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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION (2024)
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON THE CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT (NO3)
(AMENDMENT) BILL, 2024
(NATIONAL ASSEMBLY BILL NO. 44 OF 2024)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 26 NOV 2024	DAY: TUE
TABLED BY:	DEPARTMENTAL COMMITTEE
CLERK AT THE TABLE:	ON FINANCE AND NATIONAL PLANNING MERCY CHUMD

NATIONAL ASSEMBLY
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SPEAKER'S OFFICE
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DIRECTORATE OF DEPARTMENTAL COMMITTEES
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NAIROBI

NOVEMBER, 2024

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LIST OF ABBREVIATION

KEPSA	Kenya Private Sector Alliance
KISM	Kenya Institute of Supplies Management
KURA	Kenya Urban Roads Authority
MP	Member of Parliament
ODM	Orange Democratic Movement
PPRA	Public Procurement Regulatory Authority
UDA	United Democratic Alliance

ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Minutes

Annexure 3: The Public Finance Management Bill No.3 (National Assembly Bills No. 44 of 2024)

Annexure 5: Advertisement inviting the public to submit memoranda on the Bill

Annexure 6: Letter from the Clerk of the National Assembly inviting relevant stakeholders to submit memoranda on the Bill

Annexure 7: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum

Annexure 8: Copies of Memoranda by stakeholders

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Finance and National Planning on its consideration of the Public Finance Management Bill (No.3)(National Assembly Bills No. 44 of 2024) published on 23rd October, 2024 and read for a First Time on 13th November 2024. The Bill was committed to the Departmental Committee on Finance and National Planning for consideration and reporting to the House under the provision of Standing Order 127.

The Bill seeks to insert a new Part IVA immediately after Section 186 to amend the Act by seeking to facilitate the financing of functions transferred between the two levels of government, as outlined in Article 187 of the Constitution.

The Bill proposes that funding for transferred functions will continue to be sourced from the budgets previously approved for the transferring level of government. The costs associated with these functions will be determined using the costing frameworks outlined in the manuals provided by both national and county governments.

The bill further proposes that transfer agreements between the two levels of government must include provisions for the acquisition, disposal and transfer of assets and liabilities. Additionally, the transferring level of government will be required to prepare cash flow projections based on anticipated revenue from various sources.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 14th November 2024 inviting the public to submit memoranda by way of both oral and written submissions on the Bill.

The Committee on diverse dates between Monday 18th and Wednesday 20th November 2024, conducted public participation forums in six(6) counties, namely Isiolo, Bungoma, Siaya, Mombasa, Kericho, and Taita Taveta Counties, where the Committee received views from the members of the public.

Additionally, the Committee, in line with the requirements of Article 118 of the Constitution, vide letters REF: NA/DDC/F&NP/2024/(126) dated 15th November,2024, invited stakeholders for stakeholder engagement sessions which were held on 22nd November, 202 and to 23rd November, 2024 at Mini Chamber in Parliament Buildings. The Committee also held a consultation meeting with the National Treasury.

The Committee, having reviewed the Public Finance Management (Amendment) Bill, 2024 (*National Assembly Bill No.3 of 2024*), recommends that the House approves the Bill with amendments

It is my pleasure to report that, the Committee has considered the Public Finance Management Bill (No.3) (National Assembly Bills No. 44 of 2024) and wishes to report to this August House with the recommendation that, the House approves the Bill with amendments

HON. CPA KURIA KIMANI, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

Report of the Departmental Committee on Finance and National Planning on the Consideration of the Public Finance Management (Amendment) Bill (No.3), 2024 (National Assembly Bill No.44) 2024

ACKNOWLEDGMENT

The Committee extends its sincere gratitude to the Offices of the Speaker and the Clerk of the National Assembly for their invaluable logistical and technical support throughout its sittings. Their assistance greatly facilitated the Committee's deliberations and ensured the smooth progress of its work. The Committee also acknowledges and appreciates the participation of all stakeholders and members of the public who diligently submitted their comments on the Bill. Their insights and contributions have significantly enriched the Committee's understanding of the various perspectives on the proposed measures.

In addition, the Committee expresses its heartfelt appreciation to the Honorable Members of the Committee and the dedicated Committee Secretariat. Their commitment, expertise, and collaborative efforts were instrumental in preparing and producing this comprehensive report. Their diligent work enabled the Committee to fulfill its mandate effectively and present a thorough analysis of the Public Finance Management (Amendment) Bill, 2024.

On behalf of the Departmental Committee on Finance and National Planning, and per Standing Order 199(6), it is both a privilege and an honor to present to this esteemed House the Report of the Departmental Committee on Finance and National Planning on its Consideration of the Public Finance Management (Amendment) Bill, No. 3, 2024. This report represents the culmination of rigorous deliberations, careful consideration of diverse viewpoints, and a steadfast commitment to advancing sound fiscal policies to foster economic growth, support public welfare, and ensure the nation's financial sustainability. The Committee trusts that this report will serve as a valuable resource for informed debate and decision-making by the members of this House.

CHAPTER ONE

1.0 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of the fifteen Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the program and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - iii. *To study and review all the legislation referred to it;*
 - iv. *To study, access, and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - v. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vi. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on Appointments);*
 - vii. *To examine treaties, agreements and conventions;*
 - viii. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - ix. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - x. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following government Ministries and Departments:
 - i. National Treasury and Planning;
 - ii. State Department for Economic Planning
 - iii. Commission on Revenue Allocation;
 - iv. Office of the Controller of Budget;

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning comprises of the following Members:

Chairperson

Hon. CPA Kuria Kimani, MP
Molo Constituency

UDA Party

Vice-Chairperson

Hon. (Amb). Benjamin Langat, CBS, MP
Ainamoi Constituency

UDA Party

Hon. (Dr). Adan Keynan, CBS, MP
Eldas Constituency

Jubilee Party

Hon. Andrew Okuome, MP
Karachuonyo Constituency

ODM Party

Hon. David Mboni, MP
Kitui Rural Constituency

Wiper Party

Hon. CPA. Joseph Oyula, MP
Butula Constituency

ODM Party

Hon. Joseph Kipkoros Makilap, MP
Baringo North Constituency

UDA Party

Hon. Umul Ker Kassim, MP
Mandera County

UDA Party

Hon. CPA Julius Rutto, MP
Kesses Constituency

UDA Party

Hon. (Dr.) Shadrack Ithinji, MP
South Imenti Constituency

Jubilee Party

Hon. Paul Biego, MP
Chesumei Constituency

UDA Party

Hon. Joseph Munyoro, MP
Kigumo Constituency

UDA Party

Hon. Dr. John Ariko Namoit, MP
Turkana South Constituency

ODM Party

Hon. Mohamed S. Machele, MP
Mvita Constituency

ODM Party

Hon. George Sunkuyia, MP
Kajiado West Constituency

UDA Party

1.4 COMMITTEE SECRETARIAT

5. The following staff facilitates the Committee:

Mr. Benjamin Magut Principal Clerk Assistant /Head of Secretariat	
Ms. Jennifer Ndeto Deputy Director, Legal Service	Mr. Salem Lorot Legal Counsel I
Mr. James M. Macharia Media Relations Officer I	Ms. Peninnah Simiren Legal Counsel II
Ms. Winfred Kambua Clerk Assistant III	Mr. George Ndenjeshe Fiscal Analyst III
Mr. Benson Kamande Clerk Assistant III	Ms. Nelly W.N Ondieki Research Officer III
Mr. Benson Muthuri Serjeant-At-Arms	Ms. Joyce Wachera Hansard Officer III

6. Further, the Committee Secretariat was supported by the following technical officers:

1. Ms. Gladwel Amimo Research Officer III, Parliamentary Research Service

CHAPTER TWO

2.0 OVERVIEW OF THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL NO. 3

2.1 INTRODUCTION

7. The Bill seeks to amend the Public Finance Management Act of 2012 to establish clear financial guidelines for transferring functions between the national and county governments, as provided under Article 187 of the Constitution. This article allows for the transfer of functions or powers from one level of government to another, provided that resources are allocated to ensure the function is performed effectively.

2.2 OVERVIEW OF THE BILL

8. The Bill emphasizes the importance of financing transferred functions. It specifies that when a function is transferred, it will continue to be funded from the sources outlined in the transferring government's approved budgets. This provision ensures that service delivery is not disrupted due to funding gaps, maintaining continuity in the execution of the transferred functions.
9. The Bill introduces a costing framework for transferred functions to ensure a standardized approach. The cost must be calculated using the national and county government budget manuals, providing a common understanding of the financial requirements for both levels of government. This uniform methodology promotes consistency and clarity in financial planning.
10. Additionally, the Bill outlines a mechanism for securing additional funding when necessary. If extra resources are required to support a transferred function, both levels of government must consult and agree on the funding arrangement. The transferring government will provide the additional funds, with the process for approval and disbursement detailed in the transfer agreement. This approach ensures flexibility and financial sustainability for newly transferred responsibilities.
11. The Bill also enhances budget transparency by requiring that any additional funds for transferred functions be included in the budget estimates of both levels of government. These budget entries must specify the revenue sources, such as loans, grants, and appropriations-in-aid, and be submitted for approval by Parliament or the respective county assembly. This ensures that all financial transactions related to the transfer are documented and subjected to oversight.
12. Further, the management of assets and liabilities associated with transferred functions is a key focus of the Bill. Transfer agreements must include provisions for the acquisition, disposal, and management of these assets and liabilities. The receiving government is tasked with maintaining an updated register and ensuring proper transfer back to the original government at the end of the transfer period.

13. To facilitate smooth financial operations, the Bill requires the transferring government to prepare and publish cash flow projections within 15 days of the start of the transfer period.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 LEGAL FRAMEWORK ON PUBLIC PARTICIPATION

14. Article 118 (1)(b) of the Constitution provides that:
"Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees."
15. The National Assembly Standing Order 127 (3) and (3A) stipulates that:
"(3) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism including-
 - (a) inviting submission of memoranda;*
 - (b) holding public hearings;*
 - (c) consulting relevant stakeholders in a sector; and*
 - (d) consulting experts on technical subjects.*
(3A) The Departmental Committee shall consider the views and recommendations of the public under paragraph (3) in its report to the House.

3.2 STAKEHOLDER AND PUBLIC ENGAGEMENTS

16. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 14th November 2024, inviting the public to submit memoranda through written statements on the Bill. Further, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2024(126), dated 15th November 2024, invited stakeholders to submit views on the Bill and attend a public participation forum on 22nd November and 23rd November 2024, respectively.
17. The Committee received memoranda from the four (4) entities, namely Westminster Consulting, Cliffe Dekker Hofmeyr (Kenya), Kenya Private Sector Alliance (KEPSA), Association of Pension Trustees and Administrators of Kenya (APTAK) Further, the Committee received views from the residents of Isiolo County, Mombasa County, Kericho County, and Siaya County. The memoranda are annexed to this report as Annexure 8.
18. The feedback received from the interactions with stakeholders and from various members of the public from Counties provided valuable input, highlighting specific concerns and suggestions for amendments. The following are the submissions on various clauses from different Counties and stakeholders:

3.2.1 ISIOLO COUNTY

19. The members of Isiolo County expressed support for the proposal on the transfer of functions, highlighting its potential to streamline governance and enhance cooperation between the county and national governments. They emphasized that the proposal would clarify roles and responsibilities, reducing the likelihood of conflicts and jurisdictional disputes that have historically delayed critical projects, resulting in inefficiencies and wasted resources. The members also welcomed the provision for funding these transferred functions from budgets previously approved for the transferring level of government. They noted that coupled with standardized costing frameworks outlined in manuals provided by both national and county governments, this arrangement would ensure that resources are allocated efficiently and transparently, enabling smoother coordination, faster decision-making, and the timely completion of development projects.

3.2.2 MOMBASA COUNTY

20. The residents of Mombasa County supported the proposal to transfer functions between the national and county governments, highlighting the need for increased funding at the county level. They emphasized that county governments, being closest to the grassroots, are well-placed to ensure the effective and efficient allocation and management of resources.

21. Further, the residents recommended the introduction of legislation to implement a "One County, One Product" policy. This initiative would promote specialization in specific products by each county, reduce dependence on imports, ensure quality production, and boost local manufacturing nationwide.

3.2.3 TAITA TAVETA COUNTY- MWATATE CDF HALL

22. Residents of the County supported the transfer of functions between the national and county governments, stressing the need to synchronize county revenue collection systems. This, they noted, would enhance efficient tax collection and ensure smooth resource allocation.

23. They further expressed concerns over consistent delays in disbursing funds to county governments. They pointed out the adverse effects, including disrupted service delivery, lack of access to essential medication in hospitals, families struggling due to unpaid salaries, and a declining economy resulting from stalled development projects.

3.2.4 KERICHO COUNTY

24. The residents of Kericho County supported the proposed amendments, emphasizing that they would enhance fiscal accountability and efficiency within Kenya's devolved governance system. They noted that the amendments would strengthen public confidence in financial governance while promoting equitable and efficient resource utilization across all levels of government. The residents stressed the need for accountability at all levels of government, with prudent use of resources. They proposed retaining the health, education, and agriculture functions under the national government to prevent disruptions such as union strikes. Additionally, they urged the government to increase and ensure the timely disbursement of funds to counties, recognizing the critical role county governments play.

3.2.5 WESTMINSTER CONSULTING

Clause 2 (186A)

25. Westminster Consulting supported the proposal to introduce transfer agreements between national and county governments noting that it will ensure all transfers are formalized and governed by a uniform, well-defined agreement. It will also reduce the risks of disputes and misunderstandings between government levels. They stated that the standardization of agreements will ensure predictability and clarity, strengthen intergovernmental coordination by providing legal safeguards and consistent process and it will also lay the groundwork for transparency and accountability in transferred functions.

Clause 2(186C)

26. Westminster Consulting supported the proposal on the transferred functions being funded from existing sources in approved budgets and consultations. They informed the Committee that the proposal would ensure continuity in service delivery during transitions and would also establish a collaborative mechanism for addressing funding gaps. They noted the proposals' implications, including preventing public service interruptions by maintaining funding flows. The new proposal will also promote joint decision-making on financial resources, strengthening intergovernmental relationships. Finally the new proposal will enhance operational efficiency by streamlining the allocation and disbursement process through clear agreements.

Clause 2(186D)

27. The proposal to have transferred functions costed through standardized frameworks provided in both national and county government manuals was strongly welcomed by Westminster Consulting. A standardized costing framework will ensure fairness and accuracy in resource allocation. Clear budget presentations will promote transparency and facilitate oversight. The

standardized frameworks will help prevent allocation between discrepancies between national and county governments, will enhance accountability by mandating legislative approval for all budget estimates and will also promote effective fiscal management and minimize risks of mismanagement.

Clause 2(186E)

28. The new proposal that management of assets and liabilities be included in transfer agreements will establish clear protocols for asset and liability management, preventing disputes. The proposal will also strengthen accountability and compliance through mandated record-keeping and thus will enhance transparency and facilitate effective audits. Further, they stated that the proposal will also minimize risks of mismanagement or disputes over asset ownership and will provide structured processes for seamless asset transfers, fostering trust between governments.

Clause 2(186F)

29. The proposal to have transferring governments prepare cashflow projections and publish them 15 days before the transfer period's commencement was supported by Westminster because it will promote transparency through the timely publication of projections. It will also ensure forward-looking financial planning for effective resource allocation and management by preventing delays in execution. The proposal will foster public trust and accountability through accessible financial data enabling informed decision-making by providing accurate revenue forecasts.

Clause 2(186G)

30. The proposal to have accounting officers submit quarterly and annual financial and non-financial reports to oversight bodies will ensure continuous monitoring of transferred functions. Additionally, it will facilitate effective oversight and decision-making by providing detailed performance data. This will ensure guaranteed accountability in resource utilization, minimize the risk of mismanagement or operational inefficiencies, promote transparency, and build trust between national and county governments.

3.2.6 CLIFFE DEKKER HOFMEYR (KENYA)

New Clause

31. Amend to add new Section 186(F) to read '*that Cabinet Secretary and the County Executive Committee member for finance for the affected County shall ensure that there is public participation in the process of transferring functions from one level of the government to the other.*'

Justification

32. The transfer of functions from one level of government to another is a critical task that affects a huge population therefore a matter of public interest. In the

past, there has been an experienced a tussle when Nairobi County transferred its functions to the National government with the governor alleging that he was incapacitated.

Committee Observations

33. **The Committee noted public participation is a constitutional imperative. Therefore, there was no need to provide for it in the statute.**

3.2.7 KENYA PRIVATE SECTOR ALLIANCE (KEPSA)

34. KEPSA fully supports the Public Finance Management (Amendment) Bill as it seeks to strengthen financial management in transferring functions between levels of government. These proposed amendments are essential for enhancing efficiency in public finance management at the county level, streamlining service delivery, and fostering a conducive environment for the private sector growth across both levels of government.

3.2.8 ASSOCIATION OF PENSION TRUSTEES AND ADMINISTRATORS OF KENYA (APTAK)

New Clause

35. Add a new clause to amend Section 94 by inserting the following new subsection immediately after subsection 94(1)(a)(ii)-
'has persistently delayed or failed to remit employee salaries statutory deductions including taxes, pension, national health insurance and cooperative societies deductions.'

Committee Observations

36. **The Committee agreed with stakeholder.**

New Clause

37. Add a new Clause to amend Section 109 by inserting the following subsections immediately after subsection 7: -
(7a) *The Controller of the Budget may not approve any withdrawals from the County Revenue Fund if-*
(a) A county government has committed persistent material breach as defined under Section 96 of this Act
(b) Has persistently delayed or failed to remit statutory deductions including taxes, pension contributions, national health insurance, and cooperative societies deductions.
(7b) *In addition to the requirements provided under su-section 6, a county government shall, every quarter, submit the following additional documents to the Controller of Budget and the National Treasury-*
(a) A statement of statutory deductions status;

- (b) A statement on the County's progress in implementing the previous year's plan for paying its outstanding statutory deductions;*
- (c) A certification of payment of previous statutory deductions issued by the relevant statutory institutions; and*
- (d) A statement of the County's plan for repaying the statutory deductions which shall be accompanied by an agreement signed by the relevant statutory institution accepting the repayment plan.*

Committee Observations

38. The Committee agreed with stakeholder.

3.2.9 OKOA UCHUMI

39. The Okoa Uchomi supported the proposed amendment to the Public Finance Management Act to facilitate the financing of functions transferred between the two levels of government, as outlined in Article 187 of the Constitution. These provisions are a significant and commendable development, as they provide much-needed clarity on the financing framework for functions transferred between county and national governments—a process that has faced numerous challenges in the past. By aligning with Article 187 of the Constitution, which governs the transfer of functions between levels of government, the amendments ensure that transferred functions are financed based on the approved budget allocations of the transferring government.
40. Additionally, the provisions clearly obligate the government receiving the transferred functions to publish cash flow projections and quarterly implementation reports. This promotes transparency and accountability in the management and execution of transferred functions, addressing existing gaps in the transfer process.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

41. The Committee, having reviewed the Public Finance Management (Amendment) Bill No. 3 2024 (*National Assembly Bill No.44 of 2024*) observed that:

- I. There is a need to streamline the transfer of function between the levels of government always to ensure minimized interruption of service to the public.
- II. The Cabinet Secretary, the National Treasury should provide a comprehensive and responsive framework for costing of transferred functions.

CHAPTER FIVE


5.0 COMMITTEE RECOMMENDATION

42. The Committee having reviewed the Public Finance Management (Amendment) Bill No. 3 2024, (National Assembly Bill No.44 of 2024) recommends that the House approves the Bills with amendments

SIGNED.....
[Handwritten Signature]

DATE.....
26th Nov. 2024

HON. CPA KIMANI KURIA, MP
CHAIRPERSON DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 26 NOV 2024	
DAY: <i>TUE</i>	
TABLED BY:	DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
CLERK-AT THE-TABLE:	MERCY CHUMBO



**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION - 2024**

**DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING.
ADOPTION LIST
REPORT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 3) BILL,
(NATIONAL ASSEMBLY BILL NO. 44 OF 2024).**

We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, **Monday 25th November, 2024.**

S/NO.	NAME	SIGNATURE
1.	HON. (CPA). KURIA KIMANI, MP - CHAIRPERSON	
2.	HON. (AMB). BENJAMIN KIPKIRUI LANGAT, MP – VICE CHAIRPERSON	
3.	HON. DR. ADAN KEYNAN WEHLIYE, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. (CPA) JOSEPH MAERO OYULA, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. JOSEPH MAKILAP KIPKOROS, MP	
9.	HON. JOSEPH KAMAU MUNYORO, MP	
10.	HON. (CPA) JULIUS KIPLLETING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	

(AMENDMENT) BILL 2024. (AMENDMENT
NO. 4) BILL (NATIONAL ASSEMBLY BILL NO.
45 OF 2024)

The Committee adopted the report having been proposed by Hon. Joseph Makilap Kipkoros, MP and seconded by Hon. CPA Julius Kipletting Ruto, MP

Committee Recommendations

The Committee having reviewed The Public Finance Management (amendment) Bill 2024. (Amendment No. 4) Bill (National Assembly Bill No. 45 of 2024) recommended that the House approves the report.

MIN No. NA/F & NP/2024/346: ADJOURNMENT

There being no other business, the meeting was adjourned at 6:25 PM. The next meeting will be held on notice.

SIGNED: DATE: 26th November 2024

HON. CPA. KURIA KIMANI, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND
NATIONAL PLANNING.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

IN THE MATTER OF ARTICLES 118(1)(b), 250(2) OF THE CONSTITUTION
AND
IN THE MATTER OF SECTION 11(5) OF THE INDEPENDENT POLICING OVERSIGHT ACT (CAP. 86)
AND
IN THE MATTER OF THE PUBLIC APPOINTMENTS (PARLIAMENTARY APPROVAL) ACT (CAP. 7F)
AND
IN THE MATTER OF APPROVAL BY THE NATIONAL ASSEMBLY OF PERSONS NOMINATED FOR APPOINTMENT AS CHAIRPERSONS AND MEMBERS OF THE COMMISSION ON ADMINISTRATIVE JUSTICE, SALARIES AND REMUNERATION COMMISSION, NATIONAL GENDER AND EQUALITY COMMISSION AND THE BOARD OF THE INDEPENDENT POLICING OVERSIGHT AUTHORITY

NOTIFICATION OF APPROVAL HEARINGS AND INVITATION TO SUBMIT MEMORANDA

WHEREAS, in accordance with Article 250(2) of the Constitution and section 11(5) of the Independent Policing Oversight Authority Act (Cap. 86), the President is empowered to nominate and, with the approval of the National Assembly, appoint the Chairpersons and Members of the Commission on Administrative Justice (CAJ), Salaries and Remuneration Commission (SRC), and the National Gender and Equality Commission (NGEC); and the Board of the Independent Policing Oversight Authority (IPOA);

AND WHEREAS, following receipt of the nominations from H.E. the President, the Hon. Speaker of the National Assembly vide a Communication made on Wednesday, 13th November 2024 conveyed the Messages to the House and referred the names and curriculum vitae of the nominees to the Departmental Committees on Justice and Legal Affairs, Labour, Social Protection and Administration and Internal Security for consideration and reporting to the House;

IT IS NOTIFIED to the general public that pursuant to Article 118(1)(b) of the Constitution and section 6(4) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F), the Departmental Committees shall conduct Approval Hearings (Vetting) of the nominees on Friday, 22nd November, 2024 at Parliament Buildings as per the schedule below—

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ENTITY: COMMISSION ON ADMINISTRATIVE JUSTICE				
S. No.	NOMINEE	POSITION	TIME	VENUE
1.	Mr. Charles Orinda Dulo	Chairperson	8:30am	Committee Room 19, 3 rd Floor Bunge
2.	Hon. Charles Njagua Kanyi	Member	9:45am	Lower Parliament Buildings
3.	Ms. Dorothy Imator Kimwengoch	Member	11:00am	
DEPARTMENTAL COMMITTEE ON LABOUR ENTITY: SALARIES AND REMUNERATION COMMISSION				
S. No.	NOMINEE	POSITION	TIME	VENUE
1.	Mr. Sammy Chepkwony	Chairperson	8:30am	Committee Room 9, 1 st Floor, Main Parliament Buildings
2.	Maj. Gen. (Rtd) Martin Kizito Ong'oi, CBS	Member	9:45am	
3.	Mr. Mohamed Aden Abdi	Member	11:00am	
4.	Ms. Jane Gataaka Niage	Member	12:00pm	
5.	Mr. Leonid Ashindu	Member	2:00pm	
6.	Dr. Gilda Odera	Member	3:00pm	
7.	Dr. Geoffrey Apollo Omondi	Member	4:15pm	
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION ENTITY: NATIONAL GENDER AND EQUALITY COMMISSION				
S. No.	NOMINEE	POSITION	TIME	VENUE
1.	Hon. Rahema Dida Jaldesa	Chairperson	8:30am	Committee Room 7, 1 st Floor, Main Parliament Buildings
2.	Mr. Michael Mbituka Nzomo (PWD)	Member	9:45am	
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY ENTITY: BOARD OF THE INDEPENDENT POLICING OVERSIGHT AUTHORITY				
S. No.	NOMINEE	POSITION	TIME	VENUE
1.	Mr. Ahmed Isack Hassan, CBS	Chairperson	8:30 am	Mini Chamber, 1 st Floor, County Hall, Parliament Buildings
2.	Ms. Ann Wanjiku Mwangi	Member	9:30am	
3.	Dr. Micah Onyiego Nyakego	Member	10:30am	
4.	Mr. Boniface Kijkenoi Samati	Member	11:30pm	
5.	Dr. Annette Mboogh	Member	12:30pm	
6.	Hon. John Muchiri Nyaga	Member	2:00pm	
7.	Mr. Kenwilliams Nyakom'tah	Member	3:00pm	
8.	Ms. Jackline Lukalo Mwenesi	Member	4:00pm	

AND WHEREAS, section 6(9) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F) provides that "any person may prior to the approval hearing and by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated";

IN COMPLIANCE with Article 118(1)(b) of the Constitution and section 6(9) of the Public Appointments (Parliamentary Approval) Act (Cap. 7F), the Clerk of the National Assembly hereby invites members of the public to submit any representations they may have, by way of written statements on oath (affidavits) with supporting evidence contesting the suitability of the candidates for appointment to the offices they have been nominated to.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to ca@parliament.go.ke to be received on or before Thursday, 21st November 2024 by 5.00 p.m.

IT IS FURTHER NOTIFIED THAT the nominees are required to—

- Appear for the approval hearings with the original identity cards, academic and professional certificates and other relevant testimonials; and
- Obtain letters/certificates of compliance from the following institutions—
 - Ethics and Anti-Corruption Commission;
 - Kenya Revenue Authority;
 - Higher Education Loans Board;
 - Directorate of Criminal Investigations; and
 - Office of the Registrar of Political Parties.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
Thursday, 14th November 2024

"For the Welfare of Society and the just Government of the People"



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

IN THE MATTER OF ARTICLE 118 (1)(B) OF THE CONSTITUTION
AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF—

- THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 3) BILL, (NATIONAL ASSEMBLY BILL NO. 44 OF 2024);
- THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 4) BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2024); AND
- THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 48 OF 2024)

INVITATION TO SUBMIT MEMORANDA AND NOTIFICATION OF PUBLIC HEARINGS

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Public Finance Management (Amendment) (No. 3) Bill (National Assembly Bill No. 44 of 2024), the Public Finance Management (Amendment) (No. 4) Bill (National Assembly Bill No. 45 of 2024) and the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 48 of 2024) were Read a First Time on Wednesday, 13th November, 2024, and thereafter committed to the Departmental Committee on Finance and National Planning for consideration and reporting to the House.

IT IS NOTIFIED that—

- The Public Finance Management (Amendment) (No. 3) Bill (National Assembly Bill No. 44 of 2024) is a Bill sponsored by the Leader of the Majority Party which seeks to amend the Public Finance Management Act, Cap. 412A, to provide for the financing of transferred functions between the two levels of government in accordance with Article 187 of the Constitution. The Bill provides that transferred functions shall continue to be funded from previous sources as contained in the approved budgets of the transferring level of government and that the cost of the transferred functions shall be based on the costing framework provided in the national and county government manuals. Additionally, the Bill provides that a transfer agreement between the two levels of government shall include a provision on acquisition, disposal and transfer of assets and liabilities. Further, that the transferring level of government shall be required to prepare cash flow projections based on revenue projections from various sources of revenue. Further, the Bill provides for the obligation of the accounting officer in a county government and the accounting officer in the national government to submit quarterly and annual financial and non-financial report in case of a transfer of function between the two levels of government.
- The Public Finance Management (Amendment) (No. 4) Bill (National Assembly Bill No. 45 of 2024) is a Bill sponsored by the Leader of the Majority Party which seeks to amend the Public Finance Management Act (Cap. 412A) to clarify the effective dates of the debt threshold requirement for the Cabinet Secretary National Treasury to ensure compliance; and provide a framework for implementation of accrual accounting in Government and risk management by the Public Sector Accounting Standards Board.
- The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 48 of 2024) is a Bill sponsored by the Hon. Kuria Kimani, MP which seeks to amend the Public Procurement and Asset Disposal Act (Cap. 412C) to—
 - provide for new definitions including "debarment", "foreign firm", "foreign funded procurement", "investigative agency", "joint venture procurement", "local firm" and "minor deviation";
 - ensure that foreign procurement contracts that have not been subjected to provisions international procurement guidelines or laws, adhere to Kenya's procurement laws;
 - mandate the Public Procurement Regulatory Authority to monitor and evaluate technology, knowledge and skills transfer programmes and provide annual reports;
 - include a representative from the Law Society of Kenya as a member of the Public Procurement Regulatory Board ("Board");
 - mandate each County Treasury to ensure that the procurement function prioritizes procurement of goods and services manufactured in that respective county;
 - to allow the Authority, a public institution or any other person to refer actions that constitute offences under the Act to an investigative agency;
 - enable investigations to proceed despite the fact that the issues under investigation are in relation to an issue that the Review Board is reviewing or has reviewed under the relevant provisions of the Act;
 - limit the period that a person can be debarred from public procurement and approve any debarment done by an international agency recognized in Kenya;
 - task an accounting officer to ensure that locally produced products or services are prioritized and technology, knowledge and skills transfer plans from foreign firms are prioritized in the procurement and asset disposal process;
 - prescribe the threshold for procurement that shall be awarded to a local firm and to prescribe a penalty for any person who registers a firm on behalf of a foreigner for purposes of benefiting for a procurement that falls within a prescribed threshold; a local firm in joint venture procurement where a procurement is of a value exceeding one billion shillings;
 - provide that a clarification of a tender shall not add any new document or information;
 - provide additional forms of conduct of due diligence by an evaluation committee to include visiting contractor's offices, inspection of plant, equipment and completed works and confirmation of the validity of documents presented;
 - prohibit citizen contractors who become successful tenderers from sub-contracting to foreign companies unless the knowledge, skill, good or service is not available in the country;
 - obligate procuring entities to seek the advice of the Attorney-General before accepting bids from a foreign company;
 - include a transfer of skills and technology plan as part of the tender documents;
 - provide for the process for issuing a letter and notification of award to the next lowest evaluated tenderer where a successful tenderer fails to sign the contract;
 - provide for prompt and timely payments to a contractor upon completion of contractual obligation;
 - obligate the Authority to ensure that priority is given to citizen contractors in the sub-contracting of tenders;
 - provide for an offence for an accounting officer or his or her appointed representative who fails to ensure that the goods, works and services are of the right quality and quantity;
 - give preference to procurement of locally skilled and unskilled labour;
 - increase the maximum amounts for citizen contractors, to prohibit subcontracting of local procurement contracts to foreign contractors and to prioritise contractors from respective counties where a project is fully funded by the county government unless such services are unavailable;
 - provides for the mandatory procurement of forty percent of goods and services from local manufacturers or local service providers;
 - empower the Cabinet Secretary to prescribe the Preferential Procurement Master Roll;
 - align the provisions of the Act to the Court of Appeal (Organizational and Administration) Act and the Civil Procedure Act;
 - provide for an offence of a contractor who submits substandard quality of works, goods or services and also a person who certifies substandard goods or works; and
 - provide for mandatory fines for instances where an offence results in a benefit or loss.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the Departmental Committee on Finance and National Planning

Written Memoranda should indicate the name of the person or organization submitting it, their contact details and the Bill that the submission relates to and should be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, First Floor, Main Parliament Buildings, Nairobi or emailed to financecommittee@parliament.go.ke to be received on or before Friday 22nd November 2024 at 5.00 p.m.

A Public Views Template providing guidance on the form of submission to be received is available on <http://parliament.go.ke>

IT IS FURTHER NOTIFIED THAT the Departmental Committee on Finance and National Planning shall hold Public Hearings on the Bills on Friday 22nd November, 2024 and Saturday, 23rd November, 2024 at the Mini Chamber, 1st Floor, County Hall, Parliament Buildings from 10.00am to 5.00pm.

The Committee shall discuss the contents of the Bills and their implications during the hearings. Members of the public are invited to attend and share their views on the Bills during the sessions.

Copies of the Bills are available at the National Assembly Table Office or <http://www.parliament.go.ke/the-national-assembly/house-business/bills>.

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
14th November 2024

"For the Welfare of Society and the just Government of the People"



REPUBLIC OF KENYA THE NATIONAL ASSEMBLY THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION AND IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF SESSIONAL PAPER NO. 6 OF 2024 ON THE NATIONAL AVIATION POLICY

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament;

AND WHEREAS Sessional Paper No. 6 of 2024 on the National Aviation Policy was submitted to the National Assembly and referred to the Departmental Committee on Transport and Infrastructure for consideration and reporting to the House;

IT IS NOTIFIED that Sessional Paper No. 6 of 2024 on the National Aviation Policy seeks to strengthen Kenya's position in the global aviation industry. Specifically, the Policy seeks to—

- (1) foster growth of the aviation business in Kenya to support job creation;
(2) maximize contribution of the aviation sector to Kenya's economic growth and development;
(3) enhance Kenya's connectivity nationally and internationally to ensure safe, secure and competitive access;
(4) maintain aviation safety through robust, effective and efficient regulation;
(5) promote high level of competition among airlines operating in Kenya while protecting the consumers and country's national interests;
(6) provide a regulatory framework for aviation that reflects best international practice;
(7) develop aviation infrastructure; and
(8) Support aviation training institutions in preparing young skilled professionals.

NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution, the Clerk of the National Assembly hereby invites the public to submit memoranda on the Sessional Paper to the Departmental Committee on Transport & Infrastructure.

Copies of the Sessional Paper are available at the National Assembly Table Office, Main Parliament Buildings and on www.parliament.go.ke.

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to cna@parliament.go.ke to be received on or before Friday, 22nd November 2024 at 5.00 p.m.

S. NJOROGE, CBS CLERK OF THE NATIONAL ASSEMBLY 14th November 2024

"For the Welfare of Society and the just Government of the People"



REPUBLIC OF KENYA THE NATIONAL ASSEMBLY THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

IN THE MATTER OF ARTICLE 118 (1)(B) OF THE CONSTITUTION AND

IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF—

- (1) THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 3) BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2024);
(2) THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 4) BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2024); AND
(3) THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 48 OF 2024)

INVITATION TO SUBMIT MEMORANDA AND NOTIFICATION OF PUBLIC HEARINGS

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Public Finance Management (Amendment) (No. 3) Bill (National Assembly Bill No. 44 of 2024), the Public Finance Management (Amendment) (No. 4) Bill (National Assembly Bill No. 45 of 2024) and the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 48 of 2024) were read a First Time on Wednesday, 13th November, 2024, and thereafter committed to the Departmental Committee on Finance and National Planning for consideration and reporting to the House.

IT IS NOTIFIED that—

(1) The Public Finance Management (Amendment) (No. 3) Bill (National Assembly Bill No. 44 of 2024) is a Bill sponsored by the Leader of the Majority Party which seeks to amend the Public Finance Management Act, Cap. 412A, to provide for the financing of transferred functions between the two levels of government in accordance with Article 187 of the Constitution.

The Bill provides that transferred functions shall continue to be funded from previous sources as contained in the approved budgets of the transferring level of government and that the cost of the transferred functions shall be based on the costing framework provided in the national and county government manuals.

Additionally, the Bill provides that a transfer agreement between the two levels of government shall include a provision on acquisition, disposal and transfer of assets and liabilities. Further, that the transferring level of government shall be required to prepare cash flow projections based on revenue projections from various sources of revenue.

Further, the Bill provides for the obligation of the accounting officer in a county government and the accounting officer in the national government to submit quarterly and annual financial and non-financial report in case of a transfer of function between the two levels of government.

(2) The Public Finance Management (Amendment) (No. 4) Bill (National Assembly Bill No. 45 of 2024) is a Bill sponsored by the Leader of the Majority Party which seeks to amend the Public Finance Management Act, Cap. 412A to clarify the effective dates of the debt threshold requirement for the Cabinet Secretary National Treasury to ensure compliance; and provide a framework for implementation of accrual accounting in Government and risk management by the Public Sector Accounting Standards Board.

(3) The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 48 of 2024) is a Bill sponsored by the Hon. Kuria Kimani, MP which seeks to amend the Public Procurement and Asset Disposal Act (Cap. 412C) to—

- (a) provide for new definitions including "debarment", "foreign firm", "foreign funded procurement", "investigative agency", "joint venture procurement", "local firm", and "minor deviation";
(b) ensure that foreign procurement contracts that have not been subjected to provisions international procurement guidelines or laws, adhere to Kenya's procurement laws;
(c) mandate the Public Procurement Regulatory Authority to monitor and evaluate technology, knowledge and skills transfer programmes and provide annual reports;
(d) include a representative from the Law Society of Kenya as a member of the Public Procurement Regulatory Board ("Board");
(e) mandate each County Treasury to ensure that the procurement function prioritizes procurement of goods and services manufactured in that respective county;
(f) to allow the Authority, a public institution or any other person to refer actions that constitute offences under the Act to an investigative agency;
(g) enable investigations to proceed despite the fact that the issues under investigation are in relation to an issue that the Review Board is reviewing or has reviewed under the relevant provisions of the Act;
(h) limit the period that a person can be debarred from public procurement and approve any debarment done by an international agency recognized in Kenya;
(i) task an accounting officer to ensure that locally produced products or services are prioritized and technology, knowledge and skills transfer plans from foreign firms are prioritized in the procurement and asset disposal process;
(j) prescribe the threshold for procurement that shall be awarded to a local firm and to prescribe a penalty for any person who registers a firm on behalf of a foreigner for purposes of benefiting for a procurement that falls within a prescribed threshold;
(k) require procuring entities to set out in their standard tender documents specific goods, works and services to be undertaken by a local firm in joint venture procurement where a procurement is of a value exceeding one billion shillings;
(l) provide that a clarification of a tender shall not add any new document or information;
(m) provide additional forms of conduct of due diligence by an evaluation committee to include visiting contractor's offices, inspection of plant, equipment and completed works and confirmation of the validity of documents presented;
(n) prohibit citizen contractors who become successful tenderers from sub-contracting to foreign companies unless the knowledge, skill, good or service is not available in the country;
(o) obligate procuring entities to seek the advice of the Attorney-General before accepting bids from a foreign company;
(p) include a transfer of skills and technology plan as part of the tender documents;
(q) provide the process for issuing a letter and notification of award to the next lowest evaluated tenderer where a successful tenderer fails to sign the contract;
(r) provide for prompt and timely payments to a contractor upon completion of contractual obligation;
(s) obligate the Authority to ensure that priority is given to citizen contractors in the sub-contracting of tenders;
(t) provide for an offence for an accounting officer or his or her appointed representative who fails to ensure that the goods, works and services are of the right quality and quantity;
(u) give preference to procurement of locally skilled and unskilled labour;
(v) increase the maximum amounts for citizen contractors, to prohibit subcontracting of local procurement contracts to foreign contractors and to prioritize contractors from respective counties where a project is fully funded by the county government unless such services are unavailable;
(w) provides for the mandatory procurement of forty percent of goods and services from local manufacturers or local service providers;
(x) empower the Cabinet Secretary to prescribe the Preferential Procurement Master Roll;
(y) align the provisions of the Act to the Court of Appeal (Organization and Administration) Act and the Civil Procedure Act;
(z) provide for an offence of a contractor who submits substandard quality of works, goods or services and also a person who certifies substandard goods or works; and
(aa) provide for mandatory fines for instances where an offence results in a benefit or loss.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the Departmental Committee on Finance and National Planning.

Written Memoranda should indicate the name of the person or organization submitting it, their contact details and the Bill that the submission relates to and should be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, First Floor, Main Parliament Buildings, Nairobi or emailed to cna@parliament.go.ke to be received on or before Friday 22nd November 2024 at 5.00 p.m.

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IT IS FURTHER NOTIFIED that the Departmental Committee on Finance and National Planning shall hold Public Hearings on the Bills on Friday 22nd November, 2024 and Saturday, 23rd November, 2024 at the Mini Chamber, 1st Floor, County Hall, Parliament Buildings from 10.00am to 5.00pm.

The Committee shall discuss the contents of the Bills and their implications during the hearings. Members of the public are invited to attend and share their views on the Bills during the sessions.

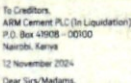
Copies of the Bills are available at the National Assembly Table Office or http://www.parliament.go.ke/the-national-assembly/bills-and-legislation/.

S. NJOROGE, CBS CLERK OF THE NATIONAL ASSEMBLY 14th November 2024

"For the Welfare of Society and the just Government of the People"

ARM Cement PLC (In Liquidation)

Office 5B, 1st Floor, Tower I, The Mirage, Chiromo Road, Westlands P.O. BOX 41908 - 00100 Nairobi, Kenya



To Creditors, ARM Cement PLC (In Liquidation) P.O. Box 41908 - 00100 Nairobi, Kenya 12 November 2024

Subject: Notice of a Meeting of the Creditors of ARM Cement PLC (In Liquidation) ("ARM" or "the Company") As at 10.00 a.m., 12.00 p.m. EAT. The purpose of the meeting will be to discuss the accounts of the Liquidators' acts and dealings, and of the conduct of the liquidation during the preceding year.

The Act provides that, if the liquidation of the Company continues for a period of twelve months or more, the Liquidator shall convene a meeting of the Creditors to be held: (a) within three months after the end of that period of twelve months; and (b) within three months after the end of each subsequent period of twelve months.

In line with the above, notice is therefore hereby given that a third meeting of the Creditors of ARM Cement PLC (In Liquidation), will be held virtually on Monday, 2 December 2024 at 10.00 a.m., 12.00 p.m. EAT. The purpose of the meeting will be to discuss the accounts of the Liquidators' acts and dealings, and of the conduct of the liquidation during the preceding year.

- Creditors wishing to participate in the meeting should register for the meeting by doing the following:
a) Dialing *453*3028 for all networks and follow the various prompts regarding the registration process; or
b) Sending an email request to be registered to info@comp-rite.com
c) Creditors with registered email addresses will receive a registration link via email through which they can use to register.
d) Creditors with registered telephone numbers will receive a short message service (SMS) prompting them to register for the meeting.
Creditors wishing to raise any questions or clarifications regarding the meeting may do so:
a) By dialing the USSD code above and selecting the option (Ask Question) on the prompts (For Creditors who will have registered to participate in the meeting)
b) By sending their written questions by email to info@comp-rite.com
c) To the extent possible, physically delivering their written questions to Comp-rite Kenya Limited at 1st Floor, Muthiga Mini Market, Limuru Road or
d) Sending their written questions by registered post to Comp-rite Kenya Limited at P.O. Box 63428, 00619 Nairobi.
Creditors entitled to attend the meeting are entitled to appoint a proxy to attend and ask questions on their behalf. A proxy need not be a member of the Company. The appointed proxy will need access to a mobile telephone. A proxy must be signed by the appointor or his attorney duly authorized in writing. If the appointor is a body corporate, the instrument appointing the proxy shall be given under its common seal or under the hand of an officer or duly authorized attorney of such body corporate. A completed form of proxy should be emailed to info@comp-rite.com or delivered to Comp-rite Kenya Limited, 29 Floor, Muthiga Mini Market, Limuru Road, P.O. Box 63428-00619 Nairobi, so as to be received not later than Friday, 29 November 2024 at 11.00 a.m.
The meeting will be conducted via a link which shall be provided to all Creditors who will have registered to participate in the meeting. Duly registered Creditors and proxies will receive a short message service (SMS/ USSD) prompt on their registered mobile numbers, 24 hours prior to the meeting acting as a reminder of the meeting. A second SMS/ USSD prompt shall be sent three hours ahead of the meeting reminding duly registered Creditors and proxies that the meeting will begin in three hours time and providing a link to the live stream.
Ahead of the meeting, the Liquidators will circulate a report to creditors by 08h Monday, 25 November 2024. Any creditor that does not receive a copy of this report by this date can reach out to us at ke_arm_administrators@pwc.com for a copy of the report.
The Liquidators have also been making distributions to creditors in relation to their claims as submitted in the Administrators' Liquidation of the Company. Any unsecured creditor that has not received all of their dividend distributions should bring this to the attention of the liquidators through ke_arm_administrators@pwc.com.

The Joint Liquidators act on behalf of the Company without any personal liability. Yours faithfully, For and on behalf of ARM Cement PLC (In Liquidation) George Weri Joint Liquidator Without Personal Liability

c/o Munku Theotis and George Weri, PwC Tower, Wajakhi Way/Chiromo Road, Westlands P.O. Box 41961 - 00100, Nairobi T: +254 (0)20285 5000 F: +254 (0)20285 5001 Email: ke_arm_administrators@pwc.com The Joint Liquidators act as agents of the Company and contract without personal liability



THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK

P. O. Box 41842-00100
NAIROBI, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: coa@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

REF: NA/DDC/F&NP/2024/ (126)

15th November 2024

FCPA Nancy Gathungu, CBS
Auditor-General
3rd Floor, Anniversary Towers,
University Way,
NAIROBI

Dr. Margaret Nyakang'o
Controller of Budget
The Office of Controller of Budget
Bima House, 12th Floor
Harambee Avenue,
NAIROBI

Hon. Shadrack J. Mose
Solicitor General,
State Law Office
Sheria House, Harambee Avenue
NAIROBI

Hon. Dr. Kipkurui S. Chepkwony
Secretary/Chief Executive Officer
The Intergovernmental Relations
Technical Committee (IGRTC).
Parklands Plaza, 3rd Floor, Chiromo
Lane, Westlands
NAIROBI

CPA Dr. Grace Kamau, Ph.D
Chief Executive Officer
Institute of Chartered Public Accountants of
Kenya (ICPACK)
CPA Center, Ruaraka, Thika road.
NAIROBI

Ms. Mary Mwiti
Chief Executive Officer
Council of Governors
Delta House, Rhapta Road
NAIROBI

Ms. Faith Mony Odhiambo
President, Law Society of Kenya
Lavington, Opposite Valley Arcade,
Gitanga Road
NAIROBI

Mr. Kwame Owino
Chief Executive Officer,
The Institute of Economic Affairs
1st Ngong Avenue, ACK Garden House
NAIROBI

Ms. Edna Gitachu
Associate Director,
PricewaterhouseCoopers Limited
PWC Tower, Waiyaki Way/Chiromo Road
Westlands
NAIROBI

Ms. Arwinder Sandhu
Senior Consultant
Westminster Consulting
6th Floor, the Address, Muthangari
Drive, Off Waiyaki Way
NAIROBI

Mr. Alex Mathini

Partner,
Bowmans LLP
5th Floor, West Wing, ICEA Lion Centre
Riverside Park, Chiromo Road,
NAIROBI

Mr. Daniel Ngumy

Partner
Anjarwalla & Khanna LLP
Eldama Ravine Close, Off Eldama Ravine
Road, Westlands
NAIROBI

Mr. Patrick Wanjuki

Ag. Director General
Public Procurement Regulatory Authority
6th Floor KISM Towers
Ngong Road
NAIROBI

Ms. Jane Mugo

Partner
Tax Law Advisory
I&M Bank House, 7th Floor
2nd Ngong Avenue
NAIROBI

Mr. (FCPA) Philip Muema

Managing Partner
Andersen Consulting Kenya
7th Floor, Rapta Heights
Rhapta Rd, Westlands
NAIROBI

Mr. Michael Mburugu

Regional Tax Partner
PKF Taxation Services Ltd
Kalamu House, Grevillea Grove,
Off Brookside Drive, Westlands
NAIROBI

Mr. Fred Omondi

Partner, Tax & Legal Leader
Deloitte en Touche
Parklands/Highridge, Waiyaki Way,
Deloitte Plc
NAIROBI

Mr. Alex Kanyi

Cliffe Dekker Hofmeyr (Kieti Law LLP)
Merchant Square, Block D, 3rd Floor
Riverside Drive
NAIROBI

Mr. Ernest Muriu

Partner
Ernest & Martin Associates
Certified Public Accountants
Haven Court, Block B, Rm
Slip Road off Waiyaki Way,
NAIROBI

Ms. Jilna Shah,

Tax Director,
RSM (Eastern Africa)
1st Floor, Pacis Centre, slip rd
Off Waiyaki Way
NAIROBI

Mr. Jeff Kiraguri

Legal and Tax Associate
Grant Thornton
5th Floor,
Avocado Towers,
Muthithi Rd,
NAIROBI,

Ms. Diana Gichengo

Executive Director
The Institute for Social Accountability
Westlands Avenue, Wendy Court, Hse
no.10, David Osieli Rd, Westlands
NAIROBI

Eng. Joseph Anvar A lot
Chief Executive Officer
Roads and Civil Engineering Contractors
Association
Simba Sikh Union, Parklands,
NAIROBI

Chief Executive Officer
Federation of Kenya Registered Electrical
Engineers
Thika Super Highway,
Waka Business Centre
NAIROBI

Mr. Kenneth Matiba
Chief Executive Officer
Kenya Institute of Supply Management
KISM TOWERS, 12th Floor, Ngong Road,
NAIROBI

Hon. Sabulei Philemon Kiplangat
The Chairperson
County Assembly Forum
Flamingo Towers, 5th Floor Wing B, Mara
Road, Upper Hill,
NAIROBI

Mr. James Muraguri
Chief Executive Officer
Institute of Public Finance
Rosami Court, Muringa Road off Elgeyo
NAIROBI

Mr. George Aluru
Chief Executive Officer
Energy Sector Contractors Association
NAIROBI

Ms Carole Kariuki
Chief Executive Officer
Kenya Private Sector Association
7th Floor, South Tower, Two Rivers,
Limuru Rd.
NAIROBI

CPA James Katule
Chief Executive Officer/ Commission
Secretary
Commission on Revenue Allocation
14 Riverside Drive, 2nd Floor
NAIROBI

Mr. Raimond Molenje
Ag. Chief Executive Officer Kenya
Bankers Association
13th Floor, International House
Mama Ngina Street
NAIROBI

Chief Executive Officer
Bajeti Hub
Killimani Business Centre, Office 9,
Kirichwa Road
NAIROBI

Dear *Sir/Madam*

**RE: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FINANCE
MANAGEMENT (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY
BILL NO. 44 OF 2024); THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) (NO.4) BILL (NATIONAL ASSEMBLY BILL NO. 45 OF
2024) AND THE PUBLIC PROCUREMENT AND ASSET DISPOSAL
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2024 BY
THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING**

The Departmental Committee on Finance and National Planning is established pursuant to National Assembly Standing Order 216 which mandates it *inter alia*, to **study and review all the legislation referred to it.**

The Public Finance Management (Amendment) (No.3) Bill (National Assembly Bill No. 44 of 2024); The Public Finance Management (Amendment) (No.4) Bill (National Assembly Bill No. 45 of 2024) and The Public Procurement And Asset Disposal (Amendment) Bill (National Assembly Bill No. 48 of 2024) underwent the First Reading pursuant to Standing Order 127(3) on **Wednesday, 13th November 2024** and were committed to the Departmental Committee on Finance and National Planning for consideration and reporting back to the House. The principal object of the Bill (s) is as follows;

1. The Public Finance Management (Amendment) (No.3) Bill (National Assembly Bill No. 44 of 2024)

The Bill seeks to provide for the financing of transferred functions between the two levels of government in accordance with Article 187 of the Constitution. The Bill provides that transferred functions shall continue to be funded from previous sources as contained in the approved budgets of the transferring level of government and that the cost of the transferred functions shall be based on the costing framework provided in the national and county government manuals.

2. The Public Finance Management (Amendment) (No.4) Bill (National Assembly Bill No. 45 of 2024)

The Bill seeks to amend the Public Finance Management Act (Cap. 412A) to clarify the effective dates of the debt threshold requirement for the Cabinet Secretary National Treasury to ensure compliance and provide a framework for implementation of accrual accounting in Government and risk management by the Public Sector Accounting Standards Board.

3. The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 48 of 2024)


The principal object of the bill is to amend the Public Procurement and Asset Disposal Act (Cap 412C) to prescribe the threshold of procurements that shall be awarded to local firms to promote the growth of local industries. The Bill also prescribes a penalty for any person who registers a firm on behalf of a non-Kenyan for purposes of benefitting from a procurement that falls within a prescribed threshold.

Pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127 (3), the Committee hereby invites you for a meeting to receive your submission and comments on the said Bill(s). The meeting will be held on **Friday, 22nd November and Saturday, 23rd November 2024** at **Mini Chamber, County Hall, Parliament Buildings** from 9.00 a.m. as per the attached schedule.

You are requested to prepare comprehensive submissions on **any representations you may have of the Bill (s)** and email a soft copy to cna@parliament.go.ke on or before the day of the meeting. Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The Committee's Liaison Officers for the meeting are **Mr. Benjamin Magut**, who may be contacted on Tel. No. **0712974966** or email address: benjamin.magut@parliament.go.ke; **Mr. Benson Kamande** of telephone number **0789459387** or email address: benson.kamande@parliament.go.ke or **Ms. Winfred Kambua** on Tel. No **0720571777** or email address winfred.kilonzo@parliament.go.ke.

Yours


JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

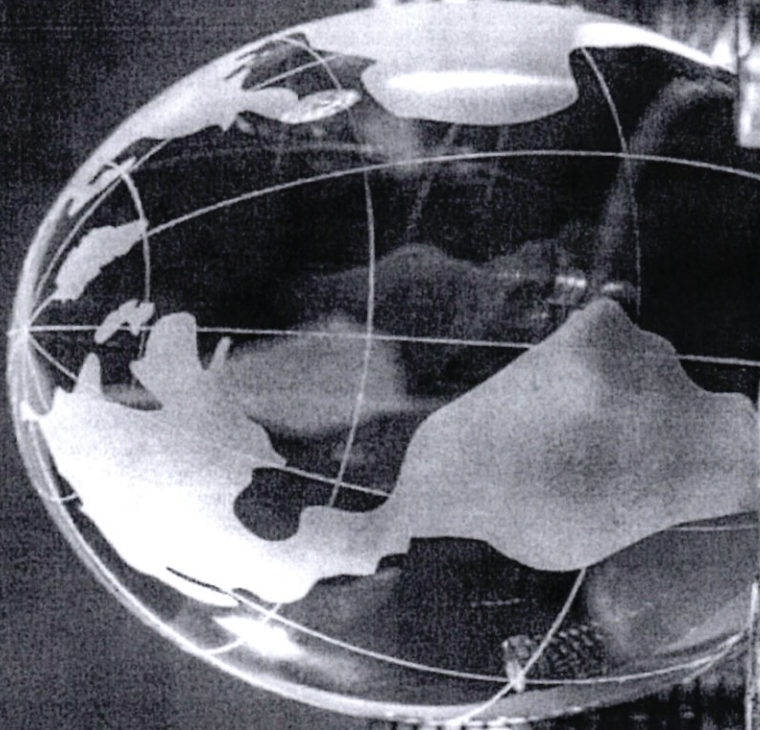
Copy to **H.E FCPA Ahmed Abdullahi, EGH**
Chairperson
Council of Governors
Delta House, Rhapta Road
NAIROBI

**Public Finance
Management
(Amendment) (No. 3)
Bill, 2024**

**The Public Finance
Management
(Amendment) (No 4)
Bill, 2024**



**WESTMINISTER
CONSULTING**





20th November 2024

The Clerk
The National Assembly
Office of the Clerk
Main Parliament Building
Nairobi

Dear Sir,

Submission of Memoranda

The Public Finance Management (Amendment) (No 3) Bill, 2024 & The Public Finance Management (Amendment) (No 4) Bill

We write to you in response to your invitation for public participation and submission of memoranda in line with your advert. We thank you for this opportunity and would like to put forth our submissions on the above Bills in the ensuing pages of this document for your consideration.

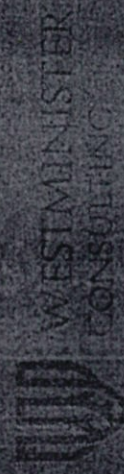
We trust that you will find our overall approach both comprehensive and compelling. If you have any questions or require more clarification, please do not hesitate to contact us.

Yours sincerely,

George Mbatai
Lead Consultant

Westminster Consulting
The Address, 6th Floor
Muthangari Drive, off Waiyaki Way
P. O Box 2881-00606
Nairobi, Kenya
Tel: +254 723 658 444
info@westminsterconsulting.com
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**The Public Finance
Management
(Amendment) (No 3)
Bill**



Section 186A – Transfer Agreement

What It Introduces:

Defines a “transfer agreement” as a legally binding framework for delegating functions, powers, or competencies between national and county governments, as per Section 26 of the Intergovernmental Relations Act.

Our View:

- The amendment ensures all transfers are formalized and governed by a uniform, well-defined agreement.
- Reduces risks of disputes and misunderstandings between government levels.

Implications:

- Standardization of agreements enhances predictability and clarity.
- Strengthens intergovernmental coordination by providing legal safeguards and a consistent process.
- Lays the groundwork for transparency and accountability in transferred functions.



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Section 186B – Applicability to Function Transfers

What It Clarifies:

- This section specifies that the amendments apply to transfers as outlined under Article 187 of the Constitution and Sections 24 and 28 of the Intergovernmental Relations Act.

Our View:

- Aligns the Act with existing constitutional provisions, ensuring consistency in the legal framework.
- Clearly delineates the scope of application to avoid ambiguity.

Implications:

- Reinforces legal certainty by linking statutory requirements directly to constitutional mandates.
- Provides clarity for stakeholders, ensuring all transfers follow a unified approach.

Section 186C – Financing Transferred Functions

What It Proposes:

- Transferred functions will continue to be funded from existing sources in approved budgets.
- Additional funding requirements will be determined through consultations and detailed in transfer agreements.

Our View:

- Ensures continuity in service delivery during transitions.
- Establishes a collaborative mechanism for addressing funding gaps.

Implications:

- Prevents interruptions in public services by maintaining funding flows.
- Promotes joint decision-making on financial resources, strengthening intergovernmental relationships.
- Enhances operational efficiency by streamlining the allocation and disbursement process through clear agreements.



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Section 186D – Costing Transferred Functions

What It Proposes:

- Costs will be determined using standardized frameworks provided in national and county government manuals.
- Financial estimates will form the basis for determining additional allocations.
- Separate schedules in budget estimates will outline these allocations for both national and county governments.

Our View:

- A standardized costing framework ensures fairness and accuracy in resource allocation.
- Clear budget presentations promote transparency and facilitate oversight.

Implications:

- Prevents resource allocation discrepancies between national and county governments.
- Enhances accountability by mandating legislative approval for all budget estimates.
- Promotes effective fiscal management and minimizes risks of mismanagement.



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Section 186E – Management of Assets and Liabilities

What It Proposes:

- Transfer agreements must address acquisition, disposal, and transfer of assets and liabilities.
- Receiving governments are required to maintain accurate registers and ensure proper handover upon expiration of the transfer period.

Our View:

- Establishes clear protocols for asset and liability management, preventing disputes.
- Strengthens accountability and compliance through mandated record-keeping.

Implications:

- Enhances transparency and facilitates effective audits.
- Minimizes risks of mismanagement or disputes over asset ownership.
- Provides structured processes for seamless asset transfers, fostering trust between governments.



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Section 186F – Cash Flow Projections

What It Proposes:

- Transferring governments must prepare cash flow projections based on revenue estimates.
- Projections must be published within 15 days of the transfer period's commencement.

Our View:

- Mandates forward-looking financial planning for effective resource allocation.
- Promotes transparency through timely publication of projections.

Implications:

- Enables informed decision-making by providing accurate revenue forecasts.
- Fosters public trust and accountability through accessible financial data.
- Ensures efficient resource management by preventing delays in execution.



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Section 186G – Quarterly and Annual Reports

What It Proposes:

- Requires accounting officers to submit quarterly and annual financial and non-financial reports.
- Reports must be submitted to oversight bodies such as the Senate, National Assembly, and County Assemblies.

Our View:

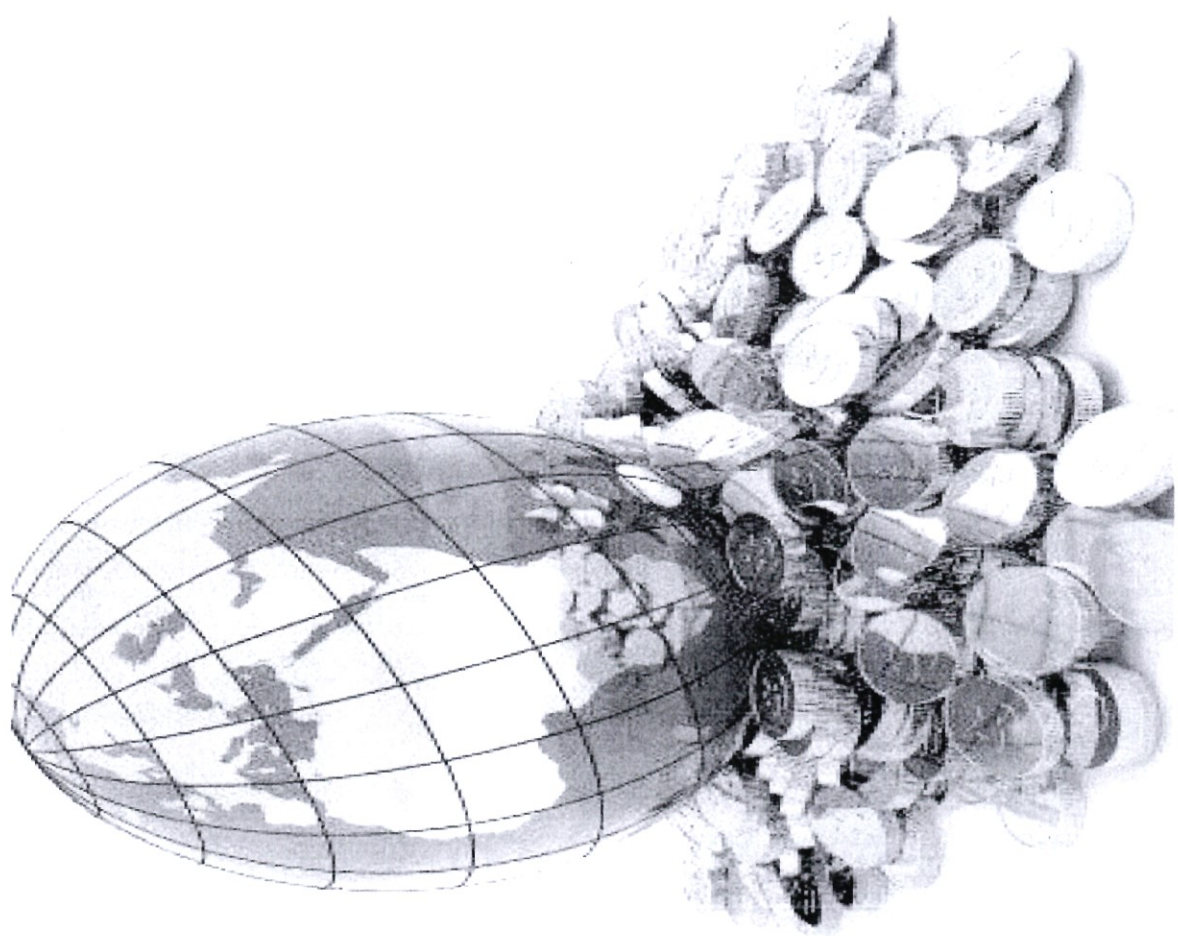
- Ensures continuous monitoring of transferred functions.
- Facilitates effective oversight and decision-making by providing detailed performance data.

Implications:

- Guarantees accountability in resource utilization.
- Minimizes risks of mismanagement or operational inefficiencies.
- Promotes transparency and builds trust between national and county governments.



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The Public Finance
Management
(Amendment) (No 4) Bill

Section 50 – Obligations and Restrictions on National Guaranteeing and Borrowing

Key Provisions

- The amendment replaces subsection (2C) with a new provision stating that the thresholds for borrowing (subsections 2A and 2B) will come into effect five years from the commencement of the Act.
- Subsections (2A) and (2B) limit national government borrowing to **55% of GDP**.
- The Cabinet Secretary must take measures within five years to ensure compliance with this threshold.

Implications

- Deferred Borrowing Limits:** By delaying the enforcement of borrowing thresholds from 2027 to 2029, the government gets additional fiscal flexibility, easing pressure on its tight budgetary constraints.
- Opportunity for Fiscal Restructuring:** This extension offers the government time to stabilize debt levels, implement economic reforms, and align with sustainable borrowing practices.
- Potential Risks:** Delayed implementation could result in prolonged reliance on excessive borrowing, increasing debt servicing costs and crowding out critical development spending.



Section 194 – Functions of the Board: Paragraph (h) – Framework for Accrual Accounting

Key Provisions

- Introduces a framework for implementing **accrual accounting** across government institutions.
- Accrual accounting records revenues and expenses when incurred rather than when cash is received or paid.

Implications

- *Enhanced Accountability*: Enables the government to account for expenditures and revenues more accurately, especially addressing the issue of pending bills in counties.
- *Improved Supplier Payments*: Ensures suppliers who worked in a previous financial year can be paid in subsequent years, reducing delays and financial strain.
- *Reduction of Year-End Spending Pressure*: Eliminates the practice of exhausting budgets by the fiscal year's end, fostering better financial management.
- *Transparency in Revenue Matching*: Facilitates proper revenue recognition by matching expenses and revenues to the correct financial period, thereby improving financial reporting.



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Section 194 – Functions of the Board: Paragraph (i) – Risk Management Framework

Key Provisions

•Introduces a **risk management framework** to identify, assess, and mitigate financial and operational risks within government institutions.

Implications

- Enhanced Financial Oversight**: Provides a continuous mechanism to address risks like insolvency and revenue shortfalls, particularly in county governments.
- Addressing Wage Concerns**: Ensures more accountability in payroll management, reducing instances of "ghost workers" and unsustainable salary expenditures (currently exceeding 30% of revenue in some counties).
- Strengthened Financial Planning**: Supports government institutions in proactively managing risks, ensuring long-term fiscal sustainability.



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Section 194 – Implementation Timeline for Accrual Accounting (Subsection 6)

Key Provisions

- Allows a **three-year transition period** for the implementation of the accrual accounting framework.
- During this period, institutions will continue operating on the cash accounting system.

Implications

- *Challenges of Dual Accounting:* The coexistence of cash and accrual systems during the transition creates ambiguities regarding which transactions fall under which system.
- *Recommendation for Immediate Implementation:*
 - Immediate adoption would ensure pending bills and revenues are fully accounted for in the next financial year.
 - Operating under a single accounting system prevents discrepancies and improves fiscal transparency.
- *Clear Guidelines Needed:* The Bill lacks clarity on the treatment of specific transactions under both systems, creating potential inconsistencies in financial reporting.



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GEORGE MBATAI

Partner

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Contacts



Alex Kanyi<Alex.Kanyi@cdhlegal.com>

To

Clerk of the National Assembly

Cc

benjamin magut

benson kamande

winfred kilonzo

Sammy Ndolo

CAUTION: This Mail Originated from outside of the Organization. Do not click links or open attachments unless you can confirm the sender and know the content is safe.

Dear Hon. Samuel Njoroge

We thank you and the team for inviting our firm, Cliffe Dekker Hofmeyr (Kenya) to provide comments on the Public Finance Management (Amendment) (No.3 &4) Bill, 2024 and the Public Procurement and Asset Disposal (Amendment), Bill, 2024.

The Bills generally provide positive changes.

We propose the below amendment to the Public Finance Management (Amendment) (No.3) Bill, 2024:

Issue	Proposal	Justification
Public participation on transfer of functions	We propose that a section be added in the proposed Bill to require that public participation is done before transfer of functions from level to the other.	<p>The transfer of functions from one level of government to another is a critical task that affects a huge population therefore a matter of public interest. We have in the past experienced a tussle when Nairobi County transferred its functions to the National government with the governor alleging that he was incapacitated.</p> <p>https://www.citizen.digital/news/sonko-withdraws-from-agreement-transferring-nairobi-county-functions-to-nms-339866</p> <p>The effects to the residents of Nairobi continued notwithstanding.</p> <p>In this regard, we propose that such transfer of functions from one level to another be subjected to public participation so that the public can have their views considered before the transfer is done.</p> <p>The Public Finance Management (Amendment) (No.3) Bill, 2024 should therefore be amended to add Clause 186 (F) stating that:</p> <p><i>The Cabinet Secretary and the County Executive Committee member for finance for the affected County shall ensure that there is public participation in the process of transferring functions from one level of the government to the other.</i></p>

We propose the below amendment to the Public Procurement and Asset Disposal (Amendment), Bill, 2024:

Issue	Proposal	Justification
<p>Ambiguity in section 11 (a) of the Bill on where to place a procurement that is exactly one billion shillings</p>	<p>We propose that section 11 (a) of the Public Procurement and Asset Disposal (Amendment), Bill, 2024 should be amended to read as follows:</p> <p style="padding-left: 40px;">a. By inserting the following new subsections immediately after subsection (6)-</p> <p>"(6A) any procurement of <i>one billion shillings or less</i> shall be awarded to a local firm.</p> <p>Clause (6B) should remain as currently drafted.</p> <p>"6(B) A foreign firm shall be eligible for procurement of contracts of more than one billion shillings where the foreign firm has entered into a joint venture procurement with a local firm for not less than thirty percent of the value of the procurement."</p>	<p>If the clause is amended as proposed, it will be clear that any procurement of one billion shillings or less will be awarded to a local firm. This will resolve a potential problem with the current drafting of the Bill where a procurement that is worth exactly one billion shillings can neither be to a local firm or a foreign firm.</p>
<p>Timelines for the Attorney(AG) General to provide an advisory on propriety of the funding of a foreign tenderer</p>	<p>We propose that section 16 of the Bill be amended to provide for the specific timelines within which the Attorney General should provide an advisory opinion to the procuring entity. We propose fourteen (14) days.</p> <p>The section should be amended to read as follows:</p> <p>" 16(2) Where a foreign tenderer participates in the competition for procurement, the respective procuring entity shall obtain an advisory opinion from the Attorney-General on the propriety of the funding from the foreign tenderer. <i>The Attorney General shall provide the advisory opinion to the procuring entity within fourteen days of receiving the written request from the procuring entity.</i></p>	<p>The current wording of the section gives an unlimited time to the Attorney General to give an advisory opinion on the propriety of the foreign tenderer. This exposes the procuring entity and the tenderer to abuse or unnecessary bureaucracy. It is important to provide a specific timeline for the Attorney General to provide the opinion for clarity.</p>

We trust that our submissions will be considered.

Kind Regards

Alex Kanyi

Partner - Tax

Kieti Law LLP

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Ref: 329/11-PPD/2024

November 22, 2024

Mr. Samuel Njoroge
Clerk of the National Assembly
Parliament Buildings
Parliament Road
NAIROBI

Dear Mr. Njoroge,

RE: STAKEHOLDER ENGAGEMENT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) [NO.3] BILL (NATIONAL ASSEMBLY BILL NO.44 OF 2024); THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) [NO.4] BILL (NATIONAL ASSEMBLY BILL NO.45 OF 2024) AND THE PUBLIC PROCUREMENT & ASSET DISPOSAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.48 OF 2024 BY THE DEPARTMENT COMMITTEE ON FINANCE AND NATIONAL PLANNING

Receive warm greetings from Kenya Private Sector Alliance (KEPSA).

We acknowledge, with thanks, receipt of your letter **[REF: NA/DDC/F&NP/2024/ (126)]**, dated 15th November 2024, in which you requested our submissions regarding the amendment of The Public Finance Management Act. The specific Bills mentioned are as follows:

- The Public Finance Management (Amendment) [No. 3] Bill (National Assembly Bill No. 44 of 2024).
- The Public Finance Management (Amendment) [No. 4] Bill (National Assembly Bill No. 45 of 2024).
- The Public Procurement & Asset Disposal (Amendment) Bill (National Assembly Bill No. 48).

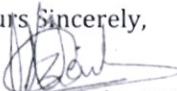
We acknowledge receipt of your invitation to attend a meeting on Friday, 22nd November 2024, to present our submissions on the aforementioned Bills.

KEPSA fully supports the Public Finance Management (Amendment) Bill as it seeks to strengthen financial management in the transfer of functions between levels of government. These proposed amendments are essential for enhancing efficiency in public finance management at the county level streamlining service delivery, and fostering a conducive environment for the private sector growth across both levels of government.

In this regard, we kindly request that you consider our written memorandum on the Public Procurement and Asset Disposal (Amendment) Bill, 2024, and excuse us from attending the physical oral presentations scheduled for 22nd November 2024.

We thank you for the continued support.

Yours Sincerely,


Carol Kariuki, EBS, MBS, HSC
Chief Executive Officer



APTAK

Association of Pension Trustees and Administrators of Kenya

PROPOSED AMENDMENTS TO THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2024.

EXECUTIVE SUMMARY

Fiscal discipline within the public sector, especially county governments, require immediate legislative and policy interventions. Challenges range from failure to pay salaries that for months, pension contributions including NHIF (SHIF) deductions which are deducted but not remitted to the respective pension schemes and failure to remit, on behalf of employees, non-statutory deductions such as loans, sacco and union membership and subscription fees.

This problem has persisted despite the clear statutory obligations requiring the employer to, subject to an employee's consent, deduct any amount from that employee's salary or wage as a contribution to a fund or program and to remit the same to the receiving party. The propensity for non-adherence to clear provisions of the law is motivated by insufficient legal incentives and consequences, sanctions, checks and balances under the law governing fiscal management.

The proposals for amendment listed hereunder therefore seek to cure the problem of unremitted statutory and non-statutory deductions for the benefit of the employees within the public sector and to instill fiscal discipline within the public sector.

In the foregoing, we forward to you the proposed amendments as per the attached for consideration by the Standing Committee on Finance and Budget.

Yours faithfully,

**BONIFACE MWANGANGI, ACILEX
SECRETARY-GENERAL**

THE PUBLIC FINANCE MANAGEMENT ACT NO.412A

SECTION	PROPOSED AMENDMENT	RATIONALE
Additional indicators of serious or persistent material breach.	<p>The Principal Act is amended in section 94 by inserting the following new sub-section immediately after sub-section 94(1) (a) (ii) –</p> <p>"has persistently delayed or failed to remit employee salaries, statutory deductions including taxes, pension, national health insurance and cooperative societies deductions.</p>	<p>Resolve challenges delayed or to remit and statutory deductions county governments even deducting same employees. the of failure pension other by after the from employees.</p>
Requirement to pay statutory deductions	<p>The Principal Act is amended in Section 109 of the Public Finance Management Act by inserting the following sub-sections immediately after subsection 7:-</p> <p>(7a) The Controller of budget may not approve any withdrawals from the County Revenue Fund if:-</p>	<p>This shall instill fiscal responsibility in Counties and ensure that the challenge of unremitted statutory deductions is</p>

(a) A county government has committed persistent material breach as defined under

Section 96 of this Act;

(b) Has persistently delayed or failed to remit statutory deductions including taxes, pension contributions, national health insurance and cooperative societies deductions.

(7b) In addition to the requirements provided under sub-section 6, a county government shall, on a quarterly basis, submit the following additional documents to the Controller of Budget and the National Treasury:-

(a) A statement of statutory deductions status;

(b) A statement on County's progress of implementing the previous year's plan for paying its outstanding statutory deductions;

(c) A certification of payment of previous years statutory deductions issued by the

addressed and remittances are enforced by the controller of budget.

	<p>relevant statutory institutions; and</p> <p>(d) A statement of the County's plan for repaying the statutory deductions which shall be accompanied by an agreement signed by the relevant statutory institution accepting the repayment plan.</p>	
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