LEGAL NOTICE No 1

THE PUBLIC FINANCE MANAGEMENT ACT
(No 18 of 2012)

ARRANGEMENT OF REGULATIONS

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THE NAKURU COUNTY ASSEMBLY CAR LOAN (MEMBERS) SCHEME FUND REGULATIONS, 2018

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Committee Member for Finance and Economic Planning makes the following Regulations—

THE NAKURU COUNTY ASSEMBLY CAR LOAN (MEMBERS) SCHEME FUND REGULATIONS, 2018

PART I—PRELIMINARY

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

2 In these Regulations, unless the context otherwise requires—

"Board" means the County Assembly Service Board of Nakuru,
"borrower" means a person in receipt of a loan out of the Fund,
"Committee" means the Car 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 and includes a member of staff of the County Assembly 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)
PART II —ESTABLISHMENT OF THE FUND

3 There is established a fund to be known as the County Assembly of Nakuru Car Loan (Members) Scheme 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

5 (1) The initial capital of the Fund shall consist of the monies allocated and 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 as may be advised by the Salaries and Remuneration Commission of Kenya

PART III —THE LOANS MANAGEMENT COMMITTEE

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

   (a) Leader of majority party who shall be the chairperson,

   (b) the leader of minority party,

   (c) the chairperson of the Labour and Social Welfare Committee of the Assembly

   (d) Three other Members of the Assembly, appointed by the Assembly on the basis of their gender, and who are not chairpersons of any of the Assembly’s Committees

   (e) 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-chairperson 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) Notwithstanding the foregoing members adding up to fifty per centum of the composition of the Committee, may
requisite the chairperson in writing to convene a meeting within seven days from the date of the notice

(6) In the event that the Chairperson does not convene a requisite-meeting within seven (7) days after being served with the notice, the members may hold the meeting on such time as they appoint and they shall elect an alternative chairperson to preside over the meeting

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

(8) The Committee shall consider and may approve the loan applications presented by the officer administering the Fund

(9) The members shall be paid such allowances and disbursements for expenses as may be approved by the Board

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

(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

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

(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
(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, in which case it shall not be more than fifteen (15) years, 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 sub-regulation (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.

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

(3) Administrative cost of the Fund shall be a maximum of 3% of the approved budget for the Fund.

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, and 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.

13 (1) A member of the Scheme shall comprehensively insure any vehicle purchased through the Scheme with an approved insurer 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 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 sub-regulation (2) may apply to the Fund for a loan which shall be repaid within a period of one 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
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 shall be forwarded to the Registrar of Motor Vehicles

(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—

(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 or her 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 or her 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

Dated the 15th January, 2018

JOSEPH W KIUNA,

County Executive Committee Member for Finance and Economic Planning
LEGAL NOTICE No 2

THE PUBLIC FINANCE MANAGEMENT ACT
(No 18 of 2012)

ARRANGEMENT OF REGULATIONS

Regulations

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3—Establishment of the Fund
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PART III—THE LOANS MANAGEMENT COMMITTEE

6—The Loans Management Committee
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THE NAKURU COUNTY ASSEMBLY MORTGAGE (MEMBERS SCHEME FUND) REGULATIONS, 2018

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Member Finance and Economic Planning makes the following Regulations—

THE NAKURU COUNTY ASSEMBLY MORTGAGE (MEMBERS SCHEME FUND) REGULATIONS, 2018

PART I—PRELIMINARY

1 These Regulations may be cited as the Public Finance County Assembly of Nakuru Mortgage (Members Scheme Fund) Regulations, 2018

2 In these Regulations, unless the context otherwise requires—

“Board” means the County Assembly Service Board of Nakuru,
“borrower” means a person in receipt of a loan out of the Fund,
“Committee” means the mortgage 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 Mortgage (Members) Scheme Fund established under Regulation 3,
“immediate family member” means a spouse or a child of over eighteen years, of a member of the scheme
“member of the Scheme” means a Member of County Assembly and includes a member of staff of the County Assembly Service,
“monthly emoluments” means gross monthly salary and allowances,
“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)
PART II — ESTABLISHMENT OF THE FUND

3 There is established a Fund to be known as the County Assembly of Nakuru Mortgage (Members) Scheme 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

5 (1) The initial capital of the Fund shall consist of the monies allocated and 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 as may be advised by the Salaries and Remuneration Commission

PART III—THE LOANS MANAGEMENT COMMITTEE

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

(a) leader of majority party who shall be the chairperson,

(b) the leader of minority party,

(c) the chairperson of the Labour and Social Welfare Committee of the County Assembly,

(d) three other Members of the Assembly, appointed by the Assembly on the basis of their gender, and who are not chairpersons of any other Assembly’s Committees,

(e) County Executive Member for Finance or his/her nominee

(2) The Clerk to the County Assembly shall be an ex—officio member of the Committee, its administrator and the Secretary

(3) The Committee may appoint such other 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 or 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

(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 the Committee’s functions

(6) Notwithstanding the foregoing members adding up to fifty per centum of the composition of the Committee, may requisite the chairperson in writing to convene a meeting within seven days from the date of the notice

(7) In the event that the Chairperson does not convene a requisite meeting within seven (7) days after being served with the notice, the members may hold the meeting on such time as they appoint and they shall elect an alternative chairperson to preside over the meeting

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

(9) The members shall be paid such allowances and disbursements for expenses as may be approved by the Board

7 Notwithstanding Regulation 6 (4) the board may, if it considers it appropriate to do so, appoint a mortgage institution or financial institution to administer the Fund on behalf of the committee

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

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

(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 (2) (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—

(a) the first disbursement based on the value of the land on which the residential property is proposed to be developed, or, the value of the collateral property used to secure money borrowed under these regulations,

(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 Board.

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

(a) copies of the designs of the proposed residential property duly approved by the relevant statutory authorities 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 sub regulations (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 the deductions to meet the 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, the loan shall be
granted where the expiry date of the lease is at least forty-five years beyond the final loan repayments date.

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.

(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 looses the assembly seat before fully repaying the loan.

(3) The maximum loan entitlement for a member of staff shall be as may be set out by the Salaries and Remuneration Commission from time to time.

(4) For a member of staff to qualify for a loan, the 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.

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

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

(3) The interest charged under sub-regulation (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 circumstances.
(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 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) Notwithstanding sub-regulation (1) above, a borrower may rely on a collateral property whether registered in his or her name, or, in the name of an immediate family member, to secure money borrowed under these regulations provided the value of the property shall be equal or more than the amount borrowed

(4) The Board shall have a charge registered against the title of the collateral property used to secure a loan granted under these regulations and shall be entitled to have its name entered in all documents of title of the property

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

(6) 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

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

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 Auditor-General in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund prepared and signed by him or her 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 in the administration of the Fund and may require that staff to carry out inspections 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

Mortgage insurance

Default repayment

Administration of the Fund
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 or 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,

(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 terms that may, from time to time, be detailed in the application form supplied by the Board and in the contract between the mortgage institution or Financial institution and the Board.

(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.
Legal Notice No 1 of 2014, Legal Notice No 2 of 2014, Legal Notice No 2 of 2017 and Legal Notice No 3 of 2017 are hereby revoked

Dated the 15th January, 2018

JOSEPH W KIUNA,
County Executive Committee Member for Finance and Economic Planning

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