

No.

2014



PARLIAMENT
OF KENYA
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THE REPUBLIC OF KENYA

HIS EXCELLENCY THE PRESIDENT
UHURU KENYATTA

I assent

President

8th May.

, 2014

An Act of Parliament to amend the Public Finance
Management Act

**THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) ACT, 2014**

No. of 2014

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

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2014.

Short title.

2. Section 2 of the Public Finance Management Act (hereinafter referred to as “the principal Act”) is amended—

Amendment of
section 2 of No. 18
of 2012.

- (a) in the definition of the expression “accounting officer” by deleting the semi colon at the end of paragraph (d) and substituting therefor the words “ in respect of the Senate and the Clerk of the National assembly in respect of the National Assembly”;
- (b) in the definition of the expression “national government security”, by—
 - (i) deleting the word “includes” and substituting therefor the word “means”;
 - (ii) inserting the expression “or section 53A” immediately after the expression “section 53”
- (c) by inserting the following new definitions in their proper alphabetical sequence—

“external government security” means a national government security which is issued outside Kenya;

“external loan” means any loan governed by the laws of a jurisdiction other than Kenya; and

“loan” means any borrowing with or without interest from any source or any issuance of a national government security.

3. Section 12 of the principal Act is amended by deleting the expression, “annual Division of Revenue and the County Allocation of Revenue Bill” and substituting therefore the expression, “legislative proposals on annual Division of Revenue and County Allocation of Revenue”.

Amendment of section 12 of No. 18 of 2012.

4. Section 40 of the principal Act is amended—

Amendment of section 40 of No. 18 of 2012

- (a) in subsection (3) by deleting the words “the Finance Bill” and substituting therefor the words, “a legislative proposal”; and
- (b) in sub-section (4) by deleting the words, “the Finance Bill by the Cabinet Secretary, the relevant committee of the National Assembly shall introduce the Bill in the National together with the report of the committee on the Bill” and substituting therefor the words, “the legislative proposal of the Cabinet Secretary, the relevant committee of the National Assembly shall introduce a Finance bill in the National Assembly”.

5. Section 50 of the principal Act is amended by deleting subsection (7) and substituting therefor the following new subsection—

Amendment of section 50 of No. 18 of 2012.

“(7) The Cabinet Secretary shall ensure that the proceeds of any loan raised under this Act are—

- (a) paid into the Consolidated Fund;
- (b) paid into any other public fund established by the national government or any of its entities as the Cabinet Secretary may determine in accordance with regulations approved by Parliament;
- (c) disbursed directly to the suppliers where the loan is a government loan and is raised for the purpose of financing goods and services provided by a supplier outside Kenya; or

- (d) in the case of an external loan or external government security, applied, in part, to pay at closing, prenegotiated expenses associated solely and exhaustively with the borrowing, including but not limited to, the fees, commissions and expenses of lenders, financial arrangers, managers and book runners, fiscal agents, trustees, paying agents, exchange and information agents, syndicate agents, counsel, clearing systems, listing agents, and stock exchanges, rating agencies and other expenses of a similar nature arising from the external loan or external government security.”

6. Section 53 of the principal Act is amended in subsection (6), by inserting the words “the national government or” immediately after the words “a loan by”.

Amendment of section 53 of No. 18 of 2012.

7. The principal Act is amended by inserting the following new section immediately after section 53—

Insertion of a new section 53A in No.18 of 2012.

Issuance of external securities by national government.

53A. (1) Notwithstanding the provisions of section 53 of this Act, the national government may issue external government securities, for money borrowed or for any other purpose, only in circumstances expressly authorised by this Act.

(2) The Cabinet Secretary may raise an external loan or issue external government securities, authorized by this Act, on behalf of the national government for money borrowed by the national government in such manner as the Cabinet Secretary may determine.

(3) Any external loans or external government securities issued by the Cabinet Secretary under this section shall be within the borrowing limits set by Parliament under section 50 (2) of this Act.

(4) The authority of the Cabinet Secretary to borrow money includes the authority to borrow money by raising external loans or issuing external government securities.

(5) The Cabinet Secretary shall ensure that every external loan or external government security issued under this section is given in the name of the Republic of Kenya.

(6) An external loan or external government security may be executed on behalf of the national government only by—

- (a) the Cabinet Secretary;
- (b) a delegate appointed by the Cabinet Secretary, in writing; or
- (c) a borrowing agent appointed in accordance with section 50 (9) of this Act.

(7) For the purposes of subsection (6), it shall be sufficient if the signature of a person who is required to execute an external government security under this section is reproduced on the security.

(8) External government securities shall be registered and may be recorded and traded in accordance with the terms and conditions of the external government security.

(9) Claims against the borrower or issuer by holders of external loans or external government securities for payment shall be prescribed and become void if the claims are not made within six (6) years from the redemption date in the case of principal and five years from the due date in the case of interest or any other amount.

(10) In the case of external government securities, a duplicate external government security may be issued in accordance with the terms and conditions applicable to the external government security to replace an external government security that is lost, damaged or destroyed.

8. Section 55 of the principal Act is amended by inserting the following new subsection immediately after subsection (9)—

Amendment of
section 55 of No. 18
of 2012.

“(10) The provisions of this section shall not apply to external government securities except that notifications shall be made in the Register of the National Government Securities to reflect the outstanding amount of each issue of external debt securities”.

9. Section 191 of the principal Act is amended—

Amendment of
section 191 of No.
18 of 2012.

- (a) in sub-section (4) by deleting the words, “Division of Revenue Bill and County allocation of Revenue Bill” and substituting therefor the words, “legislative proposals on the Division of Revenue and County Allocation of Revenue”; and
- (b) in sub-section (5) by deleting the words, “Division of Revenue Bill and County allocation of Revenue Bill” and substituting therefor words, “legislative proposal on the Division of Revenue and County Allocation of Revenue”.

No.

Public Finance Management (Amendment)

2014

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 29th April, 2014.



Clerk of the National Assembly.

Presented for assent in accordance with the provisions of the Constitution of Kenya on the 8th May, 2014 at the hour of 11.30am.



Speaker of the National Assembly.