

SPECIAL ISSUE

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**KWALE COUNTY GAZETTE
SUPPLEMENT**

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**THE KWALE COUNTY ASSEMBLY MEMBERS
AND STAFF LOAN SCHEME FUND BILL, 2016**

A Bill for

AN ACT of the County Assembly of Kwale to establish the Fund, procedures and guidelines for the administration and regulation of the Fund to facilitate the members to purchase motor vehicles and/or immovable property and such related matters

ENACTED by the County Assembly of Kwale, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kwale County Assembly Members and Staff Loan Scheme Fund Act, 2016. Short title.

2. This Act shall come into operation upon Gazettement in the *Kenya Gazette*. Commencement.

3. The purpose of the Act is to establish the fund, procedures and guidelines for administration and regulation of the fund within the County Assembly Purpose of the Act.

4. In this Act— Interpretation.

“Board” means the Kwale County Assembly Service Board established under section 12 of the County Government Act;

“Car Loan Agreement” means an agreement entered into between a member of the Kwale County Assembly and the County Assembly Service Board of Kwale advancing sums of money from the Fund to a member to facilitate the member to purchase a Motor vehicle and/or Immoveable Property;

“Committee” means the Loans Management Committee established under Section 9;

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

“Fund” means the Kwale County Assembly Members Loan Scheme Fund established under the section 116 of the Public Finance Management Act, 2012;

“Member” means a member of the County Assembly of Kwale, staff of the County Assembly and Board Members of the County Assembly Service Board;

“Ownership document” means a Log Book in the case of a Motor vehicle and a Title Deed or Certificate of Land/Lease in the case of Immovable property.

PART II—ESTABLISHMENT OF THE FUND

5. There is established a Fund to be known as the Kwale County Assembly Members Loan Scheme Fund. Establishment of the Fund.

6. The Fund shall be administered by a fund manager who shall be appointed in accordance with the provisions of the Public Finance Management Act 2012. Officer administering the Fund.

7. The object and purpose of the Fund shall be to provide loans to enable members to purchase motor vehicles and/or Immovable Property. Object of the Fund.

8. The capital of the Fund shall consist of such sums as shall from time to time be appropriated out of funds appropriated to the County Assembly of Kwale in County Appropriations Acts. Initial Capital.

PART III—THE LOANS MANAGEMENT COMMITTEE

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

- (a) two members nominated by the Board from the members one of whom shall be the chairperson of the Committee;
- (b) two other members of Assembly nominated by the Speaker, one of whom shall be a female member;
- (c) the Clerk of the Assembly who shall be an ex-officio member of the Committee and the secretary to the Committee.

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

(4) The quorum for meetings of the Committee shall

be two thirds of the members.

(5) The Committee shall consider and may approve such loan applications that may be presented by the fund manager

10. (1) A member who wishes to apply for a loan from the Fund shall present to the fund manager a duly completed loan application form as the Management Committee may prescribe. Operation of the Fund.

(2) The fund manager shall consider each application and report to the Committee on the applicant's financial status and capacity to repay the loan applied for before the Committee considers any application.

(3) If the Committee approves the application, the applicant shall upon satisfying the Committee as to the genuineness and validity of the Ownership document to the property enter into a Loan Agreement in such form as the Committee may prescribe.

11. (1) An Ownership document kept in custody as aforesaid may be temporarily released to a member upon application in writing to the fund manager for any reasons approved by the committee. Temporary Release of Ownership documents.

(2) Such document released under paragraph (1) shall be returned to the fund manager within seven working days from the date of such release.

(3) The fund manager shall acknowledge receipt of the ownership document in writing.

12. (1) A loan approved under regulation 8 shall be released from the Fund in such manner as may be prescribed by the Committee. Conditions for disbursements of Funds.

(2) The ownership document of the Property subject to a loan from the Fund shall be registered jointly between the County Assembly Service Board and the member and shall be kept in the custody of the fund manager until the loan is repaid in full by the member.

13. (1) The maximum loan amount that a member may receive shall be the value of the vehicle/immovable property that the member proposes to purchase subject to the maximum limits as will from time to time be set by the Loan Ammounts.

Salaries and Remuneration Commission.

(2) For the purpose of these Regulations, the value of a new vehicle shall be as quoted on the invoice from the supplier whereas the value of a used vehicle shall be as determined by a report from a duly registered valuer or the Government department dealing with such matters. The value of immovable property will be determined by a report of a duly registered valuer, including the Government valuer for the time being serving at Kwale County Lands registry.

(3) Notwithstanding the provisions of paragraph (1), there may be advanced from the Fund to a member an additional loan not exceeding ten per cent of the value of the vehicle purchased by the member to cater for an overhaul of the engine of the vehicle, provided that such aggregate sums advanced to the member will not exceed Kenya Shillings Two Million.

(4) No member shall receive a loan the repayment of which shall result in salary deductions exceeding one third of the gross salary.

14. (1) A loan granted to a member under these Regulations shall carry an interest rate of three per cent per annum. Interest Rate

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

15. A loan advanced under this Act shall be repaid in full over a maximum period of five years for the car loan and 20 years for the mortgage. Repayment Period

16. (1) Where a member has taken out a Loan from the scheme to purchase a Motor vehicle, the member shall comprehensively insure such vehicle. Insurance.

(2) Where a member has taken out a Loan from the scheme to purchase developed land, the member shall take out such insurances on the property as to cushion the member and the board against any risks that may reasonably be foreseen.

(3) Where a member 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 subsequently annual premiums shall be paid by the member.

(4) Every loan granted under this Act shall be insured for the benefit of the member and the premium in respect thereof shall be debited to the account of the member of the Fund.

17. (1) Upon full repayment of the loan, a signed loan discharge certificate in such form as may be prescribed by the Committee shall be issued to the member and a copy thereof shall be forwarded to the Registrar of Motor Vehicles and/or the Registrar of Lands, as the case may be.

Loan Discharge
Liability.

(2) The loan discharge certificates shall release the member from any further financial obligation in respect of the loan and shall act as sufficient authority to transfer full title to the motor vehicle/immovable property to the member.

PART IV—ADMINISTRATION OF THE FUND

18. (1) The fund manager —

Functions of the
Fund Manager.

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

deem to be proper and sufficient for the purpose of examination and audit by the Controller and 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.

PART V—MISCELLANEOUS

19. The executive committee member responsible for finance and economic planning may make regulations for the better carrying into effect of the provisions of this Act..

Regulations.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the bill is to provide for the establishment of the Fund to facilitate the members to purchase Motor vehicles and/or Immovable Property and such related matters.

Part I (clauses 1–4) of the Bill contains preliminary provisions. It provides for the short title of the Act and its commencement date and also gives the purpose of the Act and interprets and defines the words and expressions frequently used in the Bill.

Part II (clauses 5-8) of the Bill establishes the Fund and appoints the Officer responsible for the administration of the Fund. Further it provides for the purpose and objects of the fund and the source of funds for the fund.

Part III (clauses 9-17) provides for the establishment of the Loan Management Committee, operation of the Fund, the provision for the temporary of the ownership documents. The Part also provide for the conditions for distribution of the fund. Further the part provides for the loan amounts to be disbursed, the interest rates to be charged on the loans disbursed and the repayment period and the provisions on insurance plus the loan discharge liability.

Part IV (Clause 18-19) gives the provisions on the administration of the fund and provisions on the powers of the County Executive Member to make regulations for the Act.

This law when enacted will confer on a number of bodies and persons authorities to make provisions having the force of law in Kenya in terms of Article 94 (6) of the Constitution of Kenya, 2010.

The enactment of this Bill shall occasion additional expenditure of public funds to be provided through the estimates.

Dated the 24th February, 2016.

NASSORO B. MGUTTAH,
Majority Leader.

