REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2015

NAIROBI, 11th June, 2015

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THE FINANCE BILL, 2015

A Bill for

AN ACT of Parliament to amend the law relating to various taxes and duties and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Finance Act, 2015, and shall come into operation, or be deemed to have come into operation, as follows—

(a) sections 2, 3, 4, 5 and 6, on the 12th June, 2015;

(b) sections 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 and 20, on the 1st January, 2016; and

(c) all other sections, on the 1st October, 2015.

PART II—VALUE ADDED TAX

2. Section 2 of the Value Added Tax Act, 2013 is amended—

(a) by inserting the following definition in proper alphabetical sequence—

“duty-free shop” means a bonded warehouse licensed by the Commissioner of Customs for the deposit of dutiable goods on which duty has not been paid and which have been entered for sale to passengers departing to places outside Kenya;

(b) by deleting the words “or a non-registered person” appearing in paragraph (a) of the definition of the words “supply of imported services”.

3. Section 17 of the Value Added Tax Act, 2013 is amended by deleting the proviso to subsection (5) and substituting therefor the following new proviso—

Provided that any such excess shall be paid to the registered person by the Commissioner where—

(a) the Commissioner is satisfied that such excess arises from making zero rated supplies; and
(b) the registered person lodges the claim for the refund of the excess tax within twelve months from the date the tax becomes due and payable.

4. Section 25A of the Value Added Tax Act, 2013 is amended in subsection (1), by inserting the words “or any other person appointed by the Commissioner” immediately after the word “agencies”.

5. The First Schedule to the Value Added Tax Act 2013 is amended—

(a) in Section A of Part I—

(i) by deleting tariff numbers 3004.90.10 and 3004.90.90 and the corresponding descriptions;

(ii) by inserting tariff numbers 8407.10.00 and 8409.10.00 in proper numerical sequence.

(b) by inserting the following items immediately after item 48—

49. Aircraft parts of heading 8803, excluding parts of goods of heading 8801.

50. Goods of tariff No.4011.30.00.

51. Taxable goods, excluding motor vehicles, imported or purchased for direct and exclusive use in the implementation of official aid funded projects upon approval by the Cabinet Secretary responsible for the National Treasury.

52. Plastic bag biogas digesters.

53. Parts imported or purchased locally for the assembly of primary school laptop tablets, subject to approval by the Cabinet Secretary for the National Treasury, on recommendation by the Cabinet Secretary responsible for matters relating to information technology.

54. Goods imported or purchased locally for use by the Kenya Film Commission, subject to approval by the Cabinet Secretary to the National Treasury.
55. Taxable goods purchased or imported for direct and exclusive use in the construction and infrastructural works in industrial and recreational parks of one hundred acres or more approved by the Cabinet Secretary for the National Treasury upon recommendation by the Cabinet Secretary responsible for Industrialization.

(c) in Part II—

(a) by deleting the following paragraph—

19. The supply of taxable services in respect of goods in transit.

(b) by inserting the following new paragraphs—

20. Taxable services for direct and exclusive use in the implementation of official aid funded projects upon approval by the Cabinet Secretary to the National Treasury.

21. Services imported or procured locally for use by the Kenya Film Commission, subject to approval by the Cabinet Secretary for the National Treasury.

22. Taxable services provided for direct and exclusive use in the construction and infrastructural works in industrial and recreational parks of one hundred acres or more, approved by the Cabinet Secretary for the National Treasury upon recommendation by the Cabinet Secretary responsible for Industrialization.

6. The Second Schedule to the Value Added Tax Act is amended—

(a) in Part A by inserting the following paragraphs immediately after paragraph (8)—

9. Goods purchased from duty free shops by passengers departing to places outside Kenya.

10. Supply of taxable services in respect of goods in transit.

(b) in Part B, by inserting the following subparagraphs at the end of the proviso to paragraph 6 (3)(c)—
(iii) where the returning resident has owned and used a left hand drive vehicle for at least twelve months the person may sell the vehicle and import a right hand drive vehicle of equivalent value, subject to the following conditions—

(A) the person shall provide proof of ownership and use of the previously owned left-hand-drive vehicle in the country of former residence for a period of at least one year prior to the return;

(B) the person shall provide proof of disposal of the previously owned left-hand-drive vehicle before changing residence; and

(C) where the left-hand-drive vehicle is sold and replaced under this subparagraph, the right-hand drive vehicle shall be similar to the previously owned left-hand-drive vehicle in make, engine rating and year of manufacture;

(iv) subparagraph (iii) shall only apply to residents returning from countries that operate Left Hand Drive motor vehicles.

PART III—INCOME TAX

7. Section 2 of the Income Tax Act is amended by adding the following proviso immediately after the definition of “training fees”—

Provided that training fee shall not include fees paid for educational services provided by—

(a) a pre-primary, primary, or secondary school;

(b) a technical college or university

(c) an institution established for the promotion of adult education, vocational training or technical education.

8. The Income Tax Act is amended by inserting the following new section immediately after section 6—
6A. (1) Notwithstanding any other provision of this Act, a tax to be known as residential rental income tax shall be payable with effect from the 1st January, 2016 by any resident person from income which is accrued in or derived from Kenya for the use or occupation of residential property, and which does not exceed ten million shillings during any year of income.

Provided that this section shall not apply where a person who would otherwise pay tax under this section, by notice in writing addressed to the Commissioner, elects not to be subject to residential rental income tax, in which case the other provisions of this Act shall apply to such a person.

(2) The Minister may, by notice in the Gazette, prescribe rules for the better carrying out the provisions of this section.

9. Section 10 of the Income Tax Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (g)—

(gg) a transaction under section 3(2)(f) for securities listed on any securities exchange approved under the Capital Markets Act.

10. Section 15 of the Income Tax Act is amended—

(a) in subsection (5), by deleting the words “five years” and substituting therefor the words “ten years”.

(b) in subsection (7)(a), by deleting the words “six sources” and substituting therefor the words “seven sources”.

11. Section 34 of the Income Tax Act is amended—

(a) in subsection (1)—
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(i) deleting paragraph (i);

(ii) by deleting paragraph (j) and substituting therefor the following new paragraph—

(j) tax upon the gains of a person charged under section 3(2)(f) shall—

(i) be charged at the rate of five percent; or

(ii) in the case of securities listed on any securities exchange approved under the Capital Markets Act, at the rate specified under paragraphs 3 and 5 of the Third Schedule

(b) in subsection (2)—

(i) by deleting paragraph (k);

(ii) by inserting the following new paragraph—

(l) gains on transfer of securities listed on any securities exchange approved under the Capital Markets Act.

12. Section 35 of the Income Tax Act is amended—

(a) in subsection (1), by inserting the following new paragraph immediately after paragraph (i)—

(ii) gains on transfer of securities listed in any securities exchange approved under the Capital Markets Act;

(b) by inserting the following new subsection immediately after subsection (1)—

(1A) Subsection (1) shall not apply to payments made by producers approved by the Kenya Film Commission to actors and crew members approved for purposes of paragraphs (g) and (h).
(c) in subsection (3)—
   (i) by deleting paragraph (j);
   (ii) by inserting the following new paragraphs—

   Cap. 485A.
   (k) gains on transfer of securities listed on any securities exchange approved under the Capital Markets Act;
   (l) rent, premium or similar consideration for use or occupation of immovable property, provided that the person making the deduction shall be the payer of the amount in question or an agent appointed in writing by the Commissioner.

13. The Income Tax Act is amended by inserting the following new section immediately after section 39A—

   Insertion of section 39B in Cap. 470.

   39B. (1) Any employer who engages at least ten university graduates as apprentices for a period of six to twelve months during any year of income shall be eligible for tax rebate in the year subsequent to the year of such engagement.

   (2) The Cabinet Secretary may by notice in the Gazette make regulations for the better carrying out of the provisions of this section.

14. Section 117 of the Income Tax Act, is amended by deleting the expression "Attorney-General" and substituting therefor the expression "Director of Public Prosecutions".

15. The Income Tax Act is amended by inserting the following new section after section 123B—

Amendment of section 117 of Cap. 470.
Amendment to section 123 of Cap. 470.
123C. (1) Subject to subsection (2) but notwithstanding any other provisions of this Act, the Commissioner shall, with effect from the 1st July, 2015, refrain from assessing or recovering—

(a) taxes, penalties or interest thereon in respect of any period before and during the 2013 year of income—

(b) penalties or interest thereon in respect of the 2014 and 2015 years of income—

where—

(i) the income is in respect of gains or profits for the use or occupation of property earned by an individual, and

(ii) the returns or amended returns for the 2014 and 2015 years of income are submitted and the tax paid on or before the 30th June, 2016.

(2) This section shall not apply in respect of any tax where the person who should have paid the tax—

(a) has been assessed in respect of the tax or any matter relating to the tax, or

(b) is under audit or investigation in respect of the undisclosed income or any matter relating to the undisclosed income.

(3) Where a person has no documentation to support expenditure, such person shall be allowed a deduction of forty percent of the expenditure.

16. The First Schedule to the Income Tax Act is amended in paragraph 36—
(a) by deleting the expression “thirty thousand shillings” appearing in paragraph d(i) and substituting therefor the words “three million shillings”;

(b) by deleting the expression “one hundred acres” appearing in subparagraph d(ii) and substituting therefor the expression “fifty acres”.

(c) by inserting the following proviso immediately after paragraph (f) -

Provided that where there is a court case regarding such estate the period of the transfer or sale under this paragraph shall be two years from the date of the finalisation of such court case.

17. The Second Schedule to the Income Tax Act is amended—

(a) in paragraph 1, by inserting the following proviso at the end of subparagraph (1)(dd)—

Provided that in the case of a building in use for the training of film producers, actors or crew, the rate of deduction shall be one hundred percent.

(b) in paragraph 24—

(i) by deleting subparagraph (1)(f);

(ii) by deleting subparagraph (2)(c).

(c) in paragraph 25—

(i) deleting the expression “495 tons” wherever it appears and substituting therefor the expression “125 tons”;

(ii) deleting the expression “forty per cent” and substituting therefor the expression “one hundred per cent”.

18. Head B of the Third Schedule to the Income Tax Act is amended—

(a) in paragraph 2, by adding the following subparagraphs immediately after subparagraph 2(f)—
(g) in the case of a company introducing its shares through listing or any securities exchange via introduction, twenty-five percent.

(a) in paragraph 3—

(i) by adding the following proviso at the end of subparagraph (m)—

Provided that in the case of winnings from bookmakers, the withholding tax rate shall be seven and a half percent of the gross revenue.

(ii) by deleting subparagraph (n).

(iii) by inserting the following new paragraph—

(o) gains on transfer of securities listed on any securities exchange approved under the Capital Markets Authority, 0.3 percent of gross amount payable.

(b) in paragraph 5 by deleting the proviso at the end of paragraph (j) and substituting therefor the following new proviso—

Provided that—

(i) the tax so deducted shall be final; and

(ii) in the case of bookmakers, the withholding tax shall be seven and a half percent of the gross revenue.

(c) by deleting subparagraph (k).

19. The Eighth Schedule to the Income Tax Act is amended—

(a) in paragraph 6—

(i) by inserting the words “or their immediate family” immediately after the words “or former spouses” appearing in subparagraph (2)(h);

(ii) by deleting subparagraph (2)(i);

(iii) by inserting the following sub-paragraph immediately after sub-paragraph (2)—

(3) For the purposes of this paragraph, “immediate family” means children of the spouses or former spouses.
(b) by inserting the following new paragraph immediately after paragraph 8—

8A. Notwithstanding any other provision of this Act, the deduction of costs of property shall not apply in the case of securities listed on any securities exchange approved under the Capital Markets Act.

(c) in paragraph 14—

(iii) by deleting the definition of “adjusted cost”

(iv) by deleting the definition of “transfer value”

(d) by deleting paragraph 15 and substituting therefor the following new paragraph—

15. The gain subject to tax under this Part is the gross consideration payable and shall be subject to the withholding tax rate under paragraph (3) and (5) of the Third Schedule.

(e) by deleting paragraphs 16, 16A and 17;

(f) by inserting the following proviso at the end of paragraph 18—

Provided that this paragraph shall also apply to shares transferred under Part I of this Schedule.

(g) by inserting the following new paragraph immediately after paragraph 11—

11A. The due date for tax payable in respect of property transferred under this Part shall be on or before the date of application for transfer of the property is made at the relevant Lands Office.

20. The Income Tax Act is amended in the Ninth Schedule—

(a) by inserting the following new definitions in paragraph (1) proper alphabetical sequence—

“petroleum information” means information relating to petroleum operations;

“petroleum operations” means authorized operations undertaken under a petroleum agreement;
(b) by deleting subparagraph 6(3) and substituting therefor the following new subparagraph—

(3) An amount accumulated in or withdrawn from a rehabilitation fund to meet expenditure incurred under an approved plan and interest income and investment income in respect of a rehabilitation fund shall be exempt from tax.

(c) by deleting the word “twenty” in subparagraph (2)(b) of paragraph 15 and substituting therefor the word expression “5.625”;

(d) by deleting the expression “management or professional fees” appearing on paragraph 16(d) and substituting therefor the expression “management, training or professional fees”.

PART IV—MISCELLANEOUS

21. The Stamp Duty Act is amended by inserting the following new section immediately after section 96—

96A. (1) This section applies only to real estate investment trusts authorized under the Capital Markets Act, in respect of which it is shown to the collector—

(a) that the effect thereof is to convey or transfer a beneficial interest in property from one trustee to another trustee or to an additional trustee; or

(b) that the effect thereof is to convey or transfer a beneficial interest in property from a person or persons for the transfer of units in the real estate investment trust.

(2) No Stamp duty shall be chargeable on an instrument relating to the matters referred to in subsection (1).

(3) An instrument to which this section applies shall be deemed to be duly stamped where it has, in accordance with the provisions of section 17, stamped with the particular stamp denoting that it is not chargeable with any duty.
(4) The exemption for instruments to which paragraph (1)(b) applies shall only have effect in respect of instruments executed before the 31st December, 2022.

(5) For the purposes of this section—

"additional trustee" means a new trustee appointed to an existing real estate investment trust.

"trustee" means a person appointed under a trust deed as a trustee of a real estate investment trust or otherwise so appointed by the court or pursuant to regulations made under the Capital Markets Act.

22. Section 2 of the Insurance Act is amended by inserting the following new definition in proper sequence—

"capital adequacy ratio" means a measure of the available capital in relation to the required capital.

23. Section 23 of the Insurance Act is amended—

(a) in subsection (2) by deleting the word "Minister" and substituting therefor the word "Authority;"

(b) in subsection (3) deleting the words "or under section 28;"

(c) by inserting the following new subsection immediately after subsection (3)—

(3A) If the Authority considers it appropriate, having regard to the nature, scale and complexity of the insurance business carried on or proposed to be carried on by an insurer, and to the insurer's risk profile, the Authority may issue—

(a) a directive requiring the insurer to increase its paid-up capital to an amount higher than the minimum specified in the Regulations; or
(b) a directive increasing the minimum capital adequacy requirement applicable to an insurer to a higher sum than that specified in the Regulations.

24. Section 28 of the Insurance Act is amended by deleting the word “Minister” appearing in subsection (2) and substituting therefor the word “Authority”.

25. Section 30 of the Insurance Act is amended by inserting the following new item immediately after item (k)—

(l) an investment plan for the following period of not less than three years.

26. The Insurance Act is amended by repealing section 41 and replacing it with the following new section—

Margin of solvency.

41. (1) An insurer carrying on insurance business in Kenya shall at all times keep total admitted assets of not less than its total admitted liabilities and the capital adequacy ratio as may be determined by the Authority.

(2) For purposes of subsection (1), the Authority may prescribe the method of determining admitted assets and admitted liabilities.

(3) An insurer carrying on both long term and general insurance business shall at all times maintain separate margins of solvency.

(4) An insurer failing to comply with the requirements of this section shall be deemed to be unable to pay its debts within the meaning of section 123.

27. Section 47 of the Insurance Act is amended by deleting the word “Minister” wherever it appears and substituting therefor with the word “Authority”.

28. The Insurance Act is amended by repealing section 48 and replacing it with the following new section—
48. Subject to the provision of section 41 and 50 and to any provisions in the instruments constituting the insurer or in the articles of association or other rules of the insurer which impose restrictions upon the manner in which the assets of the insurer may be invested, the assets of an insurer shall, with sufficient regard to considerations of security, liquidity and income, be invested in accordance with the provisions of such investment guidelines as may be issued by the Authority.

29. The Insurance Act is amended by repealing section 50 and replacing it with the following new section—

50 (1) Every insurer shall invest its assets in accordance with the investment guidelines issued under section 48.

(2) Every insurer shall submit to the Authority an investment policy in such manner, form and for period not less than three years or such longer period as the Authority may determine from time to time.

30. Section 151 of the Insurance Act is amended—

(a) by deleting subsection (1)(b);

(b) by inserting the following new subsection immediately after subsection (1)—

(1A) Notwithstanding the provisions of subsection (1), a registered agent shall seek to be appointed by an insurer before transacting business on their behalf.

(c) by deleting subsection (2) and substituting therefor the following new subsection—

(2) No person shall make a statement in an application, account, written information or document submitted under this section that is false or misleading.
31. The Insurance Act is amended by deleting the Second Schedule and substituting therefor the following new Schedule—

MINIMUM CAPITAL REQUIREMENTS

1. Subject to paragraph (3), no person shall be registered as an insurer unless the persons paid-up capital is—

(a) in the case of general Insurance business, the higher of—

(i) six hundred million shillings;

(ii) risk based capital determined from time to time; or

(iii) 20% of the net earned premiums of the preceding financial year;

(b) in case of long term insurance business, the higher of—

(i) four hundred million shillings; or

(ii) risk based capital determined by the Authority from time to time; or

(iii) 5% of the liabilities of the life business for the financial year.

(c) in case of reinsurance business (general business), the higher of—

(i) one billion shillings; or

(ii) risk based capital determined by the Authority from time to time; or

(iii) 20% of the net earned premiums of the preceding financial year;

(d) in case of reinsurance business (long term business), the higher of—

(i) five hundred million shillings; or

(ii) risk based capital determined by the Authority from time to time; or

(iii) 5% of the liabilities of the life business for the financial year.
2. The minimum capital requirement specified in paragraph (a), (b), (c) and (d) shall consist—

(a) government bonds and Treasury Bills;

(b) deposits and cash with a minimum of 10% in any one bank or group of banks; and

(c) cash and cash equivalent in the case of a new company.

3. An insurer registered before the commencement of this Schedule shall comply with the foregoing requirement by the 30th June, 2018.

32. Section 2 of the Banking Act is amended by deleting the definition of the expression “significant shareholder” and substituting therefor the following new definition—

“significant shareholder” means a person, other than the Government or public entity, who holds, directly or indirectly, or otherwise has a beneficial interest amounting to, five per cent or more of the share capital of an institution or a corporate entity seeking to become an institution”.

33. Section 5 of the Banking Act is amended by deleting subsections (3), (4), (5), (6), (7), (8), (9), (10) and (11) and substituting therefor the following—

(3) A licence issued under this section shall remain valid unless revoked under section 6:

Provided that a licence which was in force on the date of commencement of this subsection shall be deemed to be a licence to which this subsection applies.

(4) An institution shall pay annual fees in such amount and in such manner as the Central Bank may prescribe.

(5) An institution that fails to pay the annual fees by the end of the financial year shall pay double the annual fee, if payment is made within ninety days after the end of the financial year.

(6) An institution which fails to pay the annual fees within ninety days after the end of the financial year referred to in subsection (5) shall have its licence revoked under section 6.
(7) Any fee or other amount payable under this section shall be paid into the Central Bank.

34. Section 9A of the Banking Act is amended—

(a) by inserting the following new subsections immediately after subsection (3)—

(3A) Notwithstanding any other provision in this section, the Central Bank may vet any shareholder who is not a significant shareholder if—

(a) the Central Bank has reason to believe or reasonably suspect that such shareholder has reduced its direct or indirect shareholding in an institution or in a corporate entity to below 5 % in order to avoid vetting; or

(b) the shareholder exercises or has the capacity to exercise direct or indirect control of the institution or corporate entity through his or its associates.

(3B) For the purposes of subsection (3A)(b) “control” means—

(a) the ability to influence the management of an institution, a corporate shareholder of an institution or a corporate entity seeking to become an institution; or

(b) the ability to influence, directly or indirectly, the decisions of the shareholders of an institution, a corporate shareholder of an institution or a corporate entity seeking to become an institution.

(3C) Any non-significant shareholder proposed to be vetted under this section shall be vetted in accordance with the criteria set out in Part B of the First Schedule and the vetting requirements for significant shareholders set out in the Prudential Guidelines.
(3D) A non-significant shareholder, upon being determined by the Central Bank as not fulfilling the fit and proper criteria as set out in Part B of the First Schedule shall be subject to the limitation set out in subsection (4)(a) of this section and may in addition be directed by the Central Bank to cease any form of association or relationship with a particular person or institution.

(b) in subsection 4(b) by deleting the words “five percent or less” and substituting therefor the words “below five percent”.

(c) deleting subsection (6).

35. Section 13 of the Banking Act is amended by inserting the following new subsection immediately after subsection (1)—

(1A) For the purposes of subsection (1), reference to “person” shall include a reference to that person’s associates.

36. Section 34 of the Banking Act is amended—

(a) in subsection (2)(b) by deleting all the words appearing immediately before the word “control” and substituting therefor the words “appoint Kenya Deposit Insurance Corporation to assume the management”.

(b) by deleting subsection (3A) and (3B).

37. Section 34A of the Banking Act is amended by inserting the following new subsection immediately after subsection (5)—

(6) The Central Bank shall upon approval of a voluntary liquidation, appoint the Kenya Deposit Insurance Corporation to undertake the approved voluntary liquidation.

38. The Banking Act is amended by repealing section 35A.

39. The Banking Act is amended by repealing section 36A.

40. The Banking Act is amended by repealing section 36B.
41. The Banking Act is amended by repealing section 36C.

42. The Banking Act is amended by repealing section 39A.

43. The Second Schedule to the Banking Act is amended by deleting paragraph (d) and substituting therefor the following—

(d) a core capital in case of a bank and mortgage finance company in accordance with the following table—

<table>
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<th>Compliance date</th>
<th>Minimum core capital for a bank and mortgage finance company (Ksh million)</th>
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<td>31st December 2018</td>
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44. The Road Maintenance Levy Fund Act is amended in subsection (3) by renumbering the existing provision as subsection (1) and inserting the following new subsection—

(2) Out of the levy collected under subsection (1) there shall be paid an amount of three shillings per litre of petroleum sold into the Road Annuity Fund established under the Public Finance Management Act, 2012.

45. Section 34 of the Retirement Benefits Act, 1998 is amended in subsection (4) by deleting the word “six” and substituting therefor the word “three”.

46. Section 2 of the Proceeds of Crime and Anti-Money Laundering Act is amended by deleting the definition of the word “Minister” and substituting therefor the following new definition—

“Minister” means the Cabinet Secretary for the time being responsible for matters relating to finance, and all references in this Act to “the Minister” shall be construed accordingly.
47. Section 23 of the Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended in subsection (1) by adding at the end thereof the words "and the financing of terrorism".

48. Section 24 of the Proceeds of Crimes and Anti-Money Laundering Act, 2009 is amended—

(a) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) shall receive, analyse and interpret—

(i) reports of usual or suspicious transactions made by reporting institutions pursuant to section 12;

(ii) all reports made pursuant to section 44;

(iii) information disclosed to it pursuant to section 42 of the Prevention of Terrorism Act, 2012; and

(iv) any additional or other information disclosed to it and obtained by it in terms of this Act.

(b) by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) shall send information received under this Act to the appropriate law enforcement authorities, any intelligence agency, or any other appropriate supervisory body for further handling if, having considered the reports, the Director has reasonable grounds to suspect that a transaction or activity involves proceeds of crime, money laundering or financing of terrorism.

(c) by deleting paragraph (d) and substituting therefor the following new paragraph—
(d) shall send to the appropriate law enforcement authorities, intelligence agency, or supervisory body any other information derived from an inspection carried out pursuant to paragraph (c) if such inspection gives the Director reasonable grounds to suspect that a transaction or activity involves proceeds of crime, money laundering or the financing of terrorism.

(d) by deleting paragraph (e) and substituting therefor the following new paragraph—

(e) may instruct any reporting institution to—

(i) provide it with such other or additional information or documents to enable the centre to properly undertake its functions under this Act; or

(ii) take such steps as may be appropriate to facilitate any investigation undertaken or to be undertaken by the Centre including providing documents and other relevant information.

49. Section 36A of the Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended by inserting the following new subsection immediately after subsection (7)—

(8) Notwithstanding the provisions of sub section (1) or any other provision of this Act, the Centre may require a reporting institution to report on that institution’s compliance with this Act or any order, determination, instruction, or direction in the manner and within such period as may be determined by the Centre.

50. Section 20 of the Kenya Deposit Insurance Act, 2012 is amended in subsection (3)—

(a) by inserting the words “or from any other person” immediately after the expression “section 21”.

(b) by deleting item (e).
51. Section 76 of the Kenya Deposit Insurance Act, 2012 is amended—

(a) in subsection (4), by deleting the expression “twelve months” and substituting therefor the expression “twenty four months”;

(b) by inserting the following new subsection immediately after subsection (7)—

(8) All legal proceedings pending by or against, the Deposit Protection Fund Board, in respect of the repealed Act, shall be deemed to continue or be continued by or against the Corporation.

52. Section 62 of the Consumer Protection Act 2012 is amended by inserting the following new subsection immediately after section (4)—

(5) The provisions of this section shall not apply to a credit agreement where the National or the County Government is the principal borrower or guarantor or where the borrower is a public entity.

53. Section 13 of the Tax Appeals Tribunal Act, 2013 is amended by inserting the following proviso immediately after subsection (7)—

Provided that during the period of one year from the date of its first sitting, the Tribunal may extend the period for the hearing an appeal for a period of up to sixty days if there are sufficient grounds to do so.

54. Section 44 of the Tax Appeals Tribunal Act 2013 is amended by inserting the followed new subsection immediately after subsection (2)—

(3) The Tribunal shall hear and determine appeals relating to tax decision made before its first sitting (if it was not concluded by the appeal mechanism that existed before the establishment of the Tribunal) within a period of one year from the date of first sitting.
MEMORANDUM OF OBJECTS AND REASONS

The Bill formulates the proposals announced in the Budget for 2015/2016 relating to the liability to, and collection of taxes and for connected purposes.

The Bill also seeks to amend the following laws:

The Stamp Duty Act (Cap. 480)

The Bill seeks to amend the Stamp Duty Act to exempt instruments conveying or transferring a beneficial interest in property from one trustee or an additional trustee from payment of stamp duty, as a form of incentive to investment in the real estate.

The Insurance Act (Cap. 487)

The Bill seeks to amend the Insurance Act to support the regulator in implementing risk-based supervision in the insurance industry.

The Banking Act (Cap. 488)

The Bill seeks to amend the Banking Act to have the minimum capital requirement increased in order to have banks with a strong capital base.

The Road Maintenance Levy Fund Act (No.9 of 1993)

The Bill seeks to amend the Road Maintenance Levy Fund Act to necessitate the expansion of the road network in the country by increasing the Road Maintenance Levy by three shillings to be paid into the Road Annuity Fund.

The Retirement Benefit Act (No. 7 of 1998)

The Bill seeks to amend the Retirement Benefit Act to reduce the submission time of audited financial statements from six months to five months.

The Proceeds of Crime and Anti-Money Laundering Act (No. 9 of 2009)

The Bill seeks to amend the Proceeds of Crime and Anti-Money Laundering Act to clarify the Financial Reporting Centre role in combating terrorism financing by amongst others, assisting in identification of persons engaged in terrorism financing activities.

The Kenya Deposit Insurance Act (No.10 of 2012)

The Bill seeks to amend the Kenya Deposit Insurance Act to avoid limiting the right of institutions to voluntarily wind up and further eliminate conflict with section 34A of the Banking Act.
The Tax Appeals Tribunal Act (No. 40 of 2013)

The Bill seeks to amend the Tax Appeals Tribunal Act to allow the Tribunal to determine its own timetable in addressing the large number of cases to be handled, dealing with circumstances in which the Tribunal may refer matters to other bodies which they have no control or in situations where the Tribunal may require the services of an expert witness who may not be readily available.

This Bill deals with taxes that are the sole responsibility of the national government under Article 209 of the Constitution and is therefore not a Bill concerning county government.

The enactment of this Bill shall not occasion any additional expenditure of public funds.

Dated the 11th June, 2015.

BENJAMIN LANGAT,
Chairperson,
Committee on Finance, Planning and Trade.
Section 23 of Cap. 487 which it is intended to amend—

23. (2) The Minister may, by order published in the Gazette, amend the Schedule.

(3) Every order made under this section or under section 28 shall be laid before the National Assembly without unreasonable delay and unless a resolution approving the order is passed by the Assembly within twenty days on which it next sits after the order is so laid, it shall thenceforth be void by without prejudice to anything previously done thereunder or to the issuing of a new order.

Subsection (2) of section 28 of Cap. 487 which it is intended to amend—

28. (2) The Minister may, by order published in the Gazette, amend the Schedule.

Section 41 of Cap. 487 which it is intended to repeal—

41. (1) An insurer carrying on in Kenya long term insurance business but not general insurance business shall keep at all times total admitted assets of not less than his total admitted liabilities and ten million shillings or five percentum of the total admitted liabilities, whichever is the higher.

(2) An insurer carrying on in Kenya general insurance business but not long term insurance business shall keep at all times admitted assets of not less than the aggregate value of his admitted liabilities and ten million shillings, or fifteen per cent of his net premium income during his last preceding financial year, whichever is the greater.

(3) An insurer carrying on both long term and general insurance business shall at all times maintain separate margins of solvency in accordance with subsection (1) and (2):

Provided that assets other than those representing the fund or funds maintained by the insurer in respect of his long term insurance business, if they are not included among the assets covering the liabilities and the margin of solvency relating to the insurer’s general insurance business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the insurer’s long term insurance business.

(4) For the purposes of this section, in the case of long term insurance business the amount of liabilities in respect of the policies of the business at any time shall be the amount of the liabilities at that time as determined by an actuary, which shall not be less than that calculated on the minimum bases prescribed.
The Finance Bill, 2015

(5) An insurer failing to comply with the requirements of subsection (1), (2) or (3), as the case may be, shall be deemed to be unable to pay his debts within the meaning of section 219 of the Companies Act (Cap. 486).

(6) The Minister, having regard to such matters as he considers relevant, including the date of incorporation of an insurer, may by notice in writing allow time for an insurer, subject to such terms and conditions as may be specified in the notice, to comply with the requirements of subsection (1), (2) or (3).

(7) Nothing in this section shall be taken as affecting the manner in which, on a winding up, any assets or liabilities are required to be dealt with whether by virtue of section 46 or otherwise.

(8) Where the assets of an insurer include an investment in the form of cash with, loan to, debenture of, share in, or other form of investment in, an organisation and where in respect of long term insurance business or general insurance business the total value of all such investments in that organization together with the value of such investments in all other organisations related to it exceeds five per cent of the total value of all the admitted assets of the insurer in the particular class of insurance referred to, any excess of the total value of all the investments over five per cent shall, for the purpose of ascertaining the value of the admitted assets of the insurer relating to the particular class of insurance business for the purpose of ascertaining compliance with the requirements of subsection (1), (2) or (3), as the case may be, be ignored:

Provided that—

(a) this subsection shall not apply to—

(i) buildings and other real property owned by the insurer jointly with any organisation;

(ii) investments referred to in section 50(3);

(iii) cash held by banks on behalf of the insurer in current or savings accounts, or, subject to section 50(4)(g), fixed deposits; and

(b) investments of long term insurance business or a general insurance business in a company or a group of companies which is a bank or a financial institution, or a group of banks or financial institutions shall, pursuant to section 50(10), not exceed ten per cent.

(9) For the purposes of this section—

(a) the amount of liabilities shall be determined in accordance with regulations; and
(b) subject to subsection (8), the assets that may be taken into account and their value shall be determined in accordance with regulations, which may prescribe the extent, if any, to which any particular asset may be taken into account, the depreciation that should be provided for each category of assets and any other relevant factor.

(10) The paid up capital of an insurer shall at all times, be not less than ten per cent of the total gross premium written by an insurer in respect of general insurance business during the financial year in question:

Provided that if at any time the insurer does not meet the minimum ratio of paid up capital to the total gross premium, the insurer shall, within six months after the end of the financial year to which it relates, increase the paid up capital to restore the prescribed minimum ratio.

(11) An insurer who fails to increase the paid up capital as required under subsection (10) shall be liable to a penalty of one hundred thousand shillings and to a further penalty of five thousand shillings for every day after the expiry of the period prescribed during which such failure continues, which penalty shall be paid by a crossed banker’s draft or cheque drawn in favour of the Permanent Secretary to the Treasury.

(12) For the purposes of determining the solvency of an insurer, every registered insurer shall, for the period ending on the 31st December in each year, make a return in the prescribed form, showing his total assets, total admitted assets, total liabilities and such other details as may be prescribed, which shall be signed by the principal officer of the insurer and an auditor and submitted to the Commissioner on or before the 30th June of the following year.

Section 47 of Cap. 487 which it is intended to amend—

47. (1) Unless the Minister direct otherwise, none of the assets in Kenya of an insurer shall, except in the case of assets required by law or by a requirement imposed by the Minister under subsection (3) to be vested in trustees, be kept otherwise than in the name of the insurer.

(2) Nothing contained in subsection (1) shall be deemed to prohibit the endorsement in favour of a bank of any security or other document solely for the purpose of collection or realisation of any interest, bonus or dividend.

(3) The Minister may direct that the whole or a specified portion of the assets of an insurer shall be held by a person approved by him as trustee of the insurer.
(4) Assets of an insurer held by a person as trustee for an insurer shall be held by him in compliance with a direction given under this section if, and only if, they are assets in whose case the insurer has given him written notice that they are to be held by him in compliance with such a requirement, or they are assets into which the first-mentioned assets have been transposed by him on the instructions of the insurer.

(5) No assets held by a person as trustee for an insurer in compliance with a direction given under this section shall, so long as the direction is in force, be released except with the consent of the Minister.

(6) If a mortgage or charge is created by an insurer at a time when there is in force a direction imposed on the insurer by virtue of this section, being a mortgage or charge conferring a security on any assets which are held by a person as trustee for the insurer in compliance with the direction, the mortgage or charge shall, to the extent that it confers such a security, be void against the liquidator and any creditor of the insurer.

Section 48 of Cap. 487 which it is intended to repeal—

48. (1) Subject to subsection (2) of this section, and sections 41 and 50 and subject to any provisions in the instruments constituting the insurer or in the articles of association or other rules of the insurer which impose restrictions upon the manner in which the assets of the insurer may be invested, the assets of an insurer shall, with sufficient regard to considerations of security, liquidity and income, be invested in Kenya in such manner as the insurer thinks fit:

Provided that the assets of a statutory fund shall not, without the written approval of the Commissioner, be invested directly or indirectly in any share or interest in any other insurer.

(2) Notwithstanding the provisions of subsection (1), the Commissioner with the prior approval of the Minister may, if he deems it appropriate and subject to sufficient considerations of security, liquidity, income and diversification and to such further conditions as he considers necessary, authorize the assets of an insurer or to be invested outside Kenya.

Section 50 of Cap. 487 which it is intended to repeal—

50. (1) Subject to subsection (5), the admitted assets of an insurer carrying on long term insurance business shall be invested and kept invested in the following manner—

(a) twenty per cent of the total admitted assets, in one or more of the securities set out in subsection (3):
Provided that fifty per cent of such securities are securities of the Government of a duration of two or more years;

(b) a further proportion, amounting to not less than sixty-five per cent, in one or more of the investments set out in subsection (4);

(c) the balance, subject to section 48 and the other provisions of this section, in such investments in Kenya as the insurer thinks fit.

(2) Subject to subsection (5), the admitted assets of an insurer carrying on general insurance business required by section 41(2) to be maintained by the insurer shall be invested and kept invested in the following manner—

(a) ten per cent in one or more of the securities set out in subsection (3);

(b) a further proportion, amounting to not less than thirty per cent, in one or more of the investments set out in subsection (4);

(c) the balance, subject to section 48 and the other provisions of this section, in such investments in Kenya as the insurer thinks fit.

(3) The securities referred to in subsections (1)(a) and (2)(a) are securities of—

(a) the Government;

(b) prescribed statutory bodies;

(c) local authorities;

(d) any other prescribed organisation.

(4) The investments referred to in subsections (1)(b) and (2)(b) are as follows—

(a) the securities set out in subsection (3);

(b) mortgages on unencumbered immovable property in Kenya;

(c) debentures, commercial paper, preference shares or ordinary shares of public companies whose shares are quoted in the stock exchange in Kenya;

(d) debentures, commercial paper, preference shares or ordinary shares of public companies whose shares are quoted on the stock exchange in Kenya;

(e) instruments of title to immovable property in Kenya;

(f) loans on life assurance policies constituting a liability on Kenya business within their surrender values;
(g) deposits in banks or financial institutions licensed under the Banking Act (Cap. 488):

Provided that—

(i) where the insurer carries on long term insurance business, the deposits in any one bank or financial institution shall not exceed five per cent of the total value of the assets of the insurer relating to that business;

(ii) where the insurer carries on general insurance business, the deposits in any one bank or financial institution shall not exceed ten per cent of the total value of the assets of the insurer relating to that business;

(h) any other prescribed securities;

(i) promissory notes, bills of exchange or other instruments issued by a company incorporated under the Companies Act (Cap. 486):

Provided that the promissory notes, bills of exchange or other instruments are guaranteed by a bank licensed under the Banking Act (Cap. 488).

(5) In respect of an investment falling under paragraph (c) of subsection (1) or paragraph (c) of subsection (2) which does not also come under paragraph (a) or (b) of subsection (2), the investment shall be made after the appointed date, or, if already existing on the appointed date, shall be continued after one year from the appointed date, only with the consent of all the directors present at a meeting and eligible to vote, special notice of which has been given to all the directors, and all such investments, including investments in which any director is interested, shall be reported without delay to the Commissioner with full details of the investments and the extent of the director’s interest therein.

Subsection (1)(b) of section 151 of Cap. 487 which it is intended to repeal—

151. (1) An application for registration under section 150 or renewal of registration under section 188 shall be in the form required by the Commissioner and shall be accompanied by—

(b) where the application is for registration as an agent, a document under the hand of the principal officer of the insurer for whom he proposes to function as an agent certifying that the person has been appointed as an agent by the insurer through an agreement or appointment letter, and that the insurer is satisfied that the applicant has the knowledge and experience necessary to act as an agent.
Subsection (2) of section 151 of Cap. 487 which it is intended to repeal—

151. (2) No person shall—

(a) make a statement in an application, account, written information or document submitted under this section; or

(b) give to the Commissioner a certificate under subsection (1)(b), that is false or misleading.

(6) Deleted by Act No. 12 of 1994, s. 13.

(7) For the purposes of compliance with the provisions of this section, cash in accounts with banks shall be excluded.

(8) Where an insurer has carried on insurance business in Kenya immediately prior to the appointed date, the provisions of subsections (1) and (2) shall in respect of that insurer come into operation as at the date of the commencement of the financial year next after the appointed date or, upon the application in writing of any insurer, such other date as the Minister may, subject to such terms and conditions as he considers necessary, in writing notify.

(9) An insurer shall not invest any part of his assets in the shares or debentures or loans of any one company or group of related companies more than—

(a) in the case of long term insurance business, five per cent of the total admitted assets relating to that business; or

(b) in the case of general insurance business, five per cent of the total admitted assets relating to that business:

Provided that the investments shall be adequately secured by a first legal charge on unencumbered property in Kenya.

(10) Where a company or group of related companies referred to in subsection

(9) is a bank or financial institution or group of banks or financial institutions, the per centage under that subsection shall be ten per cent.

(11) Nothing in subsection (9) shall apply to an investment made by an insurer in the shares of another insurer if that other insurer is a company within the meaning of section 2 of the Companies Act and carries on insurance or reinsurance business in Kenya.

(12) Where an investment is in partly paid up shares the uncalled liability on those shares shall be added to the amount invested for the purpose of computing the percentage referred to in paragraph (a) of subsection (9).
(13) For the purposes of subsections (1) and (2), the amount of any deposit made under section 32 shall be deemed to be assets invested or kept invested in the securities set out in subsection (3).

The Second Schedule to Cap. 487 which it is intended to repeal —

SECOND SCHEDULE

MINIMUM CAPITAL REQUIREMENT

1. No person shall be registered as an insurer unless —

(a) in the case of an insurer dealing with general insurance business, its paid-up capital is at least three hundred million Kenya shillings;

(b) in the case of an insurer dealing with life insurance business, its paid-up capital is at least one hundred and fifty million Kenya shillings;

(c) in the case of an insurer dealing with composite insurance business, the paid-up capital is at least four hundred and fifty million Kenya shillings.

(d) in the case of a reinsurer, its paid up capital is at least eight hundred million Kenya shillings divided as follows —

(i) for long term business, three hundred million Kenya shillings;

(ii) for general business, five hundred million Kenya shillings.

MINIMUM ASSETS IN KENYA

No person shall be registered as an insurer unless —

(a) in the case of an insurer, its admitted assets in Kenya are worth not less than two hundred million Kenya shillings; or

(b) in the case of a reinsurer, its admitted assets in Kenya are worth not less than two hundred million Kenya shillings.

Section 2 of Cap. 488 which it is intended to repeal —

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

"significant shareholder" means a person, other than the Government or a public entity, who holds, directly or indirectly, or otherwise has a beneficial interest in, more than five percent of the share capital of an institution.

Subsections (3), (4), (5), (6), (7), (8), (9), (10) and (11) of section 5 of Cap. 488 which it is intended to delete —

5. (3) Unless revoked under section 6, a licence shall be valid for a period of twelve months beginning on the day it is granted and shall then expire:
Provided that where an application for its renewal is made under this section, the licence shall be deemed to continue to be in force until the application for renewal is determined and the licence is renewed.

(4) An application for the renewal of a licence shall be made in writing to the Central Bank, and may be made within the three months immediately preceding the expiry of the licence.

(5) An application for the renewal of a licence shall be considered in accordance with section 4.

(6) Subject to subsections (4) and (5) the Central Bank may, upon payment of the prescribed fee, renew an institution’s licence to carry on business.

(7) Where an application for the renewal of a licence is not lodged within the three months immediately preceding its expiry, the Central Bank may, on application, renew the licence on payment of an additional 50 per cent of the fee plus an interest of 2 per cent per month or part thereof, on the sum total of the licence fee and an additional 50 per cent.

(8) Any fee or other amount payable under this section shall be paid into the Central Bank.

(9) An aggrieved party may appeal to the Minister from a decision of the Central Bank to refuse to renew a licence under subsection (6) or (7).

(10) A person may make an appeal under subsection (9) only within fifteen days after being notified of the refusal.

(11) The Central Bank shall be bound by the decision of the Minister on an appeal under subsection (9).

Subsections (2)(b), (3A) and (3B) of section 34 of Cap. 488 which it is intended to repeal—

34. (2) In any case to which this section applies, the Central Bank may—

(b) appoint a competent person familiar with the business of the institution (in this Act referred to as a “Manager”) to assume the management, control and conduct of the affairs and business of an institution and to exercise all the powers of the institution to the exclusion of its board of directors including the use of its corporate sea.

(3A) For the avoidance of doubt—

(a) the Central Bank shall not place an institution under statutory management in terms of subsection (2)(b) for a period exceeding two years;
(b) a manager appointed under this section shall not serve in such office for a period exceeding two years.

(3B) Any person, officer of the Central Bank or manager who contravenes subsection (3A) commits an offence and shall be liable, on conviction, to a fine not exceeding three million shillings or to imprisonment for a term not exceeding three years, or to both.

Section 35A of Cap. 488 which it is intended to repeal—

35A. (1) Any expenses incurred by reason of the exercise of any of the powers conferred by this Part in respect of an institution shall be met by that institution:

Provided that the Board may, where it is appointed as a liquidator under this Act, in the event of assets being insufficient to satisfy liabilities, authorize payment out of the assets, of the Fund costs, charges and expenses incurred in the winding up, in such order or priority as it may consider appropriate.

(2) Upon completion of the winding up of an institution, the liquidator may receive payment from debtors and other entities, on behalf of the wound up institution and the amount received shall be paid into the Fund.

(3) Notwithstanding anything to the contrary in any other written law, the Board or an institution under liquidation shall not be required to provide security for costs in any suit or other legal proceedings initiated or defended by such liquidators or institutions.

Section 36A of Cap. 488 which it is intended to repeal—

36A. (1) The principal object of the Board shall be to provide a deposit insurance scheme for customers of member institutions and liquidate and wind up the operations of any institution in respect of which he Board is appointed as a liquidator in accordance with this Act or any other written law.

(1A) Where, under the provisions of any other written law, the Board is—

(a) required to provide a deposit scheme for customers of any institution;

or

(b) appointed as a liquidator in respect of any insolvent institution, the institution shall, subject to the provisions of any other written law, be deemed to be an institution for the purposes of this Part and the relevant provisions of this Part shall, with the necessary modifications, apply to that institution.
(2) Without prejudice to the generality of the foregoing, the Board shall—

(a) hold, manage and apply in accordance with the provisions of this Part, the Deposit Protection Fund (hereinafter referred to as “the Fund”);

(b) levy contributions for the Fund from institutions in accordance with this Part or the provisions of any other written law;

(c) perform such other functions as are conferred on it by the Board, this Act or any other written law.

Section 36B of Cap. 488 which it is intended to repeal—

36B. The Board shall pay its members such remuneration, fees or allowances for expenses as it may determine after consultation with the Minister.

Section 36C of Cap. 488 which it is intended to repeal—

36C. (1) Subject to subsection (2), no matter or thing done by a member of the Board or by any officer, employee or agent of the Board shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Board under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, whether wholly or partially, of any works.

Section 39A of Cap. 488 which it is intended to repeal—

Notwithstanding the provisions on any other written law for the time being in force—

39A. (a) a claim for payment of a protected deposit by a creditor of an institution shall not be brought after the expiry of two years from the date of publication of commencement of such payment by the Board;

(b) a claim for payment of a dividend by a creditor of an institution shall not be brought after the expiry of one year from the date of publication of commencement of such payment by the Board:

Provided that this paragraph shall not apply to a person who has, for reasons beyond his control and to the satisfaction of the Board, been unable to make his claim within the said period.
Section 40A of Cap. 488 which it is intended to repeal—

40A. (1) The liquidator may assign the assets or liabilities of an institution or of a customer under this Act, the Companies Act (Cap. 486) or under any other written law to third parties for the benefit of the creditors and depositors of the institution under liquidation.

(2) The right of assignment conferred by this section shall override all other rights and interests of parties under contracts of employment, leases, charges, mortgages or any other agreements the institution may have entered into before going into liquidation.

(3) Every public officer having the power or duty to accept and register or amend any entry in any register relating to an assignment of an asset or liability pursuant to subsection (1) shall, upon request made by the liquidator, customer or other person, do all such things as are by law necessary to complete the registration of the assignment.

Paragraph (d) of the Second Schedule to Cap. 488 which it is intended to repeal—

SECOND SCHEDULE
MINIMUM CAPITAL REQUIREMENTS

Every institution shall, at all times, maintain—

(d) a core capital of at least two hundred and fifty million Kenya shillings in the case of a bank or a mortgage finance company:

Provided the provisions of this paragraph shall apply in accordance with the following table—

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Subsection (4) of No. 7 of 1998 in which it is intended to amend—

34. (4) Within six months after the end of each financial year, the trustees shall submit a copy of the audited accounts of the scheme to the Chief Executive Officer.
Subsection (1) of section 23 of No. 9 of 2009 which it intended to amend—

23. (1) The principal objective of the Centre is to assist in the identification of the proceeds of crime and the combating of money laundering.

Subsections (a), (b), (d) and (e) of section 24 of No. 9 of 2009 which it intended to amend—

24. The Centre—

(a) where it is for the purposes of assisting the Centre or the authorised officer to carry out their functions as stated under this Act; or

(b) shall send reports received under this Act to the appropriate law enforcement authorities, any intelligence agency, or any other appropriate supervisory body for further handling if, having considered the report, the Director also has reasonable grounds to suspect that the transaction is suspicious;

(d) shall send to the appropriate law enforcement authorities, intelligence agency, or supervisory body any information derived from an inspection carried out pursuant to paragraph (c), if such inspection gives the Director reasonable grounds to suspect that a transaction involves proceeds of crime or money laundering;

(e) may instruct any reporting institution to take such steps as may be appropriate to facilitate any investigation undertaken or to be undertaken by the Centre, including providing documents and other relevant information.

Subsection (3)(e) of section 20 of No. 10 of 2012 which it is intended to amend—

20. (3) The Fund shall consist of—

(e) monies transferred from the funds of the Corporation in accordance with subsection (5).

Section 76 of No. 10 of 2012 which it is intended to amend—

76. (4) Notwithstanding the provisions of subsection (3), within twelve months after the appointed day, the Corporation shall recruit members of staff and all persons deemed to be on secondment to the Corporation under that subsection shall be eligible for employment by the Corporation subject to—

(a) such persons opting to remain in the service of the Corporation; and

(b) such terms and conditions of service (not being to the disadvantage of such persons) as may be agreed by the Board.