

THE HOUSING ACT

(*Cap. 117*)

IN EXERCISE of the powers conferred by section 27 (1) of the Housing Act, the Cabinet Secretary for Land, Housing and Urban Development, in consultation with the Scheme Management Committee makes the following Regulations -

THE CIVIL SERVANTS (HOUSING SCHEME FUND)
(AMENDMENT) REGULATIONS, 2015

1. These regulations may be cited as the Civil Servants (Housing Scheme Fund) (Amendment) Regulations, 2015.

2. Regulation 2 of the Civil Servants (Housing Scheme Fund) Regulations, 2004, in these Regulations referred to as the "principal Regulations", is amended by—

LN 98/2004.

- (a) deleting the definition of the word "civil servant" and substituting therefor the following new definition—

"civil servant" means an employee in a Ministry within the National Government;

- (b) inserting the following new definitions -

"equity release" means a loan that allows the home owner to access equity in his or her home without having to sell it for purposes of improving it; and

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for housing.

3. Regulation 3 of the principal Regulations is amended by deleting the expression "Civil Service" and substituting therefor the expression "Civil Servant".

4. Regulation 6 of the principal Regulations is amended—

- (a) by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) The Fund shall be administered by the Scheme Management Committee which shall consist of—

- (a) the Officer administering the Fund;
- (b) the Principal Secretary responsible for the National Treasury;
- (c) the Principal Secretary responsible for Labour, Social Security and Services;
- (d) the Principal Secretary responsible for Human Resource Management and Development;
- (e) the Principal Secretary responsible for infrastructure;
- (f) the Principal Secretary responsible for Coordination of National Government; and
- (g) the Attorney-General;

(2) in paragraph 2(e) by inserting the word "an equitable" immediately after the word "develop".

- (b) by inserting the following new paragraph immediately after paragraph (4)—

(4A) The officer in charge of the Fund Secretariat shall be the Secretary to the Committee.

5. Regulation 7 of the principal Regulations is amended by deleting paragraph (1) and substituting therefor the following new paragraph—

7(1) A loan granted under these Regulations shall solely be utilized for—

- (a) purchase of a residential house for the occupation of the applicant;
- (b) improvement of a residential house occupied by the applicant;
- (c) development of a residential house for the occupation of the applicant;
- (d) purchase of land and development of a residential house for occupation by the applicant;
- (e) equity release for improvement or development of a residential property; and

Provided that, a loan granted under these Regulations shall not be utilised for commercial purposes.

6. The principal Regulations are amended by inserting the following new regulations immediately after regulation 7—

Maximum funding.

7A. (1) The funds that may be loaned to a civil servant under these Regulations shall be as provided in the Schedule.

(2) The Cabinet Secretary, in consultation with the Committee, may from time to time vary the maximum funds that may be loaned to a civil servant under these Regulations.

Criteria for grant of loan.

7B. The maximum loan that may be granted under these Regulations shall be based on the ability to pay and shall be payable by check off system.

Eligibility.

7C. Eligibility for a loan under these Regulations shall be for a civil servant who has been confirmed in employment provided that any civil servant on contract terms of service shall have an unexpired contract period of more than twelve months.

7. Regulation 8 of the principal Regulations is amended by deleting paragraph (2) and substituting therefor the following new paragraph—

(2) The first disbursement of a loan released to a civil servant shall be—

- (a) twenty five *per centum* of the cost of construction:

Provided that the cost of construction shall not exceed the maximum funding under these Regulations ; or

- (b) twice the open market value of the land on which the residential property is proposed to be constructed;

whichever is the lesser.

8. Regulation 9 of the principal Regulations is amended—

- (a) in paragraph (2) by—

- (i) deleting the expression “local authority” in paragraph (a) and substituting therefor the expression “relevant authority”;
- (ii) inserting the word “priced” immediately before the word “bills” in paragraph (b);
- (iii) deleting paragraph (c) and substituting therefor the following new paragraph —
 - (c) proof of ownership of the land on which the construction is to be carried out.
- (iv) deleting paragraph (d);

- (b) by deleting paragraph (3) and substituting therefor the following new paragraphs—

- (3) An application for a loan to purchase a house shall be submitted together with the following documents —
 - (a) a certified copy of the sale agreement relating to the purchase;
 - (b) proof of ownership of the property by the seller;
 - (c) proof of the availability of funds specified under paragraph 3C;
 - (d) any other document that the Committee may require for the purpose of determining the application.

- (c) by inserting the following new paragraphs immediately after paragraph (3)–

- (3A) An applicant under this regulation shall meet any other condition imposed by the Committee under these Regulations.

- (3B) A loan granted under these Regulations—

- (a) shall be funded at the rate of ninety per centum of the value of the property; and
- (b) shall not exceed the maximum loan amount set under regulation 7A.

(3C) The balance over and above the maximum loan amount under regulation 7A and all other monies payable including stamp duty, transfer fees and other related charges shall be paid by the borrower.

9. Regulation 10 of the principal Regulations is amended by deleting the words “beyond the final loan repayment date” and substituting therefor the words “from the date the loan was granted”.

10. Regulation 11 of the principal Regulations is amended —

(a) by deleting paragraph (1) and substituting therefor the following new paragraph—

11(1) A loan granted under these Regulations shall be repayable within a period of twenty years or before the loanee attains the age of sixty years, whichever is earlier.

(b) in paragraph (3) by inserting the words “subject to paragraph (4)” immediately after the expression “property and shall”.

(c) by inserting the following new paragraph immediately after paragraph (3) —

(4) The loan granted to a borrower under paragraph (3) shall not exceed the maximum loan under regulation 7A.

11. Regulation 12 of the principal Regulations is amended by deleting paragraph (1) and substituting therefor the following new paragraph—

(1) The interest rate payable on a loan under these Regulations shall be a minimum of three percent and a maximum of five percent per annum on a monthly reducing balance inclusive of administration costs.

12. Regulation 13 of the principal Regulations is amended by—

(a) in paragraph (1) by deleting the word “chargee” and substituting therefor the word “chargor”.

(b) deleting paragraph (4) and substituting therefor the following new paragraph -

(4) (a) A civil servant shall be eligible to two loans provided that the loans shall not run concurrently.

(b) Where one is applying for the second benefit or the spouse has benefited before, priority shall be given to those who have never benefited.

(c) The two loans shall not exceed the officer's current entitlement at the time of the application.

(c) by inserting the following new paragraphs immediately after paragraph (5) —

(6) A civil servant covered under any other public funded scheme shall not be eligible to benefit from the Fund.

- (7) A civil servant occupying a Government house who is granted a loan under these Regulations shall, within six months of such grant, vacate the Government house.

13. The principal Regulations are amended by deleting regulation 14 and substituting therefor the following new regulation—

Insurance in respect
of loan property.

14. (1) Every borrower shall take and maintain a life insurance policy and a fire insurance policy with an insurance company approved by the Committee, whose cost shall be paid out of the Fund, as group cover, and debited in the borrower's account.

(2) Every beneficiary of a house under construction by the Fund shall take a mortgage protection cover for the provisional sale price of the property.

14. The principal Regulations are amended by inserting the following new regulations immediately after regulation 14—

Safe custody of
document.

14A. The original documents relating to property financed by a loan from the Fund shall be kept in safe custody by the officer administering the Fund.

Protection of
Government interest.

14B. The Committee shall be entitled to do everything lawful and necessary to protect the interest of the Government in the property in respect of which a loan is granted.

15. Regulation 15 of the principal Regulations is amended—

- (a) in paragraph (1) by inserting the expression “who has benefited from sale of a house constructed through the Fund” after the word “borrower”.
- (b) by deleting paragraph (2) and substituting therefor the following new paragraphs—

(2) Where a borrower leaves service, the borrower shall continue to service the loan at the same terms and conditions as set out in these Regulations, provided that where the borrower defaults for a period of four months in repayment, the interest shall be converted to prevailing commercial rates.

(3) Notwithstanding these Regulations, where a borrower leaves service on disciplinary grounds or resigns before serving for a period of ten years, the Committee may grant the borrower a maximum period of four months to repay the full outstanding loan or permit the borrower to repay the outstanding loan at the prevailing market rate and on such other terms and conditions as the Committee may from time to time prescribe.

(4) Where the commercial rates are applicable and the borrower is in default for a period of four months, the Fund may call in the loan and sell the charged property by public auction or private treaty.

16. Regulation 16(e) of the principal Regulations is amended by deleting the expression "Controller and Auditor-General" and substituting therefor the expression "Auditor-General".

17. Regulation 17 of the principal Regulations is amended—

- (a) by inserting the words "or through" immediately after the words "property acquired from".
- (b) by inserting new regulations immediately after regulation 17 as follows—

Financing Partnerships.

17A. The Fund may enter into a viable financing or development partnership with a person or legal entity for the purposes of implementing the objectives and purposes of the Fund.

Management partnerships.

17B. The scheme may enter into viable management partnerships with a scheme from any other public body.

18. Regulation 18 of the principal Regulations is amended –

- (a) in paragraph (c) by inserting the words "or transfer funds" immediately after the words "disburse cheques";
- (b) by inserting the following new paragraph immediately after paragraph (e) –
 - (f) perform such other duties as may be assigned to it from time to time by the Committee.

19. The principal Regulations are amended by deleting regulation 19.

SCHEDULE

BENEFICIARIES	MORTGAGE SCHEME THRESHOLD
Civil Service Grades S,T,U and equivalent grades in Public Service	Up to twenty million shillings.
Civil Service Grades P,Q,R and Equivalent grades in Public Service	Up to fifteen million shillings.
Civil Service Grades K,L,M,N and Equivalent grades in Public Service	Up to ten million shillings.
Civil Service Grades G,H,J and Equivalent grades in Public Service	Up to six million shillings.
Civil Service Grades A,B,C,D,E,F and Equivalent grades in Public Service	Up to four million shillings.

Made on the 19th October, 2015.

FRED MATIANG'I,

Ag. Cabinet Secretary for Land, Housing and Urban Development.