

EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM FOR THE PUBLIC FINANCE MANAGEMENT (PRISONS ENTERPRISE FUND) REGULATIONS, 2025

PART I

- Name of instrument:** Public Finance Management (Prisons Enterprise Fund) Regulations, 2025.
- Name of Parent Act:** The Public Finance Management Act (*No. 18 of 2012*).
- Enacted Pursuant to:** Section 24(4) of the Public Finance Management Act, 2012
- Name of Ministry:** The National Treasury & Economic Planning/ Ministry of Interior and National Administration.
- Gazetted on:** As approved by the Cabinet Secretary, National Treasury and
Economic Planning, with concurrence with the National Assembly
- Tabled on:** To be advised by the Clerk of the National Assembly.

PART II

1. Purpose of the Statutory Instrument

The purpose of this Statutory Instrument is to establish a Fund to be known as the **Prisons Enterprise Fund**, whose objects and purpose shall be to provide funds to support the development and operations of the prison enterprises:

- a. facilitate the provision of funds for the development and implementation of training and rehabilitation programs for prisoners;
- b. facilitate the development of the prison enterprises;
- c. fund the purchase and maintenance of prison enterprises' equipment and machinery;

- d. facilitate the provision of strategic marketing initiatives for products and services from the prison enterprise;
- e. facilitate the development of human capital resources through capacity building of prison enterprises staff;
- f. fund any other relevant activities in the furtherance of the objects for which the Fund was established;

2. Legislative Context

The National Assembly delegated the duty to establish national public funds to the Cabinet Secretary responsible for finance, with the approval of the National Assembly. This is provided for under Section 24 (4) of the Public Finance Management Act, 2012, and Section 207 of the Public Finance Management Regulations, 2015.

The Regulations are therefore developed within the meaning of Section 24 (4) of the Public Finance Management Act 2012 and the procedure for public participation provided under the Statutory Instrument Act, 2013.

3. Policy Background

The concept of Prison Industries was introduced in Kenya by the British Colonial Government in 1927 with the recruitment of five (5) European Technical Instructors from the United Kingdom. The instructors were engaged based on the Loan Fund Buildings Facility, from which their salaries and training were paid. The Loan Funds facility operated until 1929, when the program was absorbed into the prison system, and the instructors became regular members of the prison department. The instructors had a specific mandate of establishing industrial, technical, and agricultural training for prisoners.

In 1988 and 1993, parliament passed the Exchequer and Audit Act (Cap 412) Legal Notice No. 314 of 1988 and Legal Notice No. 87 of 1993, which established the Prison Industries Revolving Fund with an initial capital of Kshs 14 million and the Prison Farms Revolving Fund with an initial capital of Kshs 4.2 million, respectively. The purpose of the Funds was to train prisoners and inmates in various skills, to rehabilitate them, and to procure the necessary raw materials, tools, plants, and equipment required for this purpose, and to offer for sale products in the open market.

Kenya Prisons are endowed with immense resources, including prisoners' labour, technical staff, land, and infrastructure that can be leveraged to benefit both the prisons and the state. Prison enterprises, which comprise prison industries and farms, have been established to manage and utilize these resources in support of the prison's objective of social rehabilitation, reformation, and reintegration for offenders.

Several initiatives have been undertaken to organize, manage, and increase the productivity of the enterprises. During the colonial era, prison industries were established to provide prisoners with industrial vocational training, agricultural training, and educational opportunities. Indeed, the prison's industrial vocational training unit was the pioneer of industrial vocational training in Kenya.

The operations of the Kenya Prisons Enterprises are guided by the Prisons Service Standing Orders, the Prisons Act CAP 90 Laws of Kenya, legal notices that established the industries revolving funds, the Public Procurement and Asset Disposal Act (2015), the Public Finance Management Act (2012), the Constitution and International instruments specifically the Standard Minimum Rules for the Treatment of Offenders (Mandela Rules) among others.

BETA - Bottom-Up Economic Transformation Agenda is directly linked to Kenya's Vision 2030 and the Sustainable Development Goals. The plan focuses on agricultural transformation, micro, Small, and Medium Enterprises (MSMEs), housing and settlement, healthcare, the digital superhighway, and the Creative Industry. Emphasis in Prisons Enterprise is on the two areas, Agricultural Transformation and Micro, Small, and Medium Enterprises (MSMEs)

The purpose of re-engineering the current regulations establishing prison industries and farms revolving funds is to;

- (i) Establish them in the Public Finance Management Act (2012)
- (ii) Align them with the Presidential Executive Order No.2 of 2023 establishing the Prisons Enterprise Fund.
- (iii) Expand the purpose and object of the funds to incorporate the objective of optimum productivity and profitability
- (iv) Harmonize the Treasury policy on financial and food sustainability with revolving funds regulations
- (v) Recommend additional seed money appropriated by parliament to increase capital investment for enhanced productivity and profitability
- (vi) Separate training and rehabilitation programs from commercial production.

4. Guidance

The National Treasury and Economic Planning, along with the State Department for Correctional Services, shall sensitize the National Assembly, the general public, prisoners, Kenya Prisons Service staff, and various stakeholders on the objectives of the Prisons Enterprise Fund.

5. Stakeholder Consultations

The Task Force responsible for preparing and developing the Regulations will hold targeted consultations with key stakeholders, and their input will be taken into account before finalizing these draft Regulations.

Some of the key stakeholders to be engaged in the development of the Regulations include NITA, MSEA, Faraja Foundation, Muslims of Human Rights, Chandaria Foundation, Kenya Human Rights Commission, Kituo cha Sheria, Independent Medico, Italian Bishops, State Department for Correctional Services, Probation and Aftercare Services, Judiciary, NACADA, RODI, and a sample of the following prisons;- Kamiti Maximum Prison, Mwea G.K Prison, Eldoret Main/Ngeria Farm Prison, Kisumu Main Prison, Shikusa Prison, and Shimo la Tewa Maximum Security Prison.

Consultations are to be targeted to institutions and the general public directly affected by the operationalization of these Regulations.

In accordance with the provisions of Section 5 of the Statutory Instruments Act, 2014, the National Treasury, in collaboration with the Ministry of the Interior and National Administration, will undertake public participation before the publication of these Regulations.

The mode of public participation included the invitation of key stakeholders via an advertisement posted on the National Treasury website and published in the MyGov section of the newspaper on August 5, 2025. Written submissions on the Regulations should be sent to pstreasury01@gmail.com and jona.wala@treasury.go.ke.

6. Impact Assessment

An impact assessment has been prepared for this statutory instrument.

7. Review

The National Treasury shall monitor the application of the Regulations. This shall be done through the quarterly and annual reports prepared by the Fund and forwarded to the National Treasury.

8. Contact

The contact person shall be the Cabinet Secretary or Principal Secretary, National Treasury & Economic Planning.

Made on the.....*30/7/25*....., 2025.



HON. FCPA JOHN MBADI NG'ONGO, EGH
Cabinet Secretary for the National Treasury & Economic Planning

