

**SPECIAL ISSUE**

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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2013**

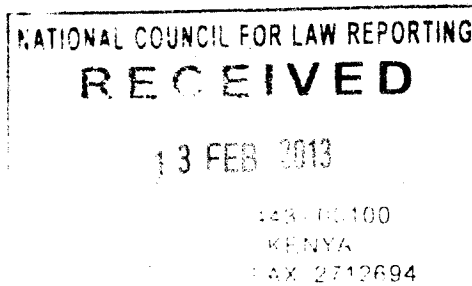
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**NAIROBI, 25th January, 2013**

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**THE TRANSITION COUNTY ALLOCATION  
OF REVENUE ACT, 2013**

**No. 6 of 2013**

*Date of Assent: 14th January, 2013*

*Date of Commencement: 25th January, 2013*

**ARRANGEMENT OF SECTIONS**

*Section*

- 1—Short title.
- 2—Interpretation.
- 3—Object and purpose of the Act.
- 4—Allocation of revenue.
- 5—Transfer made in error or fraudulently.
- 6—Application of the Public Finance Management Act, 2012.
- 7—Report on actual transfers.
- 8—Books of accounts to reflect national government transfers.
- 9—Resolution of disputes and payment of wasteful expenditure.
- 10—Financial misconduct.
- 11—Regulations.

**SCHEDULE**

**AN ACT of Parliament to provide for allocations for wages and administration costs for the county executive and county assemblies for the period March to June, 2013 and the responsibilities of national and county governments in relation thereto and for connected purposes**

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

Short title.

**1.** This Act may be cited as the Transition County Allocation of Revenue Act, 2013.

Interpretation.

**2.** In this Act, unless the context otherwise require—

“Cabinet Secretary” means the Cabinet Secretary responsible for finance;

No. 16 of 2011.

“revenue” has the meaning assigned to it in section 2 of the Commission on Revenue Allocation Act, 2011;

“State Organ” has the meaning assigned to it in Article 260 of the Constitution;

No. 1 of 2012.

“Transition Authority” means the Transition Authority established under section 4 of the Transition to Devolved Government Act, 2012; and

No. 18 of 2012.

“Wasteful expenditure” has the meaning assigned to it in section 2 of the Public Finance Management Act, 2012.

Object and purpose of the Act.

**3.** The object and purpose of this Act is to provide for the sharing of revenue raised nationally among the county governments—

(a) for the purpose of wages and administration costs and any other expenses for the county executive and county assemblies; and

(b) to facilitate the transfer of county allocations in this Act from the Consolidated Fund to the relevant County Revenue Fund, for the period commencing March to June, 2013.

Allocation of revenue.

**4.** (1) Each county government allocation shall be as set out in Column B of the Schedule.

(2) Each county government’s allocation under subsection (1), shall be transferred to the respective County Revenue Fund in accordance with a payment schedule prepared by the National Treasury in consultation with the Transition Authority.

(3) The allocation for county government functions to be performed by the national government shall be as set out in column C of the Schedule.

5. (1) Notwithstanding the provisions of any other law, where it is determined that the transfer of funds to a county government or county public entity was done in error or fraudulently, such a transfer shall be regarded as not legally due to that county government or county government public entity, as the case may be.

Transfers made in error or fraudulently.

(2) An erroneous transfer contemplated in sub-section (1) may be recovered immediately, or may be set-off against future grant transfers to that county government or county government public entity.

6. For the avoidance of doubt, the duties of the National Treasury and County Treasuries shall be as provided for in the Public Finance Management Act, 2012.

Application of the Public Finance Management Act, 2012.

7. The National Treasury shall publish a monthly report on actual transfers of all allocations to county governments under this Act.

Report on actual transfers.

8. (1) The Transition County Treasury or County Treasury, as the case maybe, shall reflect all transfers from the national government in its books of accounts.

Books of accounts to reflect national government transfers.

(2) A Transition County Treasury or County Treasury shall, as part of its consolidated quarterly and annual reports as required by the Public Finance Management Act, 2012, in the format prescribed by the National Treasury, report on—

No. 18 of 2012.

- (a) actual transfers received by the county government from the national government; and
- (b) actual expenditure relating to the transfers, up to the end of that quarter or year as the case may be.

9. (1) Any State Organ involved in an intergovernmental dispute regarding any provision of this Act or any division of revenue or allocation shall, before instituting court proceedings to resolve such dispute, make every effort to settle the dispute with the other State Organ concerned, including exhausting all intergovernmental alternative mechanisms provided for resolving disputes in relevant legislation.

Resolution of disputes.

No.2 of 2012.

(2) If a court is satisfied that a State Organ, in an attempt to resolve a dispute has not exhausted all the mechanisms for alternative dispute resolutions as contemplated in section 35 of the Intergovernmental Relations Act, 2012 and refers the dispute back for the reason that the State Organ has not complied with subsection (1), the expenditure incurred by that State Organ in approaching the court shall be regarded as wasteful expenditure.

(3) The costs in respect of wasteful expenditure referred to in subsection (2) shall, in accordance with a prescribed procedure, be recovered without delay from the person who caused the state organ not to comply with the requirements of subsection (1).

Financial  
Misconduct.

No. 18 of 2012.

**10.** Despite anything to the contrary contained in any law, any serious or persistent non-compliance with provisions of this Act shall constitute a financial misconduct under the Public Finance Management Act, 2012.

Regulations.

**11.** The Cabinet Secretary may, by notice in the Kenya Gazette, make regulations regarding—

(a) anything which may be prescribed in terms of this Act; and

(b) any subsidiary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation or administration of this Act.

## SCHEDULE

(s.4)

## County Allocations for the 2012/13 financial year (Figures in KSh.)

	COLUMN A	COLUMN B	COLUMN C = (A-B)
<i>County</i>	<i>Total Cost of Devolved Functions</i>	<i>Allocations to be Transferred to County Governments Immediately After Elections</i>	<i>Allocations for County Functions to be Performed by the National Government</i>
Baringo	3,105,094,964	167,256,975	2,937,837,989
Bomet	2,429,033,638	177,291,444	2,251,742,194
Bungoma	5,027,062,509	289,098,464	4,737,964,045
Busia	3,338,337,752	204,893,279	3,133,444,473
Elgeyo/Marakwet	2,676,747,712	123,169,798	2,553,577,914
Embu	3,566,734,212	144,564,942	3,422,169,270
Garissa	3,586,016,332	217,388,329	3,368,628,003
Homa Bay	4,799,786,349	212,227,537	4,587,558,812
Isiolo	1,895,411,010	115,138,304	1,780,272,706
Kajiado	2,784,066,116	166,166,769	2,617,899,347
Kakamega	6,416,368,415	335,494,219	6,080,874,196
Kericho	3,487,813,885	169,668,084	3,318,145,801
Kiambu	7,531,807,961	281,065,927	7,250,742,034
Kilifi	4,123,451,591	280,233,425	3,843,218,166
Kirinyaga	2,953,052,138	133,240,926	2,819,811,212
Kisii	5,092,748,627	267,165,122	4,825,583,505
Kisumu	5,557,337,405	213,967,379	5,343,370,026
Kitui	4,308,536,527	273,681,740	4,034,854,787
Kwale	2,661,478,334	193,053,229	2,468,425,105
Laikipia	2,331,998,317	129,910,803	2,202,087,514
Lamu	1,787,192,540	77,260,390	1,709,932,150
Machakos	4,937,835,141	254,918,456	4,682,916,685
Makueni	3,441,106,487	224,836,164	3,216,270,323
Mandera	2,407,785,507	337,276,386	2,070,509,121
Marsabit	2,409,299,308	195,437,951	2,213,861,357
Meru	6,141,982,836	244,561,818	5,897,421,018
Migori	4,242,180,870	219,826,411	4,022,354,459
Mombasa	6,094,711,507	195,756,188	5,898,955,319

	COLUMN A	COLUMN B	COLUMN C = (A-B)
<i>County</i>	<i>Total Cost of Devolved Functions</i>	<i>Allocations to be Transferred to County Governments Immediately After Elections</i>	<i>Allocations for County Functions to be Performed by the National Government</i>
Murang'a	5,049,618,087	201,712,527	4,847,905,560
Nairobi	16,994,802,069	489,488,844	16,505,313,225
Nakuru	7,692,448,399	305,694,565	7,786,753,834
Nandi	2,871,788,615	179,079,104	2,692,709,511
Narok	2,499,805,783	199,147,810	2,300,657,973
Nyamira	2,394,362,395	156,473,885	2,237,888,510
Nyandarua	3,430,545,508	162,223,384	3,268,322,124
Nyeri	6,835,136,596	167,582,330	6,667,554,266
Samburu	1,725,317,233	133,759,268	1,591,557,965
Siaya	3,786,648,146	188,109,598	3,598,538,548
Taita Taveta	2,203,492,193	124,634,357	2,078,857,836
Tana River	2,137,955,801	150,044,045	1,987,911,756
Tharaka Nithi	1,936,658,603	118,155,722	1,818,502,881
Trans -Nzoia	2,415,478,218	192,075,005	2,223,403,213
Turkana	2,567,173,841	394,663,541	2,172,510,300
Uasin Gishu	3,876,401,164	195,518,698	3,680,882,466
Vihiga	2,215,009,063	145,812,293	2,069,196,770
Wajir	3,269,410,145	272,397,682	2,997,012,463
West Pokot	2,518,190,841	162,445,573	2,355,745,268
<b>GRAND TOTAL</b>	<b>185,555,220,690</b>	<b>9,783,568,694</b>	<b>175,771,651,796</b>