

PROPOSED AMENDMENTS TO THE STATE OFFICERS AND PUBLIC OFFICERS MOTOR CAR LOAN SCHEME FUND REGULATIONS

S/No	Subject	Clause	Current Provision	Proposed Amendment	Justification/ Remarks
1.	Interpretation	Regulation 2	Motor car has the meaning assigned to it under section 2 of the Traffic Act "motor-car" means a motor vehicle having seating accommodation for not more than ten passengers excluding the driver, but does not include a motorcycle"	Substituting definition of motor car to read: "motor car" means a motor vehicle which: (a) has a seating capacity that does not exceed ten passengers excluding the driver; or (b) <u>has less than four wheels"</u>	To broaden application of the Regulations to include motor cycle This also in view of some jurisdictions such as Lamu where the need for different types of motorised transport was identified during the awareness creation forums
			"commercial use" means any motorised road vehicle, that by its type of construction and equipment is designed for, and capable of transporting, goods and services for payment;	definition of "commercial use" deleted	Requirement of not subjecting the vehicle for commercial use to be deleted with a view to enhancing loan uptake It is further aligned to the other public sector schemes including the Parliamentary Service Commission Scheme
			value of the loan" the initial loan granted to a beneficiary or any outstanding loan balance at any given time before full loan, repayment	value of the loan" the initial loan granted to a borrower or any outstanding loan balance at any given time before full loan, repayment	

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2.	Expenditure of the fund	Regulation 7	N/A	<p>Insert a new sub-regulation 2 (a) reading as follows:</p> <p>“The expenses of the Fund shall be met from the approved budget estimates which shall include but not limited to appropriations, earnings, accruals and shall not exceed five per cent of the annual approved budget of the Fund.”</p>	Sub-regulation transferred from Regulation 19 where it was inadvertently placed and enhanced to reflect both Board and Secretariat expenses
3.	Establishment of the Advisory Board	Regulation 9	<p>9. (2) The Advisory Board shall comprise-</p> <p>(a) the Principal Secretary for the National Treasury or his or her nominee who shall not be below Job - Group "T", who shall be the Chairperson;</p> <p>(b) the Principal Secretary of the State Department responsible for Public Service Management or his or her nominee who shall not be below Job Group R;</p> <p>(c) the Principal Secretary of the State Department responsible for Transport or his or her nominee drawn from the relevant technical department</p>	<p>9 (2) The Advisory Board shall comprise-</p> <p>(a) the Principal Secretary for the National Treasury or his or her nominee <u>at the level of Job Group “CSG 4” and above</u>, who shall be the Chairperson;</p> <p>(b) the Principal Secretary for the State Department responsible for Public Service Management or his or her nominee <u>at the level of Job Group “CSG 6” and above</u>;</p> <p>(c) the Principal Secretary for the State Department responsible for <u>mechanical services</u> or his or her nominee <u>at the level of Job Group “CSG 6” and above</u> drawn from the relevant technical department</p>	<p>This will align the Regulations to the current civil service Job Grading System (CSG)</p> <p>It also takes on board the component of mechanical services</p>

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			<p>dealing with matters of motor car and shall not be below Job Group R;</p> <p>(e) the Chief Executive Officer or Secretary, Public Service Commission or his or her nominee who shall not be below Job Group "R"; and</p> <p>(f) two persons nominated by the Principal Secretary for the National Treasury who shall not be below Job Group R, from the Directorates of — (i) Budget, Financial and Economic Affairs; and (ii) Administrative Services.</p>	<p>dealing with matters concerning motor car;</p> <p>(e) the Chief Executive Officer, Public Service Commission or his or her <u>nominee at the level of Job Group “CSG 6” and above</u>; and</p> <p>(f) two persons nominated by the Principal Secretary for the National Treasury who shall be at the level of Job Group “CSG 6” and above, from the Directorates of—</p> <p>(i) Budget, Fiscal and Economic Affairs; and</p> <p>(ii) Administrative Services.</p>	
4.	Functions of the Advisory Board	Regulation 10	10. (1) (a) process and approve loans in accordance with the existing terms and conditions of borrowing	10. (1) (a) <u>Consider loan applications</u> in accordance with the existing terms and conditions of borrowing	Aligned to Board mandate
			10 (1) (b) liaise with the financial institution to set up a Fund for the disbursement of the loans;	Delete paragraph (b) of sub-regulation 10 (1)	To avoid repetition. As this is taken care of under sub-paragraph 10 (1) (j)

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			10 (1) (e) approve annual work programmes and procurement plans for the Fund;	10 (1) (e) Consider annual work programmes, <u>budgets</u> and procurement plans for the Fund;	Board also approves Fund Budgets
			10 (1) (i) consider and recommend approval of the financial statements to the officer administering the Fund;	10 (1) (i) consider financial statements <u>of the Fund;</u>	Aligned to Board mandate
			10 (1) (j) recommend as when required the procurement of a financial institution to administer the Fund on its behalf	10 (1) (j) consider, where necessary, the procurement of a financial institution to assist in the disbursement of loans issued by the Fund	For clarity purposes as well as aligning it to Board mandate
5.	Car Loan Threshold	Regulation 11	The maximum loan each beneficiary shall be eligible to, is set out in the Schedule to these Regulations or as may be determined by the Salaries and Remuneration Commission, from time to time.	The maximum loan each beneficiary shall be eligible to <u>will be</u> as determined by the Salaries and Remuneration Commission from time to time	The proposed amendment will facilitate flexibility in the execution of loan threshold based on advisories from the Salaries and Remuneration Commission
6.	Loan Application Procedure	Regulation 12	12. (1) An application for a loan under these Regulations shall be accompanied by the following documents where appropriate (e) a certified copy of the log book	12. (1) An application for a loan under these Regulations shall be accompanied by the following documents where appropriate (e) a certified copy of the registration certificate of the motor car issued under the Traffic Act	To give the car ownership document the correct name as defined under the Traffic Act

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			12 (3) For the purposes of these Regulations, a loan shall not be given to a beneficiary to purchase a used vehicle that is more than eight years old from the date of manufacture or as may be determined from time to time	12 (3) For the purposes of these Regulations, a loan shall not be given to a borrower to purchase a motor car whose date of manufacture exceeds ten years before the date the loan was applied for.	<ul style="list-style-type: none"> • This will help enhance loan uptake in view of the lower cost, hence affordability. • This requirement does not apply in other jurisdictions including credit facilities provided by SACCOs and other financial institutions. • Ten year old year vehicles are generally mechanically sound • Insurance companies provide comprehensive insurance cover on vehicles that are ten years old
7.	Eligibility Criteria	Regulation 13	13 (1) (e) an undertaking by the beneficiary that the motor car shall jointly be registered and owned for the period of the loan by the National Treasury on behalf of the Government of Kenya and the beneficiary until	13 (1) (e) an undertaking by the borrower that the motor car shall jointly be registered and owned for the period of the loan by the National Treasury or a financial institution, on behalf of the National Treasury , where applicable, and the beneficiary until the loan 'is repaid <u>in full.</u>	To take care of a situation where this function is outsourced to a financial institution

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			the loan 'is repaid in full by the beneficiary		
			13 (1) (f) an undertaking to meet such costs for the purpose of securing a motor car comprehensive insurance cover and pay such sum of money on or before thirty days before the expiry of the comprehensive motor car insurance policy as may be determined by the officer administering the Fund from time to time	<p>13 (1) (f) an undertaking to take out comprehensive insurance cover of the motor car or meet the costs incurred by the Fund under regulation 14 for comprehensive insurance cover of the motor car during the period of the loan;</p> <p>Insert the following new paragraph immediately after paragraph (f)— (fa) an undertaking to take out life insurance policy or meet the costs incurred by the Fund under regulation 14 for life insurance policy for the borrower during the period of the loan;</p>	To incorporate the aspect of life insurance in the Regulations
			13 (1) (g) no borrower shall be eligible for more than one loan at a time from the Fund within five years;	<p>13 (1) (g) no borrower shall be eligible for more than one loan at a time from the Fund within three years.</p> <p>inserting the following new Regulation immediately after regulation 13—</p>	To enable officers who may wish to benefit from the Scheme access the facility upon early completion of loan repayments without having to wait for five years. To also take care of cases of

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				<p><i>Eligibility criteria for subsequent loan.</i></p> <p>13A. A borrower shall be eligible for a new loan where the borrower—</p> <p>(a) has fully repaid the loan disbursed;</p> <p>(b) is a state officer who has been reappointed to the state office or appointed to another state office; and</p> <p>(c) is a public officer who has been promoted to a job group that would entitle the public officer to a higher threshold in accordance with Regulation 11.</p>	reappointment of state officers and promotion of public officers to higher grades that may arise within the period of servicing the loan
8.	Insurance in respect of Motor Car Loan	Regulation 14	14. A borrower shall take and maintain a comprehensive motor car insurance policy with an insurance company enlisted by the Advisory Board, the cost of which shall be paid out of the Fund and debited to the borrower's account	<p>Deleting Regulation 14 and substituting therefor the following new Regulation—</p> <p><i>Insurance in respect of motor car loan.</i></p> <p>14. (1) The insurance policies taken out under regulation 13 (f) and (fa) shall be with an insurance company enlisted by the Advisory Board.</p> <p>(2) Where a borrower fails to take out the insurance policies under regulation 13 (f) and (fa), , the Advisory Board shall take out the insurance policies and debit the cost of the insurance policies to the loan.</p>	<p>Additional write up proposed for clarity purposes</p> <p>Also meant to incorporate the aspect of life insurance in the Regulations</p>
9.	Conditions for disbursement of Funds	Regulation 15	<p>15 (5) During the loan repayment period the beneficiary shall-</p> <p>(a) not lease, sell or agree to sell or part with possession of the charged motor car</p>	<p>15 (5) During the loan repayment period the borrower shall-</p> <p>(a) not sell or agree to sell the charged motor car or any part of the motor car without the prior written consent of the officer</p>	<p>The word lease to be deleted with a view to enhancing loan uptake</p> <p>It is further aligned to the</p>

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			or any part of the motor car without the prior written consent of the officer administering the Fund	administering the Fund;	other existing public sector schemes
			15 (5) During the loan repayment period the beneficiary shall- (b) meet costs for the motor car comprehensive insurance cover and pay such sum of money as may be determined by the officer administering the Fund from time to time	15 (5) During the loan repayment period the beneficiary shall- (b) meet the costs of the insurance policies taken out under regulation 13 (f) and (fa);	To incorporate the aspect of life insurance in the Regulations
			15 (5) During the loan repayment period the beneficiary shall- (c) ensure that the motor car is not used for commercial purposes	Delete paragraph (c) of sub-regulation 15 (5)	To enhance attraction to the facility and to align to other schemes of Government.
			15 (7) The officer administering the Fund shall be the custodian of the motor car log book until the loan is repaid in full by the beneficiary and thereafter the Officer Administering the Fund shall transfer the motor car log book to the beneficiary in his or her name within ninety days after full repayment of the loan.	(7) The Officer administering the Fund shall be the custodian of the registration certificate of the motor car submitted under regulation 12(1)(e) until the loan is repaid in full by the borrower and thereafter return the custody of the registration certificate to the borrower within ninety days after full repayment of the loan.	For clarity purposes and compliance with the terminology contained in the Traffic Act

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10.	Loan Repayment	Regulation 16	16. (1) A loan advanced under these Regulations shall be repaid in full within sixty months	16. (1) A loan advanced under these Regulations shall be repaid in full within seventy two months	This will enhance loan uptake in view of the lower monthly deductions
			16 (2) The preferred method of loan repayment shall be through a check-off system or a bank standing order by the beneficiary	16 (2) The method of loan repayment shall be through a check-off system or a bank standing order by the borrower	This makes the check-off system and bank standing order definite modes of repayment
			16. (3) Notwithstanding the provisions of paragraph (1), where a state officer or public officer leaves public 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. (3) Notwithstanding the provisions of paragraph (1), where a borrower resigns from service, is terminated from employment or concludes the term in office, before the period of the loan, the terms of the loan issued to the borrower shall remain in force for the period of the loan.	The words for whatever reasons to be deleted. This is based on an advisory from the Public Service Commission of Kenya regarding double punishment
			16. (4) Where a beneficiary leaves the public service on disciplinary grounds, the terms of the loan shall convert to commercial terms after ninety days from ^the effective date of leaving the service.	Delete this sub-regulation	This is based on an advisory from the Public Service Commission regarding double punishment

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			16 (5) Where a default occurs for whatever reason there shall be a grace period of not more than three months, after which the car which is subject to the loan shall be repossessed and sold to recover the balance of the loan.	16 (5) Where a default occurs for whatever reason there shall be a grace period of not more than three months, after which the motor car which is subject to the loan shall be repossessed and sold to recover the balance of the loan.	To provide room for both motor vehicles and motor cycles
			16 (7) Where a motor car has been disposed-off under paragraph (6) and the amount recovered is not sufficient to cover the entire loan balance, the Officer Administering the Fund shall require the loan beneficiary to pay the difference.	16 (7) Where a motor car has been disposed-off under paragraph (6) and the amount recovered is not sufficient to cover the entire loan balance, the Officer Administering the Fund. shall require the borrower to pay the difference.	
11.	Responsibilities of the financial institution	Regulation 19	19 (1) The responsibilities of a financial institution procured under these Regulations shall be to— (a) maintain and operate an individual account for each beneficiary	19 (1) The responsibilities of a financial institution procured under these Regulations shall be to— (a) maintain and operate an individual account for each borrower	
			19. (1) The responsibilities of a financial institution procured under these Regulations shall be to— (b) charge securities on motor cars acquired through loans from the Fund so as to protect the interest of the Fund, and act as a custodian	19. (1) The responsibilities of a financial institution procured under these Regulations shall be to— (b) register a security over the motor cars acquired through loans issued by the Fund;	

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			of such charges;		
			19. (1) The responsibilities of a financial institution procured under these Regulations shall be to— (c) disburse monies for newly approved loans to various suppliers or sellers of motor cars to beneficiaries , after the necessary communication in writing authorizing disbursement to them by the officer administering the Fund;	19. (1) The responsibilities of a financial institution procured under these Regulations shall be to— (c) disburse monies for newly approved loans to various suppliers or sellers of motor cars to borrowers , after the necessary communication in writing authorizing disbursement to them by the officer administering the Fund;	
			19. (1) The responsibilities of a financial institution procured under these Regulations shall be to— (f) upon repayment of the motor car loan, interest and other expenses which may be outstanding discharge the charge and release the security documents to the beneficiaries	19. (1) The responsibilities of a financial institution procured under these Regulations shall be to— (f) upon repayment of the principal amount, interest and other expenses related to a loan issued by the Fund for acquiring the motor car , release the security registered over the motor car to the borrower ;	
			19 (2) The expenses of the Fund Secretariat shall be met from funds provided by Parliament for that purpose which shall include but not limited to appropriations, earnings, accruals and shall not exceed five per cent of the annual	Delete Sub-regulation 19 (2)	Sub-regulation misplaced. Transferred to Sub-regulation 2 (a) under Regulation 7

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			approved budget of the Fund.		
12.	Chief Executive Officer	Regulation 20	<p>20 (2) A person is qualified for appointment as the Chief Executive Officer if the person:</p> <p>(b) holds a degree in economics, finance, accounting or social sciences from a university recognized in Kenya</p> <p>(d) has at least ten years' experience in the relevant field.</p>	<p>20 (2) A person is qualified for appointment as the Chief Executive Officer if the person:</p> <p>(b) holds a masters degree in economics, finance, accounting or social sciences from a university recognized in Kenya</p> <p>(d) has at least ten years' working experience in the fields of economics, finance or accounting, five of which should be at senior management level.</p>	<p>Aligned to the principles of good corporate governance</p> <p>Also aligned to Public Service Commission guidelines regarding appointment to such position</p>
			<p>20 (3) A person appointed as the Chief Executive Officer under this regulation, shall serve for one term of five years, which may be renewed for one further term of five years.</p>	Delete this sub-regulation	<p>In light of the fact that the Fund is not a body corporate and officers deployed to the Fund are national Government staff who serve at the Fund on secondment basis</p> <p>This is also in view of sub-regulation 21 (3) that provides that the terms and conditions of service for the Chief Executive Officer and the Fund Secretariat shall be determined by the Cabinet Secretary in consultation with the Public Service Commission and the Salaries and Remuneration Commission.</p>

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13.	Administration of the Fund	Regulation 24	24 (2) The administrator of the Fund shall (h) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Cabinet Secretary for gazettment by the 10th day of every fourth month	24 (2) The administrator of the Fund shall (h) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Cabinet Secretary	Gazettment of financial statements is outside the scope of the Fund based on the provisions of Article 24 (10) and Article 83 of the Public Finance Management Act, 2012
14.	Winding Up of the Fund	Regulation 28	28. In the event of winding up of the Fund, the cash balances shall be transferred to the National Exchequer Account while other assets of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to finance.	28. In the event of winding up of the Fund, the cash balances shall be transferred to the National Exchequer Account while other assets and liabilities of the Fund shall be transferred to the Ministry for the time being responsible for matters relating to finance.	Both assets and liabilities need to be addressed in the event of winding up.
15.	Supplementary Requirements	Regulation 29	These Regulations shall be supplemented by such Supplementary requirements as may be detailed in the loan application form issued by requirements. the Officer Administering the Fund and by the contract between the Fund and the beneficiary .	These Regulations shall be supplemented by such Supplementary requirements as may be detailed in the loan application form issued by requirements. the Officer Administering the Fund and by the contract between the Fund and the borrower .	
16.	Annexure	Schedule	Loan threshold for state and public officers	Delete the schedule	Loan threshold to be determined by the Salaries and Recommendation

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					Commission as provided under Regulation 11. The Fund to align the applicable amounts to the SRC guidelines.