

National Housing Development Fund Levy

By Nelson Ngaira



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Background and Context



The Housing Policy Agenda

- ▶ The National Housing Policy is contained in Sessional Paper no. 3 of 2004
 - ▶ The policy's goal to “*facilitate the provision of adequate shelter and a healthy living environment at an affordable cost to all socio-economic groups in Kenya*” is also reflected in:
 - ▶ Article 43 (1) b of Kenya's constitution, which provides that every Kenyan has a “....*right to accessible and adequate housing and to reasonable standards of sanitation.*”
 - ▶ According to Article (21. 2) this right will be realized progressively
 - ▶ Vision 2030, which aims at providing adequate and decent housing for all Kenyans to meet a shortage of 150,000 housing units annually
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The Housing Policy Agenda

- ▶ A significant finding by the Institute of Economic Affairs (2017) is that:
 - ▶ Kenya's formal housing policies together maintain a strong supply focus
 - ▶ based on the understanding that there is insufficient housing of good quality at affordable rates in the country
 - ▶ the expectation is to create housing stock and to facilitate ownership within urban areas of Kenya
 - ▶ the policy focus skews government initiatives towards supporting supply policies
 - ▶ demand and supply picture in urban and rural areas are different
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Relevant Legislations

Principal Legislation

The Housing Act (Rev. 2015)

- An Act of Parliament to provide for loans and grants of public moneys to local authorities out of a Housing Fund
 - for the construction of dwellings (a building the whole or part of which is intended to provide **residential accommodation**)
- Section 3 establishes the **National Housing Corporation** (NHC):
 - Principal Secretary (PS) for Transport, Infrastructure, Housing, Urban Development and Public Works
 - Appointee of the Cabinet Secretary (CS) for Finance (National Treasury)
 - 6-8 appointees with special knowledge in housing development & finance
 - At least three public officers and One selected as the chairman
- Section 6 establishes the **Housing Fund** to be controlled by the NHC

Relevant Legislations

Section 6 The Housing Act

- Payments into the Housing Fund
 - Moneys voted or appropriated by parliament for payment into the Housing Fund
 - Repayments of loan principal by a local authority, company, society or individual person
 - Repayments of interest on the loans to a local authority, company, society or individual person
 - Money borrowed by the NHC to carry out its functions under the Housing Act and
 - Income from investment activities made by NHC in exercise of its powers
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Relevant Legislations

Section 7 The Housing Act

- Uses of the Housing Fund
 - lend or grant money to any local authority to **construct dwellings** secured by the development and any immovable property of the local authority;
 - lend any company, society or individual person to acquire land and construct **approved dwellings** or to carry out **approved schemes**
 - make loans to organizations established for promoting the **development of housing**
 - construct dwellings, carry out approved schemes and lay out and provide services for approved schemes
 - acquire or maintain any land or building, or estate or interest therein, for any of the purposes of the Housing Act
 - To consider the financial position of the company, society or individual person and the sufficiency of the security for the repayment thereof.
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Relevant Legislations

Section 24 The Housing Act

(1) The Minister may from time to time make regulations for prescribing:

- anything which may require to be prescribed under this Act, and
 - for the better carrying out of the objects and purposes of this Act, and
 - such regulations may be expressed to apply throughout Kenya or in any specified or defined portion thereof.
 - Such regulations may provide penalties for any contravention thereof or failure to comply therewith not exceeding a fine of ten thousand shillings or to imprisonment for two years or to both.
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The Big Four Agenda on Housing

- ▶ The Big 4 Agenda was pronounced by the president on 12 December 2017
 - ▶ Provision of low-cost housing is one of the Government's Big 4 Agenda
 - ▶ Government to deliver 500,000 affordable and social housing units by 2022 by
 - ▶ Reducing the cost of mortgages (pooling funds) and cost of construction (technologies) for home ownership
 - ▶ Raising low-cost funds from private and public sector (PPPs) for investment in large-scale housing construction
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The Big Four Agenda on Housing Cont...

- ▶ Use of the Kenya housing fund is meant to help the State realize this goal
- ▶ It is a means to stop the expansion of slums and informal dwellings in major towns in the country
- ▶ To meet the current annual demand of over 250,000 housing units
- ▶ Current annual average supply is 50,000 units delivered by the government and private developers
- ▶ Expected to generate about Sh57 billion a year, from about 2.5 million salaried Kenyans
- ▶ Additional revenue expected from voluntary contributors

Affordable Housing Scheme



Affordable Housing Scheme (Reg. 3)

- ▶ An **affordable housing scheme** for the purposes of section 30A of the Income Tax Act (Affordable Housing Relief)
 - ▶ “affordable housing scheme” means:
 - ▶ (a) **social housing** designated for monthly income earners earning up to 19,999 shillings;
 - ▶ (b) **low cost housing** designated for monthly income earners earning between 20, 000 to 49, 999 shillings;
 - ▶ (c) **mortgage gap housing** designated for monthly income earners earning between 50, 000 to 149, 999 shillings; or
 - ▶ (d) **middle to high income housing** designated for monthly income earners earning 150,000 shillings and above
 - ▶ Based on the monthly income as at the date of application for a benefit or entitlement from the Housing Fund.
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Qualifications of the Scheme Members (Reg. 14)

- ▶ is a Kenyan citizen of 18 years of age;
- ▶ has proof of registration with the affordable housing scheme;
- ▶ has proof of remittance of the contribution; and
- ▶ is a first time home owner under the affordable housing scheme.

Are all potential members covered under the Affordable Housing Scheme?

Registration with the Housing Fund



Who should register with the HF? (reg.4)

- ▶ Employer with one or more employees to register:
 - ▶ as a contributing employer;
 - ▶ his/her employee(s) as members of the HF
 - ▶ Employee as a contributor employee; and
 - ▶ Self-employed as a voluntary member
 - ▶ *A foreigner working in Kenya is excluded*
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Obligations of the registered employer (Reg. 5)

Maintain Records

- Proper & up-to-date register or record of the earnings; and
- any other particulars of employees as may be specified by the Corporation

Produce Records

- At all times produce the register or record on demand by a compliance or other officer of the Fund

Retain Records

- retain such register or record for such period as the Corporation may specify
 - Period not to exceed six years after termination.
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Contributions to the Housing Fund



Employer and employee (mandatory)

Section 31A **The Employment Act, 2007**

(1) An employer shall pay to the National Housing Development Fund in respect of each employee-

- the employer's contribution at one point five per centum of the employee's monthly basic salary; and
 - the employee's contribution at one point five per centum of the monthly basic employee's salary
 - Provided that the sum of the contributions shall not exceed five thousand shillings a month
 - Payment to be made by ninth day of the following month
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Effective Date

- ▶ Effective date of 01 January 2019 halted by court pending case filed by COTU
- ▶ Likely to be effective on 01 March 2019 as indicated by the Cabinet Secretary

← → × <https://www.businessdailyafrica.com/news/housing-levy-pay-cut-for-workers-to-start-March/539546-4957724-6p8yiv/index.html>

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Voluntary Contributions (Reg. 6)



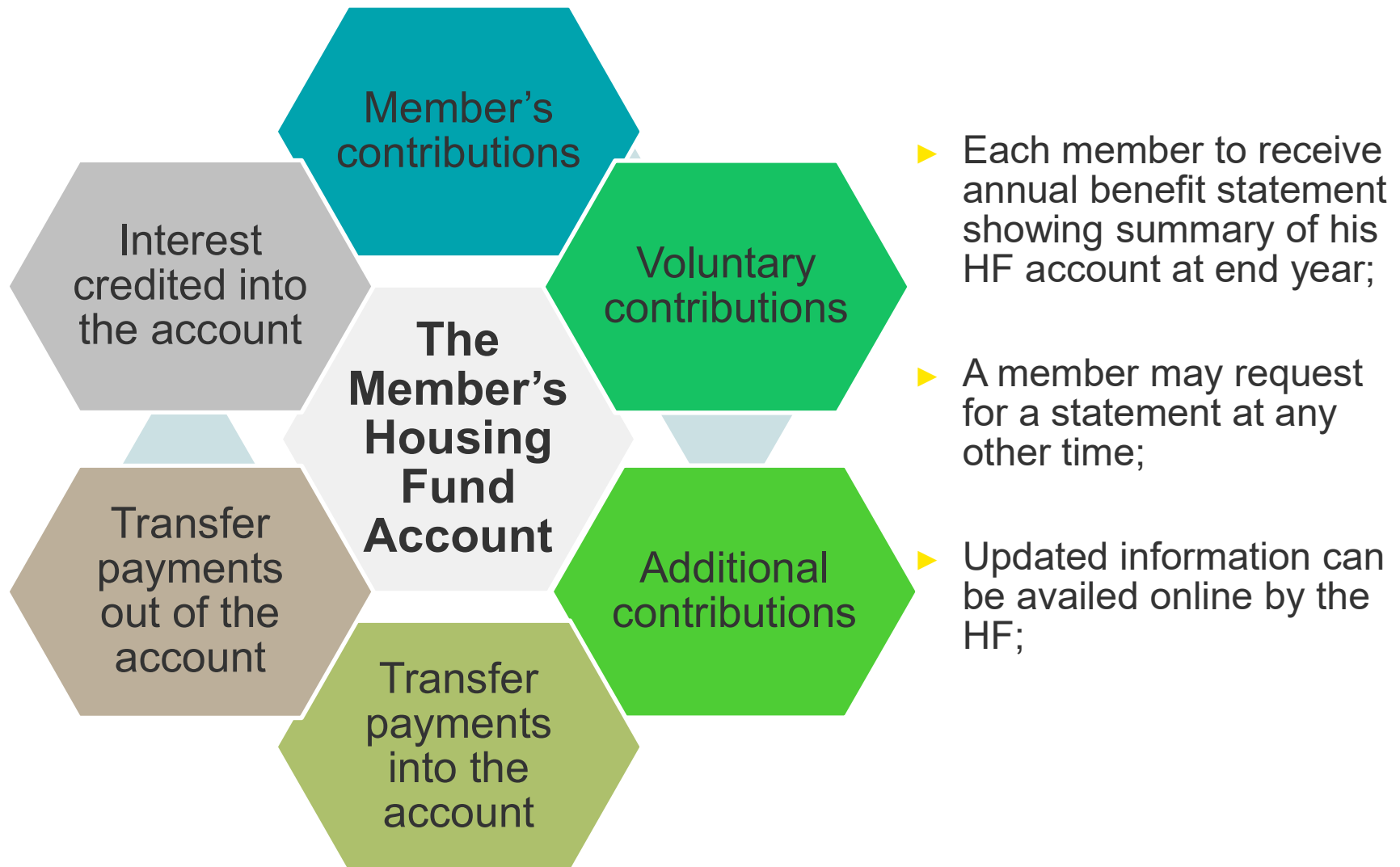
Regulation 8:

- ▶ Every member can make additional contributions,
- ▶ credited to the member's individual account as HF Credit

Regulation 11:

- ▶ Amount paid in error to be refunded without interest; or
 - ▶ May be applied to any current liability owing to the HF.
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Individual accounts for members (Reg. 9)



Access/Benefits of the Contributions



Return on Investment

- ▶ Return on savings and contributions
 - ▶ The Corporation to set out the rate of return on member's contributions (Reg. 12)
 - ▶ The Corporation to specify the annual return applicable on member's contributions (Reg. 13)
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Direct loan from the Fund (one in 5 years)

Make an application to the NHF Corporation (Reg. 15)

Duly filled application form;
Immediate certified three months pay-slips or 6 months bank statements

Certified copy of National ID or passport; Non-refundable KES 100 application fees (this may change)



Evaluation by the NHF Corporation (Reg. 16)

Compliance with the above;
Applicable loan threshold per grade of the beneficiary;

Ability to repay the loan within the stipulated time; Any other conditions set by the Corporation



Disbursement of the approved loan funds (Reg. 17)

To the Individual Housing Fund A/c;
Not to lease or sell without the Corporation's written consent

Maintain the house in a satisfactory state of repair; Meet costs of insurance cover, if any.

Cost of the direct loan from HF

Loan interest (Reg. 18)

- 7% p.a on a reducing balance basis; or
- As determined from time to time by the Corporation

Charges and fees (Reg. 19)

- To preserve HF's value
 - Cover management costs
 - Insurance for life and asset
 - Facility management costs
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Survivors' Benefits (Reg. 20 and 21)

- ▶ Member to nominate dependant(s) to receive the benefits upon his or her death while making contributions
 - ▶ Nominated beneficiaries to apply for the payment of fund benefits
 - ▶ Member to specify proportions of sharing of the accrued benefit payable
 - ▶ Accrued benefit to include in aggregate value of the member's HF Account and interest accrued
 - ▶ The Corporation may decline/reject to pay the nominated dependent with written reasons
 - ▶ Benefit payable by the HF upon member's death **shall not for part of the assets in the member's estate**
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Definition of dependent (Reg 2)

Dependent refers to:

- ▶ a spouse of the deceased;
 - ▶ a child of the deceased; or
 - ▶ a beneficiary nominated by the deceased
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Benefits under Employment Act, 2007

{Section 31A (2)}

A. Eligible for affordable housing



Benefits accrue to the employee



To finance purchase of a home under the affordable housing scheme

B. Not eligible for affordable housing



Benefits accrue after 15 years from start date or at retirement age, whichever is sooner



Transfer to a registered pension; Another fund member; Spouse or dependent children; or Receive the contributions in cash (***subj. to tax***)

Benefits under the Income Tax Act

Section 30A

Affordable Housing Relief

- ▶ A resident individual who satisfies the Commissioner that in a year of income that the person -
 - ▶ is eligible to make an application under an affordable housing scheme;
 - ▶ has applied and is awaiting the allocation of a house under an affordable housing scheme; and
 - ▶ is saving for a purchase under an affordable housing scheme approved by the Cabinet Secretary in charge of housing,
 - ▶ is entitled to affordable housing relief for that year of income
 - ▶ A person who has been allocated a house under the affordable housing scheme and has been subject to an affordable housing relief shall not be re-eligible for a subsequent relief.
 - ▶ *15% of the gross emoluments limited to Ksh.108,000 per annum.*
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Termination of Membership



Individual Account Deemed Closed (Reg. 10)

Pay out

- all the moneys due from that account have been paid out of that account in accordance with these Regulations

Cease

- the member has ceased to be a member of the Housing Fund; and

No claim

- no claim by or on behalf of that member to any benefit is pending determination.

In the event of winding up of the Housing Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Ministry in charge of housing to facilitate appropriate refunds to the contributors (**Reg. 26**)

Offences and Penalties



Offences and Penalties (Regulations)

▶ **Offences under the regulations:**

- ▶ Employer failure to register (Reg. 4)
- ▶ Employer failure to make contribution (Reg. 4)
- ▶ Failure to keep a proper and up-to-date register or record (Reg. 5)
- ▶ Misappropriation of any funds or assets of the HF (Reg. 24)
- ▶ Assists or causes a person to misappropriate funds (Reg. 24)

▶ **Penalties upon conviction:**

- ▶ imprisonment for a term of two years; or
 - ▶ to a fine not exceeding ten thousand shillings; or
 - ▶ both.
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Offences and Penalties (Employment Act)

Offence

- Failure by an employer to remit contributions by the due date (ninth day of the following month)

Penalty

- 5% of the payable contributions for each month or part thereof during which the contributions remain unpaid
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Questions & Answers