

REPUBLIC OF KENYA



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Parliamentary Service Commission  
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P. O. Box 41842 -00100  
NAIROBI, Kenya

PARLIAMENT

CLERK OF THE SENATE/ SECRETARY TO THE PARLIAMENTARY SERVICE COMMISSION

OUR REF: DLC/ADM/1/12

21<sup>st</sup> September, 2020

Mr. Michael R. Sialai, EBS,  
Clerk of the National Assembly,  
Parliament Buildings,  
NAIROBI.

PARLIAMENT OF KENYA LIBRARY  
① DLSP  
to register and have them tabled.  
Sialai  
22/9/20

Dear Sir,

1. THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY MORTGAGE (MEMBERS) SCHEME FUND)(AMENDMENT) REGULATIONS, 2020;
2. THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY MORTGAGE (STAFF) SCHEME FUND)(AMENDMENT) REGULATIONS, 2020;
3. THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (MEMBERS) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020; AND
4. THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (STAFF) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.

Please find attached the above four (4) amendment Regulations forwarded for consideration for approval by the National Assembly in accordance with the provisions of the Statutory Instruments Act. Please also find attached the explanatory memorandum for each of the Regulations.

Yours truly,

J. M. NYEGENYE, CBS,  
CLERK OF THE SENATE/SECRETARY,  
PARLIAMENTARY SERVICE COMMISSION.

Encl.

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NATIONAL ASSEMBLY  
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**SPECIAL ISSUE**

2043

Kenya Gazette Supplement No. 165

16th September, 2020

(Legislative Supplement No. 105)

LEGAL NOTICE NO. 184

**THE PUBLIC FINANCE MANAGEMENT ACT**

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission makes the following Regulations—

**THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (MEMBERS) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020**

1. These Regulations may be cited as the Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) (Amendment) Regulations, 2020.

Citation.

2. Regulation 6 of the Parliamentary Car Loan (Members) Scheme Fund Regulations, 2013, in these Regulations referred to as “the principal Regulations” is amended by inserting the following new paragraph immediately after paragraph (5)—

(6) The Committee shall meet at least once every calendar month.

3. Regulation 11 of the principal Regulations is amended—

(a) by deleting the title “Interest rate” and inserting the title “Administrative Costs”.

Amendment of R. 6 of L.N of 19 of 2013

(b) by deleting the words “carry an interest” appearing immediately after the words “these regulations shall” and substituting therefor the words “be charged administrative costs at the” in paragraph (1).

(c) by deleting the word “interest” appearing immediately before the words “charged under” and substituting therefor the words “administrative costs” in paragraph (2).

Amendment of R.11 of L.N 19 of 2013

Dated the 11th September, 2020.

JUSTIN MUTURI,



*Speaker of the National Assembly/  
Chairperson, Parliamentary Service Commission.*

LEGAL NOTICE NO. 185

**THE PUBLIC FINANCE MANAGEMENT ACT**

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission makes the following Regulations—

 <b>THE NATIONAL ASSEMBLY</b> PAPERS LAID	
DATE: 24 SEP 2020	
DAY: THUR	
TABLED BY:	LEADER OF MAJORITY (HON. A. KIMUNYA)
CLERK AT THE TABLE:	



THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY  
MORTGAGE (MEMBERS) SCHEME FUND) (AMENDMENT)  
REGULATIONS, 2020

1. These Regulations may be cited as the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) (Amendment) Regulations, 2020. Citation.
2. Regulation 5(4) of the Parliamentary Mortgage (Members) Scheme Fund Regulations, 2013, in these Regulations referred to as “the principal Regulations”, is amended by deleting the word “interest” appearing immediately before the words “accruing to the fund” and substituting therefor the words “administrative costs”. Amendment of R. 5 of L.N 67 of 2013
3. The principal Regulations is amended at Regulation 5(4) by deleting the word “interest” wherever it appears and substituting therefor the words “administrative costs”. Amendment of R. 5 of L.N 67 of 2013
4. Regulation 6 of the principal Regulations is amended by inserting the following new sub-regulation immediately after sub-regulation (5)— Amendment of R.6 of L.N 67 of 2013
- (6) The Committee shall meet at least once every calendar month.
5. Regulation 14 of the principal Regulations is amended— Amendment of R.14 of L.N 67 of 2013.
- (a) by deleting the title “Interest on Loans” and inserting the title “Administrative Costs”.
- (b) In paragraph 1 by deleting the word “interest” appearing immediately before the word “chargeable on a loan” and substituting therefor the words “administrative costs”.
- (c) In paragraph 2 by deleting the words “interest” appearing immediately after the words “Fund may charge an” and substituting therefor the words “administrative cost”.
- (d) by deleting the word “interest” appearing immediately before the words “charged under” and substituting therefor the words “administrative cost” in paragraph 3.
6. Regulation 18 of the principal regulations is amended in paragraph 1 (b) by deleting the word “interest” appearing immediately after the words “utilize the” and substituting therefor the words “administrative costs”. Amendment of R. 18 of L.N 67 of 2013.

Dated the 11th September, 2020.

JUSTIN MUTURI,  
*Speaker of the National Assembly/  
Chairperson, Parliamentary Service Commission.*



LEGAL NOTICE NO. 186

## THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY  
CAR LOAN (STAFF) SCHEME FUND) (AMENDMENT)  
REGULATIONS, 2020

1. These Regulations may be cited as the Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) (Amendment) Regulations, 2020.

Citation.

2. Regulation 6 of the principal Regulations is amended by inserting the following new sub-regulation immediately after sub-regulation (4)—

Amendment of R.6 of L.N 68 of 2013

(5) The Committee shall meet at least once every calendar month.

Amendment of R.11 of L.N 68 of 2013

3. Regulation 11 of the principal Regulations is amended—

- (a) by deleting the title “Interest rate” and inserting the title “Administrative costs”.
- (b) by deleting the words “carry an interest” appearing immediately after the words “these regulations shall” and substituting therefor the words “be charged administrative costs at the” in paragraph (1).
- (c) by deleting the word “interest” appearing immediately before the words “charged under” and substituting therefor the words “administrative costs” in paragraph (2).

Dated the 11th September, 2020.

JUSTIN MUTURI,  
*Speaker of the National Assembly/  
Chairperson, Parliamentary Service Commission.*

LEGAL NOTICE NO. 187

## THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY  
MORTGAGE (STAFF) SCHEME FUND) (AMENDMENT)  
REGULATIONS, 2020

1. These Regulations may be cited as the Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) (Amendment) Regulations, 2018.

Citation.

- 2 Regulation 5(4) of the Parliamentary Mortgage (Staff) Scheme Fund Regulations, 2013, in these Regulations referred to as “the principal Regulations”, is amended by deleting the word “interest” appearing immediately before the words “accruing to the fund” and substituting therefor the words “administrative costs”
- 3 The principal Regulations is amended at Regulation 5(4) by deleting the word “interest” wherever it appears and substituting therefor the words “administrative costs”
- 4 Regulation 6 of the principal Regulations is amended by inserting the following new paragraph immediately after paragraph (5)—
- (6) The Committee shall meet at least once every calendar month
- 5 Regulation 13 of the principal Regulations is amended by deleting the word “fifteen years” appearing immediately after the word “within a period of” and substituting therefor the words “twenty-five years”
- 6 Regulation 14 of the principal Regulations is amended-
- (a) by deleting the title “interest on loans” and inserting the title “administrative costs”
- (b) In paragraph 1 by deleting the word “interest” appearing immediately before the words “chargeable on a loan” and substituting therefor the words “administrative costs”
- (c) In paragraph 2 by deleting the words “interest” appearing immediately after the words “Fund may charge an” and substituting therefor the words “administrative costs”
- (d) by deleting the word “interest” appearing immediately before the words “charged under” and substituting therefor the words “administrative costs” in paragraph 3
- 7 Regulation 15 of the principal Regulations is amended by deleting paragraph (5) and substituting therefor the following new sub-regulation—
- (5) No borrower shall be eligible for more than one loan at a time
8. Regulation 18 of the principal regulations is amended in paragraph 1 (b) by deleting the word “interest” appearing immediately after the words “utilize the” and substituting therefor the words “administrative costs”

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Amendment  
of R 6 of L N  
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R 13 of L N 18 of  
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Amendment of  
R 14 of L N 18 of  
2013

Amendment  
of R 15 of  
L N 18 of  
2013

Amendment of R  
18 of L N 18 of  
2013

Dated the 11th September, 2020

JUSTIN MUTURI,  
*Speaker of the National Assembly/  
Chairperson, Parliamentary Service Commission*

2. Regulation 5(4) of the Parliamentary Mortgage (Staff) Scheme Fund Regulations, 2013, in these Regulations referred to as “the principal Regulations”, is amended by deleting the word “interest” appearing immediately before the words “accruing to the fund” and substituting therefor the words “administrative costs”.  
Amendment of R. 5 of L.N 18 of 2013
3. The principal Regulations is amended at Regulation 5(4) by deleting the word “interest” wherever it appears and substituting therefor the words “administrative costs”.  
Amendment of R. 5 of L.N 18 of 2013
4. Regulation 6 of the principal Regulations is amended by inserting the following new paragraph immediately after paragraph (5)—  
Amendment of R.6 of L.N 18 of 2013
- (6) The Committee shall meet at least once every calendar month.
5. Regulation 13 of the principal Regulations is amended by deleting the word “fifteen years” appearing immediately after the word “within a period of” and substituting therefor the words “twenty-five years”.  
Amendment of R.13 of L.N 18 of 2013.
6. Regulation 14 of the principal Regulations is amended—  
Amendment of R.14 of L.N 18 of 2013.
- (a) by deleting the title “interest on loans” and inserting the title “administrative costs”.
- (b) In paragraph 1 by deleting the word “interest” appearing immediately before the words “chargeable on a loan” and substituting therefor the words “administrative costs”.
- (c) In paragraph 2 by deleting the words “interest” appearing immediately after the words “Fund may charge an” and substituting therefor the words “administrative costs”.
- (d) by deleting the word “interest” appearing immediately before the words “charged under” and substituting therefor the words “administrative costs” in paragraph 3.
7. Regulation 15 of the principal Regulations is amended by deleting paragraph (5) and substituting therefor the following new sub-regulation—  
Amendment of R.15 of L.N 18 of 2013.
- (5) No borrower shall be eligible for more than one loan at a time.
8. Regulation 18 of the principal regulations is amended in paragraph 1 (b) by deleting the word “interest” appearing immediately after the words “utilize the” and substituting therefor the words “administrative costs”.  
Amendment of R. 18 of L.N 18 of 2013

Dated the 11th September, 2020.

JUSTIN MUTURI,  
*Speaker of the National Assembly/  
Chairperson, Parliamentary Service Commission.*



## **EXPLANATORY MEMORANDUM**

### **EXPLANATORY MEMORANDUM TO THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (MEMBERS) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.**

#### **PART 1**

**NAME OF THE STATUTORY INSTRUMENT:** THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (MEMBERS) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.

**NAME OF THE PARENT ACT:** THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**ENACTED PURSUANT TO:** SECTION 24 OF THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**NAME OF MINISTRY/DEPARTMENT:** PARLIAMENTARY SERVICE COMMISSION

**GAZETTED ON:** 16<sup>TH</sup> SEPTEMBER 2020

**TABLED ON:**

#### **PART 2**

##### **PURPOSE OF THE STATUTORY INSTRUMENT.**

To amend the Regulations so as to allow Members of the Scheme who profess the Islamic faith to benefit from the facility without fear of infringing their religious believes; and to encourage the loan management committee to meet more often to approve loan applications.

##### **LEGISLATIVE CONTEXT**

Pursuant to section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission (“the Commission”) may with the approval of the National Assembly, establish a Fund for the purpose of Parliament or a House of Parliament. The Commission re-established the Parliamentary Car Loan Scheme Fund for Members of Parliament. The fund had previously been established by the Minister for Finance under the Government Financial Management Act (now repealed). The Fund has been established for purposes for availing loan facilities to Members of Parliament to enable them purchase a motor vehicle. Once a Member obtains a loan from the scheme, he or she is required to repay the same fully before the end of his or her term of parliament.

The Parliamentary Service Commission re-established The Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) Regulations, 2013 to establish procedures and systems for proper and effective utilization, security and management of the Fund among other things. The Regulations have been amended from time to time.

The Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) (Amendment) Regulations, 2020 hereinafter referred to as “the instrument” seeks to amend The Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) Regulations, 2013 so as to improve the same. The amendments shall ensure that the regulations allow more Members of Parliament, particularly Muslim Members of Parliament, benefit from the Scheme.

The amendments also seek to ensure that loan applications are considered and approved on time so that an applicant meets contractual obligations. This objective shall be realized when the meetings of the Loans Management Committee are regular and consistent.

## **POLICY BACKGROUND**

The Parliamentary Service Commission may enact Regulations for the utilization and management of the Parliamentary Car Loan Fund;

Section 24 (3) of the Public Finance Management Act, 2012 provides as follows;

“Notwithstanding any other provisions of this Act, where a Fund is established under this Act or any other law for the purposes of Parliament or a House of Parliament, the Parliamentary Service Commission shall—

- (a) establish procedures and systems for proper and effective management of the monies and property of the Fund;
- (b) establish accounting procedures and systems for the Commission to properly account for the monies and property;
- (c) superintend the expenditure of the monies of the Fund to ensure that the monies are properly accounted for;
- (d) prepare and submit accounts for each financial year in accordance with the written law for the time being relating to audit for audit by the Auditor-General; and
- (e) ensure that accounts prepared under paragraph (d) comply with the provisions of this Act.”



The Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) Regulations, 2013 ensures compliance with Section 24 of the Public Finance Management Act, 2012. It establishes procedures and systems for the proper utilization, security and management of the Fund.

The Instrument shall amend The Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) Regulations, 2013 as follows;

- 1) Regulation 6 of the Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) Regulations, 2013 is amended by introducing a new clause which provides

“The Committee shall meet at least once a month.”

The amendment is geared at ensuring that the Loan Management Committee meets regularly and consistently.

- 2) Regulation 11 is amended by deleting the title “interest rate” and replacing the same with the title “Administrative Cost”

It is further amended by deleting the words “carry an interest” and substituting with “charged an administrative cost” in paragraph 1

It is also amended by deleting the word “interest” and substituting with the words “administrative cost” in paragraph 2.

This amendment is made to encourage Muslim Members of Parliament benefit from the Fund without fear of infringing their religious believes. In Islam, Muslims are prohibited from paying and/or consuming interest.

### **Consolidation.**

The instrument shall at all times be construed together with the Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) Regulations, 2013.

### **CONSULTATION OUTCOME.**

The Parliamentary Service Commission received representations from both Members and staff of Parliament that loan approvals sometimes take a bit too long to process thereby interfering with the contractual provisions that they have with the sellers of motor vehicles. They requested for administrative measures to be put in place to ensure faster loan consideration and approval.

The Parliamentary Service Commission further received representations from both Members and staff of Parliament who profess the Islamic faith that the Regulations as currently gazetted prohibit them from benefiting from the loan facility on account of the requirement for payment of interest. They therefore requested that the Regulations be amended to make them Islamic friendly. They cited the following amendments to the law that have been passed to make banking in the country Islamic friendly:



## **AMENDMENTS ON ISLAMIC BANKING; INTRODUCED THROUGH THE FINANCE ACT, 2017**

### **VALUE ADDED TAX**

7. Section 2 of the Value Added Tax Act, 2013, is amended—

- a) in subsection (1) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has the meaning assigned to it in section 2 of the Income Tax Act;

"*Sukuk*" has the meaning assigned to it in section 2 of the Public Finance Management Act, 2012;

- b) by inserting the following new subsection immediately after subsection (2)-

"(3) For the purposes of this Act—

(a) Islamic finance return is treated as interest, whether received or paid on a financial arrangement; and

(b) reference to "interest" includes a reference to Islamic finance return."

### **INCOME TAX**

Section 2 of the Income Tax Act is amended—

- (a) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" means all financial arrangements, including transactions, instruments, products or related activities that are structured in accordance with Islamic law;

"Islamic finance return" means any amount received or paid in relation to *Sukuk* or an Islamic finance arrangement;

"*Sukuk*" has the meaning assigned to it in the Public Finance Management Act, 2012;

- (b) By adding the words "or an Islamic finance return" at the end of the definition of the word "interest".

## STAMP DUTY ACT

Section 2 of the Stamp Duty Act is amended by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has a meaning assigned to it in section 2 of the Income Tax Act;

"Islamic property finance" means property or land leased or sold to a financial institution and then leased or resold to a person for a return in accordance with Islamic law;

"Sukuk" has the meaning assigned to it in section 2 of the Public Finance Act, 2012.

Section 5 of the Stamp Duty Act is amended in the proviso, by inserting the words "or an Islamic property finance arrangement" immediately after the word "mortgage".

Section 27 of the Stamp Duty Act is amended by inserting the words "or Islamic finance return" immediately after the word "interest" wherever it appears.

The Stamp Duty Act is amended by inserting a new section immediately after section 68 as follows—

**68A.** In any mortgage under which—

(a) A financial institution provides an Islamic finance arrangement that enables a person to own property or land; and

(b) Where the title or interest in the property or land is first transferred to the financial institution from the vendor and afterwards to that person,

41. The Stamp Duty Act is amended by inserting the following new section immediately after section 96A—

**96B.** (1) A *Sukuk* arrangement shall be exempt from stamp duty where the arrangement requires the transfer of title in an asset if—

(a) At the beginning of the arrangement, the title shall be transferred from the original owner of the asset to the entity representing the interests of the *Sukuk* holders; and

(b) During or at the end of the arrangement, the title shall be transferred back to the original owner of the asset from the entity representing the interests of the *Sukuk* holders.

## **PUBLIC FINANCE MANAGEMENT ACT**

47. Section 2 of the Public Finance Management Act, of 2012 2012, is amended—

(a) In the definition of "national government security" by inserting the word "*Sukuk*" immediately after the words "Treasury Bond"

(b) By inserting the following new definitions in proper alphabetical sequence-  
"*Sukuk*" means certificates of equal value, representing undivided shares in ownership of tangible or intangible assets, usufruct of assets; services or an investment activity, structured in conformity with Islamic law;

(c) By inserting the following new subsection immediately after subsection (2)-

(3) For the purposes of this Act, the reference to the term 'interest' in relation to a national government security shall also apply to reference to Islamic finance return on *Sukuk*. *islamic finance return*" has the same meaning assigned to it under section 2 of the Income Tax Act;

Section 205 of the Public Finance Management Act, 2012, is amended by inserting the following new subsections immediately after subsection (3)—

(3A) despite the generality in subsection (1), the Cabinet Secretary may make regulations for raising money by issuing a *Sakuk* bond which shall specify the purpose for which money may be raised.

(3B). Money raised through *Sakuk* bond may be raised within or outside Kenya in Kenya Shillings or in any other currency or medium of exchange.

## **SACCO SOCIETIES ACT, 2008**

Section 2 of the Sacco Societies Act, 2008, is amended—

a) in the definition of the word "deposit", by inserting the words "a return" immediately after the word "interest";



b) In the definition of the expression "deposit taking business", by deleting the words "to members" appearing at the end of paragraph (b) and substituting therefor the words "or funding or in compliance with the Islamic law";

c) In the definition of the expression "sacco business", by inserting-

(i) The words "or in compliance with Islamic law" immediately after the words "in accordance with this Act,"

The Members and staff of Parliament who profess the Islamic faith therefore submitted that there is a general policy in the country to make banking and other related facilities Islamic friendly. They further stated that by making the facilities Islamic friendly, they would not affect the rights or faith of other Members and staff of Parliament in any way.

The instrument was prior to publication presented and deliberated upon by the Board of Senior Management of the Parliamentary Service Commission. The Board recommended to allow setting up of a separate Fund for Members and Staff of Parliament who are Muslims to ensure complete segregation of funds and prohibit payment of interest.

The Board recommended that the meetings of the Loans Management Committee should be held at least once every month.

The recommendations of the Board were presented and deliberated upon before the Committee on Members Welfare and the Loans Management Committee of the Parliamentary Service Commission. Both Committees and the Commission resolved that it was sufficient to amend all the sections of the regulations that provide for interest by removing the term "interest" and substituting the same with the term "administrative costs".

It was further noted that the term "administrative costs" was actually more accurate than interest as the fund was a revolving fund with no profit payable to any person. The 3% charged on all loans goes to pay administrative expenses such as valuers and auctioneer charges. All surplus is used to increase the fund. No money is paid out as "profit".

The Committees and the Commission also approved that the Loans Management Committee should be held once every month to consider loan applications.

#### **GUIDANCE.**

The instrument amends the Public Finance Management (Parliamentary Car Loan (Members) Scheme Fund) Regulations, 2013, to the effect that person who benefit from the Fund shall be required to be paying administrative costs in place of interest. The rate and modalities of payment remain the same.

The Secretariat of Loan Management Committee shall organize meetings of the Committee that shall be held at least once a month to consider applications for loans.

**IMPACT**

No impact assessment has been prepared. The instrument applies exclusively to Members and Staff of Parliament.

**MONITORING AND REVIEWING.**

The Parliamentary Service Commission shall review the outcome of the implementation of the instrument after 24 months. The review shall entail the following

Whether or not the regulations have encouraged Muslim Members and staff of Parliament to benefits from the Fund after removal of the term “interest” and replacing the same with the term “administrative cost” from the regulations.

Whether or not applications for loans are being considered and approved on time.

**CONTACT.**

ANTHONY NJOROGI,

0722755551,

DIRECTOR, LITIGATION AND COMPLIANCE,

**PARLIAMENTARY SERVICE COMMISSION.**

## **EXPLANATORY MEMORANDUM**

### **EXPLANATORY MEMORANDUM TO THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY MORTGAGE (MEMBERS) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.**

#### **PART 1**

**NAME OF THE STATUTORY INSTRUMENT:** THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY MORTGAGE (MEMBERS) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.

**NAME OF THE PARENT ACT:** THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**ENACTED PURSUANT TO:** SECTION 24 OF THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**NAME OF MINISTRY/DEPARTMENT:** PARLIAMENTARY SERVICE COMMISSION

**GAZETTED ON:** 16<sup>TH</sup> SEPTEMBER 2020

**TABLED ON:**

#### **PART 2**

##### **PURPOSE OF THE STATUTORY INSTRUMENT.**

To amend the Regulations so as to allow Members of the Scheme who profess the Islamic faith to benefit from the facility without fear of infringing their religious believes; and to encourage the loan management committee to meet more often to approve loan applications.

##### **LEGISLATIVE CONTEXT**

Pursuant to section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission ("the Commission") may with the approval of the National Assembly. Establish a Fund for the purpose of Parliament or a House of Parliament. The Commission re-established the Parliamentary Mortgage Scheme Fund for Members of Parliament. The Fund had previously been established by the Minister for Finance under the Government Financial Management Act (now repealed). The Fund has been established for purposes of availing loan facilities to Members of Parliament to purchase residential houses for their immediate family. Once a Members obtains a loan from the scheme, he or she is required to repay the same fully before the end of his or her term of parliament.



The Parliamentary Service Commission enacted The Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 to establish procedures and systems for proper and effective utilization, security and management of the Fund among other things. The Regulations have been amended from time to time.

The Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) (Amendment) Regulations, 2020 hereinafter referred to as “the instrument” seeks to amend The Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 so as to improve the same. The amendments shall ensure that the regulations allow more Members of Parliament, particularly Muslim Members of Parliament, benefit from the Scheme.

The amendments also seek to ensure that loan applications are approved on time so that an applicant meets contractual obligations. This shall be realized when the meetings of the Loans Management Committee are regular and consistent.

## **POLICY BACKGROUND**

The Parliamentary Service Commission may enact Regulations for the utilization and management of the Parliamentary Mortgage Fund;

Section 24 (3) of the Public Finance Management Act, 2012 provides as follows;

“Notwithstanding any other provisions of this Act, where a Fund is established under this Act or any other law for the purposes of Parliament or a House of Parliament, the Parliamentary Service Commission shall—

- (a) establish procedures and systems for proper and effective management of the monies and property of the Fund;
- (b) establish accounting procedures and systems for the Commission to properly account for the monies and property;
- (c) superintend the expenditure of the monies of the Fund to ensure that the monies are properly accounted for;
- (d) prepare and submit accounts for each financial year in accordance with the written law for the time being relating to audit for audit by the Auditor-General; and
- (e) ensure that accounts prepared under paragraph (d) comply with the provisions of this Act.”

The Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 ensures compliance with Section 24 of the Public Finance Management Act, 2012. It establishes procedures and systems for the proper utilization, security and management of the Fund.

The Instrument shall amend The Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 as follows;

- 1) Regulation 6 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by introducing a new clause which provides  
“The Committee shall meet at least once every calendar month.”  
The amendment is geared at ensuring that the Loan Management Committee meets regularly and consistently.
- 2) Regulation 5 (4) of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting the word “interest” therein and replacing the same with the words “administrative costs”.
- 3) Regulation 14 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting the title “interest rate” and replacing the same with the title “Administrative Cost”  
It is further amended by deleting the words “interest” and substituting with the words “administrative cost” in paragraph 1, 2 and 3.
- 4) Regulation 18 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting the title “interest rate” and replacing the same with the title “Administrative Cost”

This amendment is made to encourage Muslim Members of Parliament benefit from the Fund without fear of infringing their religious believes. In Islam, Muslims are prohibited from paying and/or consuming interest.

#### **Consolidation.**

The instrument shall at all times be construed together with the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013.

#### **CONSULTATION OUTCOME.**

The Parliamentary Service Commission received representations from both Members and staff of Parliament that loan approvals sometimes take a bit too long to process thereby interfering with the contractual provisions that they have with the sellers of motor vehicles. They requested for administrative measures to be put in place to ensure faster loan consideration and approval.



The Parliamentary Service Commission further received representations from both Members and staff of Parliament who profess the Islamic faith that the Regulations as currently gazetted prohibit them from benefiting from the loan facility on account of the requirement for payment of interest. They therefore requested that the Regulations be amended to make them Islamic friendly. They cited the following amendments to the law that have been passed to make banking in the country Islamic friendly:

## **AMENDMENTS ON ISLAMIC BANKING; INTRODUCED THROUGH THE FINANCE ACT, 2017**

### **VALUE ADDED TAX**

7. Section 2 of the Value Added Tax Act, 2013, is amended—

- a) in subsection (1) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has the meaning assigned to it in section 2 of the Income Tax Act;

"*Sukuk*" has the meaning assigned to it in section 2 of the Public Finance Management Act, 2012;

- b) by inserting the following new subsection immediately after subsection (2)-

"(3) For the purposes of this Act—

(a) Islamic finance return is treated as interest, whether received or paid on a financial arrangement; and

(b) reference to "interest" includes a reference to Islamic finance return."

### **INCOME TAX**

Section 2 of the Income Tax Act is amended—

- (a) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" means all financial arrangements, including transactions, instruments, products or related activities that are structured in accordance with Islamic law;



"Islamic finance return" means any amount received or paid in relation to *Sukuk* or an Islamic finance arrangement;

"*Sukuk*" has the meaning assigned to it in the Public Finance Management Act, 2012;

- (b) By adding the words "or an Islamic finance return" at the end of the definition of the word "interest".

## **STAMP DUTY ACT**

Section 2 of the Stamp Duty Act is amended by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has a meaning assigned to it in section 2 of the Income Tax Act;

"Islamic property finance" means property or land leased or sold to a financial institution and then leased or resold to a person for a return in accordance with Islamic law;

"*Sukuk*" has the meaning assigned to it in section 2 of the Public Finance Act, 2012.

Section 5 of the Stamp Duty Act is amended in the proviso, by inserting the words "or an Islamic property finance arrangement" immediately after the word "mortgage".

Section 27 of the Stamp Duty Act is amended by inserting the words "or Islamic finance return" immediately after the word "interest" wherever it appears.

The Stamp Duty Act is amended by inserting a new section immediately after section 68 as follows—

**68A.** In any mortgage under which—

- (a) A financial institution provides an Islamic finance arrangement that enables a person to own property or land; and
- (b) Where the title or interest in the property or land is first transferred to the financial institution from the vendor and afterwards to that person,

41. The Stamp Duty Act is amended by inserting the following new section immediately after section 96A—

**96B.** (1) A *Sukuk* arrangement shall be exempt from stamp duty where the arrangement requires the transfer of title in an asset if—

(a) At the beginning of the arrangement, the title shall be transferred from the original owner of the asset to the entity representing the interests of the *Sukuk* holders; and

(b) During or at the end of the arrangement, the title shall be transferred back to the original owner of the asset from the entity representing the interests of the *Sukuk* holders.

## **PUBLIC FINANCE MANAGEMENT ACT**

47. Section 2 of the Public Finance Management Act, of 2012 2012, is amended—

(a) In the definition of "national government security" by inserting the word "*Sukuk*" immediately after the words "Treasury Bond"

(b) By inserting the following new definitions in proper alphabetical sequence-

"*Sukuk*" means certificates of equal value, representing undivided shares in ownership of tangible or intangible assets, usufruct of assets; services or an investment activity, structured in conformity with Islamic law;

(c) By inserting the following new subsection immediately after subsection (2)-

(3) For the purposes of this Act, the reference to the term 'interest' in relation to a national government security shall also apply to reference to Islamic finance return on *Sukuk*. Islamic finance return" has the same meaning assigned to it under section 2 of the Income Tax Act;

Section 205 of the Public Finance Management Act, 2012, is amended by inserting the following new subsections immediately after subsection (3)—

(3A) despite the generality in subsection (1), the Cabinet Secretary may make regulations for raising money by issuing a *Sakuk* bond which shall specify the purpose for which money may be raised.

(3B). Money raised through *Sakuk* bond may be raised within or outside Kenya in Kenya Shillings or in any other currency or medium of exchange.



## **SACCO SOCIETIES ACT, 2008**

Section 2 of the Sacco Societies Act, 2008, is amended—

- a) in the definition of the word "deposit", by inserting the words "a return" immediately after the word "interest";
- b) In the definition of the expression "deposit taking business", by deleting the words "to members" appearing at the end of paragraph (b) and substituting therefor the words "or funding or in compliance with the Islamic law";
- c) In the definition of the expression "sacco business", by inserting-
  - (i) The words "or in compliance with Islamic law" immediately after the words "in accordance with this Act,"

The Members and staff of Parliament who profess the Islamic faith therefore submitted that there is a general policy in the country to make banking and other related facilities Islamic friendly. They further stated that by making the facilities Islamic friendly, they would not affect the rights or faith of other Members and staff of Parliament in any way.

The instrument was prior to publication presented and deliberated upon by the Board of Senior Management of the Parliamentary Service Commission. The Board recommended to allow setting up of a separate Fund for Members and Staff of Parliament who are Muslims to ensure complete segregation of funds and prohibit payment of interest.

The Board recommended that the meetings of the Loans Management Committee should be held at least once every month.

The recommendations of the Board were presented and deliberated upon before the Committee on Members Welfare and the Loans Management Committee of the Parliamentary Service Commission. Both Committees and the Commission resolved that it was sufficient to amend all the sections of the regulations that provide for interest by removing the term "interest" and substituting the same with the term "administrative costs".

It was further noted that the term "administrative costs" was actually more accurate than interest as the fund was a revolving fund with no profit payable to any person. The 3% charged on all loans goes to pay administrative expenses such as valuers and auctioneer charges. All surplus is used to increase the fund. No money is paid out as "profit".

The Committees and the Commission also approved that the Loans Management Committee should be held once every month to consider loan applications.

### **GUIDANCE.**



The instrument amends the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013, to the effect that person who benefits from the Fund shall be required to be paying administrative costs in place of interest. The rate and modalities of payment remain the same.

The Secretariat of Loan Management Committee shall organize meetings of the Committee that shall be held at least once a month to consider applications for loans.

**IMPACT**

No impact assessment has been prepared. The instrument applies exclusively to Members of Parliament.

**MONITORING AND REVIEWING.**

The Parliamentary Service Commission shall review the outcome of the implementation of the instrument after 24 months. The review shall entail the following

Whether or not the regulations have encouraged Muslim Members of Parliament to benefits from the Fund after removal of the term “interest” and replacing the same with the term “administrative cost” from the regulations.

Whether or not applications for loans are being considered and approved on time.

**CONTACT.**

ANTHONY NJOROGE,

0722755551,

DIRECTOR, LITIGATION AND COMPLIANCE,

**PARLIAMENTARY SERVICE COMMISSION.**

## **EXPLANATORY MEMORANDUM**

### **EXPLANATORY MEMORANDUM TO THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (STAFF) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.**

#### **PART 1**

**NAME OF THE STATUTORY INSTRUMENT:** THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (STAFF) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.

**NAME OF THE PARENT ACT:** THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**ENACTED PURSUANT TO:** SECTION 24 OF THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**NAME OF MINISTRY/DEPARTMENT:** PARLIAMENTARY SERVICE COMMISSION

**GAZETTED ON:** 16<sup>TH</sup> SEPTEMBER 2020

**TABLED ON:**

#### **PART 2**

##### **PURPOSE OF THE STATUTORY INSTRUMENT.**

To amend the Regulations so as to allow Staff of the Scheme who profess the Islamic faith to benefit from the facility without fear of infringing their religious believes; and to encourage the loan management committee to meet more often to approve loan applications.

##### **LEGISLATIVE CONTEXT**

Pursuant to section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission (“the Commission”) may with the approval of the National Assembly, establish a Fund for purposes of Parliament or a House of Parliament. The Commission may also enact regulations for the proper management of a Fund. The Commission had re-established the Parliamentary Car Loan Scheme Fund for Staff of Parliament. The Fund had previously been established by the Minister for Finance under the Government Financial Management Act (now repealed). The fund was established for purposes of availing loan facilities to Staff of Parliament to purchase motor vehicles. Once a Staff of Parliament obtains a loan from the scheme, he or she is required to repay the same fully within five (5) years or sixty (60) months.

The Parliamentary Service Commission re-established The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 to establish procedures and systems for proper and effective utilization, security and management of the Fund among other things. The Regulations have been amended from time to time.

The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) (Amendment) Regulations, 2020 hereinafter referred to as “the instrument” seeks to amend The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 so as to improve the same. The amendments shall ensure that the regulations allow more Staff of Parliament, particularly Muslim Staff of Parliament, benefit from the Scheme.

The amendments also seek to ensure that loan applications are approved on time so that an applicant meets contractual obligations. This shall be realized when the meetings of the Loans Management Committee are regular and consistent.

## **POLICY BACKGROUND**

The Parliamentary Service Commission may enact Regulations for the utilization and management of the Parliamentary Car Loan Fund.

Section 24 (3) of the Public Finance Management Act, 2012 provides as follows;

“Notwithstanding any other provisions of this Act, where a Fund is established under this Act or any other law for the purposes of Parliament or a House of Parliament, the Parliamentary Service Commission shall—

- (a) establish procedures and systems for proper and effective management of the monies and property of the Fund;
- (b) establish accounting procedures and systems for the Commission to properly account for the monies and property;
- (c) superintend the expenditure of the monies of the Fund to ensure that the monies are properly accounted for;
- (d) prepare and submit accounts for each financial year in accordance with the written law for the time being relating to audit for audit by the Auditor-General; and
- (e) ensure that accounts prepared under paragraph (d) comply with the provisions of this Act.”



The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 ensures compliance with Section 24 of the Public Finance Management Act, 2012. It establishes procedures and systems for the proper utilization, security and management of the Fund.

The Instrument shall amend The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 as follows;

- 1) Regulation 6 of the Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 is amended by introducing a new clause which provides

“The Committee shall meet at least once a month.”

The amendment is geared at ensuring that the Loan Management Committee meets regularly and consistently.

- 2) Regulation 11 is amended by deleting the title “interest rate” and replacing the same with the title “Administrative Cost”

It is further amended by deleting the words “carry an interest” and substituting with “charged an administrative cost” in paragraph 1

It is also amended by deleting the word “interest” and substituting with the words “administrative cost” in paragraph 2.

This amendment is made to encourage Muslim Members of Parliament benefit from the Fund without fear of infringing their religious believes. In Islam, Muslims are prohibited from paying and/or consuming interest.

### **Consolidation.**

The instrument shall at all times be construed together with the Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013.

### **CONSULTATION OUTCOME.**

The Parliamentary Service Commission received representations from both Members and staff of Parliament that loan approvals sometimes take a bit too long to process thereby interfering with the contractual provisions that they have with the sellers of motor vehicles. They requested for administrative measures to be put in place to ensure faster loan consideration and approval.

The Parliamentary Service Commission further received representations from both Members and staff of Parliament who profess the Islamic faith that the Regulations as currently gazetted prohibit them from benefiting from the loan facility on account of the requirement for payment of interest. They therefore requested that the Regulations be amended to make them Islamic friendly. They cited the following amendments to the law that have been passed to make banking in the country Islamic friendly:

**AMENDMENTS ON ISLAMIC BANKING; INTRODUCED THROUGH THE  
FINANCE ACT, 2017**

**VALUE ADDED TAX**

7. Section 2 of the Value Added Tax Act, 2013, is amended—

- a) in subsection (1) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has the meaning assigned to it in section 2 of the Income Tax Act;

"*Sukuk*" has the meaning assigned to it in section 2 of the Public Finance Management Act, 2012;

- b) by inserting the following new subsection immediately after subsection (2)-

"(3) For the purposes of this Act—

(a) Islamic finance return is treated as interest, whether received or paid on a financial arrangement; and

(b) reference to "interest" includes a reference to Islamic finance return."

**INCOME TAX**

Section 2 of the Income Tax Act is amended—

- (a) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" means all financial arrangements, including transactions, instruments, products or related activities that are structured in accordance with Islamic law;

"Islamic finance return" means any amount received or paid in relation to *Sukuk* or an Islamic finance arrangement;

"*Sukuk*" has the meaning assigned to it in the Public Finance Management Act, 2012;

- (b) By adding the words "or an Islamic finance return" at the end of the definition of the word "interest".



## STAMP DUTY ACT

Section 2 of the Stamp Duty Act is amended by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has a meaning assigned to it in section 2 of the Income Tax Act;

"Islamic property finance" means property or land leased or sold to a financial institution and then leased or resold to a person for a return in accordance with Islamic law;

"Sukuk" has the meaning assigned to it in section 2 of the Public Finance Act, 2012.

Section 5 of the Stamp Duty Act is amended in the proviso, by inserting the words "or an Islamic property finance arrangement" immediately after the word "mortgage".

Section 27 of the Stamp Duty Act is amended by inserting the words "or Islamic finance return" immediately after the word "interest" wherever it appears.

The Stamp Duty Act is amended by inserting a new section immediately after section 68 as follows—

**68A.** In any mortgage under which—

(a) A financial institution provides an Islamic finance arrangement that enables a person to own property or land; and

(b) Where the title or interest in the property or land is first transferred to the financial institution from the vendor and afterwards to that person,

41. The Stamp Duty Act is amended by inserting the following new section immediately after section 96A—

**96B.** (1) A *Sukuk* arrangement shall be exempt from stamp duty where the arrangement requires the transfer of title in an asset if—

(a) At the beginning of the arrangement, the title shall be transferred from the original owner of the asset to the entity representing the interests of the *Sukuk* holders; and



(b) During or at the end of the arrangement, the title shall be transferred back to the original owner of the asset from the entity representing the interests of the *Sukuk* holders.

## **PUBLIC FINANCE MANAGEMENT ACT**

47. Section 2 of the Public Finance Management Act, of 2012 2012, is amended—

(a) In the definition of "national government security" by inserting the word "*Sukuk*" immediately after the words "Treasury Bond"

(b) By inserting the following new definitions in proper alphabetical sequence—  
"*Sukuk*" means certificates of equal value, representing undivided shares in ownership of tangible or intangible assets, usufruct of assets; services or an investment activity, structured in conformity with Islamic law;

(c) By inserting the following new subsection immediately after subsection (2)—

(3) For the purposes of this Act, the reference to the term 'interest' in relation to a national government security shall also apply to reference to Islamic finance return on *Sukuk*. Islamic finance return" has the same meaning assigned to it under section 2 of the Income Tax Act;

Section 205 of the Public Finance Management Act, 2012, is amended by inserting the following new subsections immediately after subsection (3)—

(3A) despite the generality in subsection (1), the Cabinet Secretary may make regulations for raising money by issuing a *Sakuk* bond which shall specify the purpose for which money may be raised.

(3B). Money raised through *Sakuk* bond may be raised within or outside Kenya in Kenya Shillings or in any other currency or medium of exchange.

## **SACCO SOCIETIES ACT, 2008**

Section 2 of the Sacco Societies Act, 2008, is amended—

a) in the definition of the word "deposit", by inserting the words "a return" immediately after the word "interest";

b) In the definition of the expression "deposit taking business", by deleting the words "to members" appearing at the end of paragraph (b) and substituting therefor the words "or funding or in compliance with the Islamic law";

c) In the definition of the expression "sacco business", by inserting-

(i) The words "or in compliance with Islamic law" immediately after the words "in accordance with this Act,"

The Members and staff of Parliament who profess the Islamic faith therefore submitted that there is a general policy in the country to make banking and other related facilities Islamic friendly. They further stated that by making the facilities Islamic friendly, they would not affect the rights or faith of other Members and staff of Parliament in any way.

The instrument was prior to publication presented and deliberated upon by the Board of Senior Management of the Parliamentary Service Commission. The Board recommended to allow setting up of a separate Fund for Members and Staff of Parliament who are Muslims to ensure complete segregation of funds and prohibit payment of interest.

The Board recommended that the meetings of the Loans Management Committee should be held at least once every month.

The recommendations of the Board were presented and deliberated upon before the Committee on Members Welfare and the Loans Management Committee of the Parliamentary Service Commission. Both Committees and the Commission resolved that it was sufficient to amend all the sections of the regulations that provide for interest by removing the term "interest" and substituting the same with the term "administrative costs".

It was further noted that the term "administrative costs" was actually more accurate than interest as the fund was a revolving fund with no profit payable to any person. The 3% charged on all loans goes to pay administrative expenses such as valuers and auctioneer charges. All surplus is used to increase the fund. No money is paid out as "profit".

The Committees and the Commission also approved that the Loans Management Committee should be held once every month to consider loan applications.

#### **GUIDANCE.**

The instrument amends the Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013, to the effect that person who benefit from the Fund shall be required to be paying administrative costs in place of interest. The rate and modalities of payment remain the same.

The Secretariat of Loan Management Committee shall organize meetings of the Committee that shall be held at least once a month to consider applications for loans.

**IMPACT**

No impact assessment has been prepared. The instrument applies exclusively to Staff of Parliament.

**MONITORING AND REVIEWING.**

The Parliamentary Service Commission shall review the outcome of the implementation of the instrument after 24 months. The review shall entail the following

Whether or not the regulations have encouraged Muslim staff of Parliament to benefits from the Fund after removal of the term “interest” and replacing the same with the term “administrative cost” from the regulations.

Whether or not applications for loans are being considered and approved on time.

**CONTACT.**

ANTHONY NJORGE,

0722755551,

DIRECTOR, LITIGATION AND COMPLIANCE,

**PARLIAMENTARY SERVICE COMMISSION.**



## **EXPLANATORY MEMORANDUM**

**EXPLANATORY MEMORANDUM TO THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY MORTGAGE (STAFF) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.**

### **PART 1**

**NAME OF THE STATUTORY INSTRUMENT:** THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY MORTGAGE (STAFF) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.

**NAME OF THE PARENT ACT:** THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**ENACTED PURSUANT TO:** SECTION 24 OF THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**NAME OF MINISTRY/DEPARTMENT:** PARLIAMENTARY SERVICE COMMISSION

**GAZETTED ON:** 16<sup>TH</sup> SEPTEMBER 2020

**TABLED ON:**

### **PART 2**

#### **PURPOSE OF THE STATUTORY INSTRUMENT.**

To amend the Regulations so as to allow Members of Staff of Parliament who profess the Islamic faith to benefit from the facility without fear of infringing their religious beliefs; to encourage the loan management committee to meet more often to approve loan applications; and to modify incentives to the Members of Staff.

#### **LEGISLATIVE CONTEXT.**

Pursuant to section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission ("the Commission") may with the approval of the National Assembly establish a Fund for the purpose of Parliament or a House of Parliament. The Commission re-established the Parliamentary Mortgage Scheme Fund for Staff of Parliament. The Fund had previously been established by the Minister for Finance under the Government Financial Management Act. The Fund has been established for purposes of availing loan facilities to Members of Staff of Parliament to purchase residential houses for their immediate family. Once a Staff obtains a loan from the scheme, he or she is required to repay the same during his or her employment.

The Parliamentary Service Commission enacted The Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) Regulations, 2013 to establish procedures and systems for proper and effective utilization, security and management of the Fund among other things. The Regulations have been amended from time to time.

The Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) (Amendment) Regulations, 2020 hereinafter referred to as “the instrument” seeks to amend The Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) Regulations, 2013 so as to improve the same. The amendments shall ensure that the regulations allow more Members of Staff of Parliament, particularly Muslim Staff of Parliament, benefit from the Scheme.

The amendments also seek to ensure that loan applications are approved on time so that an applicant meets contractual obligations. This shall be realized when the meetings of the Loans Management Committee are regular and consistent.

The amendments also seek to enhance the benefits to be accessed by Staff of Parliament. Under the current regulations, Staff are eligible to one loan at a time and a total of two loans from the Fund.

To motivate Staff of Parliament and to make the Parliamentary Service Commission a more competitive employer, staff should be able to access more loans for as long as they have the capacity to repay the same and still take home at least one third of their basic salary.

## **POLICY BACKGROUND.**

The Parliamentary Service Commission may enact Regulations for the utilization and management of the Parliamentary Mortgage Fund

Section 24 (3) of the Public Finance Management Act, 2012 provides as follows;

“Notwithstanding any other provisions of this Act, where a Fund is established under this Act or any other law for the purposes of Parliament or a House of Parliament, the Parliamentary Service Commission shall—

- (a) establish procedures and systems for proper and effective management of the monies and property of the Fund;
- (b) establish accounting procedures and systems for the Commission to properly account for the monies and property;



(c)superintend the expenditure of the monies of the Fund to ensure that the monies are properly accounted for;

(d)prepare and submit accounts for each financial year in accordance with the written law for the time being relating to audit for audit by the Auditor-General; and

(e)ensure that accounts prepared under paragraph (d) comply with the provisions of this Act.”

The Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) Regulations, 2013 ensures compliance with Section 24 of the Public Finance Management Act, 2012. It establishes procedures and systems for the proper utilization, security and management of the Fund.

The Instrument shall amend The Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) Regulations, 2013 as follows;

- 1) Regulation 6 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by introducing a new clause which provides  
“The Committee shall meet at least once every calendar month.”

The amendment is geared at ensuring that the Loan Management Committee meets regularly and consistently.

- 2) Regulation 5 (4) of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting the word “interest” therein and replacing the same with the words “administrative costs”.
- 3) Regulation 14 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting the title “interest rate” and replacing the same with the title “Administrative Cost”  
It is further amended by deleting the words “interest” and substituting with the words “administrative cost” in paragraph 1, 2 and 3.
- 4) Regulation 18 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting the title “interest rate” and replacing the same with the title “Administrative Cost”

These amendments are made to encourage Muslim Members of Parliament benefit from the Fund without fear of infringing their religious believes. In Islam, Muslims are prohibited from paying and/or consuming interest.

- 5) Regulation 13 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting the words “fifteen years” and replacing the same with the words “twenty-five” years.



- 6) Regulation 15 of the Public Finance Management (Parliamentary Mortgage (Members) Scheme Fund) Regulations, 2013 is amended by deleting paragraph (5) and replacing the same with a new sub-regulation which provides;  
“No borrower shall be eligible for more than one loan at a time”

This amendment will allow Members of Staff to access more than one loan from the Fund. Staff would be eligible to another loan as soon as a loan is repaid and the Staff still has the capacity to repay another loan.

**Consolidation.**

The instrument shall at all times be construed together with the Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) Regulations, 2013.

**CONSULTATION OUTCOME.**

The Parliamentary Service Commission received representations from both Members and staff of Parliament that loan approvals sometimes take a bit too long to process thereby interfering with the contractual provisions that they have with the sellers of motor vehicles. They requested for administrative measures to be put in place to ensure faster loan consideration and approval.

The Parliamentary Service Commission further received representations from both Members and staff of Parliament who profess the Islamic faith that the Regulations as currently gazetted prohibit them from benefiting from the loan facility on account of the requirement for payment of interest. They therefore requested that the Regulations be amended to make them Islamic friendly. They cited the following amendments to the law that have been passed to make banking in the country Islamic friendly:

**AMENDMENTS ON ISLAMIC BANKING; INTRODUCED THROUGH THE FINANCE ACT, 2017**

**VALUE ADDED TAX**

7. Section 2 of the Value Added Tax Act, 2013, is amended—

- a) in subsection (1) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has the meaning assigned to it in section 2 of the Income Tax Act;

"*Sukuk*" has the meaning assigned to it in section 2 of the Public Finance Management Act, 2012;

b) by inserting the following new subsection immediately after subsection (2)-

"(3) For the purposes of this Act—

(a) Islamic finance return is treated as interest, whether received or paid on a financial arrangement; and

(b) reference to "interest" includes a reference to Islamic finance return."

## **INCOME TAX**

Section 2 of the Income Tax Act is amended—

(a) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" means all financial arrangements, including transactions, instruments, products or related activities that are structured in accordance with Islamic law;

"Islamic finance return" means any amount received or paid in relation to *Sukuk* or an Islamic finance arrangement;

"*Sukuk*" has the meaning assigned to it in the Public Finance Management Act, 2012;

(b) By adding the words "or an Islamic finance return" at the end of the definition of the word "interest".

## **STAMP DUTY ACT**

Section 2 of the Stamp Duty Act is amended by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has a meaning assigned to it in section 2 of the Income Tax Act;

"Islamic property finance" means property or land leased or sold to a financial institution and then leased or resold to a person for a return in accordance with Islamic law;

"Sukuk" has the meaning assigned to it in section 2 of the Public Finance Act, 2012.

Section 5 of the Stamp Duty Act is amended in the proviso, by inserting the words "or an Islamic property finance arrangement" immediately after the word "mortgage".

Section 27 of the Stamp Duty Act is amended by inserting the words "or Islamic finance return" immediately after the word "interest" wherever it appears.

The Stamp Duty Act is amended by inserting a new section immediately after section 68 as follows—

**68A.** In any mortgage under which—

- (a) A financial institution provides an Islamic finance arrangement that enables a person to own property or land; and
- (b) Where the title or interest in the property or land is first transferred to the financial institution from the vendor and afterwards to that person,

41. The Stamp Duty Act is amended by inserting the following new section immediately after section 96A—

**96B.** (1) A *Sukuk* arrangement shall be exempt from stamp duty where the arrangement requires the transfer of title in an asset if—

- (a) At the beginning of the arrangement, the title shall be transferred from the original owner of the asset to the entity representing the interests of the *Sukuk* holders; and
- (b) During or at the end of the arrangement, the title shall be transferred back to the original owner of the asset from the entity representing the interests of the *Sukuk* holders.

## **PUBLIC FINANCE MANAGEMENT ACT**

47. Section 2 of the Public Finance Management Act, of 2012 2012, is amended—

- (a) In the definition of "national government security" by inserting the word "*Sukuk*" immediately after the words "Treasury Bond"
- (b) By inserting the following new definitions in proper alphabetical sequence-



"*Sukuk*" means certificates of equal value, representing undivided shares in ownership of tangible or intangible assets, usufruct of assets; services or an investment activity, structured in conformity with Islamic law;

(c) By inserting the following new subsection immediately after subsection (2)-

(3) For the purposes of this Act, the reference to the term 'interest' in relation to a national government security shall also apply to reference to Islamic finance return on *Sukuk*. Islamic finance return" has the same meaning assigned to it under section 2 of the Income Tax Act;

Section 205 of the Public Finance Management Act, 2012, is amended by inserting the following new subsections immediately after subsection (3)—

(3A) despite the generality in subsection (1), the Cabinet Secretary may make regulations for raising money by issuing a *Sakuk* bond which shall specify the purpose for which money may be raised.

(3B). Money raised through *Sakuk* bond may be raised within or outside Kenya in Kenya Shillings or in any other currency or medium of exchange.

### **SACCO SOCIETIES ACT, 2008**

Section 2 of the Sacco Societies Act, 2008, is amended—

a) in the definition of the word "deposit", by inserting the words "a return" immediately after the word "interest";

b) In the definition of the expression "deposit taking business", by deleting the words "to members" appearing at the end of paragraph (b) and substituting therefor the words "or funding or in compliance with the Islamic law";

c) In the definition of the expression "sacco business", by inserting-

(i) The words "or in compliance with Islamic law" immediately after the words "in accordance with this Act,"

The Members and staff of Parliament who profess the Islamic faith therefore submitted that there is a general policy in the country to make banking and other related facilities Islamic friendly. They further stated that by making the facilities Islamic friendly, they would not affect the rights or faith of other Members and staff of Parliament in any way.

The instrument was prior to publication presented and deliberated upon by the Board of Senior Management of the Parliamentary Service Commission. The Board recommended to allow setting up of a separate Fund for Members and Staff of Parliament who are Muslims to ensure complete segregation of funds and prohibit payment of interest.

The Board recommended that the meetings of the Loans Management Committee should be held at least once every month.

The recommendations of the Board were presented and deliberated upon before the Committee on Members Welfare and the Loans Management Committee of the Parliamentary Service Commission. Both Committees and the Commission resolved that it was sufficient to amend all the sections of the regulations that provide for interest by removing the term "interest" and substituting the same with the term "administrative costs".

It was further noted that the term "administrative costs" was actually more accurate than interest as the fund was a revolving fund with no profit payable to any person. The 3% charged on all loans goes to pay administrative expenses such as valuers and auctioneer charges. All surplus is used to increase the fund. No money is paid out as "profit".

The Committees and the Commission also approved that the Loans Management Committee should be held once every month to consider loan applications.

#### **GUIDANCE.**

The instrument amends the Public Finance Management (Parliamentary Mortgage (Staff) Scheme Fund) Regulations, 2013, to the effect that person who benefits from the Fund shall be required to be paying administrative costs in place of interest. The rate and modalities of payment remain the same.

The Secretariat of Loan Management Committee shall organize meetings of the Committee that shall be held at least once a month to consider applications for loans.

#### **IMPACT**

No impact assessment has been prepared. The instrument applies exclusively to Members of Staff of Parliament.

#### **MONITORING AND REVIEWING.**

The Parliamentary Service Commission shall review the outcome of the implementation of the instrument after 24 months. The review shall entail the following

Whether or not the regulations have encouraged Muslim Members of Staff of Parliament to benefits from the Fund after removal of the term "interest" and replacing the same with the term "administrative cost" from the regulations.

Whether or not applications for loans are being considered and approved on time.

CONTACT.

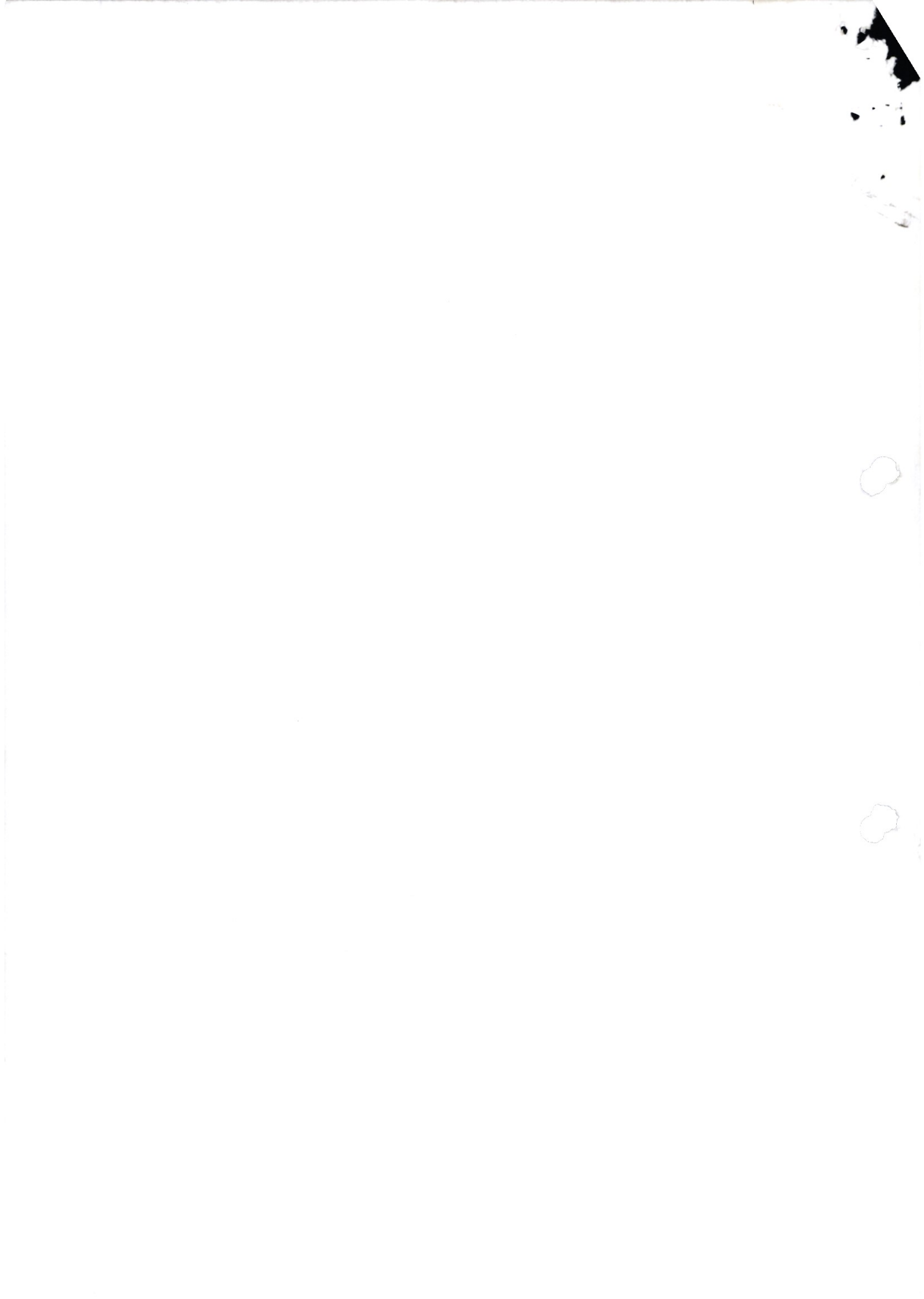
ANTHONY NJOROGÉ,

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DIRECTOR, LITIGATION AND COMPLIANCE,

**PARLIAMENTARY SERVICE COMMISSION.**





## **EXPLANATORY MEMORANDUM**

**EXPLANATORY MEMORANDUM TO THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (STAFF) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.**

### **PART 1**

**NAME OF THE STATUTORY INSTRUMENT:** THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY CAR LOAN (STAFF) SCHEME FUND) (AMENDMENT) REGULATIONS, 2020.

**NAME OF THE PARENT ACT:** THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**ENACTED PURSUANT TO:** SECTION 24 OF THE PUBLIC FINANCE MANAGEMENT ACT NO. 18 OF 2012.

**NAME OF MINISTRY/DEPARTMENT:** PARLIAMENTARY SERVICE COMMISSION

**GAZETTED ON:** 16<sup>TH</sup> SEPTEMBER 2020

**TABLED ON:**

### **PART 2**

#### **PURPOSE OF THE STATUTORY INSTRUMENT.**

To amend the Regulations so as to allow Staff of the Scheme who profess the Islamic faith to benefit from the facility without fear of infringing their religious believes; and to encourage the loan management committee to meet more often to approve loan applications.

#### **LEGISLATIVE CONTEXT**

Pursuant to section 24(2A) of the Public Finance Management Act, 2012, the Parliamentary Service Commission (“the Commission”) may with the approval of the National Assembly, establish a Fund for purposes of Parliament or a House of Parliament. The Commission may also enact regulations for the proper management of a Fund. The Commission had re-established the Parliamentary Car Loan Scheme Fund for Staff of Parliament. The Fund had previously been established by the Minister for Finance under the Government Financial Management Act (now repealed). The fund was established for purposes of availing loan facilities to Staff of Parliament to purchase motor vehicles. Once a Staff of Parliament obtains a loan from the scheme, he or she is required to repay the same fully within five (5) years or sixty (60) months.

The Parliamentary Service Commission re-established The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 to establish procedures and systems for proper and effective utilization, security and management of the Fund among other things. The Regulations have been amended from time to time.

The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) (Amendment) Regulations, 2020 hereinafter referred to as “the instrument” seeks to amend The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 so as to improve the same. The amendments shall ensure that the regulations allow more Staff of Parliament, particularly Muslim Staff of Parliament, benefit from the Scheme.

The amendments also seek to ensure that loan applications are approved on time so that an applicant meets contractual obligations. This shall be realized when the meetings of the Loans Management Committee are regular and consistent.

## **POLICY BACKGROUND**

The Parliamentary Service Commission may enact Regulations for the utilization and management of the Parliamentary Car Loan Fund.

Section 24 (3) of the Public Finance Management Act, 2012 provides as follows;

“Notwithstanding any other provisions of this Act, where a Fund is established under this Act or any other law for the purposes of Parliament or a House of Parliament, the Parliamentary Service Commission shall—

- (a) establish procedures and systems for proper and effective management of the monies and property of the Fund;
- (b) establish accounting procedures and systems for the Commission to properly account for the monies and property;
- (c) superintend the expenditure of the monies of the Fund to ensure that the monies are properly accounted for;
- (d) prepare and submit accounts for each financial year in accordance with the written law for the time being relating to audit for audit by the Auditor-General; and
- (e) ensure that accounts prepared under paragraph (d) comply with the provisions of this Act.”



The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 ensures compliance with Section 24 of the Public Finance Management Act, 2012. It establishes procedures and systems for the proper utilization, security and management of the Fund.

The Instrument shall amend The Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 as follows;

- 1) Regulation 6 of the Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013 is amended by introducing a new clause which provides

“The Committee shall meet at least once a month.”

The amendment is geared at ensuring that the Loan Management Committee meets regularly and consistently.

- 2) Regulation 11 is amended by deleting the title “interest rate” and replacing the same with the title “Administrative Cost”

It is further amended by deleting the words “carry an interest” and substituting with “charged an administrative cost” in paragraph 1

It is also amended by deleting the word “interest” and substituting with the words “administrative cost” in paragraph 2.

This amendment is made to encourage Muslim Members of Parliament benefit from the Fund without fear of infringing their religious believes. In Islam, Muslims are prohibited from paying and/or consuming interest.

### **Consolidation.**

The instrument shall at all times be construed together with the Public Finance Management (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013.

### **CONSULTATION OUTCOME.**

The Parliamentary Service Commission received representations from both Members and staff of Parliament that loan approvals sometimes take a bit too long to process thereby interfering with the contractual provisions that they have with the sellers of motor vehicles. They requested for administrative measures to be put in place to ensure faster loan consideration and approval.

The Parliamentary Service Commission further received representations from both Members and staff of Parliament who profess the Islamic faith that the Regulations as currently gazetted prohibit them from benefiting from the loan facility on account of the requirement for payment of interest. They therefore requested that the Regulations be amended to make them Islamic friendly. They cited the following amendments to the law that have been passed to make banking in the country Islamic friendly:

**AMENDMENTS ON ISLAMIC BANKING; INTRODUCED THROUGH THE FINANCE ACT, 2017**

**VALUE ADDED TAX**

7. Section 2 of the Value Added Tax Act, 2013, is amended—

- a) in subsection (1) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has the meaning assigned to it in section 2 of the Income Tax Act;

"*Sukuk*" has the meaning assigned to it in section 2 of the Public Finance Management Act, 2012;

- b) by inserting the following new subsection immediately after subsection (2)-

"(3) For the purposes of this Act—

(a) Islamic finance return is treated as interest, whether received or paid on a financial arrangement; and

(b) reference to "interest" includes a reference to Islamic finance return."

**INCOME TAX**

Section 2 of the Income Tax Act is amended—

- (a) by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" means all financial arrangements, including transactions, instruments, products or related activities that are structured in accordance with Islamic law;

"Islamic finance return" means any amount received or paid in relation to *Sukuk* or an Islamic finance arrangement;

"*Sukuk*" has the meaning assigned to it in the Public Finance Management Act, 2012;

- (b) By adding the words "or an Islamic finance return" at the end of the definition of the word "interest".



## STAMP DUTY ACT

Section 2 of the Stamp Duty Act is amended by inserting the following new definitions in proper alphabetical sequence—

"Islamic finance arrangement" has the meaning assigned to it in section 2 of the Income Tax Act;

"Islamic finance return" has a meaning assigned to it in section 2 of the Income Tax Act;

"Islamic property finance" means property or land leased or sold to a financial institution and then leased or resold to a person for a return in accordance with Islamic law;

"Sukuk" has the meaning assigned to it in section 2 of the Public Finance Act, 2012.

Section 5 of the Stamp Duty Act is amended in the proviso, by inserting the words "or an Islamic property finance arrangement" immediately after the word "mortgage".

Section 27 of the Stamp Duty Act is amended by inserting the words "or Islamic finance return" immediately after the word "interest" wherever it appears.

The Stamp Duty Act is amended by inserting a new section immediately after section 68 as follows—

**68A.** In any mortgage under which—

(a) A financial institution provides an Islamic finance arrangement that enables a person to own property or land; and

(b) Where the title or interest in the property or land is first transferred to the financial institution from the vendor and afterwards to that person,

41. The Stamp Duty Act is amended by inserting the following new section immediately after section 96A—

**96B.** (1) A *Sukuk* arrangement shall be exempt from stamp duty where the arrangement requires the transfer of title in an asset if—

(a) At the beginning of the arrangement, the title shall be transferred from the original owner of the asset to the entity representing the interests of the *Sukuk* holders; and



(b) During or at the end of the arrangement, the title shall be transferred back to the original owner of the asset from the entity representing the interests of the *Sukuk* holders.

## **PUBLIC FINANCE MANAGEMENT ACT**

47. Section 2 of the Public Finance Management Act, of 2012 2012, is amended—

(a) In the definition of "national government security" by inserting the word "*Sukuk*" immediately after the words "Treasury Bond"

(b) By inserting the following new definitions in proper alphabetical sequence—  
"*Sukuk*" means certificates of equal value, representing undivided shares in ownership of tangible or intangible assets, usufruct of assets; services or an investment activity, structured in conformity with Islamic law;

(c) By inserting the following new subsection immediately after subsection (2)—

(3) For the purposes of this Act, the reference to the term 'interest' in relation to a national government security shall also apply to reference to Islamic finance return on *Sukuk*. Islamic finance return" has the same meaning assigned to it under section 2 of the Income Tax Act;

Section 205 of the Public Finance Management Act, 2012, is amended by inserting the following new subsections immediately after subsection (3)—

(3A) despite the generality in subsection (1), the Cabinet Secretary may make regulations for raising money by issuing a *Sakuk* bond which shall specify the purpose for which money may be raised.

(3B). Money raised through *Sakuk* bond may be raised within or outside Kenya in Kenya Shillings or in any other currency or medium of exchange.

## **SACCO SOCIETIES ACT, 2008**

Section 2 of the Sacco Societies Act, 2008, is amended—

a) in the definition of the word "deposit", by inserting the words "a return" immediately after the word "interest";

b) In the definition of the expression "deposit taking business", by deleting the words "to members" appearing at the end of paragraph (b) and substituting therefor the words "or funding or in compliance with the Islamic law";

c) In the definition of the expression "sacco business", by inserting-

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The Members and staff of Parliament who profess the Islamic faith therefore submitted that there is a general policy in the country to make banking and other related facilities Islamic friendly. They further stated that by making the facilities Islamic friendly, they would not affect the rights or faith of other Members and staff of Parliament in any way.

The instrument was prior to publication presented and deliberated upon by the Board of Senior Management of the Parliamentary Service Commission. The Board recommended to allow setting up of a separate Fund for Members and Staff of Parliament who are Muslims to ensure complete segregation of funds and prohibit payment of interest.

The Board recommended that the meetings of the Loans Management Committee should be held at least once every month.

The recommendations of the Board were presented and deliberated upon before the Committee on Members Welfare and the Loans Management Committee of the Parliamentary Service Commission. Both Committees and the Commission resolved that it was sufficient to amend all the sections of the regulations that provide for interest by removing the term "interest" and substituting the same with the term "administrative costs".

It was further noted that the term "administrative costs" was actually more accurate than interest as the fund was a revolving fund with no profit payable to any person. The 3% charged on all loans goes to pay administrative expenses such as valuers and auctioneer charges. All surplus is used to increase the fund. No money is paid out as "profit".

The Committees and the Commission also approved that the Loans Management Committee should be held once every month to consider loan applications.

#### **GUIDANCE.**

The instrument amends the Public Finance Management (Parliamentary Car Loan (Staff Scheme Fund) Regulations, 2013, to the effect that person who benefit from the Fund shall be required to be paying administrative costs in place of interest. The rate and modalities of payment remain the same.

The Secretariat of Loan Management Committee shall organize meetings of the Committee that shall be held at least once a month to consider applications for loans.

**IMPACT**

No impact assessment has been prepared. The instrument applies exclusively to Staff of Parliament.

**MONITORING AND REVIEWING.**

The Parliamentary Service Commission shall review the outcome of the implementation of the instrument after 24 months. The review shall entail the following

Whether or not the regulations have encouraged Muslim staff of Parliament to benefits from the Fund after removal of the term “interest” and replacing the same with the term “administrative cost” from the regulations.

Whether or not applications for loans are being considered and approved on time.

**CONTACT.**

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