

Legd Dept.

SPECIAL ISSUE

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LEGAL NOTICE NO. 2

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 Bungoma County Executive Committee Member for Finance and Economic Planning makes the following Regulations:—

THE BUNGOMA COUNTY ASSEMBLY (EMPLOYEES' CAR LOAN SCHEME FUND) REGULATIONS, 2017

PART I—PRELIMINARY

Citation

1. These Regulations may be cited as the Bungoma County Assembly (Employees' Car loan Scheme Fund) Regulations, 2016.

Interpretation

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

“Committee” means the Loans Management Committee established under regulation 6;

“County Assembly” means the County Assembly of Bungoma;

“Financial year” means the period of twelve months ending on the 30th June in each year;

“Fund” means the Bungoma County Assembly (Employees' Car Loan Scheme Fund) established under Regulation 3;

“Officer administering the Fund” means the Clerk of the County Assembly.

“SRC” means the Salaries and Remuneration Commission established by Article 230 of the constitution of Kenya 2010;

“Valuer” means any 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 to be known as Bungoma County Assembly (Employees' Car Loan Scheme Fund).

Object and purpose 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.

Initial capital

5. (1) The initial capital of the Fund shall consist of the monies appropriated by the County Assembly pursuant to the Salaries and Remunerations Commission Circular.

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

(3) The Fund shall be administered as a special account in the Bungoma County Assembly (Employees' Car Loan Scheme Fund) and shall be operated by the officer administering the Fund.

(4) The interest accruing to the fund shall, where such interest constitutes a surplus after meeting the requirements of Regulation 15 (1) (b) be credited to the capital of the fund.

The Loans Management Committee

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

- (a) one elected member of the County Assembly Service Board nominated by the Board who shall be the chairperson of the Committee.
- (b) the Deputy Clerk of the Assembly who shall be the vice – chairperson of the Committee.
- (c) the officer heading the Finance Department.
- (d) the officer heading the Legal Department.
- (e) the person in-charge of Legislative and Procedural Department.
- (f) the Head of Human Resource Department.
- (g) one senior Administrative Officer.

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

(3) The meetings of the Committee shall be convened by the chairperson, in the absence of the chair, by the vice-chairperson, in the absence of the vice-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.

(4) The quorum for meetings of the Committee shall be the Chairperson or in the absence of the Chairperson, the Vice-Chairperson and at least three other members.

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

Operation of the Fund

7. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall present to the officer administering the Fund a duly completed application form in such manner as the Management 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 and where so satisfied shall forward the application to the Committee for consideration.

(3) If the Committee approves the application, the applicant shall submit to the committee a dully completed application form in such manner as the Committee may prescribe.

Conditions for disbursement of funds

8. (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 County Assembly 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.

Loan amount

9. (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 as prescribed by the Salaries and Remunerations Commission circular referred to herein.

(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.

(3) No member of the Scheme shall receive a loan the repayment of which shall result in salary deductions exceeding thirty per cent of the monthly emoluments of the member of the Scheme.

(4) No member of the scheme shall be eligible for more than one loan at a time provided that such a member shall become eligible for another loan immediately after repaying the subsisting loan or lapse of five years subject to the availability of funds in the scheme.

(5) The committee may review the maximum loan entitlement for members of the scheme set out in the schedule to these Regulations in accordance with the Salaries and Remunerations Commission Circular.

Interest rate.

10. (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 and any other surplus thereby shall be credited into the account of the scheme.

(3) Any member of the scheme shall, continue to pay interest at the rate of three per centum per annum even after leaving public service employment for the life of the loan except upon default, where the interest rate shall immediately be converted into commercial rate, provided that any member who leaves the employment on disciplinary grounds shall have the interest rate converted into commercial interest immediately upon leaving employment for such disciplinary grounds.

Repayment Period

11. A loan advanced under these Regulations shall be repaid in full over a maximum period of sixty months irrespective of whether the vehicle purchased is new or used.

Insurance

12. (1) A member of the Scheme shall comprehensively insure any vehicle purchased through the Scheme.

(2) 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 scheme.

Loan discharge

13. (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 member of the Scheme and a copy thereof 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 8.

Default in repayment

14. The Board may call in a loan and in default, sell the car by public auction or private treaty where the borrower is in breach of the terms under the loan agreement.

Administration of the Fund

15. (1) The officer administering the Fund—

- (a) shall 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) 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 upon approval by the committee;
- (d) 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;

- (e) 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, prepared and signed by him specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Commission may from time to time direct in accordance with the Public Finance Management Act;
- (f) shall furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Auditor-General in consultation with the committee.

(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.

Committee guidelines

16. The committee shall issue guidelines on such other matters as may be necessary for the proper management and administration of the fund.

SCHEDULE

[r. 9 (5)]

Maximum loan entitlements for members of the Scheme

Designation/Job Group Scale Maximum entitlement

| <i>Job Group</i> | <i>Equivalent Salary Scale</i> | <i>Maximum Entitlement</i> |
|------------------|--------------------------------|----------------------------|
| S | 12 | 4,000,000 |
| R | 11 | 3,000,000 |
| Q | 10 | 3,000,000 |
| P | 9 | 3,000,000 |
| N | 8 | 1,500,000 |
| M | 7 | 1,500,000 |
| L | 6 | 1,500,000 |
| K | 5 | 1,500,000 |
| J | 4 | 800,000 |
| H | 3 | 800,000 |
| G | 2 | 800,000 |
| F | 1 | 600,000 |

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