



MINISTRY OF LANDS, PUBLIC WORKS, HOUSING AND URBAN DEVELOPMENT

THE REGULATORY IMPACT STATEMENT IN THE MATTER OF PUBLIC PARTICIPATION ON:- THE DRAFT AFFORDABLE HOUSING REGULATIONS 2024

1. A Statement of the objectives of the proposed Affordable Housing Regulations, 2024

The Proposed draft Affordable Housing Regulations 2024 seek to facilitate full operationalization of the Affordable Housing Act in the development of affordable housing, institutional housing and associated social and physical infrastructure across the country. The main objective and reason for the proposed Affordable Housing Regulations, 2024 is to operationalize Affordable Housing Act, 2024 and provide clarity on its implementation.

Specifically, the Regulations seek to:-

- (a) Provide for eligibility, application, validity and revocation of exemptions from imposition of the Levy under section 6 of the Act
- (b) provide the criteria for application for allocation and re-allocation in case of default of an affordable housing unit under section 48
- (c) prescribe the requisite deposit for affordable housing unit under section 49(2)(a)
- (d) Provide for inclusivity, and diversity within affordable housing schemes pursuant to Section 59(2) (i) of the Act
- (e) Provide for the criteria for change of affordable housing unit under Section 59(2);
- (f) Provide for loan interest rate or administration fee under section 51 of the Act
- (g) Provide for procedure relating to off-take of affordable housing units;
- (h) Provide for the eligibility criteria to enter into an agreement to develop institutional housing
- (i) Provide for the application procedure for approval to develop institutional housing through implementing agencies
- (j) Provide for eligibility to enter into agreement to finance off-take, application for approval
- (k) Provide for application for approval to offer off take
- (l) Provide clarity on development of associated physical and social infrastructure
- (m) Provide for conduct of Public participation by the Board
- (n) Provide for notice of affordable housing on settlement
- (o) Provide for withdrawal of voluntary savings under Section 52;
- (p) Provide for rural affordable housing unit
- (q) Provide for restrictions on disposal of affordable housing unit.

(2) The effect of the proposed Affordable Housing Regulations 2024 include the following:

- a) The proposed regulations will provide guidance on the implementation of the provisions of the Affordable Housing Act 2024.
- b) The implementation of the Regulations will ensure achievement of the Government housing commitment which is to turn housing challenge into an economic opportunity; and ensure housing production to create quality jobs for the 100,000 or so young people graduating from TVETs every year directly in the construction sector and indirectly through the production of building products.
- c) These Regulations will facilitate achievement of the economic and social rights guaranteed in Article 43(1)(b) of the constitution through:
 - i. increasing the supply of housing to 250,000 per annum; increasing the supply of affordable homes from 2 per cent to 50 per cent;
 - ii. structuring affordable long-term housing finance schemes;
 - iii. growing the number of mortgages from 30,000 to 1,000,000 by enabling low-cost mortgages;
 - iv. strengthening Jua Kali industry capacity to produce high quality construction productions and materials; and
 - v. Providing for collaborations and partnerships with developers to participate in the affordable housing program
- d) The enactment and implementation of these regulations will open up affordable home financing for development of sustainable fully serviced affordable housing schemes with integrated communities and households with all the requisite social and physical infrastructure.
- e) These Regulations will cushion Kenyans against high rentals; high lending rates by financial institutions therefore promoting home ownership across the Country.
- f) The Regulations will further provide for charging of an affordable and sustainable home financing on loans to cushion the vulnerable from largely inaccessible lending
- g) The Regulations will guard against market distortions by ensuring that envisaged partnerships with the Fund, are not exclusive or preferential and do not confer market advantage to any partners over competitors.
- h) The implementation of the Regulations will enable the Government to enhance economic participation of special interest groups and micro, small and medium enterprise in the creation of jobs and general economic development.
- i) Further, the Regulations will promote economic growth by linking MSMEs and Jua Kali sector to the affordable housing projects.

(3) Possible alternative and practicable means of achieving the foregoing objectives, including other regulatory as well as non-regulatory options:

The Affordable Housing Act under Section 59 gives powers to the Cabinet Secretary in consultation with the Board to prepare and table the regulations within 30 days of commencement of the Act. The preparations and submission of the Affordable Housing regulations 2024 to parliament is therefore a legal requirement under the Act and thus does no other option is available.

(4) Assessment of the costs and benefits of the proposed Affordable Housing Regulations, 2024 and of any other practicable means of achieving the same objectives;

The implementation provides a framework for the delivery of Affordable Housing and Institutional Housing. The implementation of the proposed Affordable Housing Regulations, 2024 may have some potential challenges. The resultant effect may include an increase in the cost of business that may adversely impact businesses that are financially weak.

It will also however create employment opportunities for businesses in the Real Estate sector or businesses supporting the Real Estate sector owing to increased opportunities. Further the lack of adequate capacity by some of Kenyans to acquire and be allocated affordable housing units due to lack of income to support the repayments of the allocated unit may result in (i) default by unit purchasers that may affect the Fund and subsequent repossession of the units where it is impractically possible for a unit buyer to remedy the situation; (ii) Non-performance by the implementing agencies who have been entrusted to implement the affordable projects under the Affordable Housing Act, 2024; and the risk of Inadequate affordable housing units in the initial period of the program.

However, enactment of the proposed regulations will not occasion any additional costs towards implementation, as it seeks to further provide clarity on the implementation of the various provisions within the Affordable Housing Act, 2024. The proposed Regulations seek to provide a robust implementation mechanism for provisions identified under Section 59 (2) and further enable better implementation of the Act. The development of the proposed regulations therefore will create a positive impact in the achievement of the intended objective of the Affordable Housing Act, 2024.

(5) Any other matter specified by the Regulations

The proposed Regulations provides the basis for effective and structured way of undertaking development of affordable housing and provision of affordable homes to Kenyans. The regulations provides a well coordinated approach and application for off take thus incorporating the private sector in provision of the affordable housing. The regulations also provides flexibility for innovation and eligibility across income levels as well as provisions for voluntary savings towards home ownership. Lastly, the regulations also encourage participation of implementing agencies from National and County Governments.

(6) Draft copy of the proposed statutory rule.

A draft copy of the proposed Affordable Housing Regulations, 2024 is posted on the website of the Ministry of Lands, Public Works, Housing and Urban Development, State Department for Housing & urban Development at www.housingandurban.go.ke. The comments or inputs or memoranda on the Regulations may be forwarded, in the prescribed format, to the Principal Secretary, State Department for Housing and Urban Development, P.O. Box 30119-00100, Nairobi; hand delivered to the Office of the Principal Secretary, Ardhii House on 6th Floor, Nairobi; or soft copy emailed to ahp@housingandurban.go.ke to be received by **Monday, April 29th, 2024 at 5.00 pm.**