LEGAL NOTICE NO. 3

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 Makueni Executive Committee Member for Finance and Planning makes the following Regulations:

THE PUBLIC FINANCE MANAGEMENT (MAKUENI COUNTY STATE AND PUBLIC OFFICERS CAR LOAN AND MORTGAGE FUND) REGULATIONS, 2017

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Public Finance (Makueni County State and Public Officers Car Loan and Mortgage Fund) Regulations, 2017.

Interpretation

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

“Applicant” means a state officer or a public officer entitled to receive a loan under the Fund;

“Borrower” means a person in receipt of a loan out of the fund;

“County Welfare Committee” means the County Executive Welfare Committee;

“Committees” means the Loans Management Committees established for the County Executive and County Assembly under these Regulations;

“Fund” means the Makueni County State and Public Officers Car Loan and Mortgage Fund;

“Financial institution” means an institution appointed by the County Government of Makueni to advance loans to its officers on its behalf;

“Member of the Executive Committee” means the Executive Committee Member responsible for Finance;
“Officer Administering the Fund” means the Clerk of the County Assembly and for
the County Executive, an officer appointed by the Member of Executive Committee.

PART II—ESTABLISHMENT OF THE FUND

Establishment of the Fund

3. (1) There is established the Makueni County State and Public Officers Car
Loan and Mortgage Fund.

(2) The fund shall be a revolving fund.

(3) The fund shall cater for both the County Executive and County Assembly
public officers who are employed on permanent and pensionable basis for public servants
and for state officers who are either on full time or part time basis.

Object and purpose of the Fund

4. The object and purpose of the fund is to provide a loan scheme for the
purpose of advancement to state officers and public officers funds for—

(a) Purchasing a car

(b) Purchase, development, renovation or repair of residential property by
members of the Scheme.

(c) Purchase of a residential plot for the purpose of constructing a residential
property.

(d) Construction of a house for residential purposes

Sources of the Fund

5. The fund shall consist of—

(a) any amounts that may from time to time be appropriated by the County
Assembly;

(b) all sums of money earned by or arising from the fixed deposits made in
respect of the fund; and

(c) all other sums of money that may in any manner become payable to or vested
in the fund including gifts, grants and donations.

Administration of the Fund

6. (1) The Fund shall be administered by an officer appointed by the Member of
Executive Committee and in case of the County Assembly, by the Clerk.

(2) The officer administering the fund—

(a) shall supervise and control the administration of the fund;

(b) may impose conditions on the use of any moneys in the fund and may also
impose any reasonable restriction or other requirement concerning such use;
shall 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) shall 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, specifying the income of the Fund and showing the expenditure incurred from the Fund in accordance with the Public Finance Management Act;

(e) shall furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit or as shall be required by the Auditor-General.

(3) Every statement of account prepared under this regulation shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the fund as at the end of each financial year.

PART III—LOANS MANAGEMENT COMMITTEES

The Loans Management Committees

7. (1) There is established committees to be known as the Loans Management Committees.

(2) (i) The committee for the Assembly shall consists of—

(a) the leader of majority who shall be the chairperson;

(b) the chairperson of the county assembly finance committee;

(c) the leader of minority;

(d) the clerk who shall be the secretary;

(e) representative of the nominated members.

(ii) The committee for the Executive shall consists of—

(a) the chief officer in charge of finance and planning who shall be the chairperson;

(b) the chairperson of the County Welfare Committee;

(c) the chief officer in charge of transport and infrastructure;

(d) the chief officer in charge of social services who shall be the secretary;

(e) Legal officer.

(3) The meetings of the committees shall be convened by the chairperson or in the absence of the chairperson, by a member designated by the committee members and shall be convened at such times as may be necessary for the discharge of the committee's functions.
(4) The quorum for meetings of the committees shall be three members.

(5) The committee shall consider and approve the loan applications presented by the officer administering the fund.

Operation of the Fund

8. (1) A member of the Scheme who wishes to apply for a loan or a mortgage from the fund shall present to the officer administering the fund an application in the prescribed form.

(2) The officer administering the fund shall forward the application to the committee and the committee shall satisfy itself of the applicant's status and capacity to pay.

(3) If the committee approves the application, the applicant shall enter into an agreement in such terms as the committee may prescribe.

(4) The car loans and mortgages shall be disbursed by—

(a) A financial institution identified by the county government and contracted for that purpose or

(b) Units established in the County Assembly and the County Treasury for the purpose of disbursements of the loans to the public and state officers in the respective county entities—

(i) The County Treasury or the County Assembly shall engage the services of a lawyer to charge the properties appropriately, where applicable.

(ii) The County Treasury/County Assembly shall engage the services of a debt-collector in case of default by the borrower.

PART IV—PROCEDURE OF APPLICATION FOR CAR LOAN

Conditions for disbursements of funds

9. (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.

(2) Where the financial institution or the county government entity disbursing the funds requires security, the log-book of the vehicle subject to the loan shall be delivered by the applicant to and remain in the custody of the financial institutions or county entity as security until the loan is repaid in full.

Temporary release of log-book

10. (1) The security kept in the custody of the financial institution or the county entity may be temporarily released to a borrower upon application in writing to the financial institution for purposes of renewal by that borrower of the necessary licences and upon satisfying that the security is necessary for that transaction.
Security released under paragraph (1) shall be returned to the financial institution within seven working days from the date of such release.

The financial institution shall acknowledge receipt of the security in writing.

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

Loan amounts

11. (1) The loan amount that an applicant may receive shall be the value of the vehicle that the applicant proposes to purchase subject to the provisions of Regulation 12.

(2) The value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a used car shall be as determined by the financial institution or as assessed in a valuation report.

(3) An Applicant shall not receive a loan for a car and mortgage the repayment of which shall result in salary deductions exceeding two thirds of the monthly gross emoluments consisting of salary and allowances of the applicant.

Maximum loan disbursement

12. The maximum loan to be granted under these Regulations to an applicant shall be subject to the conditions of the Salaries and Remuneration Commission on Car Loans for State Officers and Public Officers.

Interest rate

13. A loan granted to an applicant under these Regulations shall carry an interest rate of three per cent per annum.

Repayment Period

14. A car loan advanced under these Regulations shall be repaid in full by the end of term of the County Government for state officers and over a maximum period of five (5) years for public officers.

Insurance

15. A successful applicant shall comprehensively insure any vehicle purchased through the Fund.

Loan discharge

16. (1) Upon full repayment of the loan, a signed loan discharge certificate in such form as may be prescribed by the committee shall be issued to the officer and a copy thereof shall be forwarded to the Registrar of Motor Vehicles.
(2) The loan discharge certificate shall release the officer from any further financial obligation in respect of the loan and shall act as sufficient authority to remove the caveat on the vehicle pursuant to regulation 8.

PART V—PROCEDURE OF APPLICATION FOR MORTGAGE

Application for a mortgage

17. (1) An application for a mortgage shall be accompanied by—
   
   (a) copies of architectural designs of the proposed residential property duly approved by the county government 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 deed or lease certificate or allotment letters of the property intended to be purchased certified by the county government;
   
   (d) copy of title deed or lease certificate to the property;
   
   (e) valuation report from a certified valuer;
   
   (f) 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 period, 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.

Leasehold Property

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

Maximum Mortgage Disbursement

19. (1) The maximum mortgage to any officer is subject to the provisions of the Salaries and Remuneration Commission on Mortgage for State Officers and Public Officers.

Maximum Repayment Period

20. A mortgage granted under these Regulations shall be fully repaid for state officers by end of term of the County Government and for public officers in a period of 20 years.
Supplementary terms

21. (1) The interest chargeable on a mortgage is three per centum per annum on a monthly reducing balance.

Lien

22. (1) The financial institution or the county entity shall have a charge registered on the property financed through a mortgage and shall be entitled to have its name entered in all documents of title for such property.

(2) The borrower shall—

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

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

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

(3) During the loan repayment period—

(a) the borrower shall maintain the property in a satisfactory state of repair; and

(b) all legal documentation and disbursement of funds shall be supervised by the financial institution on the county entity.

Mortgage Insurance

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

(2) The originals of all documents relating to property financed by a loan from the Fund shall be kept in safe custody by the financial institution or the county entity.

Default

24. The financial institution or appointed debt collector may call in a mortgage and in default sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement or the covenant contained in the charge or the mortgage instrument.

Effective date of these regulations

These regulations shall be effective on 8th August, 2017.

MARY K. KIMANZI,
Executive Committee Member
Finance and Socio-economic Planning.