

**EARMARKED FUNDS CAPPING AND
REALIGNMENT BILL, 2017**

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SCHEDULE

Identified Earmarked Funds

Earmarked Funds Capping and Realignment Bill, 2017

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BILL

ENTITLED

EARMARKED FUNDS CAPPING AND REALIGNMENT ACT, 2017

AN ACT to provide a cap for Earmarked Funds and to provide for related matters.

PASSED by Parliament and assented to by the President:

Application

1. (1) This Act applies to any Earmarked Fund and Internally Generated Fund provided for in an enactment.

(2) Where a provision in an enactment relating to an Earmarked Fund or an Internally Generated Fund is inconsistent or conflicts with a provision of this Act, this Act shall, except as otherwise provided in subsection (5) of section 3, prevail.

Objects

2. The objects of this Act are to

- (a) free up public resources by placing a cap on the Earmarked Funds specified in the Schedule to ensure that tax revenue encumbered by those Funds as a result of allocations is twenty-five percent of tax revenue; and

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- (b) empower the Minister, in consultation with the relevant sector Minister, to review the enactments under which the Earmarked Funds specified in the Schedule are established, and to make a determination as to whether or not a particular Earmarked Fund has outlived its usefulness and should cease to exist.

Earmarked Funds capped

3. (1) The Minister shall ensure that the budgetary allocation

- (a) made in each year to the Earmarked Funds specified in the Schedule, and
- (b) encumbered in each year by the Earmarked Funds specified in the Schedule

is twenty-five percent of tax revenue.

(2) The Minister shall, in furtherance of the obligation under subsection (1), ensure that the capped Earmarked Funds amount of twenty-five percent of tax revenue is allocated to the Earmarked Funds specified in the Schedule, each according to a weight which shall be approved by Parliament as part of the Annual Budget for each fiscal year and each Earmarked Fund shall be adjusted accordingly.

(3) The Minister shall, in determining the weight to be applied to an Earmarked Fund for submission to Parliament for approval, be guided by

- (a) the allocation of budget revenue that the Earmarked Fund would have normally received if a cap was not placed on those Earmarked Funds, and
- (b) the corresponding weight that would have applied to the Earmarked Fund.

(4) The identified Earmarked Funds specified in the Schedule and their weights for each fiscal year shall be appended to the Annual Budget.

(5) Despite subsection (2), the Minister shall, in accordance with clause (2) of article 252 of the Constitution, make a monetary allocation of not less than five percent of total revenue to the District Assemblies Common Fund.

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(6) Despite subsections (2) and (5), where the priority of Government as established in a Budget Statement for a particular year requires that additional budgetary allocation be made to an Earmarked Fund specified in the Schedule, the Minister shall make additional budgetary allocation to that particular Earmarked Fund.

Distribution of Internally Generated Funds

4. The Minister shall allocate the capped Internally Generated Funds amount to the Ministries, Departments or Agencies that are permitted by law to retain Internally Generated Funds according to their respective weights that existed immediately before the coming into force of this Act.

Realignment of revenue freed

5. The Minister shall realign revenue that is freed as a result of

- (a) the capping of Earmarked Funds, or
- (b) an Act of Parliament passed in pursuance of a Bill laid in Parliament by the Minister in accordance with subsection (3) of section 6,

and the realigned Earmarked Fund shall form part of the national budget.

Review of enactments establishing Earmarked Funds

6. (1) The Minister shall, on the commencement of this Act,

- (a) conduct a review of each enactment that establishes an Earmarked Fund specified in the Schedule to determine whether or not the Earmarked Fund has outlived its usefulness; and
- (b) conduct a review every two years after a review under paragraph (a).

(2) The Minister shall, in consultation with the relevant sector Minister, consider the following in making a determination under subsection (1):

- (a) the purpose for which the Earmarked Fund was established;
- (b) whether or not the economic or social need for which the Earmarked Fund was established has been fully or largely achieved or is not likely to be ever achieved as it is currently set up;

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- (c) whether or not the State institution or Fund that is the beneficiary of the Earmarked Fund is able to raise revenue on its own to meet the economic or social need for which it was established; and
- (d) where the State institution or Fund is able to generate revenue, whether or not that revenue is able to sustain that State institution or Fund in achieving the object for which the Earmarked Fund was established if annual allocation of revenue to the Earmarked Fund is withdrawn.

(3) Where the Minister makes a determination under subsection (1), that an Earmarked Fund has outlived its purpose, the Minister shall cause a Bill to be prepared and laid in Parliament

- (a) for the repeal of the enactment that establishes that Earmarked Fund, or
- (b) for an amendment to the enactment, to remove the allocation of Earmarked Funds.

Interpretation

7. In this Act, unless the context otherwise requires,

“capped Earmarked Funds” means the total amount of all the Earmarked Funds remaining after a cap of twenty-five percent of total tax revenue has been applied to the aggregate of all the Earmarked Funds;

“Earmarked Fund” means a dedicated fixed portion of revenue that is set aside and allocated periodically, as required by the Constitution or an Act of Parliament, to a State institution or Fund specified in the Schedule to pay for the performance of a particular social activity, economic activity or economic programme of the Government;

“Earmarked Funds” means the aggregate of all dedicated fixed portions of revenue that are by the Constitution or an Act of Parliament set aside and allocated to the Earmarked Funds specified in the Schedule;

“Fund” means a fund established under the Constitution or an Act of Parliament;