

THE NATIONAL ASSEMBLY  
PAPERS LAID



DATE: 04 JUN 2020

DAY: REPUBLIC OF KENYA

THE NATIONAL TREASURY AND PLANNING

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THE NATIONAL TREASURY  
P.O. Box 30007  
NAIROBI

Ref. No. AG/3/79/VOL.10 (30)

Mr. Michael Sialai, CBS  
Clerk of the National Assembly  
Parliament Buildings  
P.O. Box 41842 - 00100  
NAIROBI.

Dear Sialai,

PARLIAMENT  
OF KENYA  
LIBRARY

NATIONAL ASSEMBLY  
RECEIVED  
28 MAY 2020  
CLERK'S OFFICE  
P. O. Box 41842, NAIROBI

18<sup>th</sup> May, 2020

*28/5/20*  
*pull (M)*  
*please deal for June 4, 2020*  
*[Signature]*

**RE: THE CUSTOMS AND EXCISE (RAILWAY DEVELOPMENT LEVY FUND) (AMENDMENT) REGULATIONS, 2020**

The Customs and Excise (Railway Development Levy Fund) (Amendment) Regulations, 2020 have been published vide Legal Notice No. 86 of 15<sup>th</sup> May, 2020.

Towards this end, the National Treasury is submitting the following documents in accordance with the Statutory Instruments Act, 2013 to the National Assembly for further necessary action:-

- a. The published Customs and Excise (Railway Development Levy Fund) (Amendment) Regulations, 2020 Legal Notice No. 86 dated 15<sup>th</sup> May, 2020; and
- b. A signed Explanatory Memorandum;

The purpose of this letter, therefore, is to submit the above mentioned documents to the National Assembly for your further necessary action.

Your prompt attention and action on this matter will be highly appreciated.

Yours *[Signature]*,

*[Signature]*

HON. (AMB.) UKUR YATANI, EGH  
CABINET SECRETARY/NATIONAL TREASURY & PLANNING

**Copy to: James Macharia, ECH**  
Cabinet Secretary  
Ministry of Transport, Infrastructure, Housing, Urban Development  
& Public Works,  
**NAIROBI**

**Julius Muia, PhD, CBS**  
Principal Secretary  
National Treasury  
**NAIROBI**

**Kennedy Ogetto, EBS**  
Solicitor General  
Office of the Attorney General  
Sheria House  
**NAIROBI**

**Solomon Kitungu**  
Principal Secretary  
State Department of Transport  
**NAIROBI**

**SPECIAL ISSUE**

987

Kenya Gazette Supplement No. 73

15th May, 2020

(Legislative Supplement No. 50)

LEGAL NOTICE No. 86

THE MISCELLANEOUS FEES AND LEVIES ACT

(No. 29 of 2016)

THE CUSTOMS AND EXCISE (RAILWAY DEVELOPMENT  
LEVY FUND) (AMENDMENT) REGULATIONS, 2020

IN EXERCISE of the powers conferred by section 8 (4) of the Miscellaneous Fees and Levies Act, 2016, as read together with section 24 of the Public Finance Management Act, 2012, the Cabinet Secretary for the National Treasury and Planning makes the following Regulations—

THE CUSTOMS AND EXCISE (RAILWAY DEVELOPMENT LEVY  
FUND) (AMENDMENT) REGULATIONS, 2020

1. These Regulations may be cited as the Customs and Excise (Railway Development Levy Fund) (Amendment) Regulations, 2020.

Citation.

2. Regulation 3 of the Customs and Excise (Railway Development Levy Fund) Regulations, 2013, hereinafter referred to as the principal Regulations, is amended in paragraph (2) (a) by deleting the expression “section 117A of the Customs and Excise Act” and substituting therefor the expression “section 8 of the Miscellaneous Fees and Levies Act, 2016”.

Amendment of r.  
3 of L.N.  
118/2013.

3. Regulation 4 of the principal Regulations is amended by inserting the words “and operation” immediately after the word “construction”.

Amendment of r.  
4 of L.N.  
118/2013.

Dated the 14th May, 2020.



UKUR YATANI,

*Cabinet Secretary for the National Treasury and Planning.*

*(Legislative Supplement No. 50)*

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Citation.

2. Regulation 3 of the Customs and Excise (Railway Development Levy Fund) Regulations, 2013, hereinafter referred to as the principal Regulations, is amended in paragraph (2) (a) by deleting the expression “section 117A of the Customs and Excise Act” and substituting therefor the expression “section 8 of the Miscellaneous Fees and Levies Act, 2016”.

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4 of L.N.  
118/2013.

Dated the 14th May, 2020.



UKUR YATANI,

*Cabinet Secretary for the National Treasury and Planning.*

**EXPLANATORY MEMORANDUM FOR THE CUSTOMS AND EXCISE  
(RAILWAY DEVELOPMENT LEVY FUND) (AMENDMENT)  
REGULATIONS, 2020**

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**I. The Purpose of Customs and Excise (Railway Development Levy Fund)  
(Amendment) Regulations, 2020.**

1. The purpose of these Regulations is to propose to amend the Customs and Excise (Railway Development Levy Fund) Regulations, 2013 to operationalize the Tax Laws (Amendment) Act, 2020 as approved by Parliament and expand the application of the Railway Development Levy Fund to cover standard gauge railway operations.

**II. The Legislative Context:**

2. The National Assembly delegated the duty to make Regulations to the Cabinet Secretary responsible for finance with the approval of the National Assembly. This is provided for under Section 8 of the Miscellaneous Fees and Levies Act, 2016. Towards this end, the amendments are made to operationalize the provisions of the law as approved by the National Assembly.

**III. Policy Background**

3. The Tax Laws (Amendment) Act, 2020 provided that this Fund be expanded to cater for operations of the standard gauge railway line.

**IV. Public Consultations**

4. The National Treasury published the Tax Laws (Amendment) Bill, 2020 in both its website, the Daily Nation and the Standard Newspapers, which are newspapers of wide circulation in Kenya, before the National Assembly considered and approved the expansion of the Fund to include operations of the standard gauge railway line.

**V. Guidance**

5. The National Treasury and the Ministries of Transport, Infrastructure, Housing, Urban Development and Public Works will sensitize stakeholders including Parliament, and the general public, on the provisions of the Customs and Excise (Railway Development Levy Fund) (Amendment) Regulations, 2020.

**VI. Performance Monitoring and Evaluation of the Fund**

6. The National Treasury and the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works shall monitor the application of the Railway Development Levy Fund resources including resources approved for operations of the standard gauge railway line. This will be done through quarterly reports submitted by the Administrator of the Fund. In addition, Railway Development Levy Fund Board shall be responsible for implementing the Fund and will also carry out regular monitoring and evaluation of the specific programmes, projects and develop policies relating to the general administration and management of the Fund.

**VII. National Treasury Contact Person.**

7. The contact person at the National Treasury is the Cabinet Secretary, Hon. (Amb) Ukur Yatani, EGH or the Principal Secretary, Julius Muia, PhD, CBS.



**UKUR YATANI, EGH**  
**CABINET SECRETARY TO THE NATIONAL TREASURY AND**  
**PLANNING**

Date... *22<sup>nd</sup> May, 2020.* .....