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REPUBLIC OF KENYA
 THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

COMMITTEE ON DELEGATED LEGISLATION

REPORT
 ON
 THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTION FUND) REGULATIONS,
 2025 (LEGAL NOTICE NO. 169 OF 2025)

MARCH 2026

The Directorate of Audit, Appropriations
 & Genera-Purpose Committees
 The National Assembly
 Parliament Buildings



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ABBREVIATIONS AND ACCRONYMS

AG	Attorney General
CBS	Chief of the Order of the Burning Spear
CEO	Chief Executive Officer
DLS	Directorate of Legislative and Procedural Services
EGH	Elder of the Order of the Golden Heart
EBS	Elder of the Order of the Burning Spear
GoK	Government of Kenya
LN	Legal Notice
MDA	Ministry, Department and Agency
MP	Member of Parliament
OAG	Office of the Auditor-General
ODM	Orange Democratic Movement
UDM	United Democratic Movement
UDA	United Democratic Alliance
UPA	United Progressive Alliance
UPIA	United Party of Independent Alliance
WDM–Kenya	Wiper Democratic Movement–Kenya

CHAIRPERSON'S FORWARD

The Public Finance Management (Public Prosecution Fund) Regulations, 2025 were made vide *LN. No. 169 of 2025* pursuant to powers conferred on the Cabinet Secretary for the National Treasury and Planning under section 24(4) of the Public Finance Management Act (*Cap. 412A*), hence, is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act (*Cap. 2A*).

The Regulations were published in the Gazette on 28th October 2025 and received by the Clerk of the National Assembly on 6th November 2025. They were subsequently tabled before the House on 11th November 2025, within the statutory timelines prescribed under section 11(1) of the Statutory Instruments Act (*Cap. 2A*) and committed to the Committee on Delegated Legislation for consideration.

The primary purpose of these Regulations is to provide a legal framework for the administration, management, and oversight of the Public Prosecution Fund.

Pursuant to section 16 of the Statutory Instruments Act (*Cap. 2A*), which requires the Committee to confer with the regulation-making authorities before making its decision, the Committee held a meeting with the National Treasury and Economic Planning on Thursday, 5th March, 2026, to deliberate on the Regulations.

Having examined the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (*LN. No. 169 of 2025*) against the Constitution, the Statutory Instruments Act (*Cap. 2A*), the Public Finance Management Act (*Cap. 214A*), and the Interpretation and General Provisions Act (*Cap. 2*), the Committee resolved to recommend that the House **Committee recommends that the House APPROVES the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) in accordance with section 24(4) the Public Finance Management Act (Cap. 412A).**

I sincerely thank the Speaker and the Office of the Clerk of the National Assembly for the invaluable support accorded to the Committee in the discharge of its mandate. I also wish to thank the Committee Membership and the Secretariat for their diligence in considering these Regulations.

On behalf of the Members of the Committee on Delegated Legislation and pursuant to Standing Order 210, it is my pleasure and duty to present to the

House the Committee's *Report on the Consideration of the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025).*



HON. CHEPKONG'A KIPRONO SAMUEL, CBS, MP.

1.0 PREFACE

1.1 Establishment and Mandate of the Committee

1. The Select Committee on Delegated Legislation is established under **Standing Order No. 210** of the National Assembly Standing Orders and is mandated to consider statutory instruments submitted to Parliament for consideration. The Committee is expected to consider, in respect of any statutory instrument, whether it is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws.
2. The Committee is mandated to consider, in respect of any statutory instrument, whether it:
 - a) is in accordance with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written laws;
 - b) infringes on fundamental rights and freedoms of the public;
 - c) contains a matter which, in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
 - d) contains imposition of taxation;
 - e) directly or indirectly bars the jurisdiction of the Courts;
 - f) gives retrospective effect to any of the provisions in respect to which the Constitution or the Act does not expressly give any such power;
 - g) involves expenditure from the Consolidated Fund or other public revenues;
 - h) is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
 - i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
 - j) appears to have had an unjustifiable delay in its publication or laying before Parliament;
 - k) makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;

- l) makes rights, liberties or obligations unduly dependent on insufficiently defined administrative powers;
- m) inappropriately delegates legislative powers;
- n) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) appears for any reason to infringe on the rule of law;
- p) inadequately subjects the exercise of legislative power to Parliamentary scrutiny; and
- q) accords to any other reason that the Committee considers fit to examine.

1.2 Committee Membership

3. The Committee membership comprises –

Chairperson

Hon. Chepkong'a Kiprono Samuel, CBS, M.P.

Ainabkoi Constituency

UDA

Vice-Chairperson

Hon. Githinji Robert Gichimu, M.P.

Gichugu Constituency

UDA

Committee Members

Hon. Mbuyi Robert, CBS, M.P

Kathiani Constituency

WDM-Kenya

**Hon. (Maj) (Rtd) Dekow Barrow
Mohamed, M.P**

Garrisa Township Constituency

UDA

**Hon. Julius Lekakeny Ole Sunkuli,
EGH, EBS, M.P.**

Kilgoris Constituency

KANU

Hon. Kamene Joyce, M.P

Machakos County

WDM-Kenya

**Hon. Dr. Onchoke, Mamwacha
Charles, M.P.**
Bonchari Constituency
UPA

**Hon. Dr. Kimaiyo, Gideon Kipkoech,
M.P.**
Keiyo South Constituency
UDA

Hon. Waithaka, John Machua, M.P.
Kiambu Constituency
UDA

Hon. Chebor, Paul Kibet, M. P
Rongai Constituency
UDA

Hon. Yakub Adow Kuno, M. P
Bura Constituency
UPIA

**Hon. (Maj) (Rtd) Abdullahi, Bashir
Sheikh, M.P.**
Mandera North Constituency
UDM

Hon. Mwirigi John Paul, M.P.
Igembe South Constituency
UDA

Hon. Odoyo, Jared Okello, M.P.
Nyando Constituency
ODM

Hon. Chepkorir Linet, M.P.
Bomet County
UDA

Hon. Munyoro Joseph Kamau, M.P
Kigumo Constituency
UDA

Hon. Oluoch, Anthony Tom M.P.
Mathare Constituency
ODM

Hon. Lenguris Pauline, M.P.
Samburu County
UDA

Hon. Omondi, Moses Okoth.
Ugunja Constituency
ODM

Hon Mnyazi Amina Laura, MP.
Malindi Constituency
ODM

Hon. Mugabe Innocent Maino, M.P.
Likuyani Constituency
ODM

1.3 Committee Secretariat

4. The Secretariat facilitating the Committee comprises –

(1) Ms. Wanjiru Mwaura Principal Clerk I (Team Leader)

(2.) Mr. Dima Dima Deputy Director-DLS

a. Mr. Brian Langwech Clerk Assistant III

b. Mr. Grace Odedere Clerk Assistant III

c. Ms. Peter Barasa Legal Counsel II

d. Ms. Angela Musau Legal Counsel II

e. Mr. Noah Chemweno Serjeant at Arms

f. Mr. Daniel Psirmoi Media Relations Officer

2.0 CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT (PUBLIC PROSECUTION FUND) REGULATIONS, 2025 (L.N. NO. 169 OF 2025)

2.1 Introduction

5. The Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) were made pursuant to the powers conferred on the Cabinet Secretary for the National Treasury and Planning under section 24(4) of the Public Finance Management Act (Cap. 412A) hence, is a statutory instrument within the meaning of section 2 of the Statutory Instruments Act (Cap. 2A).
6. The Regulations were published in the Gazette on 28th October 2025, received by the Clerk of the National Assembly on 6th November 2025, and tabled before the House on 11th November 2025, within the statutory timelines contemplated under section 11(1) of the Statutory Instruments Act. They were subsequently transmitted to the Committee on Delegated Legislation for consideration.
7. Pursuant to section 16 of the Statutory Instruments Act Cap 2A, which requires the Committee to confer with the regulation-making authorities before making its decision, the Committee held a meeting with the National Treasury and Economic Planning on Thursday, 13th November, 2025, to deliberate on the Regulations.

2.2 Object and Purpose of the Regulations

8. The purpose of this Statutory Instrument is to establish a Fund to be known the Public Prosecutions Fund whose objects and purpose shall be provide funds to support the Office of the Director of Public Prosecutions, and to in particular; -
 - (a) support and facilitate the tracing, forfeiture, or recovery of assets;
 - (b) support and facilitate other government agencies collaborating assisting the Office in tracing, forfeiture, or recovery of assets;
 - (c) facilitates the preservation of assets in the custody of the investigating agency;
 - (d) supports the development and operationalization of a centralized management and information system; and
 - (e) support mechanisms and measures to enhance the efficiency and effectiveness of the Office.

2.3 Policy Context and Rationale for the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025)

9. The Office of the Director of Public Prosecutions (ODPP) is Kenya's national prosecuting authority, established under Article 157 of the Constitution of Kenya, 2010 and is given effect by the Office of the Director of Public Prosecutions Act, 2013. The mandate of the ODPP is to institute and undertake prosecution of criminal matters, in all courts other than court-martial, and all other aspects incidental thereto.
10. In exercising prosecutorial authority, the ODPP shall have due regard to the public interest, interests of the administration of justice, and the need to prevent and avoid abuse of the legal process. In doing so, the ODPP prevents and avoids abuse of the legal process. The ODPP strives to provide quality, impartial, and timely prosecution services in a manner that is professional, efficient, and fair.
11. The ODPP faces several challenges, including new and emerging crime trends and technological advancement in science, information, and communication. In addition, the complexity in the administration of justice arising from constitutional imperatives, new laws, human rights considerations, and diversity in criminal activity and international circumstances needs to be taken into account.
12. The Public Prosecution Fund will receive these proceeds of crime and use them to support the criminal justice system in Kenya.

2.4 Summary of the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025)

13. The Regulations are in six (6) parts: Part I contains the preliminary provisions; Part II contains the provisions on the establishment of the Fund; Part III contains the provisions on the Public Prosecution Fund Advisory Board; and Part IV contains provisions on administration of the fund; Part V contains financial provisions; Part VI contains general provisions.
14. **Regulations 1, 2, and 3** are preliminary provisions that include the citation, interpretation, and objective of the regulations.
15. **Regulation 4** establishes the Fund.

16. **Regulation 5** provides for the initial capital of the Fund which shall be two billion shillings appropriated by the National Assembly in the 2026/2027 financial year.
17. **Regulation 6** of the regulations provides for the purpose of the fund.
18. **Regulation 7** provides for the sources of the Fund.
19. **Regulation 8** provides for payments out of the Fund.
20. **Regulation 9** provides for the retention of funds.
21. **Regulation 10** establishes the Public Prosecutions Fund Advisory Board.
22. **Regulation 11** provides for the committees of the board.
23. **Regulation 12** provides that the Board may co-opt any person, not being a member of the Board, to a committee of the Board to provide such expertise as Board may require in the circumstances.
24. **Regulation 13** provides for the meetings of the board.
25. **Regulation 14** provides for the quorum at a meeting of the Board.
26. **Regulation 15** provides for the functions of the Board.
27. **Regulation 16** provides for the Chief Executive Officer of the Fund.
28. **Regulation 17** provides for the administration of the fund.
29. **Regulation 18** provides for the secretariat of the fund.
30. **Regulation 19** provides for the financial year.
31. **Regulation 20** requires the Administrator of the Fund shall cause bank accounts in the name of the Fund to be maintained for the Fund in a bank regulated by the Central Bank of Kenya.

32. **Regulation 21** requires that the administrator of the Fund shall ensure that the bank accounts of the Fund are not overdrawn.
33. **Regulation 22** provides for expenditure and commitments of the Fund.
34. **Regulation 23** provides for withdrawal from the fund.
35. **Regulation 24** provides investment of surplus funds.
36. **Regulation 25** provides for annual estimates.
37. **Regulation 26** contains provisions on annual report.

38. **Regulation 27** contains provisions on records of the fund.
39. **Regulation 28** contains provisions on financial and Procurement Regulations.
40. **Regulation 29** contains provisions on administrative expenses.
41. **Regulation 30** contains provisions on the review of the performance of the Fund.
42. **Regulation 31** provides for the winding up of the fund.

2.5 Scrutiny of the Instrument

43. The Committee examined the Public Finance Management (Public Prosecution Fund) Regulations 2025 (*LN. No. 169 of 2025*) against the Constitution, the Interpretation and General Provisions Act (*Cap 2*), the Public Finance Management Act (*Cap. 412A*) and the Statutory Instruments Act (*Cap. 2A*).
44. The scrutiny was undertaken following the tabling of the Regulations before the House on 11th November, 2025 and their subsequent referral to the Committee on Delegated Legislation. The Committee held a meeting with the National Treasury and Economic Planning on Thursday, 13th November, 2025, at Room 21, 5th Floor, Bunge Tower, Parliament Buildings, to deliberate on the Regulations.

3.0 COMMITTEE OBSERVATIONS

45. Having examined the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) against the Constitution, the Public Finance Management Act (Cap. 412A) and the Statutory Instruments Act (Cap. 2A), the Interpretation and General Provisions Act (Cap. 2), the Committee observed **THAT—**

3.1 Statutory Timelines

46. The Regulations were published in the gazette on 28th October, 2025 vide Legal Notice No. 169 of 2025, submitted to the Clerk of the National Assembly on 6th November, 2025 and laid on the table of the House on 11th November, 2025, being within the requisite statutory timelines under section 11(1) of the Statutory Instruments Act (Cap. 2A).

3.2 Consultations/Public Participation

47. Articles 10 and 118 of the Constitution and section 5 of the Statutory Instruments Act require that the regulation-making authority conduct public participation and sufficient consultation with the stakeholders and persons likely to be affected by the regulations.

48. The Task force responsible for the preparation and development of the Regulations held targeted consultations with key stakeholders, and their input was taken into account before the finalization of these Regulations. The Taskforce comprised of the National Treasury and the Office of the Director of Public Prosecutions.

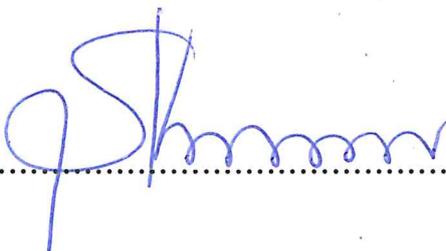
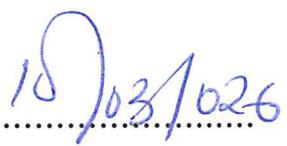
49. In line with the provisions of Section 5 of the Statutory Instruments Act, 2013, the National Treasury, together with the Office of the Director of Public Prosecutions, undertook public participation before publication of these Regulations. The mode of public participation included the invitation of key stakeholders via an advertisement posted on the National Treasury website and published in the My Gov section of Nation and Standard Newspapers on 8th October 2024. Written responses/submissions on the Regulations were sent to ps@treasury.go.ke and jona.wala@treasury.go.ke.

3.3 Regulatory Impact Statement

50. The National Treasury and Economic Planning prepared an impact assessment for the statutory instrument in line with Part II of the Statutory Instruments Act (Cap. 2A).

4.0 COMMITTEE RECOMMENDATION

51. Having examined the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) in accordance with the Constitution, the Statutory Instruments Act (Cap. 2A), the Public Finance Management Act (Cap. 412A), the Interpretation and General Provisions Act (Cap. 2), the **Committee recommends that the House APPROVES the Public Finance Management (Public Prosecution Fund) Regulations, 2025 (LN. No. 169 of 2025) in accordance with section 24(4) the Public Finance Management Act (Cap. 412A).**

Signed  Date 

THE HON. CHEPKONG'A SAMUEL KIPRONO, CBS, MP

(CHAIRPERSON)

COMMITTEE ON DELEGATED LEGISLATION

ANNEXURES

1. Minutes
2. Draft Regulations
3. Explanatory Memorandum
4. Regulatory Impact Statement
5. Correspondences
6. Adoption List