

PARLIAMENT  
OF KENYA  
LIBRARY

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 21*

75

*1st February, 2013*

*(Legislative Supplement No. 8)*

LEGAL NOTICE NO. 18

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(3) of the Public Finance Management Act, 2012, the Parliamentary Service Commission makes the following Regulations:—

THE PUBLIC FINANCE MANAGEMENT (PARLIAMENTARY MORTGAGE (STAFF) SCHEME FUND) REGULATIONS, 2013

1. These Regulations may be cited as the Public Finance (Parliamentary Mortgage (Staff) Scheme Fund) Regulations, 2013.

Citation.

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

Interpretation.

“borrower” means a person in receipt of a loan out of the Fund;

“Commission” means the Parliamentary Service Commission established under section 45B of the former Constitution as continued under Article 127 of the Constitution;

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

“financial year” means the period of twelve months ending on the 30<sup>th</sup> June in each year;

“Fund” means the Parliamentary Mortgage Scheme Fund established under the Government Financial Management (Parliamentary Mortgage Scheme Fund) Regulations, 2008 and continued under paragraph 9 of the Second Schedule to the Public Finance Management Act;

“member of the Scheme” means an employee of the Parliamentary Service Commission who is employed on permanent and pensionable terms;

“Nairobi” means the metropolis of Nairobi as designated by the ministry for the time being responsible for metropolitan development;

“Officer Administering the Fund” means the Clerk of the National Assembly;

Cap. 532.

“property” means a residential house purchased through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is to be developed;

Establishment of the Fund.	<p>“valuer” means a person registered as a valuer under the Valuers Act.</p> <p>3. The Parliamentary Mortgage Scheme Fund established under the Government Financial Management (Parliamentary Mortgage Scheme Fund) Regulations, 2008 established under the Government Financial Management Act (now repealed) is continued.</p>
Object and purpose of the Fund.	<p>4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase, development, renovation or repair of residential property by members of the Scheme.</p>
Capital of the Fund.	<p>5. (1) The initial capital of the Fund shall consist of the monies standing to the credit of the account on the date of the coming into operation of these Regulations.</p> <p>(2) Parliament may appropriate additional monies to the Fund.</p> <p>(3) The Fund shall be administered as a special account in the Parliamentary Fund and shall be operated by the Officer Administering the Fund.</p> <p>(4) The interest accruing to the Fund shall, where such interest constitutes a surplus after meeting the requirements of regulation 18(1)(b) be credited to the capital of the Fund.</p>
The Loans Management Committee.	<p>6. (1) There is established a committee to be known as the Loans Management Committee, which shall consist of—</p> <ol style="list-style-type: none"> <li>(a) the vice-chairman of the Commission who shall be the chairman;</li> <li>(b) the chairman of the Staff Welfare Committee of the Commission;</li> <li>(c) the Clerk of the Senate;</li> <li>(d) the Director-General of Parliament; and</li> <li>(e) a member of the Scheme elected by the members of the Scheme.</li> </ol> <p>(2) The officer administering the Fund shall be an ex-officio member of the Committee and the secretary to the Committee.</p> <p>(3) The Committee shall administer the Fund and shall—</p> <ol style="list-style-type: none"> <li>(a) process applications for loans in accordance with the existing terms and conditions of borrowing;</li> <li>(b) liaise with the housing company (if any) to set up a revolving fund for the disbursement of the loans; and</li> <li>(c) supervise the day-to-day running of the Fund.</li> </ol> <p>(4) The meetings of the Committee shall be convened by the chairman or in the absence of the chairman, by a member designated by the chairperson and shall be convened at such times as may be necessary for the discharge of the Committee’s functions.</p>

(5) The quorum for a meeting of the Committee shall be the chairman and any three members.

7. Notwithstanding regulation 6(3), the Commission may, if it considers it appropriate to do so, appoint a mortgage institution to administer the Fund on its behalf.

Commission may appoint mortgage institution.

8. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall make such application to the officer administering the Fund in such manner as the Loans Management Committee may prescribe.

Utilization of loan monies.

(2) A loan obtained under these Regulations shall be utilized for the purchase, development, renovation or repair of residential property for the occupation of the applicant and his or her immediate family:

(3) A loan for the development of residential property may be granted at the discretion of the Committee—

- (a) to a member of the Scheme who is in possession of a title deed to the land on which the development is intended to be carried out; or
- (b) in two instalments, for the purchase of the land at which the residential property is to be developed and for the subsequent development of the property.

(4) The amount of the first instalment granted for the purchase of land under paragraph (b) shall not exceed forty per cent of the maximum loan amount for which the member of the Scheme is eligible.

9. (1) A loan granted for the development of a residential property under these Regulations shall be released to the applicant in the following phases—

Disbursement of loans for development.

- (a) the first disbursement based on the value of the land on which the residential property is proposed to be developed; and
- (b) the subsequent disbursements based on the rate of completion of the various phases of development as certified by a qualified valuer at the cost of the applicant.

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

Application for a loan.

- (a) copies of the designs of the proposed residential property duly approved by the local authority within whose area it is to be situated;
- (b) bills of quantities in respect of the proposed development, renovation or repair;
- (c) an official search of the title to the property intended to be purchased;
- (d) a certified copy of the sale agreement relating to the property.



(2) The applicant shall bear the cost of stamp duty and other legal fees.

(3) Where a borrower fails to comply with the requirements of paragraph (2) within the stipulated time, the officer administering the Fund shall, upon giving the borrower fourteen days' notice, deduct the amount due from the salary of that borrower in such instalments as may be appropriate and remit such deductions to meet such costs as may be due.

(4) All legal transactions in respect of the property being purchased shall be conducted by an advocate appointed by the Commission.

Leasehold property

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

Maximum loan disbursement.

12. (1) The maximum loan entitlement for a member of the Scheme in respect of the designation or job group scale specified in the first column of the Schedule shall not exceed the respective amount set out in the second column of the Schedule.

(2) For a member of the Scheme to qualify for a loan, such member shall be required to be—

- (a) confirmed in appointment; or
- (b) on contract with the Parliamentary Service Commission with the relevant documentation duly completed.

(3) A loan granted to a borrower under these Regulations shall be funded at the rate of—

- (a) ninety per centum of the value of the property, where such property is situated in Nairobi; and
- (b) eighty per centum of such value where the property is situated in any other area, and the borrower shall be required to deposit the balance thereof with the Fund.

Repayment of loan.

13. A loan granted under these Regulations shall be repayable within a period of fifteen years or the remaining period of service of the borrower, whichever is less.

Interest on loans.

14. (1) The interest chargeable on a loan shall be three per centum per annum on a monthly reducing balance and this rate may be reduced from time to time at the discretion of the Commission.

(2) A mortgage institution appointed under regulation 7 to administer the Fund may charge an interest of not more than four per centum to cover management costs.

(3) The interest charged under paragraphs (1) and (2) of this regulation shall be met by the borrower.



15. (1) The Commission shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property. Lien.

(2) The borrower shall—

- (a) not mortgage, charge, surrender the lease or sell or agree to sell or part with possession of the charged property or any part thereof without the prior written consent of the Commission;
- (b) meet and pay all rates, rents, insurances and any other outgoings in respect of the property and send the proof of such payments to the Commission; and
- (c) provide a transfer deed duly signed by the borrower and a letter authorizing the Commission to sell the property in case of default in payment.

(3) All residential properties purchased through the Fund shall be constructed of such material as may be acceptable to the Commission.

(4) During the loan repayment period, every borrower shall-

- (a) ensure that the property is used for residential purposes only;
- (b) maintain the property in a satisfactory state of repair; and
- (c) not alter or make any structural alteration to the property, carry out any valuation, assessment or investigation relating to the property or title thereto, as the case may be, without the approval of the Commission.

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

(6) All legal documentation and disbursement of funds shall be supervised by the officer administering the Fund.

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

(2) The originals of all documents relating to property financed by a loan from the Fund shall be kept in safe custody by the officer administering the Fund.

17. The Commission may call in a loan and in default sell the charged property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement or the covenant contained in the charge of the mortgage instrument. Default in repayment.

18. (1) The officer administering the Fund shall— Administration of the Fund

- (a) supervise and control the administration of the Fund;
- (b) utilize the interest accruing thereto to defray operating expenses, and may impose any reasonable restriction or other requirements concerning such use;
- (c) cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund;
- (d) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Commission may from time to time direct in accordance with the Public Finance Management Act;
- (e) furnish such additional information as may be required for the purpose of examination and audit by the Auditor-General; and
- (f) designate and appoint such staff as may be necessary to assist him in the administration of the Fund and may require such staff to carry out such inspections as may be necessary to verify any information submitted under these Regulations.

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

Responsibilities of mortgage institution.

19. The responsibilities of the mortgage institution, if any, appointed under these Regulations shall be—

- (a) to operate individual accounts for each borrower, which shall provide details of recoveries of the loan;
- (b) to charge security on properties acquired through loans from the Fund to protect the interests of the Fund and act as custodian of such charges;
- (c) to disburse cheques for newly approved loans to various vendors, after the necessary documentation is completed by the Committee;
- (d) to pay all outgoings and issue demand notices where necessary to members through the officer administering the Fund;
- (e) upon repayment of the loan, interest and other expenses which may be outstanding, to discharge the charge and release the security documents to the borrower; and
- (f) upon default, to call in the loan and on behalf of the Commission sell the charged property by public auction or private treaty, in which event the Fund shall meet any shortfall between the loan outstanding and the proceeds of sale.

20. (1) These Regulations shall be supplemented by such terms as may, from time to time, be detailed in the application form supplied by the Commission and in the contract between the mortgage institution and the Commission.

Supplementary  
terms.

(2) Subject to these Regulations, the Commission shall issue guidelines on—

- (a) the purchase and development of land and residential properties under these Regulations;
- (b) the utilization of surplus Funds for the purchase and development of land and residential property under these Regulations; and
- (c) such other matters as may be necessary for the proper management and administration of the Fund.

21. A person who immediately prior to the commencement of these Regulations was servicing a loan obtained under the Regulations shall be entitled to enhance the principal amount of the loan to the respective amount provided for in the Schedule.

Transition.

22. The Government Financial Management (Parliamentary Mortgage Scheme Fund) Regulations, 2008 are repealed.

Repeal of L.N  
46/2008

#### SCHEDULE

[r. 12(1)]

Maximum loan entitlements for members of the Scheme

<i>Designation/Job Group Scale</i>	<i>Maximum entitlement</i>
Clerk of a House of Parliament.....	KSh. 20,000,000
PSC 16.....	KSh. 18,000,000
PSC 15.....	KSh. 17,000,000
PSC 14.....	KSh. 16,000,000
PSC 13.....	KSh. 15,000,000
PSC 12.....	KSh. 14,000,000
PSC 11.....	KSh. 13,000,000
PSC 10.....	KSh. 12,000,000
PSC 9 .....	KSh. 11,000,000
PSC 8.....	KSh. 10,000,000
PSC 7.....	KSh. 9,000,000
PSC 6.....	KSh. 8,000,000
PSC 5.....	KSh. 7,000,000
PSC 4.....	KSh. 6,000,000
PSC 1-3.....	KSh. 5,000,000

Dated the 17th January, 2013.

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



## LEGAL NOTICE NO. 19

## THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 24(3) 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) REGULATIONS, 2013

- |                                   |  |
|-----------------------------------|--|
| Citation                          | 1. These Regulations may be cited as the Public Finance (Parliamentary Car Loan (Staff) Scheme Fund) Regulations, 2013.  |
| Interpretation                    | <p>2. In these Regulations, unless the context otherwise requires-</p> <p>“Commission” means the Parliamentary Service Commission established under section 45B of the former Constitution as continued under Article 127 of the Constitution;</p> <p>“Committee” means the Loans Management Committee established under regulation 6;</p> <p>“financial year” means the period of twelve months ending on the 30th June in each year;</p> <p>“Fund” means the Parliamentary Car Loan Scheme Fund established under the Exchequer and Audit (Members of the National Assembly Car Loan Scheme Fund) Regulations, 1999 and continued under paragraph 9 of the Second Schedule to the Public Finance Management Act;</p> <p>“hire purchase agreement” means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee;</p> <p>“member of the Scheme” means an employee of the Commission who is employed on permanent and pensionable terms; and</p> <p>“Officer Administering the Fund” means the Clerk of the National Assembly.</p> |
| Establishment of the Fund         | 3. The Parliamentary Car Loan Scheme Fund established under the Exchequer and Audit (Members of the National Assembly Car Loan Scheme Fund) Regulations, 1999 established under the Government Financial Management Act (now repealed) is continued.   |
| Object and purpose of the Fund    | 4. The object and purpose of the Fund shall be to provide a loan scheme for the purchase of vehicles by members of the Scheme.   |
| Initial capital.<br>L.N. 139/2003 | 5. (1) The initial capital of the Fund shall consist of the monies standing to the credit of the Fund on the date of the coming into operation of these Regulations.   |

(2) Parliament may appropriate additional monies to the Fund.

(3) The Fund shall be administered as a special account in the Parliamentary Fund and shall be operated by the Officer Administering the Fund.

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

The Loans Management Committee

- (a) the vice-chairperson of the Commission who shall be the chairperson;
- (b) the chairperson of the Staff Welfare Committee of the Commission;
- (c) the Clerk of the Senate;
- (d) the Director-General of the Joint Parliamentary Services; and
- (e) a member of the Scheme elected by the members of the Scheme.

(2) The meetings of the Committee shall be convened by the chairperson or in the absence of the chairperson, by a member designated by the chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

(3) The quorum for meetings of the Committee shall be the chairperson and any two members.

(4) The Committee shall consider and may approve the loan applications presented by the Officer Administering the Fund.

7. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall present to the Officer Administering the Fund a duly completed hire purchase proposal form in such form as the Management Committee may prescribe.

Operation of the Fund

(2) The Officer Administering the Fund shall satisfy himself of the applicant's financial status and capacity to repay the loan applied for and where so satisfied shall forward the application to the Committee for consideration.

(3) If the Committee approves the application, the applicant shall enter into a hire purchase agreement in such form as the Committee may prescribe.

8. (1) A loan approved under regulation 7 shall be released from the Fund in such manner, taking into account the security of the funds, as may be prescribed by the Committee.

Conditions for disbursement of funds. L.N. 139/2003

(2) The log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the Parliamentary Service Commission and the member of the Scheme and shall be kept in the custody of the Officer Administering the Fund until the loan is repaid in full by the member of the Scheme.

Temporary release of  
log-book

9. (1) A log-book kept in custody by the Officer Administering the Fund may be temporarily released to a member of the Scheme upon application in writing to the Officer Administering the Fund for purposes of renewal by that member of the necessary licences.

(2) A log-book released under paragraph (1) shall be returned to the Officer Administering the Fund within seven working days from the date of such release.

(3) The Officer Administering the Fund shall acknowledge receipt of the log-book in writing.

Loan amounts

10. (1) The loan amount that a member of the Scheme may receive shall be the value of the vehicle that the member of the Scheme proposes to purchase subject to the maximum amount as set out in the Schedule to these Regulations.

(2) For the purpose of these Regulations, the value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a used vehicle shall be as determined by a report from the body known as the Automobile Association of Kenya, or the Government department dealing with such matters.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the Fund to a member of the Scheme an additional loan not exceeding ten per cent of the value of the vehicle purchased by the member of the Scheme to cater for an overhaul of the engine of the vehicle.

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

Interest rate

11. (1) A loan granted to a member of the Scheme under these Regulations shall carry an interest rate of three per cent per annum.

(2) The interest charged under paragraph (1) shall be utilized to defray the administrative expenses of the Fund.

Repayment Period

12. A loan advanced under these Regulations shall be repaid in full over a maximum period of sixty months.

Insurance

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

(2) Where a member of the Scheme is unable to raise the funds required for the initial insurance premium, such funds may be advanced from the Fund subject to an approved limit, but subsequent annual premiums shall be paid by the member of the Scheme.

(3) A member of the Scheme who is unable to pay the subsequent annual premiums referred to in paragraph (2) may apply to the fund for a loan which shall be repaid within a period of one year (1) year.



(4) Every loan granted under these Regulations shall be insured for the benefit of the member of the Scheme and the premium in respect of the loan shall be debited to the account of the member of the Scheme.

14. (1) Upon full repayment of the loan, a signed loan discharge certificate in such form as may be prescribed by the Committee shall be issued to the member of the Scheme and a copy of the discharge certificate shall be forwarded to the Registrar of Motor Vehicles. Loan discharge

(2) The loan discharge certificate shall release the member of the Scheme from any further financial obligation in respect of the loan and shall act as sufficient authority to remove the caveat on the vehicle pursuant to regulation 8.

15. (1) The Officer Administering the Fund- Administration of  
the Fund

- (a) shall supervise and control the administration of the Fund;
- (b) may impose conditions on the use of any moneys in the Fund and may also impose any reasonable restriction or other requirement concerning such use;
- (c) shall cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund;
- (d) shall prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end of the financial year, a statement of accounts relating to the Fund, prepared and signed by him specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Commission may from time to time direct in accordance with the Public Finance Management Act;
- (e) shall furnish such additional information as he may deem to be proper and sufficient for the purpose of examination and audit by the Auditor-General.

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

16. (1) The Exchequer and Audit (Members of the National Assembly Car Loan Scheme Fund) Regulations, 1999, are repealed. Repeal of L.N  
148/1999 and  
transition

(2) All the funds and other assets, rights, powers and liabilities which immediately before the coming into force of these Regulations were vested in or imposed on or enforceable against the Fund repealed by paragraph (1) shall, by virtue of this paragraph, be vested in, imposed on or enforceable against the Fund.

(3) Until the constitution of the Parliamentary Service Commission established under Article 127 of the Constitution, the Loans Management Committee established under the Exchequer and Audit (Members of the National Assembly Car Loan Scheme Fund) Regulations, 1999 existing immediately prior to the commencement of these Regulations shall continue in office and continue to operate as such.

## SCHEDULE

(R. 10)

## Maximum Loan Entitlement for Members of the Scheme

<i>Designation/Job Group Scale</i>	<i>Maximum entitlement</i>
Clerk of the Senate/ National Assembly.....	KSh. 5,000,000
PSC 16.....	KSh. 4,000,000
PSC 13 – 15 .....	KSh. 3,500,000
PSC 9-12.....	KSh. 2,500,000
PSC 1-8.....	KSh. 2,000,000

Dated the 17th January, 2013.

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