

SPECIAL ISSUE

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ACTS, 2016

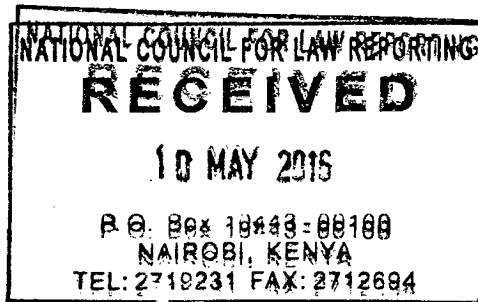
NAIROBI, 9th May, 2016

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THE DIVISION OF REVENUE ACT

No. 9 of 2016

Date of Assent: 6th May, 2016

Date of Commencement: 23rd May, 2016

ARRANGEMENT OF SECTIONS

Section

- 1—Short title.
- 2—Interpretation.
- 3—Object and purpose of this Act.
- 4—Allocations to national and county governments.
- 5—Variation in revenue.
- 6—Resolution of disputes and payment of wasteful expenditure.

**SCHEDULE—EQUITABLE SHARE OF REVENUE
RAISED NATIONALLY BETWEEN
THE NATIONAL AND COUNTY
GOVERNMENTS FOR FISCAL YEAR
2016/17**

THE DIVISION OF REVENUE ACT, 2016

AN ACT of Parliament to provide for the equitable division of revenue raised nationally between the national and county governments in 2016/17 financial year, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Division of Revenue Act, 2016. Short title.

2. (1) In this Act, unless the context otherwise requires — Interpretation.
 - “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance;
 - “conditional allocations” for the purposes of this Act, means additional resources allocated to county governments from revenue raised nationally;
 - “revenue” has the meaning assigned to it under section 2 of the Commission on Revenue Allocation Act, 2011; No. 16 of 2011.
 - “State organ” has the meaning assigned to it under Article 260 of the Constitution; and
 - “wasteful expenditure” has the meaning assigned to it under section 2 of the Public Finance Management Act, 2012. No. 18 of 2012.

3. The object and purpose of this Act is to provide for— Object and purpose of this Act.
 - (a) the equitable division of revenue raised nationally between the national and county levels of government for the financial year 2016/17 in accordance with Article 203(2) of the Constitution;
 - (b) conditional allocations to county governments in accordance with Articles 202(2) and 187(2) of the Constitution.

4. The revenue raised by the national government in respect of the financial year 2016/17 shall be divided among the national and county governments as set out in the Schedule to this Act Allocations to national and county governments.

5. (1) If the actual revenue raised nationally in a financial year falls short of the expected revenue set out in Variation in revenue.

2016

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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 actual revenue raised nationally in respect of the 2016/17 financial year exceeds the anticipated revenue set out in the Schedule, the excess accrues to the national government, and may be used to reduce borrowing or pay debts as part of its share of revenue raised nationally.

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.

Resolution of disputes and payment of wasteful expenditure.

(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 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.

No. 2 of 2012.

(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 state officer(s) who caused the State Organ not to comply with the requirements of subsection (1).

SCHEDULE**ALLOCATION OF REVENUE RAISED NATIONALLY BETWEEN
THE NATIONAL AND COUNTY GOVERNMENTS FOR FISCAL
YEAR 2016/17**

Type/ level of allocation	Amount in Kshs.	% of FY 2013/14 audited revenue (K sh. 935,653 millions*)
A. National Government Revenue Share	1,099,899,000,000	
<i>O/w:</i>		
1. Free maternal healthcare.	4,121,029,353	
2. Leasing of medical equipment.	4,500,000,000	
3. Compensation for use fees foregone.	900,000,000	
4. Level 5 Hospitals.	4,000,000,000	
5. Special purpose grant supporting access to emergency medical services.	200,000,000	
6. Allocation from Fuel Levy Fund (15%).	4,306,807,629	
7. Conditional allocations (loans and grants)	3,870,679,737	
8. Equalisation Fund	6,000,000,000	0.64 %
B. County Equitable Share	280,300,000,000	
<i>Add Conditional Allocation</i>	21,897,516,719	
<i>O/w:</i>		
1. Free maternal healthcare.	4,121,029,353	
2. Leasing of medical equipment.	4,500,000,000	
3. Compensation for use fees foregone.	900,000,000	
4. Level 5 Hospitals.	4,000,000,000	
5. Special purpose grants supporting access to emergency medical services.	200,000,000	
6. Allocation from Fuel Levy Fund (15%).	4,306,807,629	
7. Conditional allocations (loans and grants)	3,870,679,737	
Total County Allocation	302,197,516,719	32.3 %
Total Sharable Revenue	1,380,199,000,000	

* based on 2013/14 audited revenues as approved by the National Assembly.