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THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) ACT

No. 12 of 2023

Date of Assent: 13th October, 2023

Date of Commencement: 2nd November, 2023

AN ACT of Parliament to amend the Public Finance Management Act and for connected purposes

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the Public Finance Management (Amendment) Act, 2023. Short title.

2. The Public Finance Management Act (hereinafter referred to as the "principal Act") is amended in section 2— Amendment of section 2 of No. 18 of 2012.

(a) in the definition of "County Public Debt," by deleting the word "public"; and

(b) by inserting the following new definitions in their proper alphabetical sequence—

"financial obligation" means outstanding liabilities related to public debt, including principal, interest, fees, commissions and other expenses incidental to the raising of public debt or its repayment and shall be a charge on the Consolidated Fund or another public fund established by the national government or any of its entities.

"public debt" has the meaning assigned to it under Article 214 (2) of the Constitution.

3. Section 12 of the principal Act is amended— Amendment of section 12 of No. 18 of 2012.

(a) in subsection (1)(b), by deleting the word "national" wherever it appears; and

(b) in subsection (2), by deleting paragraph (b) and substituting therefor the following new paragraph—

"(b) ensure proper management and control of, and accounting for the finances of the government and its entities in order to promote the efficient and effective use of budgetary resources;"

Amendment of section 15 of No. 18 of 2012.

4. Section 15 of the principal Act is amended in subsection (4), by deleting the words "national debt" and substituting therefor the words "public debt".

Amendment of section 31 of No. 18 of 2012.

5. Section 31 of the principal Act is amended in subsection (2) by deleting the words "national debt" and substituting therefor the words "public debt".

Amendment of section 50 of No. 18 of 2012.

6. Section 50 of the principal Act is amended—

(a) by deleting subsection (2), and substituting therefor the following new subsection—

"(2) The national government may borrow money in accordance with this Act or any other legislation, subject to the threshold specified in subsection (2A) of this section;"

(b) by inserting the following new subsections immediately after subsection (2)—

"(2A) The borrowing by the national government referred to in subsection (2) shall not exceed fifty-five percent of the gross domestic product in present value terms.

(2B) Notwithstanding subsection (2A), the national government may, in exceptional circumstances, exceed the threshold set under that subsection by not more than five percent.

(2C) The Cabinet Secretary shall, not later than five years from the date of the coming into force of subsections (2A) and (2B), take measures to ensure that borrowing by the national government complies with the threshold prescribed in subsection (2A).

(2D) The Cabinet Secretary shall submit to Parliament, a report on the breach of the debt threshold, indicating the exceptional circumstances, if any, provided for in subsection (2B).

(c) by deleting subsection (6) and substituting therefor the following new subsection—

"(6) A public debt and resultant financial obligations incurred by the national government is a charge on the Consolidated Fund, unless the Cabinet Secretary determines, by Regulations approved by Parliament, that all or part of the public debt and resultant financial obligation is a charge on another public fund established by the national government or any of its entities".