charges;
- (c) To disburse funds for newly approved loans after the necessary documentation is completed by the Committees;
- (d) To pay all outgoings and issue demand notices where necessary to members 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 in the Borrower; and
- (f) Upon default, to call in the loan and on behalf of the Committee sell the charged property by public auction or private treaty, in which event the Fund shall meet any shortfall between the loan outstanding and the proceeds of sale.

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### *Loan Discharge*

23. (1) Upon full repayment of the car loan, the Officer Administering the Fund shall within two months cause a signed Car Loan Discharge Certificate and transfer of the motor vehicle in a format as may be prescribed by the National Transport and Safety Authority (NTSA) to be issued in favor of the borrower to enable release of the Motor Vehicle logbook to the borrower.

(2) Upon full repayment of the mortgage, the Officer Administering the fund shall cause Discharge of Charge to be registered against the title and release the security documents to the borrower.

(3) The car Loan Discharge Certificate and Discharge of Charge as appropriate shall release the borrower from any further financial obligation in respect of the loan.

### *Management Guidelines*

24. (1) These Regulations shall be supplemented by such terms as may from time to time be detailed in the application form supplied by the Committee and in the contract between the financial institution and the County.

(2) Subject to these Regulations, the Committee shall issue management guidelines on-

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

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## PARTY V – PENALTIES

### *Offences and Penalties*

25. A person who misappropriates any funds or assets from the fund or assist or causes any person to misappropriate or apply the funds otherwise than in the manner provided in these Regulations, commits an offense and shall, upon conviction, be liable to imprisonment for a term of not less than five years or to a fine not exceeding ten million shillings or to both.

## PART VI - GENERAL PROVISION

### *Winding up of the Fund*

26. In the event of winding up the 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.

## PART VII – REPEAL, SAVINGS AND TRANSITIONAL PROVISION

### *Review*

27. The Committee may from time to time recommend to the Executive Member of any review of these Regulations.

### *Savings and Transitional Provisions*

28. (1) Any existing contracts, loan applications, committees, membership, or other administrative acts made, given, issued or undertaken before the commencement of these Regulations under any of the Regulations revoked by these Regulations or any other law, shall continue in force and shall be construed with alterations, adaptations, qualifications and exceptions necessary to bring them into conformity with these Regulations.



(2) Any legal right accrued, cause of action commenced in any court of law or tribunal established  
under any written law in force, or any dispute. Defense, appeal, or reference howsoever filed by  
or against a borrower or the County shall continue to be sustained in the same way they were prior  
to the commencement of the Regulations.

**SCHEDULE**

NO.	BENEFICIARIES/JOB SCALE	MORTGAGE Kshs. (Maximum)	CAR LOAN Kshs. (Maximum)
1.	Officers on Grade S, T, U	Upto 20 million	Upto 4 million
2.	Officers on Grade P, Q, R	Upto 15 million	Upto 3 million
3.	Officers on Grade K, L, M, N	Upto 10 million	Upto 1.5 million
4.	Officers on Grade G, H, J	Upto 6 million	Upto 800,000
5.	Officers on Grade A, B, C, D, E, F	Upto 4 million	Upto 600,000

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Dated the 31<sup>st</sup> Day of October 2023

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**CHARLES KERICH**

*County Executive Committee Member*

*For Finance and Economic Planning*