



REPUBLIC OF KENYA  
THE NATIONAL TREASURY AND ECONOMIC PLANNING

PUBLIC NOTICE

INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF  
MEMORANDA

- I. AMENDMENT OF THE DEBT LIMIT
- II. AMENDMENTS TO THE PFM ACT, 2012 AND ATTENDANT REGULATIONS TO BE CONSISTENT WITH THE CONSTITUTION OF KENYA, 2010

The National Treasury and Economic Planning has finalized preparing the aforementioned regulations and amendments and the same have been posted to the National Treasury website [www.treasury.go.ke](http://www.treasury.go.ke).

Pursuant to Sections 4 (a) and 5 (3) (a) and (b) of the Statutory Instruments Act, 2013, the National Treasury invites interested members of the public to submit written comments and or inputs/memoranda on the aforementioned guidelines and amendments in the following format:

	Area of concern	Recommendation
1.		
2.		

The Public Finance Management (Amendment) Bill, 2023, the Public Finance Management (National Government) Amendment Regulations, 2023 and the Public Finance Management (County Government) Regulations, 2023 are found in the National Treasury Website <https://www.treasury.go.ke> for your reading and comments.

The comments, inputs or memoranda may be forwarded to the Principal Secretary, National Treasury, P.O. Box 30007-00100, Nairobi; hand-delivered to the Office of the Principal Secretary, National Treasury Building, Nairobi; or soft copy emailed to [ps@treasury.go.ke](mailto:ps@treasury.go.ke) and a copy to [pdmo@treasury.go.ke](mailto:pdmo@treasury.go.ke) to be received by 30<sup>th</sup> March 2023 at 5.00 pm (E.A.T).

NJUGUNA NDUNG'U, CBS  
CABINET SECRETARY



LEGAL NOTICE NO.....

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 205 of the Public Finance Management Act, 2012, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (NATIONAL GOVERNMENT) (AMENDMENT) REGULATIONS, 2023

1. These Regulations may be cited as the Public Finance Management (National Government)(Amendment) Regulations, 2023.

Sub. Leg. 2. The Public Finance Management (National Government) Regulations, 2015, are amended in regulation 26(1) by deleting subparagraph (c) and substituting therefor the following new subparagraph—

“(c) the Cabinet Secretary shall at all times maintain public debt at a level not exceeding 55 percent of Gross Domestic Product in Present Value (PV) terms:

Provided that if, at any time, the public debt exceeds this threshold, the Cabinet Secretary shall submit a written report to Parliament explaining the cause of the breach on the threshold and provide a time-bound remedial plan”.

Made on the..... 21st March, ....., 2023.



Njuguna Ndung'u  
Cabinet Secretary  
for the National Treasury & Economic Planning



LEGAL NOTICE NO.....

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

IN EXERCISE of the powers conferred by section 205 of the Public Finance Management Act, 2012, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (COUNTY GOVERNMENTS) (AMENDMENT) REGULATIONS, 2023

Sub.  
Leg.

1. These Regulations may be cited as the Public Finance Management (County Governments) (Amendment) Regulations, 2023.

2. Regulation 2 of the Public Finance Management (County Governments) Regulations, 2015, (hereinafter referred to as the “principal Regulations” is amended in the definition of “County Public Debt”, by deleting the word “public”.

3. Regulation 25(1) of the principal Regulations is amended in subparagraph (d) by deleting the word “public”.

4. Regulation 27(1)(a) of the principal Regulations is amended in item (v) by deleting the word “public”.

5. Regulation 86(2) of the principal Regulations is amended in subparagraph (d) by deleting the word “public” and substituting therefor the word “county”.

6. Regulation 111(2) of the principal Regulations is amended in subparagraph (a) by deleting the word “public”.

7. Part XIV of the principal Regulations is amended by deleting the word “public” appearing in the title and substituting therefor the word “county”.

8. Regulation 179 of the principal Regulations is amended in paragraph (1) by deleting the word “public”.

9. Regulation 180 of the principal Regulations is amended in paragraph (1) by deleting the word “public”.

10. The principal Regulations are amended by deleting regulation 186 and substituting therefor the following new regulation—

“186. The objectives of county debt management are to ensure that the county government’s financing needs and payment obligations are met at the lowest possible cost over the medium to long term, with a prudent degree of risk”.

11. Regulation 187 of the principal Regulations is amended in paragraph (1) by deleting the word “public”.

12. Regulation 193 of the principal Regulations is amended by deleting the word “public”.

13. Regulation 194 of the principal Regulations is amended—

(a) in paragraph (1), by deleting the word “public” and substituting therefor the word “county”; and

(b) in paragraph (2), by deleting the word “public” and substituting therefor the word “county”.

Made on the.....*21<sup>st</sup> March,*....., 2023.

**Njuguna Ndung’u**  
*Cabinet Secretary*  
*for the National Treasury & Economic Planning*

LEGAL NOTICE NO.....

THE PUBLIC FINANCE MANAGEMENT ACT

*(No. 18 of 2012)*

IN EXERCISE of the powers conferred by section 205 of the Public Finance Management Act, 2012, the Cabinet Secretary for the National Treasury and Economic Planning makes the following Regulations—

THE PUBLIC FINANCE MANAGEMENT (COUNTY GOVERNMENTS) (AMENDMENT) REGULATIONS, 2023

1. These Regulations may be cited as the Public Finance Management (County Governments) (Amendment) Regulations, 2023.

Sub.  
Leg.

2. Regulation 2 of the Public Finance Management (County Governments) Regulations, 2015, (hereinafter referred to as the “principal Regulations” is amended in the definition of “County Public Debt”, by deleting the word “public”.

3. Regulation 25(1) of the principal Regulations is amended in subparagraph (d) by deleting the word “public”.

4. Regulation 27(1)(a) of the principal Regulations is amended in item (v) by deleting the word “public”.

5. Regulation 86(2) of the principal Regulations is amended in subparagraph (d) by deleting the word “public” and substituting therefor the word “county”.

6. Regulation 111(2) of the principal Regulations is amended in subparagraph (a) by deleting the word “public”.

7. Part XIV of the principal Regulations is amended by deleting the word “public” appearing in the title and substituting therefor the word “county”.

8. Regulation 179 of the principal Regulations is amended in paragraph (1) by deleting the word “public”.

9. Regulation 180 of the principal Regulations is amended in paragraph (1) by deleting the word “public”.

10. The principal Regulations are amended by deleting regulation 186 and substituting therefor the following new regulation—

“186. The objectives of county debt management are to ensure that the county government’s financing needs and payment obligations are met at the lowest possible cost over the medium to long term, with a prudent degree of risk”.

11. Regulation 187 of the principal Regulations is amended in paragraph (1) by deleting the word “public”.

12. Regulation 193 of the principal Regulations is amended by deleting the word “public”.

13. Regulation 194 of the principal Regulations is amended—

(a) in paragraph (1), by deleting the word “public” and substituting therefor the word “county”; and

(b) in paragraph (2), by deleting the word “public” and substituting therefor the word “county”.

Made on the.....*21<sup>st</sup> March,*....., 2023.



**Njuguna Ndung’u**  
*Cabinet Secretary*  
*for the National Treasury & Economic Planning*



**THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL, 2023**

**A Bill for**

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

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

Short title.

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

Amendment of section 2 of No. 18 of 2012.

2. The Public Finance Management Act (hereinafter referred to as the “principal Act”) is amended in section 2—

(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” in relation to public debt, includes outstanding amount of actual current liabilities that require payment(s) of principal, interest, fees, commissions and expenses by the government;

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

Amendment of section 12 of No. 18 of 2012.

3. Section 12 of the principal Act is amended—

(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—

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

“(d) public debt and financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed are maintained at a sustainable level as advised by the Public Debt Management Office and approved by Parliament for the national government and by the county assembly for county government”.

(b) 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) in subsection (2) —

- (i) by deleting the words “a limit” and substituting therefor the words “set threshold”;
- (ii) by adding the following proviso at the end of the sentence—

“Provided that if, at any time, the Cabinet Secretary is unable to maintain the public debt threshold as required under this subsection or the Regulations made thereunder, the Cabinet Secretary shall submit a written report to Parliament explaining the cause of the breach on the threshold and provide a time-bound remedial plan.

(b) by deleting sub-section (6) and substituting therefor the following new sub-section—

“(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”.

Amendment of  
section 63 of No.  
18 of 2012.

7. Section 63 of the principal Act is amended by adding the following new paragraph—

“(i) advising Parliament and the Cabinet

Secretary on the sustainable levels of public debt and the annual borrowing limit”.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Public Finance Management Act No. 18 of 2012 to operationalize the Public Debt and Borrowing with regard to framework for monitoring the level of public debt to align it with the provisions of Article 214(2) of the Constitution which defines “public debt” to mean all financial obligations attendant to loans raised or guaranteed and securities issued or guaranteed by the national government.

The structure of the Bill is as follows:

**Clause 1** of the Bill sets out the short title of the proposed Act.

**Clause 2** of the Bill contains provisions to amend the Act by deleting the word “public” in the definition of the words “County Public Debt” and inserting the definition of the words “financial obligations” and “public debt”.

**Clause 3** of the Bill proposes to amend section 12 of the Act by deleting paragraph (b) and introducing a new provision that provides for the proper management and efficient use of budgetary resources by the national government and its entities.

**Clause 4** of the Bill seeks amend section 15 to provide for financial obligations to be maintained at a substantial level as advised by Public Debt Management Office and Parliament. It also deletes the words “national debt” and substituting therefor the words “public debt” as the Constitution defines “public debt” and not “national debt”.

**Clause 5** of the Bill contains provisions to amend section 31 of the Act by deleting the words “national debt” wherever it appears and replace it with the words “public debt” to align it with the definition in the Constitution.

**Clause 6** of the Bill seeks to amend section 50 of the Act to require the Cabinet Secretary to give an explanation to Parliament, in writing, where the public debt exceeds the threshold set out in law and the remedial plan.

**Clause 7** of the Bill seeks to amend the Act by introducing a new paragraph in section 63 to add functions of the Public Debt Management Office to include advising Parliament and the Cabinet Secretary on the sustainable levels of public debt and the annual borrowing limit.

Dated the *21<sup>st</sup> March,*....., 2023.



**Njuguna Ndung'u**  
*Cabinet Secretary*  
*for the National Treasury & Economic Planning*

*Section 2 of No. 18 of 2012, which is proposed to amend—*

“County Public Debt” means all financial obligations attendant to loans raised and securities issued by the county government;

*Section 12(1)(b) and (2)(b) of No. 18 of 2012, which is proposed to amend—*

12. (1) Subject to the Constitution and this Act, the National Treasury shall—

(b) manage the level and composition of national public debt, national guarantees and other financial obligations of national government within the framework of this Act and develop a framework for sustainable debt control;

(2) The National Treasury shall have the following functions, in addition to those in subsection (1)—

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

*Section 15(2)&(4) of No. 18 of 2012, which is proposed to amend—*

(2) In managing the national government’s public finances, the National Treasury shall enforce the following fiscal responsibility principles—

(c) public debt and obligations shall be maintained at a sustainable level as approved by Parliament for the national government and the county assembly for county government;

(4) The National Treasury shall ensure that the level of National Debt does not exceed the level specified annually in the medium term national government debt management strategy submitted to Parliament.

***Section 31(2) of No. 18 of 2012, which is proposed to amend—***

(2) Where either House of Parliament is canvassing a matter relating to the national debt, the Cabinet Secretary shall submit to Parliament, a report of all loans made to the national government, national government entities, and county governments, not later than seven days after receiving a request to do so from either House of Parliament.

***Section 50(2) and (6) of No. 18 of 2012, which is proposed to amend—***

(2) The national government may borrow money in accordance with this Act or any other legislation and shall not exceed a limit set by Parliament.

(6) A public debt 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 is a charge on another public fund established by the national government or any of its entities.