

COLONY AND PROTECTORATE OF KENYA.

SESSIONAL PAPER NO. 13/55.

GUARANTEE OF EXCESS LOANS MADE BY BUILDING SOCIETIES FOR HOUSE PURCHASE.

The Government, recognising the difficulties of certain sections of the public in finding the amount of deposit now required by the building societies for house purchase, wishes to present its proposals to assist these people to the Legislative Council.

2. There are severe limitations in the way of families in need of a separate home of their own getting one. There is little doubt that many more families would provide themselves with a home if facilities for the financing of the operation, i.e. house purchase, were made easier, more widely available and more widely known.

3. For these reasons it is important that everything which can be done without undue risk of loss to public funds should be done to help everyone willing to build or buy himself a home.

4. So far as house purchase is concerned, one of the obstacles that has to be overcome is the amount of the deposit the intending purchaser has to find if the loan offered to him is limited to about 70% of the cost or valuation of the house. The balance is often more than the intending purchaser is able to face, especially as he has to find money for legal charges, stamp duties and perhaps to buy furniture and equipment at the same time.

5. With these facts in mind the Minister for Local Government, Health and Housing has suggested certain proposals to the Nairobi City Council and the building societies. Under the proposals the Nairobi City Council may guarantee in conjunction with the building societies the principal of, and the interest on, the excess of an advance made by a building society over the advance it would have made without the guarantee and the Government may reimburse the local authority one-half of any loss they may suffer in consequence.

6. The proposals are designed to meet the needs of intending purchasers who are able to make only a 10% deposit on a property worth up to £5,000. The scheme is designed to help such purchasers without the City Council or the Government having to advance any money or to take more than a strictly limited risk. Their guarantee would extend only to two-thirds of the principal of, and the interest on, the difference between the 90% advance actually made by the building society and the normal advance which for the purposes of this scheme has been agreed to be 65% of the valuation. The Government would reimburse half of any loss the City Council might suffer under the guarantee. A periodic return would be required from the Nairobi City Council in order that the Government may be kept informed of its total liability under the scheme so that if necessary a limit may be imposed.

7. The scheme follows as closely as possible the United Kingdom pattern as operated by the Ministry of Housing and Local Government. The full details are explained in Appendices I to VI which are attached.

8. It is intended that legislation should be introduced to cover the proposals made in this Paper and to control the operation of the Scheme. The proposals are limited for the time being to the City of Nairobi and are to become operable forthwith pending the drafting of appropriate legislation, which will be designed to allow the widening of the scope of the Scheme to include all local authorities.

2nd November, 1955.

Methods by which Excess Advances by Building Societies for House Purchase may be Guaranteed.

1. Advantages of the Scheme.

- (a) It would help to relieve the pressure on available housing by encouraging people, especially those whose means are not substantial but in possession of a good salary, to make their own arrangements for accommodation.
- (b) The amount of the risk accepted by the City Council in giving a guarantee is limited to one-third of the amount of the risk involved in making a larger advance than is normally made by building societies.
- (c) The period for which the City Council carry the diminishing risk is much shorter under a guarantee than it would be if the Council decided to make advances for house purchase themselves.
- (d) It is in the Council's interest to limit as much as possible its capital indebtedness.
- (e) House purchase schemes encourage individual savings. It is important in the national interest to increase personal savings as much as possible.

2. The Scheme.

- (a) "The normal advance by a building society" given in the following table has been determined by the fact that the normal advance a building society is willing to make varies with the circumstances of the borrower and the deposit he himself puts down. In the scheme now put forward the society would advance a very high percentage of the value of the property and the borrower himself would put up an unusually low stake.

(b) The Scheme is as follows:-

Purchase price or valuation, whichever
is the lower, must not exceed £5,000
Maximum advance by building society 90%
The minimum normal advance by the building
society above which the guarantee operates .. 65%
Release figure (i.e. guarantee by City
Council at an end when principal out-
standing falls to the specified per-
centage of purchase price or valuation,
whichever is the lower) 50%
Maximum period of repayment 20 years.
but where the original term of the guarantee
is for not more than 20 years, the guarantee
will remain effective if the repayment period
is extended because of the operation of an
interest variation clause.

The maximum rate of interest permissible will
be that being charged by the society at the
date of the advance in the normal course of
business on advances to owner occupiers. If
the mortgage deed contains an interest variation
clause, this will permit the rate of interest
to be changed during the currency of the
mortgage without invalidating the guarantee
given by the local authority.

(c) The mortgage must be conditioned to prohibit sale
for twelve months after the date of its execution.
It must also be conditioned to prohibit sale or sub-
letting without the permission of the building
society. The mortgage may be conditioned to
include permission for the interest rate charged to
be varied during the period of the loan.

- (d) The scheme will be applicable to freehold and leasehold properties, but in the latter case the lease must have at least 25 years to run at the end of the term during which the loan is to be repaid.
- (e) Insurance. The building society is responsible for seeing the buildings are adequately insured. A comprehensive houseowner's policy is required including earthquake and riot and civil commotion risks.
- (f) Valuation of a Property. For the purposes of the scheme the valuation of a building society must be acceptable to the City Council.
- (g) Model forms of guarantee and of application for a guarantee are appended. (See Appendices V & VI).
- (h) Valuation of the property made by the building society's valuer will be accepted as the basis of the contract and a certificate of this valuation over the signature of the building society's authorised officer would form part of the society's formal application to the City Council for the guarantee.
- (i) If the prospective borrower provided any collateral security, e.g. an endowment insurance policy, for an advance from the building society, particulars of it would be given by the building society to the City Council in all cases when applying for the guarantee.
- (j) Title. The building society would be responsible for investigating the title of the borrower in the property and no part of any loss arising from the defect in such title would fall upon the City Council or the Government as guarantors.

- (k) If the borrower at any time failed to observe any terms of the mortgage, the building society would inform the City Council of the circumstances with a view to concerting action under the terms of the guarantee.
- (l) If the borrower defaulted and the power of sale were exercised and the proceeds of sale proved insufficient to meet the principal and interest outstanding, any collateral security provided by the borrower would be realised before any loss under the guarantee was calculated and apportioned and the necessary and proper expenses incurred by the building society in exercising the power of sale would be deductible from the proceeds of sale before any loss was calculated and apportioned.
- (m) The scheme will be applicable to properties of a superficial area of not less than 1,000 square feet.
- (n) The scheme does not apply to flats or to improvements of existing property and it shall only be applied once to any person.
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1. It is estimated that the amount of excess loans which the City Council and the other parties might be required to guarantee during the first twelve months would be in the neighbourhood of £60,000 each. This is a guide only and is based on the present business of the building societies, allowing for some increase in activity consequent to the scheme.

2. The advance which is in excess of the normal advance is an additional risk which is shared jointly by the building society, the City Council and the Government. In the event of a loss on sale following default by the borrower, the amount of loss falling on the City Council and the Government cannot exceed the amount which each has guaranteed.

3. As soon as the borrower begins to repay the loan, the liability of the City Council and the Government begins to decrease. This is because the repayments of capital by the borrower are applied to reducing the amount of the excess advance which has been guaranteed and therefore to reducing the respective risks of the three parties. Tables are appended illustrating this. (See Appendix IV).

4. In assessing the amount of loss to be made under the guarantee it is necessary to compare the loss which has actually arisen with the loss which would have arisen if a normal advance only had been made by the building society. It has been agreed by the building societies that the City Council shall be released from its guarantee when the amount of loan outstanding has been reduced to 50% of the original valuation.

APPENDIX III.

FORM OF APPLICATION BY LOCAL AUTHORITY FOR THE
MINISTER'S APPROVAL OF PROPOSALS FOR GIVING
GUARANTEES TO BUILDING SOCIETIES IN RESPECT OF
EXCESS LOANS MADE BY BUILDING SOCIETIES FOR
HOUSE PURCHASE.

On behalf of the
Council I hereby apply for the Minister's approval
to the giving by the Council of guarantees of advances
by Building Societies in accordance with the terms
and conditions set out in Appendix to
Circular

.....
Clerk to the Council

Suppositions.

- (a) Purchase price or valuation of the property £5,000.
- (b) Advance repayable on an annuity system over a period of 20 years at 6% p.a. interest.
- (c) Guarantee terminates when the principal has been reduced to 50% of original valuation, e.e. £2,500.

	Principal out- standing of a £4,500 advance i.e. 90%	Principal which would have been outstanding on a 65% advance	Amount guaran- teed jointly Col. 2 - 3.	Maximum liability for each guarantor ($\frac{1}{3}$ of Col.3)
Col. 1.	Col. 2.	Col. 3.	Col.4.	Col. 5.
	£	£	£	£
At Outset	4,500	3,250	1,250	417
After 1 year	4,378	3,162	1,216	405
" 2 years	4,248	3,068	1,180	393
" 3 "	4,111	2,969	1,142	381
" 4 "	3,965	2,863	1,102	367
" 5 "	3,810	2,752	1,058	353
" 6 "	3,647	2,634	1,013	337
" 7 "	3,473	2,508	965	322
" 8 "	3,289	2,376	913	304
" 9 "	3,094	2,235	859	286
" 10 "	2,888	2,085	803	267
" 11 "	2,669	1,927	742	247
" 12 "	2,436	1,760	676	225

MODEL FORM OF GUARANTEE

THIS GUARANTEE is made the _____ day of _____
One thousand nine hundred and _____
BETWEEN THE _____ (hereinafter
called "the Authority") of the one part and THE
BUILDING SOCIETY
(hereinafter called "the Society") of the other part

WHEREAS by a Mortgage (hereinafter called "the Mortgage") bearing the date mentioned in item (1) of the Schedule hereto the property which is shortly described in item (2) of the said Schedule is mortgaged to the Society to secure the payment to the Society by _____ of (hereinafter called "the Mortgagor" which expression shall where the context so admits include his successors in title) of the principal sum advanced by the Society to the Mortgagor and mentioned in item (3) of the said Schedule with interest thereon as in the Mortgage mentioned and the Mortgage contains a covenant by the Mortgagor to repay to the Society the said principal sum together with interest thereon in accordance with the terms of the Mortgage

AND WHEREAS the value of the unencumbered interest of the Mortgagor in the property comprised in the Mortgage is valued at the sum (hereinafter called "the assessed value") specified in item (4) of the said Schedule.

AND WHEREAS the principal sum secured by the Mortgage exceeds by the amount (hereinafter called "the additional sum") specified in item (5) of the said Schedule the sum which should normally be advanced by the Society without this guarantee that is to say _____ per centum of the assessed value which sum is specified in item (6) of the said Schedule

AND WHEREAS the Authority in accordance with proposals made by them and approved by the Minister of Local Government, Health and Housing have agreed to guarantee repayment to the Society of the additional sum together with interest thereon in the manner and to the extent hereinafter appearing

NOW THIS DEED WITNESSETH and it is hereby covenanted and agreed as follows:-

1. If the Mortgagor shall at any time make default in payment to the Society as required by the terms of the Mortgage or shall fail to observe or perform some other covenant or condition therein contained and the Society after exercising all or any of its powers as Mortgagee and after realising any collateral security provided by the Mortgagor held solely in respect of the Mortgage and after taking into account any costs necessarily and reasonably incurred by the Society shall have failed to recover the full amount of the principal and interest for the time being due to the Society in respect of the Mortgage then the Authority shall within one month after demand duly made in that behalf pay to the Society a sum equal to twothirds of the difference between the actual deficiency and the deficiency which would have arisen if the

principal sum secured by the Mortgage had been the sum which the Society would normally have advanced without this guarantee as specified in item (6) of the said Schedule

PROVIDED ALWAYS that no liability shall attach to the Authority under the foregoing covenant unless within three months after it has come to the notice of the Society that any event upon which its power of sale as Mortgagee becomes exercisable has occurred the Society shall have given notice thereof to the Authority by registered letter

AND PROVIDED FURTHER that without prejudice to the next succeeding proviso the Society may extend to the Mortgagor any indulgence or forbearance usually extended to Mortgagors in accordance with the practice of the Society its rules for the time being in force and the Mortgage

AND PROVIDED FURTHER that if after notice of any such default as aforesaid the Authority shall after conferring with the Society require it to exercise all or any of its powers as Mortgagee and the Society shall be unwilling so to do then and in such case the parties shall cause the property to be valued by an independent Valuer to be nominated in default of agreement by the Minister for Local Government, Health and Housing and the valuation of such Valuer shall be final and binding on both parties and the Authority shall pay to the Society the sum hereinbefore covenanted to be paid as if the property had been sold in exercise of the power of sale at a price equal to the said valuation and such payment by the Authority shall be applied in reduction of the moneys then due in respect of the Mortgage

2. IN no case shall the Authority be liable for any such deficiency or part thereof as is caused by or arises from any defect in the title of the Mortgagor to the property comprised in the Mortgage

3. THIS Guarantee shall cease to be effective when the principal sum remaining outstanding under the Mortgage shall have been reduced to the sum specified in item (7) of the said Schedule

THE SCHEDULE

- (1) Date of the Mortgage
 - (2) The property mortgaged
 - (3) The principal sum advanced
 - (4) The assessed value
 - (5) The additional sum
 - (6) The amount which would normally be advanced
 - (7) The release figure
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