

SPECIAL ISSUE

Kenya Gazette Supplement No. 15 (National Assembly Bills No. 4)



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NATIONAL ASSEMBLY BILLS, 2015

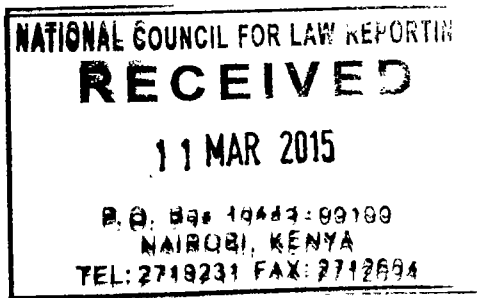
NAIROBI, 12th February, 2015

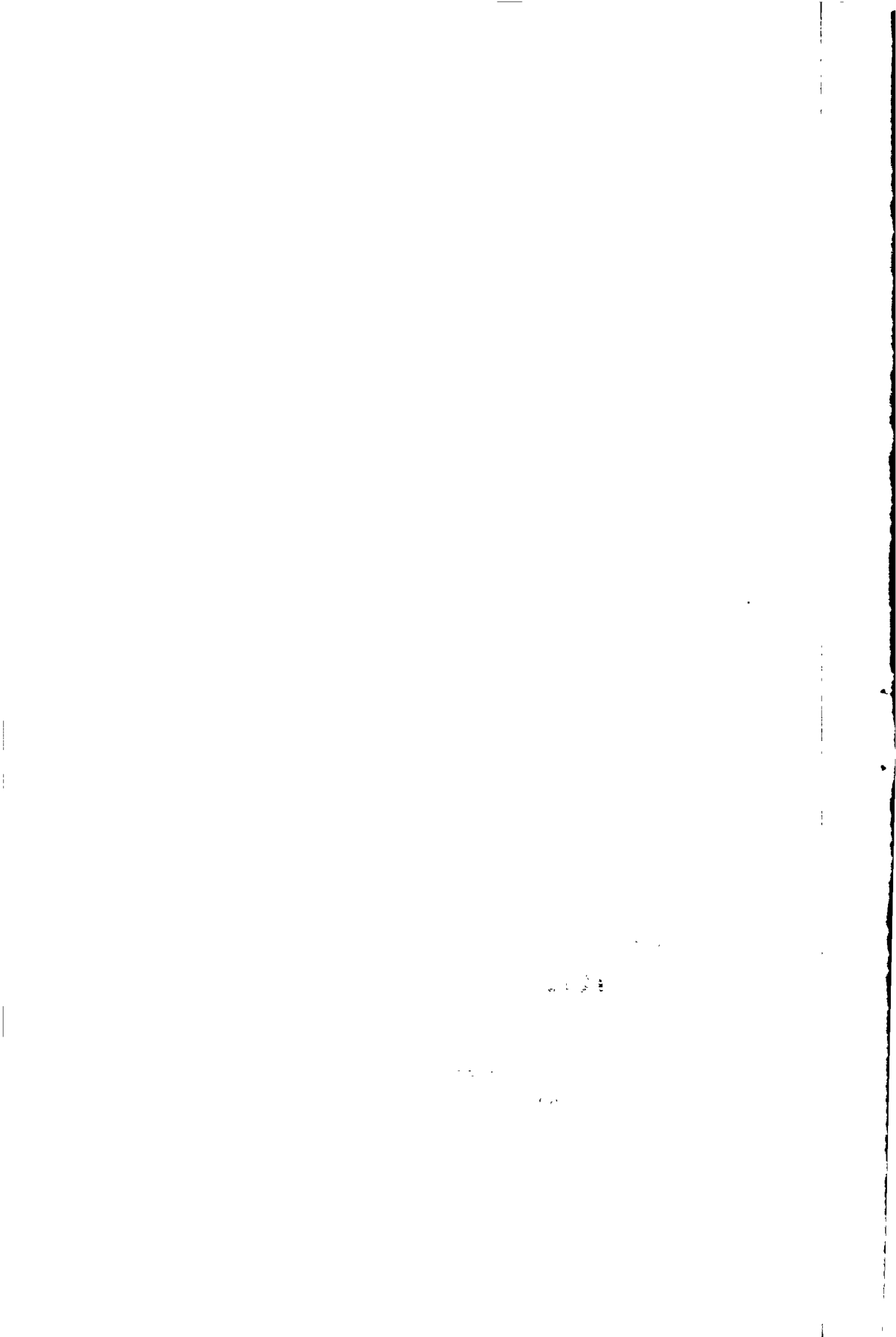
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**THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) BILL, 2015**

A Bill for

**AN ACT of Parliament to amend the Public Finance
Management Act, 2012**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2015.

Short title.

2. The Public Finance Management Act, 2012, in this Act referred to as “the principal Act”, is amended in section 2—

Amendment of section 2 of No.18 of 2012.

- (a) in the definition of “national government entity”, by inserting the words “State Organ” immediately after the word “any”;
- (b) in the definition of “Treasury Single Account, by—
 - (i) inserting the word “funds” immediately after the word “draws” appearing in paragraph (a);
 - (ii) inserting the word “funds” immediately after the word “draws” appearing in paragraph (b) ;
- (c) by inserting the following new definition in its proper alphabetical sequence—

“Government to government loan” means any loan that is negotiated with or covered by any government or national government entity including such government export credit agency (ECA) or investment insurance agency or financial institution that acts as an intermediary between the government and exporters to facilitate export financing whether by means of buyer or supplier credit, credit insurance, financial intermediary loans, guarantees, organization for Economic Co-operation and Development (OECD) tied-aid credit or officially supported export credit depending on the mandate granted to such export credit agency by the relevant government for the purpose of facilitating trade and investment between the two countries.

3. Section 5 of the principal Act is amended—Amendment of
section 5 of No.
18 of 2012.

- (a) in subsection (1), by deleting the words “and county assembly” appearing immediately after the words “County Executive Committee” and substituting therefor the words “the county assembly and Parliament”.
- (b) in subsection (4), by inserting the words “and county executive committee” immediately after the words “County Assembly”.

4. Section 8 of the principal Act is amended—Amendments of
section 8 of No.
18 of 2012.

- (a) by deleting the word “Senate” appearing in paragraph (d) and substituting therefor the words “county governments”;
- (b) in subsection (2) by inserting the words “Cabinet Secretary” immediately before the words “Commission on Revenue Allocation”.

5. Section 10 of the principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (h)—

Amendment of
section 10 of No.
18 of 2012.

- “(i) upon request by county assemblies, build capacity for budget analysis”.

6. Section 13 of the principal Act is amended—Amendment of
section 13 of No.
18 of 2012.

(a) in subsection (1), by—

- (i) deleting the words “Cabinet Secretary and” appearing immediately after the words “facilitate the”;
 - (ii) inserting the word “management” immediately after the word “financial” appearing in paragraph (f);
- (b) in subsection (2), by inserting the words “or any other person designated by the National Treasury” after the word “officers”.

7. Section 15 of the principal Act is amended—Amendment of
section 15 of No.
18 of 2012.

(a) in subsection (2), by—

- (i) deleting the words “national and county governments” appearing in paragraph (a) and substituting therefor the words “national government”;
 - (ii) deleting the words “and the county assembly for the county government” appearing in paragraph (d) ;
- (b) in subsection (5), by inserting the word “responsibility” immediately after the word “fiscal”.

8. Section 17 of the principal Act is amended—

Amendment of section 17 of No. 18 of 2012.

- (a) in subsection (6) by deleting the word “quarter” wherever it occurs and substituting therefor by the word “month”;
- (b) in subsection (7) by deleting the expression “15th May” and substituting therefor the expression “15th June”.

9. Section 24 of the principal Act is amended—

Amendment of section 24 of No. 18 of 2012.

- (a) in subsection (3) by deleting paragraph (b) and substituting therefor the following new paragraph—
“(b) ensure that there are accounting procedures and systems for the Commission to properly account for the monies and property as specified by the National Treasury”;
- (b) in subsection (9), by deleting the words “ a final” appearing in paragraph (c) and substituting therefor the words “ an audited”.

10. Section 35 of the principal Act is amended in subsection (1) by—

Amendment of section 35 of No. 18 of 2012.

- (a) deleting paragraph (c) and substituting therefor the following new paragraph—
“(c) making an overall estimation of the national government revenues, expenditures and borrowing requirements”;

- (b) deleting the words “three months” appearing in paragraph (j) and substituting therefor the words “four months”.

11. Section 38(1) of the principal Act is amended by deleting the expression “202(2)” appearing in paragraph (b)(iii) and substituting therefor expression the “202”.

Amendment of section 38 of No. 18 of 2012.

12. Section 39(7) of the principal Act is amended by inserting the words “or is not likely to be assented to, by the beginning of the financial year” immediately after the words “assented to”.

Amendment of section 39 of No. 18 of 2012.

13. The principal Act is amended by inserting the following new section immediately after section 39—

Insertion of a new section of No. 18 of 2012.

Expenditure before approval of the budget estimates by National Assembly.

39A. (1) Funds may be withdrawn from the Consolidated Fund for the purposes of meeting expenditure of the national government for the financial year as a direct charge against the Consolidated Fund in accordance with Article 206(2)(c) of the Constitution, if—

- (a) estimates of expenditure submitted to the National Assembly for a financial year have not been approved or are not likely to be approved by the beginning of that financial year; or
- (b) the National Assembly has not authorized the withdrawal of money from the Consolidated Fund in accordance with Article 222 of the Constitution.

(2) The amount withdrawn under subsection (1) shall not exceed in total one-half of the amounts included in the estimates of expenditure for that year that have been tabled in the National Assembly.

(3) The authority under subsection (1) shall cease upon assent of the Appropriation Act for the financial year.

(4) The expenditure incurred under subsection (1), shall form part of expenditures for the financial year.

14. The principal Act is amended by inserting the following new section immediately after section 42—

Insertion of a new section of No. 18 of 2012.

Expenditure before approval of the County Allocation of Revenue Act.

42A. (1) If the annual Division of Revenue Bill and the County Allocation of Revenue Bill submitted to Parliament for the next financial year have not been enacted into law before 1st July, funds may be withdrawn from the Consolidated Fund not exceeding fifty percent of the total amount allocated to each county government for transfer to county governments, based on the County Allocation of Revenue Bill introduced in Parliament for that financial year as a direct charge against the Consolidated Fund in accordance with Article 206 (2)(c) of the Constitution.

(2) The approval of a withdrawal from the Consolidated Fund by the Controller of Budget under subsection (2) above shall be issued only if accompanied by written instructions from the National Treasury requesting for the withdrawal.

(3) The authority under subsection (1) shall cease upon assent of the County Allocation of Revenue Act for the financial year.

(4) The transfers under subsection (1) shall form part of transfers for the financial year to the relevant county government.

15. Section 52 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection—

Amendment of section 52 of No. 18 of 2012.

“(2) Despite the provisions of subsection (1), the following persons may be authorized by the Cabinet Secretary to execute loan documents for borrowing by a national government entity—

- (a) the accounting officer responsible for the entity; or
- (b) any other specified officer authorized by legislation to execute such documents on behalf of the entity”.

16. Section 60 of the principal Act is amended by—

Amendment of section 60 of No. 18 of 2012.

- (a) inserting the following new subsection immediately after subsection (1)—

“(2) In order to enable the payment of any sum required for fulfilling any guarantee under this Act to be duly made, a certificate under the hand of the Attorney-General specifying the sum so required to be paid and satisfying the payment thereof shall be sufficient authority to the Controller of budget for the purposes of releasing the funds from the consolidated Fund”.

- (b) renumbering subsections (2), (3) and (4) as subsection (3), (4) and (5) respectively.

17. Section 66(1)(g) of the principal Act is amended by inserting the words “and non-financial” immediately after the word “financial”.

Amendment of section 66 of No. 18 of 2012.

18. Section 68(3) of the principal Act is amended by inserting the words “responsible for that entity” immediately after the words “Cabinet Secretary”.

Amendment of section 68 of No. 18 of 2012.

19. Section 77 of the principal Act is amended by—

Amendment of section 77 of No. 18 of 2012.

- (a) inserting the words “or vary” immediately after the words “may waive”;
- (b) inserting the words “or variation” immediately after the word “waiver” wherever it occurs in paragraph (a),.

20. Section 78 of the principal Act is amended by inserting the words “Except as provided otherwise under this Act or any other Act” before the words “the Kenya Revenue Authority”.

Amendment of section 78 of No. 18 of 2012.

21. Section 82(4) of the principal Act is amended by deleting the words “by the receiver or collector”.

Amendment of section 82 of No. 18 of 2012.

22. Section 87(1) of the principal Act is amended by deleting the word “company” appearing in paragraph (b) and substituting therefor the word “corporation”.

Amendment of section 87 of No. 18 of 2012.

23. Section 88 of the principal Act is amended—

Amendment of section 88 of No. 18 of 2012.

(a) in subsection (1) and (2)(a) and (b), by inserting the words “and government-linked corporation” immediately after the word “state corporation”;

24. Section 89 of the principal Act is amended—

Amendment of section 89 of No. 18 of 2012.

(a) in subsection (2) by—

- (i) inserting the words “and government-linked corporation” immediately after the words “state corporation” appearing in paragraph (c);
- (ii) inserting the words “or government-linked corporation” immediately after the words “in respect of state corporation” appearing in paragraph (e);
- (iii) inserting the words “or government-linked corporation” immediately after the words “state corporation” appearing in paragraph (f);
- (iv) inserting the words “or government linked-corporation” immediately after the words “state corporation” appearing in paragraph (g);
- (v) inserting the words “or government-linked corporation” immediately after the words “assets of that state corporation” appearing in paragraph (h);

(vi) inserting the words “or government-linked corporation” immediately after the words “state corporation” appearing in paragraph (j).

(b) in subsection (4), by deleting the expression “(2)” and substituting therefor the expression “(1)”.

25. Section 91 of the principal Act is amended in subsection (b), by inserting the words “and government-linked corporation” immediately after the word “state corporation”

Amendment of section 91 of No. 18 of 2012

26. Section 93(3)(b) of the principal Act is amended by inserting space after the word “Act” and the rest of the text forming the sandwich to read as follows:

Amendment of section 93 of No. 18 of 2012

“this shall constitute a serious material breach or persistent material breach for purposes of stopping transfer of funds under Article 225 (3) of the Constitution”.

27. Section 96(1) of the principal Act is amended by deleting the word “entity”.

Amendment of section 96 of No. 18 of 2012.

28. Section 97(4) of the principal Act is amended by deleting the words “or renew”.

Amendment of section 97 of No. 18 of 2012.

29. Section 98(2) of the principal Act is amended by inserting the word “serious” immediately after the words “findings on details of the”.

Amendment of section 98 of No. 18 of 2012.

30. Section 104(1) of the principal Act is amended by inserting the word “county” immediately after the words “and other” appearing in paragraph (j).

Amendment of section 104 of No. 18 of 2012.

31. Section 105(2) of the principal Act is amended by inserting the words “or any other person designated by the County Treasury” immediately after the word “officers”.

Amendment of section 105 of No. 18 of 2012.

32. Section 107(2) of the principal Act is amended by—

Amendment of section 107 of No. 18 of 2012.

(a) inserting the word “county” immediately after the words “medium term, the” appearing in paragraph (d);

(b) deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) the county governments debts and obligations shall be maintained at such a sustainable level as approved by the county assembly”;

33. Section 109(4) of the principal Act is amended by deleting the words “or a bank approved by the County Executive Committee member responsible for finance and shall be kept” appearing in paragraph (a).

Amendment of section 109 of No. 18 of 2012.

34. Section 112 of the principal Act is amended—

Amendment of section 112 of No. 18 of 2012.

(a) in subsection (3) by inserting the following new paragraph immediately after paragraph (b)—

“(c) is meant to alleviate the damage, loss, hardship or suffering caused directly by the event”;

(b) by inserting the following new subsection immediately after subsection (3) —

“(4) An event threatens damage to human life or welfare under subsection (3)(a) only if it involves, causes or may cause—

- (a) loss of life, human illness or injury;
- (b) homelessness or damage to property;
- (c) disruption of food or water supply or provision of shelter; or
- (d) disruption of provision of services including health services”.

35. Section 116 of the principal Act is amended—

Amendment of section 116 of No. 18 of 2012.

(a) in subsection (1), by inserting the word “county” immediately after the words “establish other”; and

(b) in subsection (7) by inserting the word “audited” immediately after the words “present the” appearing in paragraph (c).

36. Section 119(2) of the principal Act is amended by deleting the words “or a bank approved by the County Treasury”.

Amendment of section 119(2) of No. 18 of 2012.

37. Section 123 (3) of the Principal Act is amended by deleting the words appearing after words “publicize the statement”.

Amendment of
Section 123 of
No. 18 of 2012

38. Section 125(1) of the principal Act is amended by deleting the words “planning and” appearing in paragraph (b).

Amendment of
section 125 of No.
18 of 2012.

39. Section 126 of principal Act is amended—

Amendment of
section 126 of No.
18 of 2012.

(a) in subsection (1), by deleting the words “prepare a” and substituting therefor the words “prepare an integrated”;

(b) in subsection (2), by inserting the word “annual” immediately after the words “prepare the”;

(c) in subsection (3), by—

(i) deleting expression “1st September” and substituting therefor the “expression 30th September”;

(ii) inserting the word “annual” immediately after the words “submit the”.

(d) by inserting the following new subsection immediately after subsection (3)

“(4) The County Assembly shall consider and approve the annual development plan submitted under subsection (3) above, not later than 30th October”.

40. Section 127(1) of the principal Act is amended by deleting the expression “15th June” and substituting therefor the expression “30th April”.

Amendment of
section 127 of No.
18 of 2012.

41. Section 129 of the principal Act is amended—

Amendment of
section 129 of No.
18 of 2012.

(a) in paragraph (a) of subsection (1) by deleting the words “excluding the county assembly” appearing in paragraph (a);

42. Section 131 of the principal Act is amended—

Amendment of
section 131 of No.
18 of 2012.

(a) in subsection (1), by inserting the words “except the County Finance Bill” immediately after the words “implement the budget”;

- (b) by inserting the following new subsection after subsection (4)—

“(5) Where a County Assembly approves any changes in the annual estimates of budget under this section, any increase or reduction in expenditure of a Vote, shall not exceed ten percent of the Vote’s ceilings’ set out in the County Fiscal Strategy Paper adopted by the County Assembly”;

- (c) by renumbering subsection (5) to be subsection (6) and inserting the following new subsection after subsection (6):

“(7) The County Executive Committee Member shall submit a copy of the budget estimates approved under subsection (5) to the National Treasury within fourteen days of its approval”.

43. The principal Act is amended by inserting the following new section immediately after section 131—

Insertion of new section 131A in No. of 18 of 2012.

Expenditure before approval of the budget estimates by the County Assembly.

131A. (1) Funds may be withdrawn from the County Revenue Fund for the purposes of meeting expenditure of the county government for the financial year as a direct charge against the County Revenue Fund in accordance with Article 207 of the Constitution , if—

- (a) estimates of expenditure submitted to the County Assembly for a financial year have not been approved or are not likely to be approved by the beginning of that financial year; or
- (b) the County Assembly has not authorized the withdrawal of money from the County Revenue Fund in accordance with section 134 of this Act.

(2) The amount withdrawn under subsection (1) shall not exceed in total one-half of the amounts included in the estimates of expenditure for that year that have been tabled in the County Assembly.

(3) The authority under subsection (1) shall cease upon assent of the Appropriation Act for the financial year.

(4) The expenditure incurred under subsection (1) shall form part of expenditures for the financial year.

44. Section 132(1) of the principal Act is amended by deleting the words “County Executive Member” and substituting therefor the words “County Executive Committee member”.

Amendment of section 132 of No. 18 of 2012.

45. Section 133 of the principal Act is amended by inserting the word “County” immediately after the words “approve the”.

Amendment of section 133 of No. 18 of 2012.

46. Section 136 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

Amendment of section 136 No. 18 of 2012

“(3) The balances declared under subsection (2) above shall be surrendered within fourteen days after receipt of the audit report”.

47. Section 137(3) of the principal Act is amended by inserting the word “County” immediately after the words “and the” appearing in paragraph (a).

Amendment of section 137 of No. 18 of 2012.

48. The Heading appearing immediately after section 137 of the principal Act is amended by inserting the words “grants and loans” immediately after the words “public finances”.

Amendment of the Heading immediately after section 137 of No. 18 of 2012.

49. Section 141 of the principal Act is amended—

Amendment of section 141 of No. 18 of 2012.

- (a) in subsection (1), by inserting the words “the county’s” immediately after the words “level of”.
- (b) in subsection (9), by deleting the words “together with the principal amount”.

50. Section 143 of the principal Act is amended by deleting subsection (2) and substituting therefor the following new subsection—

Amendment of section 143 of No. 18 of 2012.

“(2) Despite the provisions of subsection (1), the following persons may be authorized by the County Executive Committee member to execute loan documents for borrowing by a county government entity—

- (a) the accounting officer responsible for the entity; or
- (b) any other specified officer authorized by legislation to execute such documents on behalf of the entity”.

51. Section 144(8) of principal Act is amended by deleting the word “delegate” appearing in paragraph (b) and substituting therefor the word “person”.

Amendment of section 144 of No. 18 of 2012.

52. Section 145(1) of the principal Act is amended by deleting the word “entity”.

Amendment of section 145 of No. 18 of 2012.

53. Section 155 of the principal Act is amended—

Amendment of section 155 of No. 18 of 2012.

- (a) in subsection (2), by inserting the word “internal” immediately after the word “any”;
- (b) in subsection (5), by deleting the words “internal auditing” and substituting therefor the word “audit”.

54. Section 159 of the principal Act is amended by—

Amendment of section 159 of No. 18 of 2012.

- (a) deleting the expression “(1)”;
- (b) inserting the words “or vary” immediately after the word “waive”;
- (c) deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) the County Treasury shall maintain a public record of each waiver or variation together with the reason for the waiver or variation and report on each waiver or variation in accordance with section 164 of this Act”;

- (d) renumbering paragraphs (b) and (c) as paragraphs (c) and (d).

55. The Heading appearing immediately after section 162 of the principal Act is amended by inserting the words “county governments and” immediately after the word “by”.

Amendment of the Heading immediately after section 162 of No. 18 of 2012.

56. Section 165(4) of the principal Act is amended by—

Amendment of section 165 of No. 18 of 2012.

- (a) deleting the words “two months” and substituting therefor the word “three months”;
- (b) deleting the words “by the receiver”.

57. Section 171(2) of the principal Act is amended by deleting the words “organ of state” wherever they occur in paragraph (c) and substituting therefor the words “State Organ”.

Amendment of section 171 of No. 18 of 2012.

58. Section 174 of the principal Act is amended—

Amendment of section 174 of No. 18 of 2012.

(a) in paragraph (a), by deleting the words “their allocation” and substituting therefor the words “its total revenue”;

(b) in paragraph (b), by inserting the word “total” immediately after the word “its”.

59. Section 176(2) of the principal Act is amended by inserting the words “until such a time as the relevant appropriation law is passed” immediately after the word “approval” appearing in paragraph (a).

Amendment of section 176 of No. 18 of 2012.

60. Section 178 of the principal Act is amended—

Amendment of section 178 of No. 18 of 2012.

- (a) in subsection (2), by inserting the words “or donations” immediately after the word “grants”;
- (b) in subsection (7), by—
- (i) inserting the words “upon authorization by the Cabinet Secretary” immediately after the word “finance”;
- (ii) inserting the words “or donation” immediately after the word “grant”.

61. Section 180 of the principal Act is amended—

Amendment of section 180 of No. 18 of 2012.

- (a) in subsection (1), by inserting the word “reporting” immediately after the words “follows the”;
- (b) in subsection (2), by—
 - (i) inserting the words “Within three months of the end of a financial year” immediately before the words “the Accounting Officer”;
 - (ii) inserting the words “and submit copies to the Auditor-General and the County Treasury” immediately after the words “accounts”.

62. Section 183 of the principal Act is amended by deleting the word “company” appearing in paragraph (b) and substituting therefor the word “corporation”.

Amendment of section 183 of No. 18 of 2012.

63. Section 184 of the principal Act is amended—

Amendment of section 184 of No. 18 of 2012.

- (a) in subsection (1) by inserting the words “and county government linked-corporations” immediately after the words “County corporations” appearing in paragraph (b);
- (b) in subsection (2), by—
 - (i) inserting the words “or county government-linked corporation” immediately after the words “county corporation” appearing in paragraph (a);
 - (ii) inserting the words “or county government-linked corporation” immediately after the words “county corporation” appearing in paragraph (b).

64. Section 185 of the principal Act is amended—

Amendment of section 185 of No. 18 of 2012.

- (a) in subsection (2), by—
 - (i) inserting the words “or county government-linked corporation” immediately after the words “county corporations” appearing in paragraph (a);
 - (ii) inserting the words “or county government-linked corporation” immediately after the words “county corporations” appearing in paragraph (b);

- (iii) inserting the words “or county government-linked corporation” immediately after the words “county corporations” appearing in paragraph (c);
 - (iv) inserting the words “or county government-linked corporation” immediately after the words “county corporations” appearing in paragraph (d);
 - (v) inserting the words “or county government-linked corporation” immediately after the words “county corporations” appearing in paragraph (e);
 - (vi) inserting the words “or county government-linked corporation” immediately after the words “the corporation” appearing in paragraph (f);
 - (vii) inserting the words “or county government-linked corporation” immediately after the words “county corporations” appearing in paragraph (g);
 - (viii) inserting the words “or county government-linked corporation” immediately after the words “county corporations” wherever they occur in paragraph (h);
 - (ix) inserting the words “or county government-linked corporation” immediately after the words “county corporations” appearing in paragraph (j);
- (b) in subsection (3), by deleting the word “company” appearing immediately after the words “government linked” and substituting therefor the word “corporation”;
- (c) in subsection (4), by inserting the words “County Executive Committee member and the respective county assembly” immediately after the words “to the”.
- 65.** Section 186 of the principal Act is amended by—
- (a) deleting the word “and” appearing immediately after the expression “183”;

- (b) inserting the expression “and 185” immediately after the expression “184”;
- (c) inserting the words “or government-linked corporation” immediately after the words “county corporation” appearing in paragraph (b)

66. Section 187 of the principal Act is amended by deleting subsection (3).

Amendment of section 187 of No. 18 of 2012.

67. Section 193 of the principal Act is amended by—

Amendment of section 193 of No. 18 of 2012.

- (a) inserting the following new subsections immediately after subsection (3)—

“(4) The Public Sector Accounting Standards Board shall be accountable to the Cabinet Secretary for matters relating to finance for the effective, efficient and economical fulfillment of its purpose and objectives.

(5) The Public Sector Accounting Standards Board shall prepare and submit to the Cabinet Secretary a report on—

- (a) its annual work plan demonstrating its priorities and agenda on how it intends to meet its objectives and responsibilities for the following financial year; and

- (b) its annual report on its activities demonstrating the extent to which its plans and mandate were achieved;

(6) The Cabinet Secretary may from time to time request a report from the Public Sector Accounting Standards Board on its mandate and such report shall be submitted within two weeks from the date of the request”.

- (b) renumbering subsections (4), (5) and (6) as (7), (8) and (9), respectively.

68. Section 197(1) of the principal Act is amended by—

Amendment of section 197 of No. 18 of 2012.

- (a) inserting the words “county government or county government entity” before the word “commits”;
- (b) deleting the word “public” appearing in paragraph (a);
- (c) by deleting the word “wrongfully” appearing in paragraph (1) and substituting therefor the word “knowingly”.

69. The Second Schedule to the principal Act is amended in paragraph 8, by—

Amendment of
the Second
Schedule to No.
18 of 2012.

- (a) deleting the words “National Government Guarantees (Loans) Act” and substituting therefor the words “National Government Guarantees Loans Act”;
- (b) deleting the expression “section 51” and substituting therefor the expression “section58(2)(f)”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Public Finance Management Act (No. 18 of 2012) so as to ensure smooth implementation of the Act.

CLAUSE 1 of the Bill sets out the short title and commencement of the proposed Act.

CLAUSE 2 of the Bill proposes to amend section 2 of the Bill so as to clarify the definitions of “national government entity”, “national government security” and “Treasury Single Account”. The Bill Further proposes to insert a new definition of the words “Government to government loan” used in the Act as a technical phrase.

CLAUSE 3 of the Bill proposes to amend the section 5(1) of the Act by including the Parliament in the approval process of the declaration of county government entities. Further, the clause also proposes to amend section 5(4) of the Act by including the County Executive Committee in the approval process where a county government entity ceases to be a County Government entity in accordance with the Act.

CLAUSE 4 of the Bill proposes to amend section 8 of the Act to align the provisions of this section with the role of the Senate as provided for under Article 189 of the Constitution. The Bill further proposes to include the Cabinet Secretary responsible for matters relating to finance in carrying out the functions provided under the section for the purposes of guiding the Senate and other players on the implications and moving of resources from one county to another vis-à-vis the proposals made in the County Allocation Revenue Bill.

CLAUSE 5 of the Bill proposes to amend section 10 of the Act to enable the County Assemblies request the Budget Office for capacity building where necessary.

CLAUSE 6 of the Bill proposes to amend section 13 of the Act since the Cabinet Secretary cannot delegate a duty under his or her watch to himself or herself.

CLAUSE 7 of the Bill proposes to amend section 15 of the Act so as to restrict the provisions of this section to National Government. The section is further amended so as to clarify that it is only external borrowing that is limited to capital projects.

CLAUSE 8 of the Bill proposes to amend section 17(6) of the Act so as to ensure that National Treasury complies with the law since disbursements depend on revenue performance from time to time. Further amendment of subsection (7) is to ensure that the provision is in line with the provisions of section 127 of the Act.

CLAUSE 9 of the Bill proposes to amend section 24 of the Act so as to provide for the role of the National Treasury in specifying the accounting procedures and systems and the role of the Auditor-General in auditing the accounts before submission to Parliament.

CLAUSE 10 of the Bill proposes to amend section 35 of the Act so as to mirror what is provided for under section 125(1)(c) of the Act.

CLAUSE 11 of the Bill proposes to amend section 38 of the Act so as to apply the provision of the section to entire Article 202 of the Constitution.

CLAUSE 12 of the Bill proposes to amend section 39 of the Act so as to mirror the language used in Article 222(1) of the Constitution to avoid any contradiction.

CLAUSE 13 of the Bill proposes to insert a new section 39A of the Act to provide for the process of approving expenditure before the budget estimates are approved by the National Assembly.

CLAUSE 14 of the Bill proposes to insert a new section 42 A of the Act to provide for the process of approving expenditure before the County Allocation of Revenue Act is approved.

CLAUSE 15 of the Bill proposes to amend section 52(2) of the Act to provide for delegation of powers to execute loan documents by the Cabinet Secretary to the accounting officers and other officers.

CLAUSE 16 of the Bill proposes to amend section 60 of the Act so as to ensure that the provision reflects the process in practice.

CLAUSE 17 of the Bill proposes to amend section 66 of the Act so as to include monitoring of non- financial performance.

CLAUSE 18 of the Bill proposes to amend section 68 of the Act so as to clarify that the Cabinet Secretary for the relevant entity is the one being referred to and not the Cabinet Secretary for finance.

CLAUSE 19 of the Bill proposes to amend section 77 of the Act so as to align it with the wording of Article 210 of the Constitution.

CLAUSE 20 of the Bill proposes to amend section 78 of the Act so as to recognize and include other collectors of revenue.

CLAUSE 21 of the Bill proposes to amend section 82 of the Act so as to restrict the power to grant waivers or variations to only the Cabinet Secretary.

CLAUSE 22 of the Bill proposes to amend section 87 of the Act so as to align it with the rest of the provisions making reference to corporations.

CLAUSE 23 of the Bill proposes to amend section 88 of the Act so as to make it consistent with the rest of the section and to clarify that the Cabinet Secretary being referred to in the section is the Cabinet Secretary responsible for public investments.

CLAUSE 24 of the Bill proposes to amend section 89 of the Act so as to align it with the rest of the provisions of the section.

CLAUSE 27 of the Bill proposes to amend section 96 of the Act so as to align it with the wording of the marginal note.

CLAUSE 28 of the Bill proposes to amend section 97(4) of the Act so as to clarify the content under the subsection.

CLAUSE 29 of the Bill proposes to amend section 98 of the Act so as to align it with the wording in the Constitution.

CLAUSE 30 of the Bill proposes to amend section 104 of the Act so as to clarify and make it uniform with other sections referring to county public funds.

CLAUSE 31 of the Bill proposes to amend section 105 of the Act so as to cater for public officers and any other persons designated to perform duties or any other responsibilities on behalf of County Treasuries.

CLAUSE 32 of the Bill proposes to amend section 107 of the Act so as to clarify as to which level of government the provision refers to.

CLAUSE 33 of the Bill proposes to amend section 109 of the Act so as to facilitate the easy operationalization of the Treasury Single Account (for both level of government) by having all County Exchequer Accounts in the Central Bank of Kenya.

CLAUSE 34 of the Bill proposes to amend section 112 of the Act so as to reflect what is provided for at national level under section 28(3) and (4).

CLAUSE 35 of the Bill proposes to amend section 116 of the Act so as to provide a distinction between public funds and county public funds. It further proposes to amend the Act so as to provide that statements must be audited before being presented to Parliament.

CLAUSE 36 of the Bill proposes to amend section 119 of the Act so as to facilitate the easy operationalization of the Treasury Single Account (for both level of government) by having all County Exchequer Accounts in the Central Bank of Kenya.

CLAUSE 37 of the Bill proposes to amend Section 123 (3) of the Act so as to remove the requirement to submit the County Government Debt Management Strategy to the Commission on Revenue Allocation and the Intergovernmental Budget and Economic Council.

CLAUSE 38 of the Bill proposes to amend section 125 of the Act so as to remove planning aspect from the provision.

CLAUSE 39 of the Bill proposes to amend section 126 of the Act so as to provide a linkage between the plan being referred to in section 125(1) and to distinguish it from the annual development plan being referred to in section 126(2), (3) and (4). The amendment further proposes to extend time to allow the County Governments sufficient time to prepare their annual development plans.

CLAUSE 40 of the Bill proposes to amend section 127 of the Act so as to align it with the wording of Article 210 of the Constitution.

CLAUSE 41 of the Bill is proposes to amend section 129 of the Act to require county assemblies to submit their budget estimates through the County Executive.

CLAUSE 42 of the Bill proposes to amend section 131 of the Act so as to align it with the wording of section 39.

CLAUSE 43 of the Bill proposes to insert a new section 131A of the Act to provide for the process of approving expenditure before the budget estimates are approved by the County Assembly.

CLAUSE 44 of the Bill proposes to amend section 132 of the Act so as to complete the wording in reference to County Executive Committee Member.

CLAUSE 45 of the Bill proposes to amend section 133 of the Act for proper reference.

CLAUSE 46 of the Bill proposes to amend section 136 of the Act by inserting a new subsection (3) to require county governments to surrender to the county exchequer account any funds withdrawn from the County Revenue Fund but not spent at the end of the financial year within fourteen days upon receipt of the audit report for that financial year.

CLAUSE 47 of the Bill proposes to amend section 137 of the Act so as to complete the wording in reference to County Budget Review Outlook Paper.

CLAUSE 48 of the Bill proposes to amend the heading appearing between sections 137 and 138 to reflect the equivalent heading in provisions relating to the same at the National Government level appearing between sections 45 and 46.

CLAUSE 49 of the Bill proposes to amend section 141 of the Act so as to reflect the correct position.

CLAUSE 50 of the Bill proposes to amend section 143(2) of the Act to provide for delegation of powers to execute loan documents by the County Executive Committee member to the accounting officers and other officers.

CLAUSE 51 of the Bill proposes to amend section 144 of the Act by deleting the word delegate which is not defined in the Act.

CLAUSE 52 of the Bill proposes to amend section 145 of the Act so as to correspond with the text in the section.

CLAUSE 53 of the Bill proposes to amend section 155 of the Act so as to clarify that the reference is to internal audit and not audits in general.

CLAUSE 54 of the Bill proposes to amend section 159 of the Act so as to align it with the provisions of Article 210 of the Constitution.

CLAUSE 55 of the Bill proposes to amend the heading immediately after section 162 of the Act so as to relate it to the content referring to County Governments and County Government Entities.

CLAUSE 56 of the Bill proposes to amend section 165 of the Act so as to synchronize the reports with the provisions of annual reporting at the national and county government levels. Furthermore, it proposes to amend the section to make it a responsibility of the County Executive Committee Member in granting waivers and not by receivers of revenue.

CLAUSE 57 of the Bill proposes to amend section 171 of the Act so as to delete the reference to Organ of State which is not the correct expression.

CLAUSE 58 of the Bill proposes to amend section 174 of the Act so as to align it with section 172.

CLAUSE 59 of the Bill proposes to amend section 176 of the Act so as to make it necessary for withdrawal of the funds limited to the time when Appropriation Bill is enacted.

CLAUSE 60 of the Bill proposes to amend section 178 of the Act so as to make it consistent with the rest of the references to grants and donations in this section.

CLAUSE 61 of the Bill proposes to amend section 180 of the Act so as to make it clear and consistent with the equivalent provisions in the National and County Governments.

CLAUSE 62 of the Bill proposes to amend section 183 of the Act so as to clarify what was intended in the Act.

CLAUSE 63 of the Bill proposes to amend section 184 of the Act so as to be consistent with the provisions of the section and the Act.

CLAUSE 64 of the Bill proposes to amend section 185 of the Act so as to be consistent with the provisions of the section and the Act. Furthermore, it proposes to amend the section to reflect the provisions of section 89(4) and also to recognize the role of the County Executive Committee Member in overseeing county public finances.

CLAUSE 65 of the Bill proposes to amend section 186 of the Act so as to apply the definitions to section 185 and to ensure that county corporations or county-linked corporations are referred to together as provided for in other sections of the Act.

CLAUSE 66 of the Bill proposes to amend section 187 by deleting subsection (3) to correct an error.

CLAUSE 67 of the Bill proposes to amend section 193 by inserting new subsections (3), (4) and (5) to require the Public Sector Accounting Standards Board to account and report to the Cabinet Secretary.

CLAUSE 68 of the Bill proposes to amend section 197 of the Act so as to make the provision clear of the intention.

CLAUSE 69 of the Bill proposes to amend the Second Schedule of the Act for avoidance of any doubt.

This Bill is a Bill concerning County Governments.

The enactment of this Bill will not occasion additional expenditure of public funds as the interventions are provided for in the estimates.

Dated the 10th December, 2014.

ADEN DUALE,
Leader of Majority Party.

Section 2 of No. 18 of 2012, which it is proposed to amend—

“national government entity” includes any department or agency of the national government and any authority, body or other entity declared to be a national government entity under section 4(1);

“national government security” includes a security issued by the national government under section 53 and a treasury bill, treasury bond, treasury note, government stock and any other debt instrument issued by the national government;

“Treasury Single Account”—

- (a) in relation to the national government, means a centralised bank account system where all deposits and payment transactions are processed for State Departments, Commissions and Independent Offices, and any National Government entity which draws directly from the Consolidated Fund;
- (b) in relation to the county government, means a centralised bank account system established in each county where all deposits and payment transactions are processed for county departments and any other county entity which draws directly from the County Revenue Fund;

Section 5 of No.18 of 2012, which it is proposed to amend—

5. (4) A County Executive Committee Member for finance may, from time to time with the approval of the county assembly, and by notice in the *Gazette* declare that a county government entity declared under subsection (1) shall with effect from the date of the order cease to be a county government entity for the purposes of this Act.

Section 8 of No.18 of 2012, which it is proposed to amend—

8. (1) The Committee of the Senate established to deal with budgetary and financial matters has responsibilities for the following matters, in addition to the functions set out in the Standing Orders—

- (d) monitor adherence by the Senate to the principles of public finance set out in the Constitution, and to the fiscal responsibility principles of this Act.

(2) In carrying out its functions under subsection (1)(a) and (b), the Committee shall consider recommendations from the Commission on Revenue Allocation, County Executive Committee Member responsible for finance, the Intergovernmental Budget and Economic Council, the public and any other interested persons or groups.

Section 13 of No.18 of 2012, which it is proposed to amend—

13. (1) The Cabinet Secretary may generally give to the National Treasury such powers as are necessary to facilitate the Cabinet Secretary and national government to exercise their powers in the Constitution, and in particular, the National Treasury may do all or any of the following—

- (a) with prior notification to the entity, access any system of public financial management and control of national government entity;
- (f) perform any other act as the Cabinet Secretary may consider necessary including power to intervene where a state entity or state organ fails to operate a financial system that complies with requirements provided for under this Act or is in serious material breach under this Act or in accordance with Articles 190 and 225 of the Constitution.

Section 15 of No.18 of 2012, which it is proposed to amend—

15. (2) In managing the national government's public finances, the National Treasury shall enforce the following fiscal responsibility principles—

- (a) over the medium term a minimum of thirty percent of the national and county governments budget shall be allocated to the development expenditure;
- (c) over the medium term, the national government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure;
- (d) public debt and obligations shall be maintained at a sustainable level as approved by Parliament for the national government and the county assembly for county government;

(5) Regulations made under this Act may add to the list of fiscal principles set out in subsection (2).

Section 17 of No.18 of 2012, which it is proposed to amend—

17. (6) The National Treasury shall, at the beginning of every quarter, and in any event not later than the fifteenth day from the commencement of the quarter, disburse monies to county governments.

(7) The disbursement referred to in subsection (6) shall be done in accordance with a schedule prepared by the National Treasury in consultation with the Intergovernmental Budget and Economic Council, with the approval of the Senate, and published in the *Gazette*, as approved, not later than the 30th May in every year.

Section 24 of No.18 of 2012, which it is proposed to amend—

24. (3) Notwithstanding any other provisions of this Act, where a Fund is established under any other law for the purposes of Parliament or a House of Parliament, the Parliamentary Service Commission shall—

- (b) establish accounting procedures and systems for the Commission to properly account for the monies and property;
- (9) On the winding up of a national public fund—
- (c) the Cabinet Secretary shall submit a final statement of accounts to Parliament.

Section 35 of No.18 of 2012, which it is proposed to amend—

35. (1) The budget process for the national government in any financial year shall comprise the following stages—

- (c) preparing overall estimates in the form of the Budget Policy Statement of national government revenues and expenditures;
- (j) reviewing and reporting on those budgeted revenues and expenditures every three months.

Section 38 of No.18 of 2012, which it is proposed to amend—

38. (1) The Cabinet Secretary shall submit to the National Assembly the following other budget documents for each financial year—

- (b) the format of the budget estimates shall include—
 - (iii) all revenue allocations to county governments from the national government's share in terms of Article 202(2) of the Constitution, including conditional and unconditional grants;

Section 39 of No.18 of 2012, which it is proposed to amend—

39. (7) Following approval of the budget estimates under this section, and before the Appropriation Act is assented to, the National Assembly may authorise withdrawals in accordance with Article 222 of the Constitution, and such authority shall be communicated to the Cabinet Secretary responsible for finance by the Speaker of the National Assembly within seven days of that authority being granted by the National Assembly.

Section 52 of No.18 of 2012, which it is proposed to amend—

52. (2) Despite the provisions of subsection (1), the following persons are authorised to execute loan documents for borrowing by a national government entity—

- (a) the accounting officer responsible for the entity; and
- (b) any other specified officer authorized by legislation to execute such documents on behalf of the entity.

Section 66 of No.18 of 2012, which it is proposed to amend—

59. (1) Subject to the Constitution, the accounting officer of the Judiciary, Parliamentary Service Commission, constitutional commissions and independent offices shall monitor, evaluate and oversee the management of public finances in their respective entities, including—

- (g) monitoring the management of public finances and their financial performance;

Section 68 of No.18 of 2012, which it is proposed to amend—

68. (3) If the concerns referred to in subsection (2)(f) are not adequately addressed by the Cabinet Secretary or the Chief Justice or the Speaker of the National Assembly, the accounting officer shall bring those concerns to the attention of Parliament.

Section 77 of No.18 of 2012, which it is proposed to amend—

77. The Cabinet Secretary may waive a national tax, a fee or charge imposed by the National Government and its entities in accordance with criteria prescribed in regulations provided that—

- (c) the National Treasury shall maintain a public record of each waiver together with the reason for the waiver and report on each waiver in accordance with section 82 of this Act;

Section 78 of No.18 of 2012, which it is proposed to amend—

78. The Kenya Revenue Authority, shall be the collector of national government revenue for the purposes of this Part.

Section 82 of No.18 of 2012, which it is proposed to amend—

82. (4) Not later than three months after the end of each financial year, a receiver of revenue for the national government shall submit to the Auditor-General a report with respect to all waivers and variations of taxes, fees or charges granted by the receiver or collector during that year.

Section 87 of No.18 of 2012, which it is proposed to amend—

87. (1) The national government or national government entity may not invest—

- (b) in a government-linked company,

Section 88 of No.18 of 2012, which it is proposed to amend—

88. (1) The respective Cabinet Secretary responsible for matters relating to a state corporation is responsible for monitoring—

- (a) the financial performance of that state corporation and government-linked corporations; and
- (b) the performance of that state corporation and the activities affecting its financial performance; and

reporting to the Cabinet on the financial performance of the state corporation.

Section 89 of No.18 of 2012, which it is proposed to amend—

89. (2) The report under subsection (1) shall include information on—

- (a) the date of incorporation and objects of the corporation;
- (e) the amount of any loans made by the national government to the state corporation, and the amount of any guarantees issued by the national government in respect of the state corporation, during the financial year;
- (f) the cumulative amount of undischarged loans and guarantees in respect of the state corporation;
- (g) the amount of the profit or loss of the state corporation for the financial year;
- (h) the amount of any revenue received by the national government from the state corporation during the financial year, including dividends, interest and proceeds from any divestiture of assets of the state corporation;
- (j) an assessment of the financial and related non-financial performance of the state corporation for the financial year.

(4) The Cabinet Secretary responsible for matters relating to public investments shall submit copies of the reports referred to in subsections (2) and (3) to the Cabinet Secretary, the Controller of Budget, the Commission on Revenue Allocation and to the Auditor-General.

Section 96 of No.18 of 2012, which it is proposed to amend—

96. (1) Where the Cabinet Secretary finds a State organ which is a county government entity to be in serious or persistent material breach of its obligations or financial commitments, the Cabinet Secretary shall, in accordance with Article 225 of the Constitution, immediately stop the transfer of funds.

Section 97 of No.18 of 2012, which it is proposed to amend—

97. (4) Parliament shall, within thirty days of the decision by the Cabinet Secretary to stop the transfer of funds, approve or renew the decision of the Cabinet Secretary to stop the transfer of funds and the Cabinet Secretary shall abide by the decision of Parliament.

Section 98 of No.18 of 2012, which it is proposed to amend—

98. (2) The report referred to in subsection (1) shall provide an independent opinion on findings on details of the material breach or persistent material breaches in such a manner as to allow Parliament to make a decision within thirty days on whether or not to approve the renewal of the decision to stop the transfer of funds.

Section 104 of No.18 of 2012, which it is proposed to amend—

104. (1) Subject to the Constitution, a County Treasury shall monitor, evaluate and oversee the management of public finances and economic affairs of the county government including—

- (j) maintaining proper accounts and other records in respect of the County Revenue Fund, the County Emergencies Fund and other public funds administered by the county government;

Section 105 of No.18 of 2012, which it is proposed to amend—

105. (2) A County Treasury may, in writing, authorise any of its officers to carry out a specified responsibility, or exercise a specified power, on its behalf.

Section 109 of No.18 of 2012, which it is proposed to amend—

109. (4) The County Treasury shall-

- (a) arrange for the County Revenue Fund to be kept in the Central Bank of Kenya or a bank approved by the County Executive Committee member responsible for finance and shall be kept in an account to be known as the "County Exchequer Account; and

Section 107 of No.18 of 2012, which it is proposed to amend—

107. (2) In managing the county government's public finances, the County Treasury shall enforce the following fiscal responsibility principles—

- (d) over the medium term, the government's borrowings shall be used only for the purpose of financing development expenditure and not for recurrent expenditure;
- (e) the county debt shall be maintained at a sustainable level as approved by county assembly;

Section 109 of No.18 of 2012, which it is proposed to amend—

109. (4) The County Treasury shall—

- (a) arrange for the County Revenue Fund to be kept in the Central Bank of Kenya or a bank approved by the County Executive Committee member responsible for finance and shall be kept in an account to be known as the "County Exchequer Account;

Section 116 of No.18 of 2012, which it is proposed to amend—

116. (1) A County Executive Committee member for finance may establish other public funds with the approval of the County Executive Committee and the county assembly.

(7) The administrator of a county public fund shall—

- (c) present the financial statements to the county assembly.

Section 119 of No.18 of 2012, which it is proposed to amend—

119. (2) As soon as practicable, each County Treasury shall establish a Treasury Single Account at the Central Bank of Kenya or a bank approved by the County Treasury through which payments of money to and by the various county government entities are to be made.

Section 123 of No.18 of 2012, which it is proposed to amend—

123. As soon as practicable after the statement has been submitted to the county assembly under this section, the County Executive Committee member for finance shall publish and publicise the statement and submit a copy to the Commission on Revenue Allocation and the Intergovernmental Budget and Economic Council.

Section 125 of No.18 of 2012, which it is proposed to amend—

125. (1) The budget process for county governments in any financial year shall consist of the following stages—

- (c) planning and establishing financial and economic priorities for the county over the medium term;

Section 126 of No.18 of 2012, which it is proposed to amend—

126. (1) Every county government shall prepare a development plan in accordance with Article 220(2) of the Constitution, that includes—

(2) The County Executive Committee member responsible for planning shall prepare the development plan in accordance with the format prescribed by regulations.

(3) The County Executive Committee member responsible for planning shall, not later than the 1st September in each year, submit the development plan to the county assembly for its approval, and send a copy to the Commission on Revenue Allocation and the National Treasury.

Section 127 of No.18 of 2012, which it is proposed to amend—

127. (1) Not later than the 15th June of each financial year, every county government shall prepare an annual cash flow projection for the county for the next financial year, and submit the cash flow projection to the Controller of Budget with copies to the Intergovernmental Budget and Economic Council and the National Treasury.

Section 131 of No.18 of 2012, which it is proposed to amend—

131. (1) The County Executive Committee member for finance shall submit to the county assembly the following documents in respect of the budget for every financial year—

(a) a budget summary that includes—

- (i) a summary of budget policies including revenue, expenditure, debt and deficit financing; and
- (ii) an explanation of how the budget relates to the fiscal responsibility principles and the financial objectives;
- (iii) a memorandum by the County Executive Committee member for finance explaining how the resolutions adopted by the county assembly on the budget estimates have been taken into account;

Section 132 of No.18 of 2012, which it is proposed to amend—

132. (1) Each financial year, the County Executive member for finance shall, with the approval of the County Executive Committee, make a pronouncement of the revenue raising measures for the county government.

Section 133 of No.18 of 2012, which it is proposed to amend—

133. Not later than ninety days after passing the Appropriation Bill, the county assembly shall consider and approve the Finance Bill with or without amendments.

Section 137 of No.18 of 2012, which it is proposed to amend—

137. (3) The purpose of the Forum is to provide a means for consultation by the county government on—

- (a) preparation of county plans, the County Fiscal Strategy Paper and the Budget Review and Outlook Paper for the county; and
- (b) matters relating to budgeting, the economy and financial management at the county level.

Section 141 of No.18 of 2012, which it is proposed to amend—

141. (1) In borrowing money, a county government shall ensure that its financing needs and payment obligations are met at the lowest possible cost in the market that is consistent with a prudent degree of risk, while ensuring that overall level of public debt is sustainable.

(9) The costs, interests and principal payments made by the national government on behalf of the county concerning loans to the county government shall, together with the principal amount, be reimbursed to the national government by the county government.

Section 143 of No.18 of 2012, which it is proposed to amend—

143 (2) Despite the provisions of subsection (1), the following persons are authorised to execute loan documents for borrowing by a county government entity—

- (c) the accounting officer responsible for the entity; and
- (d) any other specified officer authorized by legislation to execute such documents on behalf of the entity.

Section 144 of No.18 of 2012, which it is proposed to amend—

144. (8) A county government security may be executed on behalf of the county government only by—

- (a) the County Executive Committee member for finance;
- (b) a delegate appointed by the County Executive Committee member for finance; or
- (c) a borrowing agent appointed for that purpose under this Act.

Section 145 of No.18 of 2012, which it is proposed to amend—

145. (1) A county government entity may lend money in accordance with this Act or any county legislation.

Section 155 of No.18 of 2012, which it is proposed to amend—

155. (1) Regulations may prescribe requirements to be complied with in conducting any audits.

(5) A county government entity shall establish an internal auditing committee whose composition and functions are to be prescribed by the regulations.

Section 159 of No.18 of 2012, which it is proposed to amend—

159. (1) The County Executive Committee member for finance may waive a county tax, fee or charge imposed by the county government and its entities in accordance with criteria prescribed in regulations provided that—

- (a) the County Treasury shall maintain a public record of each waiver together with the reason for the waiver and report on each waiver in accordance with section 164 of this Act;
- (b) a State Officer may not be excluded from payment of a tax, fee or charge by reason of the office of the State Officer or the nature of work of the State Officer; and
- (c) such waiver or variation has been authorised by an Act of Parliament or county legislation.

Section 165 of No.18 of 2012, which it is proposed to amend—

165. (4) Not later than two months after the end of each financial year, a receiver of revenue for the county government shall submit to a county assembly a report with respect to all waivers and variations of taxes, fees or charges granted by the receiver during that year.

Section 171 of No.18 of 2012, which it is proposed to amend—

171. (2) The accounting officer shall—

- (a) for the purposes of collection systems consistent with this Act and the Urban Areas and Cities Act, manage, the urban area or city's credit control and debt collection policy;
- (b) immediately inform the County Executive Committee member for finance of any payments due to the urban area or city by a State organ in respect of city or urban area tax, or services, if such payments are regularly in arrears for periods of more than thirty days; and

- (c) take all reasonable steps to ensure that any funds collected by the urban area or city on behalf of another organ of state is transferred to that organ of state within three days and that such funds are not used for purposes of the city or urban area.

Section 174 of No.18 of 2012, which it is proposed to amend—

174. The accounting officer of an urban area or city shall observe the following principles in managing public finances of that entity—

- (a) the actual expenditure on the personnel shall not exceed a percentage of their allocation to be prescribed by the County Assembly;
- (b) on an annual basis the urban area's or city's recurrent expenditure shall not exceed its revenue;

Section 176 of No.18 of 2012, which it is proposed to amend—

176. (2) Funds withdrawn under subsection (1)—

- (a) may only be used to meet expenditure necessary to carry on the services of the urban area or city during the financial year concerned using the estimates submitted to the county assembly for approval; and
- (b) may not exceed in total one-half of the amount included in the estimates of expenditure submitted to the county assembly for approval.

Section 178 of No.18 of 2012, which it is proposed to amend—

178. (2) The grants referred to in subsection (1) shall be expended in accordance with the strategic plan as provided for under section 175.

(3) The County Executive Committee member for finance may in addition to the audit above, permit a donor of a grant to audit such funds on the basis of its own financial accounting rules.

Section 180 of No.18 of 2012, which it is proposed to amend—

180. (1) The Board of an urban area or city shall ensure that the urban area or city follows the guidelines prescribed by the Accounting Standards Board.

(2) The Accounting Officer of an urban area or city shall prepare an annual report including accounts in accordance with the provisions of the Urban Areas and Cities Act, 2011 and other reports as required by this Act.

Section 183 of No.18 of 2012, which it is proposed to amend—

183. The county government or county government entity may not invest—

- (a) in a county corporation; or
- (b) in a county government-linked company,

without the prior approval of the County Executive Committee, which may be given only after taking into account any recommendations of the County Treasury regarding the financial implications of the investment.

Section 183 of No.18 of 2012, which it is proposed to amend—

184. (1) The County Executive Committee Member for that entity is responsible for monitoring—

- (a) the financial performance of County corporations and County Government-linked corporation; and
- (b) the performance of any functions or activities that affect the financial performance of those county corporations.

(2) The responsibilities of the County Executive Committee member for that entity under subsection (1) shall include in particular—

- (a) analysing financial and other reports that are required to be prepared by a county corporation under any Act or county legislation;
- (b) reporting to the County Executive Committee on the performance of those county corporations; and
- (c) making recommendations to the County Executive Committee as to how a particular county corporation or county government-linked corporation could improve its performance.

Section 185 of No.18 of 2012, which it is proposed to amend—

185. (2) The report in subsection (1) shall include information on—

- (a) the date of incorporation and objects of the county corporation;
- (b) the amount of county government shareholding, directly or indirectly, in the county corporation;
- (c) any changes in the shareholding of the county corporation during the financial year;
- (d) the amount of any funding in the form of grants or subsidies provided by the county government to the county corporation

- or public entity, excluding profit making entities, during the financial year;
- (e) the amount of any loans made by the government to the county corporation, during the financial year;
 - (f) the cumulative amount of undischarged loans in respect of the corporation;
 - (g) the amount of profit or loss of the County corporation for the financial year;
 - (h) the amount of any revenue received by the county government from the county corporation during the financial year, including dividends, interest and proceeds from any divestiture of assets of the county corporation;
 - (i) the payments made, or losses incurred, by the county government to meet contingent liabilities as a result of loans during the financial year, including payments made in respect of loan write-offs or waiver of interest on loans; and
 - (j) an assessment of the financial and related non-financial performance of the county corporation for the financial year.

(3) Once every three years, the County Executive Committee member responsible for matters relating to public investments shall prepare a report on the need for the county government continued involvement in, or funding of, the County Corporation or county government-linked company.

(4) Copies of the reports prepared in subsections (1) and (3) shall be submitted to the Controller of Budget, the Commission on Revenue Allocation and the Auditor-General.

Section 186 of No.18 of 2012, which it is proposed to amend—

186. For the purposes of sections 182,183, 184 and 185—

- (a) “county government-linked corporation” means a county corporation in which the county government is a shareholder with less than fifty percent of the share capital of the corporation; and
- (b) “invest” means any form of funding, or potential funding, provided to a County corporation, including providing share capital, loans, grants or subsidies.

Section 187 of No.18 of 2012, which it is proposed to amend—

187. (3) An appointed member of the Council holds office for two years and is eligible for re-nomination and re-appointment at the end of a term of office for another term not exceeding two years.

Section 197 of No.18 of 2012, which it is proposed to amend—

197. (1) A public officer employed by the National Government or a National Government entity commits an offence of financial misconduct if, without lawful authority, the officer—

- (a) issues public government securities, or varies their terms and conditions;
- (l) fails to keep proper records or conceals, or wrongfully destroys, information that is required to be recorded;

Second Schedule of No.18 of 2012, which it is proposed to amend—

(8) Despite the repeal of the National Government Guarantee (Loans) Act, 2011, by this Act, the limit of contingent liability established by the resolution of the National Assembly on the 16th June, 2011 under that Act continues in effect, until such time as the National Assembly sets a financial limit under section 51 of this Act.