

No.

2013



THE REPUBLIC OF KENYA



HIS EXCELLENCY THE PRESIDENT
UHURU KENYATTA

I assent

President

9th August

, 2013

An Act of Parliament to provide, pursuant to Article 202(2) and 218(1)(b) of the Constitution, for the division, among the counties, of conditional allocations and equitable share of revenue allocated to the county level of government on the basis determined in accordance with the resolution in force under Article 217 of the Constitution for the financial year 2013/14; to provide for the responsibilities of the national and county governments pursuant to such division; and for connected purposes

THE COUNTY ALLOCATION OF REVENUE ACT

No. of 2013

ARRANGEMENT OF SECTIONS*Section*

- 1- Short title
- 2- Interpretation
- 3- Object and purpose of the Act
- 4- Shareable revenue and division of revenue
- 5- Allocation of the revenue allocated to the county level of government to each county government
- 6- Conditional allocations to county governments
- 7- Total allocations
- 8- Transfers made erroneously or fraudulently
- 9- Duties of the national and county treasuries
- 10- Report on actual transfers
- 11- Books of account to reflect national government transfers
- 12- Resolution of disputes and payment of wasteful expenditure
- 13- Financial misconduct
- 14- Amendment of section 17 of No.8 of 2012
- 15- Regulations
- 16- Explanatory memorandum not to bind Parliament

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

**THE COUNTY ALLOCATION OF REVENUE ACT,
2013**

AN ACT of Parliament to provide, pursuant to Article 202(2) and 218(1)(b) of the Constitution, for the division, among the counties, of conditional allocations and equitable share of revenue allocated to the county level of government on the basis determined in accordance with the resolution in force under Article 217 of the Constitution for the financial year 2013/14; to provide for the responsibilities of the national and county governments pursuant to such division; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title	1. This Act may be cited as the County Allocation of Revenue Act, 2013.
Interpretation	2. In this Act, unless the context otherwise requires- “Cabinet Secretary” means the Cabinet Secretary responsible for finance; “revenue” has the same meaning assigned to it in section 2 of the Commission on Revenue Allocation Act, 2011;
No 16 of 2011	“State Organ” has the same meaning assigned to it in Article 260 of the Constitution;
No 1 of 2012	“Transition Authority” means the Transition Authority established under section 4 of the Transition to Devolved Government Act, 2012; and
No 18 of 2012	“wasteful expenditure” has the same meaning assigned to it in section 2 of the Public Finance Management Act, 2012
Object and purpose of the Act	3. The object and purpose of this Act is- (a) to provide, pursuant to Article 202(2) and 218(1)(b) of the Constitution, for the division, among the counties, of conditional allocations and equitable share of revenue allocated to the county level of government on the basis determined in accordance with the resolution in force

2013*County Allocation of Revenue***No.**

under Article 217 of the Constitution for the financial year 2013/14; and

(b) to facilitate the transfer of the allocations made to the respective counties under this Act from the Consolidated Fund to the respective County Revenue Funds.

4. (1) The shareable revenue through the approved formula for the financial year 2013/2014 shall be as set out in the First Schedule.

Shareable revenue
and division of
revenue

(2) The division of revenue among county governments for the financial year 2013/2014 shall be as set out in the Second Schedule.

5. The revenue allocated to the county level of government shall be allocated to each county government for the financial year 2013/2014 in the manner set out in Column C of the Third Schedule.

Allocation of the
revenue allocated
to the county
level of
government to
each county
government
Conditional
allocations to
county
governments

6. Conditional allocations to provide for the funding of regional referral hospitals and to ensure continuation of other essential services shall be made to the county governments in the manner set out in Column B of the Third Schedule.

7. (1) The functions to be gazetted by the Transition Authority for transfer to the county governments in accordance with section 23 of the Transition to Devolved Government Act shall form the basis for preparing the relevant county government's estimates of revenue and expenditure for the financial year 2013/2014.

Total allocations

No 1 of 2012

(2) The allocations set out in the Third Schedule comprise the allocations for the performance of all the devolved functions which shall be implemented by the national or county government, as the case may be.

(3) The total estimated cost of the functions to be transferred which shall form the basis for the county budgets is set out in Column E of the Third Schedule.

(4) Where functions have not been gazetted for transfer by the Transition Authority in accordance with section 23 of the Transition to Devolved Government Act, the budget estimates for such functions shall be included in the budget estimates of the national government and shall

No.

be submitted to Parliament for approval

No. 18 of 2012

(5) Each county government's allocation under sections 5 and 6 shall be transferred to the respective County Revenue Fund in accordance with the payment schedule gazetted by the Cabinet Secretary in terms of section 17 of the Public Finance Management Act, provided the Transition Authority has gazetted, for transfer, the functions to be financed by those allocations

(6) Where the allocation of monies to a county results in a county being allocated an amount that is less than the amount commensurate to the cost of the functions devolved to the county, the national government shall allocate part of its share of revenue to provide the additional resources needed

Transfers made erroneously or fraudulently

8. (1) Notwithstanding the provisions of any other law, where it is determined that the transfer of funds to a county government was made erroneously or fraudulently, such transfer shall be regarded as not legally due to that county government.

No. 18 of 2012

(2) An erroneous or fraudulent transfer made to a county government under subsection (1) shall be recovered immediately from the county government or shall be set-off against future transfers to that county government which would otherwise become due in accordance with the payment schedule gazetted by the Cabinet Secretary in terms of section 17 of the Public Finance Management Act, 2012.

Duties of the national and county treasuries
No. 18 of 2012

9. For the avoidance of doubt, the duties of the national treasury and the county treasuries shall be as provided for in the Public Finance Management Act.

Report on actual transfers

10. The national treasury shall publish a quarterly report on actual transfers of allocations to the county governments.

Books of accounts to reflect national government transfers

11. (1) Each county treasury shall reflect all transfers by the national government to the county government in its books of accounts.

(2) The Finance Bill of each county shall reflect the total allocations from the national government separately.

No. 18 of 2012

(3) A county treasury shall, as part of its consolidated quarterly and annual reports required under the Public

2013

County Allocation of Revenue

No.

Finance Management Act, report on actual transfers received by the county government from the national government up to the end of that quarter or year, as the case may be, in the format prescribed by the Public Sector Accounting Standards Board or in the absence of the Board, in the format prescribed by the National Treasury.

12. (1) Any state organ involved in an intergovernmental dispute regarding any provision of this Act or any matter concerning the division or allocation of revenue shall, in accordance with Article 189(3) and (4) of the Constitution, before approaching a court to resolve such dispute, make every effort to settle the dispute with the other state organ concerned, including exhausting all alternative dispute resolution mechanisms provided for in the Intergovernmental Relations Act.

Resolution of
disputes and
payment of
wasteful
expenditure

No 2 of 2012

(2) If a court is satisfied that a state organ in an attempt to resolve a dispute has not exhausted all the mechanisms provided for alternative dispute resolution in the Intergovernmental Relations Act and refers the dispute back to the state organ for the reason that the state organ has not complied with subsection (1), the expenditure incurred by that state organ in approaching the court shall be regarded as wasteful expenditure.

No 2 of 2012

(3) The costs in respect of such wasteful expenditure referred to in subsection (2) shall, in accordance with a prescribed procedure, be recovered without delay from the person who caused the state organ not to comply with the requirements of subsection (1).

13. Despite the provisions of any other law, any serious or persistent non-compliance with the provisions of this Act shall constitute a financial misconduct under the Public Finance Management Act.

Financial
Misconduct
No 18 of 2012

14. The Public Finance Management Act is amended in section 17 by deleting sub-section (6) and replacing it with the following new sub-section-

Amendment of
section 17 of No
8 of 2012

(6) The National Treasury shall, at the beginning of every month, and in any event not later than the fifteenth day from the commencement of the month, disburse monies to the county governments for the expenditure of the following month.

15. (1) The Cabinet Secretary, with the approval of

Regulations

No.

County Allocation of Revenue

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Parliament, may make Regulations on—

- (a) any matter in respect of which Regulations require to be made under this Act;
- (b) any subsidiary or incidental administrative or procedural matter necessary for the proper implementation or administration of this Act.

(2) In making the Regulations under sub-section (1), the Cabinet Secretary shall take into account the recommendations of the Intergovernmental Budget and Economic Council established under section 187 of the Public Finance Management Act.

No 18 of 2012

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

Explanatory memorandum not to bind Parliament

FIRST SCHEDULE

[3A(1)]

**SHAREABLE REVENUE THROUGH APPROVED FORMULA FOR
2013-2014 FINANCIAL YEAR – KSHS.190,000,000,000**

NO.	PARAMETER	%	SHS.
1.	Population	45%	85,500,000,000
2.	Basic Equal Share	25%	47,500,000,000
3.	Poverty	20%	38,000,000,000
4.	Land Area	8%	15,200,000,000
5.	Fiscal Responsibility	2%	3,800,000,000
TOTAL			190,000,000,000

SECOND SCHEDULE

[3A(2)]

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DIVISION OF REVENUE AMONG COUNTY GOVERNMENTS 2013-2014
SHAREABLE REVENUE: KSHS. 190,000,000,000

NO.	COUNTY	45%	20%	8%	25%	2%	100%
		POPULATION (SHILLINGS)	POVERTY (SHILLINGS)	LAND AREA (SHILLINGS)	BASIC EQUAL SHARE (SHILLINGS)	FISCAL RESPON- SIBILITY (SHILLINGS)	TOTAL REVENUE (SHILLINGS)
1	BARINGO	1,230,260,196	666,964,954	259,138,703	1,010,638,298	80,851,064	3,247,853,215
2	BOMET	1,603,671,262	610,719,813	136,758,186	1,010,638,298	80,851,064	3,442,638,623
3	BUNGOMA	3,611,616,334	1,340,802,999	136,758,186	1,010,638,298	80,851,064	6,180,666,881
4	BUSIA	1,080,816,049	1,103,340,563	136,758,186	1,010,638,298	80,851,064	3,412,404,160
5	ELGEYO- MARAKWET	819,340,832	344,423,211	136,758,186	1,010,638,298	80,851,064	2,392,011,591
6	EMBU	1,143,123,935	435,711,208	136,758,186	1,010,638,298	80,851,064	2,807,082,691
7	GARISSA	1,379,733,130	710,950,923	1,039,260,300	1,010,638,298	80,851,064	4,221,433,715
8	HOMA-BAY	2,134,270,396	758,911,881	136,758,186	1,010,638,298	80,851,064	4,121,429,825
9	ISIOLO	317,316,918	230,722,751	596,054,306	1,010,638,298	80,851,064	2,235,583,337
10	KAJIADO	1,522,015,757	98,662,186	515,242,554	1,010,638,298	80,851,064	3,227,409,859
11	KAKAMEGA	3,677,423,046	1,609,840,164	136,758,186	1,010,638,298	80,851,064	6,515,510,758

County Allocation of Revenue

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No.

NO.	COUNTY	45%	20%	8%	25%	2%	100%
		POPULATION (SHILLINGS)	POVERTY (SHILLINGS)	LAND AREA (SHILLINGS)	BASIC EQUAL SHARE (SHILLINGS)	FISCAL RESPON- SIBILITY (SHILLINGS)	TOTAL REVENUE (SHILLINGS)
12	KERICHO	1,679,301,259	387,470,845	136,758,186	1,010,638,298	80,851,064	3,295,019,652
13	KIAMBU	3,594,671,389	635,941,923	136,758,186	1,010,638,298	80,851,064	5,458,860,860
14	KILIFI	2,457,448,954	1,596,932,520	296,662,646	1,010,638,298	80,851,064	5,442,533,482
15	KIRINYAGA	1,169,347,412	190,270,129	136,758,186	1,010,638,298	80,851,064	2,587,865,089
16	KISII	2,551,667,016	1,408,389,393	136,758,186	1,010,638,298	80,851,064	5,188,303,957
17	KISUMU	2,145,597,290	781,453,228	136,758,186	1,010,638,298	80,851,064	4,155,298,066
18	KITUI	2,242,590,054	1,263,758,513	717,471,904	1,010,638,298	80,851,064	5,315,309,833
19	KWALE	1,439,237,526	1,023,665,902	194,559,880	1,010,638,298	80,851,064	3,748,952,670
20	LAIKIPIA	884,066,893	324,853,931	222,602,851	1,010,638,298	80,851,064	2,523,013,037
21	LAMU	224,852,699	36,834,550	147,578,491	1,010,638,298	80,851,064	1,500,755,102
22	MACHAKOS	2,432,755,660	1,280,322,736	146,049,303	1,010,638,298	80,851,064	4,950,617,061
23	MAKUENI	1,958,737,853	1,127,592,265	188,419,598	1,010,638,298	80,851,064	4,366,239,078
24	MANDERA	2,271,481,939	2,575,797,803	611,463,825	1,010,638,298	80,851,064	6,550,232,929
25	MARSABIT	644,771,574	691,748,245	1,367,581,861	1,010,638,298	80,851,064	3,795,591,042
26	MERU	3,003,456,207	491,393,217	163,105,640	1,010,638,298	80,851,064	4,749,444,426
27	MIGORI	2,031,024,035	1,009,823,713	136,758,186	1,010,638,298	80,851,064	4,269,095,296
28	MOMBASA	2,080,184,751	493,326,014	136,758,186	1,010,638,298	80,851,064	3,801,758,313

No.

County Allocation of Revenue

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NO.	COUNTY	45%	20%	8%	25%	2%	100%
		POPULATION (SHILLINGS)	POVERTY (SHILLINGS)	LAND AREA (SHILLINGS)	BASIC EQUAL SHARE (SHILLINGS)	FISCAL RESPON- SIBILITY (SHILLINGS)	TOTAL REVENUE (SHILLINGS)
29	MURANG'A	2,087,295,339	601,852,584	136,758,186	1,010,638,298	80,851,064	3,917,395,471
30	NAIROBI	6,949,750,722	1,327,768,135	136,758,186	1,010,638,298	80,851,064	9,505,766,405
31	NAKURU	3,550,477,677	1,118,019,555	176,327,243	1,010,638,298	80,851,064	5,936,313,837
32	NANDI	1,667,400,823	582,253,456	136,758,186	1,010,638,298	80,851,064	3,477,901,827
33	NAROK	1,884,316,944	469,892,572	421,891,453	1,010,638,298	80,851,064	3,867,590,331
34	NYAMIRA	1,324,797,138	485,599,081	136,758,186	1,010,638,298	80,851,064	3,038,643,767
35	NYANDARUA	1,320,403,676	601,556,065	136,758,186	1,010,638,298	80,851,064	3,150,207,289
36	NYERI	1,535,847,190	490,080,491	136,758,186	1,010,638,298	80,851,064	3,254,175,229
37	SAMBURU	495,918,684	516,181,961	494,563,215	1,010,638,298	80,851,064	2,598,153,222
38	SIAYA	1,865,237,272	560,094,515	136,758,186	1,010,638,298	80,851,064	3,653,579,335
39	TAITA- TAVETA	630,357,740	296,865,007	401,917,894	1,010,638,298	80,851,064	2,420,630,003
40	TANA-RIVER	531,633,280	386,937,700	904,268,209	1,010,638,298	80,851,064	2,914,328,551
41	THARAKA- NITHI	809,003,795	257,576,604	136,758,186	1,010,638,298	80,851,064	2,294,827,947
42	TRANS-NZOIA	1,813,093,697	688,533,382	136,758,186	1,010,638,298	80,851,064	3,729,874,627
43	TURKANA	1,894,235,451	3,311,095,920	1,367,581,861	1,010,638,298	80,851,064	7,664,402,594

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County Allocation of Revenue

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NO.	COUNTY	45%	20%	8%	25%	2%	100%
		POPULATION (SHILLINGS)	POVERTY (SHILLINGS)	LAND AREA (SHILLINGS)	BASIC EQUAL SHARE (SHILLINGS)	FISCAL RESPON- SIBILITY (SHILLINGS)	TOTAL REVENUE (SHILLINGS)
44	UASIN-GISHU	1,980,111,692	588,269,447	136,758,186	1,010,638,298	80,851,064	3,796,628,687
45	VIHIGA	1,228,180,831	375,136,063	136,758,186	1,010,638,298	80,851,064	2,831,564,442
46	WAJIR	1,465,833,031	1,399,135,914	1,333,593,873	1,010,638,298	80,851,064	5,290,052,180
47	WEST POKOT	1,135,324,654	712,525,972	215,709,738	1,010,638,298	80,851,064	3,155,049,726
	TOTALS	85,500,000,000	38,000,000,000	15,200,000,000	47,500,000,000	3,800,000,000	190,000,000,000

THIRD SCHEDULE

[S. 4 & 5]

EQUITABLE TRANSFERS AND CONDITIONAL TRANSFERS FROM
NATIONAL TO COUNTY GOVERNMENTS

		A	B	C = A+B
			TOTAL	
NO.	COUNTY	TOTAL EQUITABLE SHARE OF REVENUE (SHILLINGS) (31%)	CONDITIONAL ALLOCATION (SHILLINGS)	GRAND TOTAL (SHILLINGS)
1	Baringo	3,247,853,215	382,555,501	3,630,408,716
2	Bomet	3,442,638,623	272,582,727	3,715,221,350
3	Bungoma	6,180,666,881	334,595,329	6,515,262,210
4	Busia	3,412,404,160	266,369,417	3,678,773,577
5	Elgeyo/ Marakwet	2,392,011,591	744,501,814	3,136,513,405
6	Embu	2,807,082,691	557,198,402	3,364,281,093
7	Garissa	4,221,433,715	475,032,960	4,696,466,675
8	Homa Bay	4,121,429,825	1,604,785,613	5,726,215,438
9	Isiolo	2,235,583,337	187,893,545	2,423,476,882
10	Kajiado	3,227,409,859	284,382,199	3,511,792,058
11	Kakamega	6,515,510,758	840,702,017	7,356,212,775
12	Kericho	3,295,019,652	317,792,977	3,612,812,629
13	Kiambu	5,458,860,860	805,574,808	6,264,435,668
14	Kilifi	5,442,533,482	377,885,641	5,820,419,123
15	Kirinyanga	2,587,865,089	242,055,751	2,829,920,840
16	Kisii	5,188,303,957	635,954,331	5,824,258,288
17	Kisumu	4,155,298,066	711,380,679	4,866,678,745
18	Kitui	5,315,309,833	519,086,118	5,834,395,951
19	Kwale	3,748,952,670	280,447,997	4,029,400,667
20	Laikipia	2,523,013,037	234,821,897	2,757,834,934
21	Lamu	1,500,755,102	99,237,004	1,599,992,106
22	Machakos	4,950,617,061	523,080,848	5,473,697,909
23	Makueni	4,366,239,078	354,912,725	4,721,151,803
24	Mandera	6,550,232,929	230,310,408	6,780,543,337
25	Marsabit	3,795,591,042	272,856,567	4,068,447,609
26	Meru	4,749,444,426	758,421,849	5,507,866,275
27	Migori	4,269,095,296	490,967,787	4,760,063,083
28	Mombasa	3,801,758,313	545,817,618	4,347,575,931
29	Muranga	3,917,395,471	404,431,503	4,321,826,974
30	Nairobi	9,505,766,405	390,470,421	9,896,236,826
31	Nakuru	5,936,313,837	1,024,998,693	6,961,312,530
32	Nandi	3,477,901,827	408,946,759	3,886,848,586
33	Narok	3,867,590,331	278,791,611	4,146,381,942
34	Nyamira	3,038,643,767	278,440,754	3,317,084,521

		A	B	C = A+B
			TOTAL	
NO.	COUNTY	TOTAL EQUITABLE SHARE OF REVENUE (SHILLINGS) (31%)	CONDITIONAL ALLOCATION (SHILLINGS)	GRAND TOTAL (SHILLINGS)
35	Nyandarua	3,150,207,289	284,911,755	3,435,119,044
36	Nyeri	3,254,175,229	817,147,697	4,071,322,926
37	Samburu	2,598,153,222	206,938,875	2,805,092,097
38	Siaya	3,653,579,335	318,012,871	3,971,592,206
39	Taita	2,420,630,003	205,852,212	2,626,482,215
40	Tana River	2,914,328,551	204,478,573	3,118,807,124
41	Tharaka Nithi	2,294,827,947	139,762,124	2,434,590,071
42	Transia	3,729,874,627	193,134,230	3,923,008,857
43	Turkana	7,664,402,594	229,995,474	7,894,398,068
44	Uasin Gishu	3,796,628,687	270,261,206	4,066,889,893
45	Vihiga	2,831,564,442	196,974,298	3,028,538,740
46	Wajir	5,290,052,180	357,469,372	5,647,521,552
47	West Pokot	3,155,049,726	437,777,043	3,592,826,769
	GRAND TOTAL	190,000,000,000	20,000,000,000	210,000,000,000

* The last audited accounts are those of the financial year 2010/11 and therefore the audited revenue used to compute the minimum constitutional requirement for county revenue allocation are accounts of 2010/11. Audited accounts for the financial year 2011/12 are yet to be approved by Parliament

2013

County Allocation of Revenue

No.

I certify that this printed impression is a true copy of the Bill passed by the Senate on 31st July, 2013 and by the National Assembly on the 6th August, 2013.

*Clerk of the Senate.***JEREMIAH M. NYEGENYE**

Presented for assent in accordance with the provisions of the Constitution of Kenya on the 9 AUGUST 2013 at the hour of 11:10 AM

*Speaker of the Senate*