



LAWS OF KENYA

DIVISION OF REVENUE ACT

No. 31 of 2013

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ARRANGEMENT OF SECTIONS

Section

- 1—Short title.
- 2—Interpretation.
- 3—Object and purpose of the Act.
- 4—Allocations to county governments.
- 5—Variation in revenue.
- 6—Resolution of disputes and payment of wasteful expenditure.
- 7—Explanatory memorandum not to bind parliament.

SCHEDULE—REVENUE ALLOCATIONS BETWEEN THE
NATIONAL AND COUNTY GOVERNMENTS FOR
2013/14

DIVISION OF REVENUE ACT

No. 31 OF 2013

Date of Assent: 11th June, 2013

Date of Commencement: 11th June, 2013

An Act of Parliament to provide for the equitable division of revenue raised nationally between the national and county governments in 2013/14 financial year, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Division of Revenue Act, 2013.

Interpretation.

2. In this Act, unless the context otherwise requires—

"Cabinet Secretary" means the Cabinet Secretary responsible for finance;

"conditional allocations" means allocations in the share of revenue allocated to the national government for the purpose of meeting specified county government expenditure including financing county expenses relating to development programmes;

"county allocation" means the share of national revenue computed in accordance with article 203(2) of the Constitution that is allocated for the use of the County government consisting of the county Executive and the County Assembly;

"national allocation" means the share of national revenue computed in accordance with Article 203(2) of the Constitution that is allocated for the use of the national government consisting of the Executive, Parliament and the Judiciary;

"revenue" has the same meaning assigned to it in section 2 of the Commission on Revenue Allocation Act, 2011 (No. 16 of 2011);

"State organ" has the same meaning assigned to it in Article 260 of the Constitution; and

"wasteful expenditure" has the same meaning assigned to it in section 2 of the Public Finance Management Act, 2012 (No. 18 of 2012).

Object and purpose of the Act.

3. The object and purpose of this Act is to provide for—
- (a) the equitable division of revenue raised nationally between the national and county levels of government for the financial year 2013/14 in accordance with Article 203 (2) of the Constitution;
 - (b) the drawing of unconditional and conditional grants from the share of revenue of the National Government.
 - (c) the financing and continuation of on-going services in accordance with Articles 187(2) and 203(1)(d) of the Constitution.

Allocations to county governments.

4. The revenue raised by the national government in respect of the financial year 2013/14 shall be divided among the national and county governments as set out in the Schedule to this Act.

Variation in revenue.

5. (1) If the actual revenue raised nationally in a financial year falls short of the expected revenue set out in the Schedule, the shortfall shall be borne by the national government, to the extent of the threshold prescribed in the regulations by the Cabinet Secretary.

(2) If the shortfall in revenue referred to in subsection (1) exceeds the threshold prescribed by the Cabinet Secretary, the shortfall in excess of that threshold shall be apportioned between the national and county governments on a prorata basis.

(3) If the actual revenue raised nationally in a financial year exceeds the expected revenue set out in the Schedule, the excess revenue shall be apportioned between the national government and county governments on a prorata basis.

Resolution of disputes and payment of expenditure.

6. (1) Any state organ involved in an intergovernmental dispute regarding any provision of this Act or any division of revenue matter or allocation shall, in accordance with Article 189 of the Constitution and before approaching a court to resolve such dispute, make every effort to settle the dispute with the other state organ concerned, including

exhausting all alternative mechanisms provided for resolving disputes in relevant legislation.

(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 (No. 2 of 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 such 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).

Explanatory memorandum not to bind Parliament.

7. The memorandum accompanying the Bill giving rise to this Act pursuant to Article 218(2) of the Constitution shall not be binding on Parliament in subsequent proceedings relating to the budget estimates and the annual Appropriation Bill for a particular financial year.

SCHEDULE

REVENUE ALLOCATIONS BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS FOR 2013/14

(Figures are in KSh. unless otherwise indicated)

TYPE/LEVEL OF GOVERNMENT ALLOCATION	REVENUE ALLOCATION	PERCENTAGE OF AUDITED REVENUE (KSH. 608.1 BILLION)	PERCENTAGE OF 2011/12 AUDITED REVENUE BUT NOT APPROVED BY PARLIAMENT (KSH.682.1 BILLION)
	Kenya Shillings	%	%
National Allocation	730,375,441,286	120.1%	107.1%
Of which:			
Conditional Allocations to Counties	20,000,000,000	3.3%	2.9%
Equalization Fund	3,400,000,000	0.6%	0.5%
County Equitable Share	190,000,000,000	31.2%	27.9%
TOTAL SHAREABLE REVENUE	920,375,441,286		
<i>Memo Items</i>			
County Equitable Share	190,000,000,000	31.2%	27.9%
Conditional Allocations	20,000,000,000	3.3%	2.9%
Total County Allocations	210,000,000,000	34.5%	30.8%

