

SPECIAL ISSUE

Tana River County Gazette Supplement No. 2

7th July, 2014

(Legislative Supplement No. 2)

LEGAL NOTICE NO. 2

PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

COUNTY ASSEMBLY OF TANA RIVER CAR LOAN (MEMBERS) SCHEME FUND

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

PUBLIC FINANCE MANAGEMENT (COUNTY ASSEMBLY OF TANA RIVER CAR LOAN (MEMBERS) SCHEME FUND) REGULATIONS, 2014

PART I- PRELIMINARY

1. These Regulations may be cited as the Public Finance (County Assembly of Tana River Car Loan (Members) Scheme Fund) Regulations, 2014. Citation.

2. In these Regulations, unless the context otherwise requires- Interpretation.

“Board” means the County Assembly Service Board;

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

“Committee” means the 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 County Assembly Car Loan (Members) Scheme Fund established under Regulation 3;

“Loan Agreement” means an agreement between the Fund and a member of the scheme;

“member of the Scheme” means a Member of County Assembly of Tana River and includes a member of staff of the County Assembly of Tana River Service;

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

“staff” means an employee of the County Assembly Service Board;

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

3. There is established a fund to be known as the County Assembly of Tana River Car Loan (Members) Scheme Fund. Establishment 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. Objects and Purpose of the Fund.

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

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

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

- (a) the vice-chairperson of the Board who shall be the chairperson;
- (b) the leader of minority party;
- (c) the chairperson of the Members' Welfare Committee of the County Assembly;
- (d) majority of the Assembly;
- (e) minority whip of the Assembly;
- (f) County Executive Committee Member for Finance or his/her nominee.

(2) The officer administering the Fund shall be an *ex-officio* member of the Committee and the secretary to the Committee.

(3) The Committee may appoint such other staff to attend its meetings.

(4) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson; the vice-chair person or a member designated by the 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.

(6) The Committee shall consider and may approve the loan

applications presented by the officer administering the Fund.

7. (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 by presenting a form in such manner as the Committee may prescribe.

Application for loan.

(2) The officer administering the Fund shall satisfy himself 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.

8. A loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle for personal or official use by the applicant.

Utilization of loan monies.

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

Conditions for disbursement of funds.

(2) The log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the Board 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.

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 subject to the maximum amount of two million shillings.

Loan amount.

(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 or any such valuer as may be approved by the Board.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the Fund to a member of the Scheme an additional loan not exceeding ten per cent of the value of the vehicle purchased by the member of the Scheme to cater for an overhaul of the engine of the vehicle.

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

Interest rate.

(2) The interest charged under paragraph (1) shall be utilized to defray the administrative expenses of the Fund and any other surplus thereby shall be credited into the account of the Fund.

(3) Any administrative expenses shall be approved by the Committee in such terms as the committee may approve.

12. A loan advanced under these Regulations shall be repaid in full over a maximum period of forty eight months irrespective of whether the vehicle purchased is new or used: Provided that the repayment period of the loan shall not exceed the last month of the end of the term of the Member of the scheme where the Member is a Member of the County Assembly. Repayment of loan.

13. (1) A member of the Scheme shall Comprehensively insure any vehicle purchased through the Scheme with an approved insurer by the Board. Insurance.

(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.

14. (1) Upon full payment of the loan, a signed loan discharge certificate and a duly signed transfer form in such forms as may be prescribed by the committee shall be issued to the member of the Scheme and a copy thereof shall be forwarded to the Registrar of Motor Vehicles. Loan discharge.

(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 9

15. (1) The officer administering the Fund shall— Administration of the Fund.

- (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, prepared and signed by him specifying 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;

- (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 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.

(3) All monies of the Fund shall be paid into an account operated by the officer administering the Fund.

(4) Any account operated by the Fund for the purpose of loan disbursement shall be approved by the Committee.

16. the Board may, if it considers it appropriate to do so, appoint a financial institution to administer the Fund on behalf of the Committee

Administration of
the Fund. Other
institution

JILO ALGI,
County Executive Committee Member for Finance.

LEGAL NOTICE No. 3

PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

COUNTY ASSEMBLY OF TANA RIVER MORTGAGE (MEMBERS) SCHEME FUND) REGULATIONS, 2014

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

PUBLIC FINANCE MANAGEMENT (COUNTY ASSEMBLY OF TANA RIVER MORTGAGE (MEMBERS) SCHEME FUND) REGULATIONS, 2014

PART I- PRELIMINARY

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

2. In these Regulations, unless the context otherwise requires- Interpretation.
- “Board” means the County Assembly Service Board;
- “borrower” means a person in receipt of a loan out of the Fund;
- “Committee” means the 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 County Assembly of Tana River Mortgage (Members) Scheme Fund established under Regulation 3;
- “member of the Scheme” means a Member of County Assembly of Tana River and includes a member of staff of the County Assembly of Tana River Service;
- “officer administering the Fund” means the Clerk of the County Assembly;
- “property” means a residential house purchased through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is to be developed;
- “staff” means an employee of the County Assembly Service Board;
- “valuer” means a person registered as a valuer under the Valuers Act (Cap. 532).
3. There is established a Fund to be known as the County Assembly of Tana River Mortgage (Members) Scheme Fund. Establishment 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 residential property by members of the Scheme. Object and purpose of the fund.
5. (1) The initial capital of the Fund shall consist of the monies standing to the credit of the account on the date of the coming into operation of these Regulations. Capital of the Fund.
- (2) County Assembly may appropriate additional monies to the Fund.
6. (1) There is established a committee to be known as the Members Mortgage Loans Management Committee, which shall consist of— The Loans Management Committee.
- (a) the vice-chairperson of the Board who shall be the

chairperson;

- (b) the leader of minority party;
- (c) the chairperson of the Members' Welfare Committee of the County Assembly;
- (d) two other members of the Assembly appointed by the Board.
- (e) County Executive Member for Finance or his/her nominee.

(2) The officer administering the Fund shall be an *ex-officio* member of the Committee and the secretary to the Committee.

(3) The Committee may appoint such staff to attend its meetings.

(4) The Committee shall administer the Fund and shall—

- (a) process applications for loans in accordance with the existing terms and conditions of borrowing;
- (b) liaise with the mortgage company (if any) to set up a revolving fund for the disbursement of the loans; and
- (c) supervise the day-to-day running of the Fund.

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

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

7. Notwithstanding Regulation 6(4) the Board may, if it considers it appropriate to do so, appoint a mortgage institution to administer the Fund on behalf of the Committee

Board may
appoint mortgage
institution.

8. 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.

Application for
loan.

9. (1) A loan obtained under these Regulations shall be utilized for the purchase, development, renovation or repair of residential property for the occupation of the applicant and his or her immediate family.

Utilization of loan
monies.

(2) A loan for the development of residential 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 residential 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) shall not exceed forty per cent of the maximum loan amount for which the member of the Scheme is eligible.

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

Disbursement of loan for development.

- (a) the first disbursement based on the value of the 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.

11. (1) An application for a loan under these Regulations shall be accompanied by the following documents where appropriate—

Requirements for Application for loan.

- (a) copies of the designs of the proposed residential property duly approved by the local 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;
- (d) a certified copy of the sale agreement 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 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 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 board.

12. Where the property intended to be purchased through a loan 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.

Leasehold
property.

13. (1) The maximum loan to be granted under these Regulations to a member of the Scheme shall not exceed the sum of three million shillings.

Maximum loan
disbursement.

(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 assembly seat before fully repaying the loan.

(3) The maximum loan entitlement for a member of staff of the Board shall be defined and set by the board and shall be guided by the job group scales.

(4) For a member of staff to qualify for a loan, such member shall be required to be —

- (a) confirmed in appointment and to have served for a period determined by the Board; or
- (b) on contract with the Board with the relevant documentation duly completed.

(5) 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.

(6) 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 assembly term to be accessed by the member in a maximum of two disbursements in that term.

14. A loan granted under these Regulations shall be fully repaid at the end of the term of that Assembly.

Repayment of
loan.

15. (1) The interest chargeable on a loan shall be three per centum per annum on a monthly reducing balance and this rate may be reduced from time to time as may be prescribed. The interest accruing herein shall be credited to the capital fund

Interest
chargeable

(2) A mortgage institution appointed under regulation 7 to administer the Fund may charge an interest of not more than four per centum to cover management costs.

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

16. (1) The Board 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. Lien.

(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 Board;
- (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 Board; and
- (c) provide a transfer deed duly signed by the borrower and a letter authorizing the Board to sell the property in case of default in payment.

(3) All residential properties purchased through the Fund shall be constructed of such material as may be approved by the Board.

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

- (a) ensure that the property is used for residential purposes only;
- (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 Board.

(5) No borrower shall be eligible for more than one loan at a time or more than a total of two loans from the Fund.

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

17. (1) A borrower shall take out and maintain a mortgage protection policy and a fire policy with an insurance firm approved by the Board, the cost of which shall be paid out of the Fund and debited in such borrower's account. Mortgage insurance.

(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.

18. The Board 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 Default repayment.

in the charge of the mortgage instrument.

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

Administration of
the Fund.

- (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, prepared and signed by him specifying 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;
- (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 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.

20. The responsibilities of the mortgage institution, if any, appointed under these Regulations shall be—

Responsibilities of
mortgage
institution

- (a) to operate individual accounts for each borrower, which shall provide details of recoveries of the loan;
- (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 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 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 outstanding and the proceeds of sale.

21. (1) These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the Board and in the contract between the mortgage institution and the Board. Board guidelines

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

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

JILO ALGI,
County Executive Committee Member for Finance.