LEGAL NOTICE NO 1

THE PUBLIC FINANCE MANAGEMENT ACT
(No 18 of 2012)

IN EXERCISE of the powers conferred by Section 116 of the Public Finance Management Act 2012 the County Executive Committee Member for Finance makes the following Regulations —

PUBLIC FINANCE MANAGEMENT (COUNTY ASSEMBLY OF EMBU) CAR LOAN AND MORTGAGE (MEMBERS) SCHEME FUND REGULATIONS, 2019

Citation

1 These Regulations may be cited as Public Finance Management (County Assembly of Embu) Car Loan and Mortgage (Members) Scheme Fund Regulations 2019

Interpretation

2 In these Regulations unless the context otherwise requires—

board means County Assembly Service Board of Embu

borrower means a person in receipt of a loan out of the Fund

‘committee means the Members Car Loan and Mortgage Scheme Management Committee established under Regulation 6,

‘clerk means Clerk of the County Assembly of Embu

county means Embu County

county assembly means the County Assembly of Embu,

financial year means the period of twelve months ending on the 30th June in each year,

fund means the County Assembly of Embu Car Loan and Mortgage (Members) Scheme Fund established under Regulation 3,

“loan agreement” means an agreement between the Committee and a member of the scheme

member of the scheme means Member of the County Assembly of Embu and Members of the Board appointed under section 12(3)(d) of the County Governments Act 2012

property means a house purchased or developed through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is situate and

“valuer” means a person registered as a valuer under the Valuers Act (Cap 532) of Laws of Kenya
Establishment of the Fund

3 There is established a Fund to be known as County Assembly of Embu CarLoan and Mortgage (Members) Scheme Fund

Purpose of the Fund

4 The object and purpose of the Fund shall be to provide for a loan scheme for
the purchase of vehicles and/ or development renovation or purchase of houses by
members of the Scheme

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

Establishment and composition of the Loans Management Committee

6  (1) There is established a Committee to be known as the Members Car Loan
and Mortgage Scheme Management Committee
(2) The Committee consists of—
(a) The vice-chairperson of the County Assembly of Embu Service Board who
shall be the chairperson
(b) a vice chairperson elected from the members appointed under paragraph (c)
(c) Six other members of the County Assembly appointed by the Board with the
approval of the County Assembly,
(d) County Executive Committee Member for finance or his or her
representative and
(e) The Clerk of the County Assembly who shall be an *ex officio* member and
secretary of the committee
(3) 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 a financial institution (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

Board may appoint a financial institution

7 Notwithstanding Regulation 6 (3) the Board may if it considers it
appropriate to do so appoint a financial institution to administer the Fund on its behalf

Other staff

8 The Committee may with approval of the Board appoint such staff of the
county assembly service to offer secretariat services as may be deemed necessary

Meetings of the Committee

9 The meetings of the Committee shall be convened by the Chairperson or in
the absence of the chairperson the vice chairperson and shall be convened at such times
as may be necessary for the discharge of the Committee’s functions
Quorum

10 The quorum for a meeting of the Committee shall be any five members

Application for loan

11 (1) A member of the Scheme who wishes to apply for a loan from the Fund shall make such application to the Committee through the officer administering the Fund by presenting a form in such manner as the Committee may prescribe

(2) The Committee shall satisfy itself 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 approve the loan application

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

Utilization of loan moneys

12 A loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle or development purchase or renovation of property for use by the applicant or applicant’s immediate family

Conditions for disbursement of funds

13 (1) A loan approved under Regulation 11 shall be released from the Fund in such manner taking into account the security of the funds, as may be prescribed by the Committee

(2) In case of car loan, 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

(3) In case of a mortgage facility 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

Loan amount

14 (1) The maximum car loan and mortgage each beneficiary shall be eligible to is as set out in the Schedule to these Regulations or as may be determined by the Salaries and Remuneration Commission from time to time

(2) For the purpose of these Regulations, the value of a new vehicle and a house 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 Committee

(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

Interest rate

15 (1) A loan granted to a member of the Scheme under these Regulations shall carry an interest rate of three per cent per annum on a reducing balance basis
(2) The interest charged under paragraph (1) shall be utilized to defray the administrative expenses of the Fund

Repayment of loan

16 A loan advanced under these Regulations shall be repaid in full over a maximum period of forty-eight months irrespective of whether the vehicle or the house purchased is new or used,

Provided that the repayment period of the loan shall not exceed the last three months of the end of the contract of employment of the Member of the scheme

Insurance

17 (1) A member of the Scheme shall—

(a) In case of a car loan, comprehensively insure the vehicle purchased through the Scheme with an insurer approved by the Board or

(b) In case of a mortgage facility, take out and maintain a mortgage protection policy with an insurance firm approved by the Board

(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 the member of the Scheme shall pay subsequently annual premiums

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

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

Loan discharge

18 (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 or registrar of lands whichever is applicable

(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 and the property pursuant to Regulation 13

Administration of the Fund

19 (1) The officer administering the Fund shall—

(a) supervise and control the administration of the Fund,

(b) utilize the interest accruing thereto to defray operating expenses and may impose any reasonable restriction or other requirements concerning such use

(c) cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund

(d) prepare, sign and transmit to the Board through the Clerk and 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 the Public Finance Management Act and

(e) furnish such additional information as may be required for the purpose of examination and audit by the Auditor General

(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 Committee

(4) In additional to provision of regulation 19(1) the Committee shall prepare quarterly reports and submit to the Board through the Clerk on the management and general administration of the Fund

Default in repayment

20 The Board may call in a loan and in default sell the charged motor vehicle or property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement and these Regulations

Committee guidelines

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 Committee

(2) Subject to these Regulations the Committee may in consultation with the Board issue guidelines on such other matters as may be necessary for the proper management and administration of the Fund

Transition and Repeal of L.N 1/2014 and L.N 2/2014

22 (1) The Public Finance Management (County Assembly Mortgage Members) Scheme Fund) Regulations, 2014 and Public Finance (County Assembly Car Loan (Members) Scheme Fund) Regulations 2014 are repealed

(2) All the funds and other assets rights obligations Contracts Agreements powers and liabilities which immediately before the coming into force of these Regulations were vested in or imposed on or enforceable against the Funds repealed by paragraph (1) shall, by virtue of this paragraph, be vested in, imposed on or enforceable against the Fund

(3) The committees appointed under the Funds repealed by paragraph (1) shall be deemed to have been appointed under these Regulations and shall continue to operate as such
## SCHEDULE (Regulation 14(1))

**Loan Threshold for Members of the Scheme**

<table>
<thead>
<tr>
<th>Beneficiary</th>
<th>Maximum Car Loan (KSh)</th>
<th>Maximum Mortgage (KSh)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Speaker of the County Assembly</td>
<td>Up to KSh 4 Million</td>
<td>Up to KSh 20 Million</td>
</tr>
<tr>
<td>Members of the County Assembly</td>
<td>Up to KSh 2 Million</td>
<td>Up to KSh 3 Million</td>
</tr>
<tr>
<td>Members of the County Assembly Service Board appointed under section 12(3)(d) of the County Governments Act 2012</td>
<td>Up to KSh 2 Million</td>
<td>Up to KSh 3 Million</td>
</tr>
</tbody>
</table>

Made on the 24th day of January, 2019

JOHN N NJAGI,

*County Executive Committee Member for Finance and Economic Planning*