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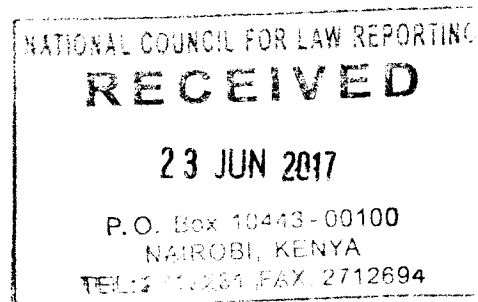
KENYA GAZETTE SUPPLEMENT

ACTS, 2017

NAIROBI, 23rd June, 2017

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THE FINANCE ACT**No. 15 of 2017***Date of Assent: 21st June, 2017**Date of Commencement: See Section 1***AN ACT of Parliament to amend the law relating to various taxes and duties and for matters incidental thereto****ENACTED** by the Parliament of Kenya, as follows—**PART I—PRELIMINARY**

1. This Act may be cited as the Finance Act, 2017, and shall come into operation, or be deemed to have come into operation, as follows—

- (a) sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 21, 22, 24, 25, 26, 27 and 28 on the 3rd April, 2017;
- (b) sections 47, 48, 55, 56 and 57, on the 1st July, 2017;
- (c) all other sections on the 1st January, 2018.

Short title and commencement.

PART II—EXCISE DUTY

2. Section 10 of the Excise Duty Act, 2015, is amended by deleting the word “annually” and substituting therefor the words “every two years”.

Amendment of section 10 of No. 23 of 2015.

3. Section 15 of the Excise Duty Act, 2015, is amended in subsection (1) by inserting the words “or illuminating kerosene” immediately after the word “spirit” appearing in paragraph (d).

Amendment of section 15 of No. 23 of 2015.

4. Section 29 of the Excise Duty Act, 2015, is amended in subsection (1) by deleting paragraph (b) and substituting therefor the following new paragraph—

Amendment of section 29 of No. 23 of 2015.

“(b) the excise duty has been paid in respect of spirits or illuminating kerosene that have subsequently been used by a licensed or registered manufacturer to manufacture unexcisable goods.”

5. The First Schedule to the Excise Duty Act, 2015, is amended—

Amendments of the First Schedule to No. 23 of 2015.

(a) in Part I—

- (i) by deleting the expression “Shs. 175 per litre” appearing in the second column against the description “spirits of undenatured ethyl

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alcohol; spirits liqueurs and other spirituous beverages of alcoholic strength exceeding 10%” and substituting therefor the expression “Shs. 200 per litre”;

- (ii) by deleting the description “cigarettes containing tobacco or tobacco substitutes” and the corresponding rates of excise duty and substituting therefor the following—

Cigarette with filters (Hinge lid and soft cap)	Shs 2,500 per mille
Cigarettes without filters (plain cigarettes)	Shs. 1,800 per mille

- (iii) by deleting the words “at the beginning of every financial year” in paragraph 2(1) and substituting therefor the words “every two years”.

- (b) in Part III, by inserting the following new definition in proper alphabetical sequence—

“powdered beer” means any powder, crystals or any other dry substance which, after being mixed with water or any other nonalcoholic beverage, ferments to, or otherwise becomes an alcoholic beverage.

6. The Second Schedule to the Excise Duty Act, 2015, is amended—

Amendment of
Second Schedule to
No. 23 of 2015.

- (a) in paragraph 5 of Part A, by inserting the words “or St John Ambulance” immediately after the words “Kenya Red Cross”;
- (b) in the proviso to Paragraph 6 of Part A—
- (i) by deleting the words “equivalent value” and inserting the words “whose current retail selling price shall not exceed that of the previously owned left-hand drive vehicle”;
- (ii) by deleting paragraph (c);
- (c) in paragraph 10, by inserting the words “or purchased locally” immediately after the word “imported”.

PART III—VALUE ADDED TAX

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

Amendment of section 2 of No. 35 of 2013.

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

“Islamic finance arrangement” has the meaning assigned to it in section 2 of the Income Tax Act;

Cap. 470.

“Islamic finance return” has the meaning assigned to it in section 2 of the Income Tax Act;

“*Sukuk*” has the meaning assigned to it in section 2 of the Public Finance Management Act, 2012;

No. 18 of 2012.

(b) by inserting the following new subsection immediately after subsection (2)—

“(3) For the purposes of this Act—

(a) Islamic finance return is treated as interest, whether received or paid on a financial arrangement; and

(b) reference to “interest” includes a reference to Islamic finance return.”.

8. Section 11 of the Value Added Act Tax, 2013, is amended—

Amendment of section 11 of No. 35 of 2013.

(a) in paragraph (b), by deleting the word “and” and substituting therefor the word “or”; and

(b) in paragraph (c), by inserting the word “where” at the beginning thereof.

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

Amendment of First Schedule to No. 35 of 2013.

(a) in Section A of Part 1—

(i) by deleting paragraph 31-Agricultural pest control products;

(ii) by deleting the word “blind” appearing in paragraph 39(1)(b) and substituting therefor the word “disabled”;

(iii) by deleting paragraph 42;

(iv) by deleting the following items –

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1102.20.00 – Maize (corn) flour;

1101.00.00 – Wheat or meslin flour and ordinary bread;

- (v) in paragraph 63—
- (a) by inserting the words “equipment and apparatus” immediately after the word “goods”;
 - (b) by inserting the words “with a minimum bed capacity of fifty” immediately after the word “hospitals”.
- (vi) in paragraph 66, by inserting the following new sentence immediately after the word “energy”—

“Clean cook stoves” includes clean and energy saving cook stoves with tariff number 7321, as well as their parts and raw materials that are either imported or sourced locally, provided that the stoves meet ISO/IWA 11:2012 standards of tier 2-4 for fuel efficiency, as determined by the Kenya Bureau of Standards.

- (vii) by inserting the following new paragraphs immediately after paragraph 87—

88. Goods falling under tariff number 4907.00.90.

89. Any other aircraft spare parts imported by aircraft operators or persons engaged in the business of aircraft maintenance upon recommendation by the competent authority responsible for civil aviation.

90. Inputs for the manufacture of pesticides upon recommendation by the Cabinet Secretary for the time being responsible for matters relating to agriculture.

91. Specially designed locally assembled motor vehicles for transportation of tourists, purchased before clearance through Customs by tour operators upon recommendation by

the competent authority responsible for tourism promotion, provided the vehicles meet the following conditions—

- (i) the vehicles shall at all times be registered and operated by a company that is licenced under the Tourism Vehicle Regime;
- (ii) the vehicles shall be used exclusively for the transportation of tourists;
- (iii) the vehicles shall have provisions for camping, rescue and first aid equipment, luggage compartments and communication fittings; and
- (iv) any other condition the Commissioner may impose:

Provided that tax shall become payable upon change of use or disposal of the vehicle for other use.”

92. Transportation of cargo to destinations outside Kenya.

93. Materials for the construction of grain storage, upon recommendation by the Cabinet Secretary for the time being responsible for agriculture.

(b) in Part II—

- (i) by inserting the word “*Sukuk*” immediately after the word “bonds” appearing in subparagraph 1(k); and
- (ii) by adding a new paragraph immediately after subparagraph (m) as follows—
 - (n) asset transfers and other transactions related to the transfer of assets into Real Estates Investment Trusts and Asset Backed Securities.
 - (o) any services set out in items (a) to (n) that are structured in conformity with Islamic finance.

10. The Second Schedule to the Value Added Tax Act, 2013, is amended—

Amendment of
Second Schedule to
No 35 of 2013.

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(a) in Part A, by inserting the following new paragraphs immediately after paragraph 12 —

13. The supply of maize (corn) flour, ordinary bread and cassava flour, wheat or meslin flour and maize flour containing cassava flour by more than ten per-cent in weight.

14 Taxable goods supplied to marine fisheries and fish processors upon recommendation by the relevant state department.

15. Milk and cream, not concentrated nor containing added sugar or other sweetening matter, of tariff numbers—

0401.10.00—of a fat content, by weight, not exceeding 1%;

0401.20.00—of a fat content, by weight, exceeding 1% but not exceeding 6%;

0401.40.00—of a fat content, by weight, exceeding 6% but not exceeding 10%;

0401.50.00—of a fat content, by weight, exceeding 10%.

16. All inputs and raw materials whether produced locally or imported, supplied to manufacturers of agricultural pest control products upon recommendation by the Cabinet Secretary for the time being responsible for agriculture.

17. Agricultural pest control products.

(b) in Part B—

(i) by deleting the words “of equivalent value” appearing in subparagraph (iii) of the proviso to 6(3)(c) and substituting therefor the words “whose current retail selling price does not exceed that of the previously owned left-hand-drive vehicle”;

(ii) by deleting paragraph 6(3) (iii) (C);

(iii) by inserting the word “services” immediately after the word “goods” appearing in paragraph 4;

- (iv) by inserting the words “and services” immediately after the word “goods” appearing in paragraph 8;
- (c) in Part C, by deleting the tariff Nos. 3003.10.00 and 3003.90.00 and substituting therefor the following—

<i>Tariff No.</i>	<i>Description</i>
3003.10.00 -	Medicaments containing penicillin or derivatives thereof, with penicillanic acid structure, or streptomycins or their derivatives.
3003.90.00 -	Other.

PART IV—INCOME TAX

11. Section 2 of the Income Tax Act is amended—

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

“Islamic finance arrangement” means all financial arrangements, including transactions, instruments, products or related activities that are structured in accordance with Islamic law;

“Islamic finance return” means any amount received or paid in relation to *Sukuk* or an Islamic finance arrangement;

“*Sukuk*” has the meaning assigned to it in the Public Finance Management Act, 2012;

- (b) by adding the words “or an Islamic finance return” at the end of the definition of the word “interest”.

12. Section 15 of the Income Tax Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (z)—

- (aa) expenditure incurred in that year of income on donations to the Kenya Red Cross, county governments or any other institution responsible for the management of national disasters to alleviate the effects of a national disaster declared by the President.

Amendment of section 2 of Cap. 470.

No. 18 of 2012.

Amendment of section 15 of Cap. 470.

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13. The Income Tax Act is amended by inserting the following new section immediately after section 18—

Insertion of new section 18A in Cap. 470.

Ascertainment of gains or profits of business in a non-preferential tax regime.

18A. (1) Where a resident entity operating in a preferential tax regime carries on business—

- (a) with a related resident person not operating in a preferential tax regime; and
- (b) the business produces to the resident person not operating in a preferential tax regime either no profits or less than the ordinary profits which would have been expected to accrue from that business if there had been no such relationship,

then, the gains or profits of that resident person from that business shall be deemed to be the amount that might have been expected to accrue if the course of that business had been conducted by independent persons dealing at arm's length.

(2) For the purposes of this section, the expression “preferential tax regime”, with respect to an item of income or profit, means any legislation, regulation or administrative practice which provides a preferential rate of taxation to such income or profit, including reductions in the tax rate or the tax base.

14. The Income Tax Act is amended by repealing section 108.

Repeal of section 108 of Cap. 470.

15. The First Schedule to the Income Tax Act is amended in Part I by inserting a new paragraph immediately after paragraph 54 as follows—

Amendment of First Schedule to Cap. 470.

55. Dividends paid by Special Economic Zone Enterprise, developers or operators to any non-resident person.

16. The Second Schedule to the Income Tax Act is amended in paragraph 24 by inserting the following new subparagraph immediately after subparagraph (g)—

Amendment of Second Schedule to Cap. 470.

“(h) on the construction of transportation and storage facilities for petroleum products by the Kenya Pipeline Company Limited”.

17. The Second Schedule to the Income Tax Act is amended by inserting a new paragraph immediately after paragraph 24B as follows—

Amendment of
Second Schedule to
Cap. 470.

24C. Capital expenditure on buildings and machinery for use in a Special Economic Zone

Subject to this Schedule, where capital expenditure is incurred on the construction of a building or on the purchase and installation of machinery by or for a Special Economic Zone Enterprise for use by the enterprise in carrying out the business activities for which it was licensed, the enterprise shall be entitled to an investment deduction, equal to one hundred percent of the capital expenditure, against the gains or profits of that enterprise in the year in which the building or machinery is first used.

24D. Capital expenditure on buildings and machinery for use in a Special Economic Zone outside Nairobi and Mombasa Counties

Subject to this Schedule, where capital expenditure is incurred on the construction of a building or on the purchase and installation of machinery by or for a Special Economic Zone Enterprise located outside Nairobi and Mombasa Counties, for use by the enterprise in carrying out the business activities for which it was licensed, the enterprise shall be entitled to an investment deduction, equal to one hundred and fifty percent of the capital expenditure, against the gains or profits of that enterprise in the year in which the building or machinery is first used.

18. The Third Schedule to the Income Tax Act is amended—

Amendment of
Third Schedule to
Cap. 470.

- (a) in item 1 of Head A (Resident Personal Relief) by deleting the expression “fifteen thousand three hundred and sixty” and substituting therefor the expression “sixteen thousand eight hundred and ninety six”;

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(b) in Head B—

(i) by deleting items 1 and 1A (Rates of Tax) and substituting therefor the following new items—

1. The individual rates of tax shall be—

On the first Shs.147,580	10%
On the next Shs.139,043	15%
On the next Shs. 139,043	20%
On the next Shs. 139,043	25%
On all income over Shs 564,709	30%

1A. The wife's employment, wife's professional and wife's self-employment income rates of tax shall be:

On the first Shs.147,580	10%
On the next Shs.139,043	15%
On the next Shs. 139,043	20%
On the next Shs. 139,043	25%
On all income over Shs. 564,709	30%

(ii) in item 2 by—

(a) inserting the expression “whether the enterprise sells its products to markets within or outside Kenya” immediately after the word “enterprise” appearing in paragraph (h);

(b) adding the following new subparagraph immediately after subparagraph (i)—

“(j) in the case of company whose business is local assembling of motor vehicles, fifteen per cent for the first five years from the year of commencement of its operations”.

Provided that the rate of fifteen per cent shall be extended for a further period of five years if the company achieves a local content equivalent to fifty per cent of the ex-factory value of the motor vehicles.

(c) in item 3 by—

(i) deleting the proviso to paragraph (a) and substituting therefor the following new proviso—

Provided that—

- (a) the rate applicable to any payments made by Special Economic Zone Enterprise, Developer or Operator to a non-resident persons shall be 5% of the gross amount payable.
 - (b) the rate applicable to the citizen of the East African Community Partner States in respect of consultancy fee shall be fifteen per cent of the gross sum payable.
- (ii) by inserting the following proviso at the end of paragraph (b)—
- Provided that the rate applicable to any royalty paid by any Special Economic Zone Enterprise, Developer or Operator to a non-resident person shall be 5% of the gross amount payable.
- (iii) inserting the following subparagraph at the end of paragraph (e)—
- (iii) in respect of interest paid by any Special Economic Zone Enterprise, Developer or Operator to a nonresident persons, 5% of the gross amount payable.
- (iv) in paragraph 5(d)(ii) by deleting the tabulation of rates and income bands at the end and substituting therefor the following new rates and income bands—

On the first Shs.147,580	10%
On the next Shs.139,043	15%
On the next Shs. 139,043	20%
On the next Shs. 139,043	25%
On all income over Shs 564,709	30%

PART V—TAX PROCEDURES

19.Section 3 of the Tax Procedures Act, 2015, is amended in the definition of the term “tax decision” by deleting the number “49” and substituting therefor the number “48”.

Amendment of section 3 of No. 29 of 2015.

20.Section 6 of the Tax Procedures Act, 2015, is amended in subsection (2) by deleting the words “the of” appearing in paragraph (h) and substituting therefor the words “of the”.

Amendment of section 6 of No. 29 of 2015.

21.Section 7 of the Tax Procedures Act, 2015, is amended by renumbering the existing provision as subsection (1) and adding a new subsection as follows—

Amendment of section 7 of No. 29 of 2015.

“(2) Without prejudice to the generality of subsection (1), the authorised officer shall have the power to enter and search any premises or vessels and seize, collect and detain evidence and produce such evidence in any proceedings before a court of law or tax appeals tribunal.”

22.Section 8 of the Tax Procedures Act, 2015, is amended by deleting paragraph (d) and inserting the following closing statement immediately after paragraph (c) —

Amendment of section 8 of No. 29 of 2015.

“shall apply to the Commissioner to be registered”.

23.Section 15A of the Tax Procedures Act, 2015, is amended by inserting the following new subsections immediately after subsection (2) —

Amendment of section 15A of No. 29 of 2015.

(3) The registration of the tax representative shall be in the name of the non-resident person being represented.

(4) A person may be a tax representative for more than one non-resident person, in which case the person shall have a separate registration for each non-resident person.

(5) The Commissioner shall issue a PIN to the tax representative.

24.Section 16 of the Tax Procedures Act, 2015, is amended in subsection (9) by inserting the words “penalty or” immediately after the word “any”.

Amendment of section 9 of No. 29 of 2015.

25.Section 17 of the Tax Procedures Act, 2015, is amended in subsection (6) by inserting the words “penalty or” immediately after the word “any”.

Amendment of section 17 of No. 29 of 2015.

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26.Section 18 of the Tax Procedures Act, 2015, is amended—

Amendment of section 18 of No.29 of 2015.

- (a) in subsection (2), by deleting paragraph (c); and
- (b) in subsection (3), by inserting the words “penalty or” immediately after the word “any”.

27.Section 37B of the Tax Procedures Act, 2015, is amended by—

Amendments to section 37B of Act No 29 of 2015.

- (a) deleting the expression “31st December, 2017” appearing in item (b) and substituting therefor the expression “30th June 2018”;
- (b) inserting the following new paragraph immediately after paragraph (b)—
 - “(c) the voluntarily declared funds have been transferred back to Kenya.”
- (c) deleting the proviso appearing after paragraph (b) and substituting therefor the following new proviso—

Provided that—

- (a) this section shall not apply in respect of any tax where the person who should have paid tax—
 - (i) has been assessed in respect of the tax or any matter relating to the tax; or
 - (ii) is under audit or investigation in respect of the undisclosed income or any matter relating to the undisclosed income;
- (b) where no funds have been transferred within the period of the amnesty, there shall be a five-year period for remittance but a penalty of 10% shall be levied on the remittance.

28.Section 42A of the Tax Procedures Act, 2015 is amended by inserting the following new subsections immediately after subsection (4)—

Amendments to section 42A of No 29 of 2015.

“(4A) The Commissioner may at any time exempt any supplier from the provisions of this section if such supplier has sufficiently demonstrated that due to the nature of his business, and due to the application of this section, he is going to be in a continuous credit position for a period of not less than twenty-four months.

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(4B) The tax withheld under this section shall be remitted to Commissioner on or before the twentieth day of the month following the month in which the deduction is made.

(4C) A person who is required under this section to withhold tax commits an offence if the person—

- (a) fails to withhold the whole amount of the tax which should have been withheld; or
- (b) fails to remit the amount of the withheld tax to the Commissioner by the twentieth day of the month following that in which the deduction was made.

(4D) A person who commits an offence under subsection (4C) is liable on conviction to a penalty of ten per cent of the amount involved.

PART VI—MISCELLANEOUS

29.Section 29A of the Betting, Lotteries and Gaming Act is amended in sub-section (1) by deleting the words “seven point five” and substituting therefor the word “thirty-five”.

Amendment of section 29A of Cap.131.

30.Section 44A of the Betting, Lotteries and Gaming Act is amended in sub-section (1) by deleting the word “five” and substituting therefor the word “thirty-five”.

Amendment of section 44A of Cap.131.

31.Section 55A of the Betting, Lotteries and Gaming Act is amended in sub-section (1) by deleting the word “twelve” and substituting therefor the word “thirty-five”.

Amendment of section 55A of Cap.131.

32.Section 59B of the Betting, Lotteries and Gaming Act is amended in sub-section (1) by deleting the word “fifteen” and substituting therefor the word “thirty-five”.

Amendment of section 59B of Cap.131.

33.Section 69 of the Betting, Lotteries and Gaming Act is deleted and substituted therefor the following new section—

Amendment of section 69 of Cap.131.

Revenue to be paid into the Consolidated Fund.

69. Save for the taxes provided for under sections 29A, 44A, 55A and 59B, any other monies received under this Act by or on behalf of the Board by way of fees, shall be paid into the Consolidated Fund.

34.The Marine Insurance Act is amended by inserting the following new section immediately after section 3—

Marine cargo Insurance defined.

3A. A contract of marine cargo insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against the losses incident to any movable property other than ship including money and other valuable securities.

35. The Marine Insurance Act is amended by inserting the following new section immediately after section 16—

Amendment of Cap.390.

Insurable interest in marine cargo.

16A. A person with insurable interest in marine cargo shall place marine cargo insurance with an insurer registered under this Act unless prior exemption has been granted by the Commissioner.

36. The First Schedule to the Kenya Revenue Authority Act is amended in Part I by inserting the following new paragraphs immediately after paragraph 8—

Amendment of First Schedule to Cap. 469.

9. Value Added Tax Act, 2013.
10. Excise Duty Act, 2015.
11. Tax Procedures Act, 2015.
12. Miscellaneous Fees and Levies Act, 2016.

37. Section 2 of the Stamp Duty Act is amended by inserting the following new definitions in proper alphabetical sequence—

Amendment of section 2 of Cap. 480.

“Islamic finance arrangement” has the meaning assigned to it in section 2 of the Income Tax Act;

“Islamic finance return” has a meaning assigned to it in section 2 of the Income Tax Act;

“Islamic property finance” means property or land leased or sold to a financial institution and then leased or resold to a person for a return in accordance with Islamic law;

“*Sukuk*” has the meaning assigned to it in section 2 of the Public Finance Act, 2012.

No. 18 of 2012.

38. Section 5 of the Stamp Duty Act is amended in the proviso, by inserting the words “or an Islamic property finance arrangement” immediately after the word “mortgage”.

Amendment of section 5 of Cap.480.

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39.Section 27 of the Stamp Duty Act is amended by inserting the words “or Islamic finance return” immediately after the word “interest” wherever it appears.

Amendment of section 27 of Cap 480.

40.The Stamp Duty Act is amended by inserting a new section immediately after section 68 as follows—

Insertion of section 68A in Cap.480.

Islamic property
finance
arrangement

68A. In any mortgage under which—

- (a) a financial institution provides an Islamic finance arrangement that enables a person to own property or land; and
- (b) where the title or interest in the property or land is first transferred to the financial institution from the vendor and afterwards to that person,

the duty shall be charged on the transfer of the title or interest to the financial institution by the vendor but shall not be charged on the transfer of the title or interest from the financial institution to that person.

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

Insertion of section 96B in Cap.480.

Exemption from
payment of stamp duty
on transfer of title
relating to *Sukuk*
arrangement.

96B. (1) A *Sukuk* arrangement shall be exempt from stamp duty where the arrangement requires the transfer of title in an asset if—

- (a) at the beginning of the arrangement, the title shall be transferred from the original owner of the asset to the entity representing the interests of the *Sukuk* holders; and
- (b) during or at the end of the arrangement, the title shall be transferred back to the original owner of the asset from the entity representing the interests of the *Sukuk* holders.

(2) An exemption under subsection (1) shall also apply if the asset is replaced during the term of the *Sukuk* arrangement:

Provided that the conditions specified in subsection (1) (a) and (b) are satisfied.

(3) An arrangement shall not be exempt from stamp duty if—

- (a) the title to the asset is transferred during or after the *Sukuk* arrangement to any party other than the original owner;
- (b) the arrangement is not effected for genuine commercial reasons; or
- (c) the arrangement forms part of arrangements whose main purpose is the evasion of a tax liability under any tax law.

42. The Schedule to the Stamp Duty Act is amended in paragraph 4 of the part headed the “General Exemption” by inserting the word “*Sukuk*” immediately after the words “Government security”.

Amendment of
Schedule to
Cap.480.

43. Section 5 of the Retirement Benefits Act, 1997, is amended by inserting a new paragraph immediately after paragraph (b) as follows—

Amendment of
section 5 of No. 3 of
1997.

- (ba) approve trustees’ remuneration approved by members during the annual general meeting after every three years.

44. Section 26 of the Retirement Benefits Act, 1997, is amended in subsection (2) by adding a new paragraph immediately after paragraph (d) as follows—

Amendment of
section 26 of No. 34
of 1997.

- (e) does not comply with the guidelines or practice notes issued by the Authority.

45. Section 34 of the Retirement Benefits Act, 1997, is amended by inserting a new subsection immediately after subsection (4B) as follows—

Amendment of
section 34 of No. 3
of 1997.

(4C) Despite the provisions of subsection (4B), the Authority shall require a person who fails to submit any statutory return by the due date to the

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Authority to pay a penalty of one hundred thousand shillings and where the returns remain un-submitted, the person, in addition to the prescribed penalty, shall pay a further fine of one thousand shillings for each day or part thereof during which the offence continues:

Provided that a person who pays a penalty under this subsection shall also be liable to prosecution in court for the same offence.

46. Section 53 of the Kenya Deposit Insurance Act, 2012, is amended by inserting the following new subsection immediately after subsection (2) —

Amendment of section 53 of No. 10 of 2012.

“(3) The Cabinet Secretary, may under exceptional circumstances, extend the term of receivership, for a further period not exceeding twelve months”.

Amendment of section 2 of No. 18 of 2012.

47. Section 2 of the Public Finance Management Act, 2012, is amended—

- (a) in the definition of "national government security" by inserting the word "*Sukuk*" immediately after the words "Treasury Bond"
- (b) by inserting the following new definitions in proper alphabetical sequence—

“*Sukuk*” means certificates of equal value, representing undivided shares in ownership of tangible or intangible assets, usufruct of assets; services or an investment activity, structured in conformity with Islamic law;

“Islamic finance return” has the same meaning assigned to it under section 2 of the Income Tax Act;

- (c) by inserting the following new subsection immediately after subsection (2)—

(3) For the purposes of this Act, the reference to the term ‘interest’ in relation to a national government security shall also apply to reference to Islamic finance return on *Sukuk*.

48. Section 205 of the Public Finance Management Act, 2012, is amended by inserting the following new subsections immediately after subsection (3)—

Amendment of section 205 of No. 18 of 2012.

(3A) Despite the generality in subsection (1), the Cabinet Secretary may make regulations for raising money by issuing a *Sukuk* bond which shall specify the purpose for which money may be raised.

(3B) Money raised through a *Sukuk* bond may be raised within or outside Kenya in Kenya shillings or in any other currency or medium of exchange.

49.Section 12 of the Sports Act, 2013, is amended in subsection (2) by inserting the words “taxes levied under the Betting, Lotteries and Gaming Act” immediately before the word “investments” in paragraph (a)”.

Amendment of section 12 of No. 25 of 2013.

50.The Tax Appeals Tribunal Act, 2013, is amended in section 13(7) by deleting the proviso thereto.

Amendment to section 13 of No. 40 of 2013.

51.Section 4 of the Co-operative Societies Act, 1997, is amended by inserting the words “or adherence to the principles of Islamic law” immediately after the word “members” appearing in paragraph (a).

Amendment of section 4 of No.12 of 1997.

52.Section 2 of the Sacco Societies Act, 2008, is amended—

Amendment of section 2 of No. 14 of 2008.

- (a) in the definition of the word “deposit”, by inserting the words “a return” immediately after the word “interest”;
- (b) in the definition of the expression “deposit taking business”, by deleting the words “to members” appearing at the end of paragraph (b) and substituting therefor the words “or funding or in compliance with the Islamic law”;
- (c) in the definition of the expression “sacco business”, by inserting—
 - (i) the words “or in compliance with Islamic law” immediately after the words “in accordance with this Act,”
 - (ii) the word “finance” immediately after word “loans” appearing in paragraph (a); and
 - (iii) the words “ providing finance” immediately after the words “against borrowing” appearing in paragraph (b).

53.Section 23 of the Sacco Societies Act, 2008, is amended by inserting a new subsection immediately after subsection (2) as follows—

Amendment of section 23 of No.14 of 2008.

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(3) The Cabinet Secretary may, in consultation with the Authority, make regulations providing for the licensing and supervision of co-operative societies carrying out deposit taking business in compliance with Islamic law.

54.Section 68 of the Sacco Societies Act, 2008, is amended by renumbering the existing provision as (1) and inserting a new subsection as follows—

Amendment of section 68 of No. 14 of 2008.

(2) Despite the generality of subsection (1), the Cabinet Secretary may, after consultation with the Authority make regulations providing for the licensing and supervision of SACCOS carrying out deposit taking business in compliance with Islamic law.

55.Section 10 of the Public Procurement and Asset Disposal Act, 2015, is amended—

Amendment of section 10 of No. 33 of 2015.

(a) in subsection (1)—

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

(b) two members who shall be appointed by the Cabinet Secretary after nomination through a fair process by—

(i) the Institute of Certified Public Accountants of Kenya, and

(ii) the Kenya Institute of Supplies Management

(ii) by deleting paragraph (c);

(iii) by inserting the following new paragraph immediately after paragraph (e)—

(f) four other persons appointed by the Cabinet Secretary;

(b) in subsection (2) by deleting the words “balance and gender parity” appearing at the end and substituting therefor the words “and gender balance”.

56.Section 29 of the Public Procurement and Asset Disposal Act, 2015, is amended—

Amendment of section 29 of No. 33 of 2015.

(a) in subsection (1)—

(i) by deleting the words “balance and gender parity” appearing immediately after the word “regional” and substituting therefor the words “and gender balance”

- (ii) by deleting the word “fourteen” appearing at the beginning of paragraph (b) and substituting therefor the word “seven”;
- (iii) by inserting the following new paragraph immediately after paragraph (b)—
 - (c) seven other persons appointed by the Cabinet Secretary.
- (b) in subsection (2)—
 - (i) by deleting the word “three” appearing in paragraph (a) and substituting therefor the word “two”;
 - (ii) by deleting the word “three” appearing in paragraph (c) and substituting therefor the word “one”;
 - (iii) by deleting the word “three” appearing in paragraph (d) and substituting therefor the word “one”;
 - (iv) by deleting paragraph (e) and substituting therefor the following new paragraph (e)—
 - (e) one person nominated by the Institute of Engineers of Kenya;
 - (v) by inserting the following new paragraph immediately after paragraph (e) —
 - (f) one person nominated by the Architectural Association of Kenya.

57. The Public Procurement and Asset Disposal Act, 2015, is amended by inserting the following new section immediately after Section 114—

Insertion of a new section in No. 33 of 2015.

K—Specially Permitted Procurement

114A. Specially permitted procurement procedure.

(1) A procuring entity may use a procurement procedure specially permitted by the National Treasury.

(2) The National Treasury may allow the use of specially permitted procedure—

- (a) where exceptional requirements make it impossible, impracticable or uneconomical to comply with the Act and the Regulations;

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- (b) where the market conditions or behaviour do not allow the effective application of the Act and Regulations made under the Act;
- (c) for specialized or particular requirements which are regulated or governed by harmonized international standards or practices;
- (d) where strategic partnership sourcing is applied;
- (e) where credit financing procurement is applied; or
- (f) in such other circumstances as may be prescribed.

(3) The Cabinet Secretary may prescribe the procedure for carrying out specially permitted procurements under this section.

58. The First Schedule to the Miscellaneous Fees and Levies Act, 2016, is amended in Part II by inserting the words “or Special Economic Zones” immediately after the words “Export Processing Zones”.

Amendment of First Schedule to No. 29 of 2016.

59. The Second Schedule to the Miscellaneous Fees and Levies Act, 2016, is amended—

Amendment of Second Schedule to No. 29 of 2016.

(a) in Part A—

- (i) by inserting the words “or Special Economic Zones” immediately after the words “Export Processing Zones” appearing in paragraph (ii);
- (ii) by inserting the following new paragraph immediately after paragraph (xxi) —
 - (xxia) goods imported for the construction of liquefied petroleum gas storage facilities as approved by the Cabinet Secretary responsible for liquefied petroleum gas.

(b) in Part B—

- (iii) by inserting the following new paragraph immediately after paragraph (v) —
 - (va) goods imported for the construction of liquefied petroleum gas storage facilities as approved by the Cabinet

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Secretary responsible for liquefied petroleum gas.

60. The Proceeds of Crime and Anti-Money Laundering Act is amended in section 54 by deleting subsection (1A).

Amendment of section 54 of No. 9 of 2009.