

SCHEDULE 3
RULES & PROCEDURES MANUAL - PURCHASE OF A RESIDENTIAL HOUSE

1. DEFINITIONS

- “Applicant”** Means a Member of the Scheme who intends to purchase a residential house;
- "Institution"** Means:
- a) a bank, mortgage or financial institution licensed under the banking Act Cap. 488, or
 - b) a building society licensed under the Building Societies Act Cap. 489, or
 - c) a microfinance institution under Microfinance Act, 2006 or
 - d) the National Housing Corporation; or any other institution, including an issuer of a tenant purchase arrangement that is specifically approved by the Authority for the purpose of providing a facility; and
 - e) any other entity offering a residential house for sale.
- “Member”** Means an individual who has been admitted to Membership of the Scheme;
- "Residential house"** means a dwelling built wholly or in part for the provision of residential accommodation in urban or rural areas and "house" shall have the same meaning as residential house;
- “Scheme”** Means the Teachers Service Commission Staff Retirement Benefits Scheme;
- "Spouse"** has the meaning assigned to it in section 2 of the Marriage Act, 2014 to mean a husband or a wife.

2. GOVERNANCE

The ultimate responsibility for decision-making on applications in relation with purchase of a residential house by assignment of benefits rests with the Board of Trustees.

3. MANAGEMENT OF THE EARLY ACCESS HOUSING PROGRAM

The early access to benefits housing program shall be administered by the Administration and Management Committee of the Scheme.

4. MINIMUM REQUIREMENTS

- a) The Applicant must be a member of the Scheme but shall not be a member who is paid a pension by the scheme, or who has taken early retirement, or has reached retirement age;
- b) The applicant must submit a duly completed application form to the Trust Secretary;
- c) The Applicant will ensure that the services of an Advocate are retained and shall share such instructions with the Scheme;
- d) The Applicant will take and maintain a mandatory fire insurance policy on the residential house;
- e) The purchase price of the residential house shall not exceed its market value;
- f) The applicant must demonstrate their ability to pay the full purchase price for the house after the assignable portion of their benefits is applied for such a purpose;
- g) The house being purchased should be in Kenya; and
- h) The title deed of the house and property being purchased, free of encumbrance must be surrendered to the Scheme for charging so as to prevent the transfer of the house to any other person.

5. APPLICANT'S DUTIES

Before acquiring a residential house, the Applicant shall carry out for the Schemes authentication the following due diligence exercises for the proposed acquisition:

- a) Carry out official searches of the residential and the property its located on at the Lands registry and submit them to the Scheme;
- b) Provide a draft Agreement for Sale for the subject Residential house drawn by an Advocate which shall be approved by the Schemes Legal function prior to its execution. The Purchase of the Residential house shall be subject to the Law Society Conditions of Sale (2015 Edition) in so far as they are capable of having effect and application and shall not be excluded for purposes of the early access option to Retirement Benefits;
- c) In the event the Residential house is registered as a leasehold, the member to provide evidence that the remaining lease period for the property to be purchased is not be less than forty-five (45) years;
- d) Provide a certificate of occupation of the intended house prior to the intended purchase;
- e) Obtain a Survey a Map and comparing the details with those of the Deed Plan of the property to ascertain consistency;
- f) Confirm the location of the land agrees with the Map and beacons are in place;
- g) Confirm that the Deed Plan was regularly and procedurally prepared;

- h) Confirm the size of the Residential House and of the land it sits on in the Deed Plan, Survey Map and the ground tallies;
- i) Investigate whether there are any wayleave rights, easements or encumbrances over the Residential House;
- j) Investigate the history of the title from acquisition to the present date;
- k) Comment on the legality of a grant if applicable and whether it was procedurally obtained;
- l) Peruse the County Government planning papers/policies and comment on allowable developments, ground coverage and plot ratio;
- m) Carry out search at the County Council Registry to confirm rates payable and any arrears;
- n) Note the amount and status of payment of ground rent; and
- o) Confirm whether the Residential house is on public utility plot, set aside for public use, in the “Ndung’u Report” or any other report on irregularly acquired land or declared un-procedurally acquired;
- p) Cater for all transaction costs in relation to purchase of the residential house.

6. TRUSTEES DUTIES IN RELATION TO THE ASSIGNABLE BENEFIT

The Trustees of the scheme shall:

i. **PRE-APPROVAL**

- a. Receive application forms from Applicants;
- b. Create an account on behalf of each Member upon submission of the physical application documents to the Trust Secretary;
- c. Review applications and make determinations on the same;
- d. conduct official search on the Title of the subject residential home prior to purchase;
- e. Conduct a valuation on the property from a registered valuer at the Applicant’s cost;
- f. Ensure the terms of sale between the Applicant and the vendor of the residential house are documented and reviewed by the Scheme’s Advocates;
- g. Notify the Applicant of the decision of the Board of Trustees within ninety (90) days of the application.

- ii. POST-APPROVAL
 - a. Obtain a fully executed sale agreement between the Applicant and the vendor of the residential house;
 - b. Release the approved funds to the Vendor's Advocate as per the Agreement of sale;
 - c. Register an encumbrance on the Title;
 - d. perform post registration searches on acquired properties;
 - e. retain original copies of titles of all purchases of residential houses;
 - f. keep and maintain all Applicants/Members data;
 - g. keep and maintain records of all transactions relating to the purchase of residential houses;
- iii. submit quarterly reports to the Retirement Benefits Authority on all transactions relating to the purchase of residential houses;
- iv. Comply with the provisions of the Retirement Benefits Act and Regulations made thereunder.