

SPECIAL ISSUE

Kenya Gazette Supplement No. 188 (National Assembly Bills No. 42)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

NAIROBI, 15th October, 2021

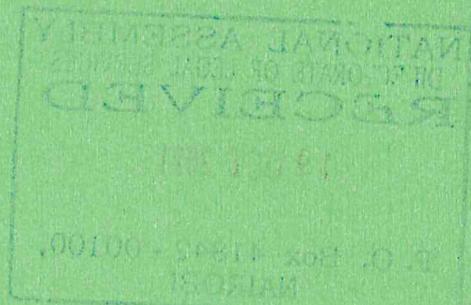
CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Petroleum Products' (Taxes and Levies) (Amendment) Bill, 2021 1237





**THE PETROLEUM PRODUCTS' (TAXES AND LEVIES)
(AMENDMENT) BILL, 2021**

A Bill

for

AN ACT of Parliament to amend various petroleum products' tax and levies related laws, and for connected purposes

ENACTED by the Parliament of Kenya, as follows-

1. This Act may be cited as the Petroleum Products' (Taxes and Levies) (Amendment) Act, 2021.

Short title.

2. The Energy Act, 2019 is amended in section 198 by inserting the following subsections immediately after subsection (2)-

Amendment of
section 198 of
No.1 of 2019

(3) The Cabinet Secretary may by notice in the Gazette amend the Sixth Schedule to the Act.

(4) The notice under subsection (3) shall be laid before the National Assembly within seven days of publication.

(5) The National Assembly shall, within twenty-eight sitting days from the date of receipt of the notice under subsection (4), consider the notice and make a resolution either to approve or reject the notice.

Amendment of
section 224 of
No.1 of 2019.

3. The Energy Act, 2019 is amended in section 224 by inserting the following new subsection immediately after subsection (2)-

LN 196/2010

(3) The Energy (Petroleum Pricing) Regulations, 2010 are hereby revoked.

Insertion of
Schedule to No.1
of 2019

4. The Energy Act, 2019 is amended by inserting the following new schedule immediately after the Fifth Schedule-

SIXTH SCHEDULE

PETROLEUM PRICING

PART A

1. The Maximum wholesale prices and the retail pump prices of petroleum products at a wholesale depot or retail dispensing site shall be determined in accordance with the formula set out in this schedule.

2. The determined prices shall become effective on the 15th day of every calendar month and shall remain in force until the 14th day of the following calendar month.

3. The maximum wholesale and retail pump prices of petroleum products in shillings per litre shall be determined as follows-

(a) wholesale prices

For super petrol, regular, kerosene or automotive diesel, the formula shall be-

$$P_w = C_u(1+L_p+L_d) + K(1+L_d) + m_w$$

Where-

P_w = the maximum wholesale price for super petrol, kerosene or automotive diesel;

C_u = the weighted average cost in shillings per litre ex the Kenya Petroleum Refineries Limited (KPRL) and ex Kipevu Oil Storage Facility (KOSF);

K = the transportation cost from Mombasa to the nearest wholesale depot, which is made up of x percent of pipeline tariff (K_{pl}) and $(100-x)$ percent of road bridging cost (K_{rd});

L_p = the allowed losses in the pipeline;

L_d = the allowed losses in the depot;

M_w = the allowed oil marketing company's gross wholesale margin

(b) Retail Pump Prices

For super petrol, regular petrol, kerosene or automotive diesel, the formula shall be-

$$P_r = P_w + m_r + z$$

Where,

P_r = the maximum retail pump price of super petrol, regular petrol, kerosene or automotive diesel applicable, in shillings per litre;

m_r = the allowed maximum retail gross margin

z = the delivery rate from the nearest wholesale depot to a retail dispensing site in shillings per litre;

4. The weighted average cost in shillings per litre ex the Kenya Petroleum Refineries Limited (KTRL) and ex the Kipevu Oil Storage Facility (KOSF) (C_u) shall be calculated using the following formula-

$$C_u = \frac{\sum V_{irp} (C_{irp} + T + F) + \sum V_{crp} (C_{crp} + T - S_d)}{\sum (V_{irp} + V_{crp})}$$

Where-

V_{irp} = the volume, in litres, of a cargo of a refined petroleum product imported through the open tender system and discharged at the port of Mombasa from the 10th day of the previous month to the 9th day of the pricing month;

C_{irp} = the unit cost of a cargo of a refined petroleum product imported through the open tender system and discharged at the port of Mombasa from the 10th day of the previous month to the 9th day of the pricing month, in shillings per litre including demurrage and other associated costs;

V_{crp} = the volume, in litres of petroleum product yield per month from crude refined at Kenya Petroleum Refineries Limited for the previous one calendar month;

C_{crp} = the calculated unit cost of a petroleum product yielded from crude refined at the Kenya Petroleum Refineries Limited per month for the previous one calendar month in Shillings per Litre;

T = the total taxes and levies for petroleum products per shilling per litre which shall be calculated as follows-

$$T = t_{cd} + t_{rml} + t_{pal} + t_{prl}$$

Where-

t_{ed} = Excise Duty;

t_{rml} = Road Maintenance Levy;

t_{ndl} = Petroleum Development Levy;

t_{pri} = Petroleum Regulation Levy;

S_d = Excise Duty Remission

5. The unit cost of imported refined petroleum products (C_{crp}) shall be determined in accordance with the calculation used in the open tender system for importation of petroleum products including demurrage and other associated costs.

6. The unit cost of petroleum products obtained from crude oil refined at the Kenya Petroleum Refineries Limited Iccrp - shall be the sum of landed cost of crude oil, refinery fees, inventory financing costs and insurance costs for the crude imports allocated to the refinery approved product yields, benchmarked to the cost of importation of the same refined products.

7. The average mean exchange rate of leading commercial banks selected by the Commission on the last discharge date shall be used in converting the imported refined petroleum products and crude oil costs determined under paragraphs 5 and 6 from foreign currency to Kenya Shillings.

8. The factors K, L_n, L_d, m_w, z, x shall be determined by the Authority.

9. The Authority may review the calculation of the maximum wholesale and retail pump prices of petroleum products determine under paragraph 3 as and when it may deem it fit for the purposes of monitoring compliance.

10. The Authority shall publish for general information the maximum wholesale and retail pump prices.

11. The Cabinet Secretary may by notice in the Gazette review the formula specified in this Schedule.

12. The notice under paragraph 11 shall be laid before the National Assembly within seven days of publication.

13. The National Assembly shall, within twenty-eight sitting days from the date of receipt of the notice under paragraph 11, consider the notice and make a resolution either to approve or reject the notice.

PART B

Pipeline tariff, Delivery rates and Bridging rates and X-factor

		Location	Rate- KES/Litre
1. Pipeline Tariff <i>K</i>	Mombasa	0.000	
	Nairobi	2.250 plus VAT	
	Nakuru	3.095 plus VAT	
	Eldoret	3.980 plus VAT	
	Kisumu	3.975 plus VAT	
Delivery Rates (Z)	Within Town (40km Radius)	0.48 plus VAT	
	Outside Town	KES 10.85 per Kilometre per 1000 Litres	
Bridging Rates <i>K rd</i>	Mombasa to Nairobi, Nakuru, Kisumu and Eldoret	KES 8.14 per km per 1000 Litres plus VAT	
x Factor	Nairobi, Nakuru, Kisumu and Eldoret.	80% - Super Petrol and Automotive Diesel 100% - Regular Petrol and Kerosene	

PART C

Maximum allowed operational losses

Product	Pipeline (L_p)	Depots (L_d)
Super Petrol	0.01%	0.01%
Regular Petrol	0.01%	0.01%
Kerosene	0.01%	0.01%
Automotive Diesel	0.01%	0.01%

PART D**Maximum Allowed Margins ($M_{mr} + M_{ms}$)**

Product	Maximum Allowed Margins (M_{mr}) (KES/Litre.)
Super Petrol	9.00
Regular Petrol	9.00
Kerosene	9.00
Automotive Diesel	9.00

5. Section 10 of the Excise Duty Act, 2015 is amended in subsection (1) by deleting the words "every year" and substituting therefor the words "every two years".

Amendment of
section 10 of
No.23 of 2015.

6. The Excise Duty Act, 2015 is amended in paragraph 2(1) of the First Schedule by inserting the following proviso-

Amendment of
the First Schedule
to No. 23 of 2015.

Provided that the provisions of this paragraph shall not apply to the petroleum products set out in paragraph 1 of Tariff descriptions 2710.12.20, 2710.19.22, 2710.19.31 and 2710.19.32.

7. The Petroleum Development Fund Act, 2019 is amended in section 2 by inserting the following new definitions in the proper alphabetical sequence-

Amendment of
section 2 of No.1
of 2019

"Authority" means the Energy and Petroleum Regulatory Authority established under the Energy Act, 2019;

"Cabinet Secretary" means the Cabinet Secretary for the time being in charge of petroleum;

"Levy" means the Petroleum Development Levy established under section 3;

8. The Petroleum Development Fund Act, 1993 is amended by deleting section 3 and substituting therefor the following new section-

Amendment of
section 3 of No. 4
of 1993.

Petroleum
Development
Levy.

3. (1) There shall be paid a levy on all petroleum fuels consumed in Kenya with a tariff code and description specified in the first and second columns, respectively, of the Schedule, at the rates specified in relation thereto in the third column of that Schedule.

(2) The levy shall be paid into the Petroleum Development Fund.

(3) An oil marketing company shall on or before the last day of the month immediately following the month in which he becomes an oil marketing company register with the collector as a remitter.

(4) A person registered as a remitter who ceases either permanently or temporarily to be a marketeer shall, within thirty days of so ceasing, notify the collector accordingly in writing specifying the reasons for his ceasing to be a remitter.

(5) The remitter shall pay the levy to the collector immediately at the time of importation of petroleum fuel or at the time of its delivery from the refinery.

(6) The collector shall maintain records of importation and submit to the Cabinet Secretary a monthly return of payment of the levy received during the month.

(7) The collector shall remit to the Petroleum Development Fund all levy paid during the month.

(8) Without prejudice to any other form of remedy, any monies payable under this section that remains unpaid for a period of thirty days after the date that the same ought to be paid shall be recoverable summarily by the collector as a civil debt due and payable to the Petroleum Development Fund.

(9) Notwithstanding the provisions section, if a remitter fails to pay an amount payable by way of a levy within the time prescribed by this

section a sum equal to five per cent of that amount shall be added to the amount for each month or part of a month thereafter that the amount due remains unpaid.

(10) Any person who fails to comply with any provision of this section shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year, or to both.

9. The Petroleum Development Fund Act, 1993 is amended in section 4 by-

Amendment of
section 4 of No. 4
of 1993.

(a) deleting subsection (1) and substituting therefor the following new sub-section-

(1) There shall be established a fund to be known as the Petroleum Development Fund which shall consist of –

- (a) moneys appropriated by Parliament for that purpose; and
- (b) all monies received in respect of the Petroleum Development Levy.

(b) deleting subsection (3);

(c) deleting subsection (4) and substituting therefor-

(4) The levy shall be used for –

- (a) matters relating to the development of the oil industry;
- (b) development of common petroleum facilities for distribution or testing of oil products;
- (c) stabilization of local pump prices in instances of spikes occasioned by high landed costs above a threshold determined by the Authority:

Provided that the funds are not used for purposes in competition with the private sector.

(d) by inserting the following new subsection immediately after subsection (4)-

(4a) The Cabinet Secretary may in writing to the administrator, request for a draw down from the Petroleum Development Fund to stabilize local petroleum pump prices where he deems it necessary.

10. The Petroleum Development Fund Act is amended by inserting the following section immediately after section 4-

Insertion of new section in No. 4 of 1993.

Petroleum Development Fund Board.

4A. (1) There is established a Petroleum Development Fund Advisory Board.

(2) The Advisory Board shall be an unincorporated body consisting of—

(a) one person appointed by the Cabinet Secretary for the time being responsible for Finance;

(b) one person appointed by the Cabinet Secretary for the time being responsible for matters related to Energy;

(c) one person appointed by the Cabinet Secretary for the time being responsible for Petroleum; and

(d) a representative of the Authority.

(3) The Advisory Board –

(a) shall approve withdrawals out of the Fund; and

(b) may impose conditions on the use of any expenditure authorized and may impose any reasonable prohibition, restriction or any other requirement on the use of such expenditure.

11. The Petroleum Development Fund Act,1993 is amended in section 5 by deleting paragraph (b).

Amendment of section 5 of No. 4 of 1993

12. The Petroleum Development Fund Act,1993 is amended by inserting the following section immediately after section 6-

Insertion of new section in No. 4 of 1993

Revocation of
LN.124/2020 and

7. (1) The Petroleum Development Levy Order, 2020 is revoked.

LN. 174/2020

(2) The Petroleum Development Levy Order, 2020 is revoked.

13. The Petroleum Development Fund Act, 1993 is amended by inserting the following schedule –

Insertion of
Schedule in No.
4 of 1993

FIRST SCHEDULE

<i>Tariff Code Description</i>	<i>Rate of Levy Kshs.</i>
2709.00.10 Condensates	2900.00 per 1,000 litres at 20°C
2710.00.21 Aviation spirit (gasoline)	2900.00 per 1,000 litres at 20°C
2710.00.22 Motor spirit (gasoline), premium	2900.00 per 1,000 litres at 20°C
2710.00.23 Motor spirit (gasoline), regular	2900.00 per 1,000 litres at 20°C
2710.00.24 Jet fuel (spirit type)	2900.00 per 1,000 litres at 20°C
2710.00.25 Special boiling point spirit and white spirit	400.00 per 1,000 litres at 20°C
2710.00.29 Other light petroleum oils and preparations	400.00 per 1,000 litres at 20°C
2710.00.32 Kerosene	400.00 per 1,000 litres at 20°C
2710.00.39 Other medium petroleum oils and preparations	2900.00 per 1,000 litres at 20°C
2710.00.41 Diesel oil (industrial, heavy, black, for low speed marine and stationery engines)	2900.00 per 1,000 litres at 20°C
2710.00.43 Other gas oil	2900.00 per

<i>Tariff Code Description</i>	<i>Rate of Levy Kshs.</i>
	1,000 litres at 20°C
2710.00.44 Residual fuel oils (marine furnace similar fuel oils engines) of 125 ct	400.00 per 1,000 litres at 20°C
2710.00.45 Residual fuel oils of 180 ct	400.00 per 1,000 litres at 20°C
2710.00.46 Residual fuel oils of 280 ct	400.00 per 1,000 litres at 20°C
2710.00.47 Other residual fuel oils	400.00 per 1,000 litres at 20°C
2711.11.00 Liquefied natural gas	400.00 per 1,000 litres at 20°C
2711.12.00 Liquefied propane	400.00 per 1,000 Kg at 20°C
2711.13.00 Liquefied butanes	400.00 per 1,000 Kg at 20°C
2711.14.00 Liquefied ethylene, propylene, butylenes and butadiene	400.00 per 1,000 Kg at 20°C
2711.19.00 Other liquefied petroleum gases	400.00 per 1,000 Kg at 20°C
2711.21.00 Natural gas in gaseous state	400.00 per 1,000 Kg at 20°C
2711.29.00 Other petroleum gases	400.00 per 1,000 Kg at 20°C
2713.20.00 Petroleum bitumen	400.00 per 1,000 Kg at 20°C
2713.90.00 Other residues of petroleum oil or oils obtained from bituminous minerals	400.00 per 1,000 Kg at 20°C
2714.10.00 Bituminous or oil shale and tar sands	400.00 per 1,000 Kg at 20°C
2714.00.00 Bitumen and asphalt or asphalts and asphaltic rocks	400.00 per 1,000 Kg at 20°C
2715.00.00 Bituminous mixtures	400.00 per 1,000 Kg at 20°C

14. The Statutory Instruments Act, 2013 is amended in section 15 by inserting the following subsection immediately after subsection (3)-

Amendment of
No. 23 of 2013.

(4) Without prejudice to the provisions of section 12 and this section, any statutory instrument which contains provisions dealing with taxes, levies or fees, or has the effect of imposition of a charge on a public fund or variation or repeal of such charge, the National Assembly shall, within twenty-eight sitting days from the date of receipt of the notice under section 11, consider the notice and make a resolution either to approve or reject the notice.

15. Section 5 of the Value Added Tax Act, 2013 is amended in subsection 2-

Amendment of
section 5 of No.
35 of 2013

- (a) by deleting the word "eight" appearing in paragraph (aa) and substituting therefor the word "four";
- (b) by inserting the following new paragraph immediately after paragraph (aa)-
 - (ab) in the case of the supply of liquified petroleum gas including propane, eight percent, effective on the date of assent.

MEMORANDUM OF OBJECTS AND REASONS

This is a miscellaneous Bill to amend several tax and levies related laws.

The object of this Bill is to review taxes and levies on petroleum products, with a view to making the products cheaper. The global prices have been on the rise in the recent months, hence to bring the price of fuel down, there is need to reduce the taxes and levies applicable to petroleum products.

Further, the Bill proposes to restructure the Petroleum Development Fund, with particular reference to specifying the purposes for which the Petroleum Development Levy may be used.

The Bill further makes amendments to the Statutory Instruments Act, to require that all statutory instruments that impose taxes and levies are positively or negatively approved by the National Assembly.

Clause 1 sets out the short title.

Clause 2 amends the Energy Act to provide that the Cabinet Secretary may amend the Sixth Schedule to the Act and that the notice should be tabled in the National Assembly.

Clause 3 of the Bill provides for revocation of the Energy (Petroleum Pricing) Regulations, 2010 in view of **clause 4** which has moved the provisions of the Regulations to the Sixth Schedule.

Clause 5 of the Bill is amendment to the Excise Duty Act, to provide that Excise Duty inflation adjustment shall be done biennially.

Clause 6 and 7 are amending the Petroleum Development Fund Act to provide for the Petroleum levy and to anchor provisions which were previously contained in the Petroleum Development Levy Order, 2019.

Clause 8 is amending provisions on the Petroleum Development Fund to harmonise the provisions with clause 7. Further, it specifies the purposes the levy shall be used for.

Clause 9 establishes the Petroleum Development Fund Board whose major function is to approve withdrawals from the Fund.

Clause 10 is deletion of a function which was previously assigned to the administrator of the Fund but has not been assigned to the Board.

Clause 11 is revocation of the Petroleum Development Levy Orders.

Clause 12 amends the Petroleum Development Act by inserting a new schedule to prescribe the Petroleum Development Levy at shs 2.90

Clause 13 is an amendment to the Statutory Instruments Act to require that all statutory instruments that have the effect of imposing or varying taxes and levies should be approved by the National Assembly.

Clause 14 amends the Value Added Tax Act by reducing the VAT applicable to petroleum products and liquified petroleum gas to 4% and 8% respectively.

Statement of delegation of legislative powers and limiting fundamental rights and freedoms

The Bill does not contain any provision limiting any fundamental rights or freedoms or delegating legislative powers.

Statement on the Bill concerning county governments

The Bill does not concern county governments in terms of Article 110 (1) (a) as it does not affect the functions and power of county governments as set out in the Fourth Schedule.

Statement that the Bill is a money bill, within the meaning of Article 114 of the Constitution.

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 14th October, 2021.

GLADYS WANGA,
Member of Parliament.

Section 198 of the Energy Act, which it is proposed to amend-

198. Power of Cabinet Secretary to make regulations

(1) The Cabinet Secretary upon recommendation by the Authority may, make regulations for carrying out the provisions of this Act by notification, in the *Gazette*.

(2) In particular, and without prejudice to the generality of the foregoing, such regulations may provide for all or any of the following matters—

- (a) the qualifications, criteria and conditions subject to which a person may be accredited as energy auditors and energy managers and the procedure for such accreditation;
- (b) the energy consumption norms and standards for designated consumers;
- (c) different norms and standards for different designated consumers;
- (d) the form and manner and the time within which information with regard to energy consumed and the action taken on the recommendations of the accredited energy auditor be furnished;
- (e) the manner and the intervals or time in which the energy audit shall be conducted;
- (f) particulars required to be displayed on labels and the manner of their display;
- (g) the manner and the intervals of time for conducting energy audit by an accredited energy auditor;
- (h) the form and manner in which the status of energy consumption be submitted;
- (i) form and manner for preparation of the scheme and its implementation;
- (j) energy efficiency and conservation building codes;
- (k) prescribing the procedure for issuing the energy savings certificate;
- (l) value of per metric ton of oil equivalent of energy consumed;
- (m) matters relating to inspection;
- (n) manner of holding inquiry;
- (o) form of and fee for filing such appeal;

- (p) publication of energy statistics or information;
- (q) the type, manner and form of energy data and information that must be published;
- (r) minimum levels of energy efficiency in each sector of the economy;
- (s) steps and procedures necessary for the application of energy efficient technologies and procedures;
- (t) labelling for energy efficiency purposes of household appliances, devices and motor vehicles;
- (u) prohibition of the manufacture, or importation or sale of electrical and electronic products and fuel burning appliances for reasons of poor energy efficiency;
- (v) standards and specifications for energy carriers;
- (w) energy efficiency standards for specific technologies, processes, appliances, devices, motor vehicles and buildings;
- (x) energy conservation measures to be used during energy shortage, which may include but not limited to the amount of energy to be saved, the duration for such measures and penalties associated with non-compliance to such measures;
- (y) penalties and sanctions to be imposed by the Authority; and

First Schedule of the Excise Duty Act, which it is proposed to amend

2.(1) The specific rates of excise duty on excisable goods specified in this Schedule shall be adjusted for inflation at the beginning of every financial year in accordance with this paragraph.

(2) Each rate of excise duty specified in the table in paragraph 1 shall be replaced by the rate of excise duty computed by reference to the following formula—

A(1+B)

where —

A is the rate of excise duty on the day immediately before the adjustment day; and

B is the adjustment factor for the adjustment day, calculated as the average rate of monthly inflation of the preceding financial year.

Section 2 of the Petroleum Development fund Act, which it is proposed to amend-

Interpretation

In this Act, unless the context otherwise requires—

"Commissioner" means—

- (a) the Commissioner-General appointed under section 11(1) of the Kenya Revenue Authority Act (Cap. 469); or
- (b) with respect to powers or functions that have been delegated under section 11(4) of the Kenya Revenue Authority Act (Cap. 469) to another Commissioner, that other Commissioner;

"financial year" means the period of twelve months ending on the 30th June in each year;

"Fund" means the Petroleum Development Fund established under section 4;

"officer administering the Fund" means the Permanent Secretary to the Treasury or any person appointed by him in writing for that purpose.

Section 3 of the petroleum Development Fund Act, which it is proposed to amend-

Petroleum development levy

3.(1) The Minister may make a petroleum development levy order imposing a levy on all petroleum fuels consumed in Kenya to be collected by the Commissioner and the order may provide for the amendment of a previous petroleum development levy order and may make different provisions in relation to different descriptions of fuel.

(2) A petroleum development levy order may contain provision as to the evidence by which a person's liability to the levy or his discharge of that liability may be established, and as to the time at which any amount payable by way of levy shall become due and manner in which it shall be recovered by the Commissioner.

(3) A person who fails to comply with any provision of a petroleum development levy order shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year, or to both.

Section 4 of the Petroleum Development Fund Act, which it is proposed to amend-

4.The Petroleum Development Fund

(1) There shall be established a fund to be known as the Petroleum Development Fund which shall consist of moneys appropriated by Parliament for that purpose.

(2) The Fund shall be administered by the Permanent Secretary to the Treasury or any person appointed by him in writing for that purpose.

(3) All moneys received in respect of the petroleum development levy shall be paid into the Fund.

(4) There shall be paid out of the Fund such monies as are necessary for the development of common facilities for the distribution or testing of oil products and for matters relating to the development of oil industry as the Minister may direct:

Provided that the funds are not used for purposes in competition with the private sector.

(5) The expenditure from the Fund shall be on the basis and limited to the annual budget which shall be submitted to the Treasury for approval before the beginning of the financial year to which the budget relates.

(6) All receipts, savings and accruals of the Fund and the balance of the Fund at the close of each financial year shall not be paid to the Consolidated Fund, but shall be retained for the purpose for which the Fund is established.

Section 5 of the Petroleum Development Fund Act, which it is proposed to amend-

5. Powers and functions of the officer administering the Fund

The officer administering the Fund shall—

- (a) supervise and control the administration of the Fund;
- (b) if he thinks fit, impose conditions on the use of any expenditure authorized by him or on his behalf and may impose any reasonable prohibition, restriction or any other requirement on the use of such expenditure;
- (c) cause to be kept all proper books of accounts and other books and records related to the Fund; and
- (d) prepare, sign and transmit to the Controller and Auditor-General an account of the fund in accordance with section 18(2) of the Exchequer and Audit Act.

Section 15 of the Statutory Instruments Act, which it is proposed to amend-

15. Report to Parliament

(1) The Committee shall make a report to Parliament containing only a resolution that the statutory instruments that stands permanently referred to the Committee be revoked.

(2) Where the Committee does not make the report referred to in subsection (1) within twenty eight sitting days after the date of referral of the statutory instrument to the Committee under section 12, or such other period as the House may, by resolution approve, the statutory instrument shall be deemed to have fully met the relevant considerations referred to in section 13.

(3) Despite the provision of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the National Assembly relating to the handling of a statutory instrument, the National Assembly may, by resolution, extend that time by a period not exceeding twenty-one days.

Section 5 of the Value Added Tax Act, 2013, which it is proposed to amend-

5. Charge to tax

(1) A tax, to be known as value added tax, shall be charged in accordance with the provisions of this Act on—

- (a) a taxable supply made by a registered person in Kenya;
- (b) the importation of taxable goods; and
- (c) a supply of imported taxable services.

(2) The rate of tax shall be—

- (a) in the case of a zero-rated supply, zero per cent;
- (aa) in the case of goods listed in section B of Part I of the First Schedule, eight percent of the taxable value, effective from the date of assent; or
- (b) in any other case, fourteen per cent of the taxable value of the taxable supply, the value of imported taxable goods or the value of a supply of imported taxable services.

(3) Tax on a taxable supply shall be a liability of the registered person making the supply and, subject to the provisions of this Act relating to accounting and payment, shall become due at the time of the supply.

(4) The amount of tax payable on a taxable supply, if any, shall be recoverable by the registered person from the receiver of the supply, in addition to the consideration.

(5) Tax on the importation of taxable goods shall be charged as if it were duty of customs and shall become due and payable by the importer at the time of importation.

(6) Tax on the supply of imported taxable services shall be a liability of any person receiving the supply and, subject to the provisions of this Act relating to accounting and payment, shall become due at the time of the supply.

(7) The provisions of subsection (1) shall be applicable to supplies made over the internet or an electronic network or through a digital marketplace.

(8) The Cabinet Secretary shall make regulations to provide the mechanisms for implementing the provisions of subsection (7).

(9) For the purposes of this section, "**digital marketplace**" means an online platform which enables users to sell or provide services, goods or other property to other users.