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THE SOCIAL SECURITY ACT,
(CAP. 135)

REGULATIONS

(Made under section 38)

THE SOCIAL SECURITY (USE OF MEMBERS BENEFIT ENTITLEMENTS AS
COLLATERAL FOR HOME MORTGAGE) REGULATIONS, 2024

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COLLATERAL FOR HOME MORTGAGE) REGULATIONS, 2024

PART I
PRELIMINARY PROVISIONS

Citation

1. These Regulations may be cited as the Social Security Schemes (Use of Member's Benefit Entitlements as Collateral for Home Mortgage) Regulations, 2024.

Interpretation

2. In these Regulations, unless the context otherwise requires-

“Board” means the Board of Trustees of the Fund;

“Division” means the Division responsible for social security within the Ministry responsible for social security matters;

“Fund” has the meaning ascribed to it under the respective scheme's law;

“contributions” means contributions payable to the Fund as prescribed in the schemes laws;

“member” means an employee or worker registered by a scheme and includes a person entitled to or receiving a benefit under a scheme;

“eligible member” means a member who has made at least one hundred and eighty months contributions of which twelve monthly contributions are made prior to the date of issuance of a collateral;

“operational manual” means the internal document of the Fund containing operational processing and granting of collateral of a mortgage under these Regulations;

“home mortgage” means a loan granted to an eligible member

for the purposes of acquiring, constructing or improving a residential house which have been secured by the said house as the first collateral;

Cap. 135 “Act” means the Social Security Act; and

Cap. 342 “institution” means banks and financial institutions registered and licensed under the Banking and Financial Institutions Act.

PART II THE COLLATERAL

Assignment of
benefits as
collateral

3.-(1) A member may assign a proportion of his benefit entitlements from the Fund to be used as a collateral for home mortgage granted or to be granted by the institution, to enable the member to-

- (a) construct a residential house on immovable property in respect of which he obtained ownership;
- (b) purchase a residential house;
- (c) improve, alter or carry out repairs to his house.

(2) The Fund shall not issue more than one collateral at a time in respect of an eligible member.

(3) The furnishing of the collateral shall be considered by the Fund upon formal application by a member, in the manner prescribed in the Fund’s operational manual.

(4) The Fund shall review the member’s application for eligibility and notify the decision to the member accordingly.

Proportion of
assignable
benefits

4.-(1) The portion available to a member as a collateral for the home mortgage shall be-

- (a) an amount not exceeding fifty percent of the benefit entitlement to an eligible member at the time of the application; or
- (b) the purchase price of the property which shall not exceed the market value of the property, whichever is less.

(2) Where a transaction for the purchase of immovable property has not been finalised and a purchase price has been agreed upon by the parties, the value of the property shall not be fixed at an amount higher than the purchase price declared by the parties for the purposes of stamp duty.

(3) Where a transaction for a mortgage is for improving, altering or repairing a residential house, the estimate of the fair market value of the immovable property shall not be fixed at an amount higher than an amount equal to the cost of such improvement, alterations or repairs.

PART III CONDITIONS OF THE COLLATERAL

Conditions for collateral to members

5. A member may be entitled to access the collateral under the Fund if he satisfies the following conditions:

- (a) he is a Tanzanian citizen;
- (b) he is an eligible member;
- (c) the validity of the collateral shall not go beyond the member's compulsory retirement age.

Conditions for collateral to institutions

6. An institution that requires the Fund to furnish the collateral for member's loan shall-

- (a) obtain approval from the Division;
- (b) have an adequate operational and internal control system for the purposes of structuring and operating a loan;
- (c) keep and update an accurate record of the transactions from and to a member's loan account; and
- (d) generate reports as may be required by the Fund.

Application for approval

7.-(1) An institution intending to provide a loan under these Regulations shall apply in writing for approval from the Division.

(2) An application under subregulation (1) shall be

accompanied by the following documents:

- (a) a copy of company's registration or incorporation documents;
- (b) documents relating to operational activities of the institution;
- (c) a copy of certificate of registration from the Bank of Tanzania;
- (d) a copy of valid business licence;
- (e) current audited financial statement;
- (f) details relating to the professional and academic qualifications of the Board of Directors and top management of the applicant;
- (g) a statement on the experience of the applicant in the provision of products and services relating to collateral for home mortgage; and
- (h) any other authorisation from relevant authorities as may be required subject to these Regulations.

(3) The Division shall, within thirty days from the date of receipt of an application for approval, consider the application and issue a written approval to the applicant and shall, where it refuses the application, notify the applicant in writing stating the reasons for such refusal.

Requirements for
furnishing
mortgages

8.-(1) The Fund shall enter into an agreement with the institution to prescribe the manner in which the mortgage shall be provided as described in these Regulations.

(2) The institution shall not grant a mortgage to a member unless the provisions of these Regulations have been complied with.

PART IV AMOUNT AND REQUIREMENT OF THE COLLATERAL

Amount of
collateral

9. The amount to be accessed for the home mortgage collateral under these Regulations shall not exceed fifty percent of the member's benefit entitlements at the time of application.

Collateral for mortgage

10.-(1) The Fund shall not furnish a collateral for home mortgage under these Regulations unless such mortgage is granted pursuant to the following conditions:

- (a) the house subject to the mortgage is made the first collateral in the mortgage;
- (b) the member has consented to the Fund for his proportion of entitled benefits to be assigned as a collateral for home mortgage.

(2) Prior to the approval of the amount of a collateral, an institution shall satisfy the Fund that adequate insurance arrangements have been made in respect of the loan and the property for which the loan is advanced.

PART V VALIDITY OF THE COLLATERAL

Validity of collateral

11. A collateral issued under these Regulations shall remain valid until-

- (a) cessation of membership from the Fund pursuant with respective law governing the Fund;
- (b) a member has made repayment of the mortgage in full subject to confirmation from the Institution;
- (c) a member and institution have engaged into an arrangement that contravenes with the provisions of these Regulations.

Execution of collateral

12.-(1) A collateral issued under these Regulations shall be enforced when a member has defaulted and institution has provided adequate evidence that all recovery means, including the use of the first collateral subject to the terms of the agreement, have been fully and reasonably exhausted.

(2) Any payments in execution of a collateral paid by the Fund to an institution in accordance with the provision of these Regulations shall be deductible from the payable benefits of the member.

(3) The amount to be settled by the Fund in execution of a collateral shall not be more than the guaranteed amount.

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Dispute
resolution

13.-(1) In case the dispute arises between the member and institution regarding arrangements under these Regulations, the Fund shall act as a mediator.

(2) In case the dispute arises between the Fund and institution regarding arrangements under these Regulations, the Division shall act as a mediator.

Reporting

14. The Fund shall submit to the Division on quarterly basis a return indicating the number and amount of collaterals issued as well as detail of loans repaid and collateral ceased and executed.

PART VI
TRANSFER FROM ONE FUND TO ANOTHER

Transfer to
another scheme

15. Transfer by a member from one Fund to another shall not vitiate the collateral issued under these Regulations.

Totalisation

16. Any member who has contributed to more than one Fund, for the purpose of these Regulations, shall have the right to totalisation in accordance with totalisation of period of contribution guidelines issued by the Division.

Dodoma,
6th February, 2024

JOYCE L. NDALICHAKO,
*Minister of State, Prime
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