

*Paper laid on
24/3/15 by Hon. A. M. Njoroge
Drake, msp
Kendrick M. Njoroge*

EXPLANATORY MEMORANDUM TO THE PUBLIC FINANCE MANAGEMENT (STATE OFFICERS HOUSE MORTGAGE SCHEME FUND) REGULATIONS, 2015

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1. PURPOSE OF THE REGULATIONS

The Salaries and Remuneration Commission set a house mortgage benefit for all State Officers. The National Treasury is expected to operationalize the same for State Officers in the National Government (except the Judiciary and Parliament), through the State Officers House Mortgage Scheme Fund. The purpose of these Regulations are twofold to establish the State Officers Housing Scheme Fund, and to set up a clear framework for managing the mortgage scheme.

The objective and purpose for which the Fund is established shall be to provide a loan scheme for the purchase or development of property by the State Officers.

2. THE POLICY AND LEGISLATIVE CONTEXT

Article 230 of the Constitution of Kenya, 2010, sets up the Salaries and Remuneration Commission, with a clear mandate of setting and regularly reviewing the remuneration and benefits of all State Officers. The House Mortgage Scheme is one of the benefits that have been set. The Scheme for State Officers only exists in the Judiciary and Parliament, and not in the Executive.

Section 24(4) of the Public Finance Management Act (PFMA), 2012 allows the Cabinet Secretary for the National Treasury to establish a Public Fund. These Regulations, are therefore firmly anchored in the provisions of the Public Finance Management Act, 2012.

3. SALIENT FEATURES OF THE REGULATIONS

Some of the salient features of the regulations are:-

- The objective and purpose for which the State Officers House Mortgage Scheme Fund is established shall be to provide a loan scheme for the purchase or development of property by the State Officers;
- The capital of the fund shall consist of the initial capital of one billion shillings appropriated by Parliament in the 2014/2015 financial year and such other funds as may be voted for the purposes of the Fund in subsequent financial years;
- The Fund will be managed by an Advisory Committee established within the National Treasury;

- The Cabinet Secretary may appoint a committee or board of an existing house mortgage scheme fund in the public service to manage the State Officers House Mortgage Scheme Fund;
- A loan granted by the fund shall be solely utilized for the purchase or development of residential property for the occupation of the borrower or equity release for improvement of the residential house;
- A loan granted shall be funded at the rate of ninety percent of the value of the property but shall not exceed the maximum loan threshold set in the Schedule and this shall be based on the ability to pay, and repaid by check off system;
- The loan shall be repaid within a period of twenty years or before the borrower attains the age of seventy years whichever is the earlier;
- A state officer who is appointed at the age of seventy years or above shall be required to repay the loan for the duration of the state officer's appointment;
- The interest payable on a loan shall be at the rate of at least three per centum per annum on a monthly reducing balance or such other rate as may from time to time be determined by the committee;
- The interest charged shall be paid by the borrower;
- The Fund shall register a charge on any property financed through a loan granted under these Regulations
- A borrower shall take and maintain a life insurance policy and a fire insurance policy with an insurance company approved by the committee, the cost of which shall be paid out of the Fund and debited in the borrower's account;
- Where a borrower defaults in the repayment of the loan for a period of three consecutive months, the advisory committee, shall reposes and sell the property to another deserving state officer;
- Where a borrower ceases to be a state officer before full loan repayment, the advisory committee may, in its discretion, allow the borrower to continue to repay the loan on the same terms as set out in the Regulations provided that when the borrower defaults in a period of four months the outstanding loan shall revert to prevailing commercial interest rate;
- Where the commercial rate is applicable, and the borrower is in default for a period of four months, the Fund may call in the loan and sell the charged property by public auction or public treaty;
- The Advisory Committee may approve the appointment of a tenant purchase institution or a mortgage finance company to administer the Fund;
- The Scheme may also enter into viable management partnership with a scheme from any other public body; and
- The Fund or, where applicable, the tenant purchase institution or mortgage finance company may charge an interest of not more than two per centum per annum of the value of the loan to cover its management costs.

4. PUBLIC PARTICIPATION

The Salaries and Remuneration Commission consulted the public before setting the remuneration and benefits for State Officers.

5. GUIDANCE

The National Treasury will guide the State Officers in the National Government on how to access the house mortgage facility.

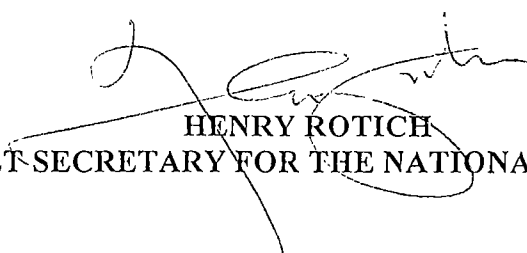
6. REVIEW OF THE REGULATIONS

The Advisory Committee may from time to time in consultation with the Salaries and Remuneration Commission recommend to the Cabinet Secretary any amendment to these Regulations.

7. NATIONAL TREASURY CONTACT PERSON.

The contact person at the National Treasury is the Cabinet Secretary, Mr. Henry Rotich or the Principal Secretary, Dr. Kamau Thugge, EBS.

Date.....*20th March*.....2015


HENRY ROTICH
CABINET SECRETARY FOR THE NATIONAL TREASURY

