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**THE PUBLIC FINANCE MANAGEMENT
(AMENDMENT) (NO. 2) ACT, 2020**

No. 16 of 2020

Date of Assent: 3rd August, 2020

Date of Commencement: 25th August, 2020

**AN ACT of Parliament to amend the Public
Finance Management Act, 2012, and for connected
purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Public Finance Management (Amendment) (No.2) Act, 2020.

Short title.

2. The Public Finance Management Act, 2012, (in this Act referred to as the principal Act), is amended by inserting the following new definitions in proper alphabetical sequence—

Amendment of section 2 of No. 18 of 2012.

“medium enterprise” means a firm, trade, service, industry or business activity—

- (a) whose annual turnover is between five million shillings and one hundred million shillings;
- (b) which employs between fifty-one and two hundred and fifty employees;
- (c) whose total assets and financial investment shall be as determined by the Cabinet Secretary from time to time and includes—
 - (i) the manufacturing sector, where the investment in plant and machinery or the registered capital of the enterprise does not exceed two hundred and fifty million shillings; and

- (ii) the service sector and farming enterprises, where the investment in equipment or registered capital of the enterprise does not exceed one hundred and twenty-five million shillings;

No. 55 of 2012 “micro enterprise” has the meaning assigned to it in section 2 of the Micro and Small Enterprises Act, 2012;

No. 55 of 2012 “small enterprise” has the meaning assigned to in section 2 of the Micro and Small Enterprises Act, 2012.

3. Section 32 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

Amendment of section 32 of No. 18 of 2012.

(3A) Notwithstanding the provisions of subsection (2), the Cabinet Secretary shall, with respect to credit guarantees extended to private borrowers who are micro, small or medium enterprises, provide the information specified in section 59A (2) when either House of Parliament makes a request under subsection (1).

4. Section 58 of the principal Act is amended by inserting the following new subsections immediately after subsection (4)—

Amendment of section 58 of No. 18 of 2012.

(5) Notwithstanding the provisions of subsection (2) (c), the Cabinet Secretary may guarantee credit which is extended to a private borrower, for enterprise development or such other purpose as the Cabinet Secretary may prescribe, where the borrower does not have sufficient security.

(6) The Cabinet Secretary may only guarantee credit which is extended to a borrower under subsection (5), if the borrower—

- (a) is a micro, small or medium enterprise;

- (b) is registered as a business or company under the relevant laws;
- (c) is a registered taxpayer and is in compliance with the relevant tax laws;
- (d) is registered by a county government and holds a valid business permit or trade licence;
- (e) is not part of any group or related to any enterprise which would otherwise not be eligible for credit guarantee under this section; and
- (f) agrees in writing to comply with the provisions of this Act and any conditions that may be imposed by the Cabinet Secretary.

(7) A guarantee for credit extended to a micro, small or medium enterprise under subsection (5) shall be for a portion of the credit.

(8) A guarantee for credit extended to a micro, small or medium enterprises shall be given under a scheme established by the Cabinet Secretary for the partial mitigation of default risks for credit extended to micro, small or medium enterprises.

(9) The Cabinet Secretary shall prescribe regulations for the operation of the scheme under subsection (8) which shall, provide for the following—

- (a) the institutions that shall be eligible to extend credit to micro, small or medium enterprises for which guarantees may be given under subsection (5);
- (b) enterprises that shall be eligible to be given a guarantee under subsection (5);
- (c) the conditions for a grant of guarantee for credit extended to a micro, small or medium enterprise under subsection (5);
- (d) the proportion of security for the credit that a micro, small or medium enterprise shall provide before being granted a guarantee under subsection (5);

- (e) the types of credit extended to micro, small or medium enterprises that shall be eligible for guarantees under subsection (5);
- (f) the periods for which guarantees for credit to micro, small and medium enterprises shall be applicable;
- (g) the circumstances under which a credit guarantee shall be liquidated or varied if a borrower defaults on credit that was guaranteed under subsection (5);
- (h) the maximum percentage of the Scheme funds which may be used to guarantee any individual borrower;
- (i) mechanisms to ease access to credit guarantees by enterprises owned by women, youth and persons with disabilities;
- (j) mechanisms for recovering the money from the borrower where the credit guarantee is liquidated;
- (k) a limit on the period of default to a maximum of six months; and
- (l) any other relevant matter.

5. The principal Act is amended by inserting the following new section immediately after section 59—

Insertion of new section into No. 18 of 2012.

Cabinet Secretary to submit a report on credit guarantees to micro, small and medium enterprises to Parliament.

59A. (1) The Cabinet Secretary shall prepare a statement of the credit guarantees granted under section 58 (5) and a summary thereon in such detail as the Cabinet Secretary may determine.

(2) The Cabinet Secretary shall, at least once in every year, submit to Parliament the summary prepared under subsection (1) together with a report of—

- (a) the total value of credit guarantees given during that period;
- (b) the total value of credit guarantees liquidated during that period;
- (c) the total value of outstanding credit guarantees on the date of the report;
- (d) the risk assessment of the credit guarantees or classes of guarantees;
- (e) information on the total value of credit guarantees, disaggregated into the number of enterprises owned by women, youth and persons with disabilities which have been guaranteed;
- (f) information on the total value of credit guarantees, disaggregated into the number of micro, small and medium enterprises guaranteed and by the respective regions; and
- (g) any other relevant information prescribed by regulations for the purposes of this section.

