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LEGAL NOTICE No. 1

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

**THE PUBLIC FINANCE MANAGEMENT (COUNTY ASSEMBLY
OF EMBU) (STAFF) CAR LOAN AND MORTGAGE SCHEME
FUND) REGULATIONS, 2023**

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SCHEDULE

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 116 of the Public Finance Management Act, 2012, the County Executive Committee Member for finance and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (COUNTY ASSEMBLY OF EMBU) CAR LOAN AND MORTGAGE (STAFF) SCHEME FUND) REGULATIONS, 2023

1. These Regulations may be cited as the Public Finance Management (County Assembly of Embu) Car Loan and Mortgage (Staff) Scheme Fund) Regulations, 2023.

Citation.

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

Interpretation.

“Administrator of the Fund” means an officer in the County Assembly Service designated as such by the County Executive Committee Member responsible for finance;

“Board” means County Assembly Service Board of Embu;

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

“Committee” means the Staff Car Loan and Mortgage Scheme Management Committee established under Regulation 6;

“Clerk” means Clerk of the County Assembly of Embu;

“County ” means Embu County;

“County Assembly ” means the County Assembly of Embu;

“ County Assembly Service” means Embu County Assembly Service;

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

“Fund” means the County Assembly of Embu Car Loan and Mortgage (Staff) Scheme Fund established under Regulation 3;

“Loan Agreement” means an agreement between the Committee and a member of the scheme;

“Member of the Scheme” means staff of the County Assembly Service;

“property” means a car or house purchased or developed through a loan from the Fund and includes the land purchased under loan from the Fund on which such house is situate; and

“Valuer” means a registered and practicing valuer under the Valuers Act (Cap. 532) of Laws of Kenya.

3. There is established a Fund to be known as County Assembly of Embu (Staff) Car Loan and Mortgage Scheme Fund.

Establishment of the Fund.

4. The object and purpose of the Fund shall be to provide for a loan scheme for the purchase of vehicles and/ or development, renovation or purchase of houses by members of the Scheme.

Purpose of the Fund.

5. (1) The initial capital of the Fund shall consist of the monies standing to the credit of the account on the date of the coming into operation of these Regulations.

Capital of the Fund.

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

6. (1) There is established a Committee to be known as the Staff Car Loan and Mortgage Scheme Management Committee.

Establishment and composition of the Loans Management Committee.

(2) The Committee consists of—

- (a) the Clerk of the County Assembly who shall be the chairperson;
- (b) Deputy Clerk of the County Assembly who shall be the vice-chairperson;
- (c) the Administrator of the Fund who shall be the secretary to the committee; and
- (d) all heads of Directorates in County Assembly Service.

(3) The functions of the Committee shall be to—

- (a) inform the Board on the funding requirements of the Fund; and
- (b) process applications for loans in accordance with the existing terms and conditions of borrowing.

7. The Committee may appoint such staff of the County Assembly Service to offer secretariat services as may be deemed necessary.

Other staff

8. The meetings of the Committee shall be convened by the Chairperson or in the absence of the chairperson, the vice chairperson and shall be convened at such times as may be necessary for the discharge of the Committee's functions.

Meetings of the Committee

9. The quorum for a meeting of the Committee shall be the Chairperson and any three members.

Quorum

10. (1) A member of the Scheme who wishes to apply for a loan from the Fund shall make such application to the Committee through the officer administering the Fund by presenting a form in such manner as the Committee may prescribe.

Application for loan.

(2) The Committee shall satisfy itself of the applicant's financial status and capacity to repay the loan applied for in accordance with the laid down requirements and where so satisfied shall approve the loan application.

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

11. A loan obtained under these Regulations shall be utilized for the purchase of a motor vehicle or development, purchase or renovation of property for use by the applicant or applicant's immediate family.

Utilization of loan monies.

12. (1) A loan approved under Regulation 10 shall be released from the Fund in such manner, taking into account the security of the funds, as may be prescribed by the Committee.

Conditions for disbursement of funds.

(2) In case of car loan, the log-book of a vehicle subject to a loan from the Fund shall be issued jointly between the Board and the member of the Scheme and shall be kept in the custody of the Officer Administering the Fund until the loan is repaid in full by the member of the Scheme.

(3) In case of a mortgage facility, the Board shall have a charge registered on the property financed through a loan granted under these Regulations and shall be entitled to have its name entered in all documents of title for such property.

13. (1) The maximum car loan and mortgage each beneficiary shall be eligible to, is as set out in the Schedule to these Regulations or as may be advised by the Salaries and Remuneration Commission, from time to time.

Loan amount.

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

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

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

Interest rate and administration costs.

(2) The administration costs of the Fund shall be a maximum of three (3%) percent of the approved budgets of the Fund.

15. (1) The repayment period for a loan advanced under these Regulations shall be a maximum of twenty (20) years for mortgage schemes and five (5) years for Car Loan.

Repayment of loan.

(2) where a public officer leaves County Assembly Service employment for whatever reason other than disciplinary grounds, the terms of the loan shall remain in force and shall not change for the life of the loan unless in cases of default in which case, it shall revert to commercial terms.

16. (1) A member of the Scheme shall—

Insurance.

- (a) In case of a car loan, comprehensively insure the vehicle purchased through the Scheme with an insurer approved by the Committee; or
- (b) In case of a mortgage facility, take out and maintain a mortgage protection policy with an insurance firm approved by the Committee.

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

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

17. (1) Upon full payment of the loan, a signed loan discharge certificate and a duly signed transfer form in such forms as may be prescribed by the committee shall be issued to the member of the Scheme and a copy thereof shall be forwarded to the Registrar of Motor Vehicles or registrar of lands whichever is applicable.

Loan discharge.

(2) The loan discharge certificates shall release the member of the Scheme from any further financial obligation in respect of the loan and shall act as sufficient authority to remove the caveat on the vehicle and the property pursuant to Regulation 13.

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

Administration of the Fund.

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

(2) Every statement of account prepared under this regulation shall include details of the balances between the assets and liabilities

of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

(3) All monies of the Fund shall be paid into an account opened and operated in accordance with Public Finance Management Act, 2012 and the enabling regulations.

19. (1) The administrator of the Fund shall prepare quarterly financial statements for the Fund in a form prescribed by the Accounting Standards Board.

Quarterly reports

(2) In preparing a quarterly financial statement for the Fund, the administrator shall ensure that the report contains information on the financial and non-financial performance of the fund.

(3) Not later than fifteen days after the end of each quarter, the administrator shall submit the quarterly report to the County Treasury and a copy to the Controller of Budget.

20. The Committee may call in a loan and in default sell the charged motor vehicle or property by public auction or private treaty where the borrower is in breach of the terms under the loan agreement and these Regulations.

Default in repayment.

21. (1) The County Executive Committee member for finance may wind up the Fund with the approval of the County Assembly.

Winding-up the Fund

(2) On the winding up of the Fund—

(a) the Administrator of the Fund shall pay any amount remaining in the Fund into the County Exchequer Account; and

(b) the County Executive Committee member for finance shall, with the approval of the County Assembly, pay any deficit in the Fund from the County Exchequer Account.

22. (1) These Regulations shall be supplemented by such terms as may from time to time, be detailed in the application form supplied by the Committee.

Committee guidelines

(2) Subject to these Regulations, the Committee may in consultation with the Board issue guidelines on such other matters as may be necessary for the proper management of the Fund.

23. (1) The Public Finance Management (County Assembly of Embu) Car Loan and Mortgage (Staff Scheme Fund) Regulations, 2020, is repealed.

Transition and repeal of L.N No. 3 of 2020.

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

(3) Any committee appointed under the Fund repealed by paragraph (1) shall be deemed to have been appointed under these

Regulations and shall continue to operate as such unless these Regulations provide otherwise.

SCHEDULE (*Regulation 13(1)*)

LOAN THRESHOLD FOR MEMBERS OF THE SCHEME		
Beneficiary Job Grades/Scales	Maximum Car Loan (Ksh.)	Maximum Mortgage (Ksh.)
CASBE SCALES 1,2	Up to Kshs.4Million	Up to Kshs. 20Million
CASBE SCALES 3,4,5	Up to Kshs.3Million	Up to Kshs.15 Million
CASBE SCALES 6,7,8,9	Up to Kshs. 1.5 Million	Up to Kshs.10 Million
CASBE SCALES 10,11,12	Up to Kshs. 800,000	Up to Kshs.6 Million
CASBE SCALES 13,14, 15,16,17,18	Up to Kshs. 600,000	Up to Kshs.4 Million

Made on the 3rd July, 2023.

KINYUA NYAGA KAMARIA,
*County Executive Committee Member for
 Finance and Economic Planning.*