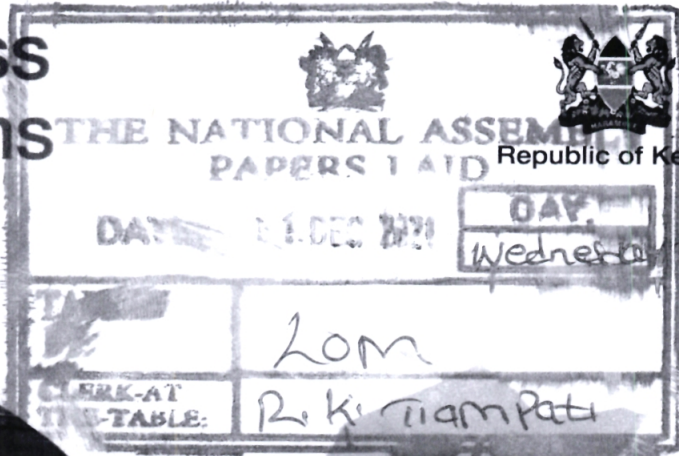


Kenya Business Climate Reforms



Republic of Kenya



PARLIAMENT
OF KENYA
LIBRARY

2020-2021
Milestones Report

1. INTRODUCTION:

Foreword

Preface

The Department of Business Reforms & Transformation

2. IMPLEMENTED BUSINESS CLIMATE REFORMS:

Registering a Company

Obtaining Building Plan Approvals

Access to electricity

Property Registration

Paying taxes

Import & Export Processes

Access to Justice for Businesses

Business Restructuring & Insolvency

Public Procurement Reforms

Legal Reforms

3. REGULATORY TOOLKITS:

Overview

National Regulatory Toolkit

County Regulatory Toolkit

4. ONGOING/FUTURE REFORMS:

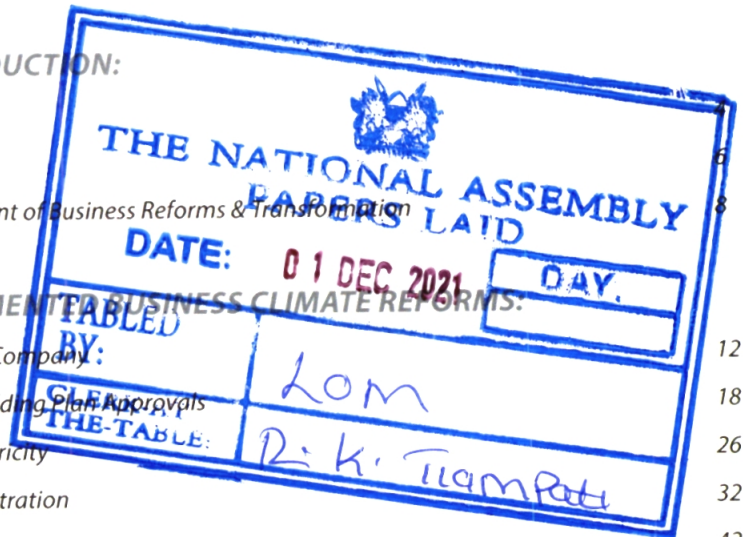
Overview

Global Competitiveness Index (GCI) reforms

County Business Climate Reforms

Corruption Perception Index (CPI) reforms

5. ACKNOWLEDGEMENTS



6

8

12

18

26

32

42

48

60

66

72

74

82

86

88

90

92

94



I strongly believe that these reforms will support and strengthen SMEs many of which are now recovering from the effects of the global COVID-19 pandemic.



Republic of Kenya

FOREWORD

I am confident that the milestones captured in this publication demonstrate how far Kenya has come in improving its business environment, and our continued commitment to support reforms that improve the lives of the business community. I therefore strongly believe that these reforms will support and strengthen SMEs many of which are recovering from the effects of the global COVID-19 pandemic.

The Fourth Industrial Revolution will bring a unique set of opportunities and challenges to Africa as new technologies and industries re-shape the world. Governments particularly in Africa are developing strategies to benefit from these changes as they prepare for an estimated 400 million new jobs to land on the continent by 2040.

With rising costs in Asia, the emerging COVID-19 threat, and new and widening economic disparities, Kenya is gearing to become the regional leader in adapting to these changes and seizing the economic opportunities. Kenya is therefore rolling out initiatives to attract and retain investments, foster an environment to accelerate industrial development, and grow the private sector to create jobs and wealth for her people.

Since 2013, my Administration has prioritized unlocking the potential of the private sector to create jobs and generate wealth. To achieve this, the Government has pushed through several reforms, supporting the Ease of Doing Business agenda by removing bottlenecks hindering the growth of Kenya's private sector. My focus has been to foster a conducive business environment that creates the foundation to attract investments, accelerate economic growth, and help create purposeful employment for our deserving young people.

As a result, Kenya was ranked 56th globally in the World Bank's Doing Business 2019 report, having improved 80 places since 2014 – one of the most improved countries in Africa and globally. We aim to build on this success to further improve the business climate in Kenya.

In the coming months, we intend to further the improvements driven largely by a raft of targeted, time-based reforms, including: (1) Re-engineering service delivery processes to enhance efficiency; (2) Automating services to boost revenue collection; and (3) Enacting legal and regulatory reforms to eliminate the compliance burden especially for our small and medium sized businesses.

I am proud of the gains we have made to support the private sector. For example, the Companies Act of 2015 was enacted to replace the colonial 1948 Companies Act and has immensely benefited our SMEs, including single director/shareholder company ownerships, waivers for expensive annual general meetings for certain categories of companies, electronic platform for registering businesses among others.

We have increased revenue collection – fourfold in some areas – through automation of service delivery, a program that we will intensify in the coming months. I am confident that the milestones captured in this publication demonstrate how far Kenya has come in improving its business environment, and our continued commitment to support reforms that improve the lives of the business community.

I strongly believe that these reforms will support and strengthen SMEs many of which are now recovering from the effects of the global COVID-19 pandemic. Further, I remain confident that ongoing reforms will improve the competitiveness of our Counties as investment destinations by addressing regulatory bottlenecks.

It is my sincere hope that the trajectory that we have set will be sustained well beyond my Administration through the recently established Department of Business Reforms and Transformation.

H.E. Uhuru Kenyatta, CGH
President of the Republic of Kenya and
Commander-in-Chief of the Defence Forces.





In the past six years, the Government has implemented reforms that address systemic bottlenecks in the business environment with a view to improving the Ease of Doing Business.



Republic of Kenya

PREFACE

Africa is a continent at a crucial turning point in history; in recent years, the tide has been changing, positioning countries in strategic locations such as Kenya for major economic transformation. Increasingly, Africa has become an attractive investment destination for traders and investors alike, seeking to expand into new frontiers, driven by an expanding middle income population; improved governance and economic management; discovery of abundant extractive resources; and, a relatively young, energetic and educated workforce ready for today's challenges.

The demographic dividends have seen increased investments by dozens of multinationals and domestic businesses in countries like Kenya where today, over 12 million small businesses create more than 80% of all new jobs with young people being the natural beneficiaries. It is against this background that the Government of Kenya recognized the need to pursue reforms to make Kenya's economy more competitive, dynamic and attractive for investments.

In 2014, H.E the President set the ambitious target of reaching top-50 global ranking in the World Bank Ease of Doing Business report. Subsequently and for the first time in Kenya's history, the doing business climate agenda became pivotal in the government's agenda. Resources have been dedicated at all levels of Government to ensure delivery of impactful reforms which are central to private sector growth. In the past six years, the Government has implemented an economic plan that addresses systemic bottlenecks in the business environment with a view to improving the Ease of Doing Business.

Some key infrastructural initiatives implemented so far include: scaling up electricity generation; investing in renewable energy for affordable power supply; increasing connectivity through the last mile project; expanding the rail network through the Standard Gauge Railway (SGR) that runs from the Port of Mombasa through the capital of Nairobi to the new industrial hub located in Naivasha; the upgrade of the old Metre Gauge Railway (MGR). Further, resources have been allocated to expanding and modernizing the road network, airports and seaports. The Government has also set its focus on developing local and international markets while adopting fiscal policies

aimed at availing affordable financing for both local and foreign investors. By developing and implementing policies such as the Kenya Industrial Transformation Programme (KITP), the business environment has improved making Kenya a much preferred destination for local and international investors.

In particular, we have placed emphasis on reforms that directly improve processes and costs associated with a wide range of business-related activities such as Company Registration, Construction permits, Property Transfers, Commercial litigation, the insolvency framework, Access to credit and protecting investors, public procurement amongst others. This has been made possible through enacting targeted legislation, re-engineering of processes that eliminate red tape in critical areas that facilitate efficiency in the public sector. Fee waivers and reduction of service costs have also been implemented across various points of public service delivery in order to facilitate doing business and incentivize businesses to formalize, grow and create more employment opportunities with a special focus being placed on SMEs which account for more than 80% of all new jobs created.

In the 2020-21 period, the Government of Kenya through the Department of Business Reforms and Transformation (DBRT) implemented far reaching reforms across nine (9) key indicators: Registering a Company, Obtaining Building Plan approvals, Access to Electricity, Property registration, Paying Taxes, Import and Export Processes, Access to Justice for Businesses, Business Restructuring & Insolvency, Public Procurement Reforms and Legal Reforms.

This publication provides a detailed insight and overview of the far-reaching reforms as documented and implemented by the Government during the 2020-21 period. It also highlights the ongoing reforms for the 2021-22 period and those in the pipeline for future implementation.

Adan Mohamed, EGH
Cabinet Secretary, Ministry of East African
Community & Regional Development

H.E. the President attending an international private sector engagement on promoting trade and investments in Kenya.





THE DEPARTMENT OF BUSINESS REFORMS & TRANSFORMATION

The Department of Business Reforms & Transformation (DBRT) is an establishment of the Government of Kenya mandated to implement Business Reforms and Transformation across all levels and arms of government. The Department is provided as one of Main Organs of the East Africa Community (EAC) with a scope and mandate that covers the following functions:

- a) *Identifying & recommending business reforms to make Kenya competitive locally, regionally & internationally;*
- b) *Monitoring business climate and recommending appropriate policy, legal, regulatory and administrative changes to enhance conduct of Kenya and her trading partners;*
- c) *Identifying factors constraining Ease of Doing Business Agenda & solutions;*
- d) *Working & Coordinating with partners to monitor business climate;*
- e) *Coordinating dialogue initiatives between public & private sector;*
- f) *Driving legislative & regulatory reforms for ease of doing business & business transformation;*
- g) *Private sector-government dialogue on competitiveness;*
- h) *Creating awareness of Kenya's efforts in improving her Ease of Doing Business;*
- i) *Addressing County competitiveness;*
- j) *Internal Government Service Reforms;*
- k) *Addressing all global reports on business climate.*

The Department is headed by the Secretary, Business Reforms & Transformation and comprises two directorates, namely:

- *Directorate of Business Reforms;*
- *Directorate of Regulatory, Communication and Field Services.*

The Department has an approved staff establishment of 45 staff with 17 already in post including the Director, Regulatory Communications & Field Services; the Deputy Director,

Regulatory Communications & Field Services; and, the Deputy Director, Business Reforms.

It is in the process of recruiting additional staff to fully operationalize and support the execution of its broad mandate across 16 National Government Ministries and 63 Partner Government Agencies.

Due to the cross-cutting nature of the required business reforms, the Department coordinates with the 47 County Governments and other arms of Government, namely, the Judiciary and the Legislature in identifying areas of Business Climate Reforms for prioritization and implementation.

The Department also collaborates with the Private Sector through representative associations in developing, prioritizing, communicating and validating reforms. It has developed a close working relationship with various Development Partners who provide technical assistance and capacity support in the development and roll-out of the reforms.

Since inception, the Department has made notable strides towards reforming Kenya's Business and Investment climate. As a testament to these efforts, Kenya was ranked at position 56 globally out of 190 countries in the last Ease of Doing Business Report published by the World Bank Group in 2019, which measures global competitiveness across 190 economies globally.

This is a significant 80 ranks improvement from position 136 held globally in 2014. Over that period, Kenya has also consistently been ranked as one of the most re-formed countries globally achieving 3rd position in Sub-Saharan Africa and has been recognized amongst the top reformed countries over the last 5 consecutive years.

The Department continues prioritizing reforms at all levels of government in collaboration with the private sector to improve Kenya's business environment.





361 MILLION
VALUE OF DISPUTES SETTLED IN
NAIROBI SMALL CLAIMS COURT
WITHIN 5 MONTHS OF LAUNCH



24 SUBSIDIARY
LEGISLATION
INSTRUMENTS



94.8%
APPLICANT
SATISFACTION RATE
WITH iTAX



81% VAT
TAX
COMPLIANCE RATE
AFTER iTAX WAS
INTRODUCED.

2 OVER
TRILLION
VALUE OF
MOVEABLE
ASSETS 



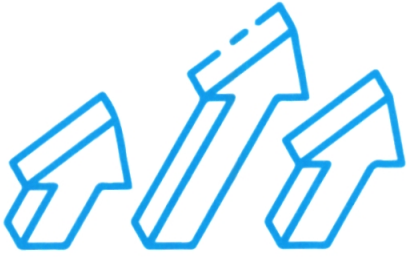
61,068
LAND PER YEAR
TRANSACTIONS ON AVERAGE



3 NEW ACTS
OF PARLIAMENT



Republic of Kenya

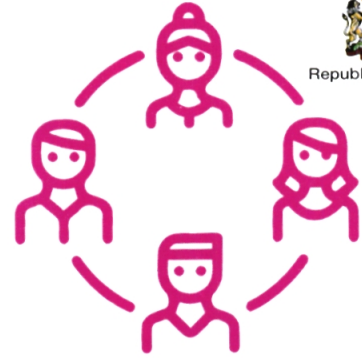


16.5% INCREASE

IN THE REGISTRATION OF PRIVATE COMPANIES

TOTALING TO 76,944

PRIVATE COMPANIES REGISTERED.



48,586 EMPLOYERS

REGISTERED ON THE UNITED PAYROLL
RETURN FRAMEWORK FOR COLLECTION
OF TRAINING LEVY.

TRAINING LEVY COLLECTED ON iTAX AMOUNTING
TO KSHS. 141, 808, 913 MILLION



OVER

13 MILLION
BUSINESSES
AND CITIZENS

REGISTERED ON iTAX

6,612



WATER AND SEWER
APPLICATIONS THROUGH
THE ONLINE PLATFORM.



REGISTERING A COMPANY

Problem Statement

Registering a business is the first step towards formalizing a business. Most entrepreneurs are averse to the concept of business formalization due to the perception that it is a complex and costly process which yields no value to MSMEs and one that exposes the business to scrutiny by public authorities.

In this chapter, we are showcasing the various reforms implemented during the period 2020-2021 to enhance efficiency in the registration of a new business as part of the reforms to improve Kenya's business climate and to enhance the value of business registration. Facilitating business registration not only increases opportunities for job creation but also enables growth-oriented businesses able to leverage on new investment and wider market opportunities.

The reforms under Starting a Business focus on the number of procedures, time, cost, and paid-in minimum capital required to incorporate and operate a small-to-medium limited liability corporation. They will also focus on demonstrating the value of compliance.

A procedure is any interaction between the company's founders and third parties (for example, government agencies, lawyers, auditors or notaries). The time refers to the median amount of time that incorporation lawyers or notaries estimate is required in practice to execute a procedure with the least amount of follow-up with government agencies.

The reforms implemented in the 2020 - 2021 period have reduced the number of procedures from seven to just one, the time to register a business from 23 days to one day and reduced the total cost by 60% from KES 14,800 to KES 10,650.

The responsible Partner Government Agency(ies)/institution(s);

- *Business Registration Services (BRS)*
- *Kenya Revenue Authority (KRA)*
- *National Hospital Insurance Fund (NHIF)*
- *National Social Security Fund (NSSF)*

- *National Industrial Training Authority (NITA)*
- *Department of Occupational Safety & Health (DOSHS)*
- *Kenya National Innovation Agency (KENIA)*
- *National Metropolitan Services (NMS)*
- *All County Governments*
- *The impacted business sectors & players*
- *Startups and Micro, Small and Medium Enterprises (MSMEs)*
- *Kenya National Chamber of Commerce and Industry (KNCCI)*
- *Kenya Private Sector Association (KEPSA)*
- *Association of Startups and SME Enablers of Kenya (ASSEK)*



16.5% INCREASE

IN THE REGISTRATION OF PRIVATE COMPANIES TOTALING TO

76,944

NO. OF PRIVATE COMPANIES REGISTERED. BETWEEN 2020-2021 PERIOD



Business Registration Services (BRS) Manual Registry



Business Registration Services (BRS) New Digital Registry



BUSINESS REGISTRATION SERVICE
Ease of Doing Business

General BRS Queries

Email: eo@brs.go.ke

Phone: +254 020 222 7461/ +254 020 225 1355, +254 700 072 929/ +254 732 529 995

[Whistleblowing](#)

[Online Services](#)

[Staff Email](#)



[Home](#)
welcome

[About Us](#)
what we do

[Services](#)
What we offer

[Fees](#)
Current charges

[Downloads](#)

[Info Centre](#)

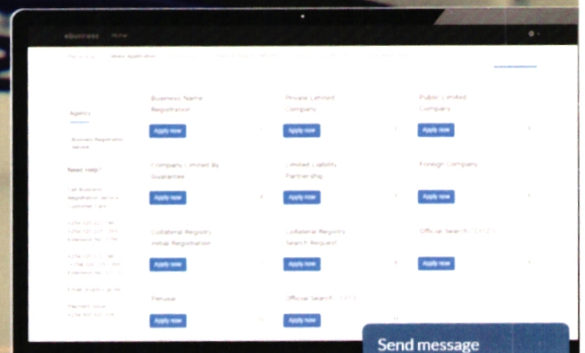
[Opportunities](#)

[Contact](#)

Business Registration Service (BRS)
Transforming Service Delivery

Online • Timely • Efficient • Convenient

[READ MORE...](#)



[Send message](#)

1. Administrative Reforms Unified Company Registration

The process of Company Registration was simplified by enhancing its online company registration system that integrating company registration, KRA PIN, PAYE, VAT, NHIF and NSSF registration in one simple online step on <https://ag.ecitizen.go.ke/>.

This Reform consolidated the application for company registration and KRA PIN, PAYE, VAT, NHIF and NSSF registrations into one online step.

An applicant inputs data in a unified and enhanced online registration portal, makes payment via (mobile money, bank transfers, pre- paid agency account) M-Pesa, Debit/Credit/Prepaid Card, Airtel Money, EazzyPay, E-Agent, KCB Cash, Equity Cash or Pesalink) and submits the application. The applicant will obtain Certificate of Incorporation, Official Search (formerly known as CR12) (List of directors/ shareholders of the new registered company), KRA PIN, PAYE, VAT, NHIF and NSSF registration are done electronically.

THE BUSINESS REGISTRATION SERVICE



BUSINESS REGISTRATION SERVICE
Love of Doing Business



1
STEP
REGISTRATION

REGISTER YOUR BUSINESS IN ONE EASY STEP

The Name Reservation and Business Registration processes have been **MERGED** into one easy step.

- Submit your choice of 3 preferred names and the full application online.

REFORMS TO EASE BUSINESS STARTUP

-  NITA Registration for companies with up to 100 employees has been waived for the first 12 months.
-  Single Business Permit fees waived for the first 24 months of all new businesses registered.

-  Department of Health and Safety Registration waived for 12 months for new businesses.
-  Company Seal no longer a requirement by law.

OBTAIN ALL THE DOCUMENTS YOU NEED FROM ONE PLACE

- Certificate of Incorporation.
- Company PIN.
- VAT, PAYE, NSSF and NHIF registration.
- Official Search "CR12".

Doing Business Made Easier

Log on to brs.ecitizen.go.ke and experience a **FRESH, NEW** and **EASY** way to register your business in **ONE Step, in ONE Day.**

7 to 1

REDUCTION
IN THE NUMBER OF
PROCEDURES

FROM TIME TO REGISTER A
BUSINESS FROM
23 DAYS TO
1 DAY

2. Legal and Regulatory Reforms

Waiver of the requirement for Single Business Permit for the first two years of incorporation

The Government made it easier for applicants to start a business on February 28, 2020, by removing the necessity for all firms to get a single business permit for the first two years after incorporation/registration. As a result, the procedure, time and cost associated with acquiring the Single Business Permit have been eliminated.

This reform eliminates the procedure associated with obtaining a single business permit for newly incorporated companies, the cost for a single business permit for newly incorporated companies of Kes 15,200 and the five (5) days previously required to obtain a Single Business Permit.



PUBLIC NOTICE
WAIVER OF SINGLE BUSINESS PERMIT FOR ALL NEW BUSINESSES

Notice is hereby given to the public that H. E. the Governor of Nairobi City County has, pursuant to Executive Order No. 1 of 31 January 2020 and Executive Order No. 2 of 28 February 2020 waived the requirement to obtain a Single Business Permit and associated fees for all New Businesses for the first two years (twenty four months) from the date of business registration.

The objective of the waiver is to streamline business registration processes in reducing number of procedures and cost, especially for starting small and medium scale businesses, and make the City and the Country more attractive and competitive investment destination.

This waiver is also aimed at promoting the President's Big 4 Agenda and his commitment on Access to Government Procurement Opportunities (AGPO) for the youth, women and persons with disabilities.

A valid certificate of registration/ incorporation or Business Name issued by the Business Registration Service shall serve as business permit, during the first two years of registration, for purposes of enforcing this Order. However, the waiver does not override the need to comply with other existing legal requirements for businesses.

This Order shall take effect from 1 March
Dated the 28th day of February 2020
Justus M. Kathenge
Ag. County Secretary

Customer Care: +254 729 824 189
 Email: info@nairobi.go.ke
 Twitter: @NairobiCounty
 Facebook: Nairobi County Government
 www.nairobi.go.ke

NAIROBI CITY COUNTY
 OFFICE OF THE GOVERNOR

3. Elimination of the procedure to obtain a Company seal

By 2019 the Companies Act, 2015 had an optional requirement for the use of Company Seal. On 18th March 2020, Kenya further made it easier to start a business by FULLY eliminating the use of company seal both in law and in practice by deleting all legal requirements for a Company seal. The reform was achieved through enactment of the Business Laws (Amendment) Act, (No. 1 of 2020) that came into effect on 18th March 2020, which made various amendments to the Companies Act, (No. 15 of 2015).

It is no longer a requirement in law and practice to seal company registration documents at any stage of the registration process since it has been overtaken by events by the automated system. This reform has led to the elimination of one procedure, cost of Kes. 3,500 and the overall elimination of the two (2) days associated with obtaining a company seal as a post registration requirement in Kenya.



Company Registration reform session at BRS.




4. Waiver of Registration of business premises with the Directorate of Occupational Safety and Health Services (DOSH) as a post registration procedure

The Government has made it easier to start a business by waiving the requirement by small and medium enterprises to register the business premises with the Directorate of Occupational Safety and Health as a post registration requirement for the first 12 months after registration of the business. This reform was achieved through a legal amendment effected by the Business Laws (Amendment) Act, (No. 1 of 2020) that came into effect on 18th March 2020, which amended the Occupational Safety, and Health Act (No. 15 2007).

This reform eliminates a procedure, cost of Kes. 5,000 and the overall elimination of time of one (1) day previously associated with the requirement to register the business premises with the Department for Occupational Safety and Health Services as a post registration requirement.

The impact of the reforms on time, process and cost of public service delivery;


	Reforms	Impact
1.	Integration of the online company registration process for KRA PIN, PAYE, VAT, NHIF and NSSF registration in one simple online step on https://ag.ecitizen.go.ke/ .	Reduction in total time taken to register a business to 1 day
2.	Waiver of the requirement by small and medium enterprises to register the business premises with the Directorate of Occupational Safety and Health (DOSH)	Reduction in cost by Ksh5,000 and one (1) day for time taken to register the business with DOSH
3.	Elimination of requirement to obtain a company seal	Reduction in cost of starting a business by Ksh3,500 and the reduction of time taken by two (2) days
4.	24-month waiver of Single Business Permit	Reduction in the cost of registering a business by Ksh 15,200 and reduction time by five (5) days



60%
TOTAL COST REDUCTION
from **KES 14,800**
to **KES 10,650**

REMOVAL OF REQUIREMENT TO OBTAIN
SINGLE BUSINESS PERMIT
OF **KES. 15,200**
FOR NEWLY INCORPORATED COMPANIES
FOR THE FIRST 2 YEARS
IN NAIROBI

12 MONTH
SUSPENSION
FOR SMES TO REGISTER THEIR BUSINESS PREMISES
WITH THE DIRECTORATE OF OCCUPATIONAL SAFETY
AND HEALTH (DOSHS)
ELIMINATED
KES. 5,000
REGISTRATION FEES
AND 1 DAY REQUIRED



SYSTEM AUTOMATION
REMOVED REQUIREMENT
TO SEAL COMPANY REGISTRATION DOCUMENTS AND
ELIMINATED KES. 3,500
COST AND 2 DAYS
REQUIRED TO OBTAIN COMPANY SEALS

THE COMPANIES REGISTRY



OBTAINING BUILDING PLAN APPROVALS

The Problem Statement

The Construction Industry was recorded as the fastest growing industry in Kenya in 2020. It grew by 11%. Construction regulation is important for entrepreneurs when deciding where to establish their business. The Construction costs are one of the top 5 determinants of a location of a start-up. Sound regulation in the Built Environment Industry protects the public from faulty building practices and contributes to the process of capital formation.

In this chapter, we are showcasing the various reforms implemented in the reform cycle period 2020-2021 to enhance the process of obtaining construction permits in Kenya under the dealing with construction/ building permits sector.

The reforms under Dealing with Construction permits sector are aimed at enhancing efficiency by focusing on the procedures, time and costs in obtaining licenses and permits, submitting all required notifications, requesting and receiving all inspections and obtaining utility connections. The reforms in obtaining approvals for construction plans are also aimed at improving the building quality control index, evaluating the quality of building regulations, the strength of quality control and safety mechanisms, liability and insurance regimes, and professional certification requirements.

The responsible Partner Government Agency(ies)/institution(s);

National Metropolitan Services (NMS)
All County Governments
National Construction Authority (NCA)
Ministry of Transport, Infrastructure and Public Works
National Environmental Management Authority (NEMA)
Ministry of Environment and Forestry
Nairobi City Water and Sewerage Company (NCWSC)
All County Water Utility Companies
Department of Occupational Safety & Health (DOSH)
Kenya Civil Aviation Authority (KCAA)

The impacted business sectors & players;

Kenya Private Sector Association (KEPSA)
Kenya Association of Manufacturers (KAM)
Kenya National Chamber of Commerce and Industry (KNCC&I)
Architectural Association of Kenya
Institute of Engineers of Kenya (IEK)
Kenya Property Development Association (KPGA)
Board of Registration of Architects and Quantity Surveyors (BORAQS)
Joint Building and Construction Council (JBCC)




HIGHLIGHTS OF 2020 – 2021 REFORMS


Administrative Reforms

1. Introduction of a risk-based approval system for architectural and structural plans

The Nairobi Metropolitan Services (NMS) and increased frequency of technical committee meetings. Projects are now categorized by low, medium and high risk, and differentiated by size, complexity and cost. Weekly Technical Committee meetings approve architectural plans for low-risk projects, after which structural plans are submitted and approved within two days. These reforms were implemented on 17th February 2020 and will reduce the time to approve low-risk project plans from 45 to 7 days and low-risk structural plans from 10 to 2 days.

ENHANCING THE PROCESS OF OBTAINING CONSTRUCTION PERMITS





NATIONAL CONSTRUCTION AUTHORITY
Republic of Kenya

EFFICIENT PROJECT REGISTRATION AND IMPROVED BUILDING QUALITY STANDARDS

NCA's new risk-based project approval process (effected in February, 2020) ensures that:

- 24 HOURS APPROVAL** - Low-Risk projects are approved in 24 hours.
- 3 DAYS APPROVAL** - Medium and High-Risk projects are approved in 3 days.

Scaling up accessibility of data on approved projects.

Easily accessible Register of all approved projects:
<https://nca.go.ke/resource-center#publications>

Doing Business Made Easier

As of 30th April 2021, the National Treasury amended the Insurance Regulations to include a new class of insurance called "Liability Insurance".

Sub-Classes


- Latent Defects Liability
- Structural Defects Liability
- Professional Indemnity

Users

- Property Owners
- Contractors
- Professionals in the Construction Industry

2. Use of QR Codes to identify approved Architectural and Structural Plans

Implementation of the QR Code system by the Nairobi Metropolitan Services (NMS) eliminates the requirement to have approved Architectural and structural Plans physically stamped and eliminated the time and the procedure associated with physically stamping approved Structural Plans from 2 days to 0 days and COMPLETELY eliminated the procedure as this is a fully digital process where a QR Code is embedded electronically at the bottom of all approved Architectural and structural Plans.



IMPLEMENTATION OF QR CODE SYSTEM

BY NAIROBI METROPOLITAN SERVICES (NMS)

2 DAYS TO 0 DAYS

REDUCED PROCESSING TIME

FOR ARCHITECTURAL AND STRUCTURAL PLANS APPROVALS.



Public Notice on the Launch of online QR Code System to eliminate physical stamping of documents



3. Automation of the application process for Summary Project Report (SPR) for Construction projects low-risk projects

National Environmental Management Authority (NEMA) launched an online application portal for low-risk projects, which will enhance the efficiency of the approval process and ensure that the projects are approved within 5 days and has reduced the procedures for low-risk project approvals from 2 to 1.

ENHANCING THE PROCESS OF OBTAINING CONSTRUCTION PERMITS

5-DAY APPROVAL OF LOW-RISK PROJECTS

(a) Simplified Approval Process

As from 30th April 2019, NEMA only requires a simplified format of Environmental Impact Assessment (EIA) reports known as Summary Project Reports for Low-Risk Projects.

(b) Automation of the Application Process for Low-Risk Projects

Application process for Low-Risk Projects now done via a user-friendly online application portal.

To apply online for approval of Low-Risk Projects, visit:

- (<https://www.nema.go.ke/>) >> Quick links and click on Licensing Portal; or
- Log in to e-citizen (<https://accounts.ecitizen.go.ke/>) and click on NEMA link for further guidance.

Guidelines for use of the Low-Risk Projects approval portal available via <https://www.nema.go.ke/images/Docs/Application%20forms%20and%20Permits%20SPR%20Guidance%20notes.pdf>

Register of all approved Low-Risk Projects within Nairobi County <https://www.nema.go.ke/images/Docs/NIE%20TENDERS/T%20April%202020/addition%20NRB%20SPR%20Register%20April%202021.pdf>

5 DAYS

Doing Business Made Easier

4. Automation of water and sewer application and payment processes and publication of piping material requirements (cost and specifications) on the Nairobi City Water and Sewerage Company (NCWSC) portal: <https://www.nairobiwater.co.ke/index.php/en/>.

The portal was launched in February 2020. The automation of application and payment processes has reduced the time required from two days to one and the number of steps from two to one. Publication of the piping requirements has eliminated customer enquiries, thereby reducing the time taken for inspection and water connection from 30 days to 14.

Nairobi City Water & Sewerage Company Ltd.
Improving Reliability

NOTICE TO OUR ESTEEMED CUSTOMERS
ONLINE APPLICATION AND PAYMENT OF NEW WATER & SEWER CONNECTIONS

Nairobi City Water & Sewerage Company Ltd (NCWSC) has simplified and improved the process of applying and paying for the Water and Sewer connections by introducing an online application portal. The simplification of the application process is part of the company's efforts on the ease of doing business in the country, which will result in enhanced processing efficiency and reduction of connectivity time from 30 to 14 days. NCWSC is committed to continuously enhancing service delivery and will roll out the revamped online portal on the 28th of February 2020.

The Online Portal has a two (2) step procedure for a new connection within Fourteen (14) days:

Step 1: Online application and payment of water and sewerage connection fees and submission by the customer in one (1) day.

Step 2: Inspection of works and Connection by Nairobi City Water and Sewerage Company. This activity will be completed within thirteen (13) days upon finalization of works by customer.

The Online Application Portal will be accessible on the NCWSC Website <https://www.nairobiwater.co.ke/index.php/en/>.

All information on the requisite documents and material for the water and sewer connection will be published on the portal.

The manual application for water and sewer connections will cease on the 28th of February 2020.

Managing Director

30 DAYS TO 14 DAYS

REDUCTION OF TOTAL TIME TAKEN TO CONNECT WATER



5. Development of the Geographic Information System (GIS) by the Nairobi City Water and Sewerage Company

The GIS has mapped the entire water distribution network and reduced the time and procedure associated with obtaining a water and sewer connection.

The GIS, which was launched on the 23rd of April, 2021 integrated the online water and sewer application portal enables customers to identify the location of their premises using google maps. This is an improvement from the previous requirement that a customer uploads a sketch or map to their premises to the online application. The use of the GIS further reduces the time taken by officials from Nairobi City Water and Sewerage Company to identify the premises during the connection visit. The Nairobi City Water and Sewerage Company further enhanced the payment options for the new water or sewer connection providing a dial in serve using USSD Code *888# and selecting Option 6 – Water & Sewer on your mobile phone and keying assigned Reference Number as Account Number. Customers can also track their applications through the USSD Code.

ENHANCING THE PROCESS OF OBTAINING CONSTRUCTION PERMITS

EFFICIENT NEW WATER AND SEWER CONNECTIONS


(a) Automation of Application and Payment of New Water and Sewer Connections

Application and payment of new water and sewer connections now online since 28th February 2020.

Payment options and tracking of applications for new connections enhanced to include the use of a **USSD code *888#**.

To apply, visit <https://portal.nairobewater.co.ke/>


Time taken to approve reduced from 30 days to 14 days.



From
30
DAYS
To
14
DAYS

(b) Integration of the Geographical Information Systems (GIS) to the Online Water and Sewer Application Portal



The GIS was integrated into the online water and sewer application portal on 23rd April 2021.



Entire Nairobi City Water & Sewerage Company distribution network now mapped via a Geographic Information System (GIS).

KEY BENEFITS

- Easy location of a customer's premises using Google maps.
- Map of location of customer premises no longer required.

Doing Business Made Easier

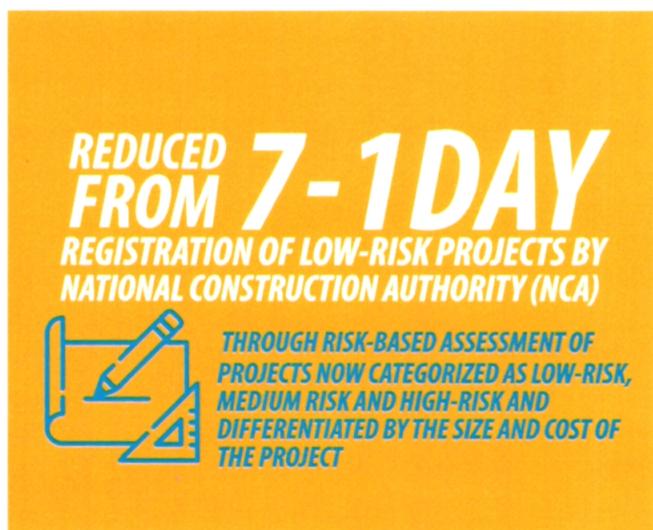


NCWSC HAS ENHANCED THE PAYMENT OPTIONS FOR WATER OR SEWER CUSTOMERS THROUGH

USSD CODE *888#

6. Risk-based assessment and registration of projects by NCA

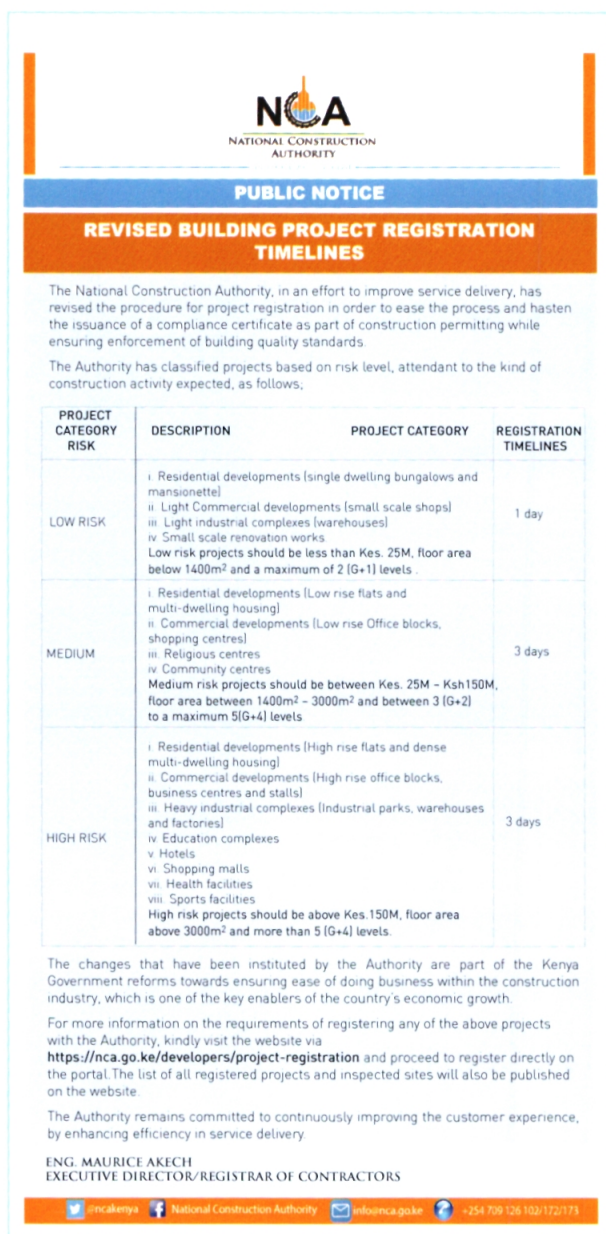
On 19th February 2020, NCA introduced a risk-based assessment of projects which are categorized into low-risk, medium risk and high-risk and differentiated by the size and cost of the project. The revised approval procedure hastened the process of project registration. The registration of low-risk projects as profiled in the attached notice is approved in one (1) day from seven (7) days before.



REDUCED FROM 7-1 DAY
REGISTRATION OF LOW-RISK PROJECTS BY NATIONAL CONSTRUCTION AUTHORITY (NCA)

THROUGH RISK-BASED ASSESSMENT OF PROJECTS NOW CATEGORIZED AS LOW-RISK, MEDIUM RISK AND HIGH-RISK AND DIFFERENTIATED BY THE SIZE AND COST OF THE PROJECT

NCA personnel conduct a sting quality assurance operation in Mombasa County.

NCA
NATIONAL CONSTRUCTION AUTHORITY

PUBLIC NOTICE

REVISED BUILDING PROJECT REGISTRATION TIMELINES

The National Construction Authority, in an effort to improve service delivery, has revised the procedure for project registration in order to ease the process and hasten the issuance of a compliance certificate as part of construction permitting while ensuring enforcement of building quality standards.

The Authority has classified projects based on risk level, attendant to the kind of construction activity expected, as follows:





PROJECT CATEGORY RISK	DESCRIPTION	PROJECT CATEGORY	REGISTRATION TIMELINES
LOW RISK	<ul style="list-style-type: none"> i. Residential developments (single dwelling bungalows and mansionette) ii. Light Commercial developments (small scale shops) iii. Light industrial complexes (warehouses) iv. Small scale renovation works <p>Low risk projects should be less than Kes. 25M, floor area below 1400m² and a maximum of 2 (G+1) levels.</p>		1 day
MEDIUM	<ul style="list-style-type: none"> i. Residential developments (Low rise flats and multi-dwelling housing) ii. Commercial developments (Low rise Office blocks, shopping centres) iii. Religious centres iv. Community centres <p>Medium risk projects should be between Kes. 25M – Ksh150M, floor area between 1400m² – 3000m² and between 3 (G+2) to a maximum 5(G+4) levels.</p>		3 days
HIGH RISK	<ul style="list-style-type: none"> i. Residential developments (High rise flats and dense multi-dwelling housing) ii. Commercial developments (High rise office blocks, business centres and stalls) iii. Heavy industrial complexes (Industrial parks, warehouses and factories) iv. Education complexes v. Hotels vi. Shopping malls vii. Health facilities viii. Sports facilities <p>High risk projects should be above Kes. 150M, floor area above 3000m² and more than 5 (G+4) levels.</p>		3 days

The changes that have been instituted by the Authority are part of the Kenya Government reforms towards ensuring ease of doing business within the construction industry, which is one of the key enablers of the country's economic growth.

For more information on the requirements of registering any of the above projects with the Authority, kindly visit the website via <https://nca.go.ke/developers/project-registration> and proceed to register directly on the portal. The list of all registered projects and inspected sites will also be published on the website.

The Authority remains committed to continuously improving the customer experience, by enhancing efficiency in service delivery.

ENG. MAURICE AKECH
EXECUTIVE DIRECTOR/REGISTRAR OF CONTRACTORS

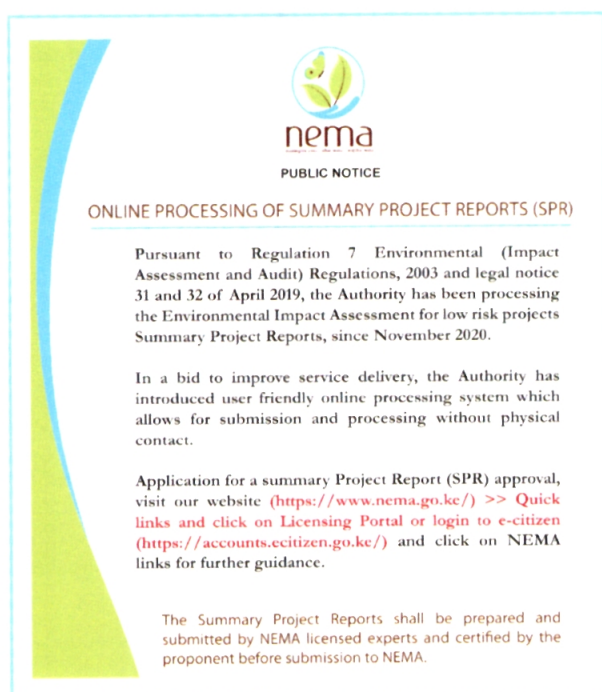
 @ncaKenya
  National Construction Authority
  info@nca.go.ke
  +254 709 126 102/172/173


LEGAL REFORMS

1. Establishment of a risk-based approach to Environmental Impact Assessments (EIA) by National Environmental Management Authority (NEMA).

NEMA has implemented a risk-based approval criterion for low-risk reports known as Summary Project Reports (SPR), which reduces the time taken for low-risk project approvals from 35 days to 5 days.

This reform was implemented through Legal Notice No. 31 of 2019 - Amendment of the Second Schedule & Legal Notice No. 32 of 2019 - The Environmental (Impact Assessment and Audit) (Amendment) Regulations, 2019 dated 30th April 2019.




nema
 PUBLIC NOTICE


ONLINE PROCESSING OF SUMMARY PROJECT REPORTS (SPR)

Pursuant to Regulation 7 Environmental (Impact Assessment and Audit) Regulations, 2003 and legal notice 31 and 32 of April 2019, the Authority has been processing the Environmental Impact Assessment for low risk projects Summary Project Reports, since November 2020.

In a bid to improve service delivery, the Authority has introduced user friendly online processing system which allows for submission and processing without physical contact.

Application for a summary Project Report (SPR) approval, visit our website (<https://www.nema.go.ke/>) >> **Quick links** and click on **Licensing Portal** or login to **e-citizen** (<https://accounts.ecitizen.go.ke/>) and click on **NEMA** links for further guidance.

The Summary Project Reports shall be prepared and submitted by NEMA licensed experts and certified by the proponent before submission to NEMA.



**IMPLEMENTATION (SPR)
 SUMMARY PROJECT REPORTS
 APPROVAL / AUTOMATION
 PROCESS BY (NEMA)**
**REDUCED LOW-RISK PROJECT
 APPROVAL TIME FROM**
**35 TO 5 DAYS
 AND PROCEDURES
 2 TO 1**

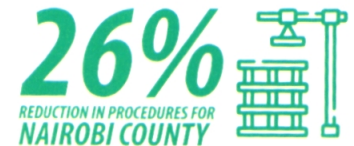
2. Introduction of new classes of Insurance, Product Liability, Professional Indemnity, Latent Defects Liability, Structural Defects Liability, Public Liability and others.

The Third Schedule of the Insurance Regulations, 1986 was amended in Part A through the Insurance (Amendment) Regulations, 2021 to introduce new classes of insurance Defects liability insurance which will cover losses incurred by third parties as a result of Latent Defects or structural defects in Buildings. Professionals, contractors and property owners will take out the cover.



The impact of the reforms on time, process and cost of public service delivery

Reform	Impact
Introduction of a risk-based approval system for architectural and structural plans	Reduction of the time taken for architectural and structural plans from 55 days to 9 days.
Use of QR Codes to identify approved Architectural and Structural Plans	Reduction of the time taken to stamp plans from 2 days to 0 days
Automation of the application process for Summary Project Report (SPR) for Construction projects low-risk projects	Reduction of the time taken for approval of low risk projects from 30 days to 5 days and the procedures from 2 to 1.
Automation of water and sewer application and payment processes and publication of piping material requirements (cost and specifications on the Nairobi City Water and Sewerage Company (NCWSC)	Reduction of total time taken to connect water from 30 to 14 days.
Development and integration of the Geographic Information System (GIS) to the water and sewer application portal at the Nairobi City Water and Sewerage Company	Elimination of the time taken to identify connection sites which has contribution to the reduction of total time taken to connect water from 32 to 14 days.
Risk-based assessment and registration of projects by NCA.	Reduction of time taken by NCA to register low-risk projects from 7 days to 1 day.
Establishment of a risk-based approach to Environmental Impact Assessments (EIA) by National Environmental Management Authority	Reduction of the time taken for approval of low risk projects from 30 days to 5 days
Introduction of new classes of Insurance, Product Liability, Professional Indemnity, Latent Defects Liability, Structural Defects Liability, Public Liability and others.	Improvement of the Building quality standards by enforcing accountability by professional, contractor and the owners. Protection of lives and personal property.





ACCESS TO ELECTRICITY

Problem Statement

Access to electricity is a key component to the manufacturing sector that spurs economic growth. A key sector and component to any investor, business on deciding where on invest, a key catalyst for the Government to address challenges in accessing electricity. The Government of Kenya through the Ministry of EAC and Regional Development, Directorate of Business Reforms and Transformation has been working in collaboration with relevant Partner Government Agencies and institutions to;

- (i) Streamline the legal and regulatory environment*
- (ii) Conduct Business Process Reviews*
- (iii) Capacity Building*
- (iv) Stakeholder engagement and reform communication.*

Responsible Partner Government Agencies/Institutions

- 1 Ministry of Energy
- 2 Energy & Petroleum Regulatory Authority (EPRA)
- 3 Kenya Power & Lighting Company Limited (KPLC)

Impacted Business sectors and players:

- 1 Businesses/Companies
- 2 Foreign Investors
- 3 Kenya Private Sector Alliance (KEPSA)
- 4 Kenya Association of Manufacturers (KAM)
- 5 Kenya National Chamber of Commerce and Industry (KNCC&I)



**CONNECTION TIME
REDUCED FROM
97 DAYS
TO
7 DAYS**





Reforms implemented.

The reforms implemented target to reduce the time, cost and procedures associated with getting an electricity connection. The reforms further address issues of reliability of supply and transparency of tariffs by looking at the frequency and duration of power outages, transparency and access to tariff as well as existing deterrent aimed at limiting outages.

1. Regulatory reforms implemented Introduction of Financial Deterrent to limit outages

Kenya in April 2021 published, the Energy (Reliability and Quality of Electricity Energy Supply and Service) Regulations 2021 to operationalize section 167 (1) (I) of the Energy Act, 2019.

The regulations prescribe the Guaranteed Performance Standard on capped electrical energy outages, penalties to be imposed by the Regulator on a utility for exceeding the limit of capped outages and reporting framework by utility relating to reliability and quality of supply and quality of services.

Regulation 5 (1) sets the capped limit; and Regulation 5 (2) imposes a penalty for exceeding the said limit. First Schedule to the regulations imposes a penalty of Kes. 20,000 per year on the utility company.

The launch of the Integrated Location Intelligence System (ILIS) developed by Kenya Electricity Transmission Company Limited (KETRACO).





Administrative reforms implemented

1. Reduction of time in getting electricity connection from 97 to 7 days

By allocating dedicated resources and improved operational efficiency, the time it takes to get an electricity connection for a connection size of 100-200kva has reduced from 97 7 days. It takes one (1) day to make application, receive quotation and make payment and six (6) days to receive external works, meter installation and electricity flow.

The following measures have been put in place by Kenya Power & Lighting in an effort to reduce new connection timelines:

- *A dedicated officer to seek wayleave consents*
- *Prioritization of 100-200kva connections*
- *KPLC has now enhanced its online application portal by issuing a customer with a work request number allowing a customer to track and receive notifications on the status of their applications; eliminating the need for follow up visits to KPLC - <https://selfservice.kplc.co.ke>*
- *Use of GIS database in identifying new connection site has aided in the quotation timelines – thus eliminating the need for physical site visit in the majority of new applications. 100% update of Medium Voltage lines covering 2906.62Km length of overhead section and 303.25Km length of underground section.*

FASTER ELECTRICITY CONNECTIONS

New applications for business customers in Nairobi will be done in **7 DAYS**.

7 DAYS

Apply, pay online and sign for connections.

➔

Get connected within 7 days* for business connections within 200 metres from KPLC grid for supply between 100KVA to 200KVA.

➔

<https://selfservice.kplc.co.ke>

How you Benefit

Reduced power outages due to live line maintenance.	Faster connections due to live line operations.	Access services at your fingertips on MyPower app available on Play Store and App Store.
---	---	--

*Other connection timelines are as published in the KPLC website

Doing Business Made Easier



2. Improvement of Reliability Indices

Kenya has rolled out changes that have resulted to an improvement of System Average Interruption Duration Index (SAIDI) to 11.5 hours per year from 11.7 in 2020/2021 and System Average Interruption Frequency Index (SAIFI) to 4.5 outages per year from 5.57 in 2020/2021. These changes include:

Enhanced use of live line technology for new connections in operations to reduce

- *Planned interruptions during maintenance from 100% to 30%*
- *Unplanned interruptions during maintenance from 100% to 50%*

Live line maintenance continues to ensure the number of interruptions per customer are reduced

Through the use of preventative maintenance, the utility is now maintaining medium voltage connections including transformer dropper, trace maintenance, change of insulators and re-sagging of loose conductors.

Enhancing automation of distribution system – by installing 666 11kv load breaker switches for Nairobi and environs

Updated GIS data base for Nairobi covering medium voltage network – enhanced identification of fault for system maintenance

Enhanced medium voltage maintenance and vegetation management

Live line maintenance trucks used by Kenya Power & Lighting Company to ensure continuity of power supply during maintenance



Impact of the reforms

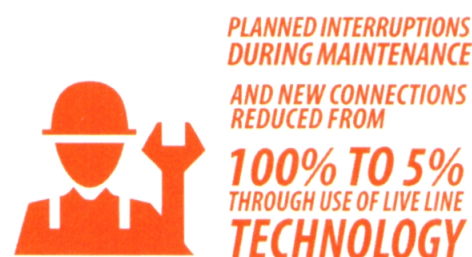
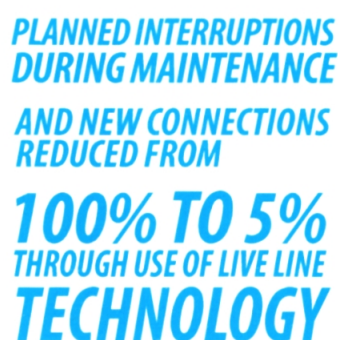
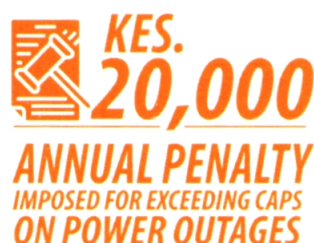
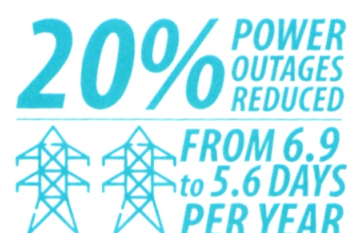
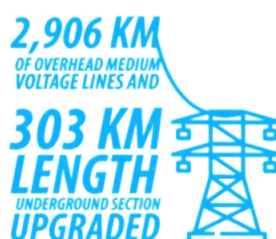
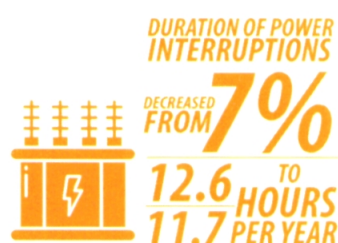
The impact of the reforms in getting electricity are measured through:

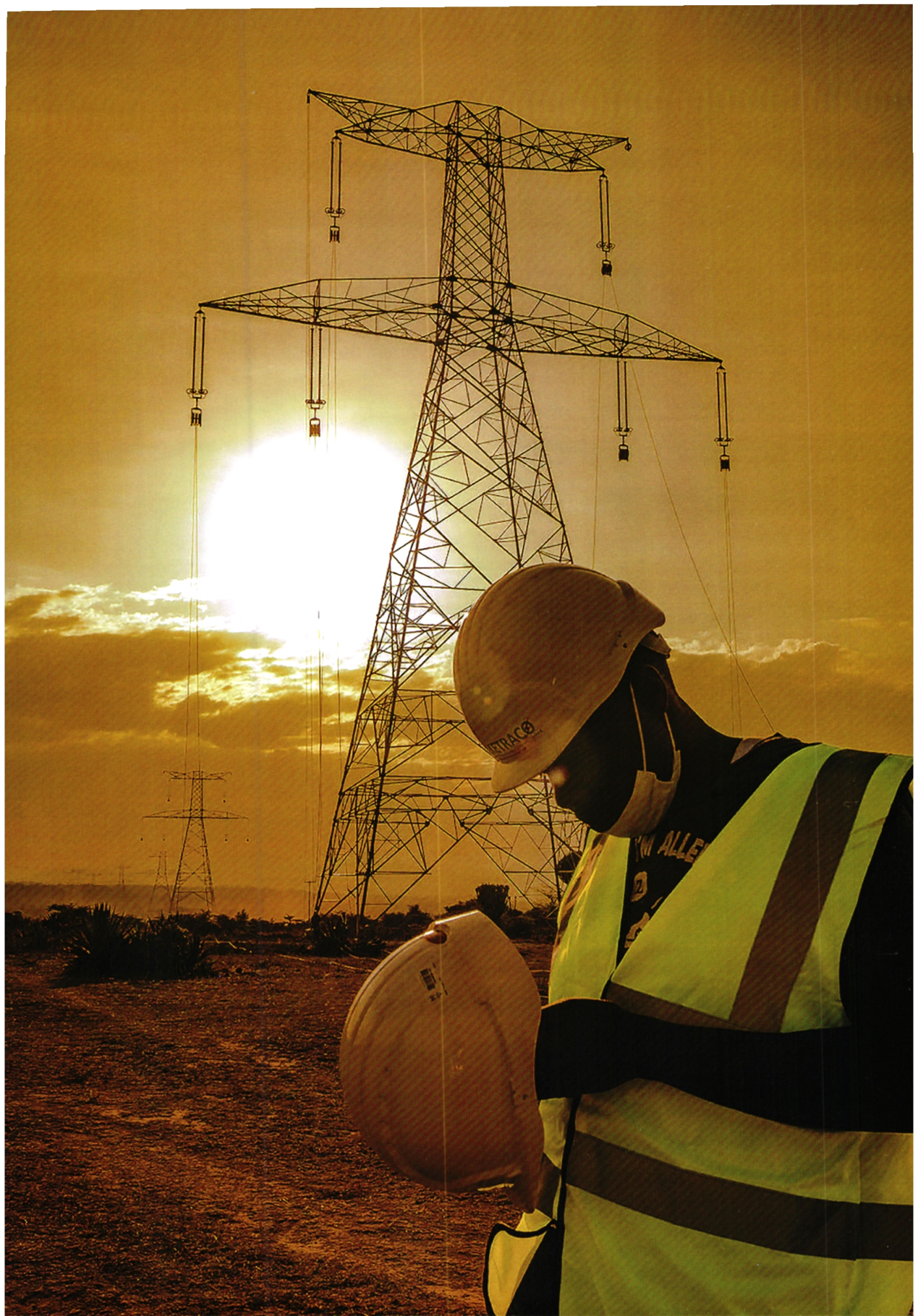
- (i) The total time to get electricity connection.
- (ii) The total cost to getting electricity connection.
- (iii) The number of procedures from application to actual electricity connection.
- (iv) The reliability of supply of supply and transparency of tariffs encompasses quantitative data on duration and frequency of outages as well as qualitative information on measures put in place by KPLC to monitor outages and restoring power.

It further examines supervisions of outages by EPRA, transparency of tariffs and financial deterrents that exist to compensate customers for any loss or penalty imposed on KPLC for exceeding capped outages.

The impact of the reforms is as captured below

	Reforms	Impact
1.	Introduction of Financial Deterrent to limit outages	Imposes a penalty of Kes. 20,000 per year on the utility company on exceeding capped limit.
2.	Reduction of time in getting electricity connection	Reduction in time from 97 days to 7 days and reduction in procedures from 3 to 2
3.	Improvement of Reliability Indices	Continuous monitoring of quality and reliability of electricity supply creates a more stable manufacturing environment and allows for better planning in business processes.







PROPERTY REGISTRATION

Problem Statement

Kenya has recognized that property rights are necessary to support investment, productivity, and growth in her economy. The land information system therefore comprises of crucial tools securing property and user rights. Having the cadasters, land registries up to date is vital. The government has recognized that owners with properly registered titles are more likely to invest in Kenya and engage the economy's workforce.

Beyond the private sector having a reliable land information system is essential i) in assessing and collecting taxes correctly; ii) to better map the needs of their citizens, facilitating the efficient provision of services and infrastructure; iii) planning expansion of future cities to avoid or mitigate the effects of climate change to its populace.

The Government of Kenya through the Ministry of EAC and Regional Development, Directorate of Business Reforms and Transformation has been working in collaboration with relevant Partner Government Agencies and institutions to; (i) Streamline the legal and regulatory environment (ii) Conduct Business Process Reviews (iii) Capacity Building (iv) Stakeholder engagement and reform communication.

Responsible Partner Government Agencies/Institutions

- Ministry of Lands & Physical Planning*
- The National Treasury and Planning*
- Kenya Revenue Authority*
- Survey of Kenya*
- The National Assembly*
- The Senate*
- Office of the Attorney General and Department of Justice*





H.E. the President during launch of The National Land Information Management System.

Impacted Stakeholders:

- Ordinary Citizens*
- Businesses/Companies*
- Law firms*
- Kenya Private Sector Alliance (KEPSA)*
- Kenya Association of Manufacturers (KAM)*
- Kenya National Chamber of Commerce and Industry (KNCC&I)*

Reforms implemented.

The reforms under registering property examine the procedures, time and cost involved in registering property, from an entrepreneur who wants to purchase property that is already registered and free of title dispute and any other encumbrances. It considers the quality of the land administration system covering reliability of infrastructure, transparency of information, geographic coverage, land dispute resolution, and equal access to property rights.

This area records the full sequence of procedures necessary to purchase a property and to transfer the property title to the buyer's name so that the buyer can use the property for expanding its business, as collateral in taking out new loans or, if necessary, to sell the property to another business. It also measures the time and cost to complete each of these procedures. The quality of has five dimensions: reliability of infrastructure, transparency of information, geographic coverage, land dispute resolution and equal access to property rights.

The process of transferring property starts with obtaining the necessary documents, such as a recent copy of the seller's title if necessary and conducting due diligence as required. The transaction is considered complete when it is opposable to third parties and when the buyer can use the property for expanding his or her business, as collateral for a bank loan or resell it. Every procedure required by law or necessary in practice is included, whether it is the responsibility of the seller or the buyer or must be completed by a third party on their behalf. Local property lawyers, notaries and property registries provide information on procedures as well as the time and cost to complete each of them.

Regulatory reforms implemented

Following implementation of NLIMS, the Government has reduced the number of procedures when transferring property by half (currently 5 procedures) from the previous 10 procedures, reduced the time to process a transfer from 43.5 days to 12 days as well as a reduction in the cost by KES 12,700.

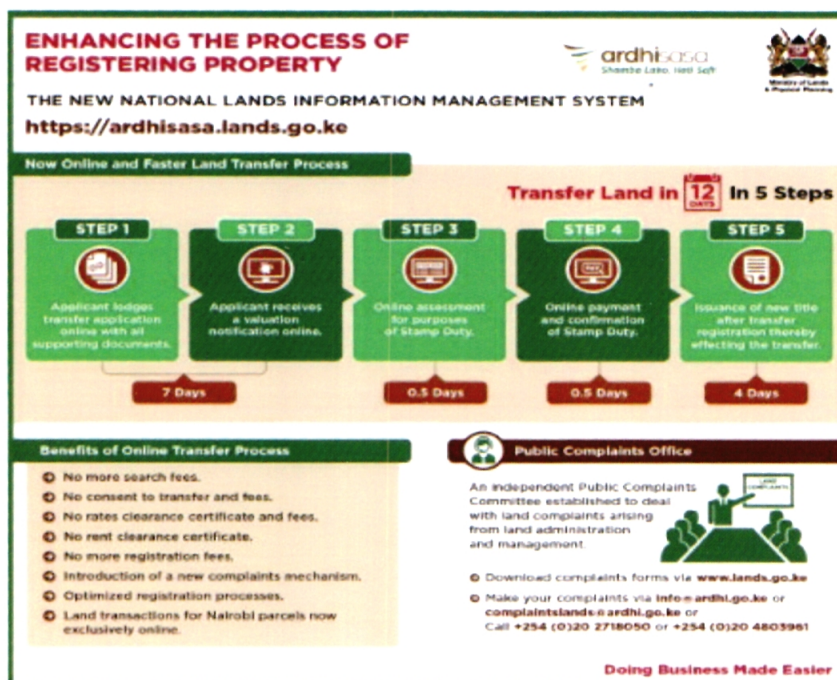
Specific reforms implemented are: Administrative reforms

1. Roll out of the National Lands Information Management System (NLIMS).

NLIMS has fully automated land transfer transactions from searches to registration through the portal: <https://ardhisasa.lands.go.ke>. Through this the overall procedures for lands transfer have reduced from 10 to 5. There is no option for the manual process at all. The new process for registration of property is:

- Drafting transfer instruments & due diligence of documents;
- Online application for valuation site visit, report, & assessment;
- Online generation of payment slip;
- Online payment of Stamp Duty;
- Lodging of documents for registration on NLIMS and collection of Title.

1/2 THE NUMBER OF PROCEDURES HAS HALVED FROM 10 TO FIVE, THE TIME REQUIRED HAS FALLEN BY OVER 70% FROM 43.5 TO 12 DAYS, AND COSTS HAVE DROPPED BY KES 12,700



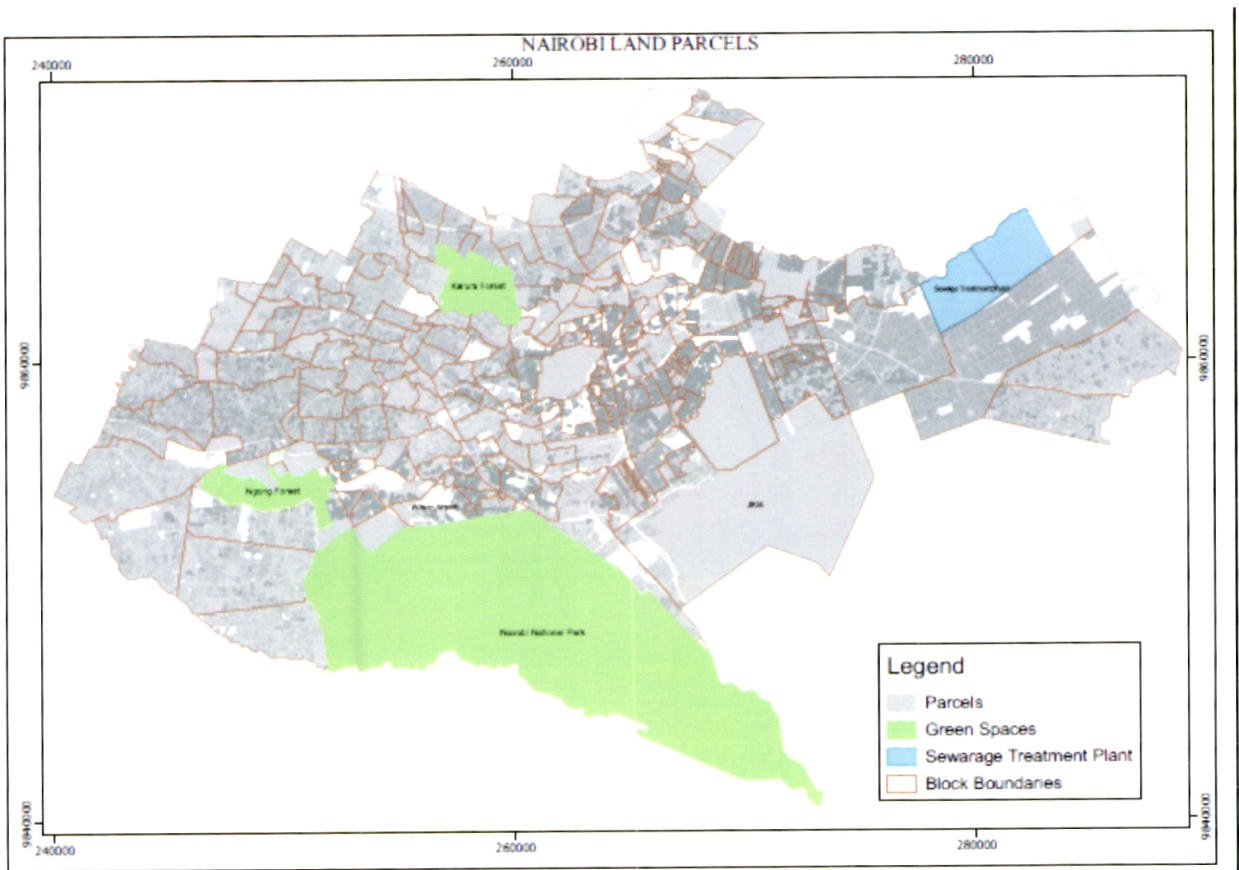


2. All privately held land plots in Nairobi are formally registered at the Nairobi land registry.

Kenya has completed full digitization and registration of all private land parcels in Nairobi and the same has been complemented by the Cadaster. This new system was launched by H.E the President in April, 2021 and is available on <https://ardhisasa.lands.go.ke>

All land parcels in Nairobi have parcel numbers, clear demarcation, precise boundary positions and boundary features. Secondly, survey measurements and mapping are all 100% done.

Survey is parcel-based, meaning information is geographically referenced to unique, well-defined units in land parcels. This process includes survey maps, deed plans and Registry Index Maps.



***DIGITIZATION
AND REGISTRATION
OF ALL PRIVATE LAND
PARCELS IN NAIROBI***



***COMPLEMENTED BY
THE CADASTER SYSTEM
WHERE SURVEY MEASUREMENTS
AND MAPPING ARE NOW 100% DONE***



3. Publication of statistics on the number of transactions recorded in the Land Registry, Presentation Register,

Statistics for the last five (5) years are accessible to the public on <https://lands.go.ke/ease-of-doing-business/>. The Ministry of Lands and Physical Planning handles about 61,068 land transactions per year.

This publication of statistics has improved information transparency (externally & internally) and the quality of land administration index.



4. Linking Land Registry to Survey of Kenya.

The Ministry of Lands has fully automated land transactions from searches to registration by rolling out the National Lands Information Management System (NLIMS) portal on: <https://ardhisasa.lands.go.ke>. Through this automation, all Departments of the Ministry including the Registry at the Survey of Kenya are now linked and share relevant information and databases online. With the roll out of NLIMS, all manual transactions have been discontinued with no option whatsoever for manual transactions.

Showcase of the new land registration system.



LEGAL REFORMS

5. Elimination of the requirement to obtain a Land Rent Clearance Certificate through enactment of the Business Laws (Amendment) Act, (No. 1 of 2020).

Following the launch of the National Land Information Management System (NLIMS), the previously applicable procedure and 7 days associated with obtaining the Land Rent Clearance Certificate have been eliminated legally on the online Land transfer system. This has reduced the procedure from 1 to 0 and the days from 7 to 0 days.



6. Elimination of the requirement to obtain a Land Rates Clearance Certificate through enactment of the Business Laws (Amendment) Act, (No. 1 of 2020).

Following the launch of the National Land Information Management System (NLIMS), the previously applicable procedure, the 5 days and cost of KES 10,000 associated with obtaining the Land Rates Clearance Certificate have been eliminated legally on the online Land transfer system. This has reduced the procedure from 1 to 0 days, the days from 5 to 0 days and the cost from KES 10,000 to 0.

7. Elimination of the requirement to obtain consent to transfer property through enactment of the Business Laws (Amendment) Act, (No. 1 of 2020).

Following the launch of the National Land Information Management System (NLIMS), the previously applicable procedure, the 5 days and cost of Kes.1,050 associated with obtaining Consent to transfer property was eliminated legally on the online Land transfer system. This has reduced the procedure from 1 to 0 days, the days from 5 to 0 days and the cost from KES.1,050.



8. Elimination of costs, procedure and time associated with Search and Registration of property.

Kenya made it cheaper and faster to register property by eliminating the costs; procedure and time associated with search fees KES. 550 and registration fees of KES 500 implemented vide Legal Notices No. 65-68 of 2020.

The time for obtaining a search of three (3) days has now been reduced to real time land search results for Nairobi following the launch of the National Land Information Management System (NLIMS) by H.E the President in April, 2021.

The overall costs for transferring property in Kenya have therefore been reduced by 2.17%, a reduction of KES. 12,100 made up of:

- (a) *Eliminated Land Rates Clearance Certificate cost of Kes.10,000*
- (b) *Eliminated Consent to transfer property cost of Kes.1,050*
- (c) *Eliminated Search Fees cost of Kes.550*
- (d) *Eliminated Registration Fees cost of Kes.500*



ELIMINATION
OF MANUAL TRANSACTIONS

2.17%
A REDUCTION OF
KES.12,100



9. Enhanced valuation of Stamp Duty process.

Kenya has enhanced the valuation process by enacting the Stamp Duty (Valuation of Immovable Property) Regulations, 2020 to provide for appointment of private valuers to compliment Government Valuers who undertook valuation exclusively before.

This has given the private sector the choice of selecting either a private valuer to fast track the process of valuation or a government valuer. It is important to note that private valuers ordinarily take 1 or 2 days to conduct valuation, and on average over 90% of customers have opted for this option, leading to reduced workload on government valuers. This has led to the reduction in time associated with valuation from 20 days previously to a maximum of 7 days.

Departments of the Ministry including the Registry at the Survey of Kenya are now linked and share relevant information and databases online. With the roll out of NLIMS, all manual transactions have been discontinued with no option whatsoever for manual transactions. Following the launch of NLIMS:

- *Notifications for valuation are issued online for customers to choose Government or private valuers.*
- *Valuation reports are submitted through the NLIMS system to facilitate auto-computation of the requisite Stamp Duty.*
- *The Notification for stamp duty payable following valuation is done through the NLIMS system.*
- *Confirmation of Payment of stamp duty is now done through the National Lands Information System (NLIMS).*





The impact of the reforms is as captured below

	Reforms	Impact
1.	Roll out of the National Lands Information Management System (NLIMS).	Reduction in time and procedures and improvement in the quality land administration index
2.	All privately held land plots in Nairobi are formally registered at the Nairobi land registry.	Improvement in the land quality administration index
3.	Elimination of the requirement to obtain a Land Rent Clearance Certificate through enactment of the Business Laws (Amendment) Act, (No. 1 of 2020).	Reduction in number of procedures and time taken to register property
4.	Elimination of the requirement to obtain a Land Rent Clearance Certificate through enactment of the Business Laws (Amendment) Act, (No. 1 of 2020).	Reduction in number of procedures and time taken to register property
5.	Elimination of the requirement to obtain consent to transfer property through enactment of the Business Laws (Amendment) Act, (No. 1 of 2020).	Reduction in number of procedures and time taken to register property
6.	Elimination of costs, procedure and time associated with Search and Registration of property.	Reduction in number of procedures, cost and time taken to register property
7.	Enhanced valuation of Stamp Duty process.	Reduction of time taken to register property
8.	Publication of statistics on the number of transactions recorded in the Land Registry, Presentation Register,	Improvement by one point in the quality of land administration index
9.	Linking Land Registry to Survey of Kenya.	Reduction in time and procedures and improvement in the quality land administration index



Automated of land transfer transactions from searches to registration through National Lands Information Management System (NLIMS) portal <https://ardhisasa.lands.go.ke>



KES. 10,000 cost reduction through removal of requirement to obtain Land Rent Clearance Certificate and associated fees under NLIMS eliminating 7 day delay in land transfers



Digitization and registration of all private land parcels in Nairobi complemented by the Cadaster system where survey measurements and mapping are now 100% done



KES. 1,050 cost reduction through removal of requirement for Consent to Transfer Property and associated fees under NLIMS eliminating 5 day delay in land transfers



Reduction in time to obtain a search from 3 to 1 day for Nairobi under NLIMS



KES. 550 and KES. 500 cost reductions through elimination of fees charged for Searches and Registration in Nairobi under NLIMS



Reduction in time associated with valuation from 20 to a maximum of 7 days following appointment of private valuers to compliment Government Valuers



Elimination of manual transactions through linking of the Lands Registry and the Survey of Kenya for share of relevant information which is now digitized under NLIMS allowing electronic filing of valuation reports, issuance of notifications for valuation amounts and stamp duty payable as well as confirmations of stamp duty payments



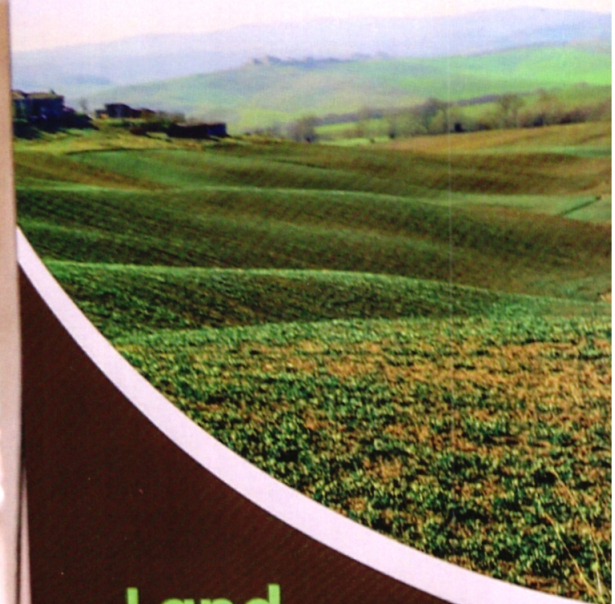
Increased transparency and accountability through publication of statistics on the number of transactions recorded in the Land Registry with extracts for the last 5 years which are accessible to the public



Republic of Kenya
Ministry of Lands &
Physical Planning



ardhisasa
Share



Land transactions
made easy
and secure!

Our Services

REGISTRATION SERVICES

- ⊕ CAUTION
- ⊕ SEARCH
- ⊕ LEASE
- ⊕ RESTRICTION
- ⊕ TRANSFER
- ⊕ LEASE PROCESSING
- ⊕ CHARGE
- ⊕ STAMP DUTY

LAND ADMINISTRATION



PAYING TAXES

Problem Statement

Tax is an important aspect in Kenya. As a result, the Government of Kenya, has been working towards enhancing the ease of paying taxes through implementing reforms to reduce administrative burden of paying taxes, contributions and dealing with post filing processes. The Government of Kenya through the Ministry of EAC and Regional Development, Directorate of Business Reforms and Transformation has been working in collaboration with relevant Partner Government Agencies and institutions to;

- (i) Streamline the legal and regulatory environment
- (ii) Conduct Business Process Reviews
- (iii) Capacity Building
- (iv) Stakeholder engagement and reform communication.

Responsible Partner Government Agencies/Institutions

The National Treasury and Planning
Kenya Revenue Authority
Ministry of Health
National Hospital Insurance Fund
Ministry of Labour and Social Protection
National Social Security Fund
National Industrial Training Authority
The National Assembly
The Senate
Office of the Attorney General and Department of Justice

Impacted Business sectors and players:

Employers
Businesses/Companies
Tax firms
Institute of Certified Public Accountants of Kenya (ICPAK)
Federation of Kenya Employers (FKE)
Central Organization of Trade Unions (COTU)
Kenya Private Sector Alliance (KEPSA)
Kenya Association of Manufacturers (KAM)
Kenya National Chamber of Commerce and Industry (KNCC&I)

Reforms implemented.

The reforms implemented target the taxes and mandatory contributions that a medium-size company must pay or withhold in a given year with aim to

- (i) *Improve time taken to comply with taxes through streamlining the process of preparation, filing and payment of all payroll taxes, levies and contributions*
- (ii) *Improve the legal and regulatory in the tax environment*
- (iii) *Improve the compliance of post filing procedures through enhancing the time to comply with VAT refund, time to obtain VAT refund, time to comply with a corporate income tax correction and time to complete a corporate income tax correction.*



Regulatory reforms implemented

1. Simplification of the filing and payment of all payroll taxes, levies and contributions

Under the Unified Payroll Return, the filing and payment of all payroll taxes, levies and contributions have been changed to a single date made on the 9th day of every month as the aligned payment date for the payroll returns.




On the 30th of March 2021, Kenya simplified the filing and payment of all payroll taxes (PAYE/Training Levy, NSSF and NHIF) and contributions under the Unified Payroll Return through amendments done by the Business Laws (Amendment) (No.2) Act, (No. 1 of 2021). Sections 3, 5 and 6 of the Business Laws (Amendment) (No.2) Act, (No. 1 of 2021) legally prescribes the 9th day of the month as the aligned payment date for the payroll returns.

In addition, several Regulations were amended to align the payment dates as follows:






- *The Industrial Training (Training Levy) (Amendment) Order, 2021;*
- *The National Social Security Fund (Member Contributions) (Amendment) Regulations, 2021*
- *The National Hospital Insurance Fund (Standard and Special Contributions (Amendment) Regulations, 2021; and*
- *The National Hospital Insurance Fund (Voluntary Contributions) (Amendment) Regulations, 2021.*

SIMPLIFIED TAX PAYMENTS


DECLARATION AND PAYMENT MADE EASIER

Unified Payroll Return Process

- 1  Log on to iTax.
- 2  Download and fill the Unified Payroll Return with both PAYE (monthly) and NITA Levy (annual) details at the end of the financial year.
- 3  Submit returns.
- 4  Generate e-slip for each return.
- 5  Make payment.




<https://itax.kra.go.ke>



Unified Payroll Return (PAYE and NITA)

A Unified Payroll Return (UPR) has been developed and rolled out.

- This simplifies the process of declaration and payment of the Industrial Training Levy thereby reducing employer's compliance efforts and costs.
- Declaration and payment of the Industrial Levy is now done on the KRA iTax system.
- Industrial Training Levy contributions are paid by the 9th day at the end of the employer's accounting period / financial year.

Doing Business Made Easier



2. Elimination of Payment of Stamp duty of KES 100 on contracts.

The Business Laws (Amendment) (No.2) Act, (No.1 of 2021) that came into effect on 31st March 2021 amended the Stamp Duty Act, Cap 480 to exempt fixed duty of Kes.100 charged on contracts as conveyances on sale. This has eliminated 1 payment that was previously applicable to Employers.

Administrative reforms implemented

1. Consolidation of monthly National Industrial Training Act (NITA) contributions

The monthly NITA contributions were consolidated into one annual payment done online on the iTax platform. Legal Notice Number 10 on the Industrial Training Act (CAP 237) made filing of NITA contributions annual (from monthly) effective 23rd December 2019 now done online through iTax.

The previous twelve (12) monthly payments of Kes.50 per employee that employers used to remit in relation to the NITA training levy were consolidated into one (1) annual payment of Kes.600 per employee. The reduction of number of payments from 12 to 1 has eased the compliance burden for all businesses in the country. This reform reduces the number of payments in respect of NITA contributions from 12 to 1.



NITA MONTHLY TRAINING LEVY CONTRIBUTION OF KES. 50 PER EMPLOYEE NOW CONVERTED TO AN ANNUAL PAYMENT OF KES.600 UNDER THE UNIFIED PAYROLL RETURN FRAMEWORK



4. Enhancement of the iTax platform to improve the Corporate Income Tax (CIT) correction process

Kenya enhanced its iTax platform, which further improved the compliance time CIT. A tax expert now takes a maximum of 5 hours to gather data and amend the return error, 30 minutes to submit the amended return and 0.5 minutes to make payment as this is done online.

Impact of the reforms

The impact of the reform in paying taxes are measured through (i)The total number of taxes and contributions paid, the method of payment, the frequency of payment, the frequency of filing and the number of agencies involved for the medium sized company during the second year of operation. (ii) The time taken to prepare, file and pay three major types of taxes and contributions: the corporate income tax, value added or sales tax, and labor taxes, including payroll taxes and social contributions (iii)The amount of taxes and mandatory contributions borne by the business in the second year of operation, expressed as a share of commercial profit and (iv)The time to comply with VAT refund, time to obtain VAT refund, time to comply with a corporate income tax correction and time to complete a corporate income tax correction

The impact of the reforms is as captured below

	Reforms	Impact
1.	Simplification of the filing and payment of all payroll taxes (PAYE/Training Levy, NSSF and NHIF) to a single date made on the 9th day of every month as the aligned payment date for the payroll returns under the Unified Payroll Return	Reduction in time to make payments
2.	Elimination of Payment of Stamp duty of KES 100 on contracts.	Reduction in number of payments by 1
3.	Consolidation of monthly National Industrial Training Act (NITA) contributions into one annual payment done online on the iTax platform	Reduction in number in the time taken and number of payments in the process of filing and paying of the NITA levy. The payments reduce from 12 to 1
4.	Consolidation of NITA and PAYE payments under the Unified Payroll Return on the iTax platform	Simplification in the process of filing and paying of the NITA levy. The payments reduce from 1 to 0 as this is now done jointly with PAYE
5.	Enhancement of the NSSF filing and process	Reduction of time taken on by employers in filing and payment of NSSF contributions, this is now done in 6 hours
6.	Enhancement of the iTax platform, to improve the compliance time CIT	Reduction of time taken to comply with Corporate Income Tax (CIT) correction, this is now done in 6 hours





**KENYA REVENUE
AUTHORITY**

MOBILE TAXPAYE

Tulipe Ushuru

PAMOJA TWAVEZA
PAMOJA TWAVEZA
PAMOJA TWAVEZA
PAMOJA TWAVEZA

PAMOJA TWAVEZA
PAMOJA TWAVEZA
PAMOJA TWAVEZA
PAMOJA TWAVEZA

PAMOJA
TWAVEZA
PAMOJA
TWAVEZA
PAMOJA
TWAVEZA
PAMOJA
TWAVEZA



IMPORT & EXPORT PROCESSES

Problem Statement

Kenya being the hub for regionally and international trade has pushed the Government to tackle barriers to trade by streamlining its import and export processes through implementation of reform aimed at addressing high trade costs, cumbersome and time consuming border procedures The Government of Kenya through the Ministry of EAC and Regional Development, Directorate of Business Reforms and Transformation has been working in collaboration with relevant Partner Government Agencies and institutions to; (i) Streamline the legal and regulatory environment (ii) Conduct Business Process Reviews (iii) Capacity Building (iv) Stakeholder engagement and reform communication.

Responsible Partner Government Agencies/Institutions

- The National Treasury and Planning*
- Kenya Revenue Authority (KRA)*
- Port Health Services*
- Kenya Ports Authority (KPA)*
- Kenya Trade Network Agency (KENTRADE)*
- Kenya Plant Health Inspectorate Services (KEPHIS)*
- Kenya Bureau of Standards (KEBS)*
- Tea Board*
- Kenya National Chamber of Commerce & Industry (KNCCI)*

Impacted Business sectors and players:

- Businesses/Companies*
- Importers & Exporters*
- Transporters*
- Shipping Lines*
- Clearing Agents*
- East African Community*
- Agriculture Sector*
- Kenya Private Sector Alliance (KEPSA)*
- Kenya Association of Manufacturers (KAM)*
- Kenya National Chamber of Commerce and Industry (KNCC&I)*

REFORMS IMPLEMENTED. EXPORT

The reforms implemented target to reduce the time and cost associated with the logistical process of importing and exporting goods. The reforms address two main areas of time and cost related to border and documentary compliance carried out by customs, port and agencies other than customs. Documentary compliance includes time and cost for obtaining preparing, processing, presenting and submitting documents: whether physical or electronic. Border compliance includes: time and cost associated with compliance with customs regulations, other agency regulations and port handling.



A port crane loading containerized cargo onto a truck at Mombasa.



Regulatory reforms implemented

1. Elimination of KES 5,000 costs charged by Kenya Plant Health Inspectorate Services (KEPHIS) to undertake Phytosanitary Inspection for all exports.

On 29th April, 2020, Kenya published Legal Notice Number 79 of 2020, the Plant Protection (Fees and Charges) (Amendment) Rules 2020 which eliminated cost of KES 5,000 associated with Phytosanitary Inspection fee for all exports

This reform has resulted in a direct impact on reduction of border compliance cost for phytosanitary inspections done by KEPHIS from KES 5,000 to KES 0.



2. Elimination of costs of KES.1,000 charged by the Kenya Plant Health Inspectorate Services (KEPHIS) to obtain a Phytosanitary Certificate.

On 29th April, 2020, Kenya published Legal Notice Number 79 of 2020, the Plant Protection (Fees and Charges) (Amendment) Rules 2020 which eliminated cost of obtaining Phytosanitary Certificate.

This reform has resulted in a direct impact on reduction of border compliance cost for phytosanitary Certificates charged by KEPHIS from KES 1,000 to KES 0.

KEPHIS personnel undertaking diagnostic test on products due for export.



3. Elimination of Export Health Certificate fee charged by Port Health of Kes. 1,000.

On 24th April, 2020, Kenya published Legal Notice No. 80 of 2020 - The Public Health (Fees) (Amendment) Rules 2020 which eliminated the cost of Export Health Certificate issued by Port Health. Export Health Certificate is a pre-requisite to customs issuing an export release.

4. Waiver by Kenya Bureau of Standards KEBs of the requirement to obtain a Certificate of Conformity.

On 28th February, 2020, Kenya published Legal Notice No. 11 of 2020, the Standards (Verification of Conformity to Standards and other Applicable Regulations of Imports) (Amendment), Regulation 2020 to implement the waiver of the requirement for Importers of brand-new motor vehicle spares to obtain a Certificate of Conformity. Implementation of this waiver has resulted in reduction of costs from \$250 to zero (0) and time from 72 hours to zero (0) in February 2020.



REDUCED COST
\$250
TO ZERO

72
TO ZERO

TIME REDUCED
HRS

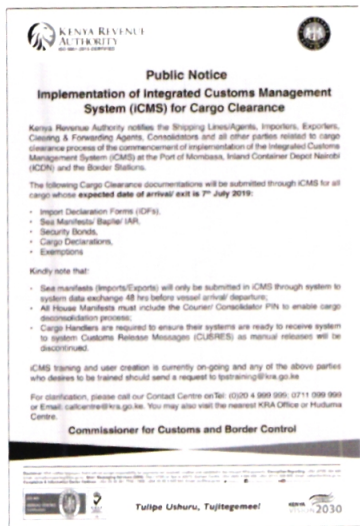
Administrative reforms implemented

1. Full roll out of the Integrated Customs Management System (ICMS) for exports

Kenya fully rolled out ICMS for exports, significantly reducing border compliance time from 48 hours to 1 hour.

ICMS has eliminated the need for Document Centre Processing officer to verify and issue a long room pass. Approval on the ICMS is system generated on real-time basis instantaneously with no human intervention.

ICMS integration with Single Window allows customs to view all export permits approvals online. ICMS has eliminated all manual folders, as the system has an inbuilt Document Management System that allows exporters to attach all supporting documents making it readily available to customs officers – <https://icms.kra.go.ke>





2. Elimination of Pre-shipment physical inspection by customs for exports

Kenya has eliminated the need for customs officer to physically witness stuffing of export containers at an exporter's warehouse.

Exporters now process their export entries without waiting for an allocation of verification officer(s) or the need for a verification of stuffing certificate.

An exporter loads their cargo onto containers for delivery to the port without any customs intervention. Upon arrival at the port the cargo is scanned 100% with no physical intervention, customs consequently release cargo for loading onto vessels.

3. Elimination of Head Verification Officer and Verification Officer processes by customs for exports.

Once an exporter makes a declaration, the ICMS system allocates a verification officer to that specific customs declaration. The said verification officer captures the stuffing report and upon entering all data escalates the entry to the Head Verification Officer for further processing.

The Head Verification Officer confirms the data captured and upon confirmation of the data processes the release of the customs declaration. The release then triggers pre-advise process in Kenya Ports Authority system KWATOS to allow the payment of port charges and movement of cargo to the port.

Kenya has eliminated the need for customs head verification officer and verification officer physically capture stuffing reports for direct exports, significantly reducing border compliance time from 48 hours to 30 mins.



4. Elimination of manual stamping of customs release by Kenya Plant Health Inspectorate Services (KEPHIS) & Port Health

Prior to customs issuing their final release, measures to ensure that all permits and approvals needed for exports under the specific HS codes have been complied with by exporters had been put in place. For exports of tea, coffee herbs and spices, these permits include a Phytosanitary Certificate and Export Health Certificate.

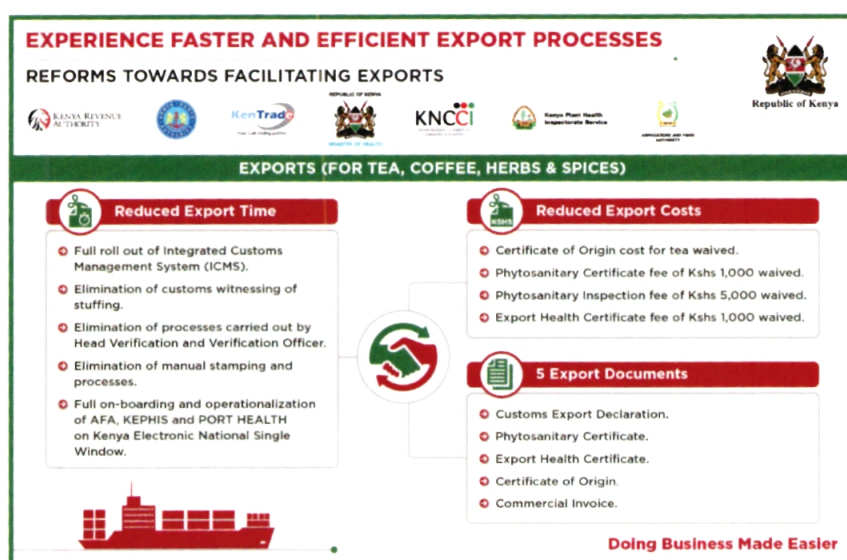
Exporters were required to ensure KEPHIS & Port Health physically stamped the customs release as a means of ascertaining that their permits had been issued. The integration of ICMS with the Single window and onboarding of KEPHIS & Port Health has eliminated the need for exporters to seek manual stamping from these two agencies for customs release. KEPHIS & Port Health approvals are now uploaded onto ICMS and KRA have electronic sight of the approvals.

This reform has reduced border compliance time from 24 hours to 1 hour. It has eliminated the need for exporters moving between KEPHIS & Port Health offices with manual folders seeking the necessary stamps.

ICMS automatically releases the goods and the exporter proceeds to the port for scanning thereafter Kenya Revenue Authority issues loading instructions electronically to Kenya Ports Authority.

5. Elimination of the cost to obtain a certificate of origin to export tea.

Kenya has eliminated the cost of \$40 charged by Kenya National Chamber of Commerce for all exports. This reform has resulted in a reduction of costs for exports from approximately \$40 to \$0. This information can be accessed: <https://www.kenyachamber.or.ke/trade-information/>.



6. Reduction of export documents.

The documents below are obsolete and are not applicable for exports in Kenya:

Kenya has reduced the compliance Documents required for exports from 9 to 5. The applicable documents required for exports now include:

- *Commercial Invoice: generated by the exporters details of which includes all packing information*
- *Certificate of Origin: obtained online within one (1) hour from Kenya National Chamber of Commerce*
- *Phytosanitary Certificate*
- *Customs Export Declaration*
- *Export Health Certificate*

REFORMS IMPLEMENTED. IMPORTS

7. Roll out of Green Channel for importation of brand new motor vehicle spare parts.

In February of 2020, Kenya rolled out Green Channel expedited cargo facilitation framework. Green Channel declarations relate to consignments involving no risk/low-risk criteria. Clearance of goods is done without physical examination and ensures faster processing of cargo. Importers lodge their entries under the Green Channel in the KRA system and entries are processed online and within 1 hour obtain their release.

The Green Channel program is product based and not customer profile based and therefore all importers of brand-new motor vehicle spare parts from China can process customs clearance under the green channel framework. Brand new motor vehicle spare parts categorization by Kenya Revenue Authority is a low risk product, which is not subjected to physical verification by customs as was stated in the Doing Business feedback, and this category of product is scanned 100%.

Green Channel program so far includes importation of raw material used in manufacturing, tea, coffee, herbs, spices, brand new motor vehicle spare parts as is applicable to all imports of these products.



Public Notice
Implementation of Green Channel

Kenya Revenue Authority (KRA) Customs notifies the Public that Customs is rolling out a faster and efficient cargo clearance process known as GREEN CHANNEL. The following products will not be subjected to routine physical verification/examination:

- Exportation of Kenyan Tea, Coffee, Spices or herbs through Kilindini Port under Tariff heading 09**
 - The applicable documents are:
 - Customs declaration
 - Certificate of Origin
 - Commercial Invoice
 - Packing List
 - Phytosanitary Permit
- Importation of new motor vehicle spare parts under heading 8708 through Kilindini Port/IGDI**
 - The applicable documents are:
 - Customs declaration
 - Import Declaration Form
 - Commercial Invoice
 - Packing List
 - Bill of Lading

Note: This notice is published subject to all other Laws and Regulations, and conditions governing importation and exportation of goods being adhered to, or being fulfilled.


For clarification please contact the Contact Centre on Tel. Number: 020 4 999 999; 0711 099 999 or Email: customers@kra.go.ke. You may also visit the nearest KRA Office or Hubuma Centre.

Default 25th day of February, 2020

Commissioner for Customs and Border Control

www.kra.go.ke

Tutufe Ushuru, Tujitegemei!

EXPERIENCE FASTER AND EFFICIENT IMPORT PROCESSES

REFORMS TOWARDS FACILITATING IMPORTS

Logos: KEBS, KRA, KenTrade


IMPORTS (FOR BRAND NEW MOTOR VEHICLES & SPARE PARTS)

Reduced Import Time

- Introduction of Green Channel expedited customs clearance process.
- Paperless cargo clearance.
- 100% scanning of all cargo.
- Reduced physical verification to less than 20%.
- Use of Risk Assessment parameters.
- Waiver on pre-verification of conformity.

Reduced Import Costs

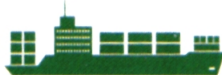
- Waiver on pre-verification cost of \$265.
- Elimination of verification surcharge of \$80 and \$120 for compliant importers.



5 Import Documents

- Customs Import Entry.
- Bill of Lading.
- Commercial Invoice.
- Packing List.
- Import Declaration Form.

Doing Business Made Easier



8. Risk based cargo clearance and 100% scanning of imports.

Implementation of rail-scanning technology in Mombasa for cargo destined for the Internal Container Depot Nairobi (ICDN). Cargo is scanned within minutes when the train is in motion and the images made available on i-scan, thereby enabling faster cargo release at the port and avoiding additional scanning on arrival at the ICDN.

This transformational investment ensures that import cargo is scanned enroute to ICD Nairobi by rail scanners within 3-5 minutes for an entire train! This has reduced physical verification for ICD cargo to below the 20% threshold.



9. Elimination of verification surcharge of \$80 & \$120 for 20 foot and 40-foot container respectively for imports by Kenya Port Authority.

Based on risk parameters, containers identified for physical verification and found to be fully compliant with their customs declarations, are exempted from all verification surcharges. Kenya via a public notice issued by Kenya Ports Authority dated 25th April 2021 waived physical verification surcharge for compliant traders.





10. Elimination of all customs manual processes at ICD.

Kenya has rolled out paperless processing for customs cargo clearance through implementation of internal administrative measures and stakeholder sensitization as a means of COVID 19 containment measures and ensuring a faster service delivery through automation.

11. Reduction of Import documents.

Kenya has reduced the compliance Documents required for Imports from 5 to 10.

The applicable documents required for all exports now include:

- *Bill of Lading*
- *Commercial Invoice*
- *Packing List*
- *Customs Import Entry*
- *Import Declaration Form (IDF); generated online within 5 minutes on the Integrated Customs Management System <https://icms.kra.go.ke>*

Impact of the reforms

The impact of the reforms in trading across borders are measured through (i) The total time and cost for exports in complying with border and documentary compliance. (ii) The total time and cost for imports in complying with border and documentary compliance.

KPA Personnel at the Port of Mombasa.





The impact of the reforms is as captured below

	Reforms	Impact
1.	Elimination of KES 5,000 costs charged by Kenya Plant Health Inspectorate Services (KEPHIS) to undertake Phytosanitary Inspection for all exports.	Reduction of border compliance cost for phytosanitary inspections done by KEPHIS from KES 5,000 to KES 0
2.	Elimination of costs of KES.1,000 charged by the Kenya Plant Health Inspectorate Services (KEPHIS) to obtain a Phytosanitary Certificate.	Reduction of border compliance cost for phytosanitary Certificates charged by KEPHIS from KES1000 to KES 0
3.	Elimination of Export Health Certificate fee charged by Port Health of Kes. 1,000	Reduction of border compliance cost for Export Health Certificate charged by Port Health from KES1000 to KES 0
4.	Waiver by Kenya Bureau of Standards of the requirement to obtain a Certificate of Conformity	Reduction of costs from \$250 to zero (0) and time from 72 hours to zero (0)
5.	Full roll out of the Integrated Customs Management System (ICMS) for exports	Reduction in border compliance time from 48 hours to 1 hour
6.	Elimination of Pre-shipment physical inspection by customs for exports	Reduction in border compliance for export from 2-3 days to 1 day
7.	Elimination of Head Verification Officer and Verification Officer processes by customs for exports.	Reduction in border compliance time from 48 hours to 30 mins
8.	Elimination of manual stamping of customs release by Kenya Plant Health Inspectorate Services (KEPHIS) & Port Health	Reduction border compliance time from 24 hours to 1 hour
9.	Elimination of the cost to obtain a certificate of origin to export tea	Reduction of documentary compliance costs for exports from approximately \$40 to \$0
10.	Reduction of export documents.	Reduction of export documentary compliance time and elimination of obsolete documents: Certificate of Export is a post shipment document Release order (now system based) Packing List (details incorporated in the commercial invoice)
11.	Roll out of Green Channel for importation of brand-new motor vehicle spare parts.	Processing by customs online and customs release issued within 1 HOUR.
12.	Risk based cargo clearance and 100% scanning of imports.	Reduction of physical verification to below 20% thus reducing clearance time.
13.	Elimination of verification sur-charge of \$80 & \$120 for 20 foot and 40-foot container respectively for imports by Kenya Port Authority.	Reduction in port handling costs for imports.
14.	Elimination of all customs manual processes at ICD.	Increased efficiency, transparency and accountability.
15.	Reduction of Import documents.	Reduction of import documentary compliance time and elimination of obsolete documents: Cargo Release Order (generated and viewed electronically) Terminal Handling receipts (electronic and viewed in real time) Declarations of Customs Value (a field within IDF)



BORDER COMPLIANCE TIME REDUCED FROM 48 HOURS TO 1 HOUR THROUGH 100% ROLLOUT OF INTEGRATED CUSTOMS MANAGEMENT SYSTEM (ICMS) FOR EXPORTS [HTTPS://ICMS.KRA.GO.KE](https://icms.kra.go.ke)



VERIFICATION AND ISSUANCE OF A LONG ROOM PASS BY DOCUMENT CENTRE PROCESSING OFFICER ELIMINATED AND APPROVALS AUTOMATED ON ICMS ON REAL-TIME BASIS



MANUAL FOLDERS ELIMINATED THROUGH DEPLOYMENT OF ICMS INBUILT DOCUMENT MANAGEMENT SYSTEM AND ELECTRONIC FILING OF SUPPORTING DOCUMENTS



INTEGRATION OF ICMS WITH THE KENTRADE SINGLE WINDOW AND ON-BOARDING OF KEPHIS & PORT HEALTH ELIMINATED MANUAL STAMPING BY BOTH FOR EXPORTS CUSTOMS RELEASE AND ALLOWED CUSTOMS TO VIEW ALL EXPORT PERMITS APPROVALS ONLINE



ELIMINATION OF PHYSICAL VERIFICATION OF CONTAINER STUFFING AT EXPORTERS' WAREHOUSES FOR TEA, COFFEE, HERBS AND SPICES ELIMINATED 3 DAY DELAY AND ASSOCIATED STAFF OVERTIME COSTS FOR EXPORTERS



BORDER COMPLIANCE TIME REDUCED FROM 48 HOURS TO 30 MINS BY ELIMINATING PHYSICALLY CAPTURE AND STUFFING REPORTS BY CUSTOMS HEAD VERIFICATION OFFICER AND VERIFICATION OFFICER FOR DIRECT TEA EXPORTS



BORDER COMPLIANCE COSTS REDUCED THROUGH ELIMINATION OF US\$ 40 KENYA NATIONAL CHAMBER OF COMMERCE FEES FOR CERTIFICATE OF ORIGIN FOR TEA EXPORTS



BORDER COMPLIANCE COSTS REDUCED THROUGH 2 YEAR SUSPENSION OF KES 5,000 AND KES 1,000 KEPHIS FEES FOR PHYTOSANITARY INSPECTION AND PHYTOSANITARY CERTIFICATES FOR EXPORTS OF TEA, COFFEE, HERBS AND SPICES



BORDER COMPLIANCE COSTS REDUCED THROUGH ELIMINATION OF KES 1,000 PORT HEALTH FEES FOR EXPORT HEALTH CERTIFICATE FOR EXPORTS OF TEA, COFFEE, HERBS AND SPICES



REDUCTION IN IMPORTS PROCESSING AND RELEASE TIME TO 1 HOUR FOR RAW MATERIAL USED IN MANUFACTURING, TEA, COFFEE, HERBS, SPICES, BRAND NEW MOTOR VEHICLE SPARE PARTS VIA ROLL-OUT OF PRODUCT BASED GREEN CHANNEL EXPEDITED CARGO FACILITATION FRAMEWORK INVOLVING NO RISK/LOW-RISK CRITERIA ELIMINATING PHYSICAL EXAMINATION ENTRIES



REDUCTION IN IMPORTATION COSTS FROM \$250 TO ZERO (0) AND TIME FROM 72 HOURS TO ZERO (0) THROUGH WAIVER OF THE REQUIREMENT FOR IMPORTERS OF BRAND-NEW MOTOR VEHICLE SPARES TO OBTAIN A CERTIFICATE OF CONFORMITY



REDUCTION IN CARGO CLEARANCE TIMES AT ICD NAIROBI TO 1 DAY AND PHYSICAL VERIFICATION FOR ALL ICD CARGO TO BELOW THE 20% THRESHOLD THROUGH IMPLEMENTATION OF RAIL-SCANNING TECHNOLOGY IN MOMBASA FOR CARGO DESTINED FOR THE INTERNAL CONTAINER DEPOT NAIROBI (ICDN)



ELIMINATION OF KPA VERIFICATION SURCHARGE OF \$80 & \$120 FOR 20 FOOT AND 40-FOOT CONTAINER RESPECTIVELY FOR IMPORTS ON CONTAINERS IDENTIFIED FOR PHYSICAL VERIFICATION AND FOUND TO BE FULLY COMPLIANT WITH THEIR CUSTOMS DECLARATIONS

CS Ministry of East Africa Community Adan Mohamed during a session on trade facilitation along the Northern Corridor.







ACCESS TO JUSTICE FOR BUSINESSES

Overview

In Kenya, access to justice for commercial disputes has been a pain point for businesses. The Government and the Judiciary have been collaborating to reduce hurdles such as long duration to hear and determine disputes.

The Problem situation

The Small Claims Court has significantly improved efficiency in the disposal of commercial disputes falling within its threshold of Kshs 1 million and below. Given the high uptake and demand for its services, there is a need to consider allocating more adjudicators to the small Claims Court and additional resources to enable decentralization to other court stations outside Nairobi. Additional personnel and infrastructure is required to support the Court.

The responsible Partner Government Agency(ies)/institution(s):

*The Judiciary
National Treasury*

Roles: The Judiciary needs to oversee the continued implementation of the reforms while the National Treasury needs to avail sufficient resources to support the implementation of the reforms towards continued improvement of the regime of enforcing contracts in Kenya

The impacted business sectors & players:

*Private Sector
KEPSA
KAM
MSMEs*

The establishment of the SCC will ensure that commercial disputes affecting MSMEs which dominate the Private Sector are resolved expeditiously hence releasing financial resources into the economy rather than being held up in court proceedings. The other reforms geared towards enhancing judicial processes in terms of filing, payment of fees and transparent allocation of cases will also benefit the Private Sector by enhancing overall efficiency.

Deputy Chief Justice Philomena Mwilu & CS Adan Mohamed during the launch of the Small Claims Court in Nairobi.





HIGHLIGHTS OF 2020 –2021 REFORMS

The new reforms effected in 2020 –2021 are expected to boost Kenya’s framework on enforcing contracts. The following is a list of the regulatory and administrative reforms implemented:

IMPLEMENTED REFORMS

Regulatory & Administrative Reforms

1. Operationalization of the Small Claims Court

The Small Claims Court was formally established and operationalized by the Acting Chief Justice who designated Small Claims Courts in Nairobi, appointed 5 Adjudicators and a Registrar for the Court. The Small Claims Court is established under the Small Claims Court Act, 2016 with jurisdiction to hear claims of value of less one million and determine them within six months.

ENHANCING DELIVERY OF JUSTICE

EFFICIENT HANDLING OF COMMERCIAL CASES

Establishment of Small Claims Court

Deals with commercial cases of up to Ksh 1 million relating to:

- Contracts for sale and supply of goods and services
- Contracts relating to money held and received
- Liability in tort in respect of loss or damage caused to any property or for the recovery of movable property
- Compensation for personal injuries
- Set-off and counter-claim under any contract.

Benefits

- Cases decided within 60 days
- Only 3 adjournments allowed
- No court fees paid.

Automatic Allocation of Cases

Judiciary has automated allocation of cases filed at Millmani Commercial Chief Magistrate Court effective 20th April 2020 to enhance transparency.

Filing of court cases

➔

Real-time allocation to magistrate

Transparent and enhanced dispensation of justice

Nairobi Chief Magistrate's Court Goes Online

Filing processes now fully automated.

- Log on to <https://efiling.court.go.ke>

Online Services Available for;

- e-Filing of pleadings
- e-Assessment of court fees
- e-Payment of court fees
- e-Service.

Benefits of Online Services

- File a case from the comfort of your home or office
- Eliminated loss of files
- Eliminated queues
- Enabled e-tracking of cases
- Saves time and money.

Doing Business Made Easier



Retired Chief Justice David Maraga during the launch of the Online Case Management System in July, 2020.

2. Online Case Management System

An online case management system has been created at the Nairobi Chief Magistrates Court to improve the quality of judicial processes through the following:

- a. *E-filing: All pleadings (including amended pleadings) and other documents are now filed via the e-filing portal; the system sends a confirmation receipt including the date and time of filing to the person filing the document*
- b. *E-payments: Fees are paid via mobile money, RTGS or Visa before the electronic filing of documents; an electronic receipt (which evidences proof of payment of court fees) is then generated and sent to the account of the party or the advocate*
- c. *E-service: Service of process can now be carried out electronically, eliminating the need to file an affidavit of service in court*

3. Implementation of automatic allocation of cases through the case management system at the Nairobi Chief Magistrate's Court

Kenya rolled out the implementation of the automatic allocation of cases in the Nairobi Commercial Chief Magistrate's Court. Once a matter is electronically filed and duly paid for, the matter is automatically assigned to the designated Magistrates of the Commercial Division of the Magistrates Court. Examples of the system rollout have been annexed for demonstration.

4. Elimination of court fees

Eliminated court fees at the Commercial Division of the Magistrate’s Court for matters not exceeding a claim value of KES. 1,000,000 have been eliminated. Cost of court fees borne by users of this court have reduced from 11.7% of claim value to 0%.

5. Regulation of adjournments for small claims

The adjudication of small claims has been enhanced through the regulated adjournments allowed in the Small Claims Court (claims not exceeding KES 1,000,000). The Small Claims Court (Amendment) Act 2020 (which came into effect on 30th April, 2020) amended the Act to provide for unforeseen and exceptional circumstances as the basis for adjournments and further limited number of adjournments to a maximum of three.

In addition, the Act was also amended to insert a new sub-section to provide for unforeseen and exceptional circumstances that the court can take into consideration to grant adjournments.

6. Increased Pecuniary Jurisdiction of the Small Claims Court

The pecuniary jurisdiction of the Small Claims Court has been increased upwards from Kes.200, 000 to Kes.1,000,000 which has expanded the scope of the Small Claims Court and simplified its processes in hearing and determining claims.

7. Setting period for determination of Small Claims at 60 days

The Small Claims provides for day-to-day hearing of matters and judgments rendered within 3 days on close of a hearing. In effect, matters that do not exceed Kes.1 Million are heard and determined within a legally set period of a maximum 60 days.

This will significantly impact on MSMEs whose commercial disputes will be resolved faster and more capital unlocked for investment.

Deputy Chief Justice Phiomena Mwilu, CS Adan Mohamed and LSK President Nelson Havi, Chief Registrar Anne Amadi & PS Kevit Desai during a tour of the Small Claims Court Registry.



Impact of the reforms

The access to justice for businesses reforms measures the time and cost for resolving a commercial dispute through a local first instance court and the quality of the judicial processes index. It evaluates whether an economy has adopted a series of good practices that promote quality and efficiency in the court system.

Key statistics underpinning the reform impact

As at October 4, 2021 the Small Claims Court heard and determined commercial and personal injury cases valued as Kshs 250 million broken down as follows:

COMMERCIAL CASES : KSHS 137 MILLION

PERSONAL INJURIES CLAIMS: KSHS 113 MILLION

	REFORM	IMPACT
1.	The Small Claims Court, established under the Small Claims Court Act, 2016 was operationalized with jurisdiction to hear claims of value of less one million and determine them within six months.	Dedicated court for faster resolution of claims of Kshs 1 million and below
2.	Implementation of automatic allocation of cases through the case management system at the Nairobi Chief Magistrate's Court	Enhanced transparency in the allocation of cases at the Nairobi Chief Magistrate's Court
3.	Elimination of court fees at the Commercial Division of the Magistrate's Court for matters not exceeding a claim value of KES. 1,000,000	Reduced cost on filing disputes
4.	The pecuniary jurisdiction of the Small Claims Court has been increased upwards from Kes.200, 000 to Kes.1,000,000	Enhanced access by small businesses to the SCC for faster resolution of commercial disputes
5.	Matters filed at the Small Claims are heard and determined within a legally set period of a maximum 60 days.	Reduction in time taken from filing to determination of commercial disputes at the SCC



SMALL CLAIMS COURT ESTABLISHED AND OPERATIONALIZED IN NAIROBI WITH 5 APPOINTED ADJUDICATORS AND A REGISTRAR WITH PECUNIARY JURISDICTION INCREASED FROM CLAIMS OF VALUES NOT EXCEEDING KES. 200,000 TO A MAXIMUM OF KES. 1,000,000



E-FILING OF ALL PLEADINGS (INCLUDING AMENDED PLEADINGS) AND OTHER DOCUMENTS VIA E-FILING PORTAL WITH SYSTEM GENERATED CONFIRMATION OF RECEIPT, DATE AND TIME OF FILING



E-PAYMENT OF COURT FEES VIA MOBILE MONEY, RTGS OR VISA BEFORE THE ELECTRONIC FILING OF DOCUMENTS WITH AN ELECTRONIC RECEIPT GENERATED



E-SERVICE FOR COURT PROCESSES NOW ACCEPTED ELIMINATING NEED TO FILE AN AFFIDAVIT OF SERVICE IN COURT



AUTOMATIC ALLOCATION OF CASES AT NAIROBI COMMERCIAL CHIEF MAGISTRATE'S COURT ROLLED-OUT WHERE ONCE MATTERS ARE ELECTRONICALLY FILED AND DULY PAID FOR, THEY ARE AUTOMATICALLY ASSIGNED TO DESIGNATED MAGISTRATES OF THE COURT



REMOVAL OF COURT FEES AT THE COMMERCIAL DIVISION OF THE MAGISTRATE'S COURT FOR MATTERS NOT EXCEEDING A CLAIM VALUE OF KES. 1,000,000 ELIMINATING COURT FEES BORNE BY USERS AVERAGING 11.7% OF CLAIM VALUE



ADJOURNMENTS AT THE SMALL CLAIMS COURT NOW LIMITED TO UNFORESEEN AND EXCEPTIONAL CIRCUMSTANCES AS A BASIS AND LIMITED TO A MAXIMUM OF THREE



LEGAL CAPS PLACED ON TIME TAKEN TO HEAR AND ADJUDICATE COMMERCIAL DISPUTES FOR CLAIMS OF UP TO KES 1 MILLION TO A MAXIMUM OF 60 DAYS WITH DAY-TO-DAY HEARING OF MATTERS AND JUDGMENTS RENDERED WITHIN 3 DAYS ON CLOSE OF A HEARING

KEPSA private sector event to honor the new Chief Justice Martha Koome on her appointment.



AS A HUMAN RIGHTS
I ALWAYS STRIVE FOR
I VISUALIZE A JUST AN
SOCIETY WHERE EVER
REGARDLESS OF AGE,
AND DIVERSI
an access j
defend their

on to the JSC di
STI
KC
THE RI
BLU



BUSINESS RESTRUCTURING & INSOLVENCY

Problem Statement

The Government has revamped its insolvency regime in line with best global practices of keeping viable businesses operating. Kenya's insolvency system seeks to inhibit the premature liquidation of distressed but sustainable businesses.

When this happens, all stakeholders benefit. Creditors can recover a larger part of their investment; more employees keep their jobs and the network of suppliers and customers is preserved. The Government of Kenya through the Ministry of EAC and Regional Development, Directorate of Business Reforms and Transformation has been working in collaboration with relevant Partner Government Agencies and institutions to;

- (i) Streamline the legal and regulatory environment*
- (ii) Conduct Business Process Reviews*
- (iii) Capacity Building*
- (iv) Stakeholder engagement and reform communication.*

This indicator examines Kenya's resolving insolvency ranking according to indicators: time, cost and outcome of insolvency proceedings involving domestic legal entities, recovery rate for creditors through reorganization, liquidation or debt enforcement proceedings, and the strength of the insolvency framework index.

The index is calculated based on the quality of legal framework applicable to judicial liquidation and reorganization proceedings and the extent to which best insolvency practices have been implemented.





Recovery of Debt Insolvency

The recovery rate is calculated based on the time, cost and outcome of insolvency proceedings in the country.

1. Time for creditors to recover their credit is recorded in calendar years.

The period of time measured is from the company's default until the payment of some or all of the money owed to the bank. Potential delay tactics by the parties, such as the filing of dilatory appeals or requests for extension, are taken into consideration.

2. The cost of the proceedings is recorded as a percentage of the value of the debtor's estate.

The cost is calculated on the basis of questionnaire responses and includes court fees and government levies; fees of insolvency administrators, auctioneers, assessors and lawyers; and all other fees and costs.

3. Outcome.

Recovery by creditors depends on whether a business emerges from the proceedings as a going concern or the company's assets are sold piecemeal. If the business continues operating, 100% of the value is preserved. If the assets are sold piecemeal, the maximum amount that can be recovered is 70% of the value



4. Recovery rate.

The recovery rate is recorded as cents on the dollar recovered by secured creditors through judicial reorganization, liquidation or debt enforcement (foreclosure or receivership) proceedings. The calculation takes into account the outcome: whether the business emerges from the proceedings as a going concern or the assets are sold piecemeal. Then the costs of the proceedings are deducted (1 cent for each percentage point of the value of the debtor's estate).

Finally, the value lost as a result of the time the money remains tied up in insolvency proceedings is taken into account, including the loss of value due to depreciation of the hotel furniture. Consistent with international accounting practice, the annual depreciation rate for furniture is taken to be 20%.

The furniture is assumed to account for a quarter of the total value of assets. The recovery rate is the present value of the remaining proceeds, based on end-2018 lending rates from the International Monetary Fund's International Financial Statistics, supplemented with data from central banks and the Economist Intelligence Unit.

Responsible Partner Government Agencies/Institutions

Business Registration Service

The Judiciary

The National Assembly

The Senate

Office of the Attorney General and Department of Justice

Impacted Business sectors and players:

Businesses/Companies

Law firms

Institute of Certified Public Accountants of Kenya (ICPAK)

Kenya Private Sector Alliance (KEPSA)

Kenya Association of Manufacturers (KAM)

Kenya National Chamber of Commerce and Industry (KNCC&I)

INSOLVENCY ACT AMENDMENTS TO ENHANCE RECOVERY RATE

EASING THE BURDEN ON DISTRESSED COMPANIES

Insolvency Act Amendments

- Distressed companies now have a **30 days Pre-Insolvency Moratorium** period to seek and consider options for rescue.
- A holder of a floating charge can now apply to court to challenge a distribution to unsecured creditors where the effects unfairly harms its interests.

These amendments increase the recovery rate and reduce the time taken to resolve insolvency cases.

brs.ecitizen.go.ke

From Distress → **30 DAYS PRE-INSOLVENCY MORATORIUM** → **To Recovery**

Doing Business Made Easier

BUSINESS REGISTRATION SERVICE
Ease of Doing Business



Regulatory reforms implemented

1. Increased recovery rate for insolvency matters.

Section 11 of the Business Laws (Amendment) (No.2) Act, (No. 1 of 2021) amended Section 474 of the Insolvency Act, 2015 to exempt the liquidator or administrator from the court's permission to make routine payments to unsecured creditors in an efficient and cost-effective manner. This has led to an improvement in the recovery rate when the company is in distress. The distressed company is, therefore, able to maintain its going concern status.

2. Reduction in time to resolve insolvency cases.

Section 12 – 52 of the Business Laws (Amendment) (No.2) Act, (No. 1 of 2021) amended the Insolvency Act, (No. 17 of 2015) by inserting a new Part IXA to introduce a pre-insolvency moratorium for 30 days and mechanism to operationalize the pre-insolvency moratorium.

This seeks to allow businesses to explore options such as new investment or restructuring before entering into insolvency proceedings. Insolvency practitioners can confirm that businesses are now seeing a significant reduction in time. In addition to the amendments to the Insolvency Act (No. 17 of 2015), Kenya has published the Insolvency (Amendment) Regulations, 2021 through Legal Notice No. 64 of 2021.

Further, Kenya through enhanced administration of insolvency proceedings including conducting insolvency cases has considerably reduced the time it takes to resolve insolvency cases through enforcement of the provisions of the Insolvency Act, 2015.



Court proceedings in Nairobi.

Impact of the reforms

The impact of the reforms is as captured below

	Reforms	Impact
1.	Increased recovery rate for insolvency matters	Increased rate of recovery by creditors for insolvency matters
2.	Reduction in time to resolve insolvency cases	Reduction in time taken to resolve insolvency cases

Statistics on the reforms

1. *Exemption of company liquidators and administrators from obtaining court's permission to make routine payments to unsecured creditors has improved recovery rates for companies in distress and enabled them to maintain status as a going concern*
2. *Reduced insolvency through introduction of a 30-day pre-insolvency moratorium allowing businesses to explore new investment or restructuring options before entering into insolvency proceedings*
3. *Enforcement of the provisions of the Insolvency Act has enhanced administration of insolvency proceedings reducing the time it takes to resolve insolvency cases*



EXEMPTION OF COMPANY LIQUIDATORS AND ADMINISTRATORS FROM OBTAINING COURT'S PERMISSION TO MAKE ROUTINE PAYMENTS TO UNSECURED CREDITORS HAS IMPROVED RECOVERY RATES FOR COMPANIES IN DISTRESS AND ENABLED THEM TO MAINTAIN STATUS AS A GOING CONCERN



REDUCED INSOLVENCY THROUGH INTRODUCTION OF A 30-DAY PRE-INSOLVENCY MORATORIUM ALLOWING BUSINESSES TO EXPLORE NEW INVESTMENT OR RESTRUCTURING OPTIONS BEFORE ENTERING INTO INSOLVENCY PROCEEDINGS



ENFORCEMENT OF THE PROVISIONS OF THE INSOLVENCY ACT HAS ENHANCED ADMINISTRATION OF INSOLVENCY PROCEEDINGS REDUCING THE TIME IT TAKES TO RESOLVE INSOLVENCY CASES





PUBLIC PROCUREMENT REFORMS

The public procurement reforms are aimed at improving efficiency in public procurement, which refers to the purchase, by government and state-owned enterprises of goods, services, and works.

The reforms focus on the procurement of works and measures the process, time and cost of awarding a public procurement.

It benchmarks the entire procurement process and examines the five main phases in the life of a government project to be implemented by a private company: budgeting and needs assessment; advertisement and bid submission; bid opening, evaluation and contract signing; contract management; and payment. It also benchmarks the legal framework regulating public procurement in an economy.

HIGHLIGHTS OF 2020 – 2021 REFORMS

Kenya initiated reforms to improve the process, which include:

1. Reduction of timelines

For key steps in the procurement process through the Public Procurement and Asset Disposal Regulations, 2020.

- (i) Kenya has amended the time for preparation and submission of bids in an open tender procurement method from 26 days to 7 days under Regulation 86 of The Public Procurement and Asset Disposal Regulations, 2020;
- (ii) Kenya has prescribed a timeline of 1 day for the Head of Procurement of a Procuring Entity to submit a professional opinion to the Accounting Officer following completion of the evaluation process under Regulation 78 (2) of The Public Procurement and Asset Disposal Regulations, 2020;
- (iii) Kenya has under Regulation 90 (1) (b) of the Public Procurement and Asset Disposal Regulations, 2020, prescribed a timeline of 14 days for award of a tender for additional works to the same Bidder through direct procurement method under Section 103 of the Public Procurement and Asset Disposal Act, 2015;
- (iv) Kenya has under Regulation 150 sub regulation 1 of the Public Procurement and Asset Disposal Regulation, 2020, prescribed a timeline of 60 days for payment of performed contracts. This reform reduced the timeline for payment of performed contracts from 90 days to 60 days. The practice however for KeNHA is that payments are processed within a period of 14 days.



REDUCTION IN TIME FOR PREPARATION AND SUBMISSION OF BIDS IN AN OPEN TENDER PROCUREMENT METHOD FROM 26 DAYS TO 7 DAYS



REDUCED TIMELINE OF 1 DAY FOR THE HEAD OF PROCUREMENT OF A PROCURING ENTITY TO SUBMIT A PROFESSIONAL OPINION TO THE ACCOUNTING OFFICER FOLLOWING COMPLETION OF THE EVALUATION PROCESS



PRESCRIBED TIMELINE OF 14 DAYS FOR AWARD OF A TENDER FOR ADDITIONAL WORKS TO THE SAME BIDDER THROUGH DIRECT PROCUREMENT METHOD



REDUCTION IN TIMELINE FOR PAYMENT OF PERFORMED CONTRACTS FROM 90 TO 60 DAYS THROUGH NEWLY PRESCRIBED 60 DAY TIMELINE

The Public procurement life-cycle





LEGAL REFORMS

The implemented legal reforms in the year 2021 included the following:

A: Acts of Parliament

1. The Business Laws (Amendment) (No.2) Act, (No.1 of 2021) - Kenya Gazette Supplement No. 52

The Act makes various amendments to various statutes to strengthen the legal and regulatory frameworks in supporting the country's Doing Business reforms agenda.

- **The Law of Contract Act, Cap 23** has been amended to eliminate the requirement of a company seal in execution of documents for companies registered under the Companies Act, No. 17 of 2015 in the online registration system to save businesses compliance time and cost.
- The seal has previously been used as a security feature in this process however since the automation of the incorporation of company's process this security feature has been rendered obsolete owing to in-built security features of the automated system.

- **The Companies Act, 2015 (No. 17 of 2015)** has been amended to:
Eliminate the use of a company seal in operations of companies incorporated under the Companies Act in the online registration system to save businesses compliance time and cost; and facilitate companies to hold meetings either through hybrid or virtual setting.

Kenya has taken steps to simplify business registration services through implementation of an online registration system which will take 1 day to register a business. The seal has previously been used as a security feature in this process however since the automation of the incorporation of company's process this security feature has been rendered obsolete owing to in-built security features of the automated system.

Due to COVID-19 pandemic, it has become necessary for businesses to hold statutory meetings prescribed under the law using hybrid or virtual mechanisms which were not envisaged in the Companies Act, 2015.

- **The Industrial Training Act, Cap 237** has been amended to provide for the payment of the training levy to be remitted at the end of a business's financial year but not later than the ninth day of the month following end of the financial year.



- **The National Hospital Insurance Fund Act, 1998** has been amended to provide for the contributions under the Act to be collected on the ninth day of the month for purposes of harmonizing payroll deductions through the Unified Payroll Return.
- **The National Social Security Fund Act, 2013** has been amended to provide for the contributions under the Act to be collected on the ninth day of the month for purposes of harmonizing payroll deductions through the Unified Payroll Return.
The amendments to the Industrial Training Act, Cap 237, the National Hospital Insurance Fund Act, 1998 and National Social Security Fund Act, 2013 aligns the collection of payroll taxes and training levy to one standard date (the 9th) under the Unified Payroll Return Framework thereby simplifying the process of preparing, filing and paying the returns by Employers.
- **The Stamp Duty Act, Cap 480** has been amended to exempt payment of fixed stamp duty of KES.100 on contracts for purposes of reducing the cost of doing business. The amendment reduces the tax obligation on businesses by reducing the number of tax returns they pay every month by 1 which subsequently reduces the time to prepare, file and pay the returns.

The process to collect the fixed duty on contracts is administratively cumbersome and government incurs higher administrative cost in the collection process compared to the revenue generated from the same.

- **The Insolvency Act, 2015** has been amended to: allow a floating charge holder to apply to court if dissatisfied with the 20% apportionment of the net assets secured under the floating charge to unsecured creditors; and
- Introduce a pre-insolvency moratorium period to prevent creditors from taking an enforcement action while a company considers its option for rescue.

The amendments allow a Floating Charge Holder to apply to court for relief and introduce a pre-insolvency moratorium which will prevent creditors from taking an enforcement action against a company while it considers its options for rescue, whether by new investment or formulating a restructuring plan. Such protection did not previously exist under the Act.

- **The Small Claim Courts Act, 2016** has been amended to make provision to fast track procedure for small claims by providing a sixty day timeline for adjudication of small claims.

The amendment seeks to promote effective case management and expeditious disposal of commercial matters affecting Small and Medium Enterprises (SMEs) which make the cost of recovery prohibitively high, the proposal seeks to prescribe the timeline within which small claims must be adjudicated which is proposed as 60 days.



H.E. the president assenting to Business Laws (Amendment) (No.2) Act, 2021.

**B. REGULATIONS**

S/No	Legal Notice Number	Regulation	Objective
1.	Legal Notice No. 61/2021	The National Social Security Fund (Member Contributions) (Amendment) Regulations, 2021	The Regulation aligns the contribution date of 9th of every month as prescribed for the Unified Payroll Return.
2.	Legal Notice No. 62/2021	The Industrial Training (Training Levy) (Amendment) Order, 2021	The regulation aligns the payment of annual training levy under the Unified Payroll Return Framework by prescribing the training levy to be remitted at the end of a business's financial year but not later than the ninth day of the month following end of the financial year.
3.	Legal Notice No. 63/2021	The Companies (General) (Amendment) Regulations, 2021	The Regulation operationalizes the use of hybrid or virtual meeting frameworks by Companies.
4.	Legal Notice No. 64/2021	The Insolvency (Amendment) Regulations, 2021	The Regulation introduces the 28 days pre-moratorium period that will prevent creditors from taking an enforcement action while a company considers its options for rescue - whether by new investment or formulating a restructuring plan.
5.	Legal Notice No. 82/2021	The National Hospital Insurance Fund (Standard and Special Contributions) (Amendment) Regulations, 2021-	The regulation aligns the payment date of contributions to be remitted on the 9th day of every month under the Unified Payroll Return Framework
6.	Legal Notice No. 83/2021	The National Hospital Insurance Fund (Voluntary Contributions) (Amendment) Regulations, 2021	The regulation aligns the payment date of contributions to be remitted on the 9th day of every month under the Unified Payroll Return Framework.
7.	Legal Notice No. 70/2021	The Insurance (Amendment) Regulations, 2021	The Regulation introduces a new class of insurance to cover post construction structural and latent defects liability.
8.	Legal Notice No. 79/2021	The Energy (Reliability, Quality of Supply and Service on Electricity Supply Outages) Regulations, 2021	The regulation introduces a penalty to be imposed by Energy and Petroleum Regulatory Authority (EPRA) on a registered energy supplier for exceeding the limit of capped power outages.



LEGAL REFORMS

The implemented legal reform in the year 2020 included the following:

A: Acts of Parliament

1. The Business Laws (Amendment) Act, (No. 1 Of 2020) - Kenya Gazette Supplement No. 26

The Act makes various amendments to various statutes to strengthen the legal and regulatory frameworks in supporting the country's Doing Business reforms agenda. A highlight of the statutes amended by the Act is highlighted below:

To enhance the protection of the rights of minority investors, the Business Laws (Amendment) Act, 2020 has:

- **Amended the Companies Act, (No. 15 of 2015)** has been amended by setting a high threshold of 90 per cent shareholding for an investor seeking to make a take-over bid of a company and the right of a minority shareholder to introduce an agenda item in the General Meeting of the Company.

To facilitate start-up business operations and eliminate regulatory impediments that Small and Medium Enterprises have to comply with before they can commence operations, the Business Laws (Amendment) Act, 2020 has:

- **Amended the Companies Act, (No. 15 of 2015)** to abolish the requirements for companies to obtain a company seal. The seal has previously been used as a security feature in the post registration processes of a company but with automation of the incorporation of company's process this security feature has been rendered obsolete owing to in-built security features of the automated system;
- **Amended the Industrial Training Act, (Cap 237)** by converting the 12 monthly payments employers remit in relation to training levy to one (1) annual payment to ease the burden for businesses. All small businesses will be exempted from submitting Training Levy contributions during the first year of operations.

- **Amended the Occupational Safety and Health Act, (No.15 of 2007)** to waive the registration of a business premises fees for Small and Medium Enterprises (SMEs) for the first 24 months post registration of the business and this will reduce the number of procedures that a start-up business has to comply with before it can commence operations.
 - **Amended the Business Registration Services Act, (No. 15 of 2015)** on composition of the Board to include the Ministry responsible for Business Reforms and Transformation as a member of the Board. This will facilitate the achievement of the various doing business reforms agenda.
 - **To support the recovery of businesses in distress: The Insolvency Act, (No. 17 of 2015)** has been amended by enhancing the protection of secured Creditors' during the insolvency period. The amendment to the Insolvency Act, (No. 17 of 2015) seeks to provide for clear grounds for relief from automatic stay for a specific period. In addition the amendment enhances the right of a Creditor to access relevant information about the company from the Insolvency Representative.
- To address the reforms under the registering property sector, the Business Laws (Amendment) Act, 2020 has amended several pieces of legislation that support land registration and survey processes with an aim of supporting the implementation of an online registration system.
- **Land Registration Act, 2012 (No. 3 of 2012)** has been amended to provide for electronically processed and executed instruments relating to land transactions.
 - **Registration of Documents Act, (Cap 285)** has been amended to provide for electronic registries and electronic signature and also electronic means of presentation of documents.
 - **Survey Act, (Cap 299)** has been amended to provide for use of electronic seal and signature and for presentation of survey maps and plans to be presented either by physical or electronic means.

- **Law of Contract Act, 1961, (Cap 23)** has been amended to provide for contracts to be processed and executed through electronic means.
- **Stamp Duty Act, 1958, (Cap 480)** has been amended to provide for the use of electronic stamp as proof of payment of stamp duty for land transfer documents.
- **Kenya Information and Communications Act, 1998 (No. 2 of 1998)** has been amended to provide for processing and signing of title documents electronically.

To promote and improve the quality and standards of buildings in the country under the Construction sector, the Business Laws (Amendment) Act, 2020 has:

- **Amended the National Construction Authority Act, 2011** to prescribe a Building Code Regulation on building quality and standards, ensure mandatory inspections are undertaken on all building sites by the respective Agencies and introduce an offence and penalty for failure to comply with the suspension order issued by an investigation officer. This will bring order and safety in the construction industry.

2. The Small Claims Court (Amendment) Act, (No. 5 Of 2020) - Kenya Gazette Supplement No. 70

To facilitate expeditious adjudication of commercial transactions that fall within the jurisdiction of the Small Claims Court, the Act has been amended to:

- Allow for legal representation for matters lodged in the court in addition to self representation.
- Increase the pecuniary threshold of matters adjudicated in the Small Claims Court from KShs. 200,000 to KShs. 1,000,000. This will bring on board majority of matters relating to Small and Medium Enterprises within the realm of this court that will release economical capital that is tied-up in the judicial system.
- Limit the number of adjournments for small claims to not more than three (3) adjournments for matters in the Small Claims and introduce exceptional circumstances when the the Court may allow for an adjournment

H.E. the President assenting to Small Claims Court (Amendment) Act, 2020.



B. REGULATIONS

S/NO	LEGAL NOTICE NUMBER	REGULATION	OBJECTIVE
1.	Legal Notice No. 10/2020.	The Industrial Training (Training Levy) (Amendment) Order, 2020	The Order waives National Industrial Training Authority registration requirement for companies with up to 100 employees for the first 12 months after registration.
2.	Legal Notice No. 11/2020.	The Standards (Verification of Conformity to Standards and Other Applicable Regulations of Imports) (Amendment) Regulations, 2020	The Regulation exempts Authorized Manufacturer in Japan who import new motor spare parts from PVOC requirements.
3.	Legal Notice No. 12/2020	The Companies (Beneficial Ownership Information) Regulations, 2020	The Regulation prescribes for the disclosure of information relating to a Companies Beneficial owners.
4.	Legal Notice No. 22/2020	The Civil Procedure (Amendment) Rules, 2020	The Rules support implementation of an online Case Management System for court e-payments, e-filing, e-service in the Nairobi Chief Magistrates Court at the Nairobi Chief Magistrates Court.
5.	Legal Notice No. 35/2020	The Value Added Tax (Amendment of The Rate of Tax) Order, 2020	The Order changed the VAT rate from 16% to 14% which gave businesses tax relief during the COVID-19 pandemic.
6.	Legal Notice No. 59/2020	The Public Finance Management Act, (No. 18 of 2012) Waiver	The Notice waives court fees for claims whose value does not exceed KES. 1,000,000 at the Commercial Division of the Magistrate's Court.
7.	Legal Notice No. 64/2020	The National Construction Authority (Defects Liability) Regulations, 2020	The Regulations prescribe the liabilities of Construction parties and professionals for structural and latent defects that occur once a building is in use and the parties responsible for insurance against the building for damages caused by latent defects.



B. REGULATIONS

S/NO	LEGAL NOTICE NUMBER	REGULATION	OBJECTIVE
8.	Legal Notice No. 65/2020	The Registration of Titles (Fees) (Amendment) Rules, 2020	The Regulations have removed registration fees charged for registration of land transaction instruments at the Land Registry.
9.	Legal Notice No. 66/2020.	The Registered Land (Amendment) Rules, 2020	
10.	Legal Notice No. 67/2020.	The Government Land (Fees) (Amendment) Rules, 2020	
11.	Legal Notice No. 68/2020.	The Land Titles (Registration Fees) (Amendment) Rules, 2020	
12.	Legal Notice No. 69/2020.	The Public Procurement and Asset Disposal Regulations, 2020	<p>The Regulations prescribe timelines to support reforms in the procurement sector as follows:</p> <p>7 days' timeline for preparation and submission of bids in an open tender procurement method;</p> <p>1 day timeline for the Head of Procurement of a Procuring Entity to submit a professional opinion to the Accounting Officer following completion of the evaluation process;</p> <p>14 days' timeline for award of a tender for additional works to the same Bidder through direct procurement method; and</p> <p>60 days for payment of performed contracts.</p>
13.	Legal Notice No. 79/2020	The Plant Protection (Fees and Charges) (Amendment) Rules, 2020	The Regulation waives the costs of obtaining Phytosanitary Certificate fees of Kshs. 1,000 levied on all exports of tea, coffee, herbs and spices and Inspection Certificate Fees levied on agricultural products for export of tea, coffee, herbs and spices of Kshs. 5,000 for a period of two (2) years.
14.	Legal Notice No. 80/2020.	The Public Health (Fees) (Amendment) Rules, 2020	The Rules eliminated Export Health Certificate fee of KES. 1,000 issued by Port Health.
15.	Gazette Notice No. 2357	Practice Directions on Electronic Case Management	The Notice supports implementation of an online Case Management System for court e-payments, e-filing, e-service in the Nairobi Chief Magistrates Court at the Nairobi Chief Magistrates Court.
16.	Gazette Notice No. 2825.	Waiver of Payment of Single Business Permit for all new Businesses	The Notice waives the requirement to obtain a single business permit for all businesses for the first two years after incorporation/ registration.

KENYA
LAW
REPORTS

KENYA
LAW
REPORTS



REGULATORY TOOLKITS

National Regulatory Toolkit

The Government's economic plan, implemented over the past six years, has addressed various bottlenecks facing businesses such as increasing connectivity by expanding affordable power supply, rail and road networks, ports, markets locally and internationally, affordable financing mechanism and other initiatives that complement the Ease of Doing Business agenda.

The Government is committed to improving the business environment in Kenya to make the country the preferred destination for local and international investors.

The Department of Business Reforms and Transformation under the Ministry of East Africa Community and Regional Development supported by UK Kenya Tech hub among other partners have created an SME Business regulatory toolkit that espouses to help SMEs:

- *Engage with and understand the Kenyan regulatory environment in an easy and accessible manner*
- *Develop awareness to unblock regulatory barriers and enable SMEs in navigating regulatory complexities*
- *Assist in refining Kenya's business regulatory environment through feedback.*

CS Adan Mohamed, U.K. High Commissioner to Kenya
H.E. Jane Marriott & KNCCI President Richard Ngatia during the launch
of the National Regulatory Toolkit.



REGULATORY TOOLKITS

The toolkit is broken down into four key business development stages and enumerates the regulatory requirements as well as identifies key regulators within each stage.

Plan Your Business

Launch Your Business



REGULATORY GUIDE FOR DOING BUSINESS IN KENYA

MINISTRY OF EAST AFRICAN COMMUNITY AND REGIONAL DEVELOPMENT
BUSINESS REFORMS & TRANSFORMATION DEPARTMENT

Supported by UK Kenya Tech HUB UKaid

Plan your Business Stage

NAVIGATING THE KENYAN REGULATORY ENVIRONMENT

www.kenyabusinessregulatoryguide.com



REGULATORY GUIDE FOR DOING BUSINESS IN KENYA

MINISTRY OF EAST AFRICAN COMMUNITY AND REGIONAL DEVELOPMENT
BUSINESS REFORMS & TRANSFORMATION DEPARTMENT

Supported by UK Kenya Tech HUB UKaid

Launch your Business Stage

NAVIGATING THE KENYAN BUSINESS REGULATORY ENVIRONMENT

www.kenyabusinessregulatoryguide.com



REGULATORY TOOLKITS

Grow Your Business

Manage Your Business



MINISTRY OF EAST AFRICAN COMMUNITY
AND REGIONAL DEVELOPMENT
BUSINESS REFORMS & TRANSFORMATION DEPARTMENT



Supported by



MINISTRY OF EAST AFRICAN COMMUNITY
AND REGIONAL DEVELOPMENT
BUSINESS REFORMS & TRANSFORMATION DEPARTMENT




Supported by




Scale your Business Stage

NAVIGATING THE KENYAN BUSINESS REGULATORY ENVIRONMENT

www.kenyabusinessregulatoryguide.com



Manage your Business Stage

NAVIGATING THE KENYAN BUSINESS REGULATORY ENVIRONMENT

www.kenyabusinessregulatoryguide.com

The toolkit identifies special needs faced by SMEs at each stage and provides relevant support agencies and or regulators. The toolkit provides regulators covering general businesses as well as regulations for the following sectors;

- **Agriculture**
- **ICT**
- **Health**
- **Construction**
- **Energy**
- **Import-Export**
- **Tourism**
- **Manufacturing**
- **Education**
- **Finance**




**REGULATORY
GUIDE FOR DOING
BUSINESS IN KENYA**



**MINISTRY OF EAST AFRICAN COMMUNITY
AND REGIONAL DEVELOPMENT**

BUSINESS REFORMS & TRANSFORMATION DEPARTMENT



Supported by  UK Kenya
Tech HUB



Kenya SME Regulatory Map

NAVIGATING THE KENYAN BUSINESS REGULATORY ENVIRONMENT

www.kenyabusinessregulatoryguide.com

County Regulatory Toolkit

County Regulatory guide for doing Business

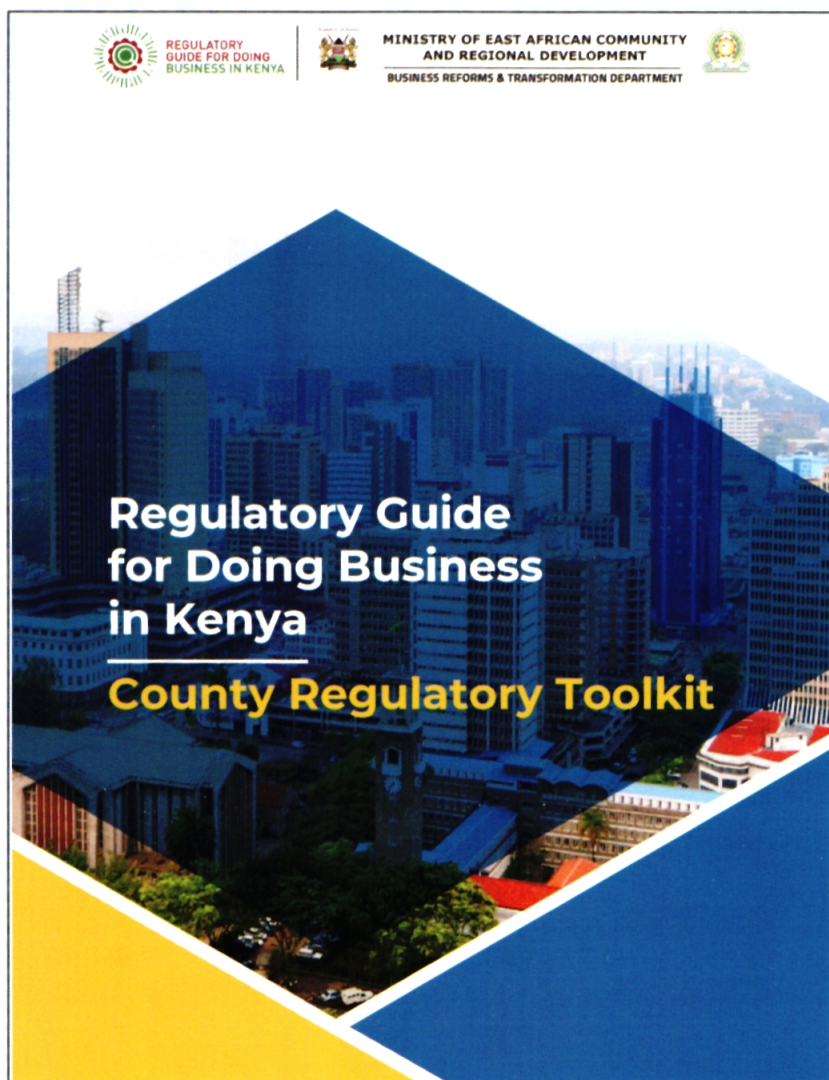
Entrepreneurship stakeholders made recommendations on the need to develop a similar toolkit to the National Regulatory Toolkit that focuses on counties with the goal of capturing the full cost of doing business as well as document the compliance processes for all county business levies and fees.

The county regulatory toolkit is a web application that allows investors/ entrepreneurs navigate the business license regime of 10 pilot counties in Phase I.

Other Counties will be included in the Second phase.

Selected counties in phase I are:

- **Nairobi**
- **Mombasa**
- **Kisumu**
- **Nakuru**
- **Machakos**
- **Uasin Gishu**
- **Garissa**
- **Kakamega**
- **Kajiado**
- **Laikipia**



Toolkit Information

The toolkit provides the entrepreneur/investor information about:

- *County sector structure*
- *Investment opportunities (if any)*
- *Compliance step, turnaround time and documentation required for major licenses*
- *Aggregated licenses per business (as per finance bills)*
- *License cost (as per finance bills)*



**STARTING
A BUSINESS**



**DEALING WITH
CONSTRUCTION
PERMITS**



**REGISTERING
PROPERTY**



**GETTING
ELECTRICITY**

Selection of Counties

The 10 counties were selected based on the following criteria

- *Population*
- *Population density*
- *Gross County Product (GCP)*
- *County Gross Domestic Product (GDP) contribution*
- *Micro Small Medium Enterprise (MSME) population*
- *Micro Small Medium Enterprise (MSME)*
- *Employment Rate Affirmative action*



**PAYING
TAXES**



**TRADING ACROSS
BORDERS AMONG
OTHERS**

County Regulatory Toolkit Development Process

- *Process mapping of all county business compliance and regulations*
- *Enumeration of all county business levies and fees*
- *Identification of process gaps and recommendation*
- *Development of county regulatory toolkit*
- *Validation and launch of toolkit*



**GETTING
CREDIT**

The Toolkit will enable SMEs to:



Engage with and understand the Kenyan regulatory environment in an easy and accessible manner



Develop awareness to unblock regulatory barriers and enable SMEs in navigating regulatory complexities



Learn and further refine Kenya's business regulatory environment, capturing user experience and insights through the inbuilt feedback mechanism.



GLOBAL COMPETITIVENESS INDEX (GCI)

This is an annual report published by the World Economic Forum (WEF) which measures country competitiveness across 144 countries globally across 12 pillars:

- a) *Institutions pillar*
- b) *Infrastructure*
- c) *Macroeconomic environment*
- d) *Health*
- e) *Primary education*
- f) *Higher education and training*
- g) *Market efficiency*
- h) *Labour market efficiency*
- i) *Financial market development*
- j) *Technology readiness*
- k) *Market size*
- l) *Business sophistication and innovation.*

The GCI report assesses the ability of countries to provide high levels of prosperity to its citizens. Currently, the focus of the report is by and large premised on on four main areas: reviving and transforming the enabling environment, reviving and transforming human capital, reviving and transforming markets, and reviving and transforming the innovation ecosystem.

Reviving and transforming the enabling environment involves rebuilding the strength and principles of public institutions and the support of highly in-debt, poor countries. To revive and transform human capital, countries are expected to look for new labor market opportunities where they can scale up reskilling and upskilling programs and continue to expand healthcare capacity to account for our growing world. Reviving and transforming markets means reinforcing financial market stability, preventing over-consolidation within industries, and better managing international supply chains. Finally, reviving and transforming the innovation ecosystem necessitates the expansion of research and development to support the diffusion of new technologies and ideas across the world.

Kenya is currently ranked 95th position out of 144 countries that are measured by the GCI and is targeting to improve to Top 80 within the next two years by undertaking various initiatives towards this goal over the next 12-24 months in collaboration with the private sector.



H.E. The President during the signing of two key agreements in the health sector in the UK.

Signing an MOU at Kenya High Commission in London, which provides a framework for increasing bilateral trade between Kenya & UK.



COUNTY BUSINESS CLIMATE REFORMS

Kenya's devolution agenda begun in 2010 after the adoption of the country's new constitution. Multiple powers and responsibilities were shifted from the national government to the 47 new county administrations. In 2013 County Governors and assemblies were elected. Kenya's devolution of powers to 47 new counties has prompted major regulatory changes: the national reform agenda is focused on improving service delivery at the local level for all citizens.

The Doing Business 2016 report on Kenya incorporated a County Competitiveness index which covered eleven (11) counties, namely, Busia (Malaba), Isiolo, Kakamega, Kiambu (Thika), Kisumu, Machakos, Mombasa, Nairobi, Narok, Nyeri and Uasin Gishu (Eldoret). The index measured regulations affecting 4 stages of the life of a small or medium-size business: starting a business, dealing with construction permits, registering property and enforcing contracts.

The report noted that Kenyan entrepreneurs face different regulatory hurdles depending on where they establish their businesses, and no single county performed equally well on all indicators. Additionally, there is no relationship between the size of the county (as measured by population) and the rankings. All counties measured had improved in at least one regulatory area between 2012 and 2016, many due to national reforms.

The creation of the Huduma Centers (one-stop shops for multiple government services) was the boldest reform recorded; new Huduma Centers are helping facilitate business start-up and property transfers. However, critical challenges remain. Following the devolution process, the national and local governments must create and operationalize new rules, structures and systems across the two tiers of government and build national and local capacity.

Priority areas of intervention at the Sub-national level for 2021 and beyond

1. *Mapping the business licencing processes and the support services offered to businesses operating within and across counties;*
2. *Developing a county regulatory toolkit as a guide for SMEs on conducting business in 10 counties as for the pilot phase Kajiado, Garissa, Machakos, Nairobi, Nakuru, Laikipia, Mombasa, Kisumu, Kakamega, Uasin Gishu;*
3. *Developing a county competitiveness index to benchmark the performance of the 47 counties;*
4. *Identifying reform areas which will enhance the efficiency of services to businesses through automation of the approval and payment process;*
5. *Supporting the Counties in collecting the requisite data required to make decisions on service offering and pricing models;*
6. *Supporting the amendment of the legislative framework, as required;*
7. *Providing capacity support to counties to undertake the requisite administrative reforms and streamlining of services which will enhance their competitiveness;*
8. *Coordinating collaboration between the National and County Governments in realizing the planned reforms.*

Council of Governors Meeting



H.E. the President with some Governors at a past event.





CORRUPTION PERCEPTION INDEX (CPI)

This is an index published annually by Transparency International which ranks countries by their perceived levels of public sector corruption.

Kenya's CPI index is determined by measuring its average ranking in the following 9 reports:

- a) Global Insight Country Risk Ratings
- b) Bertelsmann Foundation Transformation Index
- c) African Development Bank Country Policy and Institutional Assessment
- d) World Justice Project Rule of Law Index
- e) PRS International Country Risk Guide
- f) Varieties of Democracy Project
- g) Economist Intelligence Unit Country Ratings
- h) World Bank Country Policy and Institutional Assessment (CPIA)
- i) World Economic Forum Executive Opinion Survey

Kenya is currently ranked 124th position out of 180 countries globally, that are measured by CPI report. We target to improve it's ranking to Top 100 within the next two years by undertaking various targeted initiatives.

Highlight of expected reforms for the financial year 2021 – 2022

- Identification of key reform focus areas that are cross cutting across the 9 CPI data sources and development of the corresponding reform proposal
- Engagement with EACC, DPP, DCI & A.G, through the National Council on Administration of Justice to address the perception of endemic corruption in Public Sector/ lack of sufficient action redress.
- Engagement with Public Procurement Regulatory Authority (PPRA) to push for full compliance with the Presidential directive on publishing all awarded Tenders, to improve transparency and credibility of the procurement process in Kenya
- Collaborate with the Office of the Director of Public Prosecutions in lobbying the Attorney General for the Enactment of the Bribery Act Regulations – Bribery is a focus area measured by the CPI.
- Engagement with The Council of Governors for the publication of Service Charters by County Governments in order to provide certainty to businesses/investors on the services processes and associated cost.

Ethics and Anti-Corruption Commission & National Council of Churches of Kenya consultative meeting on addressing corruption issues.



The Ethics and Anti-Corruption Commission Kenya officials and stakeholders from Namibia, Tanzania & Uganda.

EACC



ACKNOWLEDGEMENTS

1. *The Presidency*
2. *The National Assembly & Senate*
3. *The Judiciary of Kenya*
4. *The Cabinet*
5. *Department of Survey*
6. *Directorate of Occupational Safety & Health Safety – DOSH*
7. *Business Registration Services – BRS*
8. *Capital Markets Authority – CAM*
9. *Kenya Trade Network Agency – KenTrade*
10. *Kenya Power & Lighting Company – KPLC*
11. *Kenya National Highway Authority – KENHA*
12. *Kenya Plant Health Inspectorate Services – KEPHIS*
13. *Kenya Bureau of Standards – KEBS*
14. *Kenya Ports Authority – KPA*
15. *Agricultural Food Authority – AFA*
16. *Kenya Revenue Authority – KRA*
17. *National Social Security Fund – NSSF*
18. *National Health Insurance Fund – NHIF*
19. *National Industrial Training Institute – NITA*
20. *National Environmental Authority – NEMA*
21. *National Construction Authority – NCA*
22. *Nairobi City County Government – NCCG*
23. *County Government of Mombasa*
24. *County Government of Machakos*
25. *County Government of Kajiado*
26. *County Government of Nakuru*
27. *County Government of Uasin Gishu*
28. *County Government of Kisumu*
29. *County Government of Garissa*
30. *County Government of Laikipia*
31. *County Government of Kakamega*
32. *Nairobi Metropolitan Services – NMS*
33. *Nairobi City Water & Sewerage Services – NCWS*
34. *Kenya Private Sector Alliance – KEPSA*
35. *Kenya Association of Manufacturers – KAM*
36. *Kenya National Chamber of Commerce & Industry – KNCCI*
37. *Kenya National Federation of Jointly Owned Kari Associations*
38. *Kenya Investment Authority KENINVEST*
39. *Trademark East Africa (TMEA)*
40. *Corporate Council on Africa - CCA*
41. *The American Chamber of Commerce (Kenya) - AmCham*
42. *The Law Society of Kenya – LSK*
43. *Architectural Association of Kenya (AAK)*
44. *World Bank Group*
45. *UK Tech Hub Kenya*
46. *Foreign, Commonwealth and Development Office (FCDO)*
47. *European Union Delegation*
48. *Royal Embassy of the Netherlands*
49. *PwC - PriceWaterhouse Coopers*
50. *KPMG*



The Voice Of Private Sector in Kenya



A Government of Kenya Publication
Ministry of East African Community & Regional Development
Department of Business Reforms & Transformation