

COUNTY GOVERNMENT OF BUNGOMA

COUNTY ASSEMBLY OF BUNGOMA

COUNTY ASSEMBLY DEBATES

THE DAILY HANSARD

THURSDAY, 25TH APRIL, 2024

Afternoon Sitting

COUNTY ASSEMBLY OF BUNGOMA

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The House met at the County Assembly Chamber at 2:30 p.m.

(Mr. Speaker [Hon. Emmanuel Situma] in the Chair)

PRAYER

COMMUNICATION FROM THE CHAIR

Honourable Members, I want to make some adjustments on our today's Order Paper. Item 9 on motion is referred back to the HBC for fresh re-allocation of time. We will consider item 8 on a report by the Committee on Delegated County Legislation on the consideration of the Public Finance Management Bungoma County Executive Employees Car Loan and Mortgage Fund Scheme.

I am a human being and have seen and I don't need to be told that members are fatigued. Therefore, we will take only one motion per day and thereafter you will proceed for a long recess for a month. Let us proceed.

(Applause)

MOTION

REPORT BY THE COMMITTEE DELEGATED COUNTY LEGISLATION ON THE CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT BUNGOMA COUNTY EXECUTIVE EMPLOYEES CAR LOAN AND MORTGAGE FUND SCHEME

Hon Martin Chemorion: (Mover) Thank you, Hon. Speaker for giving me his chance. I want to move a motion on a report on the consideration of Public Finance Management Bungoma County Executive Employees Car loan and Mortgage Scheme Fund Regulations, 2023.

CHAIRPERSON'S FOREWORD

The County Executive Committee Member for finance, in exercise of the powers conferred by section 116 of the Public Finance Management Act, 2012 made the Public Finance Management (Bungoma County executive Employees' Car loan and Mortgage Scheme Fund) Regulations, 2023.

The Regulations were published vide Legal Notice No.3 of 2023 on 5th October, 2023, received by the Clerk of the County Assembly on 7th December, 2023 and tabled before the House on 7th December, 2023, being outside the statutory timeline contemplated under section 11(1) of the Statutory Instruments Act. They were subsequently referred to the committee on Delegated County Legislation.

The objective and purpose for which the fund is established is to provide a loan for the purchase of motor vehicles for use by the borrower and his/her family and to provide a loan for purchase of land for the development of residential housing, renovation or repair of residential property by members of the scheme.

Pursuant to section 16 of the Statutory Instruments Act, 2013 which requires the committee to confer with the Regulation Making Authority before making its decision, the Committee held a meeting with the County Executive Committee Member for Finance on 11th March 2024 in committee room three at the county assembly building to deliberate on the Public Finance Management (Bungoma County executive Employees' Car loan and Mortgage Scheme Fund) Regulations, 2023.

Further, the committee scrutinized the Regulations in accordance with the Constitution, the Public Finance Management Act (No.18 of 2012) pursuant to which to which they are made, the Interpretation and General Provisions Act(Chapter 2), the Public Finance Management(County Governments) Regulations,2015 and the Statutory Instruments Act, 2013 which regulates the making, scrutiny and publication of the Regulations and made various observations which informed the decision to annul in entirety the submitted instrument.

Stakeholder consultation and public participation

One of the key findings of the committee was that the Regulation Making Authority did not conduct public participation or make appropriate consultations with persons who were likely to be affected by the proposed instrument.

Articles 10 and 196 of the Constitution, sections 5,5A and the schedule to the Statutory Instruments Act, read together with Standing Order 214 requires the Regulation Making Authority to conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the Regulations. The County Executive Committee Member for finance submitted during the consultative meeting with the committee that public participation was conducted but provided no evidence to that effect.

Having examined the conformity of the Public Finance Management (Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund)Regulations 2023, published vide Legal Notice No.3 of 2023 with the Constitution of Kenya, the Interpretation and General provisions Act(Cap 2), the Public Finance Management Act, 2012 pursuant to which they are made, the Statutory Instruments Act,2013 and the Public Finance Management(County Governments) Regulations 2015, the committee recommends that the House annuls in entirety the said Statutory Instrument for non-compliance with the Constitution, the relevant Statutes and the County Assembly Standing Orders.

ACKNOWLEDGEMENT

I wish to most sincerely thank the Speaker and the Office of the Clerk of the County Assembly for the invaluable support accorded to the committee in the discharge of its mandate.

On behalf of the select committee on Delegated County Legislation and pursuant to Standing Order 214(5) (b), it is my pleasure and duty to present to the House, the committee's Report on the Consideration of the Public Finance Management (Bungoma County Executive Employees' Car Loan and Mortgage Scheme Fund) Regulations 2023.

This report is signed by Hon. Kwemoi Tendet, MCA, Elgon Ward, and Chairperson Committee on Delegated County Legislation.

PREFACE

Establishment and Mandate of the Committee

The select committee on Delegated County Legislation is established pursuant to Standing Order 214 and is mandated to consider statutory instruments submitted to the County Assembly for consideration. The committee is expected to consider in respect of any statutory instrument, whether it is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.

During the scrutiny, the committee is guided by the principles of good governance, rule of law and shall in particular consider whether the statutory instrument-

- A) Is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- B) Infringes on fundamental rights and freedoms of the public;
- C) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- D) contains imposition of taxation;
- E) Directly or indirectly bars the jurisdiction of the courts;
- F) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- G) involves expenditure from the Consolidated Fund or other public revenues;
- H) is defective in its drafting or for any reason, the form or purport of the Statutory instrument calls for any elucidation;
- I) Appear to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- J) Appears to have had unjustifiable delay in its publication or laying before Parliament;
- K) Makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- L) Makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- M) Inappropriately delegates legislative powers;

- N) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- O) Appears for any reason to infringe on the rule of law;
- P) Inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
- Q) Accords to any other reason that the Committee considers fit to examine.

Pursuant to Standing Order 214(5), if the Committee;

- a) Resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant County department or the authority that published the statutory instrument;
- b) Does not accede to the statutory instrument, the Committee may recommend to the House that the County Assembly resolves that all or any part of the statutory instrument be annulled. If a resolution is passed by the County Assembly within twenty days on which it next sits after the instrument laid before it under paragraph (3), that all or part of the statutory instrument be annulled, the instrument or part thereof shall henceforth stand annulled.

Committee Membership

The Committee on Delegated County Legislation as currently constituted comprises the following members;

1.	Hon. George Tendet	Chairperson
2.	Hon. Ndasaba Dorcas	Vice chairperson
3.	Hon. Wafula Waiti	Member
4.	Hon. Allan Nyongesa	Member
5.	Hon. Martin Chemorion	Member
6.	Hon. Metrine Wilson	Member
7.	Hon. Godfrey Wanyama	Member
8.	Hon. Angeline Rugut	Member
9.	Hon. Jeremiah Kuloba	Member
10.	Hon. Bosire Aggrey	Member
11.	Hon. Job Mukoyandali	Member

Consideration of the Public Finance Management (Bungoma County Executive Employees’ Car Loan and Mortgage Scheme Fund) Regulations, 2023 (Legal Notice No.3 of 2023)

Introduction

1. The Public Finance Management (Bungoma County Executive Employees’ Car loan and Mortgage Scheme Fund) Regulations 2023(Legal Notice No.3 of 2023) were made pursuant to powers conferred on the County Executive Member for finance by section 116 of the Public Finance Management Act, 2012, hence, it is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act, (No.23 of 2013).

2. The Regulations were published in the *Gazettee* on 5th October, 2023, received by the Clerk of the County Assembly on 7th December, 2023 and tabled before the House on 7th

December, 2023 being outside the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act, 2013. They were subsequently referred to the committee on Delegated County Legislation for consideration.

3. Pursuant to section 16 of the Statutory Instruments Act, 2013, which requires the committee to confer with the regulation making authority before making its decision, the committee held a meeting with the County Executive Committee Member for Finance on 12th March 2024 in committee room three within the County Assembly buildings.

4. The primary objective of the Public Finance Management (Bungoma County Executive Employees' Car Loan and Mortgage Scheme Fund) Regulations, 2023 (Legal Notice No.3 of 2023) is to provide a loan for the purchase of motor vehicles for use by the borrower and his/her family and to provide a loan for purchase of land for the development of residential housing, renovation or repair of residential property by members of the scheme.

Summary of the Public Finance Management (Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund) Regulations 2023 (Legal Notice No.3 of 2023).

- a) Regulation 1 and 2 provides for the citation and interpretation of the Regulations.
- b) Regulation 3 establishes a Fund to be known as the Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund
- c) Regulation 4 provides for the object and purpose of the Fund.
- d) Regulation 5 provides for the source of capital for the Fund
- e) Regulation 6 establishes management Committee, while regulation 7 and 8 outlines the functions of the committee and meetings of the committee.
- f) Regulation 9 provides for the designation of the Fund Administrator to administer the Fund while regulation 10 provides for the role and responsibility of the Administrator.
- g) Regulation 11 establishes a secretariat to the Fund.
- h) Regulation 12 provides a leeway for the committee to appoint Mortgage Institution while regulation 13 outlines the responsibilities of the mortgage institution.
- i) Regulation 14 provides for the criteria for application of a loan while regulation 15 provides for the requirements for application of a loan.
- j) Regulation 15 outlines the requirement for purchase of a lease hold property.
- k) Regulation 16 provides for the manner of disbursement of a loan while regulation 17 and 18 shows maximum loan disbursement and the criteria for grant of a loan.
- l) Regulation 19 provide for the utilization of monies while regulation 20 and 21 states the period for repayment of a loan and interest chargeable.
- m) Regulation 22 obligates the county executive to have a charge registered on the property financed through a loan granted.
- n) Regulation 23 provides the details of the next of kin while regulation 24 makes provision for the insurance with regard to a motor vehicle or a property financed by a loan from the fund.
- o) Regulation 25 provides for the remedy in case of default in repayment of the loan granted.
- p) Regulation 26 provides for the qualifications and limits of loan eligibility while regulation 27 and 28 provides for dispute resolution and management costs

- q) Regulation 29 makes provision for financing partnership with a legal entity while regulation 30 provides for the management partnership with the scheme or fund from any other public body.
- r) Regulation 31 provides for proper implementation and coordination framework mechanisms of the Fund while regulation 32 provides for monitoring, evaluation and reporting framework in place.
- s) Regulation 33 provides for the annual estimates, accountability and auditing framework in place while regulation 34 provides for the offences and penalties.
- t) Regulation 35 provides the criteria of Winding up the fund while regulation 36 provides for the development of guidelines.
- u) First schedule provides for maximum loan entitlement for members of the scheme.
- v) Second schedule provides for a loan application form.
- w) Third schedule provides for an application form for Mortgage loan.
- x) Fourth schedule provides for a Loan agreement form for the County Executive Employees' Car loan while Fifth schedule provides for a loan agreement form for the County Executive Employees' Mortgage scheme Fund.

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

Committee Observations

Following a comprehensive scrutiny of the Regulations, the committee made the following observations:

Statutory timelines

1. THAT the Regulations were published as LN.No.3 of 2023 on 5th October, 2023 and submitted to the Clerk of the County Assembly on 7th December, 2023. Therefore, these Regulations were not submitted for tabling at the County Assembly within the statutory timelines stipulated under section 11(1) of the Statutory Instruments Act, (No.23 of 2013). This implies that pursuant to section 11(4) of the Statutory Instruments Act, (No.23 of 2013), it ought to have ceased to have effect on the last day for it to be so laid, hence lapsed by operation of law.

Public participation/consultation

2. THAT Articles 10 and 196 of the Constitution, sections 5,5A and the schedule to the Statutory Instruments Act, read together with Standing Order 214 requires the Regulation Making Authority to conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the Regulations. The County Executive Committee Member for Finance submitted during the consultative meeting with the committee that public participation was conducted but provided no evidence to that effect.

3. THAT the explanatory memorandum submitted alongside the Regulations did not demonstrate the details of the consultations with the public as to the dates and responses as required under the schedule to the Statutory Instruments Act. Therefore, it was not possible for the committee to analyse the extent of public participation and level of consultation conducted as required under sections 5 and 5A of the Statutory Instruments Act and the spirit and letter of Article 10 and 196 of the Constitution. Moreover, the purported explanatory memorandum submitted did not provide for the purpose of the statutory instrument, the

legislative context, policy background, consultation outcome, modalities of monitoring and review which would have guided the committee's consideration during scrutiny. Instead, it outlined the memorandum of objects and reasons of a Bill thus failing to meet the threshold of an explanatory memorandum stipulated under the Statutory Instruments Act.

4. Contrary to section 13(a) of the Statutory Instruments Act which requires the Statutory Instrument to be in accord with the provisions of the Constitution, the Act pursuant to which it is made or other written law,

Regulation 21 of the Public Finance Management (Bungoma County Executive Employees' Car Loan and Mortgage scheme fund) Regulations 2023, provides for the interest chargeable on a loan to be a minimum of three per cent and a maximum of five per cent per annum on a monthly reducing balance inclusive of administrative costs.

Salaries and Remuneration Commission is the only constitutional entity allowed to set and review benefits for all public and state officers under Article 230(4) of the Constitution. Article 2 of the Constitution provides that the Constitution is the supreme law of the Republic and it binds all persons and all state organs at both levels of government. Any law that is inconsistent with the Constitution is void to the extent of inconsistency.

In the Gazette Notice No.10348 dated 9th August, 2023 Vol.CXXV-No.177, the Salaries and Remuneration Commission advised that *State officers in the executive of the County Government are entitled to car and mortgage benefits at an interest rate of 3 %(three per cent) per annum for the duration of the loan.*

Therefore, Regulation 21 of these Regulations contravenes the advisory role of Salaries and Remuneration Commission as outlined under Article 230(4) of the Constitution.

5. Contrary to section 13 (h) of the Statutory Instruments Act, certain provisions of the Regulations are defective in drafting or require elucidation as outlined below:

- (i) That Regulation 15 was repeated twice
- (ii) That the second schedule provides for a loan application form which does not specifically state that it is a "car loan application form". The Regulation Making Authority should amend the title of the application form in the second schedule to read "application form for Car loan".
- (iii) There is inconsistency in terms of interest chargeable on a loan. Whereas Regulation 21 provides for the interest chargeable on a loan to be a minimum of three percent and a maximum of five per cent on a reducing balance, the loan application form states that the loan shall attract interest of three percent per annum.
- (iv) There is contradiction between Regulation 21(2) and Regulation 28, whereas Regulation 21(2) states that the mortgage institution may charge an interest of not more than four per cent to cover management costs, Regulation 28 provides that the mortgage institution may charge an interest of not more than two per cent per annum of the value of the loan to cover its management cost.
- (v) The Regulations do not provide for the interpretation of the word "county executive" as used in Regulation 22. In the same Regulation, it is not clear who has the

proprietary interest in the charged property besides the employee or the borrower especially in recognition of Article 40 of the Constitution in respect of the right to property.

(iv) Some of the provisions in the Regulations have wrong citation or typographical errors. For instance:

(a) Section 16(2) of the Public Finance Management Act, 2012 makes provision for national government deviation from financial objectives and does not make provision for the definition of a County Executive Committee Member as contemplated in the interpretation section of the Regulations under Regulation 2.

(b) The references on the second and the third schedule have been made to regulation 8 (loan application form (r.8) and application form for mortgage (r.8). Regulation 8 makes provision for the meeting of the committee and not loan application.

(c) In Regulation 19(4), wrong reference is made to paragraph (2) (b) which makes provision for purchase of a residential house for occupation of the applicant and not purchase of land.

(d) In Regulation 21(2) reference is made to the mortgage institution appointed under Regulation 7. Regulation 7 states the function of the committee and not appointment of a mortgage institution.

(e) In Regulation 32(4), wrong reference is made to Regulation 34. Regulation 34 provides for offences and penalties and not reports generated.

(f) That the words “That the new fourth schedule be inserted to appear as follows” appearing in the fourth schedule are misplaced.

(g) There is a spelling mistake on applicants declaration form under Part IV of the Regulations. The word “Declabation” should read declaration.

6. Contrary to section 13(m) of the Statutory Instruments Act, which require the committee to consider if the Regulations inappropriately delegates legislative powers:

(a) The County Executive Committee Member for Finance inappropriately delegates powers to the committee established under regulation 7 to develop guidelines relating to the disbursement of the fund and to prescribe other guidelines for use by the fund.

Regulation 7(e) and (f) outlines the functions of the committee to include development of guidelines relating to disbursement by the fund and reviewing of guidelines on the fund priorities and criteria for allocation and disbursement of funds to beneficiaries in furtherance of the objects of the Fund respectively. Further, Regulation 36 empowers the Executive Committee Member for Finance to make guidelines for the better carrying into effect these Regulations. Some of the guidelines the County Executive Committee Member for finance is obligated to develop under sub-regulation (2) (a) includes the purchase of the vehicle and the purchase and development of land and residential properties under these Regulations.

Article 94(6) of the Constitution provides that where legislative power has been delegated to a body, the body in the exercise of such powers shall, while making Regulations observe that the regulations made conform to and are within the purpose and objectives for which that authority is conferred; the limits of the authority; the nature and scope of the law that may be made and the principles and standards applicable to the law made under the authority.

Regulatory Impact Statement

THAT, the Regulations do not require a Regulatory Impact Statement within the meaning of section 6,7 and 8 of the Statutory Instruments Act as they deal with the interest of county executive employees in respect to the car loan and mortgage scheme fund and have no significant effect on the members of the community who are not county executive employees.

Committee Recommendation

Having examined the conformity of the Public Finance Management (Bungoma County Executive Employees' Car loan and Mortgage Scheme Fund) Regulations 2023, published *vide Legal Notice No.3 of 2023* with the Constitution of Kenya, the Interpretation and General provisions Act(Cap 2), the Public Finance Management Act, 2012 pursuant to which they are made, the Statutory Instruments Act,2013 and the Public Finance Management(County Governments) Regulations 2015,the committee recommends that the House annuls in entirety the said Statutory Instrument for the following reasons:

1. The Regulations were not submitted for tabling at the County Assembly within the statutory timelines stipulated under section 11(1) of the Statutory Instruments Act, (No.23 of 2013).
2. Lack of public participation/ consultation contrary to Articles 10 and 196 of the Constitution, sections 5,5A and the schedule to the Statutory Instruments Act, 2013 and Standing Order 214.
3. Contrary to section 13(a) of the Statutory Instruments Act, 2013, the Regulations are not in accord with Article 230(4) of the Constitution.
4. Contrary to section 13 (h) of the Statutory Instruments Act, certain provisions of the Regulations are defective in drafting or require elucidation.
5. Contrary to section 13(m) of the Statutory Instruments Act, the Regulations inappropriately delegates legislative powers
6. Lack of a detailed explanatory memorandum contrary to section 5A and the schedule to the Statutory Instruments Act, 2013.

Adoption schedule, there's annexure, submission letter, invitation letter to CECM Finance, explanatory memorandum, adoption minutes attached. All members of this committee adopted and appended their signatures. May I call my seconder Hon. Angeline Rugut.

Mr. Speaker: Thank you Hon. Chemion for moving the committee report so well. Allow me invite the seconder of the report Hon. Angeline Rugut to proceed and second the report accordingly. Proceed Hon. Rugut!

Hon. Angeline Rugut: Thank you, Mr Speaker Sir for the chance.

Mr. Speaker: Sorry, let me correct on HANSARD! Thank you very much Hon. Martin Chemion for moving the report so well on behalf of the committee.

(Applause)

Allow me be able to invite Hon. Rugut to proceed and second the report accordingly.

Hon. Angeline Rugut: Thank you, Mr Speaker Sir for the chance to second this report. May I applaud Hon. Cheseto for that clear presentation of the report. As members of this esteemed

House, it's our mandate to ensure that any regulation or statute we adopt not only serves the public interest but also adheres strictly to our legal and constitutional frameworks. Therefore, adherence to this law as well as upholding transparency is the real essence of governance.

As a committee, we came up with those recommendations for annulment of the regulation as informed by the following observations; the first observation we made on this regulation is that this statutory instrument was submitted to the clerk out of the stipulated timeline of seven days after publication. This is in contravention of the Statutory Instrument Act section 11.2 and this therefore questions the validity of this instrument and the regulation itself.

Secondly, going through the instrument, we noted that the regulation lacked public participation and engagement of the public contrary to Article 10 and 196 of the Constitution. There was no evidential support whatsoever for public engagement and therefore such kind of regulation cannot be really deemed to serve the public interests.

Number three, some of the provisions of the instrument were defective in drafting, with numerous inaccuracies, hence lacking clarity, and this would therefore hinder any understanding making it difficult to implement. Some of the inaccuracies we noted are the inconsistencies in the interest payable for the loan, and even the application form for that loan is not clear. It's a general form, application form. It doesn't clearly indicate whether it's meant for purchasing of a car, land, or even house.

Another weakness we noted from these regulations is that some of the provisions of these regulations contradict directives from higher authorities such as SRC. It's our mandate to ensure that all our county regulations align with national laws and guidelines, and therefore to accept these regulations would be to accept an unlawful contradiction.

It also came out clearly that the regulation-making authority did not submit a detailed explanatory memorandum, and this is in contravention of Section 5 and 5A of the Schedule to the Statutory Instrument. These regulations, therefore, as a committee, as I conclude, I would like to beseech this House to support the report and to call for the annulment of the Public Finance Management Regulations 2023, for this is not only just a matter of procedural correctness, but a significant requirement in order to uphold the rule of law and ensure public participation and protect the integrity of our legislative processes.

(Applause)

Mr. Speaker: You haven't said the last word.

Hon. Angeline Rugut: Thank you, Mr. Speaker. I second.

(Applause)

Mr. Speaker: Thank you, Honourable Members. Allow me to propose a motion for debate. Honourable Members, a motion has been moved and seconded that this House adopts the report by the Committee on Delegated County Legislation on the consideration of the Public Finance Management (Bungoma County Executive Employees' Car Loan and Mortgage Scheme Fund) regulations of 2023, laid on the table of the House on 9 April, 2024. I propose.

(Question proposed)

Yes, I am seeing Hon. Linda.

Hon. Linda Kharaka: Thank you, Mr. Speaker for the opportunity to also speak on the report on the Committee on Delegated, which I previously sat as Chair Meritor's. So the issues raised by the seconder and from the report itself as moved by Hon. Chemorion are issues that this House need to look at with the extensive... without leaving any issue out.

One of it is public participation. It is very important and it's mandatory that any regulation or any statutory document that comes to this House has to have gone through proper public participation and on that ground alone; it can nullify the instrument in totality.

When public participation has not been done, there's usually a reason which is enclosed in the Memorandum of Explanatory. But, from the report and from the Committee's observation is that, they didn't even give a detailed report on why they didn't do public participation. You and I know that, when you don't do public participation it's for issues of Force majeure, issues that you have not foreseen.

Like now we're experiencing floods. You have to give reason that because of floods we are not able to do public participation and for that reason, you give another avenue, either through emails or sending a particular document to individuals that are supposed to consume so that now they give their views or email or send messages for that matter. From this, we didn't see any and from the timing, I don't see any major issue that could have affected public participation.

A document has to be very explicit and from the document, you can see that it is inaccurate. It has a lot of shortcomings. A document should be able to be read by a layman and be able to be understood. But if it has inaccuracy, and someone cannot be able to even understand the flow of the document, it's what we call ambiguity.

And therefore on that ground alone, that document we need to annul it. Procedures, even this is a House of Procedures. If procedures are not followed to the latter, and we sit here and adopt this report, it will be a mock to procedures because we are a House of Procedures. The procedure was you do public participation, it comes to this House, you are committed to the committee relevant, and it has to look into issues.

In all this, the committee's work is to ensure that there is compliance which this document does not comply and for that reason, Mr. Speaker, I propose or I say that the document should not be adopted by this House. It should be annulled.

(Applause)

Mr. Speaker: Thank you. Hon. Linda. Hon. Ipara. Then Hon. Chemion you prepare to reply.

Hon. Johnston Ipara: Thank you, Hon. Speaker. First of all, let me laud the committee for the good work that they have done. Let me use a single word, exemplary work. You will agree that in the recent time, we have never received a report that makes the whole House to keep quiet and even just think of what they will say. I agree with the committee; it is totally in contravention of Article 2 of the Constitution.

And in particular, Article 2(4) where it says, as they did, any law, including customary law that is inconsistent with this Constitution is void to the extent. And this particular one is totally in contravention in all parts and sections of that particular scheme. It seems like there's one person who wants to be holding the Supreme Law and it says it's only the Constitution that has the Supreme.

And when you avoid it, I want to plead with the whole House that actually we agree with the committee, we annul this report. It is public participation and the reason why public participation is important, one, it says it contributes to better decision-making and it confirms that the public agrees. And in this particular case, it is those who are affected by this law agree with every part of this particular law and that is not done and where that is not done, we agree, it contravenes all statutory and the Constitution of this country. I plead that we annul this regulation so that they can go and start again.

Mr. Speaker: Thank you. Hon. Chemorion Proceed.

Hon. Martin Chemorion: Thank you, Hon. Speaker. I want also to thank my fellow Members for their contributions which they have agreed with our observations and the recommendations.

So I plead with the House to adopt the report. If I give you an example, when we were actually engaging the CECM, we had actually cornered him like a rat. He could not explain anything because he had...

Mr. Speaker: Hon. Chemorion, you know when you say you have cornered him like a rat, can you explain to us to understand how is a rat cornered?

(Laughter)

Hon. Martin Chemorion: In brief, I will say he was unable to explain the questions that we raised. So I beg the House to adopt the report.

(Applause)

Mr. Speaker: Thank you, Hon. Members. I wish first and foremost to appreciate the mover, the seconder of the motion and equally all the contributors to the motion. We have just been able to have a reply from Hon. Chemorion.

Members, now allow me proceed and be able to put a question to the motion as it is before the House, so that you can be able to make the decision about the same. Honourable Members, a motion has been moved and seconded and debate having ensued that this House adopts the report by the Committee on Delegated County Legislation on the consideration of the Public Finance Management(Bungoma County Executive Employees' Car Loan and Mortgage Scheme Funds) Regulations 2023, laid on the table of the House on the 9th of April, 2024.

(Question put and agreed to)

The regulations are hereby annulled by this Committee's report. I think they should be sent back to the original owners, so that they are able to prepare fresh regulations and share them with the House accordingly.

ADJOURNMENT

Mr. Speaker: Members, as I made my earlier communication, that Motion two was taken out on our Order Paper, so we will adjourn the sitting for today and resume on 30th of April, 2024 at 2:30 p.m. session.

(The House rose at 3:27p.m.)