



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

BILLS, 2012

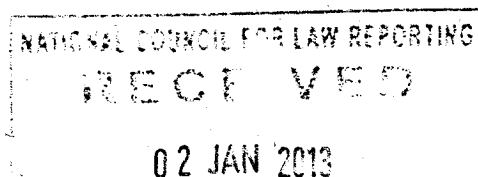
NAIROBI, 24th December, 2012

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**THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) BILL, 2012**

A Bill for

AN ACT of Parliament to amend the Public Finance Management Act to make special provision for national government public funds established for the benefit of the youth, women or other vulnerable or marginalized groups and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2012.

Short title

2. The Public Finance Management Act, 2012 is amended in section 24 by inserting the following new sub-sections immediately after sub-section (7):

Amendment of
section 24 of Act
No. 18 of 2012

(7A) Where a national government public fund is established by or under any written law for the benefit of the youth, women or other vulnerable or marginalized groups—

- (a) the monies under such fund shall not be disbursed through a bank, micro-finance institution or other commercial institution but shall be disbursed directly by the administrator of the fund to the beneficiaries of the fund; and
- (b) no interest shall be chargeable on monies disbursed or advanced under such fund.

(7B) Sub-section (7A) shall not preclude the imposition of an administrative fee to be paid by a beneficiary but such fee shall be reasonable and shall not exceed one per cent per annum of the amount disbursed or advanced.

MEMORANDUM OF OBJECTS AND REASONS

By Legal Notice No. 167 of 2006, the Minister for Finance made the Government Financial Management (Youth Enterprise Development Fund) Regulations, 2006 which established a Youth Enterprise Development Fund. By a further Legal Notice, No. 147 of 2007, the Minister for Finance made the Government Financial Management (Women Enterprise Fund) Regulations, 2007 which established the Women Enterprise Fund. Both Funds provide loans to credible micro-finance institutions (MFIs), registered non-governmental organizations (NGOs) involved in micro-financing and savings and credit co-operative organizations (SACCOs) for on-lending to youth and women enterprises.

Beneficiaries of the loans have been subjected to high and commercial interest rates which are prohibitive and punitive to youth and women enterprises and which are inconsistent with the objects and purposes for which the Funds were established. This Bill seeks to specifically bar the levying of any interest on monies disbursed to beneficiaries through funds established for the benefit of the youth, women or other vulnerable or marginalized groups. The Bill further requires that monies disbursed from such funds be disbursed by the administrators of the funds directly to the beneficiaries.

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 26th September, 2012.

EPHRAIM MAINA,
Member of Parliament.

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

24. (1) There is established a fund to be known as the Parliamentary Fund.

Establishment of
Parliamentary Fund
and other national
government public
funds.

(2) The Secretary to the Parliamentary Service Commission shall, on the directions of the Commission, open and operate such bank accounts as may be necessary for the purposes of the Parliamentary Fund.

(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—

- (a) establish procedures and systems for proper and effective management of the monies and property of the Fund;
- (b) establish accounting procedures and systems for the Commission to properly account for the monies and property;
- (c) superintend the expenditure of the monies of the Fund to ensure that the monies are properly accounted for;
- (d) prepare and submit accounts for each financial year in accordance with the written law for the time being relating to audit for audit by the Auditor-General; and
- (e) ensure that accounts prepared under paragraph (d) comply with the provisions of this Act.

(4) The Cabinet Secretary may establish a national government public fund with the approval of the National Assembly.

(5) The Cabinet Secretary shall designate a person to administer every national public fund established under subsection (4).

(6) The administrator of a national public fund shall ensure that the earnings of, or accruals to a national public fund are retained in the fund unless the Cabinet Secretary directs otherwise.

(7) The administrator of a national public fund shall ensure that money held in the fund, including any earnings or accruals referred to in subsection (6), is spent only for the purposes for which the fund is established.

(8) The Cabinet Secretary may wind up a national public fund with the approval of the National Assembly.

(9) On the winding up of a national public fund—

- (a) the administrator of the national public fund shall pay any amount remaining in the fund into the National Exchequer Account for the credit of the national government; or
- (b) the Cabinet Secretary shall pay any deficit in the fund from funds of the national government in the National Exchequer Account with the approval of the National Assembly; and
- (c) the Cabinet Secretary shall submit a final statement of accounts to Parliament.

(10) The administrator of a national public fund—

- (a) shall prepare financial statements for the fund for each financial year in a form specified by the Accounting Standards Board; and
- (b) not later than three months after the end of each financial year, submit those statements to the Auditor-General and deliver a copy of the statements to the National Treasury, Commission on Revenue Allocation and the Controller of Budget.

(11) The regulations shall provide for the establishment, management, operation or winding-up of national public funds.

(12) This section applies to all other national public funds including funds earmarked for specific purposes established by an Act of Parliament but does not apply to a public fund established by the Constitution.

(13) In this section—

“administrator”, in relation to a national public fund, means a person designated by the Cabinet Secretary under sub-section (5) to administer the fund; and

“national public fund” means a public fund established under subsection (4).