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LT. Hon. Speaker
Pro speaker for
Zabungu
SWA
12/8/25


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REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT | FOURTH SESSION (2025)

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON ITS
CONSIDERATION OF THE AFFORDABLE HOUSING REGULATIONS, 2025 (L.N.
NO. 114 OF 2025)

 AUGUST, 2025	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 12 AUG 2025	DAY: Tue
TABLED BY:	Hon Samuel Chepkong's chair, Delegated leg
CLERK AT THE TABLE:	P MURIA

The Directorate of Audit, Appropriations and General-Purpose Committees

The National Assembly

Parliament Buildings

NAIROBI

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ABBREVIATIONS AND ACCRONYMS

AHA	Affordable Housing Act
AHP	Affordable Housing Programme
Cap.	Chapter (of the Laws of Kenya)
CBS	Chief of the Order of the Burning Spear
CS	Cabinet Secretary
DLS	Directorate of Legislative and Procedural Services
EGH	Elder of the Order of the Golden Heart
EBS	Elder of the Order of the Burning Spear
LN	Legal Notice
MP	Member of Parliament
ODM	Orange Democratic Movement
RIA	Regulatory Impact Assessment
UDA	United Democratic Alliance
UDM	United Democratic Movement
UPA	United Progressive Alliance
UPIA	United Progressive Independent Alliance
WDM–Kenya	Wiper Democratic Movement – Kenya

CHAIRPERSON'S FOREWORD

The Affordable Housing Regulations, 2025 (Legal Notice No. 114 of 2025) were made pursuant to powers conferred on the Cabinet Secretary for Lands, Public Works, Housing and Urban Development under section 59 of the Affordable Housing Act, No. 2 of 2024 and therefore constitute a statutory instrument within the meaning of section 2 of the Statutory Instruments Act (Cap. 2A).

The Regulations were published in the Kenya Gazette as Legal Notice No. 114 of 2025 on 9th July 2025, transmitted to the Clerk of the National Assembly on 11th July 2025, and laid before the House on 22nd July 2025. Subsequently, the Regulations were referred to the Committee on Delegated Legislation for consideration in line with the provisions of the Statutory Instruments Act and the Standing Orders of the National Assembly.

The principal objective of the Affordable Housing Regulations, 2025 is to give full effect to the Affordable Housing Act, 2024 by providing a regulatory framework for the implementation of the affordable housing programme, including the eligibility criteria for allocation of housing units, the procedural guidelines for offtake and financing, voluntary savings, institutional housing, interest rates applicable for loans, and other administrative procedures to support the realization of the right to accessible and adequate housing under Article 43(1)(b) of the Constitution.

Pursuant to section 16 of the Statutory Instruments Act (Cap 2A), which obligates the Committee to confer with the regulation-making authority before arriving at its decision, the Committee held a consultative meeting with the Ministry of Lands, Public Works, Housing and Urban Development on Thursday, 7th August 2025 to deliberate on the Affordable Housing Regulations, 2025 and consider the underlying policy rationale.

Having examined the Affordable Housing Regulations, 2025 (Legal Notice No. 114 of 2025) against the Constitution, the Interpretation and General Provisions Act (Cap. 2), the Affordable Housing Act, 2024, and the Statutory Instruments Act (Cap. 2A), the Committee is satisfied that the Regulations comply with the Constitution and the relevant enabling legislation. Further, the Committee confirms that the Regulations were submitted to Parliament within the statutory timelines, were accompanied by an explanatory memorandum and a regulatory impact assessment, and were subjected to adequate public participation. Accordingly, *the Committee recommends that the House APPROVES IN ENTIRETY the Affordable Housing Regulations, 2025 (LN No. 114 of 2025).*

I wish to most sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate. I also wish to thank the Committee Membership for their diligence and commitment during the consideration of the Regulations.

On behalf of the Members of the Select Committee on Delegated Legislation, and pursuant to Standing Order 199, it is my pleasure and duty to present to the House, *the Committee's Report on the Affordable Housing Regulations, 2025 (L.N. No. 114 of 2025)*.



HON. CHEPKONG'A KIPRONO SAMUEL, CBS, MP.
CHAIRPERSON, SELECT COMMITTEE ON DELEGATED LEGISLATION

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established under *Standing Order No. 210* of the National Assembly Standing Orders and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider in respect of any statutory instrument, whether it is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. The Committee is mandated to consider in respect of any statutory instrument, whether it:
 - a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the Courts;
 - f) gives retrospective effect to any of the provisions in respect to which the Constitution or the Act does not expressly give any such power;
 - g) involves expenditure from the Consolidated Fund or other public revenues;
 - h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
 - j) appears to have had unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
 - l) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
 - m) inappropriately delegates legislative powers;
 - n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
 - o) appears for any reason to infringe on the rule of law;
 - p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
 - q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises –

Chairperson

Hon. Chepkong’ a Kiprono Samuel, CBS, M.P.

Ainabkoi Constituency

UDA

Vice-Chairperson

Hon. Githinji Robert Gichimu, M.P.

Gichugu Constituency

UDA

Committee Members

Hon. Mbui Robert, CBS, M.P.

Kathiani Constituency

WDM-Kenya

**Hon. (Maj) (Rtd) Dekow Barrow Mohamed,
M.P.**

Garissa Township Constituency

UDA

**Hon. Julius Lekakeny Ole Sunkuli, EGH,
EBS, M.P.**

Kilgoris Constituency

KANU

Hon. Kamene Joyce, M.P.

Machakos County

WDM-Kenya

**Hon. Dr. Onchoke, Mamwacha Charles,
M.P.**

Bonchari Constituency

UPA

Hon. Dr. Kimaiyo, Gideon Kipkoech, M.P.

Keiyo South Constituency

UDA

Hon. Waithaka, John Machua, M.P.

Kiambu Constituency

UDA

Hon. Chebor, Paul Kibet, M.P.

Rongai Constituency

UDA

Hon. Yakub Adow Kuno, M.P.

Bura Constituency

UPIA

**Hon. (Maj) (Rtd) Abdullahi, Bashir Sheikh,
M.P.**

Mandera North Constituency

UDM

Hon. Mwirigi John Paul, M.P.
Igembe South Constituency
UDA

Hon. Odoyo, Jared Okello, M.P.
Nyando Constituency
ODM

Hon. Chepkorir Linet, M.P.
Bomet County
UDA

Hon. Munyoro Joseph Kamau, M.P
Kigumo Constituency
UDA

Hon. Oluoch, Anthony Tom, M.P.
Mathare Constituency
ODM

Hon. Lenguris Pauline, M.P.
Samburu County
UDA

Hon. Mwale, Nicholas S. Tindi M.P.
Butere Constituency
ODM

Hon Mnyazi Amina Laura, M.P.
Malindi Constituency
ODM

Hon. Mugabe Innocent Maino, M.P.
Lukuyani Constituency
ODM

1.3 Committee Secretariat

4. The secretariat facilitating the Committee comprises –

Ms. Esther Nginyo
Senior Clerk Assistant (Team Leader)

Mr. Dima Dima W.
Deputy Director-DLS

Mr. Brian Langwech
Clerk Assistant III

Ms. Isabella Mwembi
Clerk Assistant III

Mr. Silvanus Makau
Clerk Assistant III

Ms. Angela Musau
Legal Counsel II

Mr. Peter Barasa
Legal Counsel II

Mr. Daniel Ominde
Research Officer III

Mr. Noah Chemweno
Serjeant at Arms

Mr. Valerian Pascal
Hansard Reporter III

Ms. Rahab Chepkilim
Audio Officer

2.0 CONSIDERATION OF THE AFFORDABLE HOUSING REGULATIONS, 2025 (L.N. NO. 114 OF 2025)

2.1 Introduction

5. The Affordable Housing Regulations, 2025 (L.N. No. 114 of 2025) were made pursuant to the provisions of section 59 of the Affordable Housing Act No. 2 of 2024 (hereinafter referred to as the “Act”). This provision empowers the Cabinet Secretary responsible for matters housing, in consultation with the Affordable Housing Board, to make Regulations for the better carrying into effect the provisions of the Act, hence it is a Statutory Instrument within the meaning provided for a statutory instrument under section 2 of the Statutory Instruments Act, Cap. 2A.
6. The Regulations were published in the Gazette as Legal Notice No. 114 of 2025 on 9th July, 2025. They were received by the Clerk of the National Assembly on 11th July, 2025 and tabled on 22nd July, 2025, being the 1st sitting day upon gazettelement, hence submitted within the Statutory timelines contemplated under section 11 (1) of the Statutory Instruments Act (Cap 2A) which requires the Cabinet Secretary to transmit a copy of a statutory instrument within seven sitting days after publication to the Clerk of the National Assembly.
7. Pursuant to section 16 of the Statutory Instruments Act, which requires the Committee to confer with the regulation-making authorities before making its decision, the Committee held a meeting with the State Department for Housing and Urban development on Thursday, 7th August, 2025, to deliberate on the Regulations.

2.2 Power of the Cabinet Secretary to make the Regulations

8. Section 59 of the Affordable Housing Act No. 2 of 2024, confers power to the Cabinet Secretary to make these Regulations as follows—

59. Regulations

(1) The Cabinet Secretary may, in consultation with the Board, make Regulations for better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations made under this section may prescribe—

- (a) the criteria for exemptions granted under section 6;*
- (b) criteria for eligibility of allocation of an affordable housing unit under section 48;*
- (c) requisite deposit for the housing under section 49(2);*
- (d) identification documents under section 49;*
- (e) regulations under Part V;*

- (f) the criteria for change of affordable housing unit;*
- (g) the provisions on voluntary savings;*
- (h) the provisions relating to off-take of affordable housing units;*
- (i) the inclusivity and diversity within affordable housing schemes;*
- (j) the application and integration of technology- based platforms in the administration and management of affordable housing schemes;*
- (k) the typology and dimensions for affordable housing units relative to the incomes of the individual applicants;*
- (l) the procedural guidelines for the Board to off-take affordable housing units under an affordable housing scheme;*
- (m) the interest rate or administration fee for a loan issued under section 51; and*
- (n) criteria for eligibility of allocation of a low interest mortgage under section 52.*

(3) The Cabinet Secretary shall table before Parliament, the regulations made under this section within thirty days of commencement of this Act.

(4) Regulations made under this section shall not take effect unless approved by a resolution passed by Parliament.

(5) If a House of Parliament does not make a resolution either approving or rejecting any regulations within fifteen sitting days after submission to it for approval, the House shall be deemed to have approved those regulations.

2.3 Object and Purpose of the Regulations

9. The object and purpose of these Regulations is to operationalize the Affordable Housing Act and provide clarity on its implementation.

2.4 Legislative Context

10. Article 43(1)(b) of the Constitution provides that every person has the right to accessible and adequate housing, and reasonable standards of sanitation. Further, Article 21 provides that “the State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the rights guaranteed under Article 43”.
11. Accordingly, Parliament enacted the Affordable Housing Act which gives effect to Article 43(1)(b) of the Constitution by providing a framework for development and access to affordable housing and institutional housing, and for connected purposes.
12. Specifically, section 4 of the Affordable Housing Act imposes a housing levy at the rate of 1.5% of the gross salary of an employee or the gross income of a person received or accrued which is not subject to the levy as gross salary. Section 5 of the Act obligates an employer to deduct from the employee’s monthly salary the levy with an equivalent match and remit the employer’s and employee’s contribution, not later than 9 working days after the end of the month through the appointed collector. The levy is intended to provide funds for the development and financing of affordable housing for Kenyans.

13. Section 59 of the Act assigns powers to the Cabinet Secretary, Housing and Urban Development, in consultation with the Board, to make Regulations for better carrying into effect the provisions of the Act.
14. The Ministry of Lands, Public Works, Housing and Urban Development, in compliance with the provisions of the Statutory Instruments Act (Cap 2A), undertook public consultations while preparing these Regulations and the accompanying statutory documents.

2.5 Policy Context and Rationale for the Regulations

15. In order to give effect to the constitutional provisions on affordable housing in Kenya, the national and county governments should provide practical and concrete interventions which include putting in place enabling policies and legislative measures geared towards delivery of adequate and affordable housing especially to the low income earning households.
16. Accordingly, the Government formulated the National Housing Policy for Kenya through Sessional Paper No. 3 of 2016 which proposed the establishment of a funding framework for housing development.
17. The rollout of the Affordable Housing Programme incorporates social housing to ensure integrated neighbourhoods and mitigate mushrooming of slums and informal settlements in the country. In addition, the rollout of the programme provides for institutional housing.
18. The Ministry of Lands, Public Works, Housing and Urban Development is mandated to provide policy guidance in the development of these Regulations.

2.6 Summary of the Provisions of the Regulations

19. **Part I** provides for the preliminary provisions including the citation and interpretation of terms in the context within which they are used in the Regulations.
20. **Part II** provides for the allocation of affordable housing units. This part contains provisions on the eligibility criteria for allocation of an affordable housing unit, the procedure for allocation of an affordable housing unit, the procedure of the Board, where an application for an affordable housing unit is declined, the rate of deposit which has been capped at 5% of the purchase price, the eligibility criteria for deposit assistance, the procedure for change of an affordable housing unit, the procedure where a person defaults in payment for an affordable housing unit, the procedure for an application of a loan for the development of a rural affordable housing unit.
21. **Part III** provides for institutional housing. This part provides that a public institution may enter into an agreement with the Board to develop, renovate existing or complete unfinished institutional housing. In addition, it provides that the Board shall design develop and maintain institutional housing through an approved implementing agencies set out in the First Schedule to the Act.

22. **Part IV** provides for offtake of affordable housing units. This provides a list of institutions which may offer financing for off-take, it sets out the requirements for approval of an institution to offer financing for off-take and the procedure for approval for off-take where the institution certifies the requirements.
23. **Part V** provides for interest rate for loans issued for the purposes of purchasing an affordable housing unit and development of a rural home.
24. **Part VI** provides for transfer of ownership of an affordable housing unit. This part sets out procedure for seeking consent for sale of an affordable housing unit.
25. **Part VII** provides for the procedure for review and appeals against the decisions of the affordable housing Board.
26. **Part VIII** contains miscellaneous provisions, including the categorization of affordable housing units, the establishment of an electronic system for the allocation of an affordable housing unit, the development of associated physical infrastructure, the development of associated social infrastructure, the procedure for conducting public participation, the procedure where the Board intends to develop an affordable housing scheme on a settlement, the procedure for off-take of an affordable housing scheme on a settlement, the procedure for the publication of a notice and invitation to tender where the Board intends to enter into an agreement with private institutions and persons and the procedure for withdrawal of voluntary savings in accordance with section 52(4)(a) of the Act.
27. **Schedule** - provides for forms for administrative purposes.


3.0 COMMITTEE OBSERVATIONS

28. Having examined the Affordable Housing Regulations, 2025 (*L.N. No. 114 of 2025*) against the Constitution, the Interpretation and General Provisions Act (Cap 2), the Affordable Housing Act, 2024, and the Statutory Instruments Act (*Cap 2A*), the Committee observed **THAT: -**

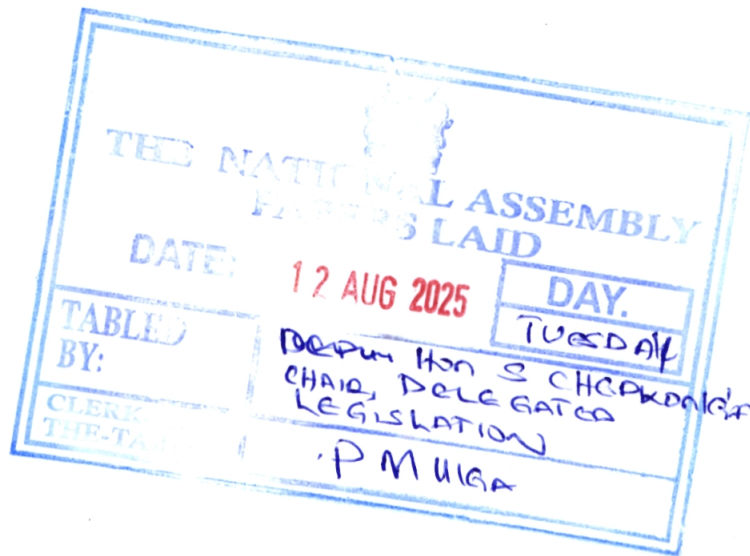
- (a) Legal Notice No. 114 of 2025 qualifies as a statutory instrument under section 2 of the Statutory Instruments Act (Cap. 2A), having been made pursuant to section 59 of the Affordable Housing Act, 2024. Accordingly, it has the force of law upon approval by Parliament.
- (b) The Regulations were submitted to the Clerk of the National Assembly within the statutory timelines set out under section 11(1) of the Statutory Instruments Act (Cap. 2A), which requires transmission within seven sitting days after publication.
- (c) In compliance with section 5A of the Statutory Instruments Act, the Regulations were accompanied by a comprehensive Explanatory Memorandum, which outlines the policy objectives, legal basis, and justification for the proposed Regulations.
- (d) The Ministry of Lands, Public Works, Housing and Urban Development undertook public participation in accordance with constitutional requirements and the Statutory Instruments Act. A public notice was published in MyGov on 16th April 2025, inviting views from members of the public in all 47 counties.
- (e) The Ministry submitted a list of stakeholders and individuals who participated in the public consultations held between 23rd and 29th April 2025, accompanied by photographic evidence, a matrix of public comments, and responses with justifications for the resolutions adopted.
- (f) In line with section 6 of the Statutory Instruments Act, the Regulations were supported by a Regulatory Impact Assessment (RIA), which was evaluated and found to meet the content requirements under section 7 of the Act. The RIA assesses the economic, social, and environmental impact of the proposed regulations and supports the case for their implementation.

4.0 COMMITTEE RECOMMENDATIONS

29. Having examined the Affordable Housing Regulations, 2025 (L.N. No. 114 of 2025) in accordance with the Constitution of Kenya, the Interpretation and General Provisions Act (Cap. 2), *the Affordable Housing Act, 2024, and the Statutory Instruments Act (Cap. 2A), the Committee recommends that the House APPROVES the Affordable Housing Regulations, 2025 (L.N. No. 114 of 2025) in entirety pursuant to section 59(4) of the Affordable Housing Act, 2024 and section 11(4) of the Statutory Instruments Act, Cap. 2A.*

Signed  Date 12/8/2025

**THE HON. CHEPKONG'A SAMUEL KIPRONO, CBS, MP
(CHAIRPERSON)
COMMITTEE ON DELEGATED LEGISLATION**







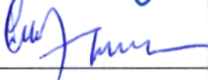



COMMITTEE ON DELEGATED LEGISLATION
ADOPTION LIST

Date 12TH - 08 - 2025 Venue BUNGIE TOWER 5TH FLOOR C. ROOM 21

Start Time 10:00 AM Time Ended _____

Agenda; Consideration of the Report on the Affordable Housing Regulations, 2025 (L.N. No. 114 of 2025)

No.	NAME	SIGNATURE
1.	The Hon. Chepkonga Kiprono Samuel, CBS, M.P, Chairperson	
2.	The Hon. Githinji, Robert Gichimu, M.P. Vice-Chairperson	
3.	The Hon. Mbui, Robert, CBS, M.P.	
4.	The Hon. Sunkuli Julius Lekakeny, EGH,EBS,MP	
5.	The Hon. Maj. (Rtd) Abdullahi Bashir Sheikh, M.P.	
6.	The Hon. Mwirigi, John Paul, M.P.	
7.	The Hon. Kamene, Joyce, M.P.	
8.	The Hon. Mwale, Nicholas S. Tindi, M.P.	
9.	The Hon. Odoyo, Jared Okello, M.P.	
10.	Hon. Anthony Oluoch, M.P.	
11.	Hon. Waithaka, John Machua, M.P.	
12.	The Hon. Maj. (Rtd.) Dekow Barrow Mohamed, M.P.	
13.	The Hon. Munyoro, Joseph Kamau, M.P.	
14.	The Hon, (Dr.) Kimaiyo, Gideon Kipkoech, M.P.	
15.	The Hon. Chepkorir, Linet, M.P.	

No.	NAME	SIGNATURE
16.	The Hon. Chebor, Paul, M.P.	
17.	The Hon. Lenguris, Pauline, M.P.	
18.	The Hon. (Dr.) Mamwacha Onchoke Charles, M.P.	
19.	The Hon. Yakub, Adow Kuno, M.P.	
20.	The Hon. Mnyazi, Amina Laura, M.P.	
21.	The Hon. Mugabe, Innocent Maino, M.P.	

MINUTES OF THE 27TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY, 12TH AUGUST, 2025, IN COMMITTEE ROOM 21, 5TH FLOOR, BUNGE TOWER, AT 10.00 A.M

PRESENT

1. The Hon. Samuel Kiprono Chepkong'a, CBS, M.P. - Chairperson
2. The Hon. Robert Gichimu Githinji, M.P. - Vice-Chairperson
3. The Hon. Nicholas S. Tindi Mwale, M.P.
4. The Hon. Anthony Oluoch, M.P.
5. The Hon. Joyce Kamene, M.P.
6. The Hon. Waithaka, John Machua, M.P.
7. The Hon. (Dr.) Charles Mamwacha Onchoke, M.P.
8. The Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P.
9. The Hon. Pauline Lenguris, M.P.
10. The Hon. Joseph Kamau Munyoro, M.P.
11. The Hon. Linet Chepkorir M.P.

APOLOGIES

1. The Hon. Robert Mbui, CBS, M.P
2. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P
3. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.
4. The Hon. Jared Okello Odoyo, M.P
5. The Hon. John Paul Mwirigi, M.P.
6. The Hon. Laura Amina Mnyazi, M.P.
7. The Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P
8. The Hon. Innocent Mugabe, M.P.
9. The Hon. Yakub Adow Kuno, M.P.
10. The Hon. Paul Chebor, M.P.

IN ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|-------------------------|
| 1. Ms. Esther Nginyo | - | Senior Clerk Assistant |
| 2. Mr. Wilson Dima Dima | - | Deputy Director, DLS |
| 3. Mr. Brian Langwech | - | Clerk Assistant III |
| 4. Mr. Silvanus Makau | - | Clerk Assistant III |
| 5. Mr. Daniel Psirmoi | - | Media Relations Officer |
| 6. Mr. Noah Chemweno | - | Sergeant -At -Arms |
| 7. Ms. Rahab Chekilim | - | Audio Officer |
| 8. Mr. Tonny Odhiambo | - | Attachee |

THE MINISTRY OF EDUCATION

- | | | |
|----------------------------|---|-------------------------|
| 1. Mr. Julius Migos Ogamba | - | Cabinet Secretary, MOE |
| 2. Mr. Stanley Kiptis | - | Chairperson, KNQA Board |
| 3. Mr. Alice Kande | - | CEO, KNQA |
| 4. Mr. Joseph Njau | - | Member, KNQA Board |
| 5. Ms. Mudza Mwachunga | - | Senior Officer, KNQA |

6. Ms. Esther Kamaot - Senior Officer, KNQA
7. Mr. Joshua Wabuke - Legal Counsel, MOE

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Matters arising
6. **Consideration and Adoption of the Report on the Affordable Housing Regulations, 2025**
7. **Meeting with the Cabinet Secretary, Ministry of Education regarding the Kenya National Qualifications Framework (General) Regulations, 2025**
8. Any Other Business; and
9. Adjournment.

MIN. DAA&GPC/CDL/145/2025

PRELIMINARIES

The Chairperson called the Meeting to order at 10.29 a.m., after which he said a word of prayer. He then welcomed all to the meeting, followed by a round of introductions.

MIN. DAA&GPC/CDL/146/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted, having been proposed by the Hon. Robert Gichimu Githinji, M.P, and seconded by the Hon. Joseph Kamau Munyoro, M.P

MIN. DAA&GPC/CDL/147/2025

CONFIRMATION OF MINUTES

The Minutes of the 26th Sitting held on Thursday, 7th August, 2025 were confirmed as an accurate record of the proceedings, having been proposed by the Hon. Joseph Kamau Munyoro, M.P, and seconded by the Hon. Waithaka, John Machua, M.P.

MIN. DAA&GPC/CDL/148/2025

CONSIDERATION OF THE REPORT ON THE AFFORDABLE HOUSING REGULATIONS, 2025

The Committee considered and adopted report on the Affordable Housing Regulations, 2025 (*L.N. No. 114 of 2025*) having been proposed by the Hon. Joseph Kamau Munyoro, M.P and seconded by the Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P with the following recommendation, that:

‘Having examined the Affordable Housing Regulations, 2025 (L.N. No. 114 of 2025) in accordance with the Constitution of Kenya, the Interpretation and General Provisions Act (Cap. 2), the Affordable Housing Act, 2024, and the Statutory Instruments Act (Cap. 2A), the Committee recommends that the House APPROVES the Affordable Housing Regulations, 2025 (L.N. No. 114 of 2025) in entirety pursuant to section 59(4) of the Affordable Housing Act, 2024 and section 11(4) of the Statutory Instruments Act, Cap. 2A.’

Mr. Julius Migos Ogamba, Cabinet Secretary, Ministry of Education gave a brief highlight on the Kenya National Qualifications Framework (General) Regulations, 2025 and then invited Ms. Ms. Alice Kande, the CEO KNQA who briefed the Committee as follows;

PART I: Provides for Preliminary

1. **Regulation 1:** Provides for citation where the Regulations may be cited as the Kenya National Qualifications Framework (General) Regulations, 2025
2. **Regulation 2:** Provides for Interpretation of words used in the Regulations,
3. **Regulation 3:** Provides for the Object of these Regulations, and
4. **Regulation 4:** Provides for the Scope of Application of the Regulations.

PART II: Contains Regulations on the National Qualifications Framework

5. **Regulation 5:** Provides for Establishment of the National Qualifications Framework,
6. **Regulation 6:** Provides for Objectives of National Qualifications Framework,
7. **Regulation 7:** Provides for Structure of the National Qualifications Framework,
8. **Regulation 8:** Provides for Level Descriptor,
9. **Regulation 9:** Provides for Volume of Learning,
10. **Regulation 10:** Provides for Minimum Entry Requirements
11. **Regulation 11:** Provides Referencing
12. **Regulation 12:** Provides for Linkages
13. **Regulation 13:** Provides for Progression Pathways

PART III: Alignment and Validation of National Qualifications

14. **Regulation 14:** Provides for alignment or validation,
15. **Regulation 15:** Provides for the process for application of alignment or validation.

PART IV: Contains Regulations on the Kenya Credit Accumulation and Transfer System

16. **Regulation 16:** Provides for Establishment of the Kenya Credit Accumulation and Transfer System,
17. **Regulations 17:** Provides for Credit Transfers.
18. **Regulation 18:** Provides for Transfer of Foreign Credit **Regulation 19:** Provides for Application to transfer credits.

PART V: Recognition of Prior Learning

19. **Regulation 19:** Provides for Recognition of prior learning
20. **Regulation 20:** Provides for Responsibilities of the Authority
21. **Regulation 21:** Provides for Recognition of Prior Learning,

PART VI Contains Regulations on Establishment of an Accreditation System on Qualifications

22. **Regulation 22:** Provides for Establishment of Accreditation system for Qualification
23. **Regulation 23:** Provides for Requirements for accreditation of a Programme or Course

PART VII Contains Regulations on Registration of National Qualifications

24. **Regulation 24:** Provides for Obligations of qualification awarding body,
25. **Regulation 25:** Provides for registration of a programme, course or Professional qualification.
26. **Regulation 26:** Provides for Equivalence of Foreign Qualification.
27. **Regulation 27:** Provides Development or Review of National Qualifications.
28. **Regulation 28:** Provides for Classification of Qualifications.
29. **Regulation 29:** Provides for Establishment of an Assessment of National Qualifications System.
30. **Regulation 30:** Provides for Awards for National Qualifications.
31. **Regulation 31:** Provides for Revocation of a Certificate of Registration of National Qualifications.

PART VIII: Contains Regulations on National Qualifications Database

32. **Regulation 32:** Provides for Establishment of the National Qualifications database.
33. **Regulation 33:** Provides for Register of National Qualifications

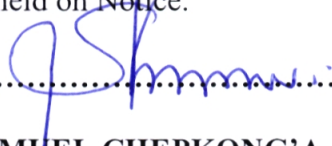
PART IX: Miscellaneous

34. **Regulation 34:** Provides for Electronic registration,
35. **Regulation 35:** Provides for Language
36. **Regulation 36:** Provides for Monitoring of Compliance
37. **Regulation 37:** Application of the Data Protection Act.
38. **Regulation 38:** Provides for Offenses,
39. **Regulation 39** Provides for Revocation.
40. **SCHEDULES:** provides for various schedules in the Regulations.
41. Upon deliberations, the committee made the following observations;
 - i. Legal Notice 94 of 2025 is a statutory instrument and has the force of law within the meaning of section 2 of the Statutory Instruments Act, Cap 2A.
 - ii. The Regulations were Gazetted as Legal Notice 94 of 2025, were tabled on 22nd July, 2025. They were therefore received by the Clerk of the National Assembly within the Statutory timelines contemplated under section 11 (1) of the Statutory Instruments Act, Cap 2A.
 - iii. The Legal Notice No.94 of 2025 is accompanied by a detailed Explanatory Memorandum as required under section 5A of the Statutory Instruments Act, Cap 2A.
 - iv. There is attached evidence of consultation with stakeholders, as required under section 5 of the Statutory Instruments Act, Cap 2A.
 - v. The regulatory impact statement has been attached as required by section 6 of the Statutory Instruments Act
 - vi. Additionally, the committee observed that the Regulation-making authority had incorporated all the committee's comments from the previous meetings into the published Regulations.
42. In view of the findings above, the Committee resolved to **Approve** the Kenya National Qualifications Framework (General) Regulations, 2025 (*Legal Notice No. 94 of 2025*) having been proposed by the Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P and seconded by the Hon. Joseph Kamau Munyoro, M.P.

MIN. DAA&GPC/CDL/150/2025

ADJOURNMENT

There being no other business, the meeting was adjourned at Nineteen Minutes to noon. The next meeting will be held on Notice.

SIGNED: 

**THE HON. SAMUEL CHEPKONG'A, CBS, M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION**

DATE: 

MINUTES OF THE 26TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON THURSDAY, 7TH AUGUST, 2025, IN COMMITTEE ROOM 21, 5TH FLOOR, BUNGE TOWER, AT 10.00 A.M

PRESENT

1. The Hon. Samuel Kiprono Chepkong'a, CBS, M.P. - Chairperson
2. The Hon. Robert Gichimu Githinji, M.P. - Vice-Chairperson
3. The Hon. Robert Mbui, CBS, M.P
4. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P
5. The Hon. Nicholas S. Tindi Mwale, M.P.
6. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.
7. The Hon. Anthony Oluoch, M.P.
8. The Hon. Waithaka, John Machua, M.P.
9. The Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P
10. The Hon. (Dr.) Charles Mamwacha Onchoke, M.P.
11. The Hon. (Dr.) Gideon Kipkoech Kimaiyo, M.P.
12. The Hon. Innocent Mugabe, M.P.
13. The Hon. Pauline Lenguris, M.P.
14. The Hon. Yakub Adow Kuno, M.P.
15. The Hon. Joseph Kamau Munyoro, M.P.
16. The Hon. Linet Chepkorir M.P.

APOLOGIES

1. The Hon. Jared Okello Odoyo, M.P
2. The Hon. John Paul Mwirigi, M.P.
3. The Hon. Laura Amina Mnyazi, M.P.
4. The Hon. Joyce Kamene, M.P.
5. The Hon. Paul Chebor, M.P.

IN ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|------------------------|
| 1. Ms. Esther Nginyo | - | Senior Clerk Assistant |
| 2. Mr. Wilson Dima Dima | - | Deputy Director, DLS |
| 3. Mr. Brian Langwech | - | Clerk Assistant III |
| 4. Mr. Silvanus Makau | - | Clerk Assistant III |
| 5. Mr. Valerian Pascal | - | Hansard Officer |
| 6. Mr. Daniel Ominde | - | Research Officer III |
| 7. Ms. Elzy Jerop | - | Legal Counsel II |
| 8. Mr. Tonny Odhiambo | - | Attachee |

THE MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

- | | | |
|-------------------------|---|---|
| 1. Mr. Charles Hinga | - | Principal Secretary, SDHUD |
| 2. Ms. Sheila Waweru | - | Ag. CEO, Affordable Housing Board |
| 3. Mr. Hiram Kahiru | - | Secretary Administration, SDHUD |
| 4. Ms. Jennifer Nduati | - | Head of Legal Policy, SDHUD |
| 5. Ms. Eva Mageto | - | Corporation Secretary, Affordable Housing Board |
| 6. Ms. Elizabeth Mogosi | - | Finance Department, Affordable Housing Board |

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Matters arising
6. **Meeting with the Cabinet Secretary, Ministry of Lands, Public Works, Housing and Urban Development, regarding the Affordable Housing Regulations, 2025**
7. Any Other Business; and
8. Adjournment.

MIN. DAA&GPC/CDL/139/2025

PRELIMINARIES

The Chairperson called the Meeting to order at 10.25 a.m., after which he asked the Hon. Pauline Lenguris, M.P. to say a word of prayer. He then welcomed all to the meeting, followed by a round of introductions.

MIN. DAA&GPC/CDL/140/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted, having been proposed by the Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P., and seconded by the Hon. Nicholas S. Tindi Mwale, M.P.

MIN. DAA&GPC/CDL/141/2025

CONFIRMATION OF MINUTES

The Minutes of the 25th Sitting held on Tuesday, 5th August, 2025, were confirmed as an accurate record of the proceedings, having been proposed and seconded by the Hon. Pauline Lenguris, M.P., and the Hon. Joseph Kamau Munyoro, M.P. respectively.

MIN. DAA&GPC/CDL/142/2025

MATTERS ARISING

There were no deliberations under this Agenda item

MIN. DAA&GPC/CDL/143/2025

CONSIDERATION OF THE AFFORDABLE HOUSING REGULATIONS, 2025

The Affordable Housing Regulations, 2025 (*L.N. NO. 114 of 2025*) were made by the Cabinet Secretary for Lands, Public Works, Housing, and Urban Development in exercise of powers conferred by section 59 of the Affordable Housing Act and has the following provisions.

1. **Regulations 1 and 2** provide for the preliminary provisions, including the citation and interpretation of terms in the context within which they are used in the Regulations.
2. **Regulation 3** provides for the Eligibility criteria for allocation of an Affordable Housing Unit
3. **Regulation 4 and 5** provides for Application for allocation of an Affordable Housing Unit and the allocation of an Affordable Housing Unit, respectively.
4. **Regulation 6** provides for decline of allocation of an Affordable Housing Unit.
5. **Regulation 7 and 8** provides for the Rate of Deposit and Deposit assistance respectively.
6. **Regulation 9** provides for the change of allocated Affordable Housing Unit
7. **Regulation 10** gives provision of when one defaults in payment for an Affordable Housing Unit
8. **Regulation 11** provides for application for a loan for the development of a rural Affordable Housing Unit
9. **Regulation 12** provides for the agreement to develop, renovate existing or complete unfinished institutional housing.
10. **Regulation 13** provides for development of institutional housing through implementing agencies.
11. **Regulation 14** provides for institutions which may offer financing for off-take.
12. **Regulation 15** provides for approval of an institution to offer financing for off-take.
13. **Regulation 16** provides for eligibility criteria for off-take by the Board.
14. **Regulation 17** provides for interest rates
15. **Regulation 18** provides for consent for sale of an Affordable Housing Unit
16. **Regulation 19** provides for the review of the decisions of the Board.
17. **Regulation 20** provides for Appeals against decisions of the Board.
18. **Regulation 21** provides for the categorization of Affordable Housing Units.
19. **Regulation 22** provides for the establishment of an electronic system
20. **Regulation 23** provides for the development of associated physical infrastructure.
21. **Regulation 24** provides for the development of associated social infrastructure.
22. **Regulation 25** provides for the conduct of public participation.
23. **Regulation 26** provides for the development of an affordable housing scheme on settlement.
24. **Regulation 27** provides for the off-take of an affordable housing scheme on settlement.
25. **Regulation 28** provides for the agreement of the Board with a private institution.
26. **Regulation 24** provides for voluntary savings
27. Arising from the Committee meeting with the State Department for Housing and Urban Development, held on Tuesday, 4th June, 2024 on draft Affordable Housing Regulations, 2024, Ms. Eva Mageto, Corporation Secretary briefed the Committee on the responses to several concerns had been raised as follows:

REGULATIONS NO.	RATIONALE FOR AMENDMENT RECOMENDATION	PROPOSED AMENDMENT	DECISION OF THE COMMITTEE	RATIONALE FOR THE DECISION
1	N/A	The Act was gazetted on 19th March 2024. The Act stipulates that Regulations must be tabled before Parliament by the Cabinet Secretary within 30 days after passing the Act. Were the Regulations tabled in Parliament within 30 days?	SDHUD to provide a copy of the letter tabling the regulations before parliament	Clarified It was clarified that the draft regulations were tabled to parliament before the expiry of the given period of 30 days. The letter submitting the regulations to shall be availed to the committee
2		Parliament cannot discuss the Regulations if they are still in draft form	In this regard, this session can only be considered as a public participation session.	Noted The session was considered as a public participation session and the comments given shall be taken into consideration in the drafting of

					the final Regulations
3	N/A	The Regulations need to be arranged in parts for ease of referencing as a general rule		Accepted	There shall be consultation with the drafting team from the Office of the Attorney General on this matter
4	N/A	Sub-delegation of powers- Section 13 of the Statutory Instruments Act stipulates that Regulations cannot be passed if they have provisions that provide some level of sub delegation of powers which are not clear under the regulations. These Regulations seem to sub delegate powers to the Board e.g Reg. 8- "shall be done in a manner prescribed by the Board". Reg. 10 (4)(c) – "Provide any other relevant information" Reg 12 (2)(c), Reg 20 (c) and 21 (2)(d)	Include the manner in the Regulations. Disclose the relevant information in the Regulations. Include all the relevant information in the Regulations Avoid sub-delegation of powers through the Regulations.	Accepted	Provisions of the Regulations noted to amended to be as specific as possible without leaving room to unknown parameters which is to be determined by the Board
5	Reg (3)(1)	Are the exemptions included in the Act? Can the regulations purport to create exemptions that were not in the Act?	Provide clarity on whether the exemptions provided under the regulations are covered by the Act and whether regulations can extend what is not provided for in the main Act.	Clarified. See rationale. Delete Regulation 3(1) and Amend Reg. 3(2) to include by inserting the words "eligible for exemption " and delete the word "exempted"	Regulations cannot provide for anything not provided for in the Act. However, the Act does not specify the persons, incomes or class of

					incomes that can be exempted. Therefore, the Regulations are only giving the specifics of what is provided for in the Act
6	Reg. 5	There is a lot of vagueness in the Regulation	Include the timelines and be specific to avoid ambiguity.	Accepted. Delete Regulation 5	The validity for exemption will be captured in the notice for exemption as covered by Section 6
7	8 (d)	How will the Board determine an individual's ability to repay?	The regulations to be clear and specific on parameters to be used in making this determination.	Clarified. See rationale	The proof of income and ability to repay may vary from time to time and as such there might be different instruments that may be considered under this regulations
8	Reg. 4 (2)	Request for exemption from paying the levy should be made to CS, Treasury	Why create an unnecessary conflict between the 2 Cabinet Secretaries? This is the purview of CS, Treasury.	Clarified. See rationale	The Act provides that the CS in charge of affordable housing shall make recommendations to CS Treasury for granting of exemptions.

9		One month is too short to give a notice.	The regulations should take into consideration that sometimes delays can be occasioned by delayed salary payments and thus consider revising the timelines. Consider this notice being issued by the management or administration and not the Board. The Board should deal with serious matters and not the first default.	Accepted. Amend the regulations to include "Administrator of the Fund" to issue the Notice instead of the Board. See redrafted Regulation 13	The regulations have been amended to provide clarity on the period and the actions to be undertaken under the new redrafted Regulation 13
10		Before repossession, consider the payments paid by an individual	It is logical to consider the amounts and repayments done by the person in default. Provide a threshold if possible for such decisions.	Clarified. See rationale.	The regulations have provided for various options in case of one's inability to continue repaying for the allocated unit such as apply for loan restructuring, change to a lower value unit. This is to provide relief to those who might default for various reasons.
11		The name Board has been referred to severally in the regulations.	Provide definition of the Board by cross referencing with meaning in the Act.	Accepted. Insert the definition of the Board in the regulations	Cross referencing to be done
12		Include the allocation criteria in the Regulations	To provide clarity on what the unit buyers will be subjected to.	Accepted. Amend the regulations to provide clear allocation criteria	To provide clarity on the criteria that will be used.
13	N/A	Is there an appeal mechanism where one can appeal a decision of the Board?	There is a need to address the appeal issue to avoid litigation cases against the Board's decisions which can derail the operations of the	Clarified. See rationale	Currently, this is not provided for in the Act. Therefore, an introduction of

			Board.		this proposed progressive appeals mechanism would require an amendment of the Act. Meanwhile the Constitution provides various avenues including dispute resolution, Commission of Administrative Justice and the courts.
14		How can one apply for a review of a decision of the Board if they are dissatisfied with the decision?	Provide for a review mechanism in which those aggrieved by the decision can seek a review of the decision.	Accepted. Provide a regulation that allows for review of decision if an applicant is dissatisfied.	To provide the applicants or a window for a review mechanism of decisions that persons affected fails to agree with. This will help to bridge the gap and seek internal reviews of decisions made
15		What is the process or procedure for a person who wants to bequeath someone a unit? What is the succession plan?	Provide how one can transfers the unit.	Clarified. See rationale	A person allocated a unit may change the beneficiaries when they are still alive who may not be the persons envisaged under the succession law.

16		Cross Reference the meaning of rural affordable housing unit to the meaning assigned to a rural area under the Urban Areas and Cities Act	Cross Reference the meaning of rural affordable housing unit to the meaning assigned to a rural area under the Urban Areas and Cities Act	Accepted. Rural Housing definition to be amended by cross referencing of the units	To provide clarity on the meaning of rural housing in the regulations
17	3	What is the general rule of exemptions from paying the levy? Who pays the levy?		Clarified. See rationale	The levy is payable by all Kenyans, salaried and non- salaried. Exemptions are provided for in Regulation 3
18	32(3)(b)	The Regulation is vague and with ambiguity	Should be clear to avoid abuse. Provide what the prevailing market prices are	Accepted. Amend 32 (3) (b) to read: the price at which the affordable housing unit is being offered for sale is within the prevailing market price as determined through a valuation procured by the owner from a valuer registered and licensed under the Valuers Act.	An amendment has been made to Reg. 32(3)(b) changing " the prevailing market price" to " the price at which the affordable housing unit is being offered for sale is within the prevailing market price as determined through a valuation procured by the owner from a valuer registered and licensed under the Valuers Act". This is to provide clarity on the how the selling price will be determined in a transparent manner.

19		Is there priority in allocating units to persons residing in Urban redevelopment sites?	The affected persons during the redevelopment should be considered and given the first priority in the allocation of affordable housing units developed in their locality	Clarified. See rationale	The affected persons residing in urban redevelopment sites will be eligible for allocation of developed units and will be engaged as part of the stakeholder's engagement.
20		Some applications and rejection of applications do not have timelines	Include timelines for acceptance or rejection of any application within the Regulations	Accepted	Timelines for rejection or acceptance provided under Reg. 8(4) and 8(5)
21	7	Is a levy payer the only person eligible for allocation or even those not paying? What advantage does a levy payer have over nonpayers?		Clarified. See rationale	The Affordable Housing levy is a tax under the Affordable Housing Act for the benefit of the Kenyan Citizens on the right under Article 43(1)(b) of the Constitution of Kenya. All Kenyans earning an income and not exempted under the Act shall pay the levy. In addition, all eligible persons will have to demonstrate they are tax compliant by submitting tax compliance

					certificate
23	10 (2) (b)	How does the Board proof that the unit shall be the primary residence of the applicant?	Include how the Board will ascertain that the unit will be the primary residence of the applicant. If not, delete it from the Regulations	Clarified. See rationale	The Board shall utilize various measures including conducting annual or biennial checks to confirm residency, submit utility bills or annual affidavits or such other measures as maybe determined by the Board
24	10 (b)	The Regulations make reference to "alternative identification documents."	Alternative to what? List all the requisite identification documents in the Regulations.	Accepted with modification. Amend the regulations to remove the word "alternative documents." Delete the sub clause 8(2)(a) and replace it with " National Identification Card, or a valid passport, or a military identification document	The regulations have been amended to remove alternative documents to provide the specific identification documents required.
25	10 (3)	Criteria for consideration on applications for deposit assistance	Include the criteria to be considered while assessing the applications for consideration for deposit assistance	Accepted. Amend regulations and provide criteria for considering deposit assistance	To provide clarity on the evaluation of deposit assistance

26	14(2)		To move to the interpretations	Accepted	To be moved to Reg 2 on Interpretation
27		The regulations seem to be open ended and sub delegating powers to the Board	The Regulations to be prepared with finality and not giving the Board open cheques. As a general rule do not sub-delegate to the Board. All issues that require to be determined and the decisions to be made to include in the Regulations.	Noted	The regulations amended provide finality.
28		Was this done?		Clarified. See rationale	Yes, this was done
29			Separate the interest rates for the different housing categories e.g social, affordable and market	"Accepted with modifications Amend 22 to delete the words " shall not exceed 9 percent and add the following: a) Monthly income below twenty thousand shillings: 3% per annum or an administration fee charged at the same rate. b) Monthly income between twenty thousand and one hundred and forty-nine thousand shillings: [6%] per annum or an administration fee charged at the same rate. c) Monthly income over one hundred and forty nine thousand shillings: 9% per	The interest rates have been differentiated as follows: a) Monthly income below twenty thousand shillings: 3% per annum or an administration fee charged at the same rate. This is for a social housing unit targeted to persons earning below twenty thousand shillings. b) Monthly income between

				<p>annum or an administration fee charged at the same rate."</p>	<p>twenty thousand and one hundred and forty-nine thousand shillings: [6%] per annum or an administration fee charged at the same rate. This is for affordable housing targeted to persons earning between twenty thousand and forty-nine thousand c) Monthly income over one hundred and forty-nine thousand shillings: 9% per annum or an administration fee charged at the same rate. "This is for an affordable middle-class housing unit targeted to persons earning over one hundred and forty-nine thousand shillings.</p>
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30	Reg 26		Include social media as part of the medium of notifying the public	Accepted Add 26 (1) (d) to read "the notice issued under (1) (a) may include television stations, information communication technology centers, websites, community radio stations, public meetings, and traditional media."	The guiding principles include Article 10 of the Constitution, Section 87 of the County Government Act and Supreme Court judgement that established principles on public participation. Incorporated concerns on social media in the amendments.
31	Reg 26		Include that the notice for public participation should be done in at least 3 media stations without specifying which ones.	Accepted. Amend the regulations 26 to include the advertisement to be done i at least 3 media stations Amend 26 (1) (c) to state "... paragraph (a) in two radio stations, one of national coverage, the other that has wide coverage within the County."	To avoid being too specific on the local stations The guiding principles include Article 10 of the Constitution, Section 87 of the County Government Act and Supreme Court judgement that established principles on public

					participation.
32	Reg 26	Why limit the Board to conducting public participation only if the County land has approval from the County Assembly?	Rethink about the process to avoid bottlenecks to the Board.	Clarified, see rationale.	The proposed process that requires the County to approve land for affordable housing safeguards the County and the Affordable Housing Board from a governance perspective on County land matters.
33	31	What is the logic behind someone seeking consent from the Board to sell their unit and that they can only sell to a person eligible for allocation for that type of unit (yet the person has made the payments in full and has absolute ownership)?	The proposal to reduce the lockdown period to 5 years is a good move. However, after the lapse of 5 years, the Board should not restrict one from selling their unit	Clarified. See rationale	This is in furtherance to the objectives of the Act in providing affordable housing and providing a process that, prior to any sale, involves the Board in ensuring the numerous subsidies provided by the Government are not abused.

28. Upon deliberations, the committee made the following observations and recommendations;

- i. The Affordable Housing Regulations, 2025 (*L.N. NO. 114 of 2025*) were made by the Cabinet Secretary for Lands, Public Works, Housing, and Urban Development in exercise of powers conferred by section 59 of the Affordable Housing Act.
- ii. The committee was informed that enacting legislation to give locals priority in acquiring the houses would be challenging, as it would conflict with Article 40 of the Constitution, which guarantees all citizens the right to own property anywhere in the country. Instead, leaders were encouraged to raise awareness and mobilize their local communities to apply for the houses.
- iii. The committee was also informed that the electronic application system was designed to minimize human interaction in the application and allocation process of the Affordable Housing Units, thereby helping to eliminate corruption and any form of discrimination.
- iv. To determine the ability to pay for affordable housing units, the Regulation-making authority informed the committee that they were engaging with the Social Health Authority to utilize its means testing system, as well as the Kenya Revenue Authority, which maintains a database of all income earners in the country.
- v. Additionally, the committee observed that the Regulation-making authority had incorporated all the committee's comments from the previous meeting into the published Regulations.

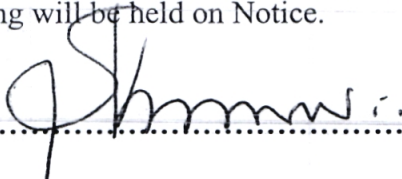
29. Based on the above findings and in accordance with Section 59(4) of the Affordable Housing Act, the Constitution, the Interpretation and General Provisions Act (*Cap. 2*), and the Statutory Instruments Act (*Cap. 2A*), the Committee resolved to recommend that the House **approve** the Affordable Housing Regulations, 2025 (*L.N. NO. 114 of 2025*), having been proposed by the Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P. and seconded by the Hon. Joseph Kamau Munyoro, M.P.

MIN. DAA&GPC/CDL/144/2025

ADJOURNMENT

There being no other business, the meeting was adjourned at Nineteen Minutes past one O'clock. The next meeting will be held on Notice.

SIGNED:



**THE HON. SAMUEL CHEPKONG'A, CBS, M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION**

DATE:

12/08/2025

MINUTES OF THE 35TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY, 4TH JUNE, 2024, IN THE SMALL DINING ROOM, NEW WING LOUNGE, MAIN PARLIAMENT BUILDINGS AT 10.00 A.M.

PRESENT

1. **The Hon. Robert Gichimu Githinji, M.P. Vice Chairperson**
2. The Hon. Robert Mbui, CBS, M.P.
3. The Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P
4. The Hon. Jared Okello Odoyo, M.P.
5. The Hon. Charles Mamwacha Onchoke. M.P.
6. The Hon. John Paul Mwirigi, M.P.
7. The Hon. Joseph Kamau Munyoro, M.P
8. The Hon. Innocent Mugabe, M.P.
9. The Hon. Laura Amina Mnyazi, M.P.
10. The Hon. Gideon Kipkoech Kimaiyo, M.P.
11. The Hon. Paul Chebor, M.P.
12. The Hon. Kibet Kirui Komingoi, M.P.
13. The Hon. Pauline Lenguris, M.P.

APOLOGIES

1. **The Hon Samuel Kiprono Chepkonga, CBS, M.P. Chairperson**
2. The Hon. Nicholas S. Tindi Mwale, M.P.
3. The Hon. Maj. (Rtd). Abdullahi Bashir Sheikh, M.P.
4. The Hon. Joyce Kamene, M.P.
5. The Hon. Maj. (Rtd). Dekow Barrow Mohamed, M.P.
6. The Hon. Geoffrey Kariuki Kiringa Ruku, M.P
7. The Hon. Linet Chepkorir M.P.
8. The Hon. Yakub Adow Kuno, M.P.

IN ATTENDANCE

SECRETARIAT

- | | | |
|-------------------------|---|---------------------|
| 1. Ms. Esther Nginyo | - | Clerk Assistant I |
| 2. Mr. Brian Langwech | - | Clerk Assistant III |
| 3. Ms. Isabella Mwembi | - | Clerk Assistant III |
| 4. Mr. Silvanus Makau | - | Clerk Assistant III |
| 5. Ms. Fiona Wanjiru | - | Legal Counsel II |
| 6. Ms. Faith Chepkemboi | - | Legal Counsel II |
| 7. Mr. Valerian Pascal | - | Hansard Officer III |
| 8. Ms. Rahab Chepkilim | - | Hansard Services |
| 9. Mr. Noah Chemweno | - | Serjeant-At-Arms. |
| 10. Mr. Daniel Psirmoi | - | Media Relations |

MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

- | | | |
|-------------------------|---|----------------------------|
| 1. Mr. Charles Hinga | - | Principal Secretary, SDHUD |
| 2. Mr. John Muya | - | SA/AHP,SDHUD |
| 3. Mr. Geoffrey Malombe | - | D/NARM, NT |
| 4. Ms. Evelyn Nyakwara | - | SCFO,SDHUD |
| 5. Mr. James Maina | - | DH, SDHUD |
| 6. Mr. Job Kimani | - | A Sec, SDHUD |
| 7. Mr. Jeremiah Simu | - | IPDU, SDHUD |
| 8. Mr. John Kimani | - | ADH, SDHUD |
| 9. Ms. Mary Kimani | - | Assistant Director, SDHUD |

AGENDA

1. Prayers
2. Preliminaries
3. Adoption of the Agenda
4. Confirmation of minutes
5. Matters arising
6. **Briefing by the Principal Secretary, State Department for Housing and Urban Development on the Draft Affordable Housing Regulations, 2024.**
7. Any Other Business; and
8. Adjournment.

MIN. DAA&GPC/CDL/223/2024

PRELIMINARIES

The Vice Chairperson called the Meeting to order at 10.15 a.m. and requested Hon. Robert Mbui, CBS, M.P. to say a prayer. He then welcomed all to the meeting.

MIN. DAA&GPC/CDL/224/2024

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by the Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P and seconded by the Hon. Kibet Kirui Komingoi, M.P.

MIN. DAA&GPC/CDL/225/2024

CONFIRMATION OF MINUTES

Minutes of the 33rd Sitting held on Monday, 13th May 2024, were confirmed as an accurate record of the proceedings having been proposed by the Hon. Pauline Lenguris, M.P and seconded by the Hon. Robert Mbui, CBS, M.P.

Minutes of the 34th Sitting held on Tuesday, 14th May 2024, were confirmed as an accurate record of the proceedings having been proposed by the Hon. Gideon Kipkoech Kimaiyo, M.P. and seconded by the Hon. Julius Lekakeny Ole Sunkuli, EGH, EBS M.P

MIN. DAA&GPC/CDL/226/2024

MATTERS ARISING

Under MIN. DAA&GPC/CDL/213/2024, the Committee was informed that the secretariat had prepared briefs on matters concerning Regulations for the Institute of Human Resource

Management and the Tourism Promotion Fund and that the briefs would be scheduled for presentation to the Committee

MIN. DAA&GPC/CDL/227/2024

**BRIEFING BY THE PRINCIPAL
SECRETARY, STATE DEPARTMENT
FOR HOUSING AND URBAN
DEVELOPMENT ON THE DRAFT
AFFORDABLE HOUSING
REGULATIONS, 2024.**

Mr. Charles Hinga, Principal Secretary, State Department for Housing and Urban Development briefed the Committee on the draft Affordable Housing Regulations, 2024 as follows:

1. **Regulation 1** provides for citation.
2. **Regulation 2** provides for interpretation.
3. **Regulation 3** provides for eligibility for exemption.
4. **Regulation 4** provides for application for exemption.
5. **Regulation 5** provides for validity of an exemption.
6. **Regulation 6** provides for revocation of exemption.
7. **Regulation 7** provides for eligibility for allocation.
8. **Regulation 8** provides for application for allocation.
9. **Regulation 9** provides for rate of deposit.
10. **Regulation 10** provides for deposit assistance.
11. **Regulation 11** provides for inclusivity and diversity within affordable housing schemes.
12. **Regulation 12** provides for change of affordable housing unit.
13. **Regulation 13** provides for reallocation due to default in payment.
14. **Regulation 14** provides for change of defaulter's unit to a lower value unit.
15. **Regulation 15** provides for loan interest rate or administration fee.
16. **Regulation 16** provides for eligibility to enter agreement to develop institutional housing.
17. **Regulation 17** provides for application for approval to develop institutional housing.
18. **Regulation 18** provides for implementation of institutional housing through implementing agencies.
19. **Regulation 19** provides for agreements with approved institutions and mortgage schemes.
20. **Regulation 20** provides for eligibility to enter into an off-take agreement for financing.
21. **Regulation 21** provides for application for approval.
22. **Regulation 22** provides for interest rate or administration fee on agreement for financing.
23. **Regulation 23** provides for eligibility for off-take.
24. **Regulation 24** provides for application for approval to offer for off-take.
25. **Regulation 25** provides for associated social and physical infrastructure.
26. **Regulation 26** provides for conduct of public participation.
27. **Regulation 27** provides for agreement with private institutions.
28. **Regulation 28** provides for notice of affordable housing project on settlement.
29. **Regulation 29** provides for withdrawal of voluntary savings.

30. **Regulation 30** provides for rural affordable housing unit.
31. **Regulation 31** provides for restriction on disposal of affordable housing unit.
32. **Regulation 32** provides for application for consent to sell an affordable housing unit.
33. Upon deliberations, the Committee made the following observations and recommendations, that:
 - i. The Affordable Housing Act, 2024 which came into effect on 19th March, 2024 had provided in section 59 that, the Regulations should have been made within 30 days of coming into effect of the Act.
 - ii. The Regulations should be divided into parts for ease of reference.
 - iii. The Regulations had inappropriately delegated legislative powers under Regulations 8(1), 13(2), 20(c), 21(2)(d), 25(1)(a)(xi), 25(1)(b)(vii), 27(1)(g), and 27(2)(j).
 - iv. The Social Housing and Affordable Housing should be categorized as separate item since they have distinct requirements.
 - v. Section 59 of the Act provides that Cabinet Secretary in consultation with the Board make the Regulations. It should therefore be indicated in the Regulations.
 - vi. Under Regulation 3(1) provide for exemptions other than what the Act provides and therefore it should be removed from the Regulations.
 - vii. Under Regulation 3 (2) the maker of regulations is not allowed to go beyond what the Act provides for by creating exemptions for levy as the Act provided that this is a function of the Cabinet Secretary, National Treasury.
 - viii. Regulation 4(2)(a) would create conflict between the two Cabinet Secretaries for Lands and National Treasury when applying for exemptions.
 - ix. Regulation 5 was not clear on the period for validity of exemption.
 - x. There is need to provide for the maximum and minimum timelines upon which the applicants will receive the outcome.
 - xi. There was need to provide in the Regulations that displaced people are given a priority to own the houses upon its completion.
 - xii. Under Regulation 8(2)(a), regulation 10 is wrongly cross-referenced in place of Regulation 9.
 - xiii. Under Regulation 10, the regulations should set out the specific criteria instead of delegating to the board.
 - xiv. Under regulation 13, there should be consideration to extend the time for giving notice for default in the payment for units as the one month proposed is a short period for issuing a notice.
 - xv. Regulation 26 limits the board from conducting appropriate public participation.
 - xvi. Social media should be added as means of advertising the intention to conduct public participation.
 - xvii. Provide for review mechanism in the regulations.
 - xviii. There is need to provide and cross-reference the offences and penalties as provided in the Act.
 - xix. There is need to provide for a regulation for succession of units.

- xx. There is need to provide for eligibility of those who qualify to pay for the units and those who would be exempted.
- xxi. Under Regulation 32, there was no rationale why a person would be required to seek Board's approval to sell their unit..
- xxii. Under Regulation 14(2), the definition of 'defaulter' to be placed under Regulation 2 on interpretations.
- xxiii. Under Regulation 8(2)(f), there is need to include for eligibility for application of allocation of units, those people who were evicted from areas where the affordable houses were built.
- xxiv. The Committee resolved that the Ministry should incorporate its input in the draft Regulations and present them again to the Committee before publication.

MIN. DAA&GPC/CDL/228/2024

ANY OTHER BUSINESS

There were no issues on this Agenda item.

MIN. DAA&GPC/CDL/229/2024

ADJOURNMENT

There being no other business, the meeting was adjourned at forty-five minutes past twelve O'clock.

SIGNED: 

**THE HON. SAMUEL CHEPKONGA, CBS, M.P.
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION**

DATE: 

SPECIAL ISSUE

Kenya Gazette Supplement No. 108

1143

9th July 2025

(Legislative Supplement No. 56)

LEGAL NOTICE NO. 114

THE AFFORDABLE HOUSING ACT, 2024

(No. 2 of 2024)

THE AFFORDABLE HOUSING REGULATIONS, 2025

ARRANGEMENT OF REGULATIONS

Regulation.

PART I—PRELIMINARY

1— Citation.

2— Interpretation.

PART II—ALLOCATION OF AFFORDABLE HOUSING UNITS

3— Eligibility criteria for allocation of an affordable housing unit.

4— Application for allocation of an affordable housing unit.

5— Allocation of an affordable housing unit.

6— Decline of allocation of an affordable housing unit.

7— Rate of deposit.

8— Deposit assistance.

9— Change of allocated affordable housing unit.

10— Default in payment for an affordable housing unit.

11— Application for a loan for the development of a rural affordable housing unit.

PART III—INSTITUTIONAL HOUSING

12— Agreement to develop, renovate existing or complete unfinished institutional housing.

13— Development of institutional housing through implementing agencies.

PART IV—OFF-TAKE

14— Institutions which may offer financing for off-take.

15— Approval of an institution to offer financing for off-take.

16— Eligibility criteria for off-take by the Board.

PART V—INTEREST RATE

17— Interest rate.

PART VI—TRANSFER OF OWNERSHIP OF AN AFFORDABLE
HOUSING UNIT

18— Consent for sale of an affordable housing unit.

PART VII—REVIEW AND APPEAL AGAINST DECISIONS OF
THE BOARD

19— Review of decisions of the Board.

20— Appeals against decisions of the Board.

PART VIII—MISCELLANEOUS

21— Categorisation of affordable housing units.

22— Establishment of an electronic system.

23— Development of associated physical infrastructure.

24— Development of associated social infrastructure.

25— Conduct of public participation.

26— Development of an affordable housing scheme on settlement.

27— Off-take of an affordable housing scheme on settlement.

28— Agreement of the Board with a private institution.

29— Voluntary savings.

SCHEDULE—Forms

THE AFFORDABLE HOUSING ACT, 2024

(No. 2 of 2024)

IN EXERCISE of the powers conferred by section 59 of the Affordable Housing Act, 2024, the Cabinet Secretary for Lands, Public Works, Housing and Urban Development, in consultation with the Affordable Housing Board, makes the following Regulations—

THE AFFORDABLE HOUSING REGULATIONS, 2025

PART I—PRELIMINARY

1. These Regulations may be cited as the Affordable Housing Regulations, 2025. Citation.

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

“agreement for financing” means an agreement entered into in accordance with section 45 of the Act;

“credit rating” means evaluating the ability of an individual to meet payment obligations to the Board for a for a loan, tenant purchase scheme or deposit assistance;

“deposit” means an amount payable towards the purchase of an affordable housing unit;

“deposit assistance” means a loan issued by the Board towards raising a deposit for the purchase of an affordable housing unit as well as provisions for furnishings for persons whose income is below twenty thousand shillings and whose full repayment is only due upon default, sale, surrender, or transfer of the affordable housing unit;

“financing institution” includes a commercial bank, microfinance bank, mortgage finance institution or a mortgage refinancing company;

“gross income” means the total amount received from the economic activity of a person before deducting the expenses incurred by the person;

“Levy” has the meaning assigned to it under section 2 of the Act;

“off-take” means the acquisition of an affordable housing unit under an approved housing scheme; and

“tenant purchase scheme” means an arrangement for the purchase of an affordable housing unit where monthly payments are made to offset the outstanding amount and interest to acquire the affordable housing unit.

PART II—ALLOCATION OF AFFORDABLE HOUSING UNITS

3. A person is eligible to be allocated an affordable housing unit if that person— Eligibility criteria for allocation of an affordable housing unit.

- (a) is a citizen of Kenya;
- (b) has attained the age of eighteen years;

- (c) has not been previously allocated an affordable housing unit; and
- (d) has not been previously advanced a loan for the development of a rural affordable housing unit.
4. (1) A person who meets the eligibility criteria specified in regulation 3 and intends to purchase an affordable housing unit shall submit to the Board an electronic application for allocation of an affordable housing unit in Form 1 set out in the Schedule.
- Application for allocation of an affordable housing unit.
- (2) The Board shall, within ninety days after receiving an application made under paragraph (1)—
- (a) verify the authenticity of documents attached to the application; and
- (b) evaluate the ability of the applicant to meet the payment obligations for the selected affordable housing unit.
- what will be used to determine the ability?*
5. (1) Upon the successful determination of an application made under regulation 4, the Board shall allocate an affordable housing unit categorised in accordance with regulation 21, to the applicant.
- Allocation of an affordable housing unit.
- (2) Where the application made under regulation 4 is for a tenant purchase scheme, the Board shall take out a group life insurance cover for the outstanding amount payable by the applicant, whose premiums shall be payable by the applicant.
- (3) A person who has been allocated an affordable housing unit under paragraph (1) shall remit the payments, interests and other charges for the affordable housing unit, in accordance with the agreement entered into by the Board and the person.
6. Where an application made under regulation 4 is not successful, the Board shall, within fourteen days after the decision is made—
- Decline of allocation of an affordable housing unit.
- (a) notify the applicant of its decision specifying the reasons for its decision; and
- (b) transfer the amount deposited to the voluntary savings account of the applicant.
7. The amount of the deposit payable for the purchase of an affordable housing unit shall be up to five percent of the purchase price of the affordable housing unit.
- Rate of deposit.
8. (1) A person is eligible to deposit assistance where that person—
- Deposit assistance.
- (a) is a citizen of Kenya;
- (b) has attained the age of eighteen years;
- (c) has not been previously allocated an affordable housing unit;
- (d) has not previously received deposit assistance from the Fund; and

(e) has the ability to repay the deposit assistance as determined by the Board.

what will be used to determine fee ability

(2) A person who meets the criteria specified in paragraph (1) and intends to obtain deposit assistance shall apply for deposit assistance required in the application made under regulation 4.

(3) Where an application for deposit assistance is successful, the Board shall enter into an agreement with the applicant and credit the deposit assistance to the account of the applicant in accordance with the agreement.

(4) The amount of deposit assistance advanced under paragraph (3) shall be added to the outstanding amount, and any interest, payable by the applicant under a tenant purchase scheme, or the amount advanced to the applicant for the development of a rural affordable housing unit.

(5) Where an application for deposit assistance is not successful, the Board shall notify the applicant of its decision and state the reasons for the decision within fourteen days after the decision is made.

9. (1) A person is eligible to a change of allocated affordable housing unit where that person has already been allocated an affordable housing unit and has not transferred the ownership of the affordable housing unit.

Change of allocated affordable housing unit.

(2) A person who meets the criteria specified in paragraph (1) may submit an electronic application to the Board specifying the reasons for the proposed change of allocation.

(3) Where the Board considers that the affordable housing unit surrendered in accordance with paragraph (7) is not tenatable, the Board may renovate and recover the cost of the renovation from the person who made the application.

(4) Within thirty days after an application made under paragraph (2) is made, the Board shall determine the application and notify the applicant of its decision within fourteen days after the decision is made.

(5) Where an application made under paragraph (2) is successful, the Board shall—

- (a) allocate a different affordable housing unit to the applicant; and
- (b) withdraw all the payments made by the applicant for the previously allocated affordable housing unit and repurpose those payments for the newly allocated affordable housing unit.

(6) An applicant under paragraph (2) who had not taken possession of the previously allocated affordable housing unit shall forfeit the affordable housing unit .

(7) An applicant under paragraph (2) who had taken possession of the previously allocated affordable housing unit shall surrender the affordable housing unit to the Board in a tenatable condition.

(8) Where the newly affordable housing unit allocated under paragraph (5) is of a lower value than the previously allocated affordable housing unit—

- (a) the Board shall, within ninety days of making the decision, refund the applicant the payments made by the applicant that exceed the amount of the monthly payments of the newly allocated affordable housing unit; and
- (b) the Board and the applicant shall restructure the payment obligations of the tenant purchase agreement for the newly allocated affordable housing unit.

(9) Where the newly allocated affordable housing unit allocated under paragraph (5) is of a higher value than the previously allocated affordable housing unit, the applicant and the Board shall restructure the payment obligations of the tenant purchase agreement for the newly allocated affordable housing unit.

10. (1) Where a person who was allocated an affordable housing unit under a tenant purchase scheme defaults in the payment for one month, the Board shall issue a notice, in writing, to that person requiring the default to be remedied within thirty days.

Default in payment for an affordable housing unit.

(2) Where a person fails to comply with the notice issued under paragraph (1), and has been in default for the payment for two consecutive months, the Board shall, issue a notice, in writing, to that person requiring the person to, within two weeks—

- (a) pay the amount in default;
- (b) apply for change of allocation of the affordable housing unit to an affordable housing unit of a lower value; or
- (c) restructure the payment obligations of the tenant purchase agreement.

(3) The notice issued under paragraph (2) shall specify that where the person in default does not comply with the notice, the Board shall take possession of the affordable housing unit and may reallocate the affordable housing unit to another eligible person.

(4) Where an application made under paragraph (2) (b) is successful, the Board shall, within thirty days after the application is made, allocate the person an affordable housing unit if—

- (a) the applicant meets the criteria set out under regulation 3 for an affordable housing unit of a lower value than the affordable housing unit previously allocated;
- (b) the payments made by the applicant are adequate to purchase the affordable housing unit of a lower value than the affordable housing unit previously allocated; and
- (c) an affordable housing unit of a lower value than the affordable housing unit previously allocated is available.

(5) Where an application made under paragraph (2) (b) is not successful, the Board shall, within thirty days after the application is made, issue to the applicant a notice in writing of the intention of the

Board to repossess the unit within fourteen days from the date of the notice.

(6) Where the Board takes possession of an affordable housing unit under paragraph (5), the Board shall assess any applicable refunds due to the applicant under the tenant purchase agreement.

11. (1) A person is eligible to apply for a loan for the development of a rural affordable housing unit, if that person—

Application for a loan for the development of a rural affordable housing unit.

- (a) has made voluntary savings with the Fund;
- (b) has not been allocated an affordable housing unit; and
- (c) has met the eligibility criteria specified in regulation 3.

(2) A person who meets the criteria specified in paragraph (1) may submit to the Board an electronic application for a loan for the development of a rural affordable housing unit in Form 2 set out in the Schedule accompanied by—

- (a) a development permission granted by the respective county executive committee member under section 57 of the Physical and Land Use Planning Act;
- (b) a valuation report of the land issued by a valuer who is registered in accordance with the Valuers Act;
- (c) a priced bill of quantities prepared by a quantity surveyor who is registered under the Architects and Quantity Surveyors Act;
- (d) a copy of the title to the land indicating that the land is registered in the name of the applicant;
- (e) a copy of the official search of the land indicating that the land is registered in the name of the applicant; and
- (f) a declaration that the loan shall be solely used for development of a rural affordable housing unit.

Cap. 303.

Cap. 532.

Cap. 525.

(3) When determining an application made under paragraph (1), the Board may consider the following—

- (a) whether the applicant has an operational voluntary savings account with the Fund; and
- (b) whether the applicant has the ability to repay the amount applied.

(4) The Board shall, within ninety days after an application made under paragraph (1), determine the application and notify the applicant in writing of its decision within fourteen days after the decision is made.

(5) Where an application made under paragraph (1) is successful, the Board shall—

- (a) enter into an agreement with the applicant;

- (b) credit the amount borrowed to the account of the applicant in accordance with the agreement after the registration of a charge in favour of the Board; and
- (c) notify the applicant to take out a life insurance cover for the loan advanced.

(6) The loan amount credited to a successful applicant under paragraph (6)(b) shall not exceed four million shillings.

(7) Where an application under paragraph (1) is not successful, the Board shall specify the reasons for the decision in the notice issued under paragraph (5).

PART III—INSTITUTIONAL HOUSING

12. (1) A public institution may enter into an agreement with the Board to develop institutional housing where the institution satisfies the Board that the public institution—

- (a) has a need for the proposed institutional housing;
- (b) has land available for the development of the proposed institutional housing; and
- (c) has developed a system or structure for the management and maintenance of the proposed institutional housing.

(2) A public institution may enter into an agreement with the Board for—

- (a) the renovation of existing institutional housing of the public institution; or
- (b) the completion of unfinished institutional housing of the public institution.

(3) This regulation shall apply only where the land on which institutional housing is to be developed, renovated or completed, does not have any encumbrances placed on its ownership.

13. The Board shall design, develop and maintain institutional housing through an approved implementing agency set out in the First Schedule to the Act.

PART IV—OFF-TAKE

14. The Board may enter into an agreement for financing off-take with the following institutions or entities established, registered or authorised to provide loans for purchasing affordable housing units—

- (a) an entity established by the national government or a county government;
- (b) an institution licensed under the Banking Act;
- (c) a retirement benefit scheme registered under the Retirement Benefits Act;

Agreement to develop, renovate existing or complete unfinished institutional housing.

Development of institutional housing through implementing agencies.

Institutions which may offer financing for off-take.

Cap. 488.

Cap. 197.

- (d) a securities exchange, commodities exchange or derivatives exchange, registered venture capital company, collective investment scheme or credit rating agency, licensed under the Capital Markets Act; or Cap. 485A.
- (e) a savings and credit co-operative society licensed under the Sacco Societies Act. Cap. 490B.
15. (1) An institution or entity referred to in regulation 14 may finance off-take where the institution or entity submits a valid tax compliance certificate issued under section 72 of the Tax Procedures Act, to the Board and satisfies the Board that the institution entity is creditworthy. Approval of an institution to offer financing for off-take.
Cap. 469B.
- (2) An institution or entity which meets the eligibility criteria specified in paragraph (1) shall submit an electronic application for approval accompanied by—
- (a) a copy of the certificate of incorporation, or registration certificate, of the institution, where applicable;
- (b) a certified copy of a valid licence in respect of the institution issued under the Banking Act, where applicable; Cap. 488.
- (c) a certified copy of a valid licence in respect of the institution issued under the Microfinance Act, where applicable; Cap. 493C.
- (d) a certified copy of a valid registration certificate issued under the Retirement Benefits Act, where applicable; Cap. 197.
- (e) a certified copy of a valid authorisation issued under the Capital Markets Act, where applicable; Cap. 485A.
- (f) a certified copy of a valid licence in respect of the institution issued under the Sacco Societies Act, where applicable; Cap. 490B.
- (g) a copy of the Kenya Revenue Authority personal identification number of the institution; and
- (h) a copy of the valid tax compliance certificate for the institution.
- (3) The Board shall, within ninety days after an application made under paragraph (1) is made, determine the application and notify the applicant in writing of its decision within fourteen days after the decision is made.
- (4) Where an application made under paragraph (1) is approved, the Board shall enter into an agreement with the institution for financing off-take.
- (5) Where an application made under paragraph (1) is not successful, the Board shall notify the applicant of its decision and state the reasons for the decision.
16. The Board may off-take from an agency specified in the First Schedule to the Act where the agency submits a valid tax compliance certificate issued under section 72 of the Tax Procedures Act, to the Board. Eligibility criteria for off-take by the Board.
Cap. 469B.

PART V—INTEREST RATE

17. The interest rate for a loan issued for the purposes of purchasing an affordable housing unit and development of a rural affordable housing unit shall be— Interest rate.

- (a) where the monthly income of the person allocated an affordable housing unit is less than twenty thousand shillings, three per cent per annum of the reducing balance;
- (b) where the monthly income of the person allocated an affordable housing unit is at least twenty thousand shillings but does not exceed one hundred and forty-nine thousand shillings, six per cent per annum of the reducing balance; and
- (c) where the monthly income of a person allocated an affordable housing unit is more than one hundred and forty-nine thousand shillings, nine per cent per annum of the reducing balance.

PART VI—TRANSFER OF OWNERSHIP OF AN AFFORDABLE HOUSING UNIT

18. (1) Where the owner of an affordable housing unit intends to sell the affordable housing unit or an interest in the affordable housing unit, the owner shall apply for consent, in writing, specifying the reasons for the sale of the affordable housing unit or an interest in the affordable housing unit, and submit the application electronically to the Board. Consent for sale of an affordable housing unit.

(2) When considering an application made under paragraph (1), the Board shall determine whether the applicant—

- (a) has been in possession of the affordable housing unit for at least five years after the completion of the payment obligations for the affordable housing unit; and
- (b) offers a price within the prevailing market price range for a similar affordable housing unit as determined through a valuation procured by the owner from a valuer registered under the Valuers Act. Cap. 532.

(3) Where an application made under paragraph (1) is successful, the Board shall, within thirty days after the application was made issue, in writing, a consent to sell the affordable housing unit.

(4) Where an application made under paragraph (1) is not successful, the Board shall, within thirty days after the application was made, notify the applicant of its decision within fourteen days after the decision is made, specifying the reasons for the decision.

(5) An affordable housing unit that is offered for sale upon a consent issued under paragraph (4) shall only be purchased by a person who meets the eligibility criteria referred to in regulation 3 for the respective affordable housing unit.

PART VII—REVIEW AND APPEAL AGAINST DECISIONS OF
THE BOARD

19. (1) A person who is aggrieved by a decision of the Board made under regulation 4, 8, 9, 10, 11, 16, 17 or 21 may apply in writing to the Board for a review of the decision within fourteen days after the decision is made.

Review of decisions of the Board.

(2) An application for review may be made under paragraph (1) on the grounds of—

- (a) the discovery of a new or important fact, the evidence of which, after the exercise of due diligence, was not within the knowledge of the person when the decision was being made; or
- (b) a clerical or arithmetic error that is apparent on the decision.

(3) Where the Board considers that there is no sufficient ground for a review, the application shall be dismissed and the decision of the Board shall stand.

(4) Where the Board is of the opinion that the application for review should be granted, the Board shall reconsider the application for which the review was applied for within the timelines specified in regulation 4, 8, 9, 10, 11, 16, 17 or 21.

20. A person aggrieved by a decision of the Board under regulation 4, 8, 9, 10, 11, 16, 17 or 21 may appeal to the High Court.

Appeals against decisions of the Board.

PART VIII—MISCELLANEOUS

21. (1) The Board shall categorise affordable housing units in an affordable housing scheme into the allocation pools based on the level of income.

Categorisation of affordable housing units.

(2) The pools referred to in paragraph (1) shall be categorised as follows—

- (a) social housing units which shall be for applicants whose monthly income is below twenty thousand shillings;
- (b) affordable housing units which shall be for applicants whose monthly income is between twenty thousand and one hundred and forty- nine thousand shillings; and
- (c) affordable middle-class housing units which shall be for applicants whose monthly income is over one hundred and fort-nine thousand shillings.

22. (1) The Board shall establish an electronic system for the allocation of affordable housing units in accordance with the pools categorised under regulation 21.

Establishment of an electronic system.

(2) In relation to applications made under regulations 4, 8, 9, 10 and 11, the system established under paragraph (1) shall—

- (a) provide real-time tracking of each application;
- (b) record timestamps for each application;

- (c) distinguish applications in accordance with the pools categorised under regulation 19; and
- (d) provide access and transparency to the applicants.

(3) The Board shall process applications made under regulations 4, 8, 9, 10 and 11, in accordance with the timestamps for each application.

23. The Board ^{should be shall} may develop the following associated physical infrastructure in every affordable housing scheme—

Development of associated physical infrastructure.

- (a) access roads and parking;
- (b) non-motorised transport including walkways;
- (c) storm water drainage;
- (d) sewer line connectivity;
- (e) water reticulation services;
- (f) liquefied petroleum gas reticulation services;
- (g) street lighting;
- (h) internet connectivity;
- (i) high mast lighting;
- (j) connectivity to electricity supply;
- (k) solar lighting; and
- (l) infrastructure for transit oriented public transport.

24. The Board may develop the following associated social infrastructure in every affordable housing scheme—

Development of associated social infrastructure.

- (a) a health facility;
- (b) a pre-primary educational institution;
- (c) a basic education institution;
- (d) a fire station;
- (e) a police post;
- (f) a social hall;
- (g) a market;
- (h) open spaces; and
- (i) infrastructure for the management of solid waste.

25. (1) Where the Board intends to conduct public participation and stakeholder engagement under section 41(2) of the Act, the Board shall issue a notice of at least a fourteen days to interested persons and the members of the public.

Conduct of public participation.

(2) The notice issued under paragraph (1) shall specify—

- (a) the period which public participation and stakeholder engagement shall be conducted;

- (b) the date, time and location where each forum for public participation or stakeholder engagement will be conducted; and
- (c) the purpose of the public participation or stakeholder engagement.
- (3) The Board shall publish the notice issued under paragraph (1)—
- (a) in two newspapers of nationwide circulation;
- (b) on at least one radio station whose coverage is nationwide;
- (c) on at least one radio station whose coverage is at least within the respective county; and
- (d) on the website of the Board.
- (4) The Board shall not conduct public participation or stakeholder consultations on county land that has not been approved for allocation by the respective County Assembly and the National Land Commission for affordable housing.

(5) The Board shall review and consider comments received from stakeholders and members of the public during the public participation.

26. Where the Board intends to develop an affordable housing scheme on land which is situated on a settlement under section 47 of the Act, the Board shall issue a notice of intention to develop an affordable housing scheme in Form 3 set out in the Schedule.

Development of an affordable housing scheme on settlement.

27. Where the Board intends to off-take an affordable housing scheme developed on land which is situated on a settlement under section 47 of the Act, the Board shall issue a notice of intention to off-take in Form 3 set out in the Schedule.

Off-take of an affordable housing scheme on settlement.

28. Where the Board intends to enter into an agreement with a private institution for the purposes of section 44 of the Act, the Board shall publish a notice of intention to enter into an agreement in Form 4 set out in the Schedule.

Agreement of the Board with a private institution.

29. Where a person who has made voluntary savings with the Fund for purposes of raising a deposit, but has not been allocated a unit, intends to withdraw the savings in accordance with section 52(4)(a) of the Act, the Board shall, refund the savings and any accrued interest or profit less any applicable administrative costs and close the person's account.

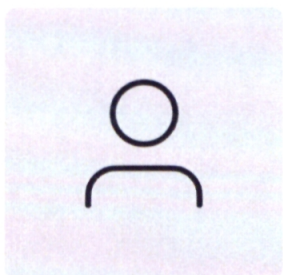
Voluntary savings.

SCHEDULE

FORMS

FORM 1 — APPLICATION FOR ALLOCATION OF AN AFFORDABLE
HOUSING UNIT*(r. 4(1))*

Personal Information:

Please attach a passport-sized photo

First name: Kenya Revenue Authority
personal identification
number: *(attach a copy)*

Middle name: Tax compliance
certificate number:
*(attach a copy of the
certificate)*

Last name:

Date of Birth (Day,
month, year):Identity card or
passport number:*(attach a copy of
the identity card or
passport)*Are you living with a Yes No
disability?Gender: Male
 FemaleNational Council for
Persons with Disabilities
registration number:*(attach a copy of the
registration certificate)*

Contact information for the Applicant

Postal address:

Postal code:

City or town:

County:

Phone number:

Email address:

Personal information for Alternative contact

Name:

Email address:

Relationship:

Postal address:

Phone number:

Income Information for the Applicant:

Salaried

Other sources of income

Indicate other sources of income

Total monthly income:

Housing Preferences:

Preferred Housing Location/County:

Special Requirements:

Name of projects

Type of Housing Desired:

Affordable Unit:	Housing	<input type="checkbox"/> Studio	Social Housing	<input type="checkbox"/> 1 room
		<input type="checkbox"/> 1 bedroom		<input type="checkbox"/> 2 room
		<input type="checkbox"/> 2 Bedroom		<input type="checkbox"/> 3 room
		<input type="checkbox"/> 3 bedroom		<i>Social Housing</i>
				<i>Enumeration Number:</i>

Affordable Class Middle Class

2 Bedroom

3 bedroom

Proposed Mode of Payment:

Select your payment method: Cash Mortgage Tenant purchase scheme

Proof of Deposit paid (attach evidence of 10% of the sale price of the selected unit in the Housing Preferences section)

Cash deposited with the Board Bank Guarantee (*attach copy*) Need deposit assistance

Financial information

Have you previously received any deposit assistance from the Board? Yes No If yes, please specify:

Do you currently own a house? Yes No

Have you previously been allocated and taken possession of an affordable housing unit? Yes No

Have you previously been given a loan to develop a rural affordable housing unit? Yes No

Are you applying for a change of unit? Yes No

If yes, please specify reasons for applying for a change of affordable housing unit:

I am in default for payment of the other unit

I acquired the house through a tenant purchase scheme

Alternative contact person information

Name:

Email Address:

Relationship:

Contact Address:

Telephone number:

Declaration and Consent

I hereby declare that the information provided is true and accurate to the best of my knowledge and I consent to the verification of the same as required by the Affordable Housing Board.

I agree

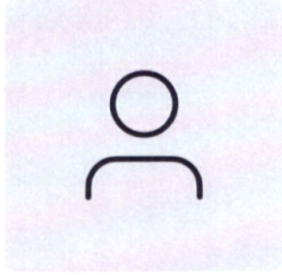
Signature of the applicant.....

Date:

FORM 2—APPLICATION FOR AN AFFORDABLE RURAL HOUSING LOAN

(r.11(2))

Personal Information:

Please attach a passport-sized photo

Full Name:

Identity card or
passport number:*(attach a copy of
the identity card or
passport)*

Phone number:

Kenya Revenue
Authority personal
identification
number:
*(attach a copy)*Tax compliance
certificate number:*(attach a copy of
the certificate)*Do you currently
own or rent a Yes No
house?

If yes

Are you a person Yes No
living with a
disability?National Council for
Persons with
Disabilities registration
number:

(attach a copy of the registration certificate)

Contact information of applicant

Country

County

Sub-county

City or town

Division

Location

Sub-location

Postal address:

Postal code:

Primary phone number

Secondary phone number

Email address

Details of alternative contact person

Name:

Relationship:

Contact address:

Phone number

Email address

Income Information for the Applicant:

Salaried

Non-salaried

Total Income

Indicate other sources of income: *(attach a copy of proof of additional income)*

Total monthly income:

** attach certified copies of the following where applicable: letter of introduction from employer, pay slips for the previous three months, bank statements for the previous six months, mobile money statement for the previous six months, Sacco account statement for the previous six months, tax return for the previous year, peer statement*

Financial information	
Do you have an unpaid loan? <input type="checkbox"/> Yes <input type="checkbox"/> No	<p>If yes, please specify: <i>(attach a copy of the loan statement)</i></p> <p>Monthly payments:</p> <p>Outstanding amount:</p>
Current residence of the Applicant	
Do you currently own, rent or pay a loan for a house you reside in? <input type="checkbox"/> Own <input type="checkbox"/> Rent <input type="checkbox"/> pay a loan	
If you rent the house you reside in, specify:	<p>Amount of monthly rent:.....</p> <p>Duration of residence:.....</p> <p><i>(attach receipts for the payment of rent for the previous three months)</i></p>
If you pay a loan for the house you reside in, specify:	<p>Amount of monthly payment:</p> <p>Duration of residence:.....</p> <p>Duration of loan:.....</p> <p><i>(attach receipts for the payment of the loan for the previous three months)</i></p>
Deposit	
Proof of deposit to be paid	<input type="checkbox"/> Savings with the Board <input type="checkbox"/> Bank Guarantee
Details of property	
Land reference number:	
Nearest town	
County	
Cost of the development in Ksh.....	
Mortgage finance applied for Ksh.....	

(Should not exceed 90% of the cost of the development subject to a maximum loan of KSh. 4,000,000)

Declaration

I hereby declare that—

- (a) the information provided is true and accurate to the best of my knowledge;
- (b) I consent to the verification of the same as required by the Affordable Housing Board; and
- (c) the loan advanced shall be used solely for the development of the rural affordable housing unit.

I agree

Signature of the applicant:

Date:

FORM 3—NOTICE OF INTENTION TO DEVELOP OR OFF- TAKE
AFFORDABLE HOUSING SCHEME

(r. 26, 27)

The Affordable Housing Board hereby gives notice to the residents of.....(*indicate name of the sub-county/ward*), of the intention to develop/off-take.....(*indicate the name of affordable housing scheme*) situated on.....(*indicate title number of property*) at.....(*indicate the name of the County*).

The affordable housing scheme includes the development/off-take of—

- (a) (*indicate the quantity and category of the affordable housing units*)
- (b) (*indicate the quantity and type of associated physical infrastructure*) and
- (c) (*indicate the quantity and type of associated social infrastructure*).

The residents of.....(*indicate name of the sub-county/ward*), at.....(*indicate the name of the County*) are invited to submit their comments on the intended development or off-take to the Board within twenty-one days.

Dated.....2025.

.....
Chairperson,
Affordable Housing Board.

FORM 4—NOTICE OF INTENTION TO ENTER INTO AN AGREEMENT WITH A
PRIVATE INSTITUTION

(r. 28)

The Affordable Housing Board hereby gives notice to the public of the intention to enter into an agreement with an interested private institution with the capacity to develop and construct affordable housing units and associated social and physical infrastructure and for the supply of goods and materials in connection with the development and construction of affordable housing units.

Interested private institutions are invited to submit their applications in line with the invitation of tenders dated..... Tender Number

Dated.....2025.

.....
Chairperson,
Affordable Housing Board.

Made on the 27th June, 2025.

ALICE WAHOME,
*Cabinet Secretary for Lands,
Public Works, Housing and Urban Development.*



EXPLANATORY MEMORANDUM FOR THE AFFORDABLE HOUSING REGULATIONS, 2025

I. Purpose of the Affordable Home Housing Regulations, 2025.

1. The objects and purpose of these Regulations shall be to operationalize the Affordable Housing Act, 2024 ("the Act") and provide clarity on its implementation.
2. Particularly the Affordable Housing Regulations, 2025 seek to make provisions for:-
 - (a) provide the criteria for application for allocation of an affordable housing unit under Section 48 of the Act;
 - (b) prescribe the requisite deposit for affordable housing unit under section 49(2)(a) of the Act; and provide for Deposit Assistance;
 - (c) provide the procedure to be followed in cases of default in the repayment for an allocated housing unit;
 - (d) Provide for the criteria for change of affordable housing unit under Section 59(2) of the Act;
 - (e) Provide for application for a loan for the development of a rural affordable housing unit;
 - (f) Provide for the eligibility criteria to enter into an agreement to develop institutional housing;
 - (g) Provide for eligibility to enter into agreement to finance off-take;
 - (h) Provide for application for approval to offer off take;
 - (i) Provide for loan interest rate or administration fee under section 51 of the Act;
 - (j) Provide for procedure for transfer of an affordable housing unit;
 - (k) Provide for review and appeal against decisions of the Board;
 - (l) Provide for establishment of an electronic system for application and allocation of affordable housing units;
 - (m) Provide clarity on development of associated physical and social infrastructure;
 - (n) Provide for conduct of public participation and stakeholder engagement under Section 41(2) of the Act;
 - (o) Provide for notice of intention to develop an affordable housing scheme on a settlement under Section 47 of the Act; and
 - (p) Provide for withdrawal of voluntary savings under Section 52 of the Act.

II. The Legislative Context:

1. Article 43(1) (b) of the Constitution provides that every person has the right to accessible and adequate housing, and to reasonable standards of sanitation. Further, Article 21 provides that “the State shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the rights guaranteed under Article 43”.
2. Accordingly, Parliament enacted the Affordable Housing Act, 2024 which gives effect to Article 43(1)(b) of the Constitution by providing a framework for development and access to affordable housing and institutional housing; and for connected purposes.
3. Specifically, Section 4 of the Affordable Housing Act, 2024 imposes a housing levy at the rate of 1.5% of the gross salary of an employee or the gross income of a person received or accrued which is not subject to the levy as gross salary. Section 5 of the Act obligates an employer to deduct from the employee’s monthly gross salary the Levy with an equivalent match and remit the employer’s and employee’s contribution, not later than 9 working days after the end of the month through the appointed collector. The Levy is intended to provide funds for development of affordable housing and associated social infrastructure as well as affordable home financing to Kenyans.
4. Section 59 of the Act assigns powers to the Cabinet Secretary for Housing to, in consultation with the Board, make Regulations for better carrying into effect the provisions of the Act.
5. The Ministry of Lands, Public Works, Housing and Urban Development, in compliance with the provisions of the Statutory Instruments Act, 2013 undertook public consultations while preparing these Regulations and the accompanying statutory documents.

III. Policy Context

1. In order to give effect to the constitutional provisions on Affordable Housing in Kenya, the National and County Governments should provide practical and concrete interventions which include putting in place enabling policies and legislative measures geared towards delivery of adequate and affordable housing especially to the low income earning households.
2. Accordingly, the Government formulated the National Housing Policy for Kenya, Sessional Paper No. 3 of 2016 which proposed the establishment of a funding framework for housing development.

3. The roll out of the Affordable Housing Programme incorporates social housing to ensure integrated neighborhoods and mitigate mushrooming of slums and informal settlements in the country. In addition, the rollout of the programme provides for institutional housing.
4. The Ministry of Lands, Public Works, Housing and Urban Development is mandated to provide policy guidance in the development of these Regulations.

IV. Public Consultations

(A) Development and Consultation Process

1. The development of the Regulations involved stakeholder consultation to inform the policy and legislative options for development of a law which culminated into the enactment of the Affordable Housing Act, 2024 providing a framework for development and access to affordable housing and institutional housing; and for connected purposes; and
2. Consultation process involved key stakeholders, including the members of Parliament, Civil society organizations, Public Sector, County Governments, Technical Institutions, Employers organizations, Private Sector, Employee organizations, Professionals and Professional Associations, pension funds, and Internal Stakeholders.

(B) Legislative requirements relating to consultations and public participation

The process of stakeholder consultations in preparation of the draft Regulations was undertaken in compliance with Articles 1 (2), 10 (2), 69, of the Constitution of Kenya and Section 5 of the Statutory Instruments Act, 2013

(C) Consultations and public participation on Regulations

1. Extensive consultations were held during the preparation of the Affordable Housing Regulations, 2025. The nationwide public consultations on the draft Regulations were organized with all the key stakeholders and their input taken into account as far as possible before finalization of these Regulations.
2. The key stakeholders that were consulted include the Senate and the National Assembly, County Governments, Ministries, Departments and Agencies (MDAs), academia, informal employers' organizations, banking and insurance associations, cooperative societies, pensions schemes, housing developers, contractors, regulators, employee organizations, professional associations, business membership associations, community-based organizations, civil society, and faith-based organizations, sector associations, and the general public. All the key stakeholders were consulted

through physical meetings, public notices in the media, websites and virtual meetings, emails, letters and gazette notices.

V. Policy Guidance

The State Department for Housing and Urban Development sensitized key stakeholders including Parliament and the general public, on the provisions of the Affordable Housing Regulations, 2025.

VI. Regulatory Impact Assessment

1. The proposed Regulations provide a structure for the development of affordable housing, Institutional housing and associated social and physical infrastructure.
2. The enactment of the Affordable Housing Regulations, 2025 will facilitate the implementation of the Affordable Housing Act, 2024. Specifically, the Regulations will: -
 - i) Facilitate the administration of the Affordable Housing Fund established under the Act, by seeking to: -
 - a. Reduce housing deficits through financing and off take of housing units;
 - b. Provide affordable home financing solutions to Kenyans through low interest loans for home ownership.
 - c. Create job opportunities along the value chain of construction industry thus easing unemployment rate in the country.
 - d. Reverse urban sprawl that will consequently minimize land subdivision thus conserving the land available for agriculture and forestation.
 - e. Promote slum upgrading and urban redevelopment, reduce unplanned urbanization, prevent proliferation of informal settlements and promote integrated community neighborhoods; and
 - f. Promote Micro and Small Industries and *Jua-Kali* transformation through local supply of manufactured inputs into the housing industry.
 - ii) Ensure proper governance of the Affordable Housing Fund;
 - iii) Enforce the institutional synergies envisaged in the Act and ensure seamless implementation of the Affordable Housing Programme;
 - iv) Complement the Affordable Housing Act, 2024 in ensuring there is robust legislative framework that guarantees the right to accessible and adequate housing, and to reasonable standards of sanitation.

A Regulatory Impact Assessment is attached to this memorandum. The Regulations will have an impact on the public sector, as the national authorities will have to administer the Regulations through certification and enforcement.

The implementation provides a framework for the delivery of Affordable Housing and Institutional Housing. The various cost implications provided for in the Regulations are insignificant in comparison to the expected benefits to be accrued. The Regulations seek to support the implementation of the Affordable Housing Act, 2024.

VII. Performance Monitoring and Evaluation

1. The Ministry of Land, Public Works, Housing and Urban Development shall monitor the application, adherence and enforcement of the Affordable Housing Regulations.
2. This will be done through periodic reviews to establish, among others, compliance with the prescribed standards, provision of affordable housing units, reports on implementation among others.

VIII. Contact Persons

The contact person at the Ministry of Land, Public Works, Housing and Urban Development, shall be the Cabinet Secretary.



**HON. ALICE WAHOME, EGH
CABINET SECRETARY TO THE MINISTRY OF LAND, PUBLIC WORKS, HOUSING
AND URBAN DEVELOPMENT**

Date..... **9TH JULY 2025**



MINISTRY OF LAND, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

THE REGULATORY IMPACT STATEMENT IN THE MATTER OF PUBLIC PARTICIPATION ON:- THE DRAFT AFFORDABLE HOUSING REGULATIONS 2024

1. A Statement of the objectives of the proposed Affordable Housing Regulations, 2024

The Proposed draft Affordable Housing Regulations 2024 seek to facilitate full operationalization of the Affordable Housing Act in the development of affordable housing, institutional housing and associated social and physical infrastructure across the country. The main objective and reason for the proposed Affordable Housing Regulations, 2024 is to operationalize Affordable Housing Act, 2024 and provide clarity on its implementation.

Specifically, the Regulations seek to:-

- (a) Provide for eligibility, application, validity and revocation of exemptions from imposition of the Levy under section 6 of the Act
- (b) provide the criteria for application for allocation and re-allocation in case of default of an affordable housing unit under section 48
- (c) prescribe the requisite deposit for affordable housing unit under section 49(2)(a)
- (d) Provide for inclusivity, and diversity within affordable housing schemes pursuant to Section 59(2) (i) of the Act
- (e) Provide for the criteria for change of affordable housing unit under Section 59(2);
- (f) Provide for loan interest rate or administration fee under section 51 of the Act
- (g) Provide for procedure relating to off-take of affordable housing units;
- (h) Provide for the eligibility criteria to enter into an agreement to develop institutional housing
- (i) Provide for the application procedure for approval to develop institutional housing through implementing agencies
- (j) Provide for eligibility to enter into agreement to finance off-take, application for approval
- (k) Provide for application for approval to offer off take
- (l) Provide clarity on development of associated physical and social infrastructure
- (m) Provide for conduct of Public participation by the Board
- (n) Provide for notice of affordable housing on settlement
- (o) Provide for withdrawal of voluntary savings under Section 52;
- (p) Provide for rural affordable housing unit
- (q) Provide for restrictions on disposal of affordable housing unit.

(2) The effect of the proposed Affordable Housing Regulations 2024 include the following:

- a) The proposed regulations will provide guidance on the implementation of the provisions of the Affordable Housing Act 2024.
- b) The implementation of the Regulations will ensure achievement of the Government housing commitment which is to turn housing challenge into an economic opportunity; and ensure housing production to create quality jobs for the 100,000 or so young people graduating from TVETs every year directly in the construction sector and indirectly through the production of building products.
- c) These Regulations will facilitate achievement of the economic and social rights guaranteed in Article 43(1)(b) of the constitution through:
 - i. increasing the supply of housing to 250,000 per annum; increasing the supply of affordable homes from 2 per cent to 50 per cent;
 - ii. structuring affordable long-term housing finance schemes;
 - iii. growing the number of mortgages from 30,000 to 1,000,000 by enabling low-cost mortgages;
 - iv. strengthening Jua Kali industry capacity to produce high quality construction productions and materials; and
 - v. Providing for collaborations and partnerships with developers to participate in the affordable housing program
- d) The enactment and implementation of these regulations will open up affordable home financing for development of sustainable fully serviced affordable housing schemes with integrated communities and households with all the requisite social and physical infrastructure.
- e) These Regulations will cushion Kenyans against high rentals; high lending rates by financial institutions therefore promoting home ownership across the Country.
- f) The Regulations will further provide for charging of an affordable and sustainable home financing on loans to cushion the vulnerable from largely inaccessible lending
- g) The Regulations will guard against market distortions by ensuring that envisaged partnerships with the Fund, are not exclusive or preferential and do not confer market advantage to any partners over competitors.
- h) The implementation of the Regulations will enable the Government to enhance economic participation of special interest groups and micro, small and medium enterprise in the creation of jobs and general economic development.
- i) Further, the Regulations will promote economic growth by linking MSMEs and Jua Kali sector to the affordable housing projects.

(3) Possible alternative and practicable means of achieving the foregoing objectives, including other regulatory as well as non-regulatory options:

The Affordable Housing Act under Section 59 gives powers to the Cabinet Secretary in consultation with the Board to prepare and table the regulations within 30 days of commencement of the Act. The preparations and submission of the Affordable Housing regulations 2024 to parliament is therefore a legal requirement under the Act and thus does no other option is available.

(4) Assessment of the costs and benefits of the proposed Affordable Housing Regulations, 2024 and of any other practicable

means of achieving the same objectives;

The implementation provides a framework for the delivery of Affordable Housing and Institutional Housing. The implementation of the proposed Affordable Housing Regulations, 2024 may have some potential challenges. The resultant effect may include an increase in the cost of business that may adversely impact businesses that are financially weak.

It will also however create employment opportunities for businesses in the Real Estate sector or businesses supporting the Real Estate sector owing to increased opportunities. Further the lack of adequate capacity by some of Kenyans to acquire and be allocated affordable housing units due to lack of income to support the repayments of the allocated unit may result in (i) default by unit purchasers that may affect the Fund and subsequent repossession of the units where it is impractical possible for a unit buyer to remedy the situation; (ii) Non-performance by the implementing agencies who have been entrusted to implement the affordable projects under the Affordable Housing Act, 2024; and the risk of Inadequate affordable housing units in the initial period of the program.

However, enactment of the proposed regulations will not occasion any additional costs towards implementation, as it seeks to further provide clarity on the implementation of the various provisions within the Affordable Housing Act, 2024. The proposed Regulations seek to provide a robust implementation mechanism for provisions identified under Section 59 (2) and further enable better implementation of the Act. The development of the proposed regulations therefore will create a positive impact in the achievement of the intended objective of the Affordable Housing Act, 2024.

(5) Any other matter specified by the Regulations

The proposed Regulations provides the basis for effective and structured way of undertaking development of affordable housing and provision of affordable homes to Kenyans. The regulations provides a well coordinated approach and application for off take thus incorporating the private sector in provision of the affordable housing. The regulations also provides flexibility for innovation and eligibility across income levels as well as provisions for voluntary savings towards home ownership. Lastly, the regulations also encourage participation of implementing agencies from National and County Governments.

(6) Draft copy of the proposed statutory rule.

A draft copy of the proposed Affordable Housing Regulations, 2024 is posted on the website of the Ministry of Lands, Public Works, Housing and Urban Development , State Department for Housing & urban Development at www.housingandurban.go.ke. The comments or inputs or memoranda on the Regulations may be forwarded, in the prescribed format, to the Principal Secretary, State Department for Housing and Urban Development, P.O. Box 30119-00100, Nairobi; hand delivered to the Office of the Principal Secretary, Ardhi House on 6th Floor, Nairobi; or soft copy emailed to ahp@housingandurban.go.ke to be received by **Monday, April 29th, 2024 at 5.00 pm.**

HON. ALICE M. WAHOME
CABINET SECRETARY LANDS , PUBLIC WORKS, HOUSING & URBAN DEVELOPEMENT





STATUTORY INSTRUMENTS ACT, NO. 23 of 2013

CERTIFICATE OF COMPLIANCE

UNDER THE AFFORDABLE HOUSING ACT, NO. 2 OF 2024

AFFORDABLE HOUSING REGULATIONS, 2025

Whereas I, the Cabinet Secretary for the Ministry of Lands, Public Works, Housing and Urban Development, in consultation with the Affordable Housing Board, have published the Affordable Housing Regulations, 2025 pursuant to the powers conferred by Section 59(1) of the Affordable Housing Act, No. 2 of 2024, IT IS HEREBY CERTIFIED that the aforesaid Affordable Housing Regulations, 2025:

- a) Meet the requirements relating to the Regulatory Impact Statement in the Statutory Instruments Act No. 23 of 2013 and the guidelines have been complied with; and
- b) In my opinion, the Regulatory Impact Statement adequately assesses the likely impact of the Affordable Housing Regulations, 2025 and the benefits of the proposed Regulations outweigh their costs of administration.

Dated this **9TH** Day of **JULY** 2025

Signature of Cabinet Secretary

**HON. ALICE WAHOME, EGH
CABINET SECRETARY,
MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT**



REPUBLIC OF KENYA

**MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND
URBAN DEVELOPMENT**

REGULATORY IMPACT STATEMENT

FOR

THE DRAFT AFFORDABLE HOUSING REGULATIONS ,2024.

Prepared by:

Ministry Of Lands, Public Works, Housing and Urban Development, Ardhi House

P.O. Box 30119-00100

NAIROBI

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EXECUTIVE SUMMARY

This Regulatory Impact Statement (RIS) is a policy tool whose purpose is to examine and measure the likely benefits, costs and effects of the proposed Affordable Housing Regulations 2024 pursuant to Sections 6 & 7 of the Statutory Instruments Act (No. 23 of 2013). It examines the impact on the establishment of the Affordable Housing Levy Act whose main objective is to provide a framework for development and access to affordable housing and institutional housing; and for connected purposes.

This RIS is divided into 10 parts. Part 1 is the Introduction which outlines the context and the requirements for developing the proposed regulations. Part 2 of the RIS captures a statement of the objectives of the Regulations and the reasons for them. Part 3 of the RIS outlines the salient features of the Regulations. Part 4 provides the background and context of the affordable housing regulations.

Part 5 provides the policy and legal framework for affordable housing and outlines commitments from the Constitution of Kenya 2010, National Housing Policy and National Slum Upgrading and Prevention Policy of 2016 respectively, the Bottom Up Transformational Agenda (BETA), the Vision 2030, the Affordable Housing Act 2024, and the nexus and the need for the proposed Affordable Housing Regulations of 2024. Part 6 details the Stakeholders consultation process adopted to develop the RIS. It outlines the consultative process and other engagements with experts, public and private sector agencies and the general public. It also outlines the envisaged stakeholder engagement process. Part 7 of the RIS provides for the development of the proposed affordable housing regulations as the only available option as provided for under the Act.

Part 8 expounds on the likely effect of the proposed legislation. It provides for possible alternative and practicable means of achieving the foregoing objectives, including other regulatory as well as non-regulatory options. Part 9 expounds on the cost benefit analysis of the proposed regulations. It provides for assessment of the costs and benefits of the proposed affordable housing regulations, 2024 and of any other practicable means of achieving the same objectives. Lastly, Part 10 provides the proposed statutory regulations as well as where one can get a copy of the same. It provides that proposed regulations are available on the Ministry of Lands, Public Works, Housing and Urban Development, State Department for Housing & Urban Development website at www.housingandurban.go.ke and where the address where comments can be sent to Ardhi House on 6th Floor, Nairobi; or through email at ahp@housingandurban.go.ke. The comments are to be received by **Monday, April 29th, 2024 at 5.00 pm.**

1.0 INTRODUCTION

In recognition of Article 43(1)(b) of the Kenyan Constitution 2010 which empowers every citizen with a right to accessible and adequate housing, and reasonable standards of sanitation the Affordable Housing Act 2024 was enacted in furtherance of the above right. The provision of affordable housing has remained a huge challenge to the majority of citizens and especially the the low-income earners and this has resulted to proferation of slums and informal settlements. Over the years, the Government has therefore undertaken various policy interventions to address the deteriorating situation and arrest the challenges in the housing sector. Currently, the development of affordable housing has been prioritized as a key pillar under the Bottom Up Transformation Agenda (BETA). The Government through the SDHUD is implementing the affordable housing pillar under the affordable housing program (AHP). The program aims at providing 200,000 affordable housing units per annum to reduce the deficit. It also targets to grow the number of mortgages from 30,000 to 1,000,000 with favorable ownership terms that have monthly payments as low as KES 5,000.

The Sessional Paper No. 3 of 2016 on National Housing Policy and the National Slum Upgrading and Prevention Policy of 2016 provides for progressive realization of the right to accessible and adequate housing. These Policies are aimed at addressing the deteriorating housing conditions countrywide and to bridge the shortfall in housing stock arising from demand that far surpasses supply particularly for low-income housing in urban areas. The implementation of the policy interventions under the above policies provides positive trajectory of reducing the slums and informal settlements as well as building up on the housing stock for the benefit of the citizens.

The Affordable Housing Act 2024, is an Act of Parliament to give effect to Article 43(1) (b) of the Constitution; to provide a framework for development and access to affordable housing an institutional housing; and for connected purposes. The Act under section 4 provides for the imposition of the Affordable Housing Levy on gross salary of an employee and gross income of a person received or accrued which is not subject to a levy of an employee at the rate of 1.5 percent and with the employer deducting and remitting an equivalent amount from the one deducted from the employee. Section 59 of the Act further empowers the Cabinet Secretary responsible for affordable housing in consultation with the Board to make regulations for better carrying to effect the provisions of the Act. The proposed Affordable Housing Regulations therefore seek to facilitate full operationalization of the Affordable Housing Act in the development of affordable housing, institutional housing and associated social and physical infrastructure across the country.

The Statutory Instruments Act, 2013 (STI), is the primary legislation in Kenya, governing the development of subsidiary legislation. It provides for a comprehensive framework for the making, scrutiny, publication and operation of statutory instruments.

The Act requires regulation-making authorities to adopt high standards in the drafting of statutory instruments to promote their legal effectiveness, clarity and intelligibility to anticipated users; undertake appropriate consultation before making statutory instruments and establish improved mechanisms for parliamentary scrutiny of statutory instruments.

Additionally, Sections 6 and 7 of the Act require that if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation-making authority shall, prior to making the statutory instrument, prepare a Regulatory Impact Statement about the instrument.

This Regulatory Impact Statement (RIS) is therefore prepared to fulfil the requirement of section 6 of the SIA.

Regulation Making Authority

The Regulation making Authority is the Cabinet Secretary for Lands, Public Works, Housing and Urban Development in consultation with the Board pursuant to section 59 of the Affordable Housing Act, 2024.

2.0 A STATEMENT OF THE OBJECTIVES OF THE PROPOSED REGULATION

The main objective and reason for the proposed Affordable Housing Regulations, 2024 is to operationalize Affordable Housing Act, 2024 and provide clarity on its implementation. Specifically, the Regulations seek to:-

- (a) Provide for eligibility, application, validity and revocation of exemptions from imposition of the Levy under section 6 of the Act
- (b) provide the criteria for application for allocation and re-allocation in case of default of an affordable housing unit under section 48
- (c) prescribe the requisite deposit for affordable housing unit under section 49(2)(a)
- (d) Provide for inclusivity, and diversity within affordable housing schemes pursuant to Section 59(2) (i) of the Act
- (e) Provide for the criteria for change of affordable housing unit under Section 59(2)(;
- (f) Provide for loan interest rate or administration fee under section 51 of the Act
- (g) Provide for procedure relating to off-take of affordable housing units;
- (h) Provide for the eligibility criteria to enter into an agreement to develop institutional housing

- (i) Provide for the application procedure for approval to develop institutional housing through implementing agencies
- (j) Provide for eligibility to enter into agreement to finance off-take, application for approval
- (k) Provide for application for approval to offer off take
- (l) Provide clarity on development of associated physical and social infrastructure
- (m) Provide for conduct of Public participation by the Board
- (n) Provide for notice of affordable housing on settlement
- (o) Provide for withdrawal of voluntary savings under Section 52;
- (p) Provide for rural affordable housing unit
- (q) Provide for restrictions on disposal of affordable housing unit.

3.0 SALIENT FEATURES OF THE REGULATIONS

The Salient features of the proposed Regulations includes the following:

1. Eligibility and application for Exemptions
2. Allocation of an affordable housing unit
3. Rate of deposit for the affordable housing units for various unit typologies
4. Change of affordable housing unit
5. Default in payment
6. Loan interest rate or administration fee
7. Agreement for development of institutional housing
8. Agreements with approved institutions and mortgage schemes
9. Eligibility and application for off-take
10. Associated social and physical infrastructure
11. Implementation of affordable housing on settlement
12. Withdrawal of Voluntary savings
13. Rural affordable housing development
14. Restriction & application on disposal of affordable housing unit

4.0 BACKGROUND AND CONTEXT

Housing is one of the basic human needs besides food and clothing. It is considered as one of the most basic human rights and an essential component of the right to an adequate standard of living. Further, adequate and affordable housing is not only necessary for security and comfort, but also critical in fostering social cohesion and development of a nation. Beyond its socio-cultural elements, housing is also a critical driver of economic development as a result of its forward and backward linkages with other economic development processes.

The supply of adequate and affordable housing to Kenyans, especially the low-income urban housing, and quality rural housing, has been a challenge for a long time despite the constitutional requirement under article 43 (1) (b). This is more pronounced in urban areas, with the low and lower middle income urban households being the worst affected. This has led to growth and spread of slums and informal settlements. There are more than 1,000 informal settlements in the country with 61% of Kenyans living in such settlements in urban areas. These settlements are associated with inadequate housing in terms of its durability, tenure security, health and access to associated physical and social infrastructure.

Housing access is central to the realization and enjoyment of human dignity and other group of rights, as it addresses deep seated psychological requirements for privacy, enhanced security and protection from adverse conditions of weather. The funding of affordable housing has been a deterrent since independence and has largely contributed to the issues on housing at hand to date. However, with the enactment of affordable housing act 2024, these challenges will be addressed. The Affordable Housing regulations 2024, therefore seeks to operationalize the Act to achieve progressive realization of adequate and affordable housing. The Affordable Housing regulations will therefore provide for better implementation of the Act. The Act requires the Cabinet Secretary to develop and submit to parliament the proposed Affordable Housing Regulations 2024 within 30 days upon commencement of the Act.

5.0 POLICY AND LEGAL FRAMEWORK

The provision of housing has gone through various reforms since independence. Following independence, the Housing Act Cap 117 was enacted to implement Housing Policy that led to formation of National Housing Corporation. The Vision 2030 which is the Economic blue print for social-political and economic transformation envisages the facilitation of production of 200,000 housing units annually through various initiatives. It further provides for the development of affordable, quality and affordable houses including social and physical infrastructure for lower income Kenyans of appropriate building materials and technologies.

The Constitution of Kenya, 2010 provides for the right to accessible and adequate housing under Article 43(1) (b), which is fundamental to enable individuals live in dignity. The Constitution envisages every person having a right to accessible and adequate housing as well as reasonable standards of sanitation. However, access to the right to a house for a majority of Kenyans has been elusive owing to the inadequate supply of low income housing units with the market having concentrated on the middle and high income housing units. This notwithstanding various attempts have been made to remedy the housing

situation in Kenya through the policies and legislative framework such as the National Housing Policy and the National Slum Upgrading and Prevention Policies of 2016.

The National Housing Policy of 2016, Policy is to facilitate the provision of adequate shelter and a healthy living environment at an affordable cost to all socio-economic groups in order to foster sustainable human settlements. This will minimize the number of citizens living in shelters that are below the habitable living conditions. It will also curtail the mushrooming of slums and informal settlements especially in the cities and urban areas. The specific goals are to develop an effective housing delivery system that aims at meeting the needs of the populace; and to establish a housing delivery system that maintains balance in the economic development and environmental sustainability of communities.

On the other hand, the purpose of the National Slum Upgrading and Prevention policy of 2016 seeks to integrate the existing slums into the formal system, enabling them to enjoy reasonable basic amenities. The policy further seeks to prevent formation of new slums by adhering to urban planning, provision of infrastructure and low cost housing as well as establishing land banks for the urban poor and to relocate slum dwellers living in environmentally fragile and disaster prone areas to suitable locations.

The National Building Maintenance Policy (2015) aims at ensuring maintenance of buildings compulsory through a consistent approach to maintenance of the built environment so as to optimize the life cycle of the buildings. Therefore, all the affordable housing schemes developments and buildings will be required to have maintenance manual/ plan prepared during construction that should be revised every five years. This will ensure that the investments and schemes that are being undertaken by the Fund are kept in the right condition and that maintenance measures are put in place throughout the building life cycle.

The Development Framework Guidelines (DFGs) 2018 (Currently under Review), are the constitutive document providing qualitative guidance on the AHP. It incorporates supply, demand, and enabling environment interventions. The guidelines provides principles on social safeguards which consider the needs of vulnerable groups.

- (a) Design principles cover accessibility for people with disabilities and the elderly
- (b) Considerations on family sizes and culture have impacted design e.g. unit sizes, use of bedsitters for students only, etc.
- (c) Continued revisions to framework based on feed-back from various stakeholders

Further, Housing and Human Settlement is further one of the key pillars under the Bottom Up Economic transformation Agenda (BETA). Under the Affordable Housing Programme, the Government targets to support provision of at least 250,000 affordable houses to Kenyans every year thereby increase the percentage of affordable housing supply from 2 percent to 50 percent. The Government is also implementing policy and administrative reforms to lower the cost of construction and improve access to affordable housing finance while creating jobs and entrepreneurial opportunities to all Kenyans.

As part of the process, the Affordable Housing Act 2024 has been enacted to *“give effect to Article 43(1)(b) of the Constitution; to provide a framework for development and access to affordable housing and institutional housing; and for connected purposes”*. The provide an off take fund that will de-risk investors, and offer affordable finance to home-owners, bringing home ownership within the reach of the majority of urban population

The Affordable Housing Act 2024, will promote and ensure achievement in the housing sector development. The Act seeks to operationalize progressive realization of the right to housing and adequate standard of sanitation under article 43(1) (b) of the constitution. The Act provides for the establishment of the affordable housing fund to facilitate the implementation of affordable housing programs and projects, institutional housing and associated social and physical infrastructure. The Act further seeks to support implementation of the National Housing Policy of 2016 and the National Slum Upgrading and Prevention Policy of 2016.

The Proposed Affordable Housing Regulations 2024 are critical in ensuring better carrying out of the provisions stipulated under Section 59 (2) of the Affordable Housing Act whose aim is to achieve the progressive realization of the right to accessible and adequate housing. Based on the above, the Cabinet Secretary is mandated under Section 59 (3) to prepare regulations and table them in parliament within 30 days of the commencement of the Act. The affordable housing regulations are therefore a statutory instrument to operationalize the Act and to give effect to its provisions pursuant the Act.

6.0 STAKEHOLDER CONSULTATIONS

6.1 Development and Consultation Process

The process of developing Affordable Housing Regulations 2024 will involve stakeholder consultation to inform the policy and legislative options. It is noted that the Affordable Housing Act Section 59(3) mandates the Cabinet Secretary to table the regulations within 30 days after commencement of the Act. The regulation making process shall be a consultative process which will involve key stakeholders, including the Public Sector, National and County Governments, Technical Institutions, Employers, Private Sector,

financial institutions, mortgage institutions, Unions, Professionals and Professional Associations, pension funds, Internal Stakeholders and the general public.

6.2 Inter-Agency Committee on the development of Affordable Housing Regulations 2024

In order to guide the initial development of the Affordable Housing draft Regulations, an inter-Agency committee comprising of representatives from both public (national and county government representatives) and private sector actors was appointed on 21st March 2024. The committee is mandated to develop the affordable housing regulations for the better carrying into effect the provisions of section 59 that gives the Cabinet Secretary in consultation with the Board the power to make regulations under the Affordable Housing Act 2024.

The Terms of reference for Committee is to:

- (a) Prepare draft regulations for the affordable housing Act 2024
- (b) Conducting research, reviewing data and constructively representing views towards development of the regulations.
- (c) Identify any consequential amendments of any laws required as a result of effecting the regulations.
- (d) Identify any consequential amendments' of any laws required as a result of affecting the regulations.
- (e) Engage key stakeholders during the development of the regulations to ensure robust regulations that incorporate stakeholder's views.
- (f) Prepare any required accompanying documents required to ensure the terms of reference are effective met.
- (g) Any other assigned duty by the Cabinet Secretary or Principal Secretary SDHUD.

Following the above appointment the Inter agency Committee has prepared the draft regulations which are being subjected to public participation in line with the Terms of reference.

6.3 Planned consultations and public participation

Extensive consultations will be conducted during the preparation of the Affordable Housing Regulations 2024 before the finalization of the regulations. The nationwide public consultations on the draft Regulations will be organized with all the key stakeholders and their input considered as far as possible before finalization of these Regulations. All the key stakeholders will be consulted through physical/virtual meetings, memoranda, public notices in the media, websites, letters and gazette notices. Public participation forums will be organized in various Counties across the Country.

6.4 Legal requirements relating to consultation and public participation

The process of stakeholder consultations in preparation of the Proposed Affordable Housing Regulations, 2024 is in line with Articles 10, 201 of the Constitution of Kenya 2010 and Section 5 of the Statutory Instruments Act 2013.

7.0 POSSIBLE ALTERNATIVE AND PRACTICABLE MEANS OF ACHIEVING THE FOREGOING OBJECTIVES, INCLUDING OTHER REGULATORY AS WELL AS NON-REGULATORY OPTIONS

The Affordable Housing Act gives powers to the Cabinet Secretary in consultation with the Board to prepare and table the regulations within 30 days of commencement of the Act. The preparations, submission to parliament of the Affordable Housing regulations 2024 is therefore a legal requirement under the Act. The regulation are being made under affordable Housing Act 2024 to give effect to the provisions of the Act. The regulations seeks among other things to provide for means of administering the Affordable Housing Act, 2024 by the Cabinet Secretary, with respect to: Eligibility criteria for allocation of affordable housing, application and allocation of affordable housing units and implementation of the powers assigned to the Cabinet Secretary to issue regulations under Section 59 of the Affordable Housing Act among others. In particular the Affordable Housing Regulations, 2024 seek to make provisions for:-

- (a) Eligibility, application and validity for exemptions
- (b) the minimum eligibility requirements for a natural person to access the affordable housing units
- (c) Provision on Rate of deposit
- (d) Change of affordable housing unit
- (e) Default in payment and recourse thereafter
- (f) Application for development of affordable housing, social and physical infrastructure
- (g) Eligibility to enter into off take agreement and financing agreements
- (h) Criteria for off-take of affordable housing units
- (i) Withdrawal of voluntary savings
- (j) Restrictions on disposal of affordable housing units

The proposed affordable housing regulation 2024 therefore provides guidance for better implementation of provisions of the Affordable Housing Act. Section 59(3) of Act clearly stipulates that the Cabinet Secretary shall prepare and submit to parliament the regulations within 30 days of the commencement of this Act. The Act further stipulates that:

- (a) *“Regulations made under this section shall not take effect unless approved by a resolution passed by Parliament”* Section 59(4).

- (b) It further notes that, *“If a House of Parliament does not make a resolution either approving or rejecting any regulations within fifteen sitting days after submission to it for approval, the House shall be deemed to have approved those regulations”*.

It is therefore against this background that these regulations require to be enacted with no any other option available for consideration.

8.0 THE EFFECT OF THE PROPOSED REGULATION

The effect of Affordable Housing regulations 2024, is therefore to operationalize the Act to achieve progressive realization of adequate and affordable housing. The proposed regulations therefore provide guidance on the implementation of the provisions of the Affordable Housing Act 2024. The effect of the proposed affordable housing regulations 2024 includes the following:

- a) The implementation of these Regulations will ensure achievement of the Government housing commitment which is to turn housing challenge into an economic opportunity; and ensure housing production to create quality jobs for the 100,000 or so young people graduating from TVETs every year directly in the construction sector and indirectly through the production of building products.
- b) These Regulations will facilitate achievement of the economic and social rights guaranteed in Article 43(1)(b) of the constitution through: - i) increasing the supply of housing to 250,000 per annum; increasing the supply of affordable homes from 2 per cent to 50 per cent; ii) structuring affordable long-term housing finance schemes; iii) growing the number of mortgages from 30,000 to 1,000,000 by enabling low-cost mortgages; iv) strengthening Jua Kali industry capacity to produce high quality construction productions and materials and v) giving developers incentives to build more affordable housing, that will guarantee off take of houses from developers.
- c) It is expected that enactment and implementation of these regulations will open up affordable home financing for development of sustainable fully serviced affordable housing schemes with integrated communities and households with all the requisite social and physical infrastructure.
- d) These Regulations will cushion Kenyans against: high rentals; high lending rates by financial institutions.
- e) The Regulations will further provide for charging of an affordable and sustainable interest rate on loans to cushion the vulnerable from largely inaccessible lending that has been experienced in recent times;

- f) The Regulations will guard against market distortions by ensuring that envisaged partnerships with the Fund, are not exclusive or preferential, are technology neutral and do not confer market advantage to any partners over competitors.
- g) The implementation of the Regulations will enable the Government to enhance economic participation of special interest groups and micro, small and medium enterprise in the creation of jobs and general economic development. Further, the Regulations will promote economic growth by linking MSMEs and Jua Kali sector to the affordable housing projects.
- h) These regulations have accorded Government with the flexibility to enhance digitization.
- i) The Regulations will leverage on the existing commercial infrastructure, including mobile payments platforms and financial institutions, including agency, co-financing and on-lending partnerships.

The proposed Regulations provides the basis for effective and structured way of undertaking implementation of affordable housing and provision of affordable homes to Kenyans. The regulations provides a well cordinated approach and application for off take thus incorporating the private sector in provision of the affordable housing. The regulaitons also provides flexibility for innovation and eligibility across income levels as well as provisions for voluntary savings towards home ownership. Lastly, the regulations also encourage participation of implementing agencies from National and County Governments. If the regulations are not passed, the provisions of the Act shall not be fully implemented as envisaged and there will be ambiguity on how to address the various issues arising thereof.

9.0 ASSESSMENT OF THE COSTS AND BENEFITS OF THE PROPOSED AFFORDABLE HOUSING REGULATIONS, 2024

The implementation provides a framework for the delivery of Affordable Housing and Institutional Housing. The implementation of the proposed Affordable Housing Regulations, 2024 may have some potential challenges. The resultant effect may include an increase in the cost of business that may adversely impact businesses that are financially weak.

It will also however create employment opportunities for businesses in the Real Estate sector or businesses supporting the Real Estate sector owing to increased opportunities. Further the lack of adequate capacity by some of Kenyans to acquire and be allocated affordable housing units due to lack of income to support the repayments of the allocated unit may result in (i) default by unit purchasers that may affect the Fund and subsequent repossession of the units where it is impractically possible for a unit buyer to remedy the situation; (ii) Non-performance by the implementing agencies who have been entrusted to

implement the affordable projects under the Affordable Housing Act, 2024; and the risk of Inadequate affordable housing units in the initial period of the program.

However, enactment of the proposed regulations will not occasion any additional costs towards implementation, as it seeks to further provide clarity on the implementation of the various provisions within the Affordable Housing Act, 2024. The proposed Regulations seek to provide a robust implementation mechanism for provisions identified under Section 59 (2) and further enable better implementation of the Act. The development of the proposed regulations therefore will create a positive impact in the achievement of the intended objective of the Affordable Housing

10.0 DRAFT COPY OF THE PROPOSED STATUTORY RULE

A draft copy of the proposed Affordable Housing Regulations, 2024 is posted on the website of the Ministry of Lands, Public Works, Housing and Urban Development , State Department for Housing & urban Development at www.housingandurban.go.ke. The comments or inputs or memoranda on the Regulations may be forwarded, in the prescribed format, to the Principal Secretary, State Department for Housing and Urban Development, P.O. Box 30119-00100, Nairobi; hand delivered to the Office of the Principal Secretary, Ardhi House on 6th Floor, Nairobi; or soft copy emailed to ahp@housingandurban.go.ke to be received by **Monday, April 29th, 2024 at 5.00 pm.**



HON. ALICE M. WAHOME

CABINET SECRETARY LANDS , PUBLIC WORKS, HOUSING & URBAN DEVELOPEMENT