

SPECIAL ISSUE

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REPUBLIC OF KENYA

**KWALE COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

NAIROBI, 2nd June, 2016

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2016 *Kwale County Assembly Members and Staff Loan Scheme* **No. 4**

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

No. 4 of 2016

Date of Assent: 16th May, 2016.

Date of Commencement: See Section 2

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 and staff to purchase motor vehicles and/or immovable property and such related matters.

ENACTED by the County Assembly of Kwale, as follows—

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 Governments Act;

‘Board member’ means a member of the Kwale county Assembly Board as established under section 12 of the County Government Act;

“Loan Agreement” means an agreement entered into between a member or staff 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 and staff to purchase a Motor vehicle and/or Immovable Property;

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

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

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

“Member” a member elected or nominated in accordance with article 177 (1) of the constitution

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

**PART II—ESTABLISHMENT AND
ADMINISTRATION OF THE FUND**

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

Establishment of the Fund.

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

Object and Purpose of the Fund.

7. 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.

8. The Fund shall be administered by a fund manager who shall be appointed in accordance with Section 9 of this Act.

Officer Administering the Fund.

9. (1) The Fund Manager shall be appointed through a competitive process by the County Assembly Service Board.

Appointment and Qualifications of the Fund Manager.

(2) A person is qualified for appointment as a fund manager if that person—

- (a) holds a degree in a business related field from a recognized university;
- (b) is a qualified certified public accountant;
- (c) has knowledge and relevant working experience of not less than 3 years in the lending section of a financial institution ; and

- (d) meets the requirements of leadership and integrity as set out in chapter six of the Constitution.

10. (1) The fund manager shall—

Functions of the
Fund Manager

- (a) supervise and control the administration of the Fund;
- (b) ensure that the earnings of or accruals to the fund are retained in the fund;
- (c) ensure that money held in the fund, including any earnings or accruals referred to in subparagraph (b) is spent only for the purposes for which the fund is established;
- (d) 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;
- (e) ensure that the accounts for the fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time; and
- (f) 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.

**PART III—THE LOANS MANAGEMENT
COMMITTEE**

- 11. (1)** There is established a committee to be known as the Loans Management Committee which shall have powers necessary to perform its functions.

Establishment of the
Loans Management
Committee.

- 12.** The Loans Management Committee shall consist of—

Composition of the
Loans Management
Committee.

- (a) Two members of staff nominated by the Clerk of the County Assembly one of whom shall be the chairperson of the Committee;
- (b) Two other members of County Assembly nominated by the Speaker, one of whom shall be a female member;

(c) The Fund Manager who shall the Secretary to the Committee.

13. The Loans Management Committee shall—

Powers and functions of the Loans Management Committee.

(1) Be a body of exemplary administrative and technical competence;

(2) Uphold and maintain the highest ethical standards in the discharge of its functions;

(3) Maintain honesty, accountability and integrity in the delivery of services, having regard to the principles of efficiency, equality, fairness, courtesy and discipline;

(4) Consider and may approve such loan applications that may be presented by the fund manager;

(5) Advise on the general performance of the fund;

(6) undertake all acts towards the attainment of the objects of this Fund and Act; and

(7) Impose such conditions on the use of any monies in the fund and may also impose any reasonable restrictions or other requirements concerning such use.

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

Meetings of the Loans Management Committee.

(2) The quorum for meetings of the Committee shall be not less than two thirds of the members.

PART IV—OPERATION OF THE FUND

15. (1) A member or staff 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.

16. The Loans Management Committee shall approve and advance loans to members and staff as per the limits set by the Salaries and Remuneration Commission or shall from time to time be reviewed. Borrowing Limits.

17.(1) An Ownership document kept in custody as aforesaid may be temporarily released to a member or staff upon application in writing to the fund manager for any reasons approved by the committee. (1) An Ownership document kept in custody as aforesaid may be temporarily released to a member or staff 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.

18.(1) A loan approved under Section 15 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.

19.(1) The maximum loan amount that a member or staff may receive shall be the value of the vehicle/immovable property that the member or staff proposes to purchase subject to the maximum limits as will from time to time be set by the Salaries and Remuneration Commission. Loan Amounts.

(2) For the purpose of this Act, 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

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duly registered valuer, including the Government valuer for the time being serving at Kwale County Lands registry.

(4) Notwithstanding the provisions of Section 19 (1) no member shall receive a loan the repayment of which shall result in salary deductions exceeding one third of the basic salary.

20. (1) A loan granted to a member or staff under this Act shall carry an interest rate of three per cent per annum on reducing balance or as may be reviewed from time to time by the Salaries and Remuneration Commission. Interest Rate.

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

21. 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.

22. (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 on the movable and immovable property.

(2) Where a member or staff 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 or staff 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 or staff.

23. Every loan granted under this Act shall be insured by the County Assembly Service Board for the benefit of the member or staff and the premium in respect thereof shall be debited to the account of the member or staff of the Fund. Loan Insurance.

24. (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 or staff 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 or staff.

PART V—FINANCIAL PROVISIONS

25. (1) 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. Sources of Funds.

(2) Interest earned from the Fund.

26. The County Assembly Service Board shall maintain a Fund Account in a reputable commercial bank in Kenya shillings. The Fund Account.

27. (1) The Committee shall prepare annual reports on management of the Fund within three months after the close of the financial year for consideration by the County Assembly Service Board and for the approval by the County Assembly. Annual Reports.

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

28. The accounts of the Fund shall be audited as per the Kwale County Assembly and National Government audit procedures. Audit

PART VI—RESTRICTIONS ON AND RECOVERY OF LOANS

29. Every loan advanced shall be used for the specific purpose applied for. Specific purpose of the loan.

30. Non-repayment of loans for a period of three consecutive months constitutes a default punishable by a penalty of charging the member the market interest rate as set by the Kenya Revenue Authority may from time to time. Default on Repayment.

31. More than six months default will be referred to a reputable debt collector(s) by the Loans Management Committee for recovery at the defaulter's cost. Recovery of the Loan.

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32. Members or staff who divert funds loaned to them to other activities that do not match with the objectives of the loan applied for shall be blacklisted from further benefiting from the Fund. Diversion of loan funds.

PART V—MISCELLANEOUS

33. 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

34. Board member shall enjoy similar benefits to those enjoyed by staff.