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**REPUBLIC OF KENYA**

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**PARLIAMENT**

**NATIONAL ASSEMBLY BILLS**  
*(No. 44 of 2024)*

**THE PUBLIC FINANCE MANAGEMENT**  
**(AMENDMENT) (NO. 3) BILL, 2024**

(A Bill published in the Kenya *Gazette* Supplement No. 189  
(National Assembly Bills No. 44 of 1st November, 2024 and  
passed by the National Assembly, with amendments, on 28th  
November, 2024)

**N.A. /B/No. 44/2024**

**THE PUBLIC FINANCE MANAGEMENT  
(AMENDMENT) (NO. 3) BILL, 2024**

**A Bill for**

**AN ACT of Parliament to amend the Public Finance Management Act to provide for financial management in the transfer of functions between the two levels of government pursuant to Article 187 of the Constitution and for connected purposes**

**ENACTED** by the Parliament of Kenya as follows—

**PART I— PRELIMINARY PROVISIONS**

**1.** This Act may be cited as the Public Finance Management (Amendment) (No. 3) Act, 2024.

Short title.

**2.** Section 94 of the Public Finance Management Act is amended in subsection (1)(a) by inserting the following new sub-paragraph immediately after subparagraph (ii)—

Amendment of section 94 of Cap 412.

(iia) has persistently delayed or failed to remit employee salaries statutory deductions including taxes, pension, social health insurance and cooperative societies deductions;

**3.** Section 109 of the Public Finance Management Act is amended by inserting the following new subsections immediately after subsection (7) —

Amendment of section 109 of Cap 412A.

(7A) The Controller of Budget shall not approve any withdrawals from the County Revenue Fund if—

(a) a county government has committed persistent material breach as defined in section 96 of this Act;

(b) has persistently delayed or failed to remit statutory deductions including taxes, pension contributions, social health insurance, and cooperative society deductions.

(7B) A county 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 government'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 government's plan for repaying the statutory deductions which shall be accompanied by an agreement signed by the relevant statutory institution accepting the repayment plan.

**4. Section 117 of the Public Finance Management Act is amended—**

Amendment of section 117 Cap. 412A.

- (a) in subsection (1) by deleting the expression "by the 28<sup>th</sup> February" appearing immediately after the words "county assembly," and substituting therefor the expression "by the 7<sup>th</sup> March."
- (b) in subsection (6) by deleting the word "fourteen" appearing immediately after the words "not later than" and substituting therefore the word "twenty-one."

**5. The Public Finance Management Act is amended by inserting the following new Part immediately after section 186—**

Insertion of new Part into Cap. 412A.

**PART IVA—FINANCIAL MANAGEMENT IN TRANSFER OF FUNCTIONS**

Interpretation of this Part.

**186A.** In this Part, unless the context otherwise requires—

"transfer agreement" means the agreement on transfer or delegation of powers, functions or competencies as provided for under section 26 of the Intergovernmental Relations Act.

Cap. 265F.

Application of the Part to transfer of functions.

**186B.** This Part applies to transfer of functions as provided for under Article 187 of the Constitution and sections 24 to

Cap. 265F. 28 of the Intergovernmental Relations Act.

Financing transferred functions.

**186C.** (1) Subject to the Constitution, this Act and any other Act of Parliament, and with the approval of the National Assembly and the concerned county assembly, transferred functions shall continue to be funded from previous sources as contained in the approved budgets of the transferring level of government.

(2) Where there is need for additional financial resources for a transferred function—

- (a) both parties shall consult and agree on the need for the additional financial resources; and
- (b) the transferring level of government shall provide the additional financial resources.

(3) The process of approval and disbursement of the additional financial resources in subsection (2) shall be provided for in the transfer agreement between the two levels of government.

Cost of transferred functions.

**186D.** (1) The cost of the transferred functions shall be based on the costing framework provided in the national and county government budget manuals.

(2) The cost of transferred functions as determined under subsection (1) shall form the basis for the additional financial resources for the transferred functions.

(3) The additional financial resources for transferred functions —

- (a) in the case of a county government to the national government for a financial year, shall be provided as a separate

schedule in the budget estimates, identifying allocations from the county government revenue and clearly specifying appropriations-in-aid, additional allocations and proceeds from loans and grants; and

- (b) in the case of the national government to a county government for a financial year, shall be provided as a separate schedule in the budget estimates, identifying allocations from the national government revenue and clearly specifying appropriations-in-aid, additional allocations and proceeds from loans and grants.

(4) The allocations under subsection (3) shall be included in the budget estimates of both the county and national government and shall be submitted to Parliament and the respective county assembly for approval.

Management of  
assets and liabilities.

**186E.** (1) A transfer agreement between the two levels of government shall, in addition to the requirements under section 26 of the Intergovernmental Relations Act, include a provision on acquisition, disposal and transfer of assets and liabilities.

(2) Where assets are acquired and liabilities incurred in the duration of a transfer of a function to either level of government, the level of government receiving the functions shall—

- (a) keep, maintain and update the register of assets and liabilities in accordance with the applicable law; and
- (b) take appropriate measures to ensure that at the end of the

transfer period, the assets and liabilities are transferred to the transferring level of government.

(3) The process of transfer of assets and liabilities upon the expiry of the transfer period shall be in accordance with the transfer agreement or as may be prescribed by the Cabinet Secretary in regulations.

Cash flow projections in relation to the transferred functions.

**186F.** (1) The transferring level of government shall prepare cash flow projections based on revenue projections from various sources of revenue.

(2) The transferring level of government shall publish and publicize the cash flow projections within fifteen days of the commencement of the transfer period.

Quarterly and annual financial and non-financial reports.

**186G.** (1) The accounting officer in a county government, in case of a transfer of a function from the national government to a county government, shall prepare and submit quarterly and annual financial and non-financial reports to the Controller of Budget; the National Treasury and the responsible national government entity.

(2) The accounting officer in the national government in case of a transfer of a function from a county government to the national government shall prepare and submit quarterly and annual financial and non-financial reports to the Controller of Budget; the County Treasury; and the responsible county government entity.

(3) The copies of the reports prepared under sub sections (1) and (2) shall be submitted to the Senate, the National Assembly, the Auditor General and the respective county assembly in accordance with the Act.

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

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I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 28<sup>th</sup> November, 2024



*Clerk of the National Assembly*

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders



*Speaker of the National Assembly*

